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# The United States and Iran – Decades of Animosity: An Analysis of the Path to the Current Conflict

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PATRICK MCDADE, ESQ.

## **The United States and Iran – Decades of Animosity: An Analysis of the Path to the Current Conflict**

### **ABSTRACT:**

Lost in the international debate raging around Iran's burgeoning nuclear weapons program is the deep and complex history that exists between the United States and Iran, as well as the legal rights and responsibilities that exist between the two nations. A thorough examination of the intensely adversarial relationship that has developed over the past sixty years must be undertaken before any path to a diplomatic solution is likely to succeed. The historical evidence clearly shows that Iran's animosity towards and distrust of the United States is entirely justified, and the United States' mistrust of Iran is equally well-grounded. Due these decades of animosity and mistrust, the United States is likely to ignore the significant legal arguments available to Iran under the Nuclear Non-proliferation Treaty and take military action when Iran refuses to back down before an enemy nation.

The article examines all of these issues and ultimately concludes that a high likelihood of armed-conflict exists in this situation, which will almost definitely result in a protracted regional war. This article then considers these historical, legal, and diplomatic realities to suggest significant and creative changes in the diplomatic approach to Iran are necessary to prevent the United States from entering into yet another armed-conflict in the Middle-East.

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## **Introduction**

Despite significant international condemnation and decades of sanctions, the Republic of Iran continues to defy the International Atomic Energy Agency (hereinafter "IAEA"), the United Nations Security Council, and the United States regarding its suspected nuclear weapons program. In response, Israel and the United States are preparing a military solution to disable Iran's nuclear weapons program before Iran actually develops a working nuclear weapon. This current crisis is only the most recent conflict between the United States and Iran, as there is a deep, complex, and strongly adversarial history between the two nations. This history must be considered, along with the current diplomatic, legal, and military postures of the nations, to determine whether military conflict is probable in this circumstance and to analyze what steps may still be taken to avoid further war in the Middle-East. This article examines the current state of tension between the United States and Iran; the historical and legal relationships behind the hostilities that fuel the current conflict; the likelihood of military action arising from the current crisis; and the best path to avoid a potential war between the United States and Iran.

### **I. The United States and Iran on the Precipice of War**

On February 24, 2012, the IAEA published a report (hereinafter "IAEA 2012 Report") which concluded:

[T]he Agency is unable to  
provide credible assurance  
about the absence of

undeclared nuclear material and activities in Iran, and therefore to conclude that all nuclear material in Iran is in peaceful activities.... The Agency continues to have serious concerns regarding possible military dimensions to Iran's nuclear programme....<sup>1</sup>

This finding by the IAEA throws into dire focus the recently expanding international tensions between the United States, Israel, and Iran. These tensions arise from Iran's continued aggressive rhetoric against Israel,<sup>2</sup> its direct support of terrorist groups,<sup>3</sup> and its failure to abide by United Nations Security Council Resolutions<sup>4</sup> regarding

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<sup>1</sup> IAEA, IMPLEMENTATION OF THE NPT SAFEGUARDS AGREEMENT AND RELEVANT PROVISIONS OF SECURITY COUNCIL RESOLUTIONS IN THE ISLAMIC REPUBLIC OF IRAN, GOV/2012/9 (2012), at 10-11 (2012).

<sup>2</sup> Nazila Fathi, *Wipe Israel "Off the Map" Iranian says*, N.Y. TIMES, Oct. 27, 2005,

<http://www.nytimes.com/2005/10/26/world/africa/26iht-iran.html?pagewanted=print>; Nasser Karimi, *Iran's Ahmadinejad: No Place for Israel in Region*, THE ASSOCIATED PRESS, Aug. 26, 2011, <http://news.yahoo.com/irans-ahmadinejad-no-place-israel-region-101047532.html> (quoting Ahmadinejad addressing Israel, "There is no room for you in the region").

<sup>3</sup> For an explanation and analysis of Iran's support of Islamic terrorism see EDGAR O'BALANCE, ISLAMIC FUNDAMENTALIST TERRORISM, 1979-1995: THE IRANIAN CONNECTION (1997); AMIR TAHERI, HOLY TERROR: THE INSIDE STORY OF ISLAMIC TERRORISM (1987).

<sup>4</sup> See S.C. Res. 1696, U.N. Doc. S/RES/1696 (Jul. 31, 2006); S.C. Res. 1747, U.N. Doc. S/RES/1747 (Apr. 28, 2007); S.C. Res. 1803, U.N. Doc. S/RES/1803 (Mar. 3, 2008); S.C. Res. 1835, U.N. Doc.

its violations of the Treaty on the Non-Proliferation of Nuclear Weapons (hereinafter the “NPT”).<sup>5</sup> Further, Iran has consistently refused to comply with the IAEA despite significant sanctions placed upon Iran by the United Nations Security Council.<sup>6</sup> The United States has also implemented unilateral sanctions on the Iranian oil industry<sup>7</sup> and banks dealing with Iran.<sup>8</sup> These sanctions are having significant impact on the Iranian economy,<sup>9</sup> yet Iran remains defiant and continues to develop its nuclear program.<sup>10</sup>

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S/RES/1835 (Sep. 27, 2008); S.C. Res. 1929, U.N. Doc. S/RES/1929 (Jun. 9, 2010).

<sup>5</sup> Treaty on the Non-Proliferation of Nuclear Weapons, Jul. 1, 1968, 21 U.S.T. 483, 729 U.N.S.T. 161. [Hereinafter *the NPT*].

<sup>6</sup> Press Release, U.N. Security Council, Security Council Imposes Additional Sanctions on Iran, U.N. Press Release SC/9948 (June 9, 2010).

<sup>7</sup> Steve Hargreaves, *U.S. Tightens Oil Sanctions on Iran*, CNN MONEY, (Mar. 31, 2012) <http://money.cnn.com/2012/03/30/news/international/Iran-sanctions/index.htm>.

<sup>8</sup> Laura MacInnis, *U.S. Imposes Sanctions on Banks Dealing with Iran*, REUTERS, (Dec. 31, 2011), *available at* <http://www.reuters.com/article/2011/12/31/us-iran-usa-obama-idUSTRE7BU0GP20111231>; U.S. Department of the Treasury Office of Foreign Assets Control, *What You Need To Know About U.S. Economic Sanctions*, (Jan. 23, 2012), *available at* <http://www.treasury.gov/resource-center/sanctions/Programs/Documents/iran.pdf>.

<sup>9</sup> Rick Gladstone, *Iran Admits Western Sanctions are Inflicting Damage*, N.Y. TIMES, Dec. 20, 2011, [http://www.nytimes.com/2011/12/20/world/middleeast/iran-admits-western-sanctions-are-inflicting-damage.html?\\_r=1](http://www.nytimes.com/2011/12/20/world/middleeast/iran-admits-western-sanctions-are-inflicting-damage.html?_r=1).

<sup>10</sup> Palash R. Gosh, *Iran Vows to Pursue Nuclear Energy in Defiance of Western Sanctions, Military Threats*, INT’L BUS. TIMES (Apr. 2, 2012), <http://www.ibtimes.com/iran-vows-pursue-nuclear-energy-defiance-western-sanctions-military-threats-432790>.

Even prior to the IAEA 2012 Report, the prospect of Israel taking military action against Iran was openly discussed in diplomatic circles. Israeli Prime Minister Benjamin Netanyahu warned that a military strike by Israel against Iran's nuclear facilities was "a question of when, not if."<sup>11</sup> While Israel's threats towards Iran were initially decried by its allies,<sup>12</sup> the United States has now joined with Israel in support of possible military strikes against Iran's nuclear facilities.<sup>13</sup> This potential for military conflict grows more imminent as Israeli leaders believe that Iran's nuclear weapons program "is steadily approaching maturation and is verging on a 'zone of immunity' — a position from which the Iranian regime could complete its program without effective disruption, at its convenience."<sup>14</sup> Israeli Prime Minister Benjamin Netanyahu emphasized

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<sup>11</sup> Palash R. Ghosh, *Israeli Minister Tells China Strike on Iran Isn't Ruled Out*, INT'L BUS. TIMES (Mar. 16, 2012), <http://www.ibtimes.com/articles/315435/20120316/china-israel-iran-nuclear-strike-lieberman-relations.htm>.

<sup>12</sup> Adam Entous, Julian E. Barnes and Jay Soloman, *U.S. Warns Israel on Strike, Officials Lobby Against Attack on Iran as Military Leaders Bolster Defenses*, WALL ST. JOURNAL (Jan. 14, 2012) available at <http://online.wsj.com/article/SB10001424052970204409004577159202556087074.html>.

<sup>13</sup> Chris McGreal, *Obama Warns Iran as He Seeks to Reassure Israel Ahead of Crucial Talks, In Advance of Meeting with Israeli PM Binyamin Netanyahu, Obama Said He Hopes Israel Understands 'I Don't Bluff' on Iran*, THE GUARDIAN (Mar 2, 2012) available at <http://www.guardian.co.uk/world/2012/mar/02/obama-warns-iran-reassures-israel>.

<sup>14</sup> *Israel: Iran Nuke Site Soon Immune to Strike*, ASSOCIATED PRESS (Mar. 19, 2012, 11:48 AM), available at [http://www.cbsnews.com/8301-202\\_162-57399943/israel-iran-nuke-site-soon-immune-to-strike/](http://www.cbsnews.com/8301-202_162-57399943/israel-iran-nuke-site-soon-immune-to-strike/) (quoting Israeli Defense Minister Ehud Barak).

this position during his September 27, 2012, address at the United Nations, as he literally drew a red line depicting the deadline for military intervention to occur if Iran's nuclear weapons program is to be disrupted.<sup>15</sup>

Iran has not sat idle while Israel and the United States stepped up their aggressive rhetoric. For instance, Iran rattled its sabre by deploying naval vessels through the Suez Canal for the first time since the Iranian Revolution of 1979.<sup>16</sup> Iran has also begun deploying submarines and boats that could be used in suicide bomber style attacks against the American Fifth Fleet; which is stationed in the area to ensure the openness of the strategic Strait of Hormuz.<sup>17</sup> Most recently, Iran confirmed its direct military support of Hamas through the supply of arms and missile technology intended for use against Israel, in violation of U.N. Sanctions.<sup>18</sup> These actions lend credence to Iranian Supreme Leader Ayatollah Ali Khamenei's warning that

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<sup>15</sup> Jeffery Heller, *Netanyahu Draws "Red Line" on Iran's Nuclear Program*, REUTERS (Sept. 27, 2012) available at <http://www.reuters.com/article/2012/09/27/us-un-assembly-israel-iran-idUSBRE88QOGI20120927>.

<sup>16</sup> *Iranian Naval Vessels Enter Suez Canal*, ASSOCIATED PRESS (Feb. 22, 2011) available at <http://www.foxnews.com/world/2011/02/21/official-iran-naval-ships-enter-suez-canal/>

<sup>17</sup> Warda Al-Jawahiry, *U.S. Navy: Iran Prepares Suicide Boats in Gulf*, REUTERS (Feb. 12, 2012), <http://www.reuters.com/article/2012/02/12/us-gulf-usa-iran-idUSTRE81B0V220120212>.

<sup>18</sup> Ashish Kumar Sen, *Iran Admits Giving Hamas Technology for Missiles*, WASH. TIMES (Nov. 21, 2012) available at <http://www.washingtontimes.com/news/2012/nov/21/iran-admits-giving-hamas-technology-for-missiles/?page=1>.

Iran will strike back with equal force if attacked by the United States or Israel.<sup>19</sup>

With increasingly inflammatory and hawkish rhetoric being mirrored by strategic military deployments and the staging of forces off the coast of Iran, armed conflict between the United States and Iran appears more and more imminent. War games indicate that a military strike on Iran's nuclear sites will likely escalate beyond the single incident and lead to a wider regional war with the United States as a participant.<sup>20</sup> While a diplomatic resolution is still a possibility, the United States appears to be on the cusp of entering into, yet, another war in the Middle East. With war as a distinct possibility, it is important to examine the history and relationship between Iran and the United States that has led them to this precipice.

## **II. The United States and the 1953 Coup D'état of Iranian Prime Minister Mohammad Mossadegh**

Prior to 1953, relations between the United States and Iran were quite different than the heated opposition that exists today. Iran considered the United States to be “a distant but reliable ally” that Iran hoped could be “a

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<sup>19</sup> Ramin Mostaghim and Emily Alpert, *Iran's Supreme Leader Warns of Retaliation if Israel or U.S. Strikes*, L.A. TIMES (Mar. 20, 2012, 1:20 PM), [http://latimesblogs.latimes.com/world\\_now/2012/03/iran-nowruz-strike-back-israel.html](http://latimesblogs.latimes.com/world_now/2012/03/iran-nowruz-strike-back-israel.html).

<sup>20</sup> Mark Mazzetti & Thom Shanker, *U.S. War Games Sees Perils of Israeli Strike Against Iran*, N.Y. TIMES, Mar. 19, 2012, [http://www.nytimes.com/2012/03/20/world/middleeast/united-states-war-game-sees-dire-results-of-an-israeli-attack-on-iran.html?\\_r=1&pagewanted=all](http://www.nytimes.com/2012/03/20/world/middleeast/united-states-war-game-sees-dire-results-of-an-israeli-attack-on-iran.html?_r=1&pagewanted=all).

counterbalancing force against Iran's two colonial nemesis: the Russians and the British."<sup>21</sup> Russia retained power in the northern provinces and Britain held sway in the southern and western areas of the country throughout the nineteenth and early twentieth centuries.<sup>22</sup> At the conclusion of World War II, a power struggle between Great Britain and the Soviet Union was brewing in Iran, as both nations realized the military and economic significance of the country. Iran was strategically significant due to its central location in the Middle-East and its newly discovered oil resources, which left neither nation willing to withdraw their troops.<sup>23</sup> President Franklin Roosevelt assisted Iran by meeting with Winston Churchill and Joseph Stalin in Tehran to insist that all foreign troops be withdrawn from Iran and that the three nations respect Iran's territorial integrity and national autonomy.<sup>24</sup> In response, the United States and Britain withdrew their troops and the Soviets followed suit; leaving Iran an impoverished, but technically independent, nation.<sup>25</sup> Due to the American intervention with Great Britain and Russia and their shared history as British colonies, many Iranians viewed the United States as a protector in international matters.<sup>26</sup>

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<sup>21</sup> ABBAS MILANI, THE MYTH OF THE GREAT SATAN, A NEW LOOK AT AMERICA'S RELATIONS WITH IRAN, 43 (2010).

<sup>22</sup> BADI BADIOZAMANI & GHAZAL BADIOZAMANI, IRAN AND AMERICA, RE-KINDLING A LOST LOVE, 187-98 (2005).

<sup>23</sup> KENNETH M. POLLACK, THE PERSIAN PUZZLE, THE CONFLICT BETWEEN IRAN AND AMERICA 49 (2004).

<sup>24</sup> DAVID FARBER, TAKEN HOSTAGE, THE IRAN HOSTAGE CRISIS AND AMERICA'S FIRST ENCOUNTER WITH RADICAL ISLAM 48 (2005).

<sup>25</sup> *Id.* at 48-49.

<sup>26</sup> *Id.*

Though Iran was no longer a colony of the British Empire in 1949, the nation remained strongly in the sway of the British owned Anglo-Iranian Oil Company (hereinafter “AIOC”). The AIOC held concessions negotiated by Reza Shah, the previous monarch of Iran, which gave it rights to the development of Iran’s vast oil resources.<sup>27</sup> The terms of this concession, however, were quite inequitable compared to similar arrangements between other Western powers and Middle-Eastern nations. For example, the Arabian-American Oil Company shared profits between Saudi-Arabia and the United States on a fifty-fifty basis.<sup>28</sup> In contrast, the AIOC, with annual profits of approximately two-hundred and fifty million pounds, paid Iran only thirty-seven million pounds under the concession.<sup>29</sup> The economic mistreatment of Iran by Britain was also felt at a personal level by employees of the AIOC:

The working conditions of the AIOC’s Iranian employees were unconscionable: they were paid 50 cents per day and lived in a shantytown called Kaghazabad (“paper city,” for the principal means of construction) without running water or electricity... They lived during the seven hot

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<sup>27</sup> STEPHEN KINZER, ALL THE SHAH’S MEN, AN AMERICAN COUP AND THE ROOTS OF MIDDLE EAST TERROR 51-52 (2003).

<sup>28</sup> POLLACK, *supra* note 23, at 54.

<sup>29</sup> *Id.* at 50.

months of the year under the trees... In winter times these masses moved into big halls, built by the company, housing up to 3,000 to 4,000 people without wall or partition between them. Each family occupied the space of one blanket. There were no lavatories...<sup>30</sup>

The AIOC's rapacious policies combined with the totalitarian abuses of Mohammad Reza Shah, the Iranian Monarch, led to a volatile political situation which gave rise to an opposition political movement called the National Front in October of 1949.<sup>31</sup>

### ***The Rise of Mohammed Mossadegh***

The National Front was a political party led by Mohammad Mossadegh, an elder statesman of Iranian politics known for his populist and anti-British stances. The National Front was born from a successful sit-in protest objecting to improper elections of the Majlis (Iranian Parliament) that were rigged by Mohammad Reza Shah.<sup>32</sup> When new, fair elections were held, Mohammad Mossadegh and six other founders of the National Front were elected to the Majlis marking the rise of an organized, sophisticated opposition party that was "fired with

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<sup>30</sup> *Id.* at 52.

<sup>31</sup> *Id.* at 53.

<sup>32</sup> KINZER, *supra* note 27, at 71.

nationalistic zeal and confident of broad public support.”<sup>33</sup> The primary goal of Mossadegh and the National Front was to apply their new-found political might to renegotiate the terms of AIOC’s oil concession.<sup>34</sup> Initially, Mossadegh wanted a similar arrangement to the agreement between the United States and Saudi Arabia, which would result in a fifty fifty profit split and transparency in the accounting procedures.<sup>35</sup> The British immediately rejected this proposition and strong-armed Mohammed Reza Shah into a new concession that addressed none of Mossadegh’s concerns. The new concession merely increased the minimum annual royalty payment to four million pounds, and made vague promises about training more Iranians for administrative roles.<sup>36</sup> The Shah attempted to force through this new agreement; however it was roundly rejected by the Majlis, which was controlled by Mossadegh and the National Front.<sup>37</sup>

While the Shah attempted to negotiate more acceptable terms with the British, the political struggle between the National Front and the Shah continued. Mossadegh and the National Front grew more and more entrenched against the British and focused upon the nationalization of the oil industry as the best solution.<sup>38</sup> After about a year and a half of stalemate, the British offered terms similar to the Arabian-American oil concession; however it was too late. The popular

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<sup>33</sup> *Id.*

<sup>34</sup> POLLACK, *supra* note 23, at 53.

<sup>35</sup> *Id.* at 54.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> BADIOZAMANI, *supra* note 22.

movement against British colonialism had been inflamed to the point of no return. On March 8, 1951, pro-British Iranian Prime Minister Razmara was assassinated by a religious zealot who stated he wished to “deliver the deprived Moslem people of Iran from foreign serfdom.”<sup>39</sup> This act was the catalyst for change that would bring Mossadegh to power. One week after the assassination, Mossadegh led the Majlis in a unanimous vote to nationalize AIOC.<sup>40</sup> On April 15, 1951, the British closed AIOC’s Abadan oil refinery.<sup>41</sup> On April 28, Mohammed Mossadegh became Prime Minister of Iran.<sup>42</sup>

As Prime Minister, Mohammed Mossadegh became the first truly democratic leader in the history of Iran, establishing a record of positive democratic change that resulted in him becoming the most popular figure in modern Iranian history.<sup>43</sup> Among the changes that Mossadegh put in place were: significant advances in women’s suffrage in Iran;<sup>44</sup> outlawing forced labors of peasants on the estates of their landlords; establishing benefits to be paid to sick and injured factory workers; and defending religious freedoms.<sup>45</sup> “Above all, [Mossadegh] was known even by his enemies as scrupulously honest and

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<sup>39</sup> *Id.*

<sup>40</sup> KINZER, *supra* note 27, at 79.

<sup>41</sup> BADIOZAMANI, *supra* note 22.

<sup>42</sup> *Id.*

<sup>43</sup> KINZER, *supra* note 27, at 7.

<sup>44</sup> Shiva Falsafi, *Civil Society and Democracy in Japan, Iran, Iraq, and Beyond*, 43 VAND. J. TRANSNAT’L L. 357, 421 (2010).

<sup>45</sup> KINZER, *supra* note 27, at 140.

impervious to the corruption that pervaded Iranian politics.”<sup>46</sup>

Mossadegh found himself in a unique position in the history of Iran to bring about radical and positive change; with his popularity and reputation for integrity politically insurmountable by his opponents. When the Shah challenged Mossadegh’s authority to appoint the Minister of War, an appointment traditionally made by the Shah, Mossadegh refused to acquiesce and instead resigned as prime minister.<sup>47</sup> While the British initially celebrated the Shah’s apparent return to authority, the people rejected the Shah’s replacement of Mossadegh with the pro-British Ahmad Qavam and massive protests bubbled into a near revolution.<sup>48</sup> Mossadegh was re-established as Prime Minister within four days of his resignation and the Shah agreed to remain as royalty, but consented not to rule.<sup>49</sup> With the monarchy now a ceremonial accent to his democratic government, Mossadegh began his reforms in earnest and the nationalization of AIOC would not be overturned.

The British would not simply allow their oil company to be nationalized, however. A large contingent of British warships was quickly stationed off the coast of Iran near the Abadan refinery,<sup>50</sup> instituting an embargo on Iranian oil under the assertion that the oil was stolen British

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<sup>46</sup> *Id.*

<sup>47</sup> POLLACK, *supra* note 23, at 61-62.

<sup>48</sup> *Id. at 62.*

<sup>49</sup> *Id.*

<sup>50</sup> KINZER, *supra* note 27, at 111.

property.<sup>51</sup> Great Britain then appealed to the United Nations for support on their position,<sup>52</sup> despite the United States, through a letter from Secretary of State Dean Acheson, strongly advising against such a maneuver.<sup>53</sup> Acheson had long been seeking a diplomatic solution to the growing tensions between Iran and Great Britain and viewed taking the issue to the United Nations as a step that would lead to “an irrevocable freezing of the Iranian Situation.”<sup>54</sup> Acheson proved correct as the great stage of the United Nations provided Mossadegh with exactly the forum he needed play the role of David against the Goliath of Great Britain. Mossadegh travelled to New York to personally present Iran’s case to the United Nations resulting in a referral of the matter to the World Court where Iran would prove victorious.<sup>55</sup> The true victory for Mossadegh, however, was that he was able to present Iran to the world as a sympathetic victim of British colonialism. Mossadegh's success at the United Nations and apparent victory over Britain resulted in his selection as *Time Magazine*’s Man of the Year.<sup>56</sup>

After his sessions with the United Nations, Mossadegh extended his stay in the United States and met at length with Secretary Acheson and President Harry

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<sup>51</sup> *Id.* at 116.

<sup>52</sup> BADIOZAMANI, *supra* note 22, at 244.

<sup>53</sup> KINZER, *supra* note 27, at 117.

<sup>54</sup> *Id.*

<sup>55</sup> BADIOZAMANI ET AL., *supra* note 22, at 244.

<sup>56</sup> *1951 Man of the Year: Mohammed Mossadegh*, TIME MAG. (Jan.

7, 1952), available at

<http://mohsen.banan.1.byname.net/content/republished/doc.public/politics/iran/mossadeq/1951TimesManOfTheYear/main.pdf>.

Truman. Staying in Washington D.C. for nearly a month, Mossadegh participated in more than seventy hours of talks with the United States while the parties attempted to find a diplomatic solution to the ongoing conflict between Britain and Iran.<sup>57</sup> Prime Minister Mossadegh left the United States with a confidence in the friendship of the United States, as President Truman expressed a deep sympathy for the Iranian position.<sup>58</sup> However, President Truman also expressed that the United States was concerned that the Soviet Union could use the conflict with Britain as an opportunity to seize Iran and start a world war, a concern that would eventually be Mossadegh's undoing.<sup>59</sup>

### ***Operation Ajax: The Fall of Mohammed Mossadegh***

The election of Winston Churchill to his second stint as Prime Minister of England in 1951, would be the beginning of the end for Mohammed Mossadegh. During his campaign, Churchill's position on Iran was clear and poignant as he charged that sitting Prime Minister Clement Atlee "had scuttled and run from Abadan when a splutter of musketry would have ended the matter."<sup>60</sup> Churchill described Mohammed Mossadegh as "an elderly lunatic bent on wrecking his own country and handing it over to the Communists."<sup>61</sup> Even worse for Mossadegh, the friendly relations between the United States and Iran cooled significantly with the election of the vehemently anti-communist Dwight Eisenhower as President, who did not

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<sup>57</sup> KINZER, *supra* note 27, at 130.

<sup>58</sup> *Id.* at 129.

<sup>59</sup> *Id.*

<sup>60</sup> *Id.* at 132.

<sup>61</sup> *Id.*

share his predecessor's sympathies for Iran. Mossadegh exacerbated this cooling in relations when he implied to President Eisenhower that without American intervention against the British oil embargo, Iran could fall victim to communist takeover.<sup>62</sup> Rather than bring Eisenhower to the aid of Iran, this ploy pushed Eisenhower towards his old friend Winston Churchill's position that Iran was on a path towards falling to the Soviet Union.<sup>63</sup> Likewise, while former Secretary of State Dean Acheson had strongly resisted the proposition of aiding the British in a coup against Mossadegh,<sup>64</sup> Eisenhower's Secretary of State Foster Dulles and Central Intelligence Agency Director Allen Dulles, brothers, were ready to join the British in a move against Mossadegh immediately after Eisenhower took office in 1953.<sup>65</sup>

As the British had been generally expelled from Iran, they were not in a position to directly sponsor a coup against Mossadegh. Instead, the United States would lead the effort; the CIA chose Kermit Roosevelt, a grandson of President Theodore Roosevelt, as the officer to lead the coup d'état against Prime Minister Mohammed Mossadegh.<sup>66</sup> The coup was code-named Operation Ajax and was chronicled in great detail by CIA Historian Dean

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<sup>62</sup> JOHN W. LIMBERT, *NEGOTIATING WITH IRAN – WRESTLING THE GHOSTS OF HISTORY* 75 (United States Institute of Peace Press, 2009).

<sup>63</sup> *Id.*

<sup>64</sup> Robert L. Beisner, *Dean's List: Power, Institutions, and Archesonian Diplomacy – Dean Acheson: A Life in the Cold War*, 103 *AM. J. INT'L L.* 375, 379 (2006).

<sup>65</sup> KINZER, *supra* note 27, at 152.

<sup>66</sup> *Id.* at 4.

L. Dodge.<sup>67</sup> Dodge's history was based on an assortment of documents including the writings of CIA operative Donald N. Wilbur, who was directly involved in the operation.<sup>68</sup>

Operation Ajax was hatched in a joint venture between the British SIS and the American CIA, with the CIA taking the lead in both planning and execution.<sup>69</sup> The CIA selected Iranian General Zahedi as the person most likely to be able to succeed Mossadegh as Prime Minister, and formed a plan to remove Mossadegh from power and put Zahedi in place.<sup>70</sup> The decision was based on the following facts and assumptions:

[T]hat Zahedi alone of potential candidates had the vigor and courage to make him worthy of support; that the Shah must be brought into the operation; that the Shah would act only with great reluctance but that he could be forced to do so; that if the issue was clear-cut the armed forces would follow

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<sup>67</sup> The *New York Times* would eventually acquire the Dodge's History and publish excerpts on April 16, 2000, prompting the eventual declassification and release of the history. See James Risen, *How a Plot Convulsed Iran in '53 (and in '79)*, N.Y. TIMES, Apr. 16, 2000, <http://nytimes.com/library/world/mideast/041600iran-cia-intro.html>.

<sup>68</sup> Dr. Donald N. Wilbur, *Overthrow of Premier Mossadeq of Iran, November 1952-August 1953*, CIA Clandestine Service History (March 1954), <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB28/#documents>.

<sup>69</sup> *Id.* at 6.

<sup>70</sup> *Id.* at 3-4.

the Shah rather than Mossadeq; that the operation must, if possible, be made to appear legal or quasi-legal instead of an outright coup; that public opinion must be fanned to fever pitch against Mossadeq in the period just preceding the execution of the overthrow operation; that the military aspect would be successful only if the station were able to review the plan with Iranians chosen by Zahedi to execute it...<sup>71</sup>

The primary Iranian agents to be used were known as the Rashidan brothers: SIS contacts who had strong connections with the armed forces, Majlis, religious leaders, the press, street gangs, politicians, and other influential figures.<sup>72</sup> From the United States, Kermit Roosevelt was joined by General Norman Schwarzkopf (the father of the General of the Gulf War) who would apply pressure, in conjunction with the Shah's sister, to gain the Shah's reluctant cooperation.<sup>73</sup>

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<sup>71</sup> *Id.* at 8-9.

<sup>72</sup> *Id.* at 7.

<sup>73</sup> Donald N. Wilbur, *Overthrow of Premier Mossadeq of Iran, Appendix B London Draft*, NATIONAL SECURITY ARCHIVE ELECTRONIC BRIEFING BOOK NO. 28, 5, (Mar. 1954), <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB28/#documents>. (hereinafter "the London Draft").

The coup would be preceded by a vast disinformation campaign; with the CIA taking over Iranian newspapers to publish anti-Mossadeq propaganda. The operation plan specifically outlined the following steps:

The material designed to discredit Mossadeq will hammer the following themes:

(a) Mossadeq favors the Tudeh Party and the USSR. (This will be supported by black documents.)

(b) Mossadeq is an enemy of Islam since he associates with the Tudeh and advances their aims.

(c) Mossadeq is deliberately destroying the morale of the Army and its ability to maintain order.

(d) Mossadeq is deliberately fostering the growth of regional separatist elements through his removal of Army control over tribal areas. One of the aims of the removal of control by the Army is to make it easier for the Soviets to take over the Northern Provinces.

(e) Mossedeq is deliberately leading the country into economic collapse.

(f) Mossadeq has been corrupted by power to such an extent that no trace is left of the fine man of earlier years, and he now has all the repressive instincts of the dictator.

(g) Consistent with these themes will be the persistent slant that Mossadeq has been the unwitting victim of his scrupulous, personally ambitious advisers.<sup>74</sup>

In addition to corrupting the press, Operation Ajax depended on the bribing and pressuring of Mossadegh's opposition, which included a variety of political parties and bazaar merchants, who controlled street gangs, to aid in the spread of unrest and propaganda.<sup>75</sup> Further, Operation Ajax would recruit Islamic leaders and extremists, including terrorist elements, to engage in the public support of Zahedi and the Shah, protests against Mossadegh, and even terrorist action against Mossadegh and his government.<sup>76</sup> The plan then detailed exactly how all of

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<sup>74</sup> *Id.* at 16-17.

<sup>75</sup> *Id.* at 18-22.

<sup>76</sup> *Id.* at 20-21.

the elements would be used in concert in order to bring about the fall of Mossadegh and bring Zahedi into power.<sup>77</sup>

After weeks of subversive propaganda and demonstrations as directed by the Operation Ajax operation plan, the Shah finally gave in to months of pressure from his sister, General Schwarzkopf, Kermit Roosevelt and numerous others, and joined the plot against Mossadegh. On August 13, 1953, the Shah signed legal-seeming royal decrees, drawn up by Roosevelt, called *firman* that purported to dismiss Mossadegh and appoint General Zahedi as the new Prime Minister.<sup>78</sup> With the *firman* providing an appearance of legality, Operation Ajax launched into execution on August 15, 1953, and immediately appeared to have failed as large parts of the military and government maintained their loyalty to Mossadegh.<sup>79</sup> Mossadegh's government began issuing radio broadcasts condemning the coup attempt, General Zahedi went into hiding, and the Shah fled the country.<sup>80</sup> With the apparent failure of the coup being broadcast for the world to hear, Roosevelt and his fellow operatives were instructed to desist attempting to overthrow the Mossadegh government and flee Iran.<sup>81</sup>

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<sup>77</sup> *Id.* at 23-25.

<sup>78</sup> Donald N. Wilbur, *Overthrow of Premier Mossadeq of Iran*, NATIONAL SECURITY ARCHIVE ELECTRONIC BRIEFING BOOK NO. 28, at 36-37, (Mar. 1954), <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB28/#documents>. [hereinafter *the London Draft*].

<sup>79</sup> *Id.* at 39-43.

<sup>80</sup> *Id.* at 44-46.

<sup>81</sup> *Id.* at 58, 64.

Mossadegh, however, made a political miscalculation. In response to the coup attempt, Mossadegh attempted to solidify his government by enacting a referendum of dubious constitutionality, which stated that an improbable majority of Iranian citizens had voted to dissolve the Majlis -- a power which only the Shah possessed.<sup>82</sup> Further, Mossadegh's government issued statements denying the authenticity of the *firman*.<sup>83</sup> These two actions, combined with the ongoing propaganda campaign against Mossadegh, created questions of the legitimacy of Mossadegh's position. When it was revealed that the *firman* actually existed<sup>84</sup> and the Shah spoke publically in Iraq. He stated that he had fled a coup attempt by Mossadegh against the royalty and Prime Minister Zahedi,<sup>85</sup> and Kermit Roosevelt had the tools he needed to revive the coup.<sup>86</sup> Over the next four days, Roosevelt and his operatives spun the story of the attempted coup upon Mossadegh into a story of betrayal and revolution by Mossadegh against the Shah, with the resulting misinformation fanning the chaos in Tehran against Mossadegh.<sup>87</sup>

On August 19, 1953, with the Rashidan Brothers fanning the flames of dissent and organizing mass riots and demonstrations throughout Tehran, sections of the military loyal to General Zahidi took control of the city.<sup>88</sup> Soon the

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<sup>82</sup> *Id.* at 31, 48.

<sup>83</sup> *Id.* at 46.

<sup>84</sup> *Id.* at 47.

<sup>85</sup> *Id.* at 52-53.

<sup>86</sup> *Id.* at 51.

<sup>87</sup> *Id.* at 52, 65.

<sup>88</sup> *Id.* at 67.

telegraph office and Radio Tehran were taken by royalists under the guidance of Operation Ajax, and the propaganda machine was then able to present Zahidi with the *firman* to legitimize his claims that Mossadegh was a rebel against the Shah.<sup>89</sup> Project Ajax was a success. Mohammed Reza Shah reclaimed his throne from his self-imposed exile in Rome.<sup>90</sup> Mohammed Mossadegh was arrested and convicted of treason; spending three years in prison and remaining under house arrest until his death in 1967.

Mossadegh was not the only casualty of Operation Ajax, however, as the once friendly alliance between the United States and Iran perished as well:

The reality of [the Iranian people's] deep anger against the United States in particular can hardly be underrated. And there were many reasons for it. But the central reason was that it was known as the power that overthrew Mossadegh's government in 1953, and it was wrongly perceived to be the real power behind, and the daily instructor of the absolute and arbitrary [government of the Shah].<sup>91</sup>

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<sup>89</sup> *Id.* at 69-73.

<sup>90</sup> *Id.* at 76.

<sup>91</sup> MOSSADEQ AND THE 1953 COUP IN IRAN 23-24 (Mark J. Gasiorowski & Malcolm Byrne eds., 2004).

Thus, the United States accomplished its goal and aided Britain in removing the democratically elected Mossadegh from power and restoring to the throne the brutal Mohamed Reza Shah. While, in the short term, this appeared to be a victory for the United States and Britain, the Iranian people would never forgive these Western powers for destroying their best chance at democracy.

### **III. The Shah's Iran – A Brutal Regime Supported by American Interests**

The successful coup d'état of Mohammad Mossadegh's government restored Mohammed Reza Shah to the monarchy. By the late 1950s the Shah seemed completely in control of Iran. After the Majlis elections were fixed in 1956, there were only two political parties allowed in Iran – the National Party, as the party of the government, and the Peoples' party, as the figurative opposition. Both political parties were controlled by the Shah and were known to Iranians as “yes and yes sir.”<sup>92</sup> The Shah's power, however, did not derive from the political will of Iran. The United States was perceived as the power behind his throne, manipulating the Shah through military might, weapons sales, monetary aid and capital investment.<sup>93</sup> The Shah was fully aware that his restoration to power by the acts of the United States left him in thrall to the foreign power. The Shah specifically thanked Kermit Roosevelt upon his reinstatement stating, “I owe my throne to God, my people, my army – and to

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<sup>92</sup> POLLACK, *supra* note 23, at 78.

<sup>93</sup> FARBER, *supra* note 24, at 37.

you!”<sup>94</sup> While most Americans thought little of Iran during this time, Iranians understood that the United States was the power behind the Shah’s reign, perceiving the United States as “the ghost in the machine, present even when it was absent, pulling strings, making secret deals, changing lives, bestowing boons, and providing cover for corrupt and even murderous acts.”<sup>95</sup>

### ***The Shah’s Rise to Power***

The Shah’s reign was not easy, however, and the Iraqi revolution in 1958 showed the Shah that he may be as vulnerable as the Iraqi monarchy.<sup>96</sup> Arab uprisings throughout the region made the Shah nervous, so he reached out to the United States and Israel as mutual enemies of the Arabian radicals and the looming Soviet Union.<sup>97</sup> The Soviets were a genuine threat as the Shah was fervently anti-communist and pro-American. With the help of the CIA, the Shah formed the brutal Sazeman-e Ettelaatva Amniyat-e Keshvar (hereinafter the “SAVAK”) security agency, whose mission was to jail, beat, torture and intimidate all of the Shah’s political opponents, especially the remnants of the outlawed, communist Tudeh party.<sup>98</sup> The SAVAK’s international reputation was based upon its “brutality, cruelty, and the macabre creativity of its

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<sup>94</sup> *Id.* (citing KERMIT ROOSEVELT, COUNTERCOUP: THE STRUGGLE FOR THE CONTROL OF IRAN 199 (1979)).

<sup>95</sup> FARBER, *supra* note 24, at 37-38.

<sup>96</sup> POLLACK, *supra* note 23, at 78.

<sup>97</sup> *Id.* at 79.

<sup>98</sup> NIKKI R. KEDDIE, ROOTS OF REVOLUTION 144 (1981); Farber, *supra* note 24, at 60.

torturers”<sup>99</sup> This reputation for political torture became a defining theme in the Shah’s Iran, as illustrated during the Shah’s interview with Mike Wallace on *60 Minutes*, during which the Shah grimly joked about not having the SAVAK torture Wallace for asking difficult questions.<sup>100</sup>

Still fearful of the Soviet specter in Iran, the United States ignored the brutal methods of the Shah’s dictatorship and entered into a number of bilateral defense treaties with Iran, beginning under President Eisenhower in 1959 with a treaty that guaranteed American military intervention on Iran’s behalf.<sup>101</sup> The Eisenhower administration’s support for the Shah also included more than a billion dollars in economic and military aid over the first seven years of the Shah’s reign, as the CIA considered Iran a key strategic center for monitoring the Soviet threat in the Middle East.<sup>102</sup> The Kennedy administration followed in Eisenhower’s footsteps, but tied Iranian aid to economic reforms and development, under the theory that the nation’s poverty led to a vulnerability to communism.<sup>103</sup> This ultimately led to the Shah’s profoundly unsuccessful “White Revolution” which was supposed to include land use reform; profit sharing; electoral reform; the restoration of women’s suffrage; expansion of literacy; nationalization of forests; pastures and waterways; and education

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<sup>99</sup> FARBER, *supra* note 24, at 60.

<sup>100</sup> 60 Minutes: *The Shah of Iran* (CBS television broadcast Oct. 24, 1976), available at <http://www.cbsnews.com/video/watch/?id=4539311n>.

<sup>101</sup> POLLACK, *supra* note 23, at 79-80; H.J. Res. 117 (Pub. Law 85-7, 71 Stat. 5) (1959).

<sup>102</sup> FARBER, *supra* note 24, at 59.

<sup>103</sup> *Id.* at 62.

reform.<sup>104</sup> The Kennedy Administration also pushed for reduction in Iranian military spending, refocusing military personnel into civic roles, and the CIA removing themselves from direct interaction with the SAVAK under the theory that the training was complete.<sup>105</sup> The Shah was not going to allow for any reduction in the power of his secret police, however; and the Israeli Mossad immediately stepped in to fill the void that the CIA had left behind.<sup>106</sup>

The tight military ties between Iran and the United States were restored in 1972 when President Nixon went to Tehran and named the Shah as the protector of American military interests in the Middle East. This move essentially gave the Shah an open access to American military technology.<sup>107</sup> The Shah spent approximately \$12.1 billion dollars on advanced American military technology over the next four years, paying for the weapons with oil revenues.<sup>108</sup> In 1977, Iran purchased half of the entire American arms export industry.<sup>109</sup> President Ford would maintain this close relationship, and by the time Jimmy Carter became President of the United States in 1978, Iran was the center of American military and economic security in the Middle East.<sup>110</sup>

While the strength of the Shah's relationship with the United States was an asset in receiving aid and in

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<sup>104</sup> POLLACK, *supra* note 23, at 86.

<sup>105</sup> *Id.* at 84.

<sup>106</sup> *Id.*

<sup>107</sup> FARBER, *supra* note 24, at 69-70.

<sup>108</sup> *Id.* at 70.

<sup>109</sup> POLLACK, *supra* note 23, at 109.

<sup>110</sup> FARBER, *supra* note 24, at 72.

foreign policy, it represented a lethal political weakness at home. The anti-American sentiment in Iran remained strong since the 1953 coup of Mossadegh, and the Shah's brutal regime did little to help the people forget their lost chance at democracy. The alternative to the Shah coalesced in the form of Ayatollah Ruhollah Musavi Khomeini, who used the failure of the Shah's White Revolution to rally his followers into demonstrations in 1963.<sup>111</sup> In June of that year, Khomeini castigated the Shah stating, "We have come to the conclusion that this regime has a more basic aim; they are fundamentally opposed to Islam itself and the existence of a religious class."<sup>112</sup> In response, the Shah had Khomeini arrested, triggering mass protests that ultimately led to a clash with the Shah's brutal security forces who killed hundreds of the Ayatollah's followers.<sup>113</sup> Khomeini had become the face of the opposition to the Shah and rose to the forefront of the religious hierarchy.<sup>114</sup>

The next focus of the Ayatollah's opposition came in 1964, when the United States requested an arrangement whereby United States soldiers stationed in Iran would have immunity under Iranian law and would instead be tried in American Military courts.<sup>115</sup> This Status of Forces Agreement was a fairly standard agreement, with the United States having similar agreements in place in

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<sup>111</sup> POLLACK, *supra* note 23, at 88.

<sup>112</sup> *Id.* at 88-89.

<sup>113</sup> *Id.* at 89.

<sup>114</sup> *Id.*

<sup>115</sup> FARBER, *supra* note 24, at 65.

Germany, Japan, and South Korea.<sup>116</sup> Anti-Americanism was so high in Iran, however, that the agreement barely passed the Shah's hand-picked Majlis (with sixty-two of one hundred and thirty-two votes against the measure and a significant number of members abstaining).<sup>117</sup> Khomeini latched onto the agreement as proof that the Shah was merely an American puppet stating, "[t]hey can no longer call us reactionary. The point is that we are fighting against [America].... We must use [the agreement] as a weapon to attack the regime so that the whole nation will realize that this Shah is an American agent and this is an American plot."<sup>118</sup> Khomeini received further ammunition just two weeks later when the Majlis approved \$200 million dollars in loans from American banks to purchase more American weapons.<sup>119</sup> This debt, coupled with the Status of Forces Agreement, led Iranians to recall Mossadegh's prior recriminations that the Shah was selling the sovereignty of Iran to foreign interests.<sup>120</sup>

Khomeini took these feelings and used them to inflame his supporters as he spoke in October 1964:

If the religious leaders have influence, they will not permit this nation to be slaves of Britain one day, and America the next. If the religious leaders have

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<sup>116</sup> POLLACK, *supra* note 23, at 93.

<sup>117</sup> *Id.*

<sup>118</sup> FARBER, *supra* note 24, at 65.

<sup>119</sup> POLLACK, *supra* note 23, at 93.

<sup>120</sup> *Id.*

influence they will not permit Israel to take over the Iranian economy.... If the religious leaders have influence they will strike the government in the mouth.... They will not permit America to carry out these scandalous deeds, they will throw him out of Iran.... Let the American president know that in the eyes of the Iranian people he is the most repulsive member of the human race.... Let the American government know that its name has been ruined and disgraced in Iran.<sup>121</sup>

Just a few days after this speech, Ayatollah Khomeini was arrested by SAVAK agents, taken to the Tehran airport, exiled to Turkey, and then Iraq where he spent the next thirteen years developing a network of anti-Shah activists with the goal of making Iran an Islamic state.<sup>122</sup>

Even with Khomeini gone the dissidents remained active in Iran. In January 1965, the Prime Minister serving under the Shah was assassinated.<sup>123</sup> Just three months later there was an unsuccessful assassination attempt on the Shah himself carried out by a member of his own imperial guard.<sup>124</sup> That same year the Mujahedeen-e was formed as

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<sup>121</sup> FARBER, *supra* note 24, at 66.

<sup>122</sup> *Id.* at 67.

<sup>123</sup> POLLACK, *supra* note 23, at 98.

<sup>124</sup> *Id.*

a guerrilla movement made up of religious militants and designed to carry out a terrorist campaign against the Shah.<sup>125</sup> Several smaller militant groups rose up as well.<sup>126</sup>

Despite this unrest, with the Ayatollah in exile and the support of the United States firmly behind him, the Shah spent the next decade expanding his personal wealth at the expense of the Iranian public who lived in poverty with an average per capita income of two hundred and fifty dollars per year.<sup>127</sup> This dichotomy of wealth was highlighted in 1971, when the Shah hosted an enormous gala to celebrate his thirtieth year as Shah and the 2,500<sup>th</sup> anniversary of the founding of the Persian Empire under Cyrus the Great. The extravagant celebration was unbelievable in its excess:

Kings, emperors, princes,  
presidents, sheiks, sultans,  
and hundreds of immensely  
wealthy jet-setters came to a  
tent city the Shah had built on  
the ruins of Persepolis. They  
drank Dom Perignon Rose  
1959 and Chateau Lafite  
Rothschild 1945 from  
specially designed Baccarat  
crystal goblets while they  
supped on poached quails  
eggs stuffed with caviar,  
crayfish mouse, roast  
peacock stuffed with

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<sup>125</sup> *Id.*

<sup>126</sup> *Id.*

<sup>127</sup> FARBER, *supra* note 24, at 67.

foiegras, and other delicacies prepared by Maxim's of Paris. The Shah's shindig cost the Iranian people, a majority of whom lived in poverty, some \$200 million.... a small group of students that dared protest the extravaganza were badly beaten by the Shah's security force.<sup>128</sup>

With such gaudy displays of wealth by the Shah, while surrounded by the poverty of the Iranian public, it is not surprising that not even the fear of the SAVAK could keep the opposition groups at bay.

### ***The Fall of the Shah***

The Shah's fall began with the election of a new American President. Jimmy Carter was elected President of the United States on a campaign of "foreign policies that commensurated with the nation's highest ideals."<sup>129</sup> Carter's view of foreign policy seemed almost a direct rebuke of the American support of the Shah's reign:

Our people have learned the folly of trying to inject our power into the internal affairs of other nations. It is time that our government learned that lesson too.... Never

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<sup>128</sup> *Id.*

<sup>129</sup> *Id.* at 39.

again should our country become militarily involved in the internal affairs of another country unless there is a direct and obvious threat to the security of the United States or its people. We must not use the CIA or other covert means to effect violent change in any government or government policy.... the CIA must operate within the law.<sup>130</sup>

To emphasize the change in philosophy, President Carter specifically criticized the Shah's human rights record and objected to such prolific arms deals with a nation with such a poor record.<sup>131</sup> Carter's viewpoint was a total divergence from the way that the Shah had been treated under previous regimes and called into question Iran's role as the protector of American military interests in the Middle East.<sup>132</sup>

The perception in Iran was that the new administration did not support the Shah, and the Shah reacted quickly by implementing reforms of his own brutal policies, eventually even inviting the International Committee of the Red Cross and Amnesty International to examine his newly improved practices.<sup>133</sup> Subsequently, Secretary of State Cyrus Vance told reporters during his visit to Tehran that the United States was pleased with the

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<sup>130</sup> *Id.* at 39-40.

<sup>131</sup> *Id.* at 75.

<sup>132</sup> POLLACK, *supra* note 23, at 99.

<sup>133</sup> POLLACK, *supra* note 23, at 121.

reforms on human rights that Iran was already making and that sanctions on Iran were out of the question.<sup>134</sup> The Shah's quick reaction to the Carter Administration's criticisms enhanced the perception that the Shah was a puppet on the strings of the United States. The Iranians saw that the Shah had been cowed into reform by the United States and began to believe that the Carter Administration would protect Iranians if they spoke or acted out against the Shah.<sup>135</sup> In reality, the Carter Administration was unlikely to challenge the Shah, as it already had its hands full with the oil crisis, the backlash of the Vietnam War, and the nuclear arms race. It was the perception of the Shah's weakness that mattered to the Iranian people, however, and they seized upon the perceived weakness.

Newspapers began to question the Shah's policies, students began to protest against the Shah on campuses, and groups began circulating letters of grievances, with one newspaper receiving 40,000 letters in response to publishing the question "What is Wrong with Iran?"<sup>136</sup> Things continued to go poorly for the Shah when he visited the White House in November of 1977 and thousands of anti-Shah protestors interrupted the proceedings.<sup>137</sup> The protests were so intense that police had to use tear gas near the Shah and the President, and remarks were made on the lawn at the White House with tears flowing from the eyes

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<sup>134</sup> *Id.* at 122.

<sup>135</sup> *Id.*

<sup>136</sup> *Id.* at 123.

<sup>137</sup> *Id.*

of both leaders.<sup>138</sup> While the meeting was still considered a success between the dignitaries,<sup>139</sup> the tear gas incident was viewed by opposition groups in Iran as another sign that the United States was close to abandoning the Shah.<sup>140</sup>

Just over a month later, President Carter was a guest of the Shah in Tehran and gave an eloquent New Year's Eve toast to the Shah praising the stability of Iran, the love that his people have for him, and in closing stated, "We have no nation on Earth who is closer to us in planning for our mutual security.... And there is no leader with whom I have a deeper sense of personal gratitude and personal friendship."<sup>141</sup> Some historians credit this toast by Carter as the catalyst that set in motion the Iranian revolution the following year.<sup>142</sup> Khomeini pounced on the toast as proof of both the Shah's allegiance to the United States and Carter's hypocrisy due to his claims to be a defender of human rights as he still embraced the Shah.<sup>143</sup> The Shah responded to Khomeini's rhetoric against Carter by placing an editorial in a newspaper that blamed all the recent Communist and Muslim extremists, and foolishly decried Khomeini directly as a foreigner, a drunkard, and a closet homosexual.<sup>144</sup> Following Khomeini's castigation of the Shah's New Year's toast and the Shah's foolish claims about Khomeini, massive demonstrations erupted in the Iranian religious center of Qom, with the Shah's security forces

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<sup>138</sup> FARBER, *supra* note 24, at 81.

<sup>139</sup> *Id.*

<sup>140</sup> POLLACK, *supra* note 23, at 122.

<sup>141</sup> FARBER, *supra* note 24, at 81.

<sup>142</sup> *Id.*

<sup>143</sup> POLLACK, *supra* note 23, at 127.

<sup>144</sup> *Id.*

responding violently, killing protestors, and several respected mullahs.<sup>145</sup>

Chaos and violence overtook all parts of Iranian society, with the Shah's brutal tactics only fanning the flames. The Shah demanded that Iraq banish Khomeini to Paris, which resulted in the Ayatollah having even greater freedom of access to the press and his followers than he had in Iraq.<sup>146</sup> The Shah became inconsistent in dealing with the uprisings against him. In some cases, such as on September 8, 1978, the Shah's soldiers opened fire slaughtering hundreds of protesters, while at other times he attempted to open discussions with more moderate forces of the opposition.<sup>147</sup> When the Shah turned to his allies in the United States amid the chaos, all that was offered was Ambassador William Sullivan's advice that the Shah "reform his government to provide 'effective' economic and social measures to show that '[he] could lead.'"<sup>148</sup>

President Carter was also ineffective in dealing with the Iranian crisis. He was torn between advice from his National Security Council (hereinafter "NSC") advisor Zbigniew Brzezinski who advocated for direct military action and from the State Department with Ambassador Sullivan holding out hope that moderate pro-democracy elements could be found to replace the Shah.<sup>149</sup> As Carter spent months indecisively listening to the debate between the NSC and the State Department, the Shah, in November

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<sup>145</sup> *Id.*

<sup>146</sup> *Id.* at 131.

<sup>147</sup> FARBER, *supra* note 24, at 92-93.

<sup>148</sup> *Id.* at 93.

<sup>149</sup> *Id.* at 95.

of 1978, took to the radio and television to apologize for his “past mistakes, unlawful actions, oppression and corruption” and pleaded with the opposition to “try to protect the only Shi-ite country in the world through their guidance and by inviting the people to observe peace and order.”<sup>150</sup> By the end of December, the Shah asked Ambassador Sullivan bluntly whether the United States would support a new hard line military government that would end the revolution by a policy of brutal repression, to which the Ambassador replied that the “United States of America could not make such a decision for the Shah.”<sup>151</sup> With the lack of any support from his American allies, upon whom he had relied on for decades, the Shah was simply incapable of any real action on his own. In December of 1978, President Carter continued to seek more opinions from more advisors and requested complex studies on the situation as the Shah lost control of the streets.<sup>152</sup> On January 16, 1979, Mohammed Reza Shah left Iran for the last time as the pilot of his own American-made Boeing 707.<sup>153</sup>

#### **IV. The 1979 Iran Hostage Crisis**

Just as the coup d'état of Mohammed Mossadegh is the defining moment in the Iranian perception of the United States, the 1979 Iran Hostage Crisis is the defining moment of the American perception of Iran. Both sides felt that they are the more aggrieved and the other is the villain in

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<sup>150</sup> *Id.*

<sup>151</sup> *Id.* at 96.

<sup>152</sup> *Id.*

<sup>153</sup> *Id.* at 101.

the relationship.<sup>154</sup> The impact of the Hostage Crisis was far reaching and created an indelible mark on the American psyche through the introduction of Islamic Fundamentalist terrorism. The Hostage Crisis also aided Ayatollah Khomeini in his ascension to power in Iran by allowing him to cement a power base in zealous anti-Americanism, and arguably ended the Carter Presidency after one term. Historically, it also represented the first interaction between the United States and the newly defined Islamic Republic of Iran, setting the tone for decades of animosity.

### ***The Rise of the Ayatollah***

As United States Ambassador to Iran, William Sullivan was intimately involved with the situation in Iran. Sullivan immediately understood that the Shah's government was done and Khomeini was now the power in Iran, but his pleas that the Carter Administration approach the Ayatollah, as most other nations were doing, were repeatedly refused by the President.<sup>155</sup> Desperate to maintain some relationship between the United States and Iran, Sullivan cabled Washington stating:

You should know that President has made gross and perhaps irretrievable mistake by failing to send emissary to Paris to see Khomeini.... I can notrpt [sic] not understand the rationale.... I urge you immediately to joint

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<sup>154</sup> LIMBERT, *supra* note 62, at 75.

<sup>155</sup> FARBER, *supra* note 24, at 99-100.

[sic] Harold Brown in his plea for sanity.... Failure to act immediately could permanently frustrate U.S. national interest in Iran.<sup>156</sup>

Disgusted with this outburst from his Ambassador, President Carter ignored his advice entirely and simply waited to see whether the Shah's recently selected Prime Minister Shapour Bakhtiar could somehow keep the Shah's government in place despite the Shah's flight from Iran.<sup>157</sup> Bakhtiar did try to restore order, but his power was totally based on the military power, and the Iranian military was vainly looking to the United States for support and guidance.<sup>158</sup>

On February 1, 1979, Ayatollah Rulloh Musavi Khomeini returned to Iran from his exile in Paris and approximately three million people lined the streets of Tehran to greet him.<sup>159</sup> On February 11, 1979, the last units of the armed forces supporting the Shah's regime surrendered and the Ayatollah's victory was complete.<sup>160</sup> To form a new government, Khomeini created a Revolutionary Council intended to unify the various factions that made up the revolution.<sup>161</sup> The Revolutionary Council began filling government positions, including appointing Mehdi Bazargan, a liberal oppositionist, as

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<sup>156</sup> *Id.* at 101.

<sup>157</sup> *Id.* at 100-01.

<sup>158</sup> POLLACK, *supra* note 23, at 146.

<sup>159</sup> *Id.* at 143.

<sup>160</sup> LIMBERT, *supra* note 62, at 90.

<sup>161</sup> POLLACK, *supra* note 23, at 150.

Prime Minister, providing hope that a democracy might flourish.<sup>162</sup> However, as many government positions were filled by taking members from the Revolutionary Council, Khomeini filled the vacancies in the Council with conservative Islamists loyal to him personally.<sup>163</sup> Radical Islamists also seized power through the formation of ad hoc Islamist *komitehs* and revolutionary tribunals.<sup>164</sup> These ad hoc groups charged Iranians with anti-Islamic crimes, enforcing sentences of execution, and other biblical punishments, with no opportunity for the accused to present a defense.<sup>165</sup> *Bonyads* were also formed under the control of radical mullahs; who seized all the wealth remaining in the country to redistribute it to Khomeini and his followers.<sup>166</sup>

These groups were enforcing *Sharia* law and the will of Khomeini, even as the Ayatollah and his Revolutionary Council were going through the motions of setting up a legitimate democratic government in apparent cooperation with more liberal groups from the revolution.<sup>167</sup> This attempt to include non-Islamic viewpoints was merely a charade, however, and Khomeini eventually issued a national referendum with only one question to be voted upon: “Do you want the monarchy to be replaced by an Islamic Republic?”<sup>168</sup> While the more liberal groups involved in the revolution, such as the

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<sup>162</sup> *Id.* at 149.

<sup>163</sup> *Id.* at 150.

<sup>164</sup> *Id.* at 150-52.

<sup>165</sup> *Id.* at 151-52.

<sup>166</sup> *Id.* at 151.

<sup>167</sup> *Id.* at 152.

<sup>168</sup> *Id.*

Tudeh, the Kurds, the National Front, and Prime Minister Bazargan's Iran Freedom Movement, boycotted the election. Twenty million Iranians voted with 98% in favor of an Islamic Republic.<sup>169</sup> Seizing the opportunity, Khomeini and his followers quickly formed a constitutional committee and the Islamic Republic of Iran was born, with Khomeini as its Supreme Leader.<sup>170</sup>

### *America's Response to the Revolution*

It was not until early October of 1979, that the United States met with Iranian officials in New York to attempt to normalize relations. The Iranians needed American parts to keep their military functioning and President Carter needed to save face after several foreign policy debacles.<sup>171</sup> While the Carter Administration attempted to convince the Iranians that the United States accepted their government and would not attempt an overthrow, the Iranians demanded proof of good faith by the extradition of pro-Shah Iranians in the United States who they deemed to be criminals.<sup>172</sup> The United States could not allow this as it would surely be a death sentence to anyone who returned to Iran.<sup>173</sup> Despite these areas of impasse, the process of normalization proceeded fairly well for some time with diplomatic relations between the nations seeming possible.<sup>174</sup>

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<sup>169</sup> *Id.*

<sup>170</sup> *Id.* at 153.

<sup>171</sup> FARBER, *supra* note 24, at 117-19.

<sup>172</sup> *Id.* at 120.

<sup>173</sup> *Id.*

<sup>174</sup> POLLACK, *supra* note 23, at 153.

While negotiations continued, the political situation for the embassy in Iran was extremely difficult and it was clear that any pro-Shah action by the United States could have dangerous consequences.<sup>175</sup> A United States Senate resolution condemning the Iranian Revolution for human rights violations had recently inflamed anti-American vitriol, and the American Embassy in Tehran was already the subject of constant graffiti and protest marches, with the favorite slogan being “Marg bar Shah!” or “Death to the Shah!”<sup>176</sup> Under these strained circumstances, Ambassador Sullivan warned President Carter that admitting the Shah to the United States would eliminate any possibility of normalizing relations with the new Iranian government and “would confirm the worst suspicions of those Iranian revolutionaries who assumed that the United States was plotting to restore the Shah to power.”<sup>177</sup> Department of State Chargé Bruce Lainigren’s views were sought on this matter, and he told the Department:

For us to give refuge to the Shah would trigger massive demonstrations against our embassy. With luck they may stop at that, without a physical assault.... But there could be no assurance of that, since Iran’s regular military and police forces remain largely demoralized and cannot yet be relied on to

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<sup>175</sup> FARBER, *supra* note 24, at 126.

<sup>176</sup> *Id.*

<sup>177</sup> LIMBERT, *supra* note 62, at 90.

apply the force that might be  
needed to prevent violence  
against us.<sup>178</sup>

Despite these warnings, President Carter was concerned with his growing reputation for weakness in foreign affairs, and the Shah was very ill with cancer at the time. Carter's Chief of Staff, Hamilton Jordan, warned the President, "If the Shah dies in Mexico can you imagine the field day Kissinger will have with that? He'll say that first you caused the Shah's downfall and now you've killed him."<sup>179</sup> The election-year political pressure on President Carter won over the dire warnings from his diplomatic staff. On October 22, 1979, Mohammed Reza Shah was granted leave to enter the United States for treatment of his rapidly progressing cancer.<sup>180</sup> John Limbert, Former Deputy Secretary of State to Iran, who would be among the fifty-two hostages held in Iran for four-hundred and forty-four days, had this to say about Carter's decision to allow the Shah into the United States: "In making this decision, events suggest that officials of the Carter Administration either did not understand the Iranian response or, having understood it, decided to ignore it."<sup>181</sup>

When news that the Shah had been admitted to the United States hit the Iranian airwaves, anti-American sentiment in Iran exploded with upwards of a million gathering to protest at the embassy.<sup>182</sup> Police could not

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<sup>178</sup> *Id.*

<sup>179</sup> FARBER, *supra* note 24, at 126.

<sup>180</sup> POLLACK, *supra* note 23, at 153.

<sup>181</sup> LIMBERT, *supra* note 62, at 100.

<sup>182</sup> FARBER, *supra* note 24, at 127.

keep the area cordoned off, and protestors pressed directly up against the embassy walls.<sup>183</sup> Khomeini, in addition to demanding that the Shah be delivered to Iran through official government channels, further inflamed the protesters stating: “It is incumbent upon students in the secondary schools and universities and theology schools to expand their attacks against America and Israel. Thus, America will be forced to return the criminal, deposed Shah!”<sup>184</sup> Newspapers in Tehran ran pictures of a healthy looking Shah next to articles explaining that the Shah could not have lymphatic cancer, “because everyone knew Iranians did not even get that kind of illness.”<sup>185</sup> The perception in Iran was that the United States was preparing to overturn the Iranian Revolution.<sup>186</sup> With the crowds so inflamed, the worst of the fears of Ambassador Sullivan and Chargé Laingen’s fears came to pass.

### ***America Taken Hostage***

On November 7, 1979, members of the organization Muslim Students Following the Line of the Imam (hereinafter the “Muslim Students”) marched upon the American Embassy with images of the Ayatollah pinned to their chests.<sup>187</sup> At a pre-arranged signal, the Iranian police guarding the embassy stepped aside and the students used bolt cutters on the chains holding the gates of the embassy closed.<sup>188</sup> The students entered the embassy and

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<sup>183</sup> *Id.*

<sup>184</sup> POLLACK, *supra* note 23, at 153.

<sup>185</sup> FARBER, *supra* note 24, at 127.

<sup>186</sup> *Id.*

<sup>187</sup> *Id.* at 130.

<sup>188</sup> *Id.*

immediately re-secured the gate; executing a well-rehearsed plan to take over the embassy.<sup>189</sup> The students indicated that they were merely participating in a peaceful sit-in, leading the Americans within the embassy to lower their guard until the students began seizing American hostages.<sup>190</sup> The Marines guarding the embassy were under orders not to engage, unless their lives were in danger and they were faced only with unarmed women marching towards them.<sup>191</sup> The Marines fell back to the second floor of the embassy and secured themselves behind steel doors with the remaining Americans.<sup>192</sup> The Muslim Students gathered outside of the steel doors and placed a gun to the head of a hostage, threatening to kill him if the remaining Americans did not surrender.<sup>193</sup> The remaining Americans contacted Bruce Laingen at the Iranian Foreign Ministry who told them that they had no choice and instructed the remaining Americans to surrender.<sup>194</sup> Neither the hostage-takers, who had brought only three days' worth of food, nor the Americans taken hostage had any concept that this ordeal was going to last four hundred forty-four days.<sup>195</sup>

### ***The Reaction in Iran***

Upon securing the embassy and their sixty-three American hostages, the Muslim Students released a statement:

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<sup>189</sup> *Id.*

<sup>190</sup> *Id.* at 132.

<sup>191</sup> *Id.* at 132-33.

<sup>192</sup> *Id.* at 133.

<sup>193</sup> *Id.* at 134.

<sup>194</sup> *Id.*

<sup>195</sup> *Id.* at 139.

The Islamic Revolution of Iran represents a new achievement in the ongoing struggle between the people and the oppressive superpowers.... Iran's revolution has undermined the political, economic, and strategic hegemony of America in the region.... We Muslim students, followers of Ayatollah Khomeini, have occupied the espionage embassy of America in protest against the ploys of the Imperialists and the Zionists. We announce our protest to the world; a protest against America for granting asylum and employing the criminal Shah.... for creating a malignant atmosphere of biased and monopolized propaganda, and for supporting and recruiting counterrevolutionary agents against the Islamic Republic of Iran.... And finally, for its undermining and destructive role in the face of the struggle of the peoples for freedom from the chains of imperialism.<sup>196</sup>

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<sup>196</sup> *Id.* at 136.

While the words of the Ayatollah may have placed the idea for the hostage-taking into the minds of the students, it is clear that the motivation of the hostage-takers was the memory of the 1953 coup against Mossadegh.<sup>197</sup> The conversations with the hostage-takers were frequently laced with references to Mossadegh and his fall at the hands of the CIA. The students believed that the admittance of the Shah to the United States was the beginning of another attempt to overthrow the new Iranian government.<sup>198</sup> During the crisis, one of the hostage-takers responded to a challenge as to why they were taking over the embassy: “To teach the American Government and the CIA a lesson, so it will keep its hands off other countries, particularly Iran.”<sup>199</sup> One of the hostages, Colonel Charles Scott, said of his conversations with his captors:

It was a situation where the truth didn't matter. Perceptions were much more important. A large portion of Iranian people believed that the United States had the ability to pull strings and return the Shah to power.... when the Shah was admitted to the United States, we opened a Pandora's box for the hard-line revolutionaries. They could say, 'Look what America did in 1953! They're getting ready to do it again!

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<sup>197</sup> POLLACK, *supra* note 23, at 154.

<sup>198</sup> *Id.*

<sup>199</sup> *Id.*

Another coup is in the wind!  
They're going to return the  
Shah to power!' ....It's hard  
for many Americans to  
understand that the entire  
Iranian population felt  
wronged by the Shah, and by  
America's support of the  
Shah.<sup>200</sup>

While the student's political motivations seem simplistic in many respects, Ayatollah Khomeini's plans to use the hostage crisis for political gain were much more complex and far-reaching.

It does not appear that Khomeini directly participated in the planning of the seizure of the American Embassy; however, evidence does indicate that he was aware of the plan ahead of time.<sup>201</sup> The students had approached one of Khomeini's followers to ask for his blessing on their planned activities, and the police presence at the embassy was both reduced and overly cooperative.<sup>202</sup> Regardless of his direct involvement, Khomeini seized political advantage of the situation immediately. Prime Minister Bazargan and Foreign Minister Ibrahim Yazdi, both of whom were involved with attempts to normalize relations with the United States, immediately called for the return of hostages.<sup>203</sup> In direct opposition, Khomeini made his position clear stating in rhetoric that was to become all

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<sup>200</sup> *Id.* at 154-55.

<sup>201</sup> *Id.* at 155-56.

<sup>202</sup> FARBER, *supra* note 24, at 169.

<sup>203</sup> *Id.* at 141.

too familiar: “The Great Satan is the United States of America. It is making much commotion and fuss....today underground plots are being hatched in these embassies, mostly by the Great Satan America....They must sit in their places and return the traitor [the Shah] soon.”<sup>204</sup>

Blocked during all their attempts to end the takeover by Khomeini’s inner circle, and with reports circulating about their negotiations with American NSC Advisor Bzezinski, Iranian Prime Minister Bazargan and Foreign Minister Yazdi quickly resigned. Khomeini immediately interjected himself into the political fray, and the Revolutionary Council took a firm grasp of the Iranian government, eventually leading to conservative cleric Ali Khamenei ascending to the presidency.<sup>205</sup> The Muslim Students were elated that their takeover had resulted in the fall of the reformist leadership. They took their cue from Khomeini and announced that the hostages would not be released until the Shah was turned over to Iran.<sup>206</sup> Khomeini had effectively used the national support of the attack on the American Embassy to eliminate the moderate elements of the Iranian government, and cement himself and his council as the true rulers of Iran.

### ***The Reaction of the Carter Administration***

President Carter was at Camp David when he heard about the takeover of the embassy, and he worked from the assumption that the Iranians would quickly quell the situation as they had done during a similar attack on the

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<sup>204</sup> *Id.* at 141-42.

<sup>205</sup> LIMBERT, *supra* note 62, at 104-05.

<sup>206</sup> FARBER, *supra* note 24, at 142.

American Embassy the prior February.<sup>207</sup> The President was in the middle of a primary challenge from Senator Ted Kennedy, and his first thought was for the political capital that could be gained if the President were seen as standing tall amid the crisis.<sup>208</sup> As it became clear that the situation was considerably graver than originally anticipated, President Carter found himself in the familiar situation of indecision before a split cabinet, with Secretary Vance urging for diplomacy and NSC Advisor Brzezinski advising on a variety of military options.<sup>209</sup> Fortunately for the President, the military options available were quite limited and the diplomatic route was initially the only reasonable alternative.<sup>210</sup> Secretary Vance's plan was to gather international support against this illegal and egregious attack on the embassy.<sup>211</sup> Support was freely and universally given as the Iranians were roundly castigated in the international sphere and deluged with pleas to release the hostages.<sup>212</sup> NSC Advisor Brzezinski also wanted to impose severe sanctions on Iran, but Secretary Vance initially blocked this effort with the exception of freezing the shipment of military spare parts that had been previously purchased by the Shah.<sup>213</sup> Aside from applying international pressure, which Iran virtually

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<sup>207</sup> *Id.* at 140.

<sup>208</sup> *Id.*

<sup>209</sup> POLLACK, *supra* note 23, at 163.

<sup>210</sup> *Id.*

<sup>211</sup> *Id.* at 164.

<sup>212</sup> *Id.*

<sup>213</sup> *Id.*

ignored, the initial response of the Carter Administration was to hope that the crisis would resolve itself naturally.<sup>214</sup>

As the hostage crisis grew to be a media event that transcended politics, President Carter continued to be frustrated that his administration could accomplish nothing to assist the hostages.<sup>215</sup> The United Nations Security Council passed a resolution calling for the release of the hostages<sup>216</sup> and the International Court of Justice directed Iran to free the hostages,<sup>217</sup> yet Iran stood firm. The Iranians made four demands for the return of the hostages: 1) the return of the Shah to Iran to stand trial; 2) the return of the Shah's assets to Iran; 3) an end to American interference in Iran; and 4) an apology for past American crimes against Iran.<sup>218</sup> Carter refused immediately and quickly prohibited American purchase of Iranian oil, cut off all non-humanitarian trade with Iran, and froze all Iranian assets, about twelve billion dollars, held in American banks.<sup>219</sup> President Carter tried to gain support for these sanctions at the international level, but was foiled by a Russian veto on the United Nations Security Council.<sup>220</sup> Without a Security Council mandate, even close European and Japanese allies would not join in the boycott.<sup>221</sup> On March 25, 1980, an internal evaluation of the Carter Administration foreign policy found: "[O]ur policy is

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<sup>214</sup> FARBER, *supra* note 24, at 144.

<sup>215</sup> *Id.* at 160.

<sup>216</sup> POLLACK, *supra* note 23, at 164.

<sup>217</sup> *Id.*

<sup>218</sup> *Id.*

<sup>219</sup> *Id.*

<sup>220</sup> *Id.* at 165.

<sup>221</sup> *Id.*

neither coherent nor constant; on a number of specific issues, notably Iran and the Middle East, we are in fact losing momentum, with potentially very destructive consequences for our interests.”<sup>222</sup> According to a national poll, President Carter was seen as an ineffective leader in handling the crisis. In a poll taken a year before the release of the hostages, seventy-four percent of Americans agreed that Carter’s policy should be judged a failure if the hostages were not released within three months.<sup>223</sup>

The Carter Administration’s efforts at negotiation, headed by Secretary Vance, remained at a standstill, in part due to a frustration that remains central to failures of Iranian-American negotiations today. The Iranians, who understood that capitulation to the United States was political suicide in Iran, insisted that the United States make concessions up-front and allow the Iranians to respond as they saw fit.<sup>224</sup> The Americans, in turn, did not trust the Iranians to follow through, and insisted that all negotiated concessions were to be made simultaneously.<sup>225</sup> By April 1980, President Carter finally grew impatient with diplomatic methods and turned to NSC Advisor Brzezinski to devise the military option.<sup>226</sup>

### *Operation Eagle Claw*

The rescue plan, codenamed Operation Eagle Claw, involved eight helicopters and an assault force of 118 Delta

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<sup>222</sup> *Id.* at 170.

<sup>223</sup> FARBER, *supra* note 24, at 164.

<sup>224</sup> POLLACK, *supra* note 23, at 166.

<sup>225</sup> *Id.*

<sup>226</sup> FARBER, *supra* note 24, at 171.

Force commandos who would fly from the aircraft carrier the U.S.S. Nimitz to the Iranian desert where they would refuel from C-130 fuel carrying planes.<sup>227</sup> The commandos would then be transported secretly by the CIA via truck to assault the embassy compound and rescue the hostages.<sup>228</sup> Simultaneously, the helicopters would land at a nearby soccer stadium, where the commandos would bring the hostages for extraction.<sup>229</sup> The helicopters would then fly the commandos and rescued hostages to a nearby airbase, where they would all board C-141 cargo planes to fly out under escort of American Navy fighters. The Delta Force commandos had orders to shoot all armed opposition “twice, right between the eyes.”<sup>230</sup> The commandos did not get the opportunity to shoot anyone; however, as a dust storm rose up disabling three helicopters and causing a fourth to collide with a C-130. Resulting in the death of eight American soldiers: and the rescue mission was aborted.<sup>231</sup>

The political damage to the failed military operation was significant, as the most visible attempt by the Carter Administration to take action was a failure. Internally, the damage to the administration was significant as well. Secretary Vance’s opposition to military intervention had been so strong that President Carter held the final planning meeting while Secretary Vance was on vacation, excluding

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<sup>227</sup> *Id.* at 173.

<sup>228</sup> POLLACK, *supra* note 23, at 169.

<sup>229</sup> *Id.*

<sup>230</sup> FARBER, *supra* note 24 at 174.

<sup>231</sup> POLLACK, *supra* note 23 at 169.

him from the process.<sup>232</sup> Humiliated, Secretary Vance tendered his resignation, effective after the attempted hostage rescue, whether it was successful or not.<sup>233</sup> The Carter Administration briefly considered a second military attempt, but ultimately decided against it concluding that “there now was little way to press the Iranians to move faster on the hostages than they wanted to.”<sup>234</sup>

### *The Response of the American Media and Citizens*

The American media took a very aggressive approach to the hostage crisis, led by ABC’s series of special reports entitled *America Held Hostage*. *America Held Hostage* highlighted coverage of the story with passionate man on the street interviews expressing the views of American citizens and a nightly display of the number of days that the hostages were held captive.<sup>235</sup> The reaction of the American people was immediate and universal, with longshoremen spontaneously refusing to load cargo bound for Iran and the music industry responding with a variety of songs from Pat Boone’s *The Hostage Prayer*<sup>236</sup> to Vince Vance and the Valiants’ Beach Boys’ parody *Bomb Iran*.<sup>237</sup>

When Penne Laingren, the wife of Chargé Bruce Laingren, told the Washington Post that she had tied a yellow ribbon around the oak tree in her yard, America

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<sup>232</sup> FARBER, *supra* note 24 at 174.

<sup>233</sup> *Id.* at 172.

<sup>234</sup> Pollack, *supra* note 23 at 169.

<sup>235</sup> FARBER, *supra* note 24 at 138.

<sup>236</sup> *Id.* at 152.

<sup>237</sup> *Bubbling under 100*, BILLBOARD MAG., Nov. 15, 1980, at 39.

responded by tying yellow ribbons around trees, poles, and lamp posts and by prominently displaying yellow ribbon bumper stickers and clothing pins.<sup>238</sup> In January of 1980, an enormous, yellow ribbon was wrapped around the Rose Bowl stadium in Pasadena, California, during the Super Bowl as a show of support for the hostages.<sup>239</sup> Interviews with the hostages' frightened spouses and children became the most sought after news stories, with the interviews delving into the emotions of the story rather than reporting on the political realities surrounding the hostage crisis.<sup>240</sup> This led to an intense national personalization of the crisis leading Americans to "see themselves as victims of 'terrorists' who irrationally hate 'us' rather than to recognize that Iranians had attacked the U.S. embassy in response to the American policy in Iran."<sup>241</sup>

### ***The Crisis Resolves Itself***

Ultimately, the Carter Administration could do nothing to resolve the hostage crisis, and the administration returned to its original plan of waiting until the political situation in Tehran resolved itself.<sup>242</sup> Circumstances did eventually arise that eliminated the Ayatollah's political need for the hostages, including the Ayatollah's final consolidation of power in Iran and the death of the Shah in Egypt on July 27, 1980.<sup>243</sup> The Khomeini had other concerns as well with the launch of what would be an

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<sup>238</sup> FARBER, *supra* note 24, at 152.

<sup>239</sup> *Id.*

<sup>240</sup> *Id.* at 154.

<sup>241</sup> *Id.*

<sup>242</sup> POLLACK, *supra* note 23, at 170.

<sup>243</sup> FARBER, *supra* note 24, at 178.

eight-year war with Iraq on September 22, 1980.<sup>244</sup> Further, Ronald Reagan had been campaigning for President with very tough talk regarding Iran. As it appeared that Reagan would soon be the new President, there was political incentive for Iran to finally end the hostage crisis before the tough talk became reality.<sup>245</sup>

The final negotiations resulted in little actually being offered for the return of the hostages. Essentially, the United States merely pledged to not interfere in Iran's internal affairs and to release a portion of frozen Iranian assets.<sup>246</sup> Further, a large portion of the Iranian assets were held in escrow to cover American legal claims against Iran, and Iran ended up recovering only about \$2.3 billion of their more than \$10 billion in frozen assets.<sup>247</sup> Of course, the hostage crisis provided Khomeini with the political leverage to cement his leadership of Iran, and the Iranian public enjoyed the psychological gratification of striking back at the Americans for what the Iranians considered to be decades of injustice.<sup>248</sup> The Iranian value on the psychological aspects of the hostage crisis is evidenced by the fact that the Iranians did not return the hostages until just after Ronald Reagan was sworn in as President on January 21, 1981.<sup>249</sup> This left President Carter, who had shown such disrespect to Iran and the Ayatollah and had given shelter to the Shah, unable to claim that he had freed the hostages. The psychological effect on the American

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<sup>244</sup> *Id.*

<sup>245</sup> POLLACK, *supra* note 23, at 171.

<sup>246</sup> *Id.* at 172.

<sup>247</sup> *Id.*

<sup>248</sup> *Id.*

<sup>249</sup> *Id.*

psyche was severe as well. The average American was unaware of the political realities surrounding the hostage crisis and merely saw this as a random attack upon America by a new, frightening enemy.<sup>250</sup>

## V. After the Revolution: Iran and the United States

With the United States providing aid to Iraq during the Iran-Iraq war,<sup>251</sup> the Iran-Contra scandal,<sup>252</sup> and Iran's policy of exporting the Islamic Revolution through the support of radical Islamic terrorist organizations,<sup>253</sup> relations between the United States and Iran continued to flounder over the next two decades. However, an attempt was made to normalize relations between the Khatami regime and the Clinton Administration in the late 1990s.<sup>254</sup> This effort culminated with Secretary of State Madeleine Albright's public acknowledgment and apology for the role of the United States in the overthrow of Prime Minister Mossadegh.<sup>255</sup> Clinton adopted the Iranian method of unilaterally taking steps to ease relations, including

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<sup>250</sup> *Id.*

<sup>251</sup> See generally Michael Dobbs, *U.S. Had Key Role in Iraq Buildup; Trade in Chemical Arms Allowed Despite Their Use on Iranians, Kurds*, WASH. POST, Dec. 30, 2002, at A01.

<sup>252</sup> See generally S. REP. NO. 100-216 (1987); THE NATIONAL SECURITY ARCHIVE, THE CHRONOLOGY: THE DOCUMENTED DAY-BY-DAY ACCOUNT OF THE SECRET MILITARY ASSISTANCE TO IRAN AND THE CONTRAS (1987); THEODORE DRAPER, *A VERY THIN LINE: THE IRAN-CONTRA AFFAIRS* (1991).

<sup>253</sup> See generally O'BALANCE, *supra* note 3; TAHERI, *supra* note 3.

<sup>254</sup> POLLACK, *supra* note 23, at 320.

<sup>255</sup> *Id.* at 338; See generally Madeleine K. Albright, U.S. Sec'y of State, *American-Iranian Relations, Remarks before the American-Iranian Council* (Mar. 17, 2000), available at <http://www.fas.org/new/iran/2000/000317.htm>.

liberalizing visa procedures, promoting cultural exchanges, putting the Iraqi Mujahedin (MEK) on the American terrorist list, allowing the sale of food and medicine to Iran, allowing shipment of spare parts for Boeing aircrafts, and lifting sanctions on Iranian carpets and foodstuffs.<sup>256</sup>

In response, Iran made some reciprocal gestures, including ceasing the smuggling of Iraqi oil. In an interview with CNN's Christiane Amanpour, President Khatami acknowledged the 1979 hostage crisis by saying, "I do know that the feelings of the great American people have been hurt, and of course, I regret it."<sup>257</sup> Of course, this half-apology came amongst a recitation of a long list of grievances against America, going back to the overthrow of the Mossadegh regime.<sup>258</sup> Unfortunately, the conservative Islamic population responded harshly to Khatami's reform government, especially to his overtures to the United States.<sup>259</sup> Eventually, Khatami gave into the pressure from Iranian hard-liners and backed away from the conciliatory measures as the Clinton Administration left power.<sup>260</sup>

Despite this initial failure, the George W. Bush Administration continued the policy of attempted reconciliation with Iran. Initially, the attack upon the World Trade Center on September 11, 2001, ironically, brought the United States and Iran closer to the table.<sup>261</sup> The Iranians were supportive of American efforts after 9/11 and

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<sup>256</sup> POLLACK, *supra* note 23, at 337-38.

<sup>257</sup> *Id.* at 315.

<sup>258</sup> *Id.*

<sup>259</sup> *Id.* at 325-37.

<sup>260</sup> *Id.* at 334-37.

<sup>261</sup> *Id.* at 346.

assisted in Operation Enduring Freedom by allowing American transport aircraft to use airfields in eastern Iran, by performing search-and-rescue missions for American pilots who ejected in Iranian airspace, and by allowing an American freighter carrying humanitarian aid to dock at an Iranian port.<sup>262</sup> This cooperation eventually developed into talks with the Iranians about issues outside of the conflict with Afghanistan. Consequently, the Bush Administration had unwittingly achieved the substantive, direct contact with Iran that the Clinton Administration had been striving for.<sup>263</sup>

Unfortunately, this accomplishment was short-lived as a shipment of arms from Iran to the Palestinian Authority was intercepted by Israel, which demonstrated that Iran was still actively supporting terrorist activity—placing it in direct confrontation with the War on Terror.<sup>264</sup> Three weeks later, President George W. Bush named Iran, Iraq, and North Korea as an “Axis of Evil” in his 2002 State of the Union address.<sup>265</sup> This placed Iran clearly on the side of the enemy as the United States planned and executed its attack on Iraq in 2003, and the animosity of the 1980s and 1990s returned in full force.

## **VI. The Past to the Present: Will There be War?**

Reflecting on six decades of justified anger and antagonism between the United States and Iran, it is clear that both nations bear responsibility for the animosity that

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<sup>262</sup> *Id.* at 349-50.

<sup>263</sup> *Id.* at 350.

<sup>264</sup> *Id.* at 350-51.

<sup>265</sup> *Id.* at 352.

defines the volatile relationship between the two nations. The primary issue that is bringing the current conflict between the United States and Iran to a head is Iran's continued pursuit of nuclear weapons.<sup>266</sup> Iran has consistently and correctly stated that, as a signatory to the NPT, they have an inalienable right to "develop research, production and use of nuclear energy for peaceful purposes without discrimination."<sup>267</sup> Iran has maintained that their nuclear program, which was initiated by the United States while the Shah was in power, is for strictly peaceful purposes and legal under the NPT.<sup>268</sup> If the Iranian nuclear program were for peaceful purposes, the Iranians would be correct and the United States would be in violation of its own responsibilities under the NPT to assist Iran with the continuing development of its nuclear power facilities.<sup>269</sup> However, Iran continues to disregard its NPT obligations through its denials of IAEA inspectors, leading to the finding by the IAEA that Iran's nuclear program cannot be considered peaceful in nature.<sup>270</sup>

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<sup>266</sup> See Chris McGreal, *Obama warns Iran as he seeks to reassure Israel ahead of crucial talks*, THE GUARDIAN (Mar. 02, 2012), <http://www.guardian.co.uk/world/2012/mar/02/obama-warns-iran-reassures-israel>.

<sup>267</sup> NPT, *supra* note 5, at art. IV(1).

<sup>268</sup> See Ali Akbar, *Iran: We Do Not Want Nuclear Weapons*, WASH. POST (Apr. 12, 2012), available at [http://www.washingtonpost.com/opinions/iran-we-do-not-want-nuclear-weapons/2012/04/12/gIQAjMNnDT\\_story.html](http://www.washingtonpost.com/opinions/iran-we-do-not-want-nuclear-weapons/2012/04/12/gIQAjMNnDT_story.html).

<sup>269</sup> NPT, *supra* note 5, at art. IV(2).

<sup>270</sup> See NPT, *supra* note 5, at art. III.; IAEA Report GOV/2012/9 at 10-11.

## *The Calculations of War*

The continued failure of Iran to comply with the IAEA, which forms the basis for the U.N. Security Council resolutions and resulting sanctions against Iran, also forms the justification for a United States and Israel military strike against Iran's nuclear facilities.<sup>271</sup> The need for action is immediate as the Iranian nuclear program is quickly approaching the point where military action will not be able to disrupt the production of nuclear weapons.<sup>272</sup> Further, experts indicate that Israel cannot eliminate the Iranian nuclear program alone and would require American involvement.<sup>273</sup> The United States must also consider the related issue of Iran's continued support of terrorism and aggression against Israel.<sup>274</sup> The ability of Iran to supply

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<sup>271</sup> S.C. Res. 1696, *supra* note 4; U.N. Security Council, *supra* note 6; Hargreaves, *supra* note 7; MacInnis, *supra* note 8.

<sup>272</sup> Bradley Klapper With Time Short, U.S. Meets Iran for Nuclear Talks, ASSOCIATED PRESS (Apr. 13, 2012) *available at* <http://www.thereporteronline.com/article/20120413/NEWS04/120419822/with-time-short-us-meets-iran-for-nuclear-talks> (Israeli military officials believe they'd have to strike by summer to be effective).

<sup>273</sup> Jonathan Marcus, *Analysis: How Israel Might Strike at Iran*, BBC NEWS (Feb 22, 2012), *available at* <http://www.bbc.co.uk/news/world-middle-east-17115643>. (Israel does not have the mass of forces and will not be given the operational freedom [by Iran] required to destroy Iran's nuclear complex . . . . If you bury enough stuff deep enough, enough of it will survive. Any Israeli attack can only damage and possibly not even slow the Iranian effort).

<sup>274</sup> See Gregory S. Gordon, *From Incitement to Indictment? Prosecuting Iran's President for Advocating Israel's Destruction and Piecing Together Indictment Law's Emerging Analytical Framework*, 98 J. CRIM. L. & CRIMINOLOGY 853, 854(2008); See also Daniel Byman, *Iran, Terrorism, and Weapons of Mass Destruction*, 31 STUD. IN CONFLICT & TERRORISM 169, 171 (2008) ([i]n addition to its support

nuclear weapons to terrorists would represent a direct threat to the national security of the United States.<sup>275</sup> Considering the national security concerns implicated and the available justifications for war between the United States and Iran, the prospect of armed conflict between the United States and Iran appears to be imminent.

From a theoretical perspective, an evaluation of the factors that lead to war indicate that the likelihood of military conflict between the United States and Iran is quite high. In his book *Solving the War Puzzle*, John Norton Moore, legal scholar and the first Chairman of the United States Institute for Peace, examined the empirical value of a variety of theories exploring the causes of war. For example, there is a significant correlation between the occurrence of war and territorial contiguity.<sup>276</sup> While this initially may appear to lessen the likelihood of war between Iran and the United States, the significant military interests that the United States has within Iraq and Afghanistan reduces the applicability of this theory. Another statistically strong correlation indicates that nations who share economically significant, bilateral trade are much less likely to go to war.<sup>277</sup> With the significant sanctions in place and the absence of any real trade between the United

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for Hizbullah, Iran has also supported a wide array of other groups that have attacked Israel).

<sup>275</sup> Travis Sharp and Erica Poff, *Understanding and Preventing Nuclear Terrorism*, The Center for Arms Control and Non-Proliferation, Dec. 3, 2008, available at [http://armscontrolcenter.org/policy/nuclearterrorism/articles/111408\\_understanding\\_preventing\\_nuclear\\_terrorism/](http://armscontrolcenter.org/policy/nuclearterrorism/articles/111408_understanding_preventing_nuclear_terrorism/).

<sup>276</sup> JOHN NORTON MOORE, *SOLVING THE WAR PUZZLE: BEYOND THE DEMOCRATIC PEACE* 31 (2004).

<sup>277</sup> *Id.*

States and Iran, this correlation is, again, not indicative of peace. The theory of the democratic peace, based on the statistical correlation that there have been virtually no significant wars between two functionally democratic nations,<sup>278</sup> also does not apply as Iran is an autocratic theocracy and the United States is one of the more hawkish democratic nations with a history of conflicts with nations like Iran.<sup>279</sup> In short, none of these modern theories of the origins of war indicate that a peaceful resolution is likely given the growing tension and historical animosity between the United States and Iran.

Attempting to reach beyond these generalized theories on the origins of war, John Norton Moore developed his "Incentive Theory," analyzing other relevant theories on war to determine the incentives and disincentives that influence nations, leaders, and regime elites in the decision of whether to go to war.<sup>280</sup> Under Incentive Theory, a thorough evaluation of these incentives and disincentives would result in the calculation of the total level of "deterrence" that would prevent or encourage a nation to go to war.<sup>281</sup> To further develop Incentive Theory into a tool that could predict the likelihood of war, John Norton Moore encouraged Anthony Stenger, a student in

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<sup>278</sup> *Id.* at 1.

<sup>279</sup> This assertion is based upon the fact that the United States has been in at least nine major armed-conflicts since becoming a world power after World War II: The Korean War; The Vietnam War; the Central American War, The Gulf War; the Kosovo War; the Afghanistan War; the Iraq War; and the 2011 Libyan Intervention. See MOORE, *supra* note 276, at 157-58.

<sup>280</sup> MOORE, *supra* note 276, at 59-68.

<sup>281</sup> *Id.*

Professor Moore's War and Peace Seminar, to develop a mathematical algorithm to determine the level of deterrence in a given scenario. This work was further refined by another one of Professor Moore's students, Geoffrey D. Fasel, with the resulting algorithm described in Annex I below. The final algorithm created a range of results from -5.5 to +10 to describe the level of deterrence to war that existed in a given situation, with a lower result indicating a likelihood of war and a higher rating indicating a likelihood of peace.<sup>282</sup>

When applied empirically to previously fought wars, a level of accuracy was revealed that showed "no situation in which a regime elite/decision-making body subjectively faced substantial disincentives to aggressive military action and yet attacked."<sup>283</sup> Applying these calculations to a situation involving Israel launching an attack on Iran with direct support from the United States, the calculations result in a deterrence rating of -1.47.<sup>284</sup> To evaluate this number within a frame reference: the Korean War had a deterrence rating of -3.94; the Vietnam War had a deterrence rating of -0.25; the Iran-Iraq War had a deterrence rating of -1.53; and the Gulf War had a deterrence rating of -3.38. With a history of intense animosity between the nations, a deterrence rating of -1.47, and Iran's development of nuclear weapons providing justification for war, it appears very likely that an armed conflict is imminent between the United States and Iran.

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<sup>282</sup> MOORE, *supra* note 276, at 34.

<sup>283</sup> *Id.* at 35 (citing Geoffrey D. Fasel, *Objectivizing Deterrence* (2002) (paper on file with John Norton Moore).

<sup>284</sup> See Annex I *infra*; see MOORE, *supra* note 276.

## VII. Moving Forward to Avoid War

Despite the empirical evidence indicating a probability of war and the historical inability of Iran and the United States to negotiate in a productive manner, there is still hope to avoid further conflict and divisiveness between these two nations. In the face of the threatened military action, renewed negotiations have recently commenced between the five permanent members of the United Nations Security Council plus Germany (hereinafter the P5+1) and Iran.<sup>285</sup> There is some indication that these talks are supported by Iranian Supreme Leader Ayatollah Ali Khamenei who is taking a lead role in the matter due to an apparent rift between himself and Iranian President Mahmoud Ahmadinejad.<sup>286</sup> However, given the historic failure of Iran to compromise in any fashion and their reluctance to show any weakness in the face of pressure by the United States, it is important that negotiators look to the past for lessons learned as they approach these critical negotiations with Iran.

### *Iranian Leadership Cannot Look Weak or Cooperative With the United States.*

Since the coup of Mohamed Mossadegh, anti-Americanism has been a core pillar of the Iranian view of the world. Even the Shah would attempt to portray his political enemies as American sympathizers in order to gain

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<sup>285</sup> AFP, *Iran Urges West to Help End Nuclear Dispute*, Yahoo! News UK & IR., (May 4, 2012), <http://uk.news.yahoo.com/iran-urges-west-help-end-nuclear-dispute-132715600.html>.

<sup>286</sup> Roshanak Taghavi, *Ayatollah Khamenei Gives Iran Nuclear Talks Unprecedented Legitimacy*, THE CHRISTIAN SCIENCE MONITOR, May 4, 2012.

favor with the masses, and it could be argued that it was President Carter's New Year's Eve toast praising the Shah as a close friend that sparked the Iranian Revolution against him.<sup>287</sup> Likewise, it was the anti-American fervor of the hostage crisis that provided the political climate that allowed the Ayatollah to mold his country into a totalitarian Islamic Republic. In short, Iranian leadership simply cannot appear to be capitulating to the United States or they will likely suffer a similar fate to the Shah. With this in mind, any negotiated solution must seem a victory for Iran against the United States, and prestigious to the Iranian people, otherwise the Iranian leadership cannot acquiesce.

***The Elimination of All Sanctions Should be on the Table***

Given that it is the threat of imminent military action that has finally brought Iran back to the negotiating table rather than decades of sanctions, critics of the sanctions regimes appear to have gained legitimacy. Opinions regarding ineffectiveness of the sanctions on Iran have included official government findings, such as the 2007 report of the GAO,<sup>288</sup> and the advocacy of nongovernmental organizations, such as Center on Peace through its Director, Liberty Ivan Eland.<sup>289</sup> At the same time, the omnipresent sanctions have provided the anti-American factions within Iran with ample ammunition to

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<sup>287</sup> FARBER, *supra* note 24, at 139.

<sup>288</sup> U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-08-58, IRAN SANCTIONS, IRAN SANCTIONS, IMPACT IN FURTHERING U.S. OBJECTIVES IS UNCLEAR AND SHOULD BE REVIEWED (Dec. 2007).

<sup>289</sup> Ivan Eland, *Iran Sanctions Won't Work*, WASH. TIMES, Jan. 17, 2012, available at <http://www.washingtontimes.com/news/2012/jan/17/iran-sanctions/wont-work/>.

continually demonize the West. Further, as illustrated above, the total lack of bilateral trade is a highly destabilizing factor in the equation of whether or not an armed conflict is likely to erupt between Iran and the United States.<sup>290</sup> With the only available outcomes in this conflict being either historically unsuccessful diplomacy or what will likely be a protracted war, all diplomatic options must be on the table to entice the Iranian government into abandoning their nuclear weapons program. The elimination of all sanctions may be exactly the sort of capitulation by the United States that will allow the Iranian leadership to claim a victory while coming into compliance with their obligations under the NPT.

***Western Nations Must be Flexible in the Nature of Negotiations***

A lesson learned by the failed efforts of the Carter Administration during the hostage crisis is that Iranians and Americans do not share the same understanding as to the rules by which negotiations should proceed. The most successful approach to Iran was President Clinton's administration unilaterally taking actions in hopes that the Iranians would reciprocate, which ultimately set up Iranian cooperation during Operation Enduring Freedom.<sup>291</sup> As the P5+1 approach the next round of diplomacy with Iran, they should consider unilaterally reducing or eliminating sanctions upon Iran as a show of good faith. The sanctions can always be reinstated, and it would allow the Iranian

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<sup>290</sup> MOORE, *supra* note 276.

<sup>291</sup> POLLACK, *supra* note 23, at 346.

leadership to claim a modest victory so that they may give ground on more important issues.

The negotiations will likely not be passionless legalistic affairs. Iranians are prone to flamboyant gestures and political theater.<sup>292</sup> It will be wise for the P5+1 to allow for this and ignore the bold statements and grand gestures of their Iranian counterparts, instead respecting their cultural differences with the Iranians and allowing the political theater to play its course. While American negotiators often look at a negotiation process as a series of transactions with the integrity of the process of central importance, Iranians see the negotiation process as only a means to an end, or even an obstacle, to achieving the ultimate result.<sup>293</sup> Thus, it will be important for the P5+1 not to let the process dictate the result, but instead to work outside of the box towards the ultimate goal of termination of Iran's nuclear weapons program.

### ***Iran's Future as a Nuclear Nation***

Another concession that should be simple for the P5+1 to make is recognition of Iran's right to have a peaceful nuclear energy program. Under the NPT, Iran has an absolute right to nuclear energy and all of the permanent members of the National Security Council, as nuclear weapon nations, have a duty to assist Iran in achieving peaceful nuclear energy.<sup>294</sup> Considering the Iranian penchant for political theater, it is likely that Iranian negotiators may demand apologies for American violations

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<sup>292</sup> See LIMBERT, *supra* note 62, at 169.

<sup>293</sup> *Id.* at 156.

<sup>294</sup> NPT at art. IV(1).

of the NPT through efforts to restrict Iran's inalienable right to nuclear energy, while maintaining that their program has always been only for peaceful purposes despite all evidence to the contrary. To the P5+1 this may seem an affront to the negotiation process and an intransigent position that forestalls any compromise or resolution. However, to the Iranians this would likely be merely a face-saving gesture that shows they are standing up to the West while providing a possible area of resolution.

Iran is correct as they assert their inalienable right to a peaceful nuclear energy program, and any moves by the P5+1 that limits such a right would likely be seen as an assault on Iranian sovereignty and a sign of Western imperialism that justifies their aggressive rhetoric. Even if military action were taken to eliminate Iran's suspected nuclear weapons development facilities, Iran would still have a right to a peaceful nuclear energy program. The reality is that the P5+1 must find a creative solution that will allow Iran to pursue its peaceful nuclear energy program while assuring Israel and the United States that Iran is no longer a threat to develop nuclear weapons.

### ***An Aggressively Creative Solution***

One extreme and unlikely example of a creative solution that may account for Iran's unique negotiating ploys while achieving the goal of eliminating Iran's nuclear weapons program could involve the P5+1 offering reparations to Iran for prior sanctions, with the reparations creating true international oversight of the Iranian nuclear power program. The reparations would come in the form of the P5+1 investing resources to make Iran the central

sponsor of the IAEA in the Middle East, establishing Iran as a leader in peaceful nuclear energy technology. For Iran's part, it would cede to the IAEA full authority and control over its nuclear sites at Arak, Qom, Natanz, Isfahan, Bushehr, and Parchin,<sup>295</sup> as well as any future or unknown nuclear sites, with the P5+1 and the United Nations fully funding IAEA activities in Iran. The IAEA would work with Iranians to facilitate the mining, processing, and enrichment of nuclear materials by providing modern means and knowledge, while making certain that no enrichment rises to the level of nuclear weapons grade. With the IAEA deeply embedded in the full Iranian nuclear system they would establish policies and safety measures that would allow them to shut down any part of the Iranian nuclear fuel cycle that they believe is evolving towards the production of nuclear weapons. Further, such an investment would require significant UN presence to provide security for the international effort.

With such measures in place, the world could be certain that the Iranian nuclear energy program is peaceful. At the same time, Iran would gain the prestige and significant economic advantages of becoming the nuclear energy center in the Middle East and the knowledge that the United Nations would act to protect its interests in the event of aggression from any of Iran's traditional adversaries. Of course, the United Nations would also have to act should Iran attempt to override the IAEA protections in place to assure the peaceful nature of the program. With

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<sup>295</sup> See generally *Iran's Key Nuclear Sites*, BBC NEWS (Jan. 9, 2012), <http://www.bbc.co.uk/news/world-middle-east-11927720>.

Iran certain that it would be defended by the United Nations, nuclear weapons in the hands of Israel, Pakistan, and India would pose a much less significant threat, reducing the incentive for Iran to develop nuclear weapons. With trade opening between Iran and Western nations and the natural academic and diplomatic interactions that the IAEA's presence would require, Iran would naturally emerge from its extreme isolationism. This could have many positive indirect results as well, including the liberalization of Iranian society and a significant reduction or elimination of Iranian sponsorship of terrorism.

Such a solution, while extreme in its creativity and virtually impossible to bring about, would satisfy Western powers once and for all in that nuclear weapons development by Iran is no longer a threat. This would still play into Iran's recent rhetoric that they do not want nuclear weapons and Ayatollah Khamenei's recent "fatwa" on nuclear weapons.<sup>296</sup> This is the sort of creativity that may be required to avoid the otherwise likely alternative of military intervention.

## **Conclusion**

While a diplomatic solution is a possibility, it is clear that the history of conflict and acrimony between the United States and Iran makes war in the Middle East a distinct possibility, if not a probability. Each nation has legitimate and deep-rooted animosity towards the other,

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<sup>296</sup> See Akbar, *supra* note 268, at 1; Gareth Porter, *Report on Iran's Nuclear Fatwa Distorts Its History*, N.Y. TIMES, (Apr. 12, 2012), available at <http://www.ipsnews.net/2012/04/report-on-irans-nuclear-fatwa-distorts-its-history/>.

with the hostage crisis and support of terror placing Iran in President George W. Bush's "Axis of Evil," and the 1953 coup of Mohammed Mossadegh and subsequent support of the Shah's brutal regime lending credence to Iranian rhetoric that the United States is the "Great Satan." Aggravating the already hostile relationship between the two nations is the imminence of Iran's development of nuclear weapons in defiance of decades of sanctions and their duties under the NPT. With Iran's support of terror and inflammatory rhetoric regarding its desire for the destruction of Israel, the United States and Israel have valid cause to consider military intervention. Various theories of international relations, including the mathematical calculations of Incentive Theory, indicate that, barring some unforeseen diplomatic intervention, war is coming between these nations.

Diplomatic intervention, while historically unsuccessful, is the last remaining hope to avoid United States participation in a war in the Middle East. As such, the P5+1 nations must look to the historical grievances between these nations as well as the unique diplomatic challenges that exist when negotiating with Iran, and find a creative solution to prevent the impending conflict. Iran will not be castigated into submission as their leaders cannot be seen to capitulate to the United States and its allies, nor will continuing the sanctions against Iran have any positive effect on this last attempt at diplomacy. Instead, the P5+1 must step away from traditional solutions and allow Iran to appear stronger in their surrender of their nuclear weapons program than they would appear should they actually obtain nuclear weapons. Only with a solution

in which Iran can claim some sort of victory over the West can the Iranian leadership capitulate to the demands of the United States. Without such a creative solution, war between the United States and Iran appears inevitable.

**Annex I: Illustrative Methodology for Measuring Deterrence<sup>1</sup>**

These calculations represent the possibility of an attack by Israel and the United States upon Iran with a victory being defined as the destruction of Iran's nuclear weapons program.

*Table I: Local Deterrence Rating*

<u>Element</u> A= Israel D= Iran	<u>Initial Value Selected</u> (Choose One)	<u>Subjectivity Multiplier</u> (Choose One)	<u>Total Value Assigned</u> (IVxM)
1. D's ability to Prevent Blitzkrieg Victory by A.	a. D unable to prevent blitzkrieg victory by A: +0 b. D possibly able to prevent blitzkrieg victory by A: +1 c. D most likely able to prevent blitzkrieg victory by A: +2	a. A disregards or does not realize D's capability: M=0 b. A realizes and appreciates D's capability: M=1	IV=0 M=1 Total=0

<sup>1</sup> See Moore, *Solving the War Puzzle*, 147-151. (This is an adaptation by Geoffrey D. Fasel of an original methodology by Anthony Stenger. The adaptation and the original were prepared as seminar papers in collaboration with [John Norton Moore] in his War & Peace and the Rule of Law Seminars).

<p>2. D's Ability to prevent an Intermediate Term Victory by A.</p>	<p>a. D unable to prevent an intermediate term victory by A: +0  b. D quite possibly able to prevent an intermediate term victory by A: +.5  c. D most likely able to prevent an intermediate term victory by A: +1.5  d. D able to prevent intermediate term victory and respond with serious counterattack: +3</p>	<p>a. A disregards or does not realize D's capability: M=0  b. A realizes and appreciates D's capability: M=1</p>	<p>IV=.5  M=1  Total=.5</p>
<p>3. Economic Effect to A of Attacking D: Taking into account Level of Trade with D that A believes would be lost, as well as the overall</p>	<p>a. Substantial: +.5  b. Moderate: +.25  c. Negligible: +0</p>	<p>a. A's Regime Elites can insulate themselves from trade loss (at the expense of the population): M=.25  b. A's</p>	<p>IV=0  M=1  Total=0</p>

size of A's Domestic and International Economy.		Regime Elites are unable to externalize these costs: M=1	
4. Domestic Political Costs to A's Regime elites of initiating War with D.	a. Substantial: +.5 b. Moderate: +.25 c. Negligible: +0	a. A's Regime Elites are insulated from/ do not care about domestic political costs: M=.25 b. A's Regime Elites are sensitive to domestic political costs: M=1	IV=0 M=1 Total=0
Total Local Deterrence Rating: (Sum total values assigned for 1-4 above).			.5

*Table I(A): Extended Deterrence Rating*

**Table I(A)(1): Blitzkrieg Capabilities of D and Her Allies**

<u>Element</u> A= Israel D= Iran	<u>Initial Value</u> <u>Selected</u> (Choose One)	<u>Subjectivity</u> <u>Multiplier</u> (Choose One)	<u>Total</u> <u>Value</u> <u>Assigned</u> (IVxM)
1. D's and D's Allies ability to Prevent Blitzkrieg Victory by A.	<p>a. D and D's allies unable to prevent blitzkrieg victory by A: +0</p> <p>b. D and D's allies possibly able to prevent blitzkrieg victory by A: +1</p> <p>c. D and D's allies most likely able to prevent blitzkrieg victory by A: +1.75</p> <p>d. D or D's allies are not only able to prevent blitzkrieg victory, but D or D's allies have the</p>	<p>a. A disregards or does not realize D's capability: M=0</p> <p>b. A partially fails to realize or discards D's capability: M=.75</p> <p>c. A realizes and appreciates D's capability: M=1</p>	<p>IV=0 M=1 Total=0</p> <p>Total including sub-tables: 0</p>

	capability of a massive military response: +2.5		
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Communication of Intent Multiplier

Choose all that apply and add vertically. The sum in the box at the bottom right is the Communication Intent Multiplier.	Applied?	Multiplier
a. Unilateral Statement Directed to A, or Known by A, that Ally will Assist D in the Event of an Attack by A.	No	.75
b. Formal Treaty Pledging Assistance of D in the Event of an Attack by A.	No	.75
c. Membership in an International Organization, the Charter of Which Calls Members to Assist D in the Event of an Attack by A (i.e. NATO).	No	.20
d. Ambiguous Unilateral Statement Regarding Consequences if A Attacks D.	No	.20
e. No Communication, Either Positive or Negative on the Issue, Despite the Presence of Strong Economic Ties Between Ally and D.	Yes	.10
f. Ally Will Not Come to the Assistance of D.	No	0

TOTAL EXTENDED MILITARY DETERRENCE RATE		.10
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Credibility Multiplier

Past Behavior of a Nation: Choose all that apply, add vertically, and apply the sum in the bottom right (marked with an arrow) is the Credibility Multiplier.	Applied?	Effect on Multiplier
a. General Behavior of Upholding Commitments.	No	+4
b. General Pattern of Failing to Uphold Commitments.	No	-.4
c. General Pattern of Upholding Commitments Communicated in the Same Manner as the Commitment in the Scenario at Hand.	No	+1
d. General Pattern of Failing to Uphold Commitments Communicated in the Same Manner as the Commitment in the Scenario at Hand.	No	-.1
e. Pattern of Upholding Commitments with Respect to Nation D.	No	+3
f. Pattern of Failing to Uphold Commitments with Respect to Nation D.	No	-.3
g. Upholding Commitment Would be in Compliance with Generally Recognized Principles of International Law.	No	+1
h. Upholding Commitment Would Not be in Compliance with	No	-.1

Generally Recognized Principles of International Law.		
i. Commitment Communicated in Manner Making it Known to Other Nations.	No	+1
<b>CREDIBILITY MULTIPLIER</b> (add all applicable, thru i.).		0

**Table (I)(A)(2): Immediate-Term Ability of D and her Allies**

<u>Element</u> A= Israel D= Iran	<u>Initial Value Selected</u> (Choose One)	<u>Subjectivity Multiplier</u> (Choose One)	<u>Total Value Assigned</u> (IVxM)
2. D's Ability to prevent an Intermediate Term Victory by A.	a. D and D's Allies unable to prevent intermediate term victory by A: +0 b. D and D's Allies possibly able to prevent intermediate term victory by A: +1 c. D and D's Allies most likely able to prevent intermediate term victory by A:	a. A disregards or does not realize D's capability: M=0 b. A partially fails to realizes or discards D's capability: M=.75 c. A realizes and appreciates D's capability: M=1	IV=1 M=1 Total=1  Total including sub-tables: 1.1

	+1.75 d. D or D's allies are not only able to prevent intermediate term victory, but D or D's allies have the capability of a massive military response: +2.5		
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#### Communication of Intent Multiplier

Choose all that apply and add vertically. The sum in the box at the bottom right is the Communication Intent Multiplier.	Applied?	Multiplier
a. Unilateral Statement Directed to A, or Known by A, that Ally will Assist D in the Event of an Attack by A.	No	.75
b. Formal Treaty Pledging Assistance of D in the Event of an Attack by A.	No	.75
c. Membership in an International Organization, the Charter of Which Calls Members to Assist D in the Event of an Attack by A (i.e. NATO).	No	.20

d. Ambiguous Unilateral Statement Regarding Consequences if A Attacks D.	No	.20
e. No Communication, Either Positive or Negative on the Issue, Despite the Presence of Strong Economic Ties Between Ally and D.	Yes	.10
f. Ally Will Not Come to the Assistance of D.	No	0
TOTAL EXTENDED MILITARY DETERRENCE RATE		.10

#### Credibility Multiplier

Past Behavior of a Nation: Choose all that apply, add vertically, and apply the sum in the bottom right (marked with an arrow) is the Credibility Multiplier.	Applied?	Effect on Multiplier
a. General Behavior of Upholding Commitments.	No	+4
b. General Pattern of Failing to Uphold Commitments.	No	-.4
c. General Pattern of Upholding Commitments Communicated in the Same Manner as the Commitment in the Scenario at Hand.	No	+1
d. General Pattern of Failing to Uphold Commitments Communicated in the Same Manner as the Commitment in the Scenario at Hand.	No	-.1
e. Pattern of Upholding	No	+3

Commitments with Respect to Nation D.		
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f. Pattern of Failing to Uphold Commitments with Respect to Nation D.	No	-.3
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g. Upholding Commitment Would be in Compliance with Generally Recognized Principles of International Law.	No	+1
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h. Upholding Commitment Would Not be in Compliance with Generally Recognized Principles of International Law.	No	-.1
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i. Commitment Communicated in Manner Making it Known to Other Nations.	No	+1
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CREDIBILITY MULTIPLIER (add all applicable, thru i.).		0
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**Table I(A)(3): Economic Cost to A's Regime Elite**

<u>Element</u> A= Israel D= Iran	<u>Initial Value</u> <u>Selected</u> (Choose One)	<u>Subjectivity</u> <u>Multiplier</u> (Choose One)	<u>Total</u> <u>Value</u> <u>Assigned</u> (IVxM)
3. Level of Trade with D and D's Allies that A believes will be lost relative to A's GDP, as well as the cost of waging war against D and D's allies to A's GDP	a. Substantial: +.5	a. A's Regime Elites can insulate themselves from trade loss (at the expense of the population): M=.25	IV=.5 M=1 Total=.5
	b. Moderate: +.25	b. A's Regime Elites are unable to externalize these costs: M=1	Total including sub-tables: .55
	c. Negligible: +0		

Communication of Intent Multiplier

Choose all that apply and add vertically. The sum in the box at the bottom right is the Communication Intent Multiplier.	Applied?	Multiplier
a. Unilateral Statement Directed to A, or Known by A, that Ally will Assist D in the Event of an Attack by A.	No	.75
b. Formal Treaty Pledging Assistance of D in the Event of an	No	.75

Attack by A.		
c. Membership in an International Organization, the Charter of Which Calls Members to Assist D in the Event of an Attack by A (i.e. NATO).	No	.20
d. Ambiguous Unilateral Statement Regarding Consequences if A Attacks D.	No	.20
e. No Communication, Either Positive or Negative on the Issue, Despite the Presence of Strong Economic Ties Between Ally and D.	Yes	.10
f. Ally Will Not Come to the Assistance of D.	No	0
TOTAL EXTENDED MILITARY DETERRENCE RATE		.10

#### Credibility Multiplier

Past Behavior of a Nation: Choose all that apply, add vertically, and apply the sum in the bottom right (marked with an arrow) is the Credibility Multiplier.	Applied?	Effect on Multiplier
a. General Behavior of Upholding Commitments.	No	+ .4
b. General Pattern of Failing to Uphold Commitments.	No	- .4
c. General Pattern of Upholding Commitments Communicated in the Same Manner as the Commitment in the Scenario at Hand.	No	+ .1
d. General Pattern of Failing to	No	- .1

Uphold Commitments Communicated in the Same Manner as the Commitment in the Scenario at Hand.		
e. Pattern of Upholding Commitments with Respect to Nation D.	No	+3
f. Pattern of Failing to Uphold Commitments with Respect to Nation D.	No	-3
g. Upholding Commitment Would be in Compliance with Generally Recognized Principles of International Law.	No	+1
h. Upholding Commitment Would Not be in Compliance with Generally Recognized Principles of International Law.	No	-1
i. Commitment Communicated in Manner Making it Known to Other Nations.	No	+1
CREDIBILITY MULTIPLIER (add all applicable, thru i.).		0

**Table I(A)(4): Political Cost (to A's Regime Elite)**

Incentive Type	Initial Assigned Value	Gain or Loss Multiplier (should be identical for all incentive types)	Total Value Assigned (IVxM)
4. Domestic Political Costs to A's Regime Elites of initiating War with D's Allies.	a. Substantial: +.25 b. Moderate: +.10 c. Negligible: +0	a. A's Regime Elites are insulated from/do not care about domestic political costs: M=.25 b. A's Regime Elites are sensitive to domestic political costs: M=1	IV=.10 M=1 Total=.10  Total including sub-tables: .11
5. International Political Costs to A's Regime Elites of initiating War with D's Allies.	a. Substantial: +.25 b. Moderate: +.10 c. Negligible: +0	a. A's Regime Elites are insulated from/do not care about domestic political costs:	IV=.10 M=1 Total=0  Total including sub-tables:

		M=.25 b. A's Regime Elites are sensitive to domestic political costs: M=1	.11
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Communication of Intent Multiplier

Choose all that apply and add vertically. The sum in the box at the bottom right is the Communication Intent Multiplier.	Applied?	Multiplier
a. Unilateral Statement Directed to A, or Known by A, that Ally will Assist D in the Event of an Attack by A.	No	.75
b. Formal Treaty Pledging Assistance of D in the Event of an Attack by A.	No	.75
c. Membership in an International Organization, the Charter of Which Calls Members to Assist D in the Event of an Attack by A (i.e. NATO).	No	.20
d. Ambiguous Unilateral Statement Regarding Consequences if A Attacks D.	No	.20
e. No Communication, Either Positive or Negative on the Issue, Despite the Presence of Strong Economic Ties Between Ally and D.	Yes	.10

f. Ally Will Not Come to the Assistance of D.	No	0
TOTAL EXTENDED MILITARY DETERRENCE RATE		.10

#### Credibility Multiplier

Past Behavior of a Nation: Choose all that apply, add vertically, and apply the sum in the bottom right (marked with an arrow) as the Credibility Multiplier.	Applied?	Effect on Multiplier
a. General Behavior of Upholding Commitments.	No	+4
b. General Pattern of Failing to Uphold Commitments.	No	-.4
c. General Pattern of Upholding Commitments Communicated in the Same Manner as the Commitment in the Scenario at Hand.	No	+1
d. General Pattern of Failing to Uphold Commitments Communicated in the Same Manner as the Commitment in the Scenario at Hand.	No	-.1
e. Pattern of Upholding Commitments with Respect to Nation D.	No	+3
f. Pattern of Failing to Uphold Commitments with Respect to Nation D.	No	-.3
g. Upholding Commitment Would be in Compliance with Generally Recognized Principles of International Law.	No	+1

h. Upholding Commitment Would Not be in Compliance with Generally Recognized Principles of International Law.	No	-.1
i. Commitment Communicated in Manner Making it Known to Other Nations.	No	+.1
CREDIBILITY MULTIPLIER (add all applicable, thru i.).		0

**Table II: Potential Aggressor's Subjective Incentives.**

Incentive Type	Initial Value Assigned	Gain or Loss Multiplier (should be identical for all incentive types)	Total Value Assigned (IVxM)
Military	a. Negligible perceived military benefit: 0 b. Some perceived military benefit: +1 c. Considerable perceived military benefit: +2	a. Gain setting: M=1 b. Loss setting: M=2	IV=2 M=2 Total= 4
Economic	a. Negligible perceived economic benefit: 0 b. Some perceived	a. Gain setting: M=1 b. Loss	IV=0 M=2 Total = 0

	economic benefit: +1 c. Considerable perceived economic benefit: +2	setting: M=2	
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Emotional/ Nationalism Value	a. Negligible perceived emotional benefit: 0  b. Some perceived emotional benefit: +1 c. Considerable perceived emotional benefit: +2	No Multiplier	IV=2
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Final Incentives Value Assigned: (Total of TVA for the three Elements)			Total Incentive Value = 4
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## Results

The Deterrence Value is calculated as the “Total Disincentives” minus the “Aggressors Perceived Incentives” for a total Deterrence Value of : -1.47

1. “Total Disincentives” is the sum total of the following = 2.26
  - a. Total Local Deterrence Score from Table I = 0.5
  - b. Extended Deterrence Score (the sum of i-iv below) = 1.76
    - i. Short term military capacity from Table I(A)(1): 0.0
    - ii. Intermediate military capacity from Table I(A)(2): 1.1
    - iii. Economic capacity from Table I(A)(3): 0.55
    - iv. Political costs from Table I(A)(1): 0.11
2. “Aggressor’s Perceived Incentives” from Table II: 4