CHAPTER 4

Arbitrator Challenges at the Iran-United States Claims Tribunal

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1 Introduction

The Iran-United States Claims Tribunal (“the Tribunal”) has been the scene of numerous challenges to the arbitrators who have served as its members. The majority of these challenges have been brought by the governments of Iran and the United States, and not by private claimants appearing before the Tribunal. In many respects, these challenges may be viewed as a manifestation of the poor relations between the United States and Iran existing both before the Tribunal’s establishment in 1981 and continuing throughout its thirty-four-year history.

Hailed as one of the great examples of pacific settlement in recent times, the Tribunal served as a critical element of the overall arrangement between the United States and Iran that resolved the 1979 Hostage Crisis and addressed the economic turmoil caused by the Iranian Revolution. That compromise, memorialized in the Algiers Accords, called for the United States to unblock several billions of dollars in Iranian government funds frozen in response to the crisis and to assist Iran with the return of the Shah’s assets. For its part, Iran had to release the fifty-two Americans taken hostage at the U.S. Embassy in Tehran. Both governments also agreed that certain litigation against Iran in U.S. courts would be terminated and certain categories of claims against Iran and between the two governments would be settled at the Iran-United States Claims Tribunal.¹ To date, the Tribunal has resolved 3937 claims, leaving a handful of large government-to-government claims on the docket.²

² The Tribunal’s jurisprudence has been carefully examined in numerous treatises. See, e.g., Aldrich, supra note 1; Aida Avanessian, Iran-United States Claims Tribunal in Action (1993); Brower & Brueschke, supra note 1; Rahmatulla Khan, The Iran-United States Claims Tribunal: Controversies, Cases, and Contribution (1990); Wayne Mapp, The Iran-United States Claims Tribunal: The First Ten Years (1981–1991): An Assessment of the Tribunal’s Jurisprudence
The Tribunal, though productive, has suffered from a climate of distrust between the governments, some of which is evidenced by the many challenges to the Tribunal's arbitrators. Most of the challenges at the Tribunal have arisen under rather unusual circumstances, to say the least. One of the earliest challenges, for example, was prompted by a physical assault by two Iranian arbitrators on a Swedish arbitrator on the Tribunal's premises. In two sustained efforts, the Iranian government waged a series of challenges targeting the President of the Tribunal, whom it believed was unduly favoring the United States. On another occasion, the U.S. government challenged all three Iranian arbitrators when it believed they were engaged in a scheme to kick back portions of their salaries to the Iranian government.3

This chapter addresses these and other challenges at the Iran-United States Claims Tribunal. Section 2 describes the institutional and procedural framework under which challenges at the Tribunal may be brought. Section 3 addresses the critical role of the Tribunal's appointing authority in resolving challenges in the Tribunal's highly charged setting. Section 4 provides an overview of the various challenges brought to date in connection with the Tribunal's work.

2 The Challenge Process at the Iran-United States Claims Tribunal


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3 These instances relate to the challenges of Judges Mahmoud Kashani and Shafie Shafeiei in 1984 and of Judges Assadollah Noori, Koorosh Ameli, and Mohsen Aghahosseini in 2005. See supra Part 4.2.