

Jimmy Carter's hostage deal: an unconstitutional assault

by Judith Wyer

The terms upon which the Carter administration arranged for the eleventh-hour release of the 52 American hostages from Iran represent a flagrant capitulation to terrorists which threatens to shred the U.S. Constitution. On two counts, the final agreement is patently unconstitutional. First, the Carter White House set a deadly international precedent for future acts of terrorism against both the United States and its allies. Had Carter followed the advice of Democratic presidential candidate and *EIR* Contributing Editor Lyndon LaRouche, the entire affair might have been short-lived. LaRouche urged Carter to expose the Muslim Brotherhood, the clandestine terrorist movement which runs the Khomeini regime, and to cooperate with the governments of France and West Germany in rounding up the fanatical Islamic extremists. Instead Carter gave the Muslim Brotherhood and international terrorism a newfound credibility. The American ambassador to Algeria, Ulrich Haynes, who was involved in the negotiations, upon submitting his resignation warned that he was fearful that Washington "had set a dangerous precedent" that might lead to increased international terrorism.

Second, at the behest of Khomeini, Carter has undermined the American judicial system by having agreed to a demand to establish a foreign-based Arbitral Tribunal to replace American federal courts in settling outstanding claims against Iran by American corporations.

An authority on international law observed on the day of the hostage release that the establishment of such a tribunal is a "massive violation of the Constitution." By taking litigation out of the American court system through executive fiat and placing it before a tribunal whose members must be approved by Iran, Carter has opened the way to a dangerous conflict between the executive and judicial branches of government which threatens a full-scale constitutional crisis. He has imposed limited sovereignty over the judiciary's ability to carry out the law of the land. The source noted that no treaty or agreement with a foreign state "can abrogate the right to trial by jury of any party whose aim is to settle claims through legal process." Ambassador Haynes commented that he was disturbed by Carter's

decision to create the tribunal and order American citizens to give up their legal right to sue a foreign government.

Former Attorney General Benjamin Civiletti, who played a central role in railroading the deal, stated on the day of the hostage release that he expected the legality of the agreement to be challenged in American courts, since Carter overrode 380 lawsuits to attach Iran's frozen assets and pay up to \$3 billion in unpaid Iranian debts to American companies.

Hours after the hostages were released, Secretary of State Edmund Muskie praised Khomeini for the release of the American captives, and gloated he himself had heeded the demand from Iran that the U.S. admit guilt in its relationship with the former Shah of Iran.

Blackmailing Reagan

The question now is whether the Reagan administration will abide by the terms of the Iran-U.S. agreement. There are already indications that Reagan may be faced with more extreme terrorist actions if he attempts to break the agreement. It has been learned that the same human-rights mafia that dominated the Carter administration and supported the Khomeini takeover of Iran is preparing to trigger a wave of international terrorism against American interests abroad, including embassies, to blackmail Reagan into abiding by Carter's unconstitutional agreement.

Robert Woetzel, president of the Foundation for the Establishment of an International Criminal Court, boasted that he and United Nations Secretary General Kurt Waldheim worked together to write the blueprint creating the tribunal. Woetzel, a professor at the Jesuit-run Boston College, warned that Reagan would face "severe retaliation" if he broke the deal, including not only terrorism and perhaps further hostage taking, but an oil boycott organized by Algeria, the key mediator between Iran and the United States. The same day, the Boston-based National Council of Churches (NCC) warned of further embassy incidents.

Carter's envoy to Iran, former attorney general Ramsey Clark, is a prominent American personality in

this conspiracy to impose limited sovereignty on the United States. Former secretary of state Cyrus Vance, and Carter's envoy to the Mideast Sol Linowitz, too, are active conspirators in undermining American sovereignty for a new "one-world order. Both men are on the board of the Jesuit-led Interreligious Peace Colloquium, which held a seminar at Harvard in March 1979 to promote a "transnational" order superseding the "state-centric" view of the world. Terrorism was discussed as one "transnational actor" in challenging the power-hungry nation-state.

Princeton University Professor Richard Falk, also a collaborator of the Interreligious Peace Colloquium, contributed to the Council on Foreign Relations' 1980s Project studies, a project Vance and many others of Carter's cabinet oversaw. Falk argues that both human rights and terrorism will create the pretext for an international legal apparatus as part of the new world order that will override the law of nation-states.

The Arbitral Tribunal represents such a transnational institution, not bound by any sovereign legal code. It is no coincidence that it should be located in the Hague, Netherlands, the home of the World Court, which like its sister, the United Nations, was established to override national sovereignty.

Further, it is rumored in Washington that prominent Socialist International figure Olof Palme will be named to the Tribunal. A U.N. source reports that it will take up to five months before the Tribunal will be ready to hear the claims of American business against Iran. Should Reagan be forced to play along with Iran and its Socialist International supporters in accepting the tribunal, it is expected that the tribunal will be a menagerie of "anti-big-business" ideologues like Palme, who will make a travesty out of law and American corporate standing.

Documentation

Clark, Falk, Woetzel on the implications

The following are excerpts from a Jan. 22 interview with Ramsey Clark made available to EIR.

Q: There is growing speculation that the Reagan administration will decide to scotch the hostage deal with Iran. What consequences do you think would flow from that?

A: My prospective concern is that the agreement that

was negotiated at great length and with such great concern would no longer be an agreement. People would try to take advantage of that fact.

I have to assume that the 1980s will be considerably wilder than the 1970s. Tension is growing considerably, and all the phenomena are tending toward greater turbulence in this decade. There will be a billion more people on the planet, a lot more terrorism, a lot more hunger, a lot more violence. Tensions will increase.

I want to maintain the possibility of peaceful resolution of conflicts, which would be more difficult if this agreement is not adhered to by the new administration. People won't want to negotiate, there will be no purpose in doing so.

Q: Do you see new international legal institutions being formed on the Iran deal precedent that will supersede more limited national sovereignties?

A: It has that potential. There is a need for new institutions, foremost an International Court of Criminal Justice. We also need an International Mediation and Conciliation Service when nations won't talk to each other. The Iran situation is only an ad hoc version of what must happen.

Q: When you talk of the 1980s, you echo the President's Council on Environmental Quality Global 2000 report warning of worldwide shortages and unrest. What do you think of that report?

A: It's the sort of thing we have to analyze and recognize and do something about. We're facing a stunning pace of change in the next few years.

Q: Do you think this pace of change will include Iran hostage-style events elsewhere in the future?

A: It could happen in any number of places—Central America, El Salvador, Guatemala, Nicaragua. It could happen in the Persian Gulf itself. There is peripheral friction in the region arising from the Rapid Deployment Force we are sending there. Probably 20 Americans have been recently killed in Turkey. It could happen in South Africa too.

Embassy seizures are not even the main point. They can be prevented. It's harder to prevent assassinations.

Q: There is talk growing in Washington of an investigation into the hostage seizure. Are you apprehensive that your own role will come under investigation?

A: What causes concern is that people are so totally unwilling to look at the past twenty-seven years. If President Reagan calls the hostages prisoners of war, then when did the war begin? In 1953, with the CIA's toppling of Mossadegh? What about the tens of thousands who died under the Shah? Why aren't these things

being investigated?

Q: Do you know of any lobbying effort being mounted to raise these questions?

A: Me. Also, the Committee for Reconciliation that was formed out of various efforts during the time the hostages were in Iran.

From a Jan. 22 interview with Prof. Richard Falk of Princeton University, who aided the installation of the Khomeini regime in 1979.

Q: There is growing talk that President Reagan will decide not to abide by the recently signed deal with Iran. What consequences do you think this will have?

A: The consequences would be very negative. It would be much less likely that any third party would want to get involved in such negotiations in the future. Also, it makes it much more likely that in future incidents like embassy seizures, the militant view demanding spy trials will prevail.

Q: What lessons are to be drawn about necessary revisions in international law?

A: There must be created a different way to investigate the charges of some revolutionary group against a deposed leader; also new rules for asylum and exile for deposed leaders. These are some of the world-order implications of the Iran affair.

New institutions are absolutely needed to deal with such situations. The absence of such institutions could lead to breakdowns as occurred in the Iran situation. Mechanisms are needed for charges like those against the Shah. We will have more incidents in the future like this if no mechanisms are created.

Unfortunately, many of the inferences that will be drawn by Third World revolutionary leaders in this affair will be colored by the fact that the situation was not handled well by the Iranians. They have weakened Iran from a nationalist way.

We can expect more such events, possibly from another Islamic country. I don't think it will happen in the Western Hemisphere; there's too much fear of a U.S. intervention there.

Below are excerpts of an interview with Robert Woetzel, the president of the Foundation for the Establishment of an International Criminal Court.

Q: Do you think Reagan will abide by the terms of the agreement which Carter worked out with Iran?

A: In principle he has to. But there are other elements to this situation which I think you cannot forget. Don't forget there are other Americans still in Iran. If Reagan tries to go back on the deal, I think things could get very messy for him. Don't underestimate the amount of pres-

tige and power Algeria has built up as a result of its role in this situation. I think Algeria will not allow Reagan to get out of this.

Algeria has a lot of influence in OPEC; backtracking by Reagan would force severe retaliation by the Third World. Algeria, Iran, and Libya have a unique pressure they can bring to the U.S. I could see Algeria working to organize an oil boycott with Libya if Reagan hedges.

Q: The tribunal idea was first floated shortly after the hostages were taken. How did it evolve?

A: I wrote the document in conjunction with the legal office of the United Nations forty days after the hostage taking, warning the White House that it had no recourse but to submit to international arbitration. Had the White House taken this advice then a lot of pain could have been avoided, but they didn't. It really wasn't until Muskie came in that there was a change. Muskie made the concessions that Iran was demanding. They came in a second letter when he said that the U.S. would never interfere again in Iran's affairs. This implied for the first time an admission of guilt on the part of the U.S. This letter really got the ball rolling . . . it opened the way for an agreement on the tribunal. . . .

What all this shows is that we need international standby machinery which can move into action in these kinds of situations. The idea for this tribunal came during a meeting in Barbados two years ago, at a conference sponsored by the U.N. and my foundation. . . .

Q: Are you working with the International Law Association?

A: I have worked very closely with members of the ILA. We worked under U.N. Article 71, which calls for conflict resolution, looking at allegations of one government of interference into another such as those which Iran charged.

Q: I understand Reagan isn't going to buy this deal; what do you think that means?

A: Watch Libya now. They aren't satisfied with the agreement, they think Iran should have gotten more. There are many messy legal problems. One thing I think we are definitely going to see is terrible mudslinging between the Democratic and Republican parties. The Republicans are really going to discredit the Democrats. They are already on the defensive. Look at what Weinberger and Haig have been saying—then when these investigations get underway, it's going to cream the Democrats. The partisan arena is going to be very volatile.

Now, if there are further acts of terrorism against American embassies abroad, assuming Reagan tries to slide out of the deal, this will only frustrate things here at home. I wouldn't discount this possibility, not at all.