

Mr. President will you honor the Supreme Law of the Land : The 1955 Treaty of Amity Between the United States of America and Iran?

The 1955 Treaty of Amity was signed into law by President Eisenhower in 1957, with a copy registered under no. 4132 at the United Nations. Because it is a self-executing treaty, and was approved by a 2/3 majority in the Senate, articles II and IV of the United States Constitution confer to it the status of the *Supreme Law of the Land*. The lynchpin of this treaty is the freedom of trade between the two countries. It is bestowed as a right upon the citizens of both Iran and United States. And yet, by presidential decree, commercial trade with Iran is prohibited.

The decree was first issued in 1987 by President Reagan who, in reaction to the Iran-Contra scandal, strangely ordered a trade ban on Iran. To do so, he relied on the International Emergency Economic Powers Act ("IEEPA"), which, by statute, required the existence of an "emergency" situation. Oddly, that "emergency" situation has been going on for nineteen years.

In a series of five lawsuits that I had filed (three against the Iranian government and two against the US government), federal judges evaded confrontation with this Supreme Law of the Land through various ploys, the most blatant one being the deliberate use of erroneous translation by the Fifth Circuit. In an era when the selection of US federal judges is primarily based on their views about abortion, and their pay is a quarter of that of their counterparts in Singapore, they seem to quickly forget that they took an oath to uphold the law and not to play politics. Those readers who are interested to see how poorly the government argued its case, and how incongruent the opinions of the federal judges were, can find their full details on my website www.soudavar.com. But even without delving into complicated legal theories, it is clear that "emergency" in English refers to a short term situation that by no stretch of the

imagination can go on for nineteen years.

More importantly, since the treaty allows either party to revoke it with a twelve month prior notice, it should have been terminated long time ago. Especially since Iran, without any distinction between its government and its people, has been declared as part of the "Axis of Evil." One cannot be a friend and a foe at the same time. There must not be a situation in which freedom of trade is simultaneously guaranteed by the Supreme Law of the Land and banned by a presidential decree.

But the government is greedy and wants to have its cake and eat it too. By keeping the treaty alive it has allowed American monetary claims against Iran, sometimes egregious ones, to be processed at the International Court of The Hague. But in so doing, it has effectively rendered the notion of the "Supreme Law of the Land" meaningless. Why then should Enron or Worldcom executives be prosecuted if they only followed the example set by the government and, out of greed, pushed the limits of the law further away?

If the Supreme Law of the Land is not worth the paper it is written on, what difference does it make whether Harriet Miers is nominated to the Supreme Court or Samuel Alito? If the Supreme Law of the Land merits no respect, why should anybody respect any law?

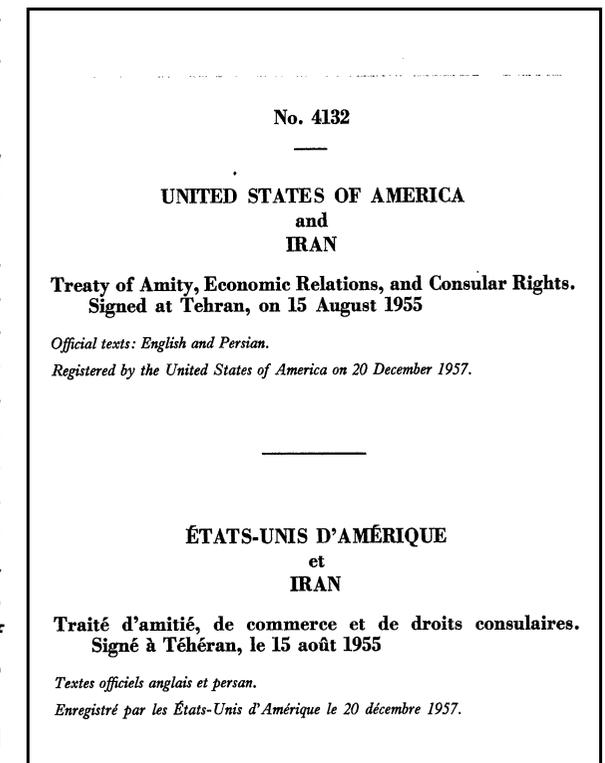
It is wrong to assume that a lack of respect for the law in matters pertaining to foreign entities will have no bearings domestically. One cannot be amoral abroad, and virtuous at home. Thus a President Nixon who lied about the coup d'état he engineered in neutral Cambodia (which eventually led to the infamous killing fields) would inevitably lie about his Watergate plumbers as well. The effectiveness of a justice system is de-

pendant on the common respect for the law and the endeavor to uphold it under all circumstances.

To restore the honor of the Supreme Law of the Land and the sanctity of the written word, two things must be done: Firstly, Congress must stop the yearly masquerade of accepting the extension of an emergency situation beyond a defined short period under IEEPA, or alternatively, give the President imperial powers to impose economic sanctions at will, with no "emergency" preconditions. Secondly, if the President wants to maintain a trade embargo on Iran, it must give notice for the termination of the Treaty of Amity, *but respect the full effectiveness of this Supreme Law of the Land, including the freedom of trade, during the required 12 months notice period*. Or, do the more sensible thing and abandon the idea of the ineffective and counterproductive trade embargo.

As pointed out in my lawsuits, and as the example of the embargo on Iraq under Saddam Hussein clearly shows, such restrictions only help to increase the control—and enrichment—of autocratic regimes over their people, and breed widespread corruption with ripples that usually reach the shores of America (e.g. the scandals of the Oil for Food program). On the other hand, the economic overtures to China show how a dogmatic regime can be wooed into the world system. As Fisher and Cox succinctly concluded in their New York Times article of Apr. 10, 2006 (*Globalizing Good government*): "the more open countries are to trade, the better they are run."

While American foreign policy was once guided by the visions of men like Gen. Georges C. Marshall, it is now marked by a total lack of vision, and heavily influenced by the lobbying efforts of cash-rich Saudi



Arabia (who still funds the Taliban and their religious schools which breed the most senseless Islamic zealots), and the negative impact of the Israel lobby, only too well documented by Mearsheimer and Walt in their March 2006 paper published by the John F. Kennedy School of Government at Harvard (*The Israel Lobby and U.S. Foreign Policy*).

Today, the American government is be-friending some of the world's most despotic and/or reckless regimes. And by the adage "tell me who your friends are and I will tell you who you are," it may end up acting more and more like them. But if foreign policy is the prerogative of the Executive, non-compliance with the Supreme Law of the Land is not. So the question remains Mr. President: *Will you honor the Supreme Law of the Land?*

Abolala Soudavar - Houston
Email: aas@soudavar.com
Website: www.soudavar.com