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$25,000 REWARD

for whoever can provide an irrefutable proof that the US government has designated *all* Iranian passport holders as a "suspect class"

Such a proof is not only to stop an illegal and arbitrary designation, but also to highlight basic flaws in security policies

In Nazi Germany, citizens were asked to declare their religion, and if they were Jews, they had to wear a *yellow star* and were discriminated against (to say the least). Seven decades later, in the United States of America, residents are asked to show their passports, and if they are in the *red color* of an Iranian passport, they are subjected to discriminatory procedures.

Unfortunately this policy is not a result of the 9/11 events but was implemented several years before. If not for 9/11, a legal challenge that I had brought to this discriminatory policy was proceeding on a successful path. Those tragic events threw the proceedings off track. Yet, the issues that I had raised–a year prior to 9/11–about the incompetence of the US intelligence community and the government's misguided policies are even more relevant today. As I shall try to demonstrate, **the discriminatory policies on Iranians *en bloc*, whether a US resident or not, is symptomatic of Intelligence incompetence, as well as wrongful policies at the top.** Unfortunately, they are bound to continue in spite of the 9/11 Commission Report. Suffice it to consider the reaction of the head of the National Security Council, Condoleza Rice, to the 9/11 events:

"I don't think anybody could have predicted that these people would take an airplane and slam it into the World Trade Center . . . that they would try to use an airplane as a missile, a hijacked airplane as a missile."[1]

Such a statement is either the epitome of stupidity, or an utmost exercise in hypocrisy (if not both). In either case it is proof that security matters are in the wrong hands.

Discriminatory policies *en bloc* are against the law. Even more so against Iranians, because of a 1955 Treaty of Amity that, believe it or not, is still the Supreme Law of the Land. It is my view that legal challenges to misguided security policies are not only to uphold the law, but to pressure the government to abandon smokescreen policies and attack relevant problems at their core.

The Original Complaint

To put my claims into perspective I shall first provide a synopsis of my Original Complaint ("OC") against the FAA and then try to reevaluate my initial claims in light of subsequent events. In brief, I had concluded therein that:

· the search-procedure devised for Iranians *prior* to 9/11 was indeed indicative that they were suspected as *suicide-bombers*,

· that suicide-bombers were indoctrinated individuals whom the Intelligence Community should have tracked and tagged at *their indoctrination camps*,

· that *ineptitude* and *cronyism* were the hallmarks of a US Intelligence Community, which was reluctant to attack or pursue the Al-Qaeda monsters that they themselves had created,

· that the US, not only did not stop the Saudis from funding the Talibans and Al-Qaeda, but was itself contributing to the coffers of the Talibans prior to 9/11

· **that despite all the indictments against Saudi individuals who had bombed US embassies and military barracks, it was the Iranians who were branded as "suspects" and not the Saudis.**

An extract of the relevant part of my OC, as well as all the proceedings, and an annotated version of this article (with all sources cited) are viewable at: ***www.soudavar.com.***

Analysis of events

Lax airport security is always cited as one of the main failures in preventing 9/11. Yet, in terms of searching individuals, airport security acted according to the established rule that did not consider blades shorter than two inches as a threat. As a result the terrorists were able to slip in their now famous box-cutters. The question is: was this a flawed rule, and would a more stringent rule have prevented the outcome? The answer is: absolutely not. For, the 9/11 squads had two more important weapons without which the box-cutters were useless:

· bluff and

· muscle-force

They bluffed passengers and crewmembers into panic, not by brandishing box-cutters, but by threatening to blow up a bomb. Their bluff then allowed a group of musclemen to isolate those who stood in their way to take control of the airplane. Once isolated, the victims were easy to dispose off. Any sharp object would have sufficed. Suppose that the present stringent rule that even forbids nail-scissors and tweezers on board, was in vigor then. The plastic knives that airlines now serve with their meals (which are ironically much sharper than the steel knives they replace) could have well served the gruesome purpose of killing isolated passengers or crewmembers. If not plastic knives, the terrorists could have used looped violin strings to decapitate their victims or simply smash their heads with coffee pots. An *isolated* crewmember behind closed curtains and held by muscle-men did not have much chance of survival. Bluff and muscle-force is simply not detectable by airport screening machines.

If 9/11 planners disposed of a sizeable muscle-force provided by nineteen trained terrorists (who hopped from one militant gathering around the world to another, gingerly entered the USA and leisurely planned their attack),[2] the blame should not be on lax airport security but on the incompetence of the intelligence community. And if the 9/11 squads could use the bluff weapon effectively, it is not because the whole security apparatus was as unimaginative as Condoleza Rice and did not foresee the possibility of "using an airplane as a missile," but because there were no coherent policies formulated in this respect, and attention was focused on an imaginary Iranian threat.

There is a high degree of duplicity in Ms. Rice's statements–also echoed by some of the 9/11 Commission members–that no decision at the top could have prevented the 9/11 tragedy. Just imagine the difference in casualty if the National Security Council had decided to order the airplane cockpit door sealed, and that the pilot's primary duty was to land the plane. Such a decision was well within the responsibilities of the NSC, no matter how ineffective was the rest of the intelligence community to spot nineteen terrorists who even at times bragged in a public bar about their forthcoming "exploits."

Today we know that already in 1995, detailed plans of a 9/11-like operation in the Pacific Rim area were discovered, and that subsequently, the French police had foiled another terrorist group's attempt to crash an airplane onto the Eiffel Tower. It is not that such information was lost or forgotten in the labyrinths of the CIA and FBI.[3] To the contrary, when an Egyptian airplane crashed to the ground, the immediate suspicion of the US officials was that the pilot was an Islamic terrorist on a suicide mission.

More importantly, the possibility of suicide-bombers boarding a plane was very much envisaged by the FAA security agents prior to 9/11, and as I had demonstrated in my filings (see OC), all Iranian passport holders–including eighty year old women–were searched from head to toe, and their luggage was emptied and hand-checked to the last underwear, on precisely such a suspicion. The question then is: *why were Iranians so thoroughly checked while the Saudis were not? Why was it that each time a terrorist attack occurred, the search on* Iranians *was tightened even though the justice department was issuing one indictment after another against* Saudis? *Why did American officials so stubbornly try to pin the al-Khobar incident on Iranians, as if Bin Laden and his acolytes had no Saudi-connection whatsoever, and as if Saudi veterans of the Afghan camps had never returned to their homeland?*[4] *Why is there such a persistent effort to treat all Iranian passport-holders as possible al-Qaeda terrorists even though to date, no Iranian was ever found among the Talibans, nor among any of the al-Qaeda cells?*

As I shall try to explain, the answer to these questions is in two folds: **1- a systemic incompetence of the intelligence community, 2- misguided policies at the top that push the security personnel to concentrate on short-term smokescreen activities, rather than long term policies.**

Ineptitude and cronyism

In response to a question asked by Senator Bob Graham that what in his view was the biggest mistake in respect to al-Qaeda, then CIA director George Tenet replied: "that we allowed al-Qaeda to operate terrorist training camps in Afghanistan for years, thereby training most, if not all, of the September 11 hijackers and thousands of terrorist who are now scattered around the world." What a perceptive answer! The problem though is that he was in charge of that task but did nothing about it, even though it was public knowledge that the Afghan Bin-Laden factories were churning out thousands of terrorists a year.[5] How could it be that such an important task was neglected for years?

A fundamental problem with the CIA (and with practically all other intelligence agencies in the US) is that it is very hard to control a secretive organization within an open society. It is precisely for this reason that President Truman hesitated for months before he finally approved the creation of the CIA. Its predecessor, the OSS, had been able to attract much talent out of patriotic fervor during the war. The CIA too benefited for a while from the legacy of the OSS, as its recruitment officers walked head-high into college campuses and were able to recruit the cream of the crop. That situation changed with the Vietnam war. What the intelligence community could attract from then on was only mediocrity. Because oversight committees have little independent means for double-checking classified material and operations, they must ultimately obtain their information from the same group of mediocre operatives, whose natural tendency would be to protect one another from any outside enquiries. Cronyism thus reigns supreme. What's worse is that, each time there is a failure, somebody is even rewarded: When an Iranian passenger-carrying airplane, on a daily *scheduled flight*, was gunned down by the US navy as a threatening "combat-plane," medals of merit were awarded! (see OC). Because the culprits were not reprimanded, no lesson was learned and the same error was perpetrated on the next crisis situation: When American planes bombed Belgrade, the Chinese Embassy, which figured on every official map and directory, was designated as a viable target and hit.

If there is one lesson to be learned from the CIA decision to train Bin-Laden and Co. against the Russians in Afghanistan, it's that an association with religious fanatics on the basis that the "enemy of my enemy is my friend," is dangerous and can backfire with dire consequences. Yet, when the American forces invaded Iraq they immediately took the Mojahedin-e Khalq Organisation ("MKO") under their wings. The MKO is a fanatical terrorist organization that boasts among its achievements the killing of three Americans in Tehran prior to the 1979 Islamic Revolution.[6] It sided with Khomeini during the revolution period but fell at odds with him afterwards. It then moved to Iraq where Saddam Hussein gave them full financial support in order to indoctrinate Iranian prisoners of war and integrate them into a supposedly anti-Iran army. In reality, he needed them to carry out the dirty work that even his own army would not do. Thus, when Saddam gased the Kurds of Halabja in 1988, the task of killing some of the survivors was entrusted to the MKO; and so was the task of attacking entire Shiite villages in the south, which had committed the unfortunate mistake to respond to US calls for uprising against Saddam during the first Persian Gulf war.[7] Adding insult to injury, the mighty US army signed a *ceasefire* with a third rate officer of the MKO, as if it was signing a ceasefire with Admiral Doenitz and the Wehrmacht! As for the degree of fanaticism of this group, suffice it to say that after the head-figure of the MKO fled Iraq and was arrested in France for illegally bringing in some 8 million dollars of Saddam's money in cash, six MKO members in Paris immolated themselves the next day, even before preliminary hearings could be scheduled.[8] The al-Qaeda similitude notwithstanding, the US intelligence embracement of the MKO has one other problem: the MKO is officially listed by the State Department as a terrorist organization.

The ultimate manifestation of incompetence and cronyism in the intelligence community though, is the bestowing of a medal of honor to George Tenet, on the occasion of his departure from the CIA. A reward for a pompous simpleton, who, upon his nomination as head of the CIA in 1998, declared war on al-Qaeda but assigned an army(!) of just one analyst to the task,[9] who qualified the evidence on Iraqi weapons of mass-destruction as "slam-dunk," and who presided over one failure after another, sends only one message to the rest of the staff: fail and you shall still be rewarded.

Responding to ill-formulated policies at the top

To maintain its position, mediocrity needs to gain the sympathy of its superiors. It will thus align its activities along whatever direction the political wind blows and no matter how biased the political outlook is. *Real concern for security becomes a secondary goal.*

It is most unfortunate that the foreign policy of the "mightiest" country on earth, that is the United States of America, is heavily influenced if not dictated, by two theocratic and fanatical governments, namely those of Saudi Arabia and Israel. One buys its influence with money, the other gets what it wants with heavy lobbying and media control. ***Due to the pressures exerted by these two, US policies zigzags along a path that is to the detriment of both short term and long term security of the American people.*** Before the US can be declared the "mightiest" country on earth, as President Bush frequently does, it must have an independent foreign policy of its own, and not one imposed by foreign interests.

The case of Saudi Arabia

The Saudi related problem, is not only amplified by the fact that the father of a sitting president (and a former president himself) has financial ties to Saudi Arabia, but that many top State Department and Defense official, as well as the military top-brass, vie to join the board of a company dealing with Saudi Arabia. When Saudi Arabia talks, these officials listen. *They do not wish to alienate a future employer or benefactor*. Thus, when during the last Persian Gulf war, the US army was heading for Baghdad to capture the man that former President Bush had likened to Hitler, Saudi Arabia demanded that Saddam be spared and the administration obliged. Just imagine if at the end of World War II, as the allies were pushing toward Berlin, Stalin had suddenly a change of heart, and asked the allies not only to spare his former friend Hilter, but also to allow him to be reinstated and continue his savagery as before.

Next, Saudi Arabia persuaded the US that the Shiite branch of Islam was a dangerous creed and that it should be contained. A scheme was concocted between the US, Saudi and Pakistani intelligence services to set a string of theological schools around Shiite communities, especially Iran. The problem, though, is that these schools were not regular Islamic theology schools but had the mission to propagate the very fanatical Wahabit Islam of Saudi Arabia. From, Tanzania to Pakistan to Uzbekistan, by way of Afghanistan, Wahabism is preached in these schools. A first crop of these fanatic-producing factories is the Taliban whose very name means "theological students." Prior to 9/11, the Taliban not only received money from the Saudis and Pakistan, but also $43 million from the United States government.[10]

It is wrong to assume that Bin Ladden sprang out of nowhere, and that his hatred for foreigners setting foot on Islamic lands had no precedence. Indeed, such a behavior is deep-rooted and goes back to the very creation of the Saudi kingdom, when the founder of the dynasty, Abd al-Aziz, struck a close alliance with Abd al-Wahab, the person after whom the Wahabits are named and one who preached a most rigid and backward brand of Islam: an "Islam" that not only relegated women to non-existence, but advocated a state of purity that could only be preserved if foreigners were kept at bay. An incident that occurred at the time when Abd al-Aziz was poised to conquer Mecca is most illuminating in this respect. Mecca was then under the rule of the Sharif Hossein who was a protégé of the British. To achieve his objective Abd al-Aziz needed to win the support of Sir Percy Cox, the British "viceroy" in former Ottoman territories. Yet, despite the importance of the matter, Abd al-Aziz refused to allow Sir Percy Cox on Arabian soil and arranged a meeting on an island off the coast.[11]

Years later, the son of Abd al-Aziz, the progressive minded King Faisal, was killed by a prince whom the Saudi family branded as a terrorist.[12] *He was a precursor of Bin Laden, and one who opposed Faisal's overture to foreigners and the presence of foreign experts in Saudi Arabia*.

Despite all the post 9/11 rhetoric about fighting terrorism, the breeding grounds for such terrorists, that is the Wahabit theological schools, are expanding, as some 2 billion dollars of religious alms–if not more–raised in Saudi Arabia, continue to find their way into existing theology teaching channels. In addition, related military camps are still operating under the protection of the Pakistani secret services with funds provided by Saudi Arabia. And concurrently, money is being dangled before every mosque in

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[1] F. Rich, *NY Times*, Sept. 28, 2002

[2] *THE PLOT: Unpolished Secret Agents Were Able to Hide in Plain Sight*, NY Times, Sept. 23, 2001

[3] M.L. WALD, *WARNINGS: Earlier Hijackings Offered Signals That Were Missed*, NY Times, Oct. 3, 2001

[4] "The caution exercised by the Central Intelligence Agency and the Federal Bureau of Investigation in affixing responsibility for the Khobar Towers bombing, which killed 19 Americans, may have worked to the terrorists' advantage, the report states." D. STOUT, *Panel Releases Initial Findings on U.S. Efforts Before Attacks,* New York Times, March 23, 2004.

[5] "The CIA estimates that as many as 50,000 to 70,000 militants from 55 countries have trained here in recent years," J. MILLER, Holy Warriors…, NY Times, Jan. 16, 2001.

[6] E. Abrahamian, *The Iranian Mojahedin,* Yale Univ. Press 1989, p. 166.

[7] S. Peterson, *The Christian Science Monitor*, Dec 31, 2003; E. Nicholson MEP's report to the British Government and to the European Parliament, Press communiqué Apr. 20, 2003.

[8] P. Smolar, *Le Monde* (Paris), June 19, 20, 2003, *La cour d'appel de Paris ordonne la remise en liberté de Maryam Radjavi*, Le Monde, Jul. 4, 2003 .

[9] J. RISEN, , NY Times Sept. 19, 2002

[10] Several State Department reports clearly indicated that the Taliban's main source of revenue was opium (see for instance // usembassy.state.gov/posts/pk1/wwwh00120903.html; or www.state.gov/g/inl/rls/rm/2001/sep_oct/5210.htm). Yet in May 2001, Secretary Powell announced a package of $43 million through the UN and other agencies for Afghanistan. Powell said, "We will continue to look for ways to provide more assistance for Afghans including those farmers who have felt the impact of the ban on poppy cultivation, a decision by the Taliban we welcome,"www.state.gov/secretary/rm/2001/2928.htm. In reality, under the guise of an opium ban, the Taliban received a bonus from the US: they took the money, but hoarded the opium. They had to dump it at the beginning of the war. As a result, prices went down from $600/kg to 90 in less than a month later (http://www.un.org/apps/news/infocusnews.asp?NewsID=53&sID=4).

[11] A. al-Rayhani, *Muluk al-Arab,* Beirut, 1925 (Pers. trsl).

[12] http://edition.cnn.com/2002/WORLD/meast/11/26/saudi.money.trail

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Europe to preach fanatical Wahabism. No wonder then that the chief architect of the Madrid tragedy, Mohammad the Egyptian, was a student of a radical Wahabit teacher of the Mohammad bin Saud University in Saudi Arabia.[13]

Thus, it is an exercise in misinformation when the media regularly tries to link Iran to Al-Qaeda and the Talibans, since the very marriage of the later two was to counter a sectarian threat posed by Shiite Iran. One wonders how much this type of information "leakage" is due to ignorance and how much of it is to please the Saudis.

The Israeli fixation on Iran

In resolution after resolution, Congress has labeled Iran as a terrorist state for the sin of supporting the "terrorist" organization Hezbollah in Lebanon. Yet, Hezbollah has always fought to expel Israelis, as foreign occupiers, from Lebanese land.[14] A group fighting for the territorial integrity of its homeland cannot be branded as terrorist. Germans of course called all such groups, including the Resistance in France, as terrorists, and that is why, Europeans who have had that experience, refrain from labeling Hezbollah a terrorist organization.

As a state, Israel's legitimacy solely rests on a UN decision in 1948. Since *UN Resolution 248* calls for the evacuation of occupied territories, Israel has no legitimacy in occupying lands beyond its 1948 borders, and people fighting to liberate their homeland cannot be labeled as terrorists, nor can other countries who support such liberation endeavors.

Unfortunately the Israeli government is not one that abides by international law and morality. It assassinates people at will outside its borders, and punishes a whole neighborhood for the sin of one,[15] in ways that are reminiscent of Nazi reprisals against their opponents. The great statesman Ben Gurion, used to call Israeli fanatical activists "Jewish Nazis," and saw as his responsibility to reign in the Irgun zealots.[15] Unfortunately today, the government of Israel is overwhelmed by the children of the Irgun and "Jewish Nazis."

If America thinks that Israel is a long-term ally, it is wrong. In the same way that the assassination of Faisal in Saudi Arabia should have been taken as a warning, the assassination of Rabin by a young fanatic is a clear sign of how fanatics will deal with whom they disagree with. Their allegiance is not to America or democracy, but to what they perceive as dictates from their "god." The same voice that told the young fanatic to kill Rabin will one day call upon other fanatics to turn their gun on American soldiers, as it did when Israeli operatives pounded the SS Liberty for hours, killing 34 US sailors in cold blood and wounding more than 100 others.[18] Such is the fear from the pro-Israel-lobby that no politician ever dared to investigate that issue, and demand, at the very least, reparation for the family of the victims.

The terrifying hold of the pro-Israel lobby on US politicians has reached a point that when it says jump every politician will jump. And if it says that Iran and Iranians constitute a primary security risk, the US intelligence community must accept it as gospel.

Israel and its American lobbyists have such a fixation on the Iranian issue that they monitor it in all spheres of government. They would not hesitate to bribe officials or plant a mole as they did with the Pentagon analyst, Lawrence Franklin, who was accused of passing classified information to them, lest government agencies formulate a slightly different approach towards Iran.[18] An Israeli-related spy-case was of course too hot to handle, for politicians as well as the media, and had to be shelved as soon as possible. And so it was.

The real case of Iran

Through the double-pressure exerted by the Saudi and Israeli governments, "Iran" has been designated as a rogue state. In practical terms however, this "Iran" encompasses not only its government but *all* of its citizens.

The truth, though, is that *the Government of Iran is a terrorist organization* and must be condemned for it. Not for the support of Hezbollah, but for terrorizing its own people; 60 million of them. The clerical oligarchy that has usurped the ruling power of Iran, tortures, silences or kills anyone who will try to stop its activities; activities whose sole aim is not to export terror but to rob Iran of its riches for the benefit of an extended family of thieves. Never in the history of Iran, its government has been the subject of so much ridicule and contempt by its own people. Corruption and civil disobedience is at its peak. For lack of leadership, and a total vacuum of political figures, which is a legacy of the thirty years of despotic rule by the late Shah of Iran with full US support, Iranians have chosen a *modus vivendi* based on coexistence with this regime, until such time that a clear alternative may emerge in the political arena.

Discredited as it is by its own people, the clerical oligarchy is in a self-preservation mode rather than in an attack mode against US interests. But even if the Iranian government was that knowledgeable evil-scheming organization that the US government wants to portray, the Iranian people are so dissociated and distant from it that they cannot, and must not, be classified as a suspect group, en bloc.

It is a fact that amongst all the cities of the Middle East, the only one whose people lit candles in memory of the victims of 9/11 was Tehran. In all others, including capital cities whose governments are most friendly with the USA, the people danced in the streets and celebrated 9/11 as a victory over the USA.[19]

Security and the Fixation on passports

Thus, the fact that Iranian passport-holders are designated as a suspect group is very telling about the inability of the US intelligence community to distinguish between *real and fictitious danger*. Moreover, to think that terrorists will use their native country's passports is ludicrous. A fake passport or identity is easily obtainable, and a terrorist will always chose one that gives him better protection and immunity. If the 9/11 gang used mostly Saudi passports it's because it gave them immunity and was welcomed everywhere. Otherwise, terrorists use fake passports, as Israeli secret servicemen who attempted to assassinate a Palestinian supporter in Jordan, carried Canadian passports. Terrorists may even use surrogates, as Japanese Red Brigade members in the 1970's carried out an attack on El Al passengers on behalf of Palestinians. In fact, the one time that the Government of Iran did commit a crime on US soil, it did so by having an Iranian dissident assassinated, not by another Iranian, but by an *African-American* who fled to Iran.

To put such an emphasis on passports is therefore symptomatic of the disorientation of the American intelligence community, and indicative of the fact they don't even understand the a-b-c of security matters.

If in terms of air-travel-security one feels safer today, it's not because of the leadership of a dumb-looking dumb-acting color-master who paints America every morning in orange red and green, but because of two factors totally unrelated to US intelligence activity:

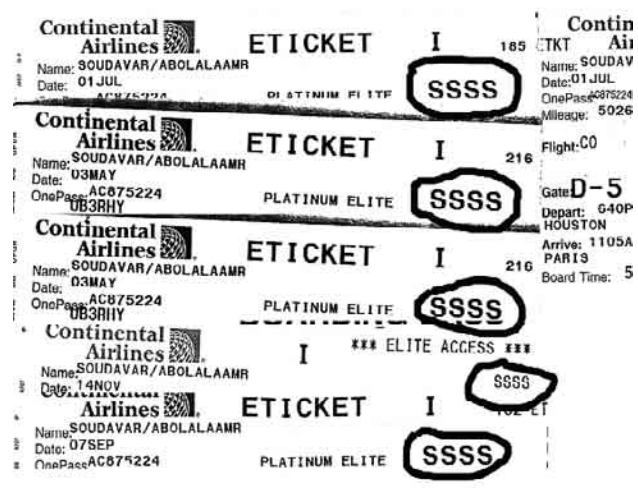
1- the element of *surprise* and *bluff* that was the most important of the 9/11 weapons, is no longer there,

2- European countries through which most of terrorists must transit to the USA are up in arms against them, and will certainly do a better job in tracking down and identifying terrorist cells within their own territory and would most likely act as an effective filter towards the USA. Massive muscle force will be impossible to use again.

All the hooplas at the airports, and the body search conducted by the security personnel based on passports, are only to project the illusion that the security apparatus is vigilant. In reality, they are a smoke-screen to blur intelligence failure in tracking down terrorists at their hubs.

US law and the FAA

The postulates and conclusions that I have presented above may not be readily acceptable to many. There is however one criteria that provides a tangible test for the appropriateness of security measures, and that is the law. The law provides a clear-cut tool to distinguish the right from the wrong. And the laws of the United States as well as multiple Supreme Court decisions, condemn discrimination against a group of people *en bloc*. The FAA itself even admits that such a procedure is illegal: In reply to one of my complaint letters, it refers to the Civil Rights Act of 1964 and the prohibition to discriminate against "members of the public on the basis of race, color or *national origin,"* and shifts the blame to the TSA (the federal organization that controls the security personnel at the airports). That of course is a



lie. For, it is not the TSA that designates Iranian passport-holders as a "suspect class," but he FAA through a special code "SSSS" printed on the boarding cards (see picture). This is the signal provided by the FAA to the TSA-personnel to treat Iranian passport holders as a security risk. I have yet to see it applied so systematically to any other nationality.

The search is even more stringent on incoming flights from overseas, to the extent that after a thorough search, Iranians are not allowed to proceed alone to the plane, but must be accompanied by a security guard who delivers them to the airline personnel with an interdiction to leave the airplane afterwards. The stupidity of this exercise is best revealed when I travel with a non-Iranian passport holder. I can give, and have given, my hand-luggage to that accompanying person who takes it to the airplane unchecked.

What's worse is that after the search, one is forced to sign a document, the fine print of which one is not even allowed to read. Supposedly it's a consent for security search. In reality it is like asking Auschwitz victims to approve their death warrants as well.

Nuremberg and the law

In a post 9/11 talk at Harvard Law School, Justice Breyer drew an imaginary line dividing those who "really stand for law, reason, civilization, against those forces that think of violence and terrorism" and saw "reliance on law, and courts, and what [he] call[ed] reason, as protectors of both security and basic human rights."[20] The problem, though, is that, in many instances, an ill-conceived "reason of state" trumps "reason" itself. In Germany, law and reason were sacrificed to prevent the Jews from "undermining" the achievements of the Third Reich. Today, in the USA, law and reason are sacrificed to counter an imaginary threat from Iranian citizens en bloc.

As noted in the trial proceedings of the German Judge Schlegelberger at Nuremberg, Hitler had decreed that:

"If an act deserves punishment according to the common sense of the people but is not declared punishable in the Code, the prosecution must investigate whether the underlying principle of a penal law can be applied to the act and whether justice can be helped to triumph by the proper application of the penal law."

and the Nuremberg tribunal opined:

"This new conception of criminal law was a definite encroachment upon the rights of the individual citizen because it subjected him to the arbitrary opinion of the judge as to what constituted an offense. It destroyed the feeling of legal security and created an atmosphere of terrorism. This principle of treating crimes by analogy provided an expedient instrumentality for the enforcement of Nazi principles in the occupied countries."[21]

Crime by analogy seems to be the driving force behind the decisions of the US intelligence community, although one does not understand how it is applied to Iranians.

More relevant, however, is the parallelism of my FAA case with accusations levied against Schlegelberger in respect to the Klinzman episode: A courageous German judge had tried the policeman Klinzmann, and convicted him of brutality, and sentenced him to a few months imprisonment for beating a milk-hand by the name of Bloodling. Himmler protested and wrote to Schlegelberger:

"I must reward his action because otherwise the joy of serving in the police would be destroyed by such verdicts. But finally K [linzmann] has to be rehabilitated in public because his being sentenced by a court is known in public."

Schlegelberger then quashed the proceedings against Klinzmann.

In my case, a courageous federal judge, Judge Kenneth Hoyt, initially ruled in my favor against the FAA. Even though he subsequently dismissed the case in the aftermath of 9/11, he did not validate the claims and arguments of the FAA, and did not try to justify it in legal terms. His order simply signaled a belief that my case was inappropriate in the traumatic period after 9/11. A year later, the 5th Circuit had no reason to remain "traumatized" and act like a Schlegelberger who succumbed to Hitler's decree that prescribed punishment according to "the common sense of the people" rather than according to law. It quashed my appeal to give a free hand to the FAA, lest the "joy" of the security apparatus be undermined.

In this climate of frenzy propagated by the government's disjointed security policies, it is the law that must be upheld and not the "joy" of the CIA: President Bush was wrong when he balked at giving the 9/11 Commission the records of his daily briefings from the CIA, by arguing that it might deter the CIA from giving him "good, honest information."[22] Such an outlook only perpetuates the "joy" of the intelligence community in their mediocrity.

The victims of 9/11 more than being the victims of Bin-Laden, were the victims of those who felt unwilling to spoil the "joy" of an inept Intelligence Community in their unholy alliance with fanatical Saudis, while constantly being manipulated by the Israel lobby.[23]

The comparison with Germany

If I evoke Nuremberg it is because I feel that the lessons from those trials are becoming more and more relevant, as a powerful and victorious US army tends to alter the political arena. Indeed, the advance of the US tanks towards Baghdad was no less spectacular than General Guderian's Panzer Division blitzkrieg towards Paris; and the reliance on trumped up charges to invade Iraq is not much different than the accusations Hitler dreamt up before invading other countries. It is wrong to assume that Germans came from another planet and were insensitive to wrongdoings. There were many who were, but were at first mesmerized by the rapid victories of the German army, and then, kept hoping that this victorious army would somehow solve all the problems on its own.

The problem, though, is that when a powerful army is gradually drawn into the marshlands of resistance, scapegoats become necessary: Jews, Muslims, or Iranians. As failure increases, the pressure on scapegoats intensifies. It is precisely at such times that the law must be upheld and the rights of the individuals must be protected.

Future generations will look back, as Germans now do, and will ask the question where were all the statesmen, judges and learned people when propaganda so distorted reality?

Ironically, and contrary to US judges, it is now the German judges who are striving to uphold the law. Indeed, when the US government put pressure to extradite a suspect based on unsubstantiated accusations, a German judge, Judge Tolksdorf, replied that, under German law, all available evidence must be produced whenever possible and that the justice system could not bend to accommodate security concerns stemming from international efforts to fight terrorism. "We cannot abandon the rule of law," he told the court. "That would be the beginning of a fatal development and *ultimately a victory for the terrorists*."

Federal Judges and the Law

In the same way that Nazi judges failed to uphold the law, US federal judges are nowadays abdicating their respon-sibilities (in a second article I shall further elaborate on this issue). Schlegelberger was condemned to perpetual imprisonment and other Nazi criminals were hung for their crimes on humanity. Federal judges should perhaps read the Nuremberg trials and hang their heads in shame for not taking the constitution as their point of reference (rather than propaganda from incompetent government officials).

As the law is now defined, it is unlawful to designate a whole group of people as a suspect class. In addition, article IX of the Treaty of Amity with Iran requires that "in the administration of its customs and regulations and procedures, each High Contracting Party shall: … (b) apply such requirements in a uniform, impartial and reasonable manner." The US government's treatment of Iranians is obviously neither uniform or impartial, nor reasonable.

If the Intelligence Community believes that, for the security of the American people, the designation of groups of people as a suspect class is necessary, let them present their case and have a law passed to that effect. If such a law is passed, they can at least use it legally against Iranians. But there will be no guarantee then that they will not use it the next day on all those who sport a beard, or the day after, on all those who do not read the Bible one hour a day.

Until such time, the law condemns the FAA actions against Iranians. The main argument for the federal judges of the 5th Circuit who rejected my appeal was that I had not proven my accusations against the FAA beforehand! They obviously didn't seem to know what *prima facie* evidence was. It is precisely to counter the machinations of federal judges that I now solicit a solid proof of the FAA's illegal practice against Iranian passport-holders. The US government is offering 25 million dollars for the head of a monster of its own creation, I offer 25 thousand dollars so that residents of this country can keep their heads high, in belief that they live in a country where the law rules supreme, and fear cannot dislodge its supremacy.

Abolala Soudavar
PO. Box .631842,
Houston, TX 77263-1842

Any person who has such proof is requested to submit it to:

K. Mashayekh - Attorney at Law
One Riverway, Suite 1700
Houston, TX 77056

The reward will be distributed on Jan. 10, 2005, to the two most meritorious proofs as determined by Mr. Mashayekh. All others will be returned.

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[13] El Mundo, Spain, Sept. 30, 2004

[14] Hezbollah is still fighting today over the Shaban Farms which the UN, by mistake, has recognized as Syrian territories, even though Syria itself has repeatedly denied any claims over it (Syrian Deputy Foreign Minister at the Council on Foreign Relations, 4/24/2003) In either case, whether Syrian or Lebanese, the Shaban Farms are not Israel's and must be evacuated.

[15] G. MYRE, *The High Cost of Israel's Gaza Mission: Innocent Victims,* NY Times Oct, 10, 2004.

[16] J. BENNET, *LETTER FROM THE MIDDLE EAST; How Ben-Gurion Did It: Is Everyone Listening?* NY Times Aug. 13, 2003.

[17] R. Helms, *A LOOK OVER MY SHOULDER: A Life in the Central Intelligence Agency,* Random House 2003, pp. 300-301; History Channel.: *SS Liberty*.

[18] E. SCHMITT, *Pentagon Office in Spying Case Was Focus of Iran Debate,* NY Times; Sept. 2, 2004.

[19] N.D. KRISTOF, *Those Friendly Iranians*, NY Times, May 5, 2004.

[20] *Judicial Issues,* Speech 167783 of 12/11/2001, C-Span Archives.

[21] See *USA v. Alstoetter et al*. 3 T.W.C. 1 (1948), 6 L.R.T.W.C. I (1948), 14 Ann. Dig. 278 (1948)

[22] M. DOWD, *The Khan Artist,* NY Times, Feb. 12, 2004

[23] E. BRONNER, *Oil Diplomacy Muddled U.S. Pursuit of bin Laden,* NY Times, Nov. 12, 2001.