

CONTINGENCY PAPER

SUBJECT : Trials of Hostages

I. Introduction

Khomeini apparently has now committed himself to trying the hostages for espionage. He has said nothing about the modalities or how many would be tried, nor has there been any official comment on the possibility raised by the German Embassy that prisoners would be moved to Ebin Prison. (The Germans believe the latter would be a constructive move since it would place the hostages outside of student control.)

The trials could take a number of alternative courses:

-- Quick, in camera trials with some or all of the hostages found guilty and all expelled unharmed. If trials are inevitable, as now seems likely, this is the most favorable outcome.

-- Some hostages are found innocent, but others are found guilty and sentenced to prison terms. This could include a public show trial in which hostages "confess" and "documentary" evidence of espionage is produced.

-- As above, but with some hostages sentenced and quickly executed.

-- Trials could be held at the compound by students, or by revolutionary courts, or by both.

General Strategy

-- While we want to generate universal condemnation of the trials by governments, organizations and jurists in an effort to prevent them, we will also want, in recognition of the probability that trials will be held, to work through some special channels for the least damaging outcome.

-- Our primary objective, once trials seem imminent, should be to influence the Iranians to adopt the most moderate approach in conducting the trials, i.e., rapid, in camera proceedings leading to quick and safe expulsion of all hostages.

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-- We should avoid any steps which would lend any legitimacy to the trials, such as urging the presence of international observers.

-- Policy options below should be considered against the following criteria: (1) will they have an impact on the Iranian position on trials or (2) will they further inflame opinion in Iran without producing the desired outcome? And will they help the President maintain the initiative with domestic opinion, but without inflaming US public anger?

-- We need also to consider the psychology of Khomeini and his entourage. Open threats and punitive signs may influence the Revolutionary Council toward moderation, but may inflame Khomeini and arouse his own sense of martyrdom. Threats quietly delivered can also influence the Council, and may speak to Khomeini's respect for "strength."

-- A crucial question is whether a series of "tit for tat" actions, or a more dramatic step, is more likely to be effective in moving Khomeini.

-- In any case, we should keep the negotiating track open through Waldheim and the PLO, with elements already introduced, i.e., once the hostages are released, willingness to accept a Security Council debate on the Iranian complaint, leading to some sort of inquiry of human rights under the Shah; placing no obstacles in the way of Iranian efforts to obtain the Shah's assets through our court system; and agreeing to conduct relations in accordance with UN principles.

Section II, which follows, provides a chart illustrating the options available to both the Iranians and the United States, at various levels of escalation. It is broken down into those actions each side can take itself and those requiring action by others.

Section III discusses diplomatic steps.

Section IV outlines the advantages and disadvantages of action options available to us. The options are divided into diplomatic, economic, and political. (Military and intelligence options are addressed elsewhere.) Within these three categories, the options are listed in order of increasing severity.

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Level of Confrontation

Iranian Actions Against US

US Actions Against Iran

Multilateral Acts vs. Iran

International Acts vs. US

Serious Escalation

Students hold trials
Islamic Court begins trials
Reduce oil exports to 2 mbd
Burn/Destroy Embassy or US property
Expel all Americans
Some hostage(s) found innocent, others await trial

Overflights
Step up destabilization efforts
Deny visas to all Iranians except special cases
Expel Iranian students/others
Total embargo on exports to Iran

Seek economic measures by US allies
Seek UN sanctions
Shah to Mexico or Egypt
Ask many nations break diplomatic relations
Convince IFIs/UN reduce operations in Iran

Severe Escalation

Hostage(s) found guilty
American(s) hurt or executed
Declares war on US
Attack US ship/aircraft

Selective military option(s)
Naval Blockade

Emergency UNSC

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III. Diplomatic Efforts

A. Mobilizing World Opinion

This is an option with various comments detailed below. It is possible to limit our initial response to these efforts, while we gain a clearer understanding of what Khomeini has in mind for the trials.

-- A new round of diplomatic approaches to all governments urging in the strongest terms public and private condemnation of the trials.

-- A special message at the highest level to our allies calling on them to join publicly with us in condemnation of the trials and a demand for the immediate release of hostages.

-- Mobilize international jurists -- Western, Islamic and Third World -- to comment, both publicly and privately, on the illegality of the trials.

-- Urge some internationally recognized figures to proceed to Iran to speak there against the trials, both publicly and privately with the Revolutionary Council members.

-- Urge the Papal Nuncio to return immediately to Tehran to work against the holding of trials.

-- Ask the PLO to urge Khomeini to reverse himself on the trials. If the PLO is unwilling to do so or believes such an approach unproductive, ask the PLO to explore with Khomeini some formula for rapid, in camera disposition of the trials and early expulsion of all hostages.

-- Continue with efforts currently underway to elicit a statement from the Security Council President condemning trials. Following the conclusion of that effort, consider whether a full Security Council debate leading to a resolution condemning the trials is feasible. The difficulty with this approach is the prospect that the Council might insist on hearing Iran's complaints. But if it were not accompanied by a pro-Iranian resolution, it might help push the Iranians to be more forthcoming on our general negotiating

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strategy, i.e., that release of hostages must precede Security Council action and their desired commission of inquiry on the Shah.

-- Following a Security Council debate, we could consider moving a resolution in the General Assembly. This would involve the risks of general debate, in which the present solidarity against the holding and trial of hostages could be muted by pro-Iranian speeches and possibly by Third World efforts to pass a pro-Iranian resolution. It is worth doing, however, if the judgment is that we can achieve a very large majority against the holding and trial of diplomatic hostages.

B. Turning Up the Diplomatic Heat

In addition to any or all of the foregoing steps in which we seek to mobilize international opinion against the holding of trials, we might use certain diplomatic channels to warn Iranians of consequences that could flow from the holding of trials and the long-term detention or execution of American hostages. Careful consideration would have to be given to the choice of channels for delivering such a message. Possible channels are:

- Waldheim;
- Allies such as the Turks, French, British or Germans, in their diplomatic contacts with Iranians;
- The PLO;
- Certain Arabs such as the Algerians or the Saudis.

The threats that might be quietly conveyed to the Iranians could include, in order of severity:

- An embargo on trade;
- A break in diplomatic relations;
- Forcible retaliation against Iran (without specifying what that would be).

If a decision is made to convey such threats, they need to be very carefully constructed so that they do not stimulate a desire for martyrdom, but rather play to Khomeini's respect

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for force. They must be held in the closest confidence and not be publicized in any way.

C. Departure of the Shah

-- The departure of the Shah remains an option which could have a critical impact on the hostages. Students could react violently, but opinions are divided on this point. Both the Mexican and Egyptian Governments have said the Shah would be welcome.

-- If he left at this point, it is still likely Khomeini would go ahead with trials. His departure could, however, lead to a decision by Khomeini to hold the trials to the minimum scenario.

IV. ACTION OPTIONS

DIPLOMATIC

A. Decrease Official Iranian Presence in the US.

1) Reduce number of Iranian diplomats serving in their embassy here to the bare bones level, but allow coverage of the four major embassy sections (political, economic, consular, administrative).

2) Close some or all of the Iranian Consulates in the US (New York, Houston, San Francisco, Chicago).

3) Restrict Iranian diplomats' freedom of movement in the US (as we do with the Soviets).

4) Declare some or all Iranian diplomats in the US Persona Non Grata (give them 24 hours to leave or be deported).

5) Request Iran close its mission in the US and expel its personnel, allowing an interests section of 2-3 people to operate in a 3rd country's embassy.

6) Sever diplomatic relation with Iran; appoint third country protection powers.

7) Arrest Iranian Diplomats in the US if in violation of law (increase surveillance).

PRO : Will reduce PGOI visibility in US as well as its ability to assist Iranians in this country which may reduce their numbers.

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Khomeini may be moved toward flexibility out of fear of the precipitous return to Iran of thousands of well-educated, intellectual and middle class Iranians. Links treatment received by US diplomats in Tehran with treatment of their diplomats here. Will receive public and Congressional support. Decrease chances of attacks on Iranian diplomats here.

CON : Depending on option chosen and Iranian reaction, may close communication channel through which US could influence content and outcome of trial. If complete break chosen, difficult to reverse. Since Khomeini shows little sensitivity to diplomatic norms, reducing Iranian mission may fail to change his behavior. (7) would violate international law and could undermine our position.

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B. Immigration/Consular Steps

- 1) Maintain INS' tough policy on Iranians who overstay their visas.
- 2) Extend the assets freeze to cover embassy and student funds.
- 3) Revoke or revalidate Iranian visas.
- 4) Deny visas to all Iranians except special cases.
- 5) Expel Iranian students, or other Iranians from US.

PRO: Likely to receive US public and Congressional support. Would further reduce number of Iranians in this country and decrease probability of injury to them as public anger over trials escalates. May move Khomeini toward flexibility on trials issue. Links treatment of Iranians in US with treatment of Americans in Iran.

CON: Raise legal and constitutional questions. May harm innocent Iranians. If it becomes known that Iranian minorities can stay in the US, resentment against minorities remaining in Iran could increase. Deported Iranians could become a vocal vanguard of anti-Americanism.

C. Increase Multilateral Diplomatic Pressure on Iran.

- 1) Ask for UN Security Council statement condemning the trials.
- 2) Ask for UNGA resolution condemning Iran's actions.

PRO: Chances of success reasonably good. Would intensify Iran's international isolation; could cause honor-conscious Iranians some humiliation, thus lowering their esteem for Khomeini. Provides basis for subsequent collective or unilateral action against Iran.

CON: Provides Iran with forum to attack US and Shah. Defeat or significant abstentions would be embarrassing. Amendments or alternative resolutions could blur sharp condemnation of Iranian actions.

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3) Bring an action in the ICJ seeking the immediate release of US hostages.

PRO: Court would probably move quickly; would lend force to US legal position and could help rally public and diplomatic support for US position. A positive finding for the US would further isolate and humiliate Khomeini.

CON: Interim court order could tie our hands. Iranian claims may blur the trials issue.

4) Ask UN and other international organizations to reduce operations in Iran. (WHO, UNDP both have small programs in Iran).

PRO: Heightens Iran's international isolation. Under-scores Iran's precarious economic situation. Anticipates possible Congressional action.

CON: Politicizes these institutions. May do more harm to poor people than to Khomeini and his entourage.

5) Ask the EC 9 to continue declarations and demarches in Tehran.

6) Attempt to ostracize Iran's diplomats in foreign capitals.

7) Ask our allies to reduce or sever their diplomatic representation in Iran.

8) Send a high level emissary to the Saudi Arabia, other Persian Gulf States and possibly Iraq to discuss trials and seek support.

PRO: Further intensifies international isolation and pressure on Iran. May cause humiliation among Iranian moderates, particularly in the foreign ministry, thus increasing pressure on Khomeini. Khomeini is more likely to be swayed by Islamic states' demarches than others.

CON: May cause some strain with US allies; may confirm Khomeini's paranoia about the West; provides opportunity for an increase in Soviet/East European influence in Iran.

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9) Ask for UN Security Council sanctions against Iran (embargo on arms, general trade embargo, break diplomatic relations, etc.)

PRO: Would be strongest type of international condemnation of Khomeini's actions and would place Iran on the same level as Southern Rhodesia. If a general trade embargo is included among the sanctions, serious damage to Iran's economy could result which would undermine the Khomeini regime.

CON: Passage unlikely except under most drastic circumstances (such as execution of hostages). Effect on world economy. Would provide Iranians with a forum to attack US/Shah.

ECONOMIC

- 1) Embargo US imports from Iran.
- 2) Coordinate with Allies to encourage banks to declare defaults on Iran debts. Or, simply allow the defaults to happen. (State and Treasury will provide separate paper on this topic by Friday, November 23).
- 3) Ex-Im Bank declares loans to Iran in default. (Separate paper will be provided)
- 4) Selective embargo on US exports to Iran.
- 5) Total embargo on US exports to Iran.
- 6) Ask allies to follow US lead in taking economic measures against Iran.

(Iran imports a significant amount of necessary/critical goods from the US, including food (rice, wheat, vegetable oil, feed grain and mutton and beef), military equipment and spare parts, spare parts for civilian aircraft, turbine compressors for gas pipelines, pumps, drilling rigs, power generating equipment, and telecommunications equipment.

US imports from Iran are 95% oil. The remaining 5% of imports include sheepskins, nuts and rugs.)

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PRO: Would likely generate widespread public and Congressional support. A total embargo of Iranian exports to the US has large symbolic value without damaging economic effects, (since we have already cut off oil). An embargo of US military or non-military machinery and spare parts would cause disruption in Iran's economy since much existing economic infrastructure in Iran is of US origin. An embargo on US food exports to Iran could cause short term supply problems and higher prices. A collective effort by the US and our Allies, if rigidly enforced, would affect about three-fourths of total Iranian imports, including 50% of all food imports and most manufactured and industrial imports. If successful, a collective embargo could cause serious economic disruption resulting in greater frustration with Khomeini's rule.

CON: Iran's oil is a powerful tool in finding alternative sources of supply for agricultural goods and most manufactured goods. Most food products Iran imports from the US are available elsewhere. Pressure on US allies to go along with embargoes may strain our relations with them. Cutting food exports may hurt poor people in Iran most. Would cause some disruption to US balance of payments and US farm income. Would cast doubts upon US reliability as a food exporter. May cause Iran to turn to USSR and Eastern Europeans for supplies, thus increasing Soviet influence. Using food sales as a political tool is something we have wished to avoid since 1973. We would be changing the rules. May increase pressure to link US food sales with OPEC price rises, Soviet adventurism, etc. May galvanize Iranian public opinion against the US and create martyrs for Khomeini's cause.

POLITICAL

1) Increase VOA Farsi broadcasting: create concerns about kerosene and food shortages (although kerosene shortages are not likely); emphasize the dismal state of Iran's economy including unemployment, unfair wage structure, and Iran's default on international loans; hint at improvement in US-Iraqi relations; use statements by Islamic jurists and scholars condemning Khomeini's actions; underscore decline of Iran's international reputation under Khomeini; publicize the anti-Islamic character of Moscow's activities in Afghanistan.

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PRO: provides alternative views to Khomeini's rhetoric and Moscow's "National Voice of Iran" propaganda; could increase dissatisfaction with Khomeini by publicizing Iran's international isolation.

CON: could be dismissed as propaganda; increasing Farsi broadcasts could mean decrease in Arabic or other foreign language broadcasts.

2) Begin SR-71 or other overflights.

PRO: Demonstration of US power and Iranian weakness; could generate public and Congressional support.

CON: Could jeopardize safety of hostages; could harden Khomeini's position on the trials; may be seen as provocative by Soviets or Persian Gulf states.

3) Expose Iranian intelligence activities in Kabul.

PRO: Weakens Khomeini's case against embassy personnel as members of the "espionage nest."

CON:

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4) Hint we will go to Congress for War Powers authority.

5) Leak Hughes-Ryan Consultations.

PRO: Heightens threat of US military or covert action if hostages are harmed. Reminds all of US power and Iranian weakness. May galvanize Iranian military into positive action.

CON: Could seriously jeopardize safety of hostages; could strengthen Iranian claims about US military intervention/manipulation and espionage.

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