

## Lore of the Corps

### Lawyering in the Empire of the Shah: A Brief History of Judge Advocates in Iran

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Given current relations with the government of Iran, it is easy to forget that American military personnel once had close ties with Tehran and that more than a few judge advocates (JAs) had rewarding tours of duty in the Empire of the Shah.

While U.S. Army personnel first arrived in Iran in September 1942 (to help train and organize the Iranian Army during World War II), the U.S. Army Mission to the Imperial Iranian Armed Forces (ARMISH) was officially created by bi-lateral agreement in October 1947. Five years later, the United States and Iran formed a separate Military Assistance Advisory Group-Iran (MAAG). These separate ARMISH and MAAG organizations were merged into a tri-service (Army, Navy, Air Force) ARMISH-MAAG in 1958.

Just when the first Army lawyer arrived in Tehran to provide legal advice to the ARMISH-MAAG is not clear, but it seems likely that JAs were first assigned to the U.S. Army Element, ARMISH-MAAG Iran in 1958, when the tri-service configuration was first adopted. The Army considered the assignment to be an important one, as the “Legal Advisor” was a lieutenant colonel on the ARMISH-MAAG Joint Table of Distribution (JTD). This legal advisor was supported by a second JA, who was a major (MAJ) on the JTD but was most often a JA captain (CPT). Rounding out the Judge Advocate Office at ARMISH-MAAG was a local national civilian paralegal who spoke Farsi and so could also act as a translator, an MOS 71D legal clerk, a U.S. civilian secretary and a local national secretary. The office had three vehicles, and the Iranian Army provided two drivers for them.

The primary mission of the Army lawyers in Tehran was to advise the Imperial Iranian Judiciary Department (IJD), which was headed by an Iranian lieutenant general. This meant advising the IJD on legal education and training. To further this goal, Iranian military lawyers began attending the JA Career Course (today’s Graduate Course) at The Judge Advocate General’s School. The first to study in Charlottesville were Colonel (COL) Mos H. Ekhterai and COL Khajeh-Noori, who attended the Fourteenth Career Class from 1965 to 1966.<sup>1</sup>

Advising the IJD also meant assisting the Iranians in “updating Iranian military law or drafting new laws.” At the time, Iranian civil law followed the French (Napoleonic) codal system and Iranian military law had the same codal framework, with one exception: military courts could try civilians for certain offenses against the State, such as bank robbery or drug trafficking. This explains why, in the early 1970s, the JAs in Tehran helped their Iranian counterparts draft “hijacking laws” that were implemented in “Regulations and Laws Section” of the Imperial Iranian Armed Forces.<sup>2</sup>

While advising IJP was the focus of the Judge Advocate Office in Tehran, the two Army lawyers in country also provided legal advice to the U.S. Army Mission to the Gendarmerie, known by the acronym GENMISH. In addition to these advisor roles, the JAs in Teheran provided more traditional legal advice to the command in the areas of criminal and civil law, claims, contracts, legal assistance, and international law.

There was relatively little to do in the criminal law arena because no courts-martial could be convened; the United States was precluded by its agreements with Iran from holding any judicial proceedings on Iranian soil. Since there was no Status of Forces Agreement (SOFA) with Iran, ARMISH-MAAG and GENMISH personnel were technically subject to Iranian criminal law, and subject to arrest and questioning by local police and judicial officials. Consequently, the JAs in Tehran had to maintain a working relationship with the Iranian Gendarmerie.

The high quality of U.S. personnel assigned for duty in Iran meant that disciplinary incidents were rare. But, when a crime did occur, usually involving a traffic accident, the Iranian authorities would release U.S. personnel from liability under Iranian law only after a civil settlement (involving the payment of money damages) was reached between the aggrieved Iranian and the U.S. offender. As a practical matter, the JAs in Tehran were always able to convince the Iranians to release Americans from detention; these U.S. personnel were quickly put on a military aircraft leaving the country.

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<sup>1</sup> THE JUDGE ADVOCATE GENERAL’S SCHOOL, THE JUDGE ADVOCATE GENERAL’S SCHOOL, 1951–1968, at 10 (1968). First Lieutenant Ahmad R. Kheradmand was a student in the Sixteenth Advanced Course from 1967 to 1968 (by which time the name had changed from “Career” to “Advanced”). Major Ali-Akbar Naderian was a student in the 19th Advanced Course from 1970 to 1971. Major Feradood H. Tehrani attended the 21st Advanced

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Course from 1972 to 1973. These Iranian officers did not survive the 1979 Revolution; they were executed.

<sup>2</sup> James J. McGowan, Jr., *SJA Spotlight—Iran*, ARMY LAW., Oct. 1972, at 14, 14.

Civil law issues chiefly involved the interpretation of Air Force and Navy regulations, with which Army lawyers had to be familiar since Airmen and Sailors also were assigned to ARMISH-MAAG.

Claims were a major area of practice. The most important claims arose out of vehicular accidents when Iranian civilians were killed by American drivers. Since the JAs in Iran handled, on average, about nine such vehicular death claims a year, this was no small matter. Moreover, Iranian law provided that the offending U.S. citizen would be detained or prohibited from leaving the country. This so-called “body arrest” would end only upon the satisfactory negotiation of a civil settlement with the victim’s family. The lack of a SOFA meant that there was no international agreement covering the payment of claims filed by local nationals. Therefore, the U.S. Army Claims Service, Europe, which had supervisory authority over Iran, appointed foreign claims commissions empowered to settle claims. The skills of the civilian Farsi-speaking paralegal in the JA office were critical in resolving the vehicular homicide cases. Usually, the family was satisfied with a \$1,000 payment, the maximum settlement that could be authorized by a one-person commission (consisting of a single Army lawyer). A three-man commission, consisting of two JAs and one officer from the command, could settle a wrongful death claim (or other claims) for up to \$5,000.

The JAs in Tehran also paid a number of claims by U.S. personnel for theft of personal property. Apparently “a typical *modus operandi*” was for a thief to visit an American’s home while he and his family were away. The thief then informed the Iranian “maid” that he had come to pick up the refrigerator, television, washing machine, or other item of property “for repair.” The domestic servant, “not having been cautioned otherwise,” let the thief pick up the items, which were never seen again. After an investigation to ensure that the American claimant had not left his property unsecured, or was otherwise at fault, Army lawyers paid these claims.<sup>3</sup>

There were even claims for maneuver damage. An Army lawyer was the claims officer for Operation Delovar, a joint exercise involving Imperial Iranian forces and a brigade from the 101st Airborne Division. Claims were paid to Iranian landowners for damage to their wheat fields caused by U.S. paratroopers dropping from the sky. While a severe drought in the area made it seem that the claimed damage was “imaginary,” the JA claims officer nonetheless tasked several young 101st Soldiers who had grown up on farms with estimating the yield of the damaged wheat fields. The Farsi-speaking civilian paralegal then went to the local

market and ascertained the price of wheat. The Iranian claims were ultimately settled over tea in a tent.<sup>4</sup>

Contracting law issues were important because the contracting officer for ARMISH-MAAG was the Embassy Contracting Officer. As this embassy employee was not a lawyer, he relied heavily on the JA office for procurement law advice. By 1970, the JA office was reviewing all military contracts to ensure that they were legally sufficient.<sup>5</sup>

For legal assistance, the office usually had one JA who could speak Farsi, which he had learned after spending a year at the Defense Language Institute at the Presidio of Monterey. This language skill was critical because, while the Farsi-speaking local national civilian paralegal drew up the leases used by ARMISH-MAAG personnel to rent homes on the local economy and could help negotiate a settlement to a landlord-tenant dispute, having a Farsi-conversant JA insured that American interests were always well served. Domestic relations, taxation and other legal assistance issues also were part of the workload in the JA office. At the request of the U.S. Embassy, “unofficial” legal assistance also went to U.S. citizens who were not entitled to legal advice because they were not attached to any U.S. government entity; these were most often American women married to Iranians who were trying to flee the country with their children.<sup>6</sup>

Finally, international law questions arose in the interpretation of the 1947 ARMISH and 1950 MAAG agreements, and the application of the privileges enjoyed by ARMISH-MAAG personnel. One of the most difficult issues involved “the meaning and intent of the duty free privilege granted to members of the Mission” in the ARMISH agreement signed in 1947. The Iranian Ministry of Foreign Affairs was concerned about U.S. personnel selling items to Iranians that had been brought into the country without having been subject to customs duties.<sup>7</sup>

Retired JA COL Richard S. “Dick” Hawley, who served two tours in Tehran, had more time in Iran than any other member of the Corps.<sup>8</sup> Hawley remembers that one morning

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<sup>3</sup> *Id.*

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<sup>4</sup> E-mail from Colonel (Retired) Richard S. Hawley, to author (1 Feb. 2012, 03:41:00 EST) (on file with author).

<sup>5</sup> McGowan, *supra* note 2, at 16.

<sup>6</sup> E-mail from Colonel Hawley, to author, subject: “Your time in Iran” (17 June 2011, 20:08:00) (on file with author).

<sup>7</sup> McGowan, *supra* note 2, at 16.

<sup>8</sup> Hawley served in Iran from 1963 to 1965 and from 1968 to 1970. Born on 15 January 1930 at Fort Sill, Oklahoma (his father was a cavalry officer), Hawley grew up on a variety of Army installations in the United States and overseas. He graduated from the University of Michigan in 1952 and, having participated in the Army Reserve Officer Training Corps, was commissioned an infantry second lieutenant. He then deployed to Japan and joined the 1st Cavalry Division. Hawley hoped to see combat, but the Korean War ended before he could get to the Korean peninsula. Returning

in early 1962, COL Kenneth Hodson, then in charge of assignments in the Personnel and Plans Office, asked him: "Do you know where Iran is?" When then-CPT Hawley said that he did, Hodson asked him if he would like to be assigned to the MAAG in Tehran. The result was that CPT Hawley left in the summer of 1962 for the Defense Language Institute in California. After an intensive year learning Farsi, Hawley and his family left for a two-year assignment in the Shah's empire.

From 1963 to 1965, CPT Hawley worked on the Iranian Army's Abassabad compound in Teheran, and lived "on the economy" in the city. Tehran had been the capital of Iran since 1785 and, with some three million inhabitants,<sup>9</sup> was a dynamic and bustling city. Hawley found a nice place to live. The only drawback was that, in his first tour, he had to bring drinking water from the American Embassy (water in Tehran was not potable until Hawley's second tour) and there was no central heat in the home on either tour (space heaters were needed in the winter, especially when it snowed). But Tehran was an exciting place to live, for the culture and history of Persia (the old name for Iran) was thousands of years old and so there was much to see and do in the city and in the countryside.

Hawley remembered that during both his tours in Iran (he returned to Tehran as a lieutenant colonel from 1968 to 1970), the ARMISH-MAAG Legal Advisor had several unusual, if not unique, roles: he served as Acting Provost Marshal, which meant that Army lawyers had oversight of criminal investigations being conducted by Air Force Office of Special Investigations (the equivalent of the Army's CID), which had agents at the ARMISH-MAAG. Army

lawyers also were called upon to advise the U.S. Embassy, since the ambassador and his staff did not have a legal officer. Informal opinions were the rule, often involving the interpretation of the ARMISH and MAAG agreements.

One of the last JAs to serve in Tehran was then-CPT James J. "Jim" McGowan, Jr., who arrived in Tehran in June 1970 and departed in May 1972. He described Iran "as a land of legendary romance, immortalized in verses of the Persian Poets." Tehran was "a near-modern metropolis with tree-lined streets clogged with automobiles and taxis, traffic circles, shop windows tastefully displayed, impressive public buildings, neon-lighted theater marquees, and double-decker busses."<sup>10</sup> McGowan also remembered that there was "a difference in the basic motivations of the American and Iranian societies." As McGowan saw it, when an Iranian said he would promise to do something "faardah" (tomorrow), this likely meant "sometime within several weeks." And, when the deed was finally done, it would be "with a shrug of his shoulders" and "the time-honored Persian phrase 'Inshallah,' or if 'God wills.'"<sup>11</sup> For JAs in the Corps today who have experienced deployments to Afghanistan or Iraq, McGowan's observation will come as no surprise.

Judge advocate assignments to Iran apparently ended in the mid-1970s; the *1975 JAGC Personnel Directory* shows that MAJ Holman J. Barnes, Jr., and CPTs Stanley T. Cichowski and John E. Dorsey were the last Army lawyers to serve in Iran. As for the American presence in the empire of the Shah? The ARMISH-MAAG disappeared with the fall of the Shah and dissolution of Iran's imperial government on 11 February 1979. It seems highly unlikely that JAs will return to serve in Iran anytime soon.

*More historical information can be found at*

The Judge Advocate General's Corps  
Regimental History Website

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<https://www.jagcnet.army.mil/8525736A005BE1BE>

to the United States, Hawley was released from active duty and entered the University of Michigan's law school. After graduating in 1956, Hawley successfully passed the Foreign Service examination and joined the State Department. He was the Vice Consul in Genoa, Italy, when he decided to return to active duty. Then-Captain Hawley transferred from the Infantry (Army Reserve) to the Judge Advocate General's Corps in 1958. In addition to his two tours in Iran, then Lieutenant Colonel Hawley served in Vietnam as the Staff Judge Advocate (SJA), 101st Airborne Division, from 1970 to 1971, and in Germany as the SJA, 8th Infantry Division from, 1972 to 1974. He retired as a colonel in 1979 and then worked for Litton Industries in Saudi Arabia for fifteen years. JUDGE ADVOCATE PERSONNEL DIRECTORY (1963); JUDGE ADVOCATE PERSONNEL DIRECTORY (1968); JUDGE ADVOCATE PERSONNEL DIRECTORY (1971); JUDGE ADVOCATE PERSONNEL DIRECTORY (1974); e-mail from Colonel Hawley, to author, subject: "Your bio" (3 Feb. 2012, 22:16:00) (on file with author).

<sup>9</sup> Today, Tehran has about 7.5 million inhabitants. Iran's population was about thirty million in 1970; today it is more than seventy million. FED. RESEARCH DIV., LIBRARY OF CONG., IRAN: A COUNTRY STUDY 88-89 (Glenn E. Curtis & Eric Hooglund, eds., 2008), available at <http://lcweb2.loc.gov/frd/cs/irtoc.html>.

<sup>10</sup> McGowan, *supra* note 2.

<sup>11</sup> *Id.* (The phrase is Arabic in origin.)