

IRANIANS TESTING THE LIMITS OF U.S. JUSTICE

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Body

An international political controversy spilled into the streets of the nation's capital last week, raising fresh questions about the rights of aliens to express unpopular views.

Just as supporters and opponents of the Shah clashed here three years ago, when the Iranian monarch visited the White House, friends and foes of Ayatollah Ruhollah Khomeini have recently been confronting each other in demonstrations here. Nearly 200 Iranian students were arrested late last month at a demonstration in support of the Ayatollah and spent 10 days in prison.

As soon as they were released, they returned to Washington to participate in yet another demonstration, protesting, among other things, their treatment in prison. Angry onlookers jeered and heckled the

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Iranian demonstrators, who seemed eager to provoke just such a reaction. For its part, Teheran saw a victory for Islam in the release of the protesters from American prisons. "After 10 days," Teheran radio said, "the savage police of Washington and the ruthless and cruel police of the U.S. Immigration Department at last retreated in the face of the brave struggles of our beloved sisters and brothers."

The Iranian demonstrations and the treatment of the protesters by Federal authorities raised several questions to which there were no simple answers. To what extent are aliens protected by the Constitution? To what extent do they enjoy First Amendment rights of free speech and assembly? Can immigration laws be used as an instrument of foreign policy? Does the Immigration and Naturalization Service consult with the State Department in deciding how to enforce the law?

Justice Department officials insisted that the treatment of the Iranian protesters was strictly in accordance with immigration laws and that the political beliefs of the protestors were not a consideration. The State Department insisted that it had not sought lenient treatment for the Iranian prisoners in an effort to avoid harm to the American hostages. Consultations between the two agencies were apparently informal and the details were kept secret.

The District of Columbia police said that the 192 Khomeini supporters were arrested after they pushed through a police line on July 27 and tried to disrupt an anti-Khomeini rally. The Iranians, initially held in the city jail on disorderly conduct charges, were transferred to Federal custody and taken to New York for possible deportation proceedings because they refused to disclose their names.

Under rules issued last November by the **Justice** Department, Iranian students must make "full and truthful disclosure of all information requested." Officials said the Iranians were violating this requirement until they identified themselves.

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It was announced, after rather hurried checks of the files, that all the Iranian prisoners were "in status" - in compliance with the law and with the terms of their visas. That finding surprised Justice Department officials (who maintain that a fair percentage of any foreign student group usually has visa problems) and suggested that the demonstrators had been carefully selected.

On the other hand, immigration officers who interviewed the Iranians said that many had been released prematurely, that some were indeed "out of status." The Justice Department is conducting an internal investigation to determine what actually happened. Preliminary evidence suggests problems, at the very least, in the way information was transmitted and decisions made within the immigration service, a beleaguered agency in the best of times.

A Policy of Extremes?

The Iranian demonstrators, it seemed clear, were testing the limits of the First Amendment. The Bill of Rights applies to "people" in the United States, not to citizens alone, and civil libertarians have successfully asserted many claims on behalf of aliens. But Federal courts have also upheld the power of Congress to enact restrictions on classes of foreigners.

"Any policy toward aliens is vitally and intricately interwoven with contemporaneous policies in regard to the conduct of foreign relations, the war power and the maintenance of a republican form of government," the Supreme Court of the United States said in a 1951 decision upholding the deportation of three resident aliens who had once been members of the Communist Party. "Such matters are so exclusively entrusted to the political branches of government as to be largely immune from judicial inquiry or interference."

Just as Congress has "plenary power" over immigration matters, the executive branch has substantial discretion in administering the law. At one extreme is the tough Federal policy toward Iranians: Students already here were required to report to the nearest immigration service offices last November. Visas issued to Iranian citizens for future entry into the United States were invalidated in April. At the other extreme is the generous policy toward Cuban refugees, who have been welcomed with financial assistance for two decades. Somewhere in between are the hapless Haitian refugees, who faced expulsion from the United States until a Federal judge ordered the immigration service to reconsider their asylum claims last month.

Congress has not enacted special punitive measures against Iranians, but Representative Kent R. Hance, a Texas Democrat, has asked for hearings to investigate "possible subversive actions" by Iranian students in this country. The Federal Bureau of Investigation has some evidence to suggest that Iran sent money to the United States to help Khomeini supporters foment civil disturbances.

Harsh actions against the Iranians in this country might be politically popular, but many diplomats, educators and specialists on Iranian affairs oppose such measures. The American Foreign Service Association, the professional organization of career diplomats, said the fact that aliens could express their views here, in a nation of laws, "stands in stark contrast to the violations of law and of human dignity" suffered by the hostages in Iran. Or, as a Justice Department official said, "We must not let the passions of the moment outweigh good long-term practice and procedure."

Graphic

Illustrations: photo of Iranians

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