

# **Hearing on “Ensuring Legal Redress for American Victims of State-Sponsored Terrorism”**

## **Testimony for the House Judiciary Committee Hearing (6/17/08): Congressman Joe Sestak (PA-07)**

Mr. Chairman and members of the Committee, thank you for taking the time today to address an issue that is very personal to me, having served for 31 years in the United States Navy.

As a Veteran, I believe I can speak for many who served abroad in harms way, who believe there is no place for torture in Iraq or anywhere else in the world.

America is respected in the world for the might of its economy and strength of its military, but we are admired for the power of our ideals. And that is why we must respect human rights, and why we must oppose the use of torture in the face of terror and tyranny.

In 1991, American prisoners of war (POWs) serving during the first Persian Gulf War were tortured in Iraq under the regime of the former President Saddam Hussein.

In April 2002, 17 American POWs and 37 of their family members filed a law suit against the Republic of Iraq, Saddam Hussein, and the Iraqi Intelligence Service seeking compensatory damages for the torture they sustained. And, on July 7, 2003, Judge Richard Roberts ruled that Iraq, Saddam Hussein, and the Iraqi Intelligence Service are liable for \$653 million in compensatory damages and \$306 million in punitive damages for the torture of the POWs and for the lingering injuries suffered by them and certain close family members.

The judge found that: No one would subject himself for any price to the terror, torment, and pain experienced by these American POWs,” and that “there must be a premium on protecting POWs [because] POWs are uniquely disadvantaged and deterring torture of POWs should be of the highest priority.”

While July 7, 2003, marked a great triumph toward bringing justice for American POWs, it was only the beginning of a long journey for them to receive their awarded claims.

I am here testifying today in front of the House Judiciary Committee today to help my brothers and sisters who have worn the cloth of our nation as well as others who were used as human shields during the Persian Gulf War.

I became involved in this issue after President Bush vetoed the National Defense Authorization Bill (H.R. 1585), in late December 2007. The widely supported legislation would have provided a scheduled 3.5% military pay raise and bonuses, critical veterans’

health care initiatives, and necessary funding for our troops abroad. I was deeply concerned with President Bush's action to veto the legislation, not only because it overwhelmingly passed both the House and Senate, but it also jeopardized the safety of our troops abroad.

As I am sure you know, the President vetoed the Defense Authorization bill over a provision that would remove some immunity from the Iraqi government regarding the payment of Court awards to service members that had been tortured during the First Gulf War.

The President apparently objected to this provision, because it was claimed that it could allow plaintiffs to freeze Iraqi government assets in the United States as part of litigation over actions committed during the rule of former dictator Saddam Hussein, and that the provision would disrupt the Iraqi reconstruction efforts.

During that time, the Iraqi Government reportedly placed intense pressure on President Bush, through its lawyers, by saying it would withdraw \$25 billion worth of assets from the U.S. capital markets unless the President vetoed the bill.

I strongly disagreed with the President's position to veto the Defense Authorization Bill and to demand a waiver that would allow for a Court's judgment to be overruled, thereby shutting out service members from attaining their already won monetary judgment for torture they sustained during the first Persian Gulf War.

Under international law, even when a government changes, the new government is responsible for the actions of the government it superceded.

Each month we spend almost \$12 billion for the War in Iraq, and because Iraq has now threatened to pull its \$25 billion invested in the U.S. market—the cost of two months of the war—the President refused to support the men and women who wore the cloth of this nation, who were tortured during a war, and who had already won a judgment against the Iraqi government.

I also believe the Congressional action taken on January 16, 2008 was wrong. We should have voted to override the President's veto, supporting not just the men and women who are serving today by such items in the bill as the 3.5 percent pay raise, but also for those who served previously and have legitimately brought a claim against the Iraqi government because of torture.

In May 2008, my efforts to introduce an amendment to the National Defense Authorization Act to repeal the President's waiver to allow Iraq to maintain immunity unless the Government of Iraq settles these outstanding claims with American POWs tortured in Iraq within 90 days were ruled not germane to that bill.

I am here today in conjunction with my colleague Congressman Bruce Braley, a champion of this issue, to bring a much needed resolution to claims filed by both American POWs and those who suffered as Human Shields.

I believe that any effort to absolve Iraq of liability for this torture would violate the POW Convention obligations of both the United States and Iraq and would put at enhanced risk of torture American service men and women held as POWs in the future.

Nor is it appropriate to ask American POWs tortured in Iraq or Human Shield claimants to personally pay for the reconstruction of the country which tortured them.

Settlement of this debt of honor would also serve as a model encouraging settlement of other claims against Iraq. Moreover, Iraq's recognition of its legal obligations would be a concrete sign of Iraq's commitment to the rule of law and would be greeted warmly by the American people.

This provision also serves the interests of the reconstruction of Iraq by forgiving as much as 77% of the judgments awarded against Iraq, including forgiving all punitive damages and two-thirds of compensatory damages awarded against Iraq in federal court.

The bottom-line – and what America stands for – is doing what is right – particularly with regard to those who defend our nation. Without any question, what is right is to ensure that these individuals receive their settlements which were adjudicated by impartial courts under the rule of law in the U.S.

Thank you again for providing me this opportunity to testify before you regarding this issue of utmost importance to American service members, Veterans, and POW/MIA community.