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# Defund terrorists

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by Michael Broyde and Yitzchok Adlerstein/Special to The National Law Journal | September 25, 2006

## Case Digest Summary

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For the people of southern Lebanon and Israel's north, the work will only begin when a more stable cease-fire is hammered out. Who will pay for the reconstruction? Hundreds of millions could be made available by the United States, without costing the American taxpayer a dime. The loser would be Iran. As the supplier of money, missiles, training and political guidance to the Hezbollah terrorists, there might be some poetic justice in this.

During the 1979 hostage-taking of American embassy personnel in Teheran, President Carter seized about \$12 billion worth of Iranian assets held in the United States under the provisions of the International Emergency Economic Relief Act. When U.S. hostages were released, most was returned, but a tidy sum-roughly \$400 million-remains frozen by our government.

In 1998, the Clinton administration instructed the State and Treasury departments to help recover damages in cases that were successfully brought against the government of Iran in U.S. courts. Several citizens, including Terry Anderson (who was held hostage by Hezbollah in Lebanon) and the family of a Hamas terror victim, successfully prosecuted suits against Iran as the funder and orchestrator of world terror. In *Weinstein v. Islamic Republic of Iran*, for example, a federal court ruled that the Iranians had provided tens of millions of dollars to Hamas to carry out terrorist acts and had trained Hamas terrorists in bomb-making and other tactics, and was financially liable for the terror carried out by these organizations.

No one to date has collected on these suits, because Congress gave the president the authority to prevent collection from this \$400 million source when such is in the interest of national security. The government has consistently used this provision, citing its interest in pursuing normalization of relations with Teheran, and the fear of unspecified reprisals.

### **Let victims receive the money**

Now is the appropriate time to release the money to victims of Iran-sponsored terror. Teheran's pursuit of nuclear weaponry, Iranian President Mahmoud Ahmadinejad's plan to hasten the Islamic Armageddon through jihad with the West, and Iran's conduct of a proxy war with Israel through its Hezbollah puppets have all changed the equation. By simply no longer exercising its waiver, our government could allow American citizens, and organizations caught on both sides of the Israel-Lebanon border, to rebuild their roads and homes, at the expense of the real cause of their destruction—an Iran that has risen to the top of the charts in the exporting of terror.

Of course, it would be better yet if such a move could be coupled with more ambitious efforts at cutting off the funding pipelines to terrorism by allowing the U.S. courts, and those of other nations, to assign liability for acts of terror to nonsovereign organizations that commit acts of terror. A good place to start might be declaring suicide bombing a crime against humanity and allowing private suits in U.S. courts for U.S. citizens injured or killed by suicide bombing. Such a measure has been quietly circulated by the Simon Wiesenthal Center, and won the endorsement of several European leaders. When such

measures become widely accepted by governments and courts, accessories to the crime will become legally and financially accountable to suits charging their complicity.

When terrorist agencies can no longer conduct their financial affairs through dependable banks, terrorists will start missing paychecks, and arms-sellers will balk at extending credit. The funders of terrorism risk exclusion from the international banking community.

There are, we recognize, problems with this proposal. Iran is a cash-rich nation and, given the high price of oil, \$400 million will not deter it from its funding of terrorism. However, we hope and expect that over time this initial \$400 million pinprick will be just the first of a thousand cuts that will cause Iran to change its policies. Even if this does not happen, a policy of strict financial accountability for those who fund terrorism will deter those organizations that are considering becoming surrogates for the Iranian government, which now will bear all the financial risks of funding terror, but lack the oil resources of Iran to fund them, and sovereign immunity to protect them in court. This is true even more so for Hezbollah and Hamas, which are seeking legitimacy in the eyes of the international community. Even those who favor negotiations ought to recognize that a collection of carrots and sticks are the likeliest mix to produce the most favorable outcome.

Eliot Ness and his Treasury agents eventually sent Al Capone to jail on charges of tax evasion rather than charges based on his acts of violence. Following the money trail worked to neutralize a significant threat. It can work as well to diminish and perhaps functionally destroy Hezbollah, and Hamas for sure, and maybe even to deter Iran.

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