

Feb. 27, 2008

Supporting American Victims of Terrorism

The U.S. government is currently considering whether to support attempts by the Palestinian Authority (PA) and the PLO to overturn a judgment awarded to the family of an American citizen who was killed in a 2002 Palestinian terrorist attack in Israel. To date, the United States has taken the right course by refusing to shield those responsible for terrorist attacks on American citizens from the financial damages awarded in U.S. courts to their victims and their families. Any effort by the U.S. government to support attempts by the PA and the PLO to overturn the judgment would be a blow to U.S. efforts to deter terrorism and unfair to the families of the victims who have successfully sued the perpetrators of the attacks and proven their guilt. It also would undermine the Israeli-Palestinian peace process, which requires an unflinching commitment by the PA to renounce and fight terrorism.

FACTS

- Aharon Ellis, a U.S. citizen, was killed by a Palestinian gunman in 2002 while performing at a bar mitzvah in Hadera, Israel. His widow, Leslye Knox, a 46-year-old mother of six, sued the PLO and the PA under the Antiterrorism Act of 1990, which allows American victims of terrorism and their relatives to sue the perpetrators in U.S. courts.
- In 2006, a federal judge ordered the PLO and the PA to pay Knox and other relatives of Ellis nearly \$174 million, rejecting the Palestinian claim of sovereign immunity since Palestine is not a state.
- More than a year ago, Secretary of State Condoleezza Rice refused to get involved in the case despite urging from Palestinian President Mahmoud Abbas. In declining to comment on the case, Rice wrote that "the United States is not party to these enforcement proceedings."
- In an earlier case, the children of Yaron Ungar, a U.S. citizen killed in Israel in a 1996 terrorist attack, were awarded \$116 million. The U.S. Supreme Court declined to review the case as Rice noted in response to a letter from the PA asking the United States to intervene. Rice, referring to the Supreme Court decision, wrote that "the judgment is final and enforceable in United States courts" and urged the PA to explore "out of court solutions so as to avoid enforcement actions."
- However, in December, a U.S. federal judge asked the government whether it would get involved in the case through filing a "statement of interest" supporting attempts by the PA and the PLO to overturn the judgment awarded to Knox. The government has until Friday, Feb. 29, to make a decision.
- Such a statement would mark the first intervention by the American government to block a civil lawsuit against the PA.

KEY POINTS

- U.S. government intervention in this case would undercut judgments handed down through our judicial process and undermine the rule of law. Interfering in the process now would send the emerging Palestinian government the wrong message about judicial independence and the finality of court decisions.
- U.S. government interference in these cases will impede progress toward Israeli-Palestinian peace, which requires the PA to take concrete steps against the terrorist infrastructure. Allowing these legal proceedings to go forward will signal to the Palestinian leadership that peace cannot be built on ignoring the responsibilities toward the victims of terrorism.
- Arguments by the PA that such judgments will hurt the authority's economic development are undermined by the years of wanton corruption and funds funneled to support for terrorism, rather than to build economic and public institutions. International donors also have pledged more than \$7 billion to help the PA build its economy.
- Any U.S. government efforts to provide "immunity" to the PA from such lawsuits would undermine the very purpose of the Antiterrorism Act of 1990—to hold terrorists and their sponsors accountable. Such interference would abridge the rights of individuals to seek justice in the courts and potentially deny damages to the families of the victims.
- U.S. support for Palestinian efforts to overturn the judgments also would undermine America's strong and principled fight against terrorism and be inconsistent with our core values.