

108TH CONGRESS
1ST SESSION

H. CON. RES. 344

Expressing the sense of the Congress that American prisoners of war (POWs) during the 1991 Gulf War and their immediate family members should be adequately compensated, without delay, for their suffering and injury, as decided by the United States District Court for the District of Columbia.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 21, 2003

Mr. MEEKS of New York (for himself and Mr. CONYERS) submitted the following concurrent resolution; which was referred to the Committee on International Relations

CONCURRENT RESOLUTION

Expressing the sense of the Congress that American prisoners of war (POWs) during the 1991 Gulf War and their immediate family members should be adequately compensated, without delay, for their suffering and injury, as decided by the United States District Court for the District of Columbia.

Whereas the treatment of American prisoners of war (POWs) during 1991 Gulf War by the Republic of Iraq and its intelligence service, at the direction of Iraqi president Saddam Hussein, constituted “torture,” as required to support exercise of subject matter jurisdiction under the Foreign Sovereign Immunities Act (FSIA) over claims by the POWs and their immediate family members for com-

pensatory and punitive damages for injuries allegedly suffered as result of such treatment;

Whereas the POWs constantly feared torture and death as a direct result of severe physical and mental abuse; they were systematically starved, denied sleep, and exposed to freezing cold; they were denied medical care and their existing injuries were intentionally aggravated; they were shocked with electrical devices and confined in dark, filthy conditions exposing them to contagion and infection; they suffered serious physical injuries, including broken bones, perforated eardrums, nerve damage infections, nausea, severe weight loss, massive bruises, and other injuries; and they were denied requests to notify family members that they were alive, were forced to participate in propaganda tapes, were denied the right to be inspected by the Red Cross, and were used as props in public announcements that POWs would be used as human shields;

Whereas these acts of torture intentionally inflicted severe and lasting emotional distress;

Whereas these acts of torture were carried out by officials, employees, or agents of the Republic of Iraq, acting within scope of their office or employment;

Whereas the refusal of the Republic of Iraq and its intelligence service to comply with Iraq's legal obligation under the Geneva Convention to permit the POWs to write to their families to inform them of their capture and state of their health constituted intentional infliction of emotional stress on the family members of the POWs, also cognizable in an action under the FSIA;

Whereas the United States District Court for the District of Columbia found, in an action brought under the torture exception of the FSLIA against the Republic of Iraq, its president, and its intelligence service, that the POWs subjected to torture during 1991 Gulf War were entitled to compensatory damages;

Whereas the court also found that the POWs were entitled to compensatory damages for pain and suffering, during the period following captivity, as the POWs attempted to return to normal life, in amounts in multiple millions of dollars;

Whereas the court found that the wives of the POWs were entitled to compensatory damages for mental anguish and solatium during the periods in which their husbands were in captivity, and for mental anguish and emotional distress following the release of POWs, and the court found that the children, parents, and siblings of the POWs were entitled to compensatory damages for mental anguish and solatium;

Whereas the court also found that an award of punitive damages to the POWs was warranted because of the exceedingly heinous nature of the acts of torture against the POWs, and the severe and continuing harm to the POWs caused by the reprehensible acts inflicted on them, and because—

(1) the use of torture against the handcuffed and blindfolded POWs resulted in unrestrained savagery, causing them to suffer intense, justified fear that the Iraqi threats of death and dismemberment would be carried out;

(2) there must be a premium on protecting POWs who are uniquely vulnerable to acts of torture;

(3) deterring torture of POWs should be of the highest priority; and

(4) punitive damages create incentives for the agencies and instrumentalities of terrorist countries to comply with their obligations not to torture POWs: Now, therefore, be it

1 *Resolved by the House of Representatives (the Senate*
2 *concurring), That—*

3 (1) American prisoners of war (POWs) during
4 the 1991 Gulf War were brutally tortured by the Re-
5 public of Iraq and its intelligence service, at the di-
6 rection of Iraqi President Saddam Hussein, and
7 thereby suffered severe physical trauma and emo-
8 tional abuse;

9 (2) United States civilians stationed in the Per-
10 sian Gulf region before and during Operation Desert
11 Storm were taken hostage by the Republic of Iraq
12 and its intelligence service, at the direction of Iraqi
13 President Saddam Hussein, and used as so-called
14 “human shields”, experiencing brutal threats to
15 their personal safety and emotional being;

16 (3) no one would subject himself or herself for
17 any price to the terror, torment, and pain experi-
18 enced by the POWs during the 1991 Gulf War and
19 their immediate family members;

1 (4) there is no monetary award that could ade-
2 quately compensate these individuals for their suf-
3 fering and the resulting permanent injury;

4 (5) the Congress has previously recognized and
5 authorized the right of United States citizens, in-
6 cluding the POWs and “human shields”, to hold ter-
7 rorist states such as Iraq liable for injuries to
8 United States citizens;

9 (6) United States district courts have been au-
10 thorized to adjudicate such cases;

11 (7) notwithstanding section 1503 of the Emer-
12 gency Wartime Supplemental Appropriations Act of
13 2003, the President should take action, through the
14 liquidation of blocked Iraqi assets or through other
15 appropriate sources, to ensure that POWs during
16 the 1991 Gulf War and their immediate family
17 members receive, without delay, their just compensa-
18 tion as awarded by the United States District Court
19 for the District of Columbia; and

20 (8) the Congress will continue to oversee the
21 application of section 1503 of the Emergency War-
22 time Supplemental Appropriations Act of 2003 in
23 order to ensure that it is not misinterpreted, includ-
24 ing by divesting United States courts of jurisdiction,

- 1 with respect to the POWs and other victims of Iraqi
- 2 terrorism.

