

THE HEALTH CARE LIABILITY
REFORM ACT OF 1995

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 9, 1995

Mr. STUMP. Mr. Speaker, today I am introducing the Health Care Liability Reform Act to establish fundamental tort system reforms.

This legislation will: set a \$250,000 cap on noneconomic and punitive damages; limit attorneys fees to 25 percent of the first \$100,000 and reduce the allowable percentage as the award increases; eliminate the collateral source rule that allows for double recovery; abolish joint and several liability, so only defendants who are actually at fault are liable; require periodic payment of damages over \$50,000; establish a 1 year reasonable discovery rule and 3 year statute of limitation with special exceptions for minors; and require pretrial dispute resolution to encourage reasonable settlement.

Our current medical malpractice system is not effective in compensating injured individuals or at improving the quality of health care. It is a system with powerful incentives for wasteful spending. Plaintiffs are allowed to sue even if the facts do not merit a lawsuit and cash payments of 3 to 4 times claimants' medical bills are awarded. The median verdict in medical liability claims, according to a Jury Verdict Research report jumped by almost \$200,000 in one year from an all time high in 1991 of \$450,000 to \$646,487 in 1992. The General Accounting Office reported that over half of total health care liability costs are spent defending against claims that result in no payment. A RAND Corp. study found that 57 percent of the money spent in health care liability litigation does not reach the injured patient.

Physicians and hospitals are forced to provide care, not for the well-being of the patient, but to protect themselves from lawsuits. Our physicians are the best trained and equipped, yet they are also the most often sued. Claims against doctors rose from 2-per-100 in the 1960's to 16-per-100 in the late 1980's. Physicians fearing malpractice suits are increasingly opting out of high-risk specialties and medicine altogether. Those hurt most are disadvantaged pregnant women, rural communities and senior citizens.

Medical malpractice liability adds at least \$15 billion a year to the cost of health care, according to a recent study by the Competitiveness Center of the Hudson Institute. It is driving up the cost of treatments, services, medical devices and pharmaceuticals and inhibits the research and development of new products. It is a detriment to patients, providers and taxpayers. If we allow this litigation explosion to continue unrestrained, any effort to bring down health care costs and increase access to care will surely fail.

MURDER OF TWO AMERICAN DIPLOMATS IN PAKISTAN LATEST
EXAMPLE OF LAWLESSNESS IN
KARACHI

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 9, 1995

Mr. PALLONE. Mr. Speaker, I call to the attention of my colleagues an article in today's Washington Times entitled "Blood on Karachi Streets Flows From Multiple Feuds." The article, written by John Stackhouse, discussed how Pakistan's largest city has degenerated into a lawless urban battlefield where innocent citizens are killed while the government and the police stand by idly. The latest victims of this sectarian and religious bloodshed were two American diplomatic employees who were brutally murdered yesterday by masked gunmen who ambushed their consular van in broad daylight.

Mr. Speaker, Pakistan for many years has been at the center of terrorism. Islamic militants have operated training camps, where young men have been trained and violence has been exported to many countries, including to India, Egypt, Israel and the United States. Pakistan was the country where those accused of the World Trade Center bombings were recruited and trained. Pakistan was the country where the terrorist who killed five people in front of the CIA fled to. Now, Pakistan has shown that it cannot protect U.S. diplomatic personnel on their way to work in that nation's largest city.

Mr. Speaker, I urge my colleagues to read the Washington Times article. It provides an excellent summary of the reasons behind Karachi's fall into the abyss of lawlessness, violence and terrorism.

I join with all my colleagues in this body, and all Americans, in expressing my deepest sympathies to the families of our diplomats who served their country with great distinction and courage.

BLOOD ON KARACHI STREETS FLOWS FROM
MULTIPLE FEUDS POLITICS, RELIGION, ETHNICITY
FUEL VIOLENCE

(By John Stackhouse)

KARACHI, PAKISTAN—With martyrs, guns and killing sprees, Karachi is no longer simply Pakistan's biggest city and commercial capital. It is a city at war.

The two American diplomatic workers gunned down yesterday were among 164 persons killed in Karachi in the past month in a spiral of violence that is a complex swirl of political, religious, ethnic and criminal currents.

A recent attack on two mosques has pitted the city's Shi'ite and Sunni Muslim sects against each other. Most of the fighting, however, has been between the two main factions of the Muhajir Qaumi Movement, Karachi's leading political force, which represents Urdu-speaking migrants, or "muhajirs," originally from India.

Many fear that if the two battles—one sectarian, the other ethnic—overlap, Karachi will slide toward anarchy.

Already mosques, normally symbols of peace and security, are bolted shut with steel doors, opened only long enough for worshippers to pass weapons checks. At night, the streets have mere trickles of traffic. Many residents are even talking of not celebrating the coming Muslim festival of Eid.

Day after day, in a city once renowned for its seaside tranquility and cosmopolitan

night life, the killings continue, each seeming to set a new standard for senselessness.

In December, seven artisans were shot dead in their shop as they crafted lacework. The same month, on one of Karachi's main roads, seven persons were burned to death in a bus in the early evening. Last week, a passing motorist sprayed bullets in a tailor's shop, killing three persons.

Much of the city's crisis has been laid at the feet of Karachi's police force, which has been both ineffectual and, in some places, linked to criminal gangs.

Although the army ruled the streets of Karachi from 1992 to 1994 in a special operation against urban violence, it pulled out in December—and 437 persons have been killed since.

"I would advise the government to go to the extent of disarming the police," said Nizam Haji, a local businessman who heads a liaison committee between police and civilians. "The police have gone rotten in Karachi. Totally corrupt, incompetent and politicized."

Last month, gunmen opened fire on a crowd across the street from one of Karachi's main police stations, killing 11. Despite several police near the scene, no one fired at the assailants or gave chase. Nor have there been any arrests for the attack, although five police officers were charged with dereliction of duty.

With little law and no order, drug lords and criminal gangs also have taken to Karachi's streets, launching robberies, extortion and retribution killings.

In Pakistan's most international city, the rise of sectarian violence has raised concern about foreign involvement, perhaps even proxy battles.

Sherry Rhemam, managing editor of the Herald, Pakistan's leading newsmagazine, said that Shi'ite factions in the city appear to be backed by Iran, while Sunni gunmen receive money, weapons and training from Saudi Arabia.

There also are concerns that official agencies, perhaps the government itself, has sponsored the terror. Many observers believe the army, during its rule in Karachi, armed and trained a new muhajir faction to launch a fratricidal war among the migrant population.

The new faction is now seen to be supported by the country's infamous intelligence agencies, the same bodies that backed the Afghan mujahideen in the 1980s.

For any Pakistani government, support of the muhajirs is a key to political survival. With about half of Karachi's 10 million people, they hold sway over the country's biggest economic center, as well as the influential southern province of Sindh.

Despite their numbers, though, the muhajirs feel they are marginalized by Sindh's powerful rural elite, which includes the Bhutto family.

"These 2 percent of the population control 98 percent of the country," said Shoaib Bokhari, a muhajir member of the Sindh assembly.

Mr. Bokhari did not deny the muhajir ambition for a new province of Karachi. The city now is administered by the Sindh government, and while the federal government relies heavily on Karachi and its port for tax revenue, it spends little on the thriving commercial center.

The Sindh government also keeps 15 percent of Karachi's property tax, the city's main source of revenue, as a service charge for collecting it. And the province reserves the majority of government jobs, on a quota system, for rural Sindhis, who tend to be less educated than the muhajirs.