



July 4, 2017

## C-CAT Victory in the Ontario Court of Appeal

Iran Has Lost its Appeal Against the JVTA

National Post:

**“Ontario court upholds \$1.7B judgment against Iran, ruling in favour of American victims of terrorism”**

*“The court’s resounding rejection of Iran’s appeal is another victory for victims*

*of terrorism holding Iran accountable for its support of Hamas and Hezbollah”*

for full article click [here](#)

### **The Import of the Ruling**

**1. The First Case** – C-CAT led the 8-year campaign for the passage of the Justice for Victims of Terrorism Act (JVTA). The legislation, passed in 2012, enables terror victims to sue state sponsors of terrorism in Canadian courts. This is the first case to make its way through the courts since the passage of the bill.

**2.. The court has given its approbation to the intent and method of the JVTA and to the use of civil litigation against terrorism in Canada.** (see below)

3. **Canadian courts have confirmed Iran's culpability in terror sponsorship as a matter of law, not opinion** – Iran is the globe's most egregious state sponsor of terror; is directly complicit in war crimes being committed in Syria; and has savaged

its own people with extraordinary cruelty. Its violations have only increased since signing the nuclear deal and court decisions of this sort are a key component in holding the regime accountable.

## **Quotes from the Court's Ruling Against Iran**

**Justice C. William Hourigan on Behalf of a panel of concurring judges:**

### **Iran's Arguments "Designed Solely to Frustrate Parliament's Intentions"**

"I am satisfied that if these submissions [by Iran] were accepted they would have the effect of rendering enforcement actions under the JVTAs a cumbersome and largely unworkable process that would provide very limited rights of recourse to victims of terrorism. Indeed, Iran advances several arguments that appear designed solely to frustrate Parliament's intention and the proper operation of the JVTAs. That result is, of course, contrary to the stated purpose of the JVTAs and the clear wording of the statute. Accordingly, I would dismiss the appeals..."

### **"Awarding damages that may have a deterrent effect is a sensible and measured response to the state sponsorship of terrorism and is entirely consistent with Canadian legal morals"**

"The terrorist attacks out of which the respondents' U.S. judgments arise are repugnant to civilized society. The fact that a foreign government would engage in the sponsorship of such atrocities is chilling.... There is nothing offensive about using peaceful legislative means to combat terrorism.... To the contrary, awarding damages that may have a deterrent effect is a sensible and measured response to the state sponsorship of terrorism and is entirely consistent with Canadian legal morals."

**"Iran appears to have been gaming the process."**

“Iran was properly served and ultimately chose to effectively take its chances with the court process by not responding to the claims and waiting to have them set aside on a subsequent motion. I agree with the motion judge’s observation ... that Iran appears to have been gaming the process.”

## **5 Points in the Court’s Rejection of Iran’s Arguments**

- **Iran’s Immunity** – “By virtue of the JVTA and the amendments to the SIA, Iran’s state immunity has been lifted with respect to its sponsorship of terrorist acts that occurred on or after January 1, 1985....”
  
- **Recognition of Foreign Judgments** – “Subsection 4(5) of the JVTA sets forth the process for recognition of the American judgments. None of the arguments advanced by Iran defeat recognition....”
  
- **Iranian Assets in Canada** – “There was a solid evidentiary basis for the motion judge to conclude that the Iranian Assets were not protected by diplomatic immunity....”
  
- **Default Judgments** – “Iran did not meet its onus in establishing that even a single factor militated in favour of setting aside the default judgments. In addition, the interests of justice do not support such an order.”
  
- **Costs Awards** – “There is no principled reason why Iran should be immune from a costs award. The suggestion otherwise is contrary to binding Supreme Court of Canada jurisprudence.”

For the full decision see: <http://www.ontariocourts.ca/decisions/2017/2017ONCA0549.htm>