

Statement of  
**The Honorable Patrick Leahy**

United States Senator  
Vermont  
July 27, 2010

Statement Of Senator Patrick Leahy (D-Vt.),  
Chairman, Senate Judiciary Committee,  
"Exxon Valdez To Deepwater Horizon: Protecting Victims Of Major Oil Spills"  
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I thank Senator Klobuchar for chairing today's hearing on these important and timely issues. The oil spill in the Gulf of Mexico is a tragic reminder of the enormous consequences of irresponsible corporate behavior. The depth of this tragedy is made greater by the fact that it occurred at the hands of a company whose business involves exploiting for its own profit the natural resources that belong to all Americans. The companies responsible for the Deepwater Horizon oil rig owed far better stewardship of the environment to the American people. Now that the worst imaginable outcome has occurred, Americans all along the Gulf Coast will struggle with this disaster for many years to come, and it is appropriate for this Committee to turn its attention to these victims and their needs.

When a divided Supreme Court handed down its 2008 decision in *Exxon v. Baker*, the Judiciary Committee held a hearing to explore the consequences of that decision. At the time, I expressed my belief that the rule the Court invented in that case--arbitrarily capping punitive damages in maritime cases--might have been good for big oil, but did little in the way of providing an incentive for corporations to behave more responsibly or a mechanism for communities and individuals to hold them accountable. It comes as little surprise to me that as we learn more about what happened on the Deepwater Horizon, it appears that shortcuts and shortsighted decision-making played a role in causing this tragedy.

As a result of the Deepwater Horizon disaster, and the Exxon Valdez disaster before it, there are many victims. Americans in the affected areas have lost their livelihoods; they have seen their wetlands, fisheries, and beaches destroyed; and they have endured, and will endure, years of hard work to reclaim what they have lost. Some have lost their lives. Our laws must treat them fairly and provide accountability.

When the Deepwater Horizon exploded and sank, 11 men were killed. Yet perhaps nowhere are our Federal laws more unfair to victims of injury or death than in the maritime context. The Death on the High Seas Act, which is one of the few remedies for these families to seek justice, provides compensation only for pecuniary losses associated with a wrongful death. This involves a cold calculation of a victim's monetary worth to his or her family and nothing more. And if an individual killed has no dependents, they are entitled to very little, yet the loss to a parent or a sibling is no less tragic. The current Federal maritime law--unlike common law across the

country--does not recognize the human losses associated with the death of a loved one: the suffering of a spouse who has lost his or her husband; a parent that has lost a child; or a child who will no longer have a mother or father to share the joys and accomplishments as they grow up. And in addition to the injustices to the victims, the current laws provide little incentive for corporate actors to put the safety of their employees or customers first. This is wrong and Congress should correct this situation immediately.

I was glad to have Senator Klobuchar, along with Senator Durbin, Senator Feingold, Senator Whitehouse, and Senator Schumer, join me in introducing the Survivor's Equality Act. This legislation would amend the Death on the High Seas Act to make clear that in a wrongful death maritime action, a victim's survivors could recover non-pecuniary losses such as the loss of companionship, comfort, and care. My legislation would bring Federal maritime tort law into the legal mainstream.

It is also important to remember that often, in the case of serious environmental catastrophes like the Deepwater Horizon spill, the companies that caused the disasters may be guilty of committing environmental crimes. These wrongdoers must be held accountable for their criminal acts, and they, rather than American taxpayers, should pay for the damage they have done. That is why I introduced the Environmental Crimes Enforcement Act, which aims to deter environmental crime, protect and compensate its victims, and encourage accountability among corporate actors.

This important legislation is set up to deter schemes by Big Oil and others that damage our environment and hurt hard-working Americans by increasing sentences for environmental crimes. All too often corporations treat fines and monetary penalties as merely a cost of doing business to be factored against profits. To deter criminal behavior by corporations, it is important to have laws resulting in prison time, and this bill would appropriately raise sentences for environmental crime to be comparable to sentences for other serious crimes. This bill also aims to help victims of environmental crime - the people who lose their livelihoods, their communities, and even their loved ones - reclaim their natural and economic resources by making restitution mandatory for criminal Clean Water Act violations.

But Congress must act quickly. The families of those who died on the Deepwater Horizon expect us to do the right thing. They cannot afford to wait. Similarly, accountability for environmental crimes and restitution for the victims of those crimes should not wait. Achieving justice for the victims of this disaster should not be a partisan issue, but I am concerned about the delays we have seen so far on the progress of both of these commonsense bills. I made a commitment to the families of the men who were killed on the Deepwater Horizon disaster that I would work to bring them--and all maritime victims in the future-- the fairness and justice they deserve under the law. I urge Senators to join me moving quickly on these important bills.

Again I thank Senator Klobuchar for chairing today's hearing, and I thank our witnesses for their participation.

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