

Indonesian atrocities suit revived

ExxonMobil not protected under 1789 law, court rules

BY JONATHAN STEMPEL, REUTERS JULY 9, 2011

A U.S. appeals court revived Friday a lawsuit against ExxonMobil Corp. by Indonesian villagers who accused the oil giant's security forces of committing murder, torture and other atrocities in the country's Aceh province.

In a 2-1 ruling, the D.C. Circuit Court of Appeals said companies are not immune from liability under a 1789 U.S. law known as the Alien Tort Statute for "heinous conduct" allegedly committed by its agents in violation of human-rights norms.

Given that laws in civilized nations hold corporations responsible for lesser wrongs, "it would create a bizarre anomaly to immunize corporations from liability for the conduct of their agents in lawsuits brought for shockingly egregious violations of universally recognized principles of international law," Judge Judith Rogers wrote for the majority.

Friday's decision reversed part of a ruling by the federal district court in Washington, D.C. It is also at odds with a landmark ruling last September by the federal appeals court in New York, raising the prospect that the U.S. Supreme Court could try to resolve the dispute.

"The ruling basically says that corporations are not above the law," said Jennifer Green, a University of Minnesota law professor and director of that school's human-rights litigation clinic, who submitted a brief on the plaintiffs' behalf. "When corporations have knowledge that they are aiding and abetting human-rights abuses, they can be held liable in a U.S. court."

ExxonMobil, based in Irving, Texas, said it is reviewing Friday's decision, calling the plaintiffs' claims "baseless." Indonesia's government has also opposed the lawsuit.

The case was brought by 15 villagers from the Aceh province over alleged wrongful acts from 1999 to 2001, a period of civil unrest in the region. They said ExxonMobil was responsible because it had retained soldiers from Indonesia's military as guards for a natural gas facility in Aceh, despite knowing of past human-rights abuses by Indonesia's army and that the contract would lead to human-rights violations against Aceh villagers.

According to the decision, some plaintiffs' family members were killed, while other plaintiffs were "beaten, burned, shocked with cattle prods, kicked and subjected to other forms of brutality and cruelty" amounting to torture.

In its ruling, the D.C. Circuit also upheld the district court dismissal of claims under a different law, the Torture Victim Protection Act.

It returned the case to that court, where a jury could decide liability and any compensatory or punitive damages.

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