

Unocal Will Stand Trial Over Myanmar Venture

In a First, Judge Rules U.S. Company May Be Liable for Overseas Abuses

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For the first time, an American judge has ordered a U.S. corporation to stand trial for alleged human-rights violations committed by a joint-venture partner overseas.

In a case with potentially far-reaching implications, Los Angeles Superior Court Judge Victoria Chaney ruled from the bench Monday that Unocal Corp. may be held liable for the conduct of the government of Myanmar, formerly known as Burma, Unocal's partner in the Yadana gas field in southern Myanmar. A trial is scheduled for September on the allegations raised in the suit, which was filed by several Myanmar villagers in 1996. They charge that they were forced to work on the oil project in slave-like conditions by Myanmar's military.

Already, U.S. District Judge Ronald S.W. Lew has ruled that Unocal knew about and benefited from forced labor in Myanmar. Despite those findings, Judge Lew dismissed the villagers' claims against Unocal in 2000, on the ground that Unocal didn't control Myanmar's military and thus wasn't liable for its conduct under U.S. law. Judge Lew remanded the case to state court for application of state law.

Applying California law, Judge Chaney ruled Monday that Unocal may be liable under the legal doctrine known as "vicarious liability," plaintiffs lawyers say. That doctrine holds that joint-venture partners bear responsibility for each other's actions involving their common business. Her ruling -- if upheld by higher courts and applied in other jurisdictions -- could subject a long list of U.S. companies to lawsuits in American courts as human-rights groups seek to expand the reach of American tort law to foreign soil.

"This court's position affirms that simply moving your operations overseas to a lawless environment does not immunize you from the law," said Terry Collingsworth, whose group, the International Labor Rights Foundation in Washington, D.C., has filed six human-rights suits against various U.S. corporations -- including the one against Unocal -- on behalf of overseas plaintiffs.

In Los Angeles, a Unocal spokesman confirmed the company's motion for dismissal was denied and said the company now expects the case to go to trial. He added, however, that the judge may limit the trial's scope in terms of plaintiffs, time frame and other issues. And he reiterated Unocal's position that the company never participated in, condoned or benefited from any human-rights abuses in Myanmar.

The Unocal case, like several other human-rights suits filed against multinational companies in U.S. courts in recent years, was initially brought under the federal Alien Tort Claims Act of 1792. That law, originally written to prevent the U.S. from becoming a safe haven for seafaring pirates, permitted foreigners to sue one another in U.S. courts.

It was expanded to apply to modern human-rights violators in a 1979 case known as *Filartiga*. In that case filed in a U.S. court in Brooklyn, N.Y., the family of a 17-year-old boy who had been tortured and murdered in Paraguay successfully sued the policeman who perpetrated the acts.

Since then, human-rights lawyers have filed at least a dozen suits against U.S. corporations attempting to apply the novel jurisdictional standards from the *Filartiga* case to U.S. companies doing business overseas. Most of these suits are still pending at various levels of discovery and appeal, with no clear judicial trend evident as to whether any or all of them will proceed to trial.

Judge Chaney's ruling Monday in Los Angeles was the first time a state judge has ordered a foreign human-rights case to go to trial, lawyers say. Several other state judges, including one in a Louisiana case involving Freeport McMoRan Copper & Gold Inc.'s mining activities in Indonesia, = have dismissed similar human-rights claims on jurisdictional grounds.

Mr. Collingsworth, the plaintiffs' lawyer in the Unocal case, says he is hopeful Judge Lew's findings about Unocal will become binding in the state trial.

That could be bad news for Unocal. In his 41-page order granting summary judgment in favor of Unocal, Judge Lew quoted extensively from depositions, company records, consultants' reports and State Department cables to show that Unocal and its partners were well aware, for many years, of human-rights abuses being committed to benefit the Yadana project.

Judge Lew quoted one industry consultant, for example, who reported to Unocal in 1995 that forced labor was common on the project, as was "imprisonment and/or execution by the army" of those who resisted. "Unocal, by seeming to have accepted [Myanmar's] version of events, appears at best naive and at worst a willing partner in the situation," Judge Lew quoted the Unocal consultant as writing.

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