

# U.S. Supreme Court Reconsiders Alien Tort Suits Against Corporations

by Christine M. Vanek on October 15, 2012

The U.S. Supreme Court opened its October 2012 term by reconsidering *Kiobel v. Royal Dutch Petroleum*, which first came before the Court last term. The case involves the novel question of whether corporations can be held liable in U.S. courts for human rights violations committed abroad.

The lawsuit is based on the Alien Tort Statute, an infrequently cited law that dates back to 1789. It specifically states that U.S. courts shall have jurisdiction over any civil lawsuit "by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States."

In 2004, the Supreme Court ruled that the Alien Tort Statute could be used to bring certain well-established international law violations, but did not determine who could be held accountable for those violations. In *Kiobel*, twelve Nigerians are seeking to hold Royal Dutch Shell Plc. responsible under the statute for alleged human rights abuses committed in that country, which include putting down an uprising through torture, executions, and other crimes against humanity in the 1990s.

In oral arguments held last term, the justices were asked to consider whether liability under the Alien Tort Statute could extend to corporate defendants. The Supreme Court has now broadened the inquiry to consider a much larger issue—whether the statute allows courts to recognize a cause of action for violations of the law of nations occurring within the territory of a sovereign *other than the United States*.

We will be watching this case closely, as it has important legal implications for U.S. businesses with operations around the globe. While the justices seemed inclined to deny the suit during oral argument, we will have to await their official opinion.

*If you have any questions about this case or would like to discuss how the decision may impact your business, please contact me, Christine Vanek, or the Scarinci Hollenbeck attorney with whom you work.*