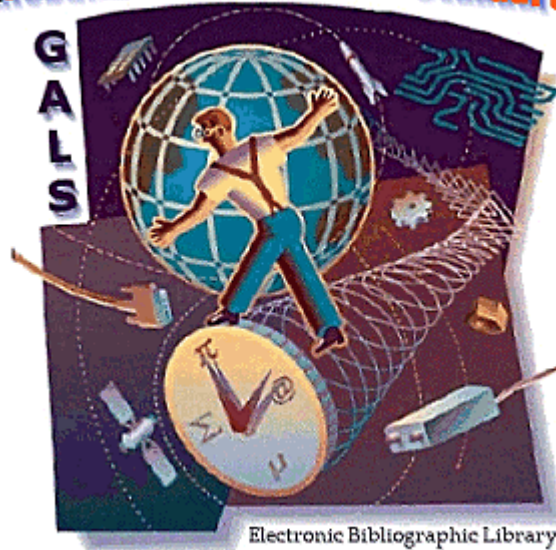


Globalization and Labor Standards



GALS Newsletter

December, 2003

Volume 2, No. 12

Katherine V.W. Stone – Editor

Student Editor:
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Alien Torts Claims Act

Bridgford, Tawny Aine (note: student author), "Imputing Human Rights Obligations on Multinational Corporations: The Ninth Circuit Strikes Again in Judicial Activism", *American University International Law Review* v. 18 no4 (2003) p. 1009-57

Abstract:

This Note examines the Ninth Circuit's extension of Alien Tort Claims Act (ATCA) liability to a multinational corporation, Unocal, charged with third-party liability for torts committed by a foreign government in the foreign land. Unocal was charged with complicity in human rights violations including forced labor, rape, and murder committed by the Myanmar military regime while the regime provided security for a Unocal

construction project. Part I explains the background and procedural history of the case and discusses how the ATCA applies international law to multinational corporations. Part II argues that the court improperly expanded the definition of slavery to include plaintiffs' claims of forced labor and thus improperly subjected Unocal to individual liability for human rights violation committed solely by the Myanmar military regime. Part II also discusses the Foreign Sovereign Immunities Act and the legal impediments to holding foreign governments and their military regimes liable for the human rights abuses they perpetrate. Part III calls upon the United States Supreme Court to provide a bright line rule on ATCA liability of multinational corporations operating abroad to prevent future lower court decisions that transgress the bounds of both domestic and international law. The author concludes by recommending that the international community adopt the United Nations' Human Rights Principles and Responsibilities of Transnational Corporations and Other Business Enterprises.

Subjects: [Alien Torts Claims Act](#), [Company-Specific Case Studies](#), [Country-Specific Case Studies](#)

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Recent Cases, "Civil Procedure Choice of Law Ninth Circuit Uses International Law to Decide Applicable Substantive Law Under Alien Tort Claims Act", *Harvard Law Review* v. 116 no5 (March 2003) p. 1525-32

Abstract:

This Comment examines the Ninth Circuit's extension of Alien Tort Claims Act (ATCA) liability to a multinational corporation in the Unocal case. Unocal was charged with complicity in human rights violations including forced labor, rape, and murder committed by the Myanmar military regime while the regime provided security for a Unocal construction project. After summarizing the procedural and factual posture of the case, this Comment analyses and critiques the majority and concurring opinions. The Comment argues that the court's decision to apply norms of international law in this context both threatens the ability of federal district courts to administer Alien Tort Claims Act litigation and distorts the role of those courts by forcing federal judges to act as surrogate tribunals for international claims. The Comment concludes by suggesting that the Ninth Circuit should have applied federal common law rather than international criminal law to this decision, thereby preventing federal courts from having to make complicated and cumbersome determinations of international law when faced with ATCA litigation.

Subjects: [Alien Torts Claims Act](#), [Company-Specific Case Studies](#), [Country-Specific Case Studies](#)

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Labor Rights in General

Anderson, Gordon, "Labour Law in a Globalising World", *Modern Law Review* v. 66 no4 (July 2003) p. 640-49

Abstract:

This article reviews *Social and Labour Rights in a Global Context: International and Comparative Perspectives*, a book comprised of a collection of papers originating from a 2001 conference in England on international labor rights and the nature of globalization. The book addresses three themes: responses to globalization, the potential for fundamental social rights in the EU, and the constitutionalization and enforcement of social rights. The collection as a whole paints a pessimistic picture of the future for social and labor rights within the countries it discusses. The picture is one of labor rights under pressure domestically from market-driven political agendas and internationally from mobile capital uses its economic power both to relocate to the most business-friendly environment and to encourage a lowering of standards in countries eager to attract such companies. The reviewing author concludes that prospect for the development and protection of labor rights around the world seems weak in light of the WTO's unwillingness to be involved in promoting labor rights and the lack of governmental support for ILO initiatives.

Subjects: [European Union](#), [International Labour Organization \(ILO\)](#), [Labor Rights in General \(Misc.\)](#), [World Trade Organization \(WTO\)](#)

Shapiro, Hal S., "A New Liberal Trade Policy Foundation", *ILSA Journal of International & Comparative Law* v. 9 (Spring 2003) p. 431-41

Abstract:

This article examines the liberal position on trade and globalization in the United States. It argues that this position must be retooled to promote growth both at home and abroad in developing countries. First, the author describes both liberal and conservative U.S. approaches to trade, noting the central role that linkage -- tying trade benefits to improved labor and environmental standards -- has played for liberals. Next, the author argues that the liberal trade position is a policy at war with itself, since the quotas and tariffs used to enforce such policies have decidedly illiberal effects, hurting those whom liberals intend to help. At best, United States trade partners, and developing countries in particular, view linkage as a legitimate policy that incidentally minimizes aspects of their comparative advantage in certain sectors. At worst, linkage is viewed as a naked attempt to impose discriminatory and protectionist measures by developed countries against the goods and services of developing countries. Finally, the author argues that trade should be delinked from labor and environmental standards and that affirmative measures, such as reduced corporate taxes in exchange for improved corporate behavior, and the targeted use of subsidies, should be used to advance liberal ideas while enhancing the welfare of the average consumer and the poor.

Subjects: [Labor Rights in General \(Misc.\)](#)

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Links to Related Projects

ETUI Labourline: <http://www.labourline.org/Etui>

ETUI Labourline is a database of European labor information resources covering European, international and comparative aspects of industrial relations and health and safety issues, developed by the Documentation Centres of the European Trade Union Institute and the European Trade Union Institute for Health and Safety (Brussels). The consolidated bibliographic database contains more than 20,000 references to documents focusing on industrial relations, and more than 15,000 references to documents on health and safety issues.

LabourWeb: <http://www.lex.unict.it/eurolabor/en/>

The Labour Web is a comprehensive documentation center for information about European labor law, social law, industrial relations and the welfare state. It contains up-to-date versions of European Union law, directives, pending directives, EU news, press releases, economic statistics and decisions of the European Court of Justice. It also contains a Working Papers series and subject matter reports (dossiers) on issues concerning European integration. The site also provides links to other websites that contain working papers, statistical reports, and other information about social, economic and industrial relations affairs in the European context. It is run by the Massimo D'Antona Centre for the Study of European Labour Law, at the Faculty of Law of the University of Catania.

Labor and Global Change Database: <http://www.ilir.umich.edu/lagn/>

The Labor and Global Change Database provides bibliographies, citation information and (where available) web links to the full text of research exploring connections between labor and globalization. The database aims to provide researchers with an easy means to make the results of their work widely available to other scholars and the interested public. The database is run by and continually updated by the Labor and Global Change Program of the University of Michigan.

Trade Unions and Labor Relations Database: <http://www.polwiss.fu-berlin.de/tu/english/>

The database, produced by the Institute of Labor Relations of the Otto-Suhr-Institute of the Freie University of Berlin, contains almost 7,000 citations of books, articles, working papers, brochures, proceedings etc. The bulk of the citations address aspects of labor relations in Germany, but there is a substantial body of literature in the database covering the EU and Eastern Europe.

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