

## **Doe v. Unocal Case History**

Plaintiffs in this case sought redress for the human rights abuses associated with the Unocal pipeline project in Burma. The plaintiffs were Burmese peasants who suffered a variety of egregious violations at the hands of Burmese army units that were securing the pipeline route. These abuses included forced relocation, forced labor, rape, torture, and murder.

The case began with a landmark decision in 1997, when a U.S. federal district court in Los Angeles agreed to hear Doe v. Unocal. The court concluded that corporations and their executive officers can be held legally responsible under the Alien Tort Statute for violations of international human rights norms in foreign countries, and that U.S. courts have the authority to adjudicate such claims.

After three years of discovery, the plaintiffs presented evidence demonstrating that, in the court's words, "Unocal knew that the military had a record of committing human rights abuses; that the Project hired the military to provide security for the Project, a military that forced villagers to work and entire villages to relocate for the benefit of the Project; that the military, while forcing villagers to work and relocate, committed numerous acts of violence; and that Unocal knew or should have known that the military did commit, was committing and would continue to commit these tortious acts."

The court also concluded that "the evidence does suggest that Unocal knew that forced labor was being utilized and that [Unocal and Total, a co-venturer in the Yadana project] benefited from the practice" and that "The violence perpetrated against Plaintiffs is well documented in the deposition testimony filed under seal with the Court." Nonetheless, the court dismissed the case, concluding that Unocal could not be held liable under the Alien Tort Statute unless Unocal actually controlled the military units that committed abuses, and that plaintiffs had not made this showing. Once the ATS claims were dismissed, the court also declined to hear the plaintiffs' claims under state law, without ruling on whether these claims had merit.

After this decision, the case proceeded on two tracks. The plaintiffs appealed the dismissal of the international human rights claims under the ATS to the United States Court of Appeals for the Ninth Circuit. At the same time, the plaintiff re-filed their state-law claims in California state court, the Superior Court for Los Angeles County. Unocal petitioned the federal court to reassert jurisdiction over those claims, but the court rejected Unocal's motion.

Subsequently, on August 20, 2001, Unocal's motion to dismiss the case from state court was rejected. Unocal argued to the state court that the federal court's dismissal barred plaintiffs' state case because federal and state law are the same. The court did not accept that argument, noting that state law differs from federal law. Unocal also made a number of arguments based upon the decisions of the U.S. Supreme Court and the U.S. Court of Appeals for the First Circuit that struck down Massachusetts' Burma Sanctions law. In particular, Unocal argued that it would violate the U.S. Constitution for a state court to hear plaintiffs' claims because doing so would intrude upon U.S. foreign relations, and that plaintiffs' claims are preempted by the federal Burma sanctions law. The court rejected all of these arguments.

June 11, 2002, marked another precedent-setting day in the case against Unocal when the lawsuit survived Unocal's motion for summary judgment, the last stage before trial. The Superior Court of California's decision made the case against Unocal the first in U.S. history in which victims of human rights abuses committed abroad gained the right to a trial against a corporation.

California Superior Court Judge Victoria Chaney held that the case against Unocal should go to trial because the plaintiffs had presented evidence that Unocal was responsible for human rights violations. Specifically, Judge Chaney found evidence that would allow a jury to find that Unocal's joint venture hired the military to provide security and that Unocal is therefore liable for the military's human rights abuses, and to conclude that Unocal breached California constitutional and statutory law in its operations.

At the same time, the appeal of the federal ATS claims continued. On September 18, 2002, the United States Court of Appeals for the Ninth Circuit reversed the District Court's decision, and allowed the lawsuit against Unocal to go forward. The three-judge panel held that the District Court was wrong in determining that the plaintiffs had to show that Unocal controlled the Burmese military's actions in order to establish Unocal's liability. The Ninth Circuit held that the plaintiffs need only demonstrate that Unocal knowingly assisted the military in perpetrating the abuses. Under this standard, the Court of Appeals determined that the plaintiffs had presented enough evidence to go to trial. In February 2003, however, the Ninth Circuit Court decided to rehear the appeal before an eleven-judge en banc panel.

The trial in state court began in late 2003. In the first phase of the trial, Judge Chaney concluded that the Unocal subsidiaries involved in the pipeline project were not sham entities. On September 14, 2004, Judge Chaney ruled that the plaintiffs were entitled to a trial on their other theories of liability. In so doing, she rejected Unocal's argument that she should dismiss the case in light of her prior decision, noting that decision "does not preclude [the plaintiffs] from proving defendants controlled specific aspects of the Yadana project to an extent beyond that permissible by a mere owner." Judge Chaney set a trial date for June of 2005 for a jury trial on the plaintiffs' claims of murder, rape, and forced labor.

In March of 2005, Unocal agreed to compensate the plaintiffs in a historic settlement that ended the lawsuit. Shortly thereafter, Unocal was acquired by Chevron.