



The Alien Tort Statute

International
Law and
Accountability

The Alien Tort Statute (ATS), also known as the Alien Tort Claims Act (ATCA), is a powerful legal tool that allows foreign victims of human rights abuse to seek civil remedies in U.S. courts. It has been used to bring claims against government officials and non-state actors, including multinational corporations.

how does the ats hold human rights abusers accountable?

Victims of the most serious human rights abuses often have no way to seek justice in their home countries. The country where the abuse took place may be unable to hold the accused accountable for a variety of reasons, including a corrupt judicial system, a government still dominated by those responsible for the abuse, inadequate resources or the fact that the perpetrators have left that country. The ATS provides a way to hold human rights abusers

When persons who are in the U.S. or corporations doing business here have committed gross human rights violations abroad, the law allows U.S. courts to hold them accountable.

how has the ats been used in defense of human rights?

The ATS was enacted in 1789 but was little-used until 1979, when the Center for Constitutional Rights filed the lawsuit *Filártiga v. Peña-Irala*. In *Filártiga*, a Paraguayan police officer had tortured a young man to death and later moved to the U.S. When the victim's family found the torturer in the U.S., CCR brought suit under the ATS. The Second Circuit ruled in favor of the *Filártigas* in a historic moment for human rights litigation that paved the way for the modern use of the ATS.

Throughout the 1980s, the majority of cases brought under the ATS were against officials of recognized governments. Then, in 1993, CCR brought a lawsuit against Radovan Karadžić for genocide, war crimes and crimes against humanity committed in Bosnia-

Herzegovina. The Second Circuit held that Karadžić, a non-state actor, could be held liable under ATS for his complicity in these crimes.

Over the past decade, CCR and our allies have successfully expanded the application of the ATS to cases involving human rights violations committed directly by or with the complicity of multinational corporations. This has led the way for very important cases brought in US courts by victims of corporate abuse. For example, CCR is now using the ATS to hold accountable government-hired private military contractors who tortured or were complicit in the torture of Iraqi prisoners at Abu Ghraib and other detention centers throughout Iraq. CCR has also brought ATS cases against the former president and minister of defense of Bolivia for the extrajudicial execution of indigenous villagers; against U.S. officials for torture and other international law violations in U.S. detention facilities (including Guantanamo); against Royal Dutch Shell for human rights abuses against the Ogoni people in Nigeria, and against the former Haitian paramilitary leader Emmanuel Constant for crimes against humanity.

However, recent court rulings have threatened to turn back this critical progress in corporate accountability. In September 2010, in *Kiobel v. Royal Dutch Shell*, a case against Shell regarding human rights abuse in Nigeria (a separate case from the one mentioned above), the U.S. Court of Appeals for the Second Circuit decided that corporations could not be sued at all under the ATS. This decision was appealed to the Supreme Court and argued in February 2012. During the argument the Supreme Court justices questioned not just the application of the ATS to corporations but under what circumstances the ATS applies to any abuse that takes place outside the U.S. and a week later they ordered the case to be reargued on this question. This reargument is set for October 1, 2012.

Learn more about CCR's ATS cases by visiting www.ccrjustice.org and learn more about *Kiobel* at www.ccrjustice.org/ourcases/current-cases/kiobel