

Bay activists win in fight to get human rights cases tried in U.S.

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Bay Area organizations, backed by high-powered corporate attorneys, are taking the lead in a growing movement that uses U.S. courts to go after abusers of human rights worldwide.

Far from being just a rhetorical exercise, the potential impact of the movement became clear three weeks ago, when the Center for Justice and Accountability, based in San Francisco, won a \$54.6 million judgment against two former Salvadoran generals living in Florida.

The ruling in favor of San Francisco high school teacher Carlos Mauricio and two other Salvadorans, who were tortured by security forces during El Salvador's civil war in the early 1980s, was the movement's biggest legal victory to date.

More than a dozen other cases are under way. The guiding doctrine is "universal jurisdiction" -- a legal concept stating that war crimes and other human rights cases can be tried in any nation's courts, no matter where the abuses took place or where the alleged offenders currently live.

"Universal jurisdiction is gaining force, and although it's far from clear how far the courts will take it, there are more and more cases all the time," says Naomi Roht-Arriaza, a professor of international law at Hastings College of the Law in San Francisco.

Roht-Arriaza points out that the two federal laws that support the concept are not new -- the Alien Tort Claims Act dates from 1789, and the Torture Victims Protection Act was enacted in 1991.

"There haven't been changes in the laws, but there's much more awareness by judges and litigants that these laws are out there," she says.

The Center for Justice and Accountability, a six-person nonprofit organization with only a \$550,000 annual budget, is pursuing five other cases against individuals from China, Indonesia, Chile, Serbia and Honduras.

In one case, Gen. Johny Lumintang, the No. 2 official in the Indonesian army, is being sued by six victims of human rights abuses by troops under his command in East Timor. Lumintang initially chose to ignore the case -- a miscalculation, as he found out in September when a Washington, D.C., court awarded the plaintiffs \$66 million. Now, the court is deciding whether to accept Lumintang's request to contest the charges.

Other cases brought by the center include:



China. Six Falun Gong practitioners are suing Liu Qi, mayor of Beijing and president of the Beijing Organizing Committee for the 2008 Olympics, for his alleged responsibility for police repression of the religious group. Liu was served with the complaint at San Francisco International Airport in February.

Chile. Armando Fernandez-Larios, a former Chilean army officer living in Miami, is being sued for his alleged involvement in the "Caravan of Death" - - a helicopter death squad that tortured and killed at least 72 political prisoners.

Meanwhile, another significant victory may be near in a case brought by three Bay Area activist groups -- Global Exchange, Sweatshop Watch and Asian Law Caucus -- against 26 clothing corporations over abuses against Chinese workers in Saipan, a U.S. island in the western Pacific. Sources say all but one of the defendants, which include San Francisco firms Gap and Levi Strauss, are offering to pay the ex-workers \$20 million and create a monitoring system to prevent labor abuses in their factories. A settlement is expected in the coming weeks.

But the universal-jurisdiction movement has had its setbacks, even in countries that have laws strongly supporting the concept.

Two years ago, Spanish judge Baltasar Garzon failed in his attempts to extradite former Chilean dictator Augusto Pinochet to stand trial in Spain for human rights abuses. In April, a Belgian appeals court threw out a lawsuit against Israeli Prime Minister Ariel Sharon over his alleged role in massacres of Palestinian refugees in Lebanon in 1982. That case is being appealed to the Belgian Supreme Court, and the nation's parliament is debating a law that would allow the trial to go forward.

Although most of the U.S. cases originate with low-budget nonprofit groups such as the Center for Justice and Accountability, much of the actual prosecution is carried out by corporate law firms that donate their services pro bono. In a complex, long-running case, the value of these services can amount to millions of dollars.

The Salvadoran plaintiffs' case, for example, was led by a three-lawyer team from Morrison & Foerster, an international law firm based in San Francisco. The Caravan of Death plaintiffs are being represented by attorneys from Wilson, Sonsini, Goodrich & Rosati, a large corporate law firm based in Palo Alto.

On Monday, Morrison & Foerster is scheduled to receive the American Bar Association's annual award for pro bono work. Last year, the firm gave \$21 million in free legal services to nonprofit groups or poor individuals.

According to Amnesty International, there are hundreds of foreign human rights abusers now residing in the United States -- many of them, like the Salvadoran generals, in luxurious retirement.

Their former victims, along with organizations like the Center for Justice and Accountability and their teams of blue-chip lawyers, have plenty of work left to do.

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