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A California Reckoning in a Case of Abuses Abroad

By RICHARD C. PADDOCK

The three refugees from Somalia came to the Bay Area several years ago to escape the violence of their homeland, to put the terror behind them. But they were shocked to learn in 2002 that a former Somali official they believed responsible for brutality against their family was living freely in the United States.

To Bashe and Omar Yousuf, who are brothers, and their cousin Amina Jireh, that did not seem right.

“I was really mad,” said Omar, a Caltrans engineer who now lives in Hercules. “The person who destroyed the country and killed thousands and thousands of people was in the United States, and we couldn’t do anything about it.”

In fact, they could. They met in a friend’s living room in Oakland with lawyers from the Center for Justice and Accountability, a small San Francisco nonprofit. Since 1998, the little-known center, based on Market Street, has been filing suit on behalf of human rights victims seeking to hold their tormentors accountable. With the center’s assistance, Bashe and four other Somalis filed suit against the official, a former Somali prime minister living on the East Coast.

Now the case is before the [United States Supreme Court](#), a legal contest that is a test of whether former officials of foreign governments who are accused of committing war crimes before they moved to the United States have immunity from civil lawsuits. Oral arguments are scheduled for March.

“The issue is whether government officials who come to the United States and seek safe haven are above the law,” said Pamela Merchant, the center’s executive director. “The court will decide whether foreign government officials who use their powers to cause torture and rape and the killing of innocent civilians can be held responsible for their actions.”

The Center for Justice and Accountability was founded by Gerald Gray, a San Francisco psychotherapist who began treating victims of torture in 1985 and soon made it his exclusive practice.

In the mid-1990s, Mr. Gray received an urgent call from San Francisco General Hospital seeking help for a newly arrived Bosnian refugee. When he got to the hospital, he found that the refugee was distraught because he had discovered that his torturer was living in San Francisco.

Mr. Gray feared that the man might kill his tormenter, but instead the traumatized refugee fled to the East Coast. His torturer was never held accountable.

After that experience, Mr. Gray resolved to find a way to help victims bring their abusers to justice. With the assistance of [Amnesty International](#), he established the center.

“The law gives us a chance to do something in a civilized way,” said Mr. Gray, who serves on the center’s board and has founded other groups to aid torture victims. “If we didn’t have the law, or if it didn’t work, we would be stuck back in that primitive place of flight or fight.”

With a staff of 10, the center has carved out a niche among human rights groups by suing alleged human rights violators for damages. Since 1998 it has filed suits on behalf of human rights victims from five continents, winning every one of them that has gone to trial.

The center is unusual among rights organizations because it is based in San Francisco, rather than New York or Washington, where most have their headquarters. It typically recruits law firms around the country to work on cases without charge.

“They’ve been amazingly effective, especially given their small size and limited resources,” said Vienna Colucci, the managing director of Amnesty International USA.

William Aceves, an associate dean at the California Western School of Law in San Diego, said the lawsuits give victims a forum to confront their abuser.

“It’s never about money,” said Mr. Aceves, who sits on the center’s board. “It’s about an opportunity to present a case before a judge and jury, to be able to point a finger at the perpetrator and say, ‘What you did was wrong.’ ”

About 500,000 torture victims live in the United States, Ms. Merchant said. Amnesty International estimates that 1,000 people who committed human rights abuses also live here, sometimes in the same communities as their victims.

The Somali suit was filed in 2004 against Mohamed Ali Samantar, a defense minister and prime minister during the 1980s. Bashe Yousuf, who had been tortured and imprisoned in Somalia, became the lead plaintiff in the lawsuit, which says Mr. Samantar is responsible for the killings, torture, rape and unlawful detention carried out by military forces under his control.

For the center, the question is whether torture victims should have the chance to confront their abusers in court.

“Samantar should not be above the law,” said Ms. Merchant, the center director. “The United States should not be a safe haven for war criminals.”

Mr. Samantar, who came to the United States in 1997 and lives in Fairfax, Va., argues that he is protected from lawsuits by a federal law that grants immunity to foreign nations. He disputes the charges against him but declined to be interviewed.

“Mr. Samantar vigorously denies the particular allegations in the suit, none of which have ever been determined to be true by any court of law,” said one of his lawyers, Shay Dvoretzky.

Ms. Jireh and Omar Yousuf are members of the Bay Area’s small Somali community, which numbers about 1,500, mainly in San Jose and the East Bay. Bashe Yousuf now lives near Atlanta.

Unlike Somali refugees in other parts of the country, most in the Bay Area came from the northwestern part of Somalia, now known as Somaliland, which suffered some of the harshest abuses in the 1980s under the government of Maj. Mohammed Siad Barre, who seized power in a 1969 military coup.

The Barre government was notorious as one of the most brutal in Africa, and used summary execution, rape, torture and imprisonment without trial to control the population, particularly in Somaliland.

The government collapsed in 1991, and the country descended into chaos. Today, Somalia is a base for pirates who attack commercial vessels and for [Al Qaeda](#), which recruits fighters and suicide bombers there.

Mr. Samantar served under Barre as defense minister and first vice president from 1980 to 1986 and then as prime minister until 1990. He fled to Italy before coming to the United States.

Mr. Samantar’s lawyers argue that any actions he took were in his official capacity. Some refugees, particularly those from southern Somalia, view Mr. Samantar as a leader who fought to keep the country united.

Bashe Yousuf was a successful businessman in Hargeisa, Somaliland’s largest city. He was arrested in 1981 after leading an effort to clean up a hospital and obtain medical supplies from foreign charities.

The government falsely accused him and his colleagues of fomenting rebellion and conspiring with foreign agents. Mr. Yousuf was subjected to electric shocks, water boarded and held in solitary confinement for six years. He received political asylum and is now a United States citizen.

Four other Somalis joined the lawsuit: a man who survived execution by firing squad and hid under dead bodies until he could escape; a woman who was arrested, repeatedly raped and held for years in solitary confinement; a man whose two brothers were arrested and executed, and a man whose father and brother were killed when the military attacked civilians.

A district judge ruled in 2007 that Mr. Samantar had immunity and dismissed the suit. The United States Court of Appeals for the Fourth Circuit overturned the decision, ruling that the law applies to foreign states, not individuals. Mr. Samantar then appealed to the [Supreme Court](#).

“This case will set a precedent for a lot of countries that are ruled at gunpoint,” said Ms. Jireh, an insurance sales representative who lives in Brentwood. “He’s a war criminal who is living like you and me. That shouldn’t be O.K.”