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Banyan is disappointed by the *Kiobel* decision but still sees glimmer of hope for victims of corporate abuse

Banyan is disappointed that the US Supreme Court chose to reject the plaintiffs' appeal in *Kiobel*. The decision is troubling, making it more difficult for victims of human rights abuses - including war crimes and torture - to seek redress. Yet the decision has raised as many questions as it has left unanswered, and is in no way a grant of immunity to corporations who aid or abet such abuses.

Here is what we know:
1) The court rejected the plaintiffs' appeal unanimously
2) All nine justices did not rule out corporations being the subject of Alien Torts Statute ("ATS") lawsuits
3) The main opinion argued that we should presume that the ATS does not apply outside the US. However, this presumption can be overcome when "the claims touch and concern the territory of the United States... with sufficient force"
4) This opinion also argued that this principle should be extended to corporations. Mere corporate presence in the US does not suffice, and something more is required.
5) Four of the justices separately argued that showing some connection between the case and the US should be the threshold, requiring no presumption against application outside the US

**Simply put, corporations can still be sued, and can still be held liable for aiding and abetting human rights abuses.**

The threshold that plaintiffs now have to meet requires some significant connection to the US.

There is still a great deal that we don't know, including:
1) Whether the relevant connection is between the US and the act of abuse; or whether it is between the US and the act, victim or perpetrator of abuse. The main opinion implies that the connection could be between the US and the act, victim or perpetrator
2) What the threshold is to show a sufficient connection in each case

Justice Kennedy's separate opinion seems to envisage these questions being clarified through further lawsuits - another indication that companies cannot take this decision as a grant of immunity.

At Banyan, we are proud of the work that our team did to support the *amicus curiae* and the plaintiffs in arguing that corporations can be sued and that the ATS should apply extraterritorially. Our research came up in oral argument and was dealt with in the judgment itself. We look forward to mobilising more SOAS postgraduates to provide research on corporate accountability, be it supporting further such litigation; or engaging with legislative and policy processes at the national and global levels.

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Banyan: SOAS Advocates is a network of postgraduate law students studying at SOAS, University of London. Banyan mobilises these students to offer pro bono legal and policy research as well as drafting skills to interested third parties looking to collaborate on projects that have clear development, human rights or social justice advocacy goals. The society responds to requests from organisations such as civil society actors, law firms and development organizations.

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