The Alien Tort Statute After Kiobel: The Possibility for Unlawful Assertions of Universal Civil Jurisdiction still Remains

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ABSTRACT

The jurisdictional reach of causes of action brought under the Alien Tort Statute 1789 (ATS) was considered by the Supreme Court of the United States in Kiobel v Royal Dutch Petroleum. The claimants in this decision sought to bring an action before a US District Court asserting universal civil jurisdiction over the conduct of foreign corporations performed against non-US nationals in the territory of a foreign State. Although the Supreme Court dismissed the particular claim on the basis of a domestic canon of statutory interpretation (the presumption against extraterritoriality), the narrowness of its reasoning left open the possibility for actions to continue being brought under the ATS which assert universal civil jurisdiction over the harm caused by individuals rather than corporations. Moreover, this position was specifically endorsed by a four-member minority of the Supreme Court in the Concurring Opinion of Justice Breyer. This seminar argues that the reasoning of Justice Breyer is unconvincing and goes on to suggest that assertions of civil jurisdiction made under the universal principle are unlawful in international law as they fail to find a legal basis in either customary or conventional international law.

ABOUT THE SPEAKER

Mr Paul David Mora holds a research interest in public international law and has published various articles in academic journals and edited collections. His work on universal jurisdiction was cited by an amicus curiae brief submitted to the Supreme Court in Kiobel. He currently works for an investment management company, having previously held academic positions at Durham University, the University of Birmingham and BPP University.

REGISTRATION

There is no registration fee for this seminar but seats are limited. To register, please click here and you will receive an automated message upon submission. For enquiries, please contact Alexandria at Tel: 6601 2693 or email us at cemail@nus.edu.sg

Directions to the law school may be found at http://law.nus.edu.sg/about_us/location.html