

U.S. Overrules State Statute

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plaintiffs of slave labor said they would ask for a review of Tuesday's ruling by a larger panel of 9th Circuit judges. Lawyers for the companies that the state court ruled against are expected to appeal that decision to the California Supreme Court.

Normally, federal appeals court decisions are not binding on a state court and vice versa, said USC constitutional law professor Erwin Chemerinsky.

He added, however, that for the moment the 9th Circuit decision ruling the California law unconstitutional "makes the state court decision practically irrelevant." Ultimately, he said, the U.S. Supreme Court may have to resolve the dispute.

Foreign Policy at Issue

On Tuesday, the 9th Circuit held that permitting the plaintiffs to use California courts to seek damages would trample on U.S. foreign policy.

"California lacks the power to create a right of action for war-related claims against our former enemies and those [corporations] who operated in their territories," Judge Stephen Reinhardt wrote for the majority.

While acknowledging that the workers suffered terrible abuses and that he came to the decision reluctantly, Reinhardt said the California law "runs afoul of the [Constitution's] restriction on the exercise of foreign affairs powers by the state.

"The United States has already exercised its own exclusive authority to resolve the war [by treaties], including claims arising out of it," added Reinhardt. "It did not choose, however, to incorporate into that resolution a private right of action against our wartime enemies or their nationals."

The state statute gave California courts jurisdiction to hear World War II-era slave labor cases and allowed such claims to be filed until Dec. 31, 2010.

chose to create a specific cause of action for persons subjected to slave labor by the Nazis and their allies and sympathizers."

Ninth Circuit Judge Reinhardt emphasized that the 1999 law defines the class of plaintiffs who may sue, sets the method for measuring damages and "establishes a special rule regarding liability of corporations affiliated with the wrongdoer."

The courts also clash over whether California improperly invaded the federal government's exclusive preserve of foreign affairs.

"While neither the Constitution nor the courts have defined the precise scope of the foreign relations power that is denied to the states, it is clear that matters concerning war are part of the inner core of this power," Reinhardt wrote.

"Of the 11 clauses of the Constitution granting foreign affairs powers to the President and Congress... seven concern preparing for war, declaring war or settling war. Most of the Constitution's express limitations on states' foreign affairs powers also concern war," Reinhardt said, adding that the 1999 law specifically "seeks to redress wrongs committed in the course of the Second World War." Judges Barry Silverman and Stephen Trott joined the opinion.

In contrast, the California appeals court said the state law does not have an improper direct impact on U.S. foreign relations. The statute "does not involve the type of wide-ranging government scrutiny or criticism of a foreign government's practices that the Supreme Court found objectionable," when it overturned an Oregon law in 1968, the state court said.

California's law "does not have more than an 'incidental or indirect effect' on the federal government's current or future relations with any foreign country, such as Japan or Korea, because the statute applies retroactively, not prospectively, to claims against private companies