

## US Supreme Court to hear Nigerian torture case

The US Supreme Court began its new session on Monday by re-examining a lawsuit against Royal Dutch Shell Nigeria alleging that the oil giant was complicit in acts of torture.

Fresh from their pivotal decision in June to uphold President Barack Obama's health care overhaul, Chief Justice John Roberts and eight associate justices were hearing arguments in a case seeking to hold major companies liable under a 20 year-old statute for crimes committed outside the US borders.

Twelve Nigerians, who are petitioners in the case, accuse Shell of becoming an accomplice to torture, extrajudicial executions and crimes against humanity in the Niger Delta region.

"ATS clearly covers those violations," said Carey D'Avino, one of the plaintiffs' attorneys. Not everyone is so sure, however. The Supreme Court could be "afraid of some kind of backlash, and what other nations will think of us," said constitutional lawyer Lisa Blatt.

During the eight-month term, which runs until June 2013, the Supreme Court will also consider contentious domestic issues such as gay marriage and civil rights. In *Fisher versus the University of Texas*, the court will decide whether a white student, Abigail Fisher, was passed over unfairly for admission in 2008 because the school went too far with its affirmative action policy.

Aimed at correcting historic racial imbalances in education by favoring US minorities in public university admissions and other circumstances, affirmative action has come under increased scrutiny as America's minority population has soared.

It will be the first time the court has taken up the controversial issue since a 2003 ruling that said racial or ethnic quotas do not violate the US Constitution. Another hot-button issue in the United States is same-sex marriages and the court has at least eight appeals to consider on this subject.

Justice Ruth Bader Ginsburg said "it's most likely that we will have that issue before the court toward the end of the current term." James Esseys of the American Civil Liberties Union suggested the court will agree in November to take up, some months later, the Defense of Marriage Act (DOMA), a law that defines marriage as a legal union of a man and woman.

The case addresses federal rights granted to heterosexual spouses, such as inheritance rights, tax benefits and immigration rights, but denied to same-sex couples, even though, in several US states they are considered legally married.

Attorney Paul Smith said the court would act now on gay marriage. "It is very, very likely they will take one (case). It would create an enormous chaos not to take one." Neal Katyal, a former top government attorney under Obama who has argued numerous Supreme Court cases, said. "The court has to take DOMA but they don't have to take Prop 8," referring to California's same-sex marriage law.

Republicans reject charges that DOMA violates the due process clause of the Fifth Amendment of the US Constitution. After side-stepping the issue, Obama publicly endorsed gay marriage in May in a surprise move designed to draw a sharp contrast with Romney, his Republican rival in the November election who opposes same-sex unions.

Legal marriage between two men or two women is not recognised by the US federal government, but is now allowed in six of the 50 states including Washington.

Source: *AFP* via I-Net Bridge

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