

# Fund Fight

## Progressive 527s fend off Republican attacks. *By Nicholas Halverson*

ON MAY 13, A SIX-MEMBER BIPARTISAN panel of the Federal Election Commission (FEC) will decide whether Democrat-affiliated groups pushed McCain-Feingold campaign finance laws beyond the intention of the law—which could fundamentally reshape their fundraising efforts this election season.

The vote comes after months of GOP complaints that Democratic groups are circumventing finance laws by using massive soft money contributions to undermine the Bush reelection strategy.

Most recently, the Bush camp and the Republican Party accused Senator John Kerry and several Democratic organizations of violating the Bipartisan Campaign Reform Act (BCRA or McCain-Feingold). Republicans claim that “527” groups such as MoveOn.org Voter Fund, the Media Fund and America Coming Together are illegally in cahoots with the Kerry campaign by

purchasing television advertisements that support the Democratic candidate.

Falling under the section of federal tax code that named them, 527s are able to collect unlimited contributions of soft money from corporations, labor unions and independent donors. Political neutrality is required, however, in order for these groups to fund voter drives and TV commercials. As long as they don’t directly coordinate with a political party, these groups are free to use unlimited contributions however they please.

If the FEC deems the 527’s political initiatives as too collaborative, unrestricted million-dollar contributions will be curbed and individual donations will be limited to \$5,000. Corporate and labor union contributions also would be barred under this ruling.

As of March 22 the Bush campaign had raised \$158 million compared to the Kerry campaign’s \$41 million. Republicans now

claim that groups like the Media Fund, run by former Clinton White House aide Harold Ickes, are operating a “shadow” Democratic Party by airing \$5 million worth of anti-Bush television ads.

Media Fund spokeswoman Sarah Leonard writes off the allegations as “vintage Republican intimidation tactics.”

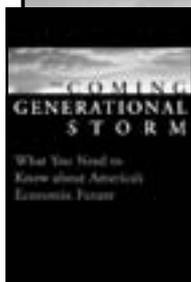
And heads of 527s vehemently deny they have broken any laws.

“We do not coordinate with the Kerry campaign,” says Wes Boyd, president of the MoveOn.org Voter Fund. “These charges are baseless and irresponsible.”

This is not the first time Republicans have gone after 527s. Last November, Republican National Committee Chairman Ed Gillespie wrote letters to campaign finance watchdogs urging them to investigate the groups. House Republicans also sought to limit the groups’ activities by holding House Administration Committee hearings and threatening the use of subpoenas.

Those in the 527 community demurred, however, arguing that the GOP was merely using its legislative authority to shut down the operation or, failing that, again steal from the Democratic playbook. ■

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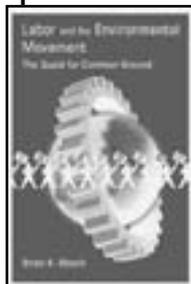
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# And Justice for All?

Department of Justice seeks to weaken law protecting human rights. *By Brian H. Kehrl*

**T**HE U.S. SUPREME COURT for the first time is examining the validity of opening federal courts to foreigners, and what Congress intended when it drafted a nondescript, sentence-long law more than 200 years ago that has been used recently to defend international victims of human rights abuses.

On March 30 the High Court heard arguments on two combined cases involving the Alien Tort Claims Act of 1789 (ATCA), a law interpreted to allow foreign victims of human rights violations the ability to sue in federal court. The cases involve a Mexican doctor who was arrested and brought to the United States by Mexican nationals hired by the U.S. Drug Enforcement Agency (DEA).

Dr. Humberto Alvarez-Machain was charged in 1990 with participating in the murder of a DEA agent in Mexico but was acquitted after two years of court battles for lack of evidence. The presiding judge called the government's charges "wild hunches and speculation" when he dismissed the case.

Alvarez-Machain returned to Mexico and filed suits against the U.S. government and Francisco Sosa, a Mexican policeman hired by the DEA for the kidnapping.

A federal district court in Los Angeles dismissed the suit against the government but ruled in favor of Alvarez-Machain in the suit against Sosa and awarded the doctor \$25,000 in damages. After Sosa appealed, the Ninth Circuit Court of Appeals in San Francisco upheld the judgment and also reinstated the case against the government.

Both decisions were appealed to the Supreme Court.

In *Sosa v. Alvarez-Machain*, the ACLU is defending the doctor's right to bring civil claims under ATCA. In *United States v. Alvarez-Machain*, the ACLU is defending his right to bring claims against the U.S. government under the Federal Tort Claims Act for its role in the kidnapping.

"Both cases will likely have an important impact on efforts to use U.S. courts to curb governmental and non-governmental abuses beyond our borders," says Steven R. Shapiro, legal director of the ACLU.

ATCA, which doesn't require either party to reside in the United States, has developed into one of the most promising federal laws in defending international victims of human rights violations. The Act allows non-U.S. citizens to bring civil lawsuits for abuses "committed in violation of the law of nations or a treaty of the United States."

Since the landmark *Filartiga v. Peña-Irala* case in 1980, when a Paraguayan man successfully sued a Paraguayan police officer for the torture and murder of his son, ATCA has been used to sue foreign individuals in the United States, transnational corporations such as Exxon/Mobil, Unocal and Coca-Cola (see "Unocal off the Hook?" March 15), and now the American government.

ATCA has come under heavy fire recently from U.S. corporations and the Bush administration, the most vocal executive opponent to date, says William Aceves, a professor at California Western School of Law. Aceves is also affiliated with Human Rights

First, which works on behalf of victims of human rights violations in the United States and abroad.

The U.S. Department of Justice, the International Chamber of Commerce, the American Petroleum Institute, the Business Roundtable (an association of CEOs of major U.S. corporations) and the National Foreign Trade Council all submitted briefs encouraging a narrow interpretation of the law. They contend that a broad reading of ATCA would discourage corporations from foreign investment, force courts to rule on U.S. foreign policy and limit the

government's ability to pursue foreign terrorists.

Aceves, who filed a brief on behalf of Alvarez-Machain, says the law is essential in supporting the development of international human rights law. He disputes that ATCA would have a detrimental effect on corporations or the war on terror. No ATCA cases so far, he says, have shown any sign of such side effects. "Unless," he adds, "you consider victims of terror having the right to file lawsuits."

The Supreme Court will review further U.S. action in regard to international law when it hears cases this month challenging the government's denial of due process to U.S. citizens designated as enemy combatants and to foreign nationals indefinitely detained at the military base in Guantánamo Bay, Cuba. ■

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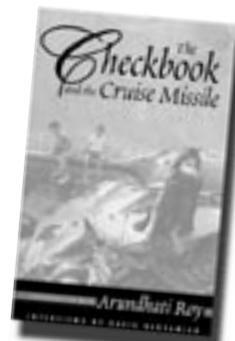
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