After seeing their claims denied in American courts, twenty survivors of military sexual assault have collaborated to take their grievances beyond the country’s borders and have their case heard before the hemisphere’s only international human rights body.

The petitioners — seventeen women and three men — filed their complaint earlier this year with the Inter-American Commission on Human Rights (IACHR), an independent body of the Organization of American States. Composed of the majority of the Western
Hemisphere's countries, the United States has been a member — and advocate — of the OAS since its founding, using its considerable influence to marshal Latin America into a unified position. According to the documents filed with the IACHR, the petitioners accuse the United States of violating their rights under the American Convention on Human Rights in denying them justice in the courts.

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The survivors all reported being sexually assaulted during their time serving in the military, across all branches of the armed services. “In most instances, the petitioners’ claims were not investigated or when investigated, the perpetrators received no to minimal punishment,” the court document filed with the IACHR reads. Many of them faced demoted or outright expelled from service. “In the majority of instances, reporting the rapes led to the termination of petitioners’ military careers. The rape victims were not able to take any actions that civilians may take to protect themselves from sexual predators, such as calling the police, going to a shelter, changing housing or jobs, or relocating.”

Towards the end of their petition, the survivors enumerate what exactly they are seeking from the case. One request — a full investigation and an advisory opinion about the scope of the U.S.’ obligations under the American Declaration — is more abstract, but others are concrete: monetary recompense for having their rights violated, and endorsement of a series of recommendations as to how the U.S. handles military sexual assault.

While the circumstances of their assaults vary, all twenty share that they sued former Secretaries of Defense Donald Rumsfeld and Robert Gates in federal court in 2011 over the handling of their cases and were featured in the documentary “The Invisible War.” But that earlier case was dismissed as the military remains immune from civil suit in Federal court. The military’s own separate justice system remains the final arbiter of disputes among the branches — including sexual assault and rape. There is no sign that the case against Rumsfeld and Gates will reach the Supreme Court anytime soon.

The petitioner’s case, however, did catch the eye of lawyers from the Cornell International Human Rights Clinic. The lawyers at the Clinic “felt that it's important to highlight that this is an international human rights issue,” Naureen Shameem, a member of the team

http://thinkprogress.org/world/2014/03/27/3418596/mst-oas/
representing the victims, told ThinkProgress in a phone interview, and so it took the case to the IACHR.

The move to the IACHR isn't about criticizing U.S. policy, she insisted. Instead, it's "about looking at what seems to be a culture of impunity and looking at a group of victims who have experienced sexual violence and attendant physical and psychological harm which is ongoing into the present day."

The tipping point for the Clinic was the prolonged fight in the Senate over just what form reform of military sexual assault rules would take. As Congress is the only body able to revise the Universal Code of Military Justice, their decision would determine the handling of sexual assault cases. Last month, the Senate opted to pass a version of reform championed by Sen. Claire McCaskill (D-MO) — which had the support of the military's top brass — over one from Sen. Kirsten Gillibrand (D-NY). Gillibrand's bill went further, however, and contained a provision designed to remove decisions about whether to proceed with investigations, prosecutions, and punishment of sexual assault and rape cases from the chain of command — one of the suggested reforms the petitioner's case puts forward.

"The Senate's unanimous passage of the military sexual assault bill is an important step forward," Liz Brundige, director of the Cornell clinic, said in a statement. "But even if its provisions become law, they do not go far enough. As the petitioners' case before the Inter-American Commission makes clear, international and regional human rights law require the United States to implement reforms that remove decision-making powers from the chain of command and enable survivors of sexual assault in the military to seek meaningful redress without jeopardizing their careers."

When asked what a success at the Commission looks like, Shameem was quick to note the importance of allowing the victims to have their voices heard during the case's hearing stage and emphasize just what the United States' international human rights obligations are. "It would be important to outline concrete steps that can be taken to address this issue," Shameem said, "trying to really get an independent and impartial investigation into this issue, and looking forward to actually trying to enact significant change in the system."

Another goal is "trying to get people to look at this from a slightly different paradigm, which is one of international human rights and not merely something which is internal," she said. "Because often that kind of public-private divide, as in 'this is our house, this is private, this is the United States,' has parallels in the way in which sexual violence is still made out for the most part as a private matter as opposed to actually being a violation that has public implications."
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There is recent precedent for taking complaints involving abuse and assault to the IAHRC for adjudication. In 2011, the Commission ruled in favor of Jessica Gonzales (nee Lenahan), saying that the U.S. government was responsible for human rights violations against her and her three deceased children. Gonzales’ estranged husband kidnapped their children in 1999 over a domestic violence restraining order, confronting the police in what turned into a deadly shootout. The three children were discovered in the car after the firing had ended with Gonzales dead and no proper investigation was launched into the children’s death, the Commission ruled.

But the petitioners’ process won’t be swift. The seven commissioners must first decide if the petitioners’ case is even admissible, a process that can take at least 6 months to a year. Then the United States will have the chance to file its own response and various interested parties can submit amicus briefs to the court. From there, the entire process of possibly holding public hearings, debate among the commissioners on the merits, and rendering of a verdict can last another three or four years. But the petitioners appear to be on board for the long haul in order to both see justice for themselves and for their colleagues still serving in the military.

In the meantime, the number of victims involved in the case may still grow, Shameem said, as others still could come forward to join the effort. Given the statistics, there will be no shortage of possibilities, should the current reforms prove to be ineffective. Last year, the Department of Defense estimated that 26,000 instances of sexual assault had occurred over the course of 2012, a number that Center for American Progress analysts believe may in fact be even higher.

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