Supreme Court Narrows Liability Under the Alien Tort Statute and the Torture Victim Protection Act

June 26, 2026

On Tuesday, the U.S. Supreme Court curtailed the scope of both the Alien Tort Statute and the Torture Victim Protection Act in a 6-3 decision in *Cisco Systems, Inc. v. Doe*.[1]

The Court first held that the Alien Tort Statute ("ATS"), which grants U.S. courts jurisdiction over claims brought by foreigners for violations of international law or U.S. treaties,[2] is purely jurisdictional and thus does not permit courts to create causes of action for violations of international law. In so doing, the Court overruled its 2004 decision in *Sosa v. Alvarez-Machain* that had allowed courts to recognize such causes of action in very narrow circumstances.[3] The decision brings the Court's ATS jurisprudence in line with its more recent decisions holding that "judicially created causes of action offend the separation of powers in almost every circumstance," and virtually eliminating courts' authority to fashion them.[4]

As for the Torture Victim Protection Act ("TVPA"), the Court determined that the plain text of the statute does not impose liability for aiding and abetting torture and extrajudicial killings, as some federal appellate courts had previously held.

The Court's decision brings clarity to the scope of two frequently-litigated statutes that plaintiffs have in the past relied upon to sue U.S. and foreign corporations in connection with their overseas operations.

The Present Case. Plaintiffs filed suit in the U.S. District Court for the Northern District of California alleging that the Chinese government had persecuted them because of their religious practices as members of the Falun Gong movement. Plaintiffs sued Cisco Systems, Inc. and certain of its executives on the basis that Cisco had allegedly "enabled that persecution by developing surveillance technology that allowed

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1 No. 24-856, slip op. (U.S. June 23, 2026).

2 28 U.S.C. § 1350 ("The district courts shall have original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States.").

3 542 U.S. 692, 724–25 (2004).

4 *Cisco*, No. 24-856, slip op. at 10.

China to identify and apprehend them."[5] Plaintiffs filed suit under the ATS, claiming that the defendants had aided and abetted seven violations of international law, and one plaintiff brought TVPA claims against two executives for allegedly aiding and abetting torture.

Although the district court initially dismissed plaintiffs' complaint, the U.S. Court of Appeals for the Ninth Circuit reversed in relevant part, applying *Sosa* to hold that the aiding-and-abetting claims were viable under the ATS and ruling that claims of aiding and abetting "torture or extrajudicial killing" are within the TVPA's scope.[6]

The Supreme Court's Decision. The Supreme Court overruled *Sosa* to hold that U.S. courts' authority to create a cause of action under the ATS, "always described as slight," is in fact "nonexistent."

Justice Barrett, writing for the majority, first outlined how courts had come to read the ATS's jurisdictional grant as authority to impose substantive liability. The Court observed that even though the ATS was enacted by the First Congress in 1789, it "lay mostly dormant" until 1980, when the federal appellate courts invoked it to recognize causes of action for violations of international law, like torture. When the Supreme Court first took up the ATS, in *Sosa*, it rejected the cause of action that plaintiffs there proposed—for arbitrary detention in violation of international law—but determined that, subject to "vigilant doorkeeping," U.S. courts could recognize causes of action for violations of international norms with a "definite content and acceptance among civilized nations," where it would be prudent for the courts to do so despite congressional inaction.[7] In other words, the international norms would need to be comparable to the ones that the First Congress assumed courts would recognize, namely the three that the 18th-century scholar William Blackstone described in his treatise: "violation of safe conducts, infringement of the rights of ambassadors, and piracy."[8]

In every subsequent case concerning the ATS that the Supreme Court heard, however, it narrowed the circumstances in which courts could impose liability and it never created a cause of action under the ATS. Between 2013 and 2021, the Court held that the presumption against extraterritoriality restricted ATS claims based on alleged violations occurring outside the United States,[9] that the ATS did not extend liability to foreign corporations,[10] and that allegations of "general corporate activity" could not "alone

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5 *Id.* at 6.

6 *Doe I v. Cisco Systems, Inc.*, 73 F.4th 700, 720, 746 (9th Cir. 2023).

7 *Sosa*, 542 U.S. at 726–28, 729, 732.

8 *Id.* at 715, 724–25.

9 *Kiobel v. Royal Dutch Petroleum Co*, 569 U.S. 108, 124 (2013).

10 *Jesner v. Arab Bank, PLC*, 584 U.S. 241, 272 (2018).

establish domestic application of the ATS."[11] In *Cisco*, the Court observed that although "few plaintiffs have successfully litigated ATS suits to final judgment, many more have sued and obtained large settlements."[12]

Against that backdrop, the Supreme Court decided in *Cisco* to "close the door that *Sosa* cracked to judicially created ATS liability."[13] Although the Court was clear that U.S. courts may not recognize any new causes of action for violations of international law under the ATS, it did not disturb *Sosa*'s ruling that causes of action for Blackstone's three examples remain available. The Court took as its "starting point" that the ATS is "a jurisdictional statute creating no new causes of action," as *Sosa* itself had recognized, and observed that Justice Scalia would have ended the analysis there, without permitting courts to create new causes of action.[14]

The Court relied upon two separation-of-powers rationales for largely overruling *Sosa* now. *First*, even *Sosa* had recognized that courts must exercise "great caution" and assess the "risks of adverse foreign policy consequences" of creating a new cause of action,[15] such that courts' practical ability to do so was "narrow at the outset."[16] *Second*, the Court held that "the power to create causes of action belongs to Congress," not the Judiciary. Justice Barrett pointed to the Court's recent decision in *FS Credit Opportunities Corp. v. Saba Capital Master Fund, Ltd.*, which explained that the Court has "rejected the practice of fashioning rights of action as we see fit," because "[h]ome-grown causes of action are difficult to reconcile with the Constitution's separation of legislative and judicial power."[17] The Court acknowledged that its jurisprudence had shifted since *Sosa* was decided to virtually eliminate judicially created causes of action.

As to the TVPA, the Court held that the statutory text does not impose aiding-and-abetting liability because it "nowhere mentions aiding-and-abetting liability."[18] The Court relied on its 1994 decision in *Central Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A.*, where it had held that the omission of the terms "aiding and abetting" from Section 10(b) of the Securities Exchange Act of 1934 meant that the statute does not create civil liability for aiding and abetting, particularly because Congress expressly imposes civil aiding-and-abetting liability in other statutes.[19] The Court applied the

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11 *Nestlé USA, Inc. v. Doe*, 593 U.S. 628, 634 (2021).

12 *Cisco*, No. 24-856, slip op. at 11 n.2.

13 *Id.* at 12.

14 *Id.* at 7.

15 *Sosa*, 542 U.S. at 694, 728–29.

16 *Nestlé USA, Inc.*, 593 U.S. at 636 (discussing "[j]udicial authority under [*Sosa*'s] test").

17 *Cisco*, No. 24-856, slip op. at 9 (quoting *FS Credit Opportunities Corp. v. Saba Capital Master Fund, Ltd.*, 608 U.S. _____ (2026) (slip op. at 3–4)) (citation modified).

18 *Id.* at 13.

19 511 U.S. 164, 175–77, 182–83 (1994).

same reasoning to the TVPA, which provides a cause of action for someone who "subjects" another to torture but does not mention aiding-and-abetting liability.[20]

Takeaways. The Supreme Court's decision in *Cisco* curtails the reach of both the ATS and the TVPA, and provides potential litigants with clarity as to the scope of substantive liability imposed by U.S. law. Plaintiffs have previously invoked both statutes in cases against U.S. and foreign companies, especially in connection with their operations beyond U.S. borders.

The Supreme Court's decision prohibiting U.S. courts from creating causes of action for violations of international law under the ATS comports with its recent decisions curtailing judicial authority to create rights of action based on separation of powers concerns.

Although *Cisco* provides certainty as to the ATS and as to the TVPA aiding and abetting theory, U.S. and foreign companies with overseas operations continue to face a wide range of claims in U.S. courts brought by overseas plaintiffs. Foreign plaintiffs will certainly continue pursuing claims arising under other federal statutes that expressly provide a private right of action for claims arising from overseas conduct or by seeking to extend federal statutes of general application extraterritorially.

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[20] *Cisco*, No. 24-856, slip op. at 12–13.