Supreme Court Closes the Door on New Alien Tort Claims: *Cisco v. Doe* Overturns Recent Precedent

Jul 27, 2026

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***Cisco Systems, Inc. v. Doe*, 609 U.S. ___ (June 23, 2026)**

In *Cisco Systems, Inc. v. Doe*, the U.S. Supreme Court held in a 6-3 decision that courts may not create new causes of action for violations of international law under the Alien Tort Statute (ATS). It also held 8-1 that the Torture Victim Protection Act (TVPA) does not provide for aiding and abetting liability. The decision essentially overturns the Supreme Court's 2004 decision in *Sosa v. Alvarez-Machain*, 542 U.S. 692, which emphasized that "courts have narrow authority to create causes of action" under the ATS. *Cisco* also continues a trend of U.S. Supreme Court cases limiting the ability of foreign plaintiffs to use American courts as a venue to redress human rights and other international law violations.

Background

The Doe plaintiffs faced alleged persecution by the Chinese government because of their membership in the Falun Gong movement, a religious and spiritual discipline that grew rapidly across China. They alleged that Cisco "enabled that persecution by developing surveillance technology that allowed China to identify and apprehend them." The plaintiffs asserted that Cisco and its executives were liable for aiding and abetting international law violations based on the ATS, and one plaintiff brought claims against two executives for allegedly aiding and abetting violations of the TVPA.

In 2011, the plaintiffs filed suit in the U.S. District Court for the Northern District of California. The district court dismissed all claims in 2014, finding that the complaint failed to demonstrate "the nexus between acts committed by Defendants in the United States and the alleged violations that ultimately took place in China." *Doe I v. Cisco Systems, Inc.*, 66 F.Supp.3d 1239, 1246 (N.D. Cal. 2014). The

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court found that the plaintiffs failed to sufficiently allege that Cisco was liable under the ATS for aiding and abetting the alleged violations.

The U.S. Court of Appeals for the Ninth Circuit reversed in part, citing *Sosa* and deciding that "such liability is cognizable for the purposes of the ATS." *Doe I v. Cisco Systems, Inc.*, 73 F.4th 700, 717 (9th Cir. 2023). The Ninth Circuit also held that "aiding and abetting torture is actionable under the TVPA." *Id.* at 741.

Supreme Court's Opinion

The Supreme Court reversed the Ninth Circuit's decision. Justice Barrett authored the opinion, which holds that courts are not permitted to create new causes of action under the ATS and that the TVPA does not provide for aiding and abetting liability.

Regarding ATS causes of action, the Supreme Court relied on *Sosa* and the concerns that case raised, via its two-step test, which required plaintiffs to show, first, that an international norm has a "definite content and acceptance among civilized nations," and second, that it would be "prudent for the court to create the proposed cause of action when the political branches have not acted." Particularly, the Supreme Court focused on the narrowness of judicial authority under *Sosa*'s second step, describing it as "narrow at the outset." Justice Barrett noted the court had not created an ATS right of action since *Sosa*. Additionally, the majority found it difficult to imagine a case where courts might safely conclude that a new ATS cause of action would not carry adverse foreign policy consequences, and it stressed that the power to create causes of action belongs to Congress, not the judiciary.

As for the TVPA, the Supreme Court relied first on *Central Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A.*, 511 U.S. 164 (1994), where it reasoned that civil aiding and abetting liability is a specialized form that Congress must expressly provide for, thereby establishing the principle that statutory silence on secondary liability forecloses it. Second, the Supreme Court relied on textualism, noting that the TVPA does not mention aiding and abetting anywhere and disputing the plaintiffs' argument that

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"subjects" in the TVPA was broad enough to include aiding and abetting liability. The court then explained what it meant to "subject" another to torture.

Justice Sotomayor's Dissent

Justice Sotomayor dissented, joined in part by Justices Kagan and Jackson. They argued that the majority overruled *Sosa* without acknowledging it and closed the courthouse doors to "virtually every future litigant seeking redress for a violation of international law under the ATS." Justice Sotomayor also argued that the majority erred by ignoring the plain meaning of the TVPA and shut the door "to claims by U.S. citizens against those who aid and abet torture." On that point, Justices Jackson and Kagan disagreed, instead siding with the majority that the TVPA does not provide for aiding and abetting liability.

Key Takeaways

- By holding that courts may not create new causes of action under the ATS, the Supreme Court narrowed the circumstances in which companies may be subject to international law claims in federal court. The avenue for foreign claimants to pursue such claims in federal court will now be more constrained, and plaintiffs may have to look for alternative forums.
- The Supreme Court did not disturb ATS liability for violations of safe conducts, infringement of ambassadors' rights, and piracy.

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