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## In a Victory for WLF, Federal Court Reins in Human Rights Suits Filed Under Alien Tort Statute

*(Doe I v. Exxon Mobil Corp.)*

**“It is rarely appropriate for federal courts to create private rights of action when Congress has declined to do so. It is never appropriate to do so when, as here, the lawsuit is highly likely to create diplomatic strife between the United States and a foreign government.”**

**—Richard Samp, WLF Chief Counsel**

WASHINGTON, DC—The U.S. District Court for the District of Columbia late yesterday dismissed decades-old claims filed by human rights activists against a multinational corporation under the Alien Tort Statute (ATS). The decision was a victory for Washington Legal Foundation, which filed an *amicus* brief last year in *Doe I v. Exxon Mobil Corp.*, urging dismissal. The court agreed with WLF that Congress adopted the ATS in 1789 as a means of reducing the risks of diplomatic strife, and that ATS suits are impermissible when, as here, the suits are likely to *increase* strife between the United States and a foreign government.

The ATS states that federal courts have jurisdiction to hear tort claims filed by aliens who allege that a defendant violated their rights under international law. But Congress has not authorized aliens to file any such lawsuits, except for a very narrow category of suits authorized by the Torture Victim Protection Act. Several federal appeals courts nonetheless have recently acted on their own to recognize private rights of action filed by human rights groups under the ATS. Those lawsuits typically allege: (1) a foreign government’s mistreatment of its own citizens violated their human rights; and (2) U.S. corporations doing business in that country should be held liable for “aiding and abetting” the violations—frequently, by funding government security forces that guard the corporation’s production facilities. Yesterday’s ruling recognized that a recent Supreme Court decision (*Jesner v. Arab Bank*) calls into question all such suits.

The *Exxon* suit is among the Nation’s longest-running ATS lawsuits. Several Indonesian citizens filed it in 2001, claiming that their government committed atrocities during a civil war that raged in Indonesia 20 years ago. But they sued Exxon, not Indonesia (which is protected from suit by sovereign immunity). They contend that Exxon aided and abetted Indonesia’s human-rights violations by providing funding and training to Indonesian security forces that protected Exxon gas facilities. The district court agreed with WLF that because such suits ask American courts to sit in judgment of the conduct of a foreign government and thus inevitably create significant conflict between the United States and the foreign government, they are not authorized under the ATS. The court held that it is up to Congress, not the courts, to determine whether such diplomatic costs are warranted. The court also ruled that the ATS authorizes suits only against individuals, not corporations, and that the plaintiffs’ only recourse is to seek common-law remedies under Indonesian law.

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