

No. 24-856

In the Supreme Court of the United States

CISCO SYSTEMS, INC., ET AL., PETITIONERS

v.

DOE I, ET AL.

*ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT*

**BRIEF FOR REVEREND BOB FU AND OTHER
INDIVIDUALS AND ORGANIZATIONS DEFENDING
RELIGIOUS FREEDOM AS *AMICI CURIAE*
IN SUPPORT OF RESPONDENTS**

JAMES I. PEARCE
Counsel of Record
SAMANTHA P. BATEMAN
SYDNEY FOSTER
WASHINGTON LITIGATION GROUP
1717 K St. NW, Suite 1120
Washington, DC 20006
(202) 521-8750
jpearce@washington-
litigationgroup.org

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INTERESTS OF *AMICI CURIAE*¹

Amici Curiae are several individuals and organizations committed to pursuing and preserving religious freedom and to protecting against religious persecution throughout the world. *Amici* include:

- **Reverend Bob Fu**, who serves as the Founder and President of ChinaAid, which monitors persecution of Christians in China.
- **Rabbi Shlomo Aviner**, who is the President of the Ateret Jerusalem Yeshiva.
- **Sam D. Brownback**, who served as the Ambassador-At-Large for International Religious Freedom from 2018 until 2021.
- **Global Women Christian Chamber of Commerce Embassy**, which is dedicated to education and charitable initiatives for Christian women-led businesses and associated entities.
- **Grace Jin Drexel**, whose father, Pastor Mingri “Ezra” Jin, is jailed in China.
- **George Garland**, who is the President of the U.S. Chapter for the International Association for Religious Freedom.
- **Family Research Council**, which believes that religious liberty—the freedom to hold religious beliefs of one’s own choosing and to live in accordance with those beliefs—is an

¹ No counsel for a party authored the brief in whole or in part and no person or entity, other than amici curiae and their counsel, made a monetary contribution to the preparation or submission of the brief.

inherent human right, and therefore believes that people being persecuted for their faith around the world must be staunchly defended.

- **Greg Mitchell**, who is the managing co-chair of the International Religious Freedom Roundtable, which consists of individuals from non-governmental organizations who gather to discuss international religious freedom issues.
- **Religious Freedom Institute**, which is committed to achieving broad acceptance of religious liberty as a fundamental human right, a source of individual and social flourishing, the cornerstone of a successful society, and a driver of national and international security.
- **Rabbi David Rosen**, who is the International President of Religions for Peace, which is the world's largest and most representative religious organization, and which advances common action for peace among the world's religious communities.
- **Dr. Katrina Lantos Swett**, who serves as the President of the Lantos Foundation, which works to ensure that all persons be allowed to practice and express their own religious view, or lack thereof, with impunity.

INTRODUCTION AND SUMMARY OF ARGUMENT

The same First Congress that enacted the Alien Tort Statute (ATS), 28 U.S.C. § 1350, proposed what became the First Amendment, which “broke new constitutional ground in the protection it sought to afford to freedom of religion.” *Torcaso v. Watkins*, 367 U.S. 488, 492 (1961). By passing the ATS, the First Congress vested federal courts “with jurisdiction to entertain civil causes brought by aliens alleging violations of the law of nations.” *Sosa v. Alvarez-Machain*, 542 U.S. 692, 719 (2004). And by proposing the First Amendment, the First Congress established our Nation as a beacon of religious freedom—what President Ronald Reagan two hundred years later (quoting a 1630 sermon by Puritan John Winthrop) would call a “shining city upon a hill.” Ronald Reagan, Farewell Address to the Nation (Jan. 11, 1989), <https://perma.cc/3VT2-DVMW>.

The case before this Court unites these two bedrock American commitments. Although the ATS was little used in the two centuries after its passage, the First Congress did not intend it merely to lie “fallow indefinitely,” but instead to ensure that foreign nationals who have suffered a violation of certain fundamental personal and human rights could obtain legal redress. *Sosa*, 542 U.S. at 719; *see also Jesner v. Arab Bank, PLC*, 584 U.S. 241, 257-58 (2018) (international-law norms must be “specific, universal, and obligatory” (citation omitted)). All parties agree—and Congress has confirmed by statute—that being subjected to torture constitutes such a fundamental norm. Pet. App. 22a-23a & n.7; *see* The Torture Victim Protection Act of 1991 (TVPA), 28 U.S.C. § 1350 note. The allegations in this case, moreover, involve torture and arbitrary

arrest “because of” respondents’ “religious beliefs.” J.A. 2. Given its commitment to religious freedom, the First Congress would be gratified to learn that protecting religious minorities from oppression and torture has achieved “acceptance among civilized nations.” *Sosa*, 542 U.S. at 732.

The narrow question this case presents is whether plaintiffs alleging they have been subjected to torture because of their religious beliefs may invoke an accomplice liability theory under the ATS and the TVPA. Respondents in their brief comprehensively explain why text and history require answering that question in the affirmative, as the court of appeals correctly did.

Accepting petitioners’ contrary position would carry profound consequences for the protection of religious minorities throughout the world. The federal government and private organizations recognize that religious persecution throughout the globe not only persists but has worsened in recent years. In 2025 alone, thousands of religious adherents suffered mistreatment because of their beliefs, and those concerns are particularly acute in countries such as China and Nigeria, where religious minorities face arrest, detention, suppression, targeted violence, and ongoing surveillance.

The ATS and the TVPA provide a critical bulwark for victims of religious persecution. As the handful of ATS and TVPA cases demonstrate, victims of such persecution are nearly always unable to seek relief other than in United States courts because court systems elsewhere are not functioning or are under the control of the same authorities responsible for their persecution. In addition, aiding-and-abetting theories

under the ATS and the TVPA ensure that all those responsible for the torture or maltreatment of religious communities are held to account. This Court should leave intact these narrow but crucial tools for safeguarding religious minorities and affirm the decision of the court of appeals.

ARGUMENT

I. RELIGIOUS PERSECUTION REMAINS A SERIOUS PROBLEM THROUGHOUT THE WORLD.

Religious persecution—including persecution that occurs through torture, extrajudicial killings, and other conduct that violates international law—has long been a substantial problem worldwide. Unfortunately, the scourge persists today. Indeed, the President has determined that numerous countries continue to commit significant violations of religious freedom in contravention of international law, and multiple recent reports by federal agencies and private organizations have documented the extent and seriousness of the violations. Examples of abuses committed in several countries illustrate the severity of the problem.

A. The Federal Government and Private Organizations Have Found That Religious Persecution Is Occurring Throughout the World.

The longstanding “assault” in “many countries” on the “right to freedom of religion”—a “universal human right and fundamental freedom articulated in numerous international instruments”—prompted Congress to enact the International Religious Freedom Act of 1998 (IRFA), 22 U.S.C. §§ 6401-6483—a statute that seeks to advance religious freedom throughout the world. *Id.* § 6401(a)(2), (4). When Congress passed

IRFA, it found that “religious believers in many countries face . . . severe and violent forms of religious persecution,” such as “detention, torture, beatings, forced marriage, rape, imprisonment, enslavement, mass resettlement, and death merely for the peaceful belief in, change of[,] or practice of their faith.” *Id.* § 6401(a)(5).

That dire assessment remains true today, as reflected in determinations by the President that numerous countries continue to commit serious violations of religious freedom and as documented in detailed reports by federal agencies on international religious freedom—determinations and reports required by IRFA, as amended. Specifically, the U.S. Commission on International Religious Freedom (Commission)—an independent, bipartisan agency, 22 U.S.C. § 6431(a)-(b)—is charged with conducting an “annual and ongoing review of the facts and circumstances of violations of religious freedom” throughout the world, *id.* § 6432(a)(1), and producing an annual report detailing its findings and recommendations, *id.* § 6433(a). The U.S. Department of State is likewise responsible for producing an “Annual Report on International Religious Freedom.” *Id.* § 6412(b)(1). Based in part on these reports, the President then (1) “designate[s]” a foreign nation as a “country of particular concern” if it has “engaged in or tolerated particularly severe violations of religious freedom” in the prior year; and (2) includes the country on a “Special Watch

List” if the violations have been “severe” but not “particularly severe.” *Id.* § 6442(b)(1)(A)-(B).²

Significantly, 13 countries (including China, Iran, and Nigeria) are currently designated as “Countries of Particular Concern.” Office of Int’l Religious Freedom, U.S. Dep’t of State, *Countries of Particular Concern, Special Watch List Countries, Entities of Particular Concern*, <https://perma.cc/Y8XX-C56N> (last visited Mar. 24, 2026). The standard that violations of religious freedom must satisfy to be “particularly severe”—and thus the bar these 13 countries had to clear to be listed as a Country of Particular Concern, 22 U.S.C. § 6442(b)(1)(A)(i)-(ii)—is extremely high.

² The statute defines “violations of religious freedom” to mean “violations of the internationally recognized right to freedom of religion and religious belief and practice, as set forth in [specified] international instruments.” 22 U.S.C. § 6402(16). The definition includes “(A) arbitrary prohibitions on, restrictions of, or punishment for” certain activities related to religion, such as “assembling for peaceful religious activities” and “speaking freely about one’s religious beliefs”; and “(B) any of the following acts if committed on account of an individual’s conscience, non-theistic views, or religious belief or practice: detention, interrogation, imposition of an onerous financial penalty, forced labor, forced mass resettlement, imprisonment, forced religious conversion, forcibly compelling non-believers or non-theists to recant their beliefs or to convert, beating, torture, mutilation, rape, enslavement, murder, and execution.” *Id.*; see also U.S. Comm’n on Int’l Religious Freedom, *Factsheet: Religious Freedom and the Prohibition of Torture and Ill Treatment* 1-5 (Oct. 2025), <https://perma.cc/QVV7-G8EX> (discussing how religious freedom intersects with prohibitions on torture and ill treatment); Nazila Ghanea (Special Rapporteur on Freedom of Religion or Belief), *Freedom of Religion or Belief and the Prohibition of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, U.N. Doc. A/HRC/58/49 (Jan. 9, 2025), <https://perma.cc/WB4Q-RBGX> (same).

Violations qualify only if they are “systematic, ongoing, [and] egregious.” *Id.* § 6402(13). “[P]articularly severe” violations include “(A) torture or cruel, inhuman, or degrading treatment or punishment; (B) prolonged detention without charges; (C) causing the disappearance of persons by the abduction or clandestine detention of those persons; or (D) other flagrant denial of the right to life, liberty, or the security of persons.” *Id.*

Five countries (including Algeria and Azerbaijan) are currently on the “Special Watch List.” Office of Int’l Religious Freedom, U.S. Dep’t of State, *Countries of Particular Concern, Special Watch List Countries, Entities of Particular Concern, supra*. The bar for violations of religious freedom to qualify as “severe”—and thus the bar these five countries had to clear to be included on the Special Watch List, 22 U.S.C. § 6442(b)(1)(A)(iii)—is also high. The Commission construes “severe violations” to mean violations meeting two of the three descriptors required to qualify as “particularly severe”—that is, “violations [that] are systematic and ongoing, systematic and egregious, or ongoing and egregious.” U.S. Comm’n on Int’l Religious Freedom, *2026 Annual Report* 6 (Mar. 2026), <https://perma.cc/783E-5S28> [hereinafter *Comm’n Report*].

Recent annual reports on international religious freedom published by the Commission and the State Department underscore that religious persecution in violation of international law continues to be a serious problem throughout the world. *See, e.g., Comm’n Report*; U.S. Dep’t of State, *2023 Report on International Religious Freedom* (2024), <https://perma.cc/7HAD-8RWM>. Indeed, the most recent of those reports—the Commission’s March 2026 report based on conditions

in 2025—recommends that (1) 18 countries be designated as Countries of Particular Concern, including the 13 already so designated; and (2) 11 countries be placed on the Special Watch List, including 2 of the 5 countries currently on that list. *Comm’n Report* 11.³

The Commission’s report further explains that, as of the end of 2025, the Commission had specifically identified 2,424 individuals whose religious-freedom rights had been violated by these 29 countries and certain non-state entities. *Comm’n Report* 89 (explaining that the list is based on religious-freedom violations defined by Article 18 of the Universal Declaration of Human Rights and does not include all victims). The “most common types of abuse” endured by these victims were “imprisonment and detainment,” but other types included “torture,” “house arrest,” “enforced disappearance,” and “forced renunciation of faith.” *Id.* at 90; *see also* U.S. Comm’n on Int’l Religious Freedom, *Frank R. Wolf Freedom of Religion or Belief Victims List*, <https://perma.cc/NZ79-EHM3> (last visited Mar. 24, 2026) (current list of victims, which includes additional information about each victim).

Recent reports by private entities evaluating international religious freedom confirm that religious persecution remains a substantial problem. For example, Aid to the Church in Need—a Catholic foundation

³ The most recent State Department report was issued in 2024 and covered the 2023 calendar year. The State Department did not issue a report in 2025 covering the 2024 calendar year, nor has it issued any annual reports in 2026 yet. *See* U.S. Dep’t of State, *International Religious Freedom Reports*, <https://perma.cc/VQN6-TS7E> (last visited Mar. 25, 2026) (collecting reports for each year). Thus, the Commission’s report is the most up to date on the state of international religious freedom.

that regularly documents worldwide “abuses, violations[,] and restrictions on religious freedom affecting all religious groups”—recently issued a report covering the 2023 and 2024 calendar years. Aid to the Church in Need, *Religious Freedom in the World: Report 2025*, at 3, 6 (2025), <https://perma.cc/3KVV-44A8>. The organization found that “grave violations” of religious freedom had occurred in 62 countries. *Id.* at 6. In 24 of those countries, “persecution” had occurred, meaning that those countries experienced “[g]rave and systemic violations, including violence, arrest, and repression.” *Id.* The situation had worsened in 18 of those 24 countries, according to the report. *Id.*

Similarly, the Pew Research Center’s most recent study on international religious freedom found that the number of countries with “high or very high levels of government restrictions on religion” increased in 2022 from 55 to 59. Samirah Majumdar, Pew Rsch. Ctr., *Government Restrictions on Religion Stayed at Peak Levels Globally in 2022*, at 16 (2024), <https://perma.cc/3UX7-T243> (stating that government restrictions have “gradually risen globally since 2007”). The report includes numerous other disturbing findings, including that “killing[s]” by governments “due to religion” occurred in 27 countries in 2022. *Id.* at 31.

B. Examples of Recent Religious Persecution in Foreign Countries Underscore the Seriousness of the Problem.

Examples of the types of religious persecution individuals in three foreign countries are enduring illustrate how dire the situation is.

1. China. As the Commission explained in its most recent annual report covering 2025, China

“sought to exert complete control over religion through an extensive web of laws, regulations, and policies that do not conform to international human rights standards.” *Comm’n Report 22*; cf. U.S. Dep’t of State, *2023 Report on International Religious Freedom: China* (2024), <https://perma.cc/QG65-DZQL> (reaching similar conclusions about conditions in 2023). In particular, China “broadly target[ed] religious leaders with insidious tools of repression and launch[ed] a massive crackdown against Protestant Christian house churches.” *Comm’n Report 1*. In October, for example, “Chinese Communist Party officials ordered the detention of Zion Church founder Pastor Mingri ‘Ezra’ Jin as well as the brutal arrest of dozens of other religious leaders and church staff in multiple regions.” *Id.*

In addition, “[a]s part of [China’s] ongoing genocide, at least half a million predominantly Muslim Uyghur, Kazakh, Kyrgyz, and other Turkic minorities remained imprisoned or held in other internment facilities.” *Comm’n Report 22*. One Uyghur woman was sentenced to 17 years in prison for “teaching her children and a neighbor Qur’anic verses used for daily prayers.” *Id.* Chinese authorities additionally “cracked down on Tibetan Buddhist monasteries and disappeared and imprisoned monks who publicly or privately honored the Dalai Lama.” *Id.* Particularly relevant here, China also “imprisoned Falun Gong practitioners, Church of Almighty God members, and followers of other unrecognized religious groups that authorities deemed illegal.” *Id.*

Finally, “China continued to harass, surveil, threaten family members of, and pursue the deportation of religious minorities and dissidents living outside the country as part of its transnational repression

efforts.” *Comm’n Report* 22. Indeed, and relevant here, the Commission found that China used “high-tech and emerging technologies” to “silence religious and ethnic minorities living abroad.” *Id.* at 23. The allegations in this case illustrate that such surveillance efforts have also targeted religious minorities within China.

2. Iran. According to the Commission’s most recent annual report, in 2025, the “Iranian government escalated its systematic targeting of non-Shi’a Muslim religious minorities, including Baha’is, Jews, Christians, Sufis, and Sunnis.” *Comm’n Report* 30; *cf.* U.S. Dep’t of State, *2023 Report on International Religious Freedom: Iran* (2024), <https://perma.cc/PTX3-DX2J> (reaching similar conclusions about conditions in 2023). For example, Iranian authorities “coerced Jewish community leaders to vocalize government support” and “systematically arrested Jews in Isfahan, Yazd, Shiraz, and Tehran and subjected them to hours-long interrogations.” *Comm’n Report* 30. In addition, “[a]t least 143 Christians have been arrested across 24 cities in Iran, with approximately 162 active court cases involving Christians prosecuted for religious activities.” *Id.* at 31. And “[o]f the more than 1,900 executions in 2025, . . . roughly half involved religiously grounded *qisas* (retributive justice) cases.” *Id.* at 30.

In 2025, the Iranian government also “systematically targeted Sunni and non-Muslim minorities through torture, disappearance of prominent clergy, and destruction of homes.” *Comm’n Report* 30. For example, in June, “prison authorities reportedly tortured Christian Morteza Faghanpour-Saasi during his pre-trial detention,” and the government “detained 19 members of the Yamani religious movement

during a religious gathering.” *Id.* at 30-31. In addition, Iranian authorities “deployed sophisticated and often foreign-sourced technology to surveil and harass women to ensure their compliance with” mandatory hijab laws, even when wearing a hijab was contrary to the women’s religious beliefs. *Id.*

Finally, “Iran’s government continued [in 2025] to recruit organized crime networks around the world to violently attack Jewish sites and individuals in Azerbaijan, Sweden, Denmark, and the United Kingdom.” *Comm’n Report* 30.

3. Nigeria. Nigeria is “facing a terrifying crisis of religious violence.” *Comm’n Report* 1; cf. U.S. Dep’t of State, *2023 Report on International Religious Freedom: Nigeria* (2024), <https://perma.cc/87RE-9ZQ5> (expressing serious concerns about conditions in 2023). According to the Commission, “[t]he unfolding catastrophe is the outcome of a lethal confluence of trends: religiously motivated extremist violence; economic and ethnic tensions, long left to fester; corrosive, state-level blasphemy laws; and years of both inadequate response and pervasive corruption from the Nigerian government.” *Comm’n Report* 1.

In particular, in 2025, “[f]ederal and state governments continued to tolerate, inadequately respond to or investigate, or otherwise fail to pursue justice for religious violence by nonstate actors,” who “routinely seek to impose a singular interpretation of Islam on individuals.” *Comm’n Report* 36. For example, in November, assailants seized 303 children and 12 teachers from St. Mary’s School in Niger State while also burning a statue of the Virgin Mary. *Id.* at 1. And “Fulani gunmen killed around 200 displaced persons at a Catholic mission in Yelwata in June, after which

some protesters accused the government of failing to protect the victims.” *Id.* at 36. In January, assailants “burned down a church auditorium, killing several people.” *Id.* Militants also reportedly “killed Reverend Yahaya Kambasaya and abducted 20 other Christians in Kaduna in October, and attackers abducted 38 worshippers from a church service the following month, killing two and kidnapping the pastor.” *Id.*

Muslims also endured religious persecution in 2025. In July and September, insurgents killed a total of 75 Muslims in Sokoto and Borno. *Comm’n Report* 36. In August, “attackers also abducted over 100 individuals, mostly women and children, from a mosque in Zamfara, and killed 13 worshipers at a mosque in Katsina.” *Id.* In September, “assailants kidnapped 18 Muslim women and children in Zamfara as they were preparing for morning prayers and abducted three Muslims from a mosque in Zamfara.” *Id.*

The Nigerian federal government also “continued to enforce blasphemy laws that include a penalty of up to two years’ imprisonment for acts ‘persons consider as a public insult on their religion.’” *Comm’n Report* 36. Several state governments likewise “enforced [even] more stringent blasphemy laws to prosecute and imprison individuals perceived to have insulted religion, including Christians, Muslims, and humanists.” *Id.*

II. THE ATS AND THE TVPA PROVIDE IMPORTANT TOOLS TO REDRESS RELIGIOUS PERSECUTION.

Against the backdrop of that troubling persistence of religious persecution throughout the world, the Alien Tort Statute and the Torture Victim Protection Act stand as important safeguards of religious freedom. The two statutes—particularly the TVPA in

recent years—have been successfully employed by victims of human rights violations motivated by religious animus or otherwise targeted against religion.⁴ Any weakening of the statutes’ force (including by categorically foreclosing aiding-and-abetting liability) would undermine those crucial protections.

The following cases illustrate the significance of these statutes as a means of redressing religious persecution. The cases likewise demonstrate that accomplice liability under the ATS and the TVPA and the access to neutral and impartial courts that those statutes provide are critical to ensuring justice for victims of many different faiths and religious traditions.

A. Muslim Victims of Torture and War Crimes During the Bosnian War

1. In *Mehinovic v. Vuckovic*, 198 F. Supp. 2d 1322 (N.D. Ga. 2002), four refugees from Bosnia and Herzegovina “of Muslim ethnic descent” successfully brought claims for torture, arbitrary detention, and war crimes committed by a former Bosnian Serb soldier, Nikola Vuckovic, who later resettled in the United States. *Id.* at 1329, 1332. The plaintiffs alleged violations of the ATS and the TVPA by Vuckovic “during the so-called ‘ethnic cleansing’ campaign

⁴ ATS cases have sharply declined since this Court’s decision in *Kiobel v. Royal Dutch Petroleum Co.*, 569 U.S. 108 (2013), which held that the statute does not apply to extraterritorial conduct. See Christopher Ewell et al., *Has the Alien Tort Statute Made a Difference? A Historical, Empirical, and Normative Assessment*, 107 Cornell L. Rev. 1205, 1237, 1242-43 (2022). The TVPA, however, applies extraterritorially. See, e.g., *Chowdhury v. WorldTel Bangl. Holding, Ltd.*, 746 F.3d 42, 51 (2d Cir. 2014). Accordingly, although the pre-*Kiobel* ATS claims in the cases described below might no longer be viable today, the TVPA claims would remain available.

directed against Bosnia's non-Serb population" in the Bosnian War, following Bosnia and Herzegovina's declaration of independence from the former Yugoslavia. *Id.*; *see also id.* at 1343-44.

The district court held a bench trial, at which Vuckovic failed to appear. *Mehinovic*, 198 F. Supp. 2d at 1329. During trial, the victim-plaintiffs submitted extensive evidence that Vuckovic (along with other Bosnian Serb paramilitary officers) subjected them to horrific violence in Bosnian detention camps, based in significant part on their Muslim religious beliefs and ethnic identities. As the court found, this conduct was part of a larger "campaign of terror against the Bosnian Muslim population" in Bosnia and Herzegovina, "which included killings, rapes, detention, looting and destruction of property, forced displacement, forced labor, and other abuses." *Id.* at 1331; *see also id.* at 1340-42 (noting that "[m]any Muslim villages were simply destroyed in total," resulting in the displacement of "an estimated one-half of the entire Bosnian Muslim population," while "[r]eligious leaders also were targeted for repression, and places of worship," including mosques and Croatian Orthodox Christian churches, were "systematically demolished").

In detailed findings of fact, the court found that the plaintiffs suffered horrific torture, physical disfigurement, and "other humiliations based on their religion." *Mehinovic*, 198 F. Supp. 2d at 1339. Vuckovic and his fellow officers beat them savagely, broke their bones, and forcibly removed their teeth with pliers. *Id.* at 1333-39. "As he carried out these beatings, Vuckovic used . . . derogatory term[s] about Muslims and made remarks that Muslims were an 'invented nation' and that they 'don't need to exist.'" *Id.* at 1333; *see also id.* at 1336 ("During these beatings, Vuckovic

taunted [plaintiff] Bicic and other detainees with ethnic slurs.”). On one occasion, Vuckovic used a knife “to cut a rude semicircle into [plaintiff] Hadzialijagic’s forehead, representing a crescent, a symbol of the Muslim faith. As he carved the crescent into Hadzialijagic’s forehead, Vuckovic called Hadzialijagic ‘balija,’ a defamatory term for Muslims, and stated that Muslims deserved such treatment.” *Id.* at 1337.

These and other abuses were plainly targeted against the Bosnian-Muslim victims’ religious faith and ethnic identity, making them salient examples of religious-based persecution. As one victim explained, he “and his fellow Muslim detainees . . . were subjected to other humiliations based on their religion”:

In one incident, they were forced to kneel for twenty hours straight as if engaging in Muslim prayer. [Plaintiff] Subasic was often beaten in the genitalia, with guards making comments that this would prevent any more Muslim children from being born. The only food made available was a small amount of bread smeared with pork fat. It was well known to the guards that it was against the Muslim religion to eat pork.

Mehinovic, 198 F. Supp. 2d at 1339; *see also id.* at 1333 (another plaintiff similarly testified that “each day he was fed just one slice of bread smeared with pork fat, which he was forced to eat although it was against his religious principles”). But absent the plaintiffs’ ability to bring suit in U.S. courts, those harms likely would have gone unredressed. “Bosnian Serb-controlled areas of Bosnia [were] hostile to . . . any attempt by victims of ‘ethnic cleansing’ to seek justice,” and “[a]s the U.S. State Department

noted in its 1998 report on human rights practices in Bosnia-Herzegovina, [Bosnian courts] were reluctant or unwilling to try cases of human rights abuses referred to them.” *Id.* at 1343.

The district court found Vuckovic liable for, *inter alia*, torture; cruel, inhuman, or degrading treatment; war crimes; and crimes against humanity. *Mehinovic*, 198 F. Supp. 2d at 1345-54. The court emphasized that “Vuckovic’s anti-Muslim statements, and the entire context in which the beatings occurred, evidence the fact that the defendant beat and threatened plaintiffs for discriminatory reasons,” *id.* at 1346, and that “Vuckovic directly and even sadistically participated in, aided, and observed horrific acts of brutality committed against defenseless civilian detainees whose only crime was that they were members of the Muslim ethnic group,” *id.* at 1354.

In addition to holding Vuckovic directly responsible for his own personal conduct, the court also held him liable for “aiding and abetting others in acts against plaintiffs that violate customary international law,” including genocide, torture, and other war crimes. *Mehinovic*, 198 F. Supp. 2d at 1355-56. The court concluded that because “Vuckovic acted in concert with others in committing many of the abuses,” and also “actively encouraged, aided, and even supervised the commission of human rights abuses by other guards at the detention facilities,” he could be held responsible under customary principles of accomplice liability. *Id.* at 1356; *see id.* at 1355 (“Principles of accomplice liability are well-established under international law.”). The *Mehinovic* case thus also illustrates the importance of aiding-and-abetting liability in suits under the ATS and the TVPA.

The district court ultimately awarded compensatory and punitive damages to each of the four plaintiffs in a judgment against Vuckovic. *Mehinovic*, 198 F. Supp. 2d at 1360. That judgment was later renewed in an April 2012 order. *Mehinovic v. Vuckovic*, No. 1:98-CV-2470 (N.D. Ga.), Dkt. No. 75.

2. Similarly, a group of Bosnian Muslim victims prevailed in their claims brought under the ATS and the TVPA against Radovan Karadžić, a wartime leader of Bosnian Serb forces during the Bosnian War. After the district court dismissed the case for lack of subject matter jurisdiction, the Second Circuit reversed, holding that the victim-plaintiffs could proceed on their “allegations that Karadžić personally planned and ordered a campaign of murder, rape, . . . and other forms of torture designed to destroy the religious and ethnic groups of Bosnian Muslims and Bosnian Croats.” *Kadic v. Karadžić*, 70 F.3d 232, 242 (2d Cir. 1995). The Second Circuit also held that those claims did not present nonjusticiable political questions. *Id.* at 250. Finally, the court explained that “no party has identified a more suitable forum,” and concluded that “it seems evident that the courts of the former Yugoslavia, either in Serbia or war-torn Bosnia, are not now available to entertain plaintiffs’ claims.” *Id.*

On remand from the Second Circuit, the matter proceeded to trial. “After a two-week jury trial in September 2000, a jury awarded plaintiffs” compensatory and punitive damages, and the district court entered judgments in plaintiffs’ favor. *Doe v. Karadžić*, No. 1:93-CV-0878, 2001 WL 986545, at *1 (S.D.N.Y. Aug. 28, 2001). Those judgments were renewed in late 2020. See *Kadic v. Karadžić*, No. 1:93-CV-1163

(S.D.N.Y.), Dkt. No. 120; *Doe v. Karadžić*, No. 1:93-CV-0878 (S.D.N.Y.), Dkt. No. 170.

B. Catholic Victims of Torture and Unlawful Killings in El Salvador

1. The ATS and the TVPA have also played a critical role in cases involving Catholic victims of torture and extrajudicial killings in El Salvador. For example, in *Doe v. Saravia*, 348 F. Supp. 2d 1112 (E.D. Cal. 2004), the pseudonymous plaintiff successfully brought an action against Rafael Saravia, the former chief of security for the organizer of several Salvadoran paramilitary groups, or “death squads,” for Saravia’s role in the March 1980 assassination of Archbishop Oscar Romero. “Saravia was an active member of these death squads” and later moved to the United States, taking up residence in Modesto, California. *Id.* at 1118.

Archbishop Romero was part of a movement within the Catholic Church “known as ‘Liberation Theology,’” which was aligned with the interests of impoverished citizens and communities in El Salvador, in opposition to the repressive ruling class and military and paramilitary security forces. *Saravia*, 348 F. Supp. 2d at 1119-20. Catholic clergy and parishioners who championed Liberation Theology “became targets of repression” throughout El Salvador, leading to “steadily increasing human rights abuses against poor civilians and members of the church.” *Id.* at 1120; *see also id.* (describing “resolutions condemning priests and establishing groups to monitor their activities,” as well as the murder of Father Rutilio Grande, who “was targeted simply because he wanted to improve the deplorable condition of the poor in El Salvador”). Archbishop Romero’s Sunday homilies were often

addressed to the ongoing human rights violations occurring in El Salvador, and he “explicitly denounced the military and members of the security forces for their repressive actions.” *Id.* at 1121.

On March 24, 1980, the day after “Archbishop Romero delivered his most decisive homily,” Saravia and other members of a paramilitary “death squad” met and decided to assassinate Romero at a celebration of mass that was scheduled for later that day. *Saravia*, 348 F. Supp. 2d at 1121. “Saravia took charge of the operation and was involved in paying the fees of the assassin.” *Id.* The assassin fatally shot Archbishop Romero during mass at the Chapel of the Hospital of Divine Providence. *Id.* at 1122-23. The Archbishop “was tended to by the nuns who lived and worked there.” *Id.* at 1123. He was then rushed to a nearby hospital but was declared dead upon arrival. *Id.*

Saravia failed to appear before the district court, and the plaintiff moved for a default judgment. *Saravia*, 348 F. Supp. 2d at 1119. The court held a multi-day evidentiary hearing and then made extensive findings of fact and conclusions of law. *Id.* The court concluded that the plaintiff was entitled to judgment on the claims of extrajudicial killing and crimes against humanity under the ATS and on the claim of extrajudicial killing under the TVPA. *Id.* at 1159.

In reaching that holding, the court relied at least in part on “principles of accomplice liability,” explaining that “Saravia’s role in coordinating and planning the assassination of Archbishop Romero is sufficient to establish liability against him under the TVPA and [ATS] as a direct participant, conspirator, accomplice, and aider and abettor.” *Saravia*, 348 F. Supp. 2d at

1148 (citing *Mehinovic*, 198 F. Supp. 2d at 1355); see also *id.* at 1149 (citing *Wiwa v. Royal Dutch Petroleum Co.*, No. 96-CV-8386, 2002 WL 319887, at *16 (S.D.N.Y. Feb. 28, 2002); and *Barrueto v. Fernandez Larios*, 205 F. Supp. 2d 1325, 1333 (S.D. Fla. 2002), for the proposition that “the language and legislative history of the TVPA supports liability for aiders and abettors of torture and extrajudicial killings”).

The district court also concluded that there was no alternative forum available to the plaintiff: “[B]ased on the grant of amnesty to perpetrators, [and] continuing unreliability of the Courts of El Salvador, including demonstrated hostility to imposing legal responsibility for the assassination of Archbishop Romero, Plaintiff justifiably believes that a fair and impartial hearing could not be received in the Courts of El Salvador.” *Saravia*, 348 F. Supp. 2d at 1117.

The district court ultimately entered judgment in the plaintiff’s favor and awarded significant compensatory and punitive damages. *Saravia*, 348 F. Supp. 2d at 1158. The court explained that this award was justified by Archbishop Romero’s “[s]tature and the [u]nique [r]ole that he [p]layed [w]ithin El Salvador,” which meant that the harm caused by his assassination was “[p]rofound.” *Id.* at 1137. The court described his assassination as a “[m]ajor [c]atalytic [e]vent that [h]elped to [p]recipitate El Salvador’s [c]ivil [w]ar,” *id.*, and emphasized that his murder led to increased persecution of the Catholic church and its leaders throughout El Salvador:

Archbishop Romero’s killing served to unleash still more terror directed against the church in El Salvador. More priests were killed or driven into exile, many hundreds of catechists (lay

church activists) were killed, and it became increasingly dangerous and difficult to participate in any religious services. Some worshipers were forced to practice their faith clandestinely.

Id. at 1141; *see also id.* (finding that “[t]he killing of Archbishop Romero was part of an overall strategy of the junta to attack the church”). Against the backdrop of that widespread religious persecution, the court concluded that “[h]olding accountable those responsible for Archbishop Romero’s murder is one way to facilitate . . . healing” for victims of such violence. *Id.* at 1142.

2. Plaintiffs also successfully invoked the ATS and the TVPA in *Arce v. Garcia*, 434 F.3d 1254 (11th Cir. 2006), another case involving human rights violations and the persecution of members of the Catholic church in El Salvador. There, three Salvadoran refugees who were tortured by military officers in El Salvador during the civil war prevailed in a jury trial against the two defendants, who were “leaders in the Salvadoran military” who later relocated to the United States. *Id.* at 1256. One of the plaintiffs was “a lay worker with the Catholic Church,” who was abducted by Salvadoran soldiers and “tortured for approximately twelve days.” *Id.* “The jury found that the plaintiffs had been tortured, as alleged, [and] held the defendants liable under the doctrine of command responsibility,” and the district court entered judgment in plaintiffs’ favor. *Id.* at 1259.

The Eleventh Circuit affirmed, holding that the district court had not erred in allowing equitable tolling of plaintiffs’ claims during the pendency of the Salvadoran civil war. *Arce*, 434 F.3d at 1265. The court of appeals also emphasized the importance of statutes

like the ATS, and particularly the TVPA, in providing a forum to redress claims of torture:

Absent a cause of action in the United States courts, some of the most egregious cases of human rights violations might go unheard because regimes that commit the most serious human rights abuses often possess the most woefully inadequate legal mechanisms for redressing those abuses. Congress recognized this problem in enacting the TVPA.

Id. at 1261-62.

C. Victims of Lutheran Church Massacre in Liberia

In addition to cases involving individual victims who were tortured or killed for their religious faith, the ATS and the TVPA have proven instrumental in redressing attacks targeted against places of worship. For example, in *Jane W. v. Thomas*, 560 F. Supp. 3d 855 (E.D. Pa. 2021), a group of plaintiffs successfully brought claims against Moses Thomas, a former colonel in the Armed Forces of Liberia (AFL) who later resettled in the Philadelphia area, for leading a brutal massacre at Saint Peter's Lutheran Church in Liberia in July 1990. *Id.* at 864.

During Liberia's First Civil War, thousands of displaced Liberian civilians took refuge at St. Peter's Lutheran Church, at the express invitation of the head of the Lutheran Church of Liberia. *Jane W.*, 560 F. Supp. 3d at 868-69. "The church was adorned with Red Cross and [United Nations] flags, making clear the building served a humanitarian purpose," but the church also "continued to hold religious services after it converted to a shelter." *Id.* at 869. Meanwhile,

“members of the congregation . . . kept watch over [the] entrances to the church compound.” *Id.*

On the evening of July 29, 1990, soldiers from a Special Anti-Terrorist Unit of the AFL (which defendant Thomas personally commanded) and other AFL forces brutally attacked the Lutheran Church compound. *Jane W.*, 560 F. Supp. 3d at 869-70. The soldiers fired indiscriminately on civilians sheltering in the church, massacring them. *Id.* at 870. A later United Nations “investigation estimated about 600 civilians were killed in the attack.” *Id.* Several eyewitnesses testified that they saw Thomas “in and around the Church during the Massacre,” carrying a pistol. *Id.*

Approximately two years after being sued in district court, Thomas “not only ceased to participate” in the litigation “but fled the United States to Liberia.” *Jane W.*, 560 F. Supp. 3d at 866. The plaintiffs moved for summary judgment in his absence, *id.*, and the district court entered judgment in their favor, finding Thomas liable under the ATS and the TVPA “both directly and through command responsibility theories,” *id.* at 873. The court concluded that Thomas was liable under the TVPA for torture, extrajudicial killings, and attempted extrajudicial killings, and further held that Thomas committed several war crimes under the ATS. One of those war crimes was “intentionally directing attacks against buildings dedicated to religion.” *Id.* at 885 (citing Rome Statute of the International Criminal Court art. 8(2)(e)(iv), July 17, 1998, 2187 U.N.T.S. 90, 97).

The court also underscored the importance of allowing the suit against Thomas in the U.S. courts, explaining that “Liberia has never prosecuted a single

war crime arising from the civil wars” and “the Liberian judiciary appears unable or unwilling to provide an adequate forum for the pursuit of claims rooted in the civil wars.” *Jane W.*, 560 F. Supp. 3d at 876 (internal citations omitted); *see also id.* (“Plaintiffs have demonstrated through record evidence that the Liberian judiciary does not function in a manner that allows them to reasonably pursue their claims.”).

The district court ultimately entered judgment in plaintiffs’ favor and awarded plaintiffs a significant damages judgment against Thomas. *Jane W. v. Thomas*, No. 2:18-CV-569 (E.D. Pa.), Dkt. No. 89.

D. Falun Gong Victims in China

1. Finally, as this case demonstrates, the ATS and the TVPA have also been used by followers of the religious and spiritual practice called Falun Gong to seek redress for torture and other human rights violations committed by state officials in the People’s Republic of China (PRC) on account of their religious beliefs.

In addition to the case currently before this Court, in *Doe v. Liu Qi*, 349 F. Supp. 2d 1258 (N.D. Cal. 2024), the victim-plaintiffs sued two local Chinese government officials under the ATS and the TVPA for, *inter alia*, religious-based persecution and torture of Falun Gong adherents and protesters—including at least one United States citizen—who “went to Beijing’s Tiananmen Square to protest the PRC’s persecution, arrest, and torture of Falun Gong practitioners.” *Id.* at 1267-68.

Plaintiffs sought a default judgment against the defendant officials on all of their claims. Although the district court dismissed some of those claims and declined to order monetary damages or injunctive relief, *see Liu Qi*, 349 F. Supp. 2d at 1306, it granted

declaratory judgment in plaintiffs' favor, finding that: (1) four plaintiffs had "sufficiently support[ed] their claims of torture under the TVPA"; (2) one plaintiff had sufficiently "stated a claim for cruel, inhuman or degrading treatment in violation of the [ATS]"; and (3) four plaintiffs had successfully "established claims for prolonged arbitrary detention under the [ATS]," *id.* at 1306-28; *see also id.* at 1334.

The district court also explained that although the two defendants (who were the Mayor of Beijing and the Deputy Provincial Governor of Liao Ning Province during the relevant events) did not "directly engage[] in the alleged conduct," they could nonetheless be held responsible for the torture and other violations committed by local police and "security forces under their control" under principles of "commander responsibility." *Liu Qi*, 349 F. Supp. 2d at 1328-30. In reaching that holding, the court relied in part on accepted principles of accomplice liability, stating: "The doctrine of aiding and abetting applicable under the [ATS], and presumably under the TVPA which was intended to supplement and enhance remedies under the [ATS], reinforces this conclusion." *Id.* at 1332 (citing *Me-hinovic*, 198 F. Supp. 2d at 1355).

2. As the district court in *Liu Qi* emphasized, that case was "not unique. Other suits have been brought by Falun Gong supporters in the United States in an attempt to hold individual officials of the PRC accountable for alleged human rights violations directed against the Falun Gong movement in China." *Liu Qi*, 349 F. Supp. 2d at 1266 n.1.

At least one of those other suits involved the successful invocation of the ATS and the TVPA to win a default judgment "against a senior official of Hubei

Province, China, for his role in instigating and carrying out the persecution of Falun Dafa (Falun Gong) practitioners in China.” Falun Dafa Info Center, *Judgment Against High-Ranking Chinese Official Handed Down by U.S. Court* (Dec. 23, 2001), <https://perma.cc/K397-AFU3>; see *Liang v. Zhiefi*, No. 1:01-CV-6535 (S.D.N.Y.), Dkt. No. 6.

* * *

The case pending before this Court is thus part of a broader set of cases brought under the ATS and the TVPA that have provided victims of religiously based persecution—Muslims, Catholic clergy and parishioners, Christian churches, and Falun Gong practitioners—with critical tools to redress torture, unlawful killings, and other grievous harms committed on the basis of their religious exercise or beliefs. Without these tools—and without the ability to invoke accomplice liability to reach all those responsible for religious persecution—victims would often be left without refuge.

CONCLUSION

This judgment of the court of appeals should be affirmed.

Respectfully submitted,

JAMES I. PEARCE

Counsel of Record

SAMANTHA P. BATEMAN

SYDNEY FOSTER

WASHINGTON LITIGATION GROUP

1717 K St. NW, Suite 1120

Washington, DC 20006

(202) 521-8750

jpearce@washingtonlitigationgroup.org

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