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The Court of Last Resort

By ARLEN SPECTER

WASHINGTON—The events of 9/11, as well as the war in Iraq, require our government to intensify its efforts to combat terrorism. So it is more important than ever that we do our utmost to show the world that we will enforce human rights laws evenhandedly.

Fortunately, the United States already has the tools to lead by example. The Alien Tort Claims Act, passed in 1789 by the first Congress, allows aliens — that is, people who are not citizens of the United States — to sue in federal court for a "violation of the law of nations or a treaty of the United States." More than two centuries later, in 1992, the Torture Victim Protection Act became law. This law creates a right for victims — even aliens — of state-sponsored torture and summary execution in other countries to sue in federal court here.

Despite this history, the Justice Department has decided to contest the application of these laws by federal courts to human rights violations. Protecting human rights through litigation, according to the administration, might disrupt relations with some of our allies. In a pending federal case involving slave labor in Burma, the Justice Department argued that this and similar lawsuits may complicate foreign policy by angering nations helping fight terrorism.

In 1992, the Justice Department made a similar argument. Congress considered and rejected it, as did President George H. W. Bush. Both the president and Congress recognized that suits brought under these laws will not be successful against sitting governments and leaders who have immunity. They will bear fruit only when used against former leaders and corporations that have violated fundamental human rights laws recognized since the trials of Nuremberg.

These two laws cover only the most extreme violations of international law. The Alien Tort Claims Act has been interpreted to apply only to genocide, war crimes, piracy, slavery, torture, unlawful detention and summary execution. The Torture Victims Protection Act is limited to torture and summary execution. There is no room for moral relativism.

American credibility in the war on terrorism depends on a strong stand against all terrorist acts, whether committed by foe or friend. Our credibility in the war on terrorism is only advanced when our government enforces laws that protect innocent victims. We then send the right message to the world: the United States is serious about human rights.

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