



## **Corporate Legal Accountability Quarterly Bulletin – Issue 12, March 2014**

Welcome to the 12th issue of the Corporate Legal Accountability Quarterly Bulletin. To assist all those following corporate legal accountability issues, we send this bulletin to highlight key developments, new cases profiled on our site, updates to existing profiles, and other news. Our [Corporate Legal Accountability Portal](#) is an online information hub providing resources for non-lawyers as well as lawyers – including victims, advocates, NGOs, businesspeople, lawyers bringing lawsuits against companies and lawyers defending companies. The portal provides impartial, concise information about lawsuits against companies in which human rights abuses are alleged – its aim is to demystify these lawsuits. Each case profile includes materials from both the plaintiffs and defendants, to the extent they are available.

If you have something that you would like us to consider including in the next bulletin, know someone who would like to receive the bulletin, or wish to unsubscribe, please contact Elodie Aba, Interim Manager - Corporate Legal Accountability Project, at [aba@business-humanrights.org](mailto:aba@business-humanrights.org). Previous issues of this bulletin are available [here](#) in English, French and Spanish.

### **1. New resources on our Corporate Legal Accountability Portal highlight key issues:**

- The Corporate Legal Accountability project has launched a new section on the key issue of [barriers to access to remedies](#), and will soon launch a separate section on extraterritoriality – issues around the exercise of jurisdiction by courts in one country over claims based on human rights abuses in other countries. These sections aim to draw attention to these crucial issues in corporate legal accountability, by highlighting key reports, commentaries and cases where barriers to remedy and extraterritoriality are discussed. They highlight cases where such barriers or the lack of extraterritorial jurisdiction has frustrated attempts by victims of abuse to secure justice. We would be glad to receive contributions that we could include on both issues.

### **2. New profiles of lawsuits on our Corporate Legal Accountability Portal:** Over recent months we have added profiles of the following lawsuits to our portal (for full case profile, click hyperlink):

- [Novartis lawsuit \(re India patent law & access to medicines\)](#): In 1997 Novartis filed a patent application in India for a new form of Glivec, an existing drug used for treating blood cancer. In 2009 the Intellectual Property Appellate Board of India upheld a previous decision by the Patent Controller rejecting Novartis's application, finding that Novartis had failed to demonstrate the enhancements of the new drug over the old version. In April 2013, the Supreme Court upheld this decision. Because India is the world's largest supplier of generic drugs this decision could potentially protect the availability of affordable medicines for billions of people.
- [Lawsuit against Kenya Pipeline Company \(re compensation for industrial accident in Mukuru-Sinai slum\)](#): A pipeline operated by Kenya Pipeline Company (KPC) exploded in September 2011, causing a fire that killed 120 people and injuring hundreds. In May 2012, more than 300 victims brought a lawsuit against KPC. They allege the company breached its legal duties of care by improperly storing highly flammable material and allowing fuel to spill into inhabited areas.
- [Lawsuit against Tazreen Fashions \(re factory fire in Bangladesh\)](#): On 31 December 2013, a court in Bangladesh filed criminal charges against 13 people relating to a fire in the Tazreen garment factory that killed 112 people in November 2012. The building lacked safety features

that could have allowed the victims to escape. The owners, managers and security guards are among those charged with arson, culpable homicide and negligence.

**3. Lawsuit developments:** There have been significant developments in a number of lawsuits profiled on the portal, including the following (for full case profile, click hyperlink):

- [Lawsuit against African Barrick Gold \(re Tanzania\)](#): In December 2013, a UK High Court upheld an injunction barring the defendants from initiating legal action in Tanzania on matters being litigated before the UK court.
- [Apartheid reparations lawsuits \(re So. Africa\)](#): In December 2013, a U.S. judge said Daimler and Rheinmetall could not be sued under the Alien Tort Claims Act because the plaintiffs failed to show a sufficient connection between those companies and the United States. The court declined to dismiss the claims against IBM and Ford.
- [Lawsuit against BHP \(re Papua New Guinea\)](#): In January 2014, Papua New Guinea's National Court ordered Ok Tedi Mining to stop dumping mine waste and tailings into a nearby river, risking the shutting of the mine. The court ordered that company bank accounts be frozen after allegations that money earmarked for local development had been misused.
- [Lawsuits against Cisco Systems \(re China\)](#): In February 2014, the judge in the lawsuit in USA by three jailed Chinese writers dismissed the case on the basis of lack of jurisdiction under the Alien Tort Claims Act. The court also ruled that although Cisco had designed the technology known as the Golden Shield Project, it could not be found responsible for abuses that were carried out using it.
- [Lawsuit against Daimler \(re alleged complicity in abuses during "Dirty War" in Argentina\)](#): On 14 January 2014, the US Supreme Court ruled that Daimler did not have enough ties with California for courts in that state to hear the case.
- [Lawsuit against KBR \(re human trafficking in Iraq\)](#): In January 2014, a US District judge reversed a previous ruling and held that the families of Nepali labourers, who were executed in Iraq in 2004, could not pursue trafficking claims against KBR under the Trafficking Victims Protection Reauthorization Act (TVPPRA) because at the time when the plaintiffs were allegedly trafficked, the TVPPRA did not apply outside the United States. (It has since been amended to apply extraterritorially.)
- [Lawsuit against Nestlé, Cargill, Archer Daniels Midland \(re child labour in Côte d'Ivoire\)](#): In December 2013, a US federal appeals court overturned a 2010 ruling and held that plaintiffs can re-file their forced child labour lawsuit against the companies under the Alien Tort Claims Act.
- [Lawsuit against Pfizer \(re children's informed consent for clinical trials in Nigeria\)](#): In November 2013, 186 victims filed a new lawsuit in Federal High Court in Nigeria claiming Pfizer breached the 2009 settlement agreement by limiting the criteria for compensation and unjustly excluding victims of its drug trials.
- [Lawsuits against Texaco/Chevron \(re oil pollution in Ecuador\)](#): In December 2013, Chevron appealed to Ecuador's highest court, asking it to cancel the \$9.5 billion fine upheld by the National Court of Justice. Also in December, an Ontario, Canada, appeals court ruled that a group of Ecuadorians can seek enforcement of the judgment against Chevron in Canada, overturning a lower court decision. In February 2014, a US court blocked the enforcement of the Ecuadorian judgment against Chevron in the US.
- [Lawsuit against Thomson Safaris \(re land rights of Maasai in Tanzania\)](#): On 26 February 2014, people from three Maasai villages filed an action in US court against Thomson Safaris and its owners. The plaintiffs seek to compel the defendants to provide information on the alleged illegal confiscation of Maasai land by Thomson Safaris and its affiliates.
- [Lawsuit against Union Carbide/Dow \(re Bhopal\)](#): In February 2014, plaintiffs presented new evidence in the Sahu II case in US court, which they argue shows the company's direct role in designing and building the pesticide plant, and that this design is causing on-going toxic waste problems in Bhopal. The company denies responsibility.

- [US Deepwater Horizon explosion & oil spill lawsuits](#): In January 2014, a US Circuit Court of Appeals upheld a lower court decision and approved a multibillion-dollar settlement with BP of private claims. The judges dismissed an argument by BP that the settlement agreement should not be approved because some of the claimants cannot link losses directly to oil disaster. Also, a former manager of Halliburton was sentenced to a year's probation for destroying evidence in the inquiry into the oil spill. Separately, Halliburton pleaded guilty to the unauthorised deletion of data.
- [Lawsuit against Vedanta Resources \(re Dongria Kondh in Orissa, India\)](#): In January 2014, the Indian Ministry for Environment and Forests rejected Vedanta's request to mine bauxite in the Niyamgiri hill range, ruling that it would negatively impact the rights of the Dongria Kondh tribal communities.

**4. New translations:** We have translated the following case profiles:

- In Chinese:
  - [中国建设银行诉讼案摘要\(中文版\)](#) [Lawsuit against China Construction Bank (re responsibility for alleged beatings & violence against auditor)]
  - [思科系统公司有关中国诉讼案摘要\(中文版\)](#) [Lawsuits against Cisco Systems (re China)]
  - [壳牌诉讼案 \(尼日利亚\) 摘要\(中文版\)](#) [Lawsuits against Shell (re Nigeria - Kiobel & Wiwa)]
  - [雅虎诉讼案 \(中国\) 摘要\(中文版\)](#) [Lawsuit against Yahoo! (re China)]
- In French:
  - [Résumé du procès contre le Groupe Danzer \(Rép. dém. du Congo\)](#) [Lawsuit against Danzer Group (re Dem. Rep. of Congo)]
- In Spanish:
  - [Perfil de demanda judicial contra Agua Mineral Chusmiza por actividades en Chile](#) [Lawsuit against Agua Mineral Chusmiza (re indigenous water rights in Chile)]
  - [Perfil de demanda judicial contra Copper Mesa Mining por actividades en Ecuador](#) [Lawsuit against Copper Mesa Mining (re Ecuador)]
  - [Perfil de demanda judicial contra Daimler por actividades en Argentina](#) [Lawsuit against Daimler (re alleged complicity in abuses during "Dirty War" in Argentina)]

**5. Resource Centre joint event with LSE, EJOLT:** Business & Human Rights Resource Centre co-organised an event on [Access to Justice and Extractive Industries](#) with the London School of Economics & Political Science (LSE) and EJOLT (Environmental Justice Organizations, Liabilities and Trade), on 13 March in London, UK. A panel of international legal and industry experts discussed the fraught world of environmental justice, human rights, minerals and mining.

**6. Quarterly Bulletin in French & Spanish:** We are now also issuing this bulletin in French and Spanish (previous issues are available [here](#)). If you would like to receive it in French or Spanish in future, please let us know.

**7. Further lawsuits:** We continue to consider a number of other lawsuits for profiling on the portal, many of them in courts outside Europe and North America. A chart detailing the case profiles which have been posted, those in preparation, and the lawsuits currently being considered for case profiles can be accessed [here](#). We are always looking to add cases to this list. If you have any suggestions of human rights lawsuits brought against companies that we should consider adding to our site, or lawyers whom we should contact, please let us know.