



ANNUAL BRIEFING

Corporate Legal Accountability

January 2015

Executive Summary

When a company takes your land without compensation, pollutes your water, or brings in private militia to guard an oil well who start to rape and abuse the women of a local community, you should have the right to ensure it stops, and to get your livelihood restored. Your human rights should be respected whether you are rich or poor, irrespective of your geographic location. This “Access to Remedy” constitutes one of the three pillars of the United Nations Guiding Principles on Business and Human Rights.

At Business & Human Rights Resource Centre, we have tracked lawsuits against companies over their human rights impacts around the world for over a decade. Based on our unique overview and data, three realities for victims seeking justice for corporate abuses are inescapable:

1. Existing venues for extraterritorial claims are closing, and governments of countries where multinationals are headquartered do not provide sufficient access to judicial remedy for their companies’ abuses.
2. Legal harassment of human rights defenders is on the rise for those working to hold businesses accountable for human rights abuse.
3. New, but limited, venues for corporate human rights claims are emerging as victims seek new paths to access judicial remedy.

Major avenues for extraterritorial claims closing & a striking accountability gap: When former [prisoners of Abu Ghraib prison in Iraq sought justice for the torture and inhumane treatment](#) they were subjected to, allegedly by military contractors CACI and L-3 Communications, they knew that it would be impossible to obtain justice in an Iraqi court. They filed lawsuits in the country where the companies are headquartered – the United States. Like these Iraqi torture victims, many other victims of corporate abuse have no access to judicial remedy in their home country. Up to now, some have taken their cases to courts in the country where the company is headquartered (often USA or UK). In fact, of the [108 legal cases the Resource Centre has profiled](#), the majority are related to extraterritorial claims – that is, claims of abuse occurring outside the country of the court hearing the case. Unfortunately, they now face a steady loss of venues internationally where they can bring their claims.

A turning point against extraterritorial human rights claims was the US Supreme Court’s decision in [Kiobel v. Shell](#) in April 2013. The Supreme Court’s [decision](#) in *Kiobel* held that there is a presumption against extraterritorial application of US law, including the Alien Tort Claims Act. At the time of the *Kiobel* decision, there were at least 19 Alien Tort cases pending in US courts, alleging human rights abuses by companies. Since then, only one new Alien Tort case has been filed against a company in US court. Lower courts have dismissed a majority of the ATCA cases that were pending at the time of the *Kiobel* decision, using this narrower standard on extraterritoriality, although the full contours of extraterritorial jurisdiction in US courts following *Kiobel* are still evolving.

Victims have also long sought legal remedies against companies in English courts. However, in 2012 new legislation limited how plaintiffs’ lawyers can fund their work. Given the costly nature of

transnational litigation, this change presents challenges for victims' advocates, although as with *Kiobel*, just what the change means in practice is not yet clear.

We have now tracked human rights lawsuits against companies for over a decade and profiled over 100 of the leading cases in the world alleging human rights abuse involving business. Analysing *lawsuits* (a) against companies headquartered in OECD countries (b) filed in national courts of their home countries (c) regarding alleged extraterritorial abuses, we find that these are disproportionately much lower than the *overall incidence of concerns over human rights impacts outside their home countries* raised with companies based in the same countries. Countries where companies with global operations are headquartered must do a great deal more to ensure that victims of abuses involving those companies have access to legal remedy.

Human rights defenders facing legal harassment: When Andy Hall, a British human rights and migrant worker rights advocate based in Southeast Asia, documented violence against workers, child labour and other abuses at a Thai pineapple processing factory, he did not expect the company to file criminal and civil charges against him. But that is exactly what happened. The charges potentially carried an eight-year prison sentence and fines of over \$10 million. Legal cases against human rights advocates like Andy Hall hamper victims of corporate abuse in advocating for their rights or obtaining redress. We have seen [human rights defenders increasingly subjected to legal attacks](#) in an effort to impede their human rights work. The law is a tool that has been sharpened for business, but dulled for human rights defenders.

Human rights defenders have been targeted via legal harassment such as defamation and libel claims, tax investigations and efforts to deregister the defenders' organizations. All of this harassment has a chilling effect on the activities of human rights defenders. Given the limited resources most human rights defenders have, defending themselves can be costly – at times prohibitively so. [Michel Forst, the UN Special Rapporteur on Human Rights Defenders, recently highlighted](#) the particular risks faced by human rights defenders working to hold businesses accountable for human rights abuses.

New, but limited, venues for corporate human rights claims emerging: While the scope for remedy from US and English courts is narrowing, other national courts are emerging as potential venues for extraterritorial claims. Cases have recently been filed in Canada, France, Switzerland and Germany over alleged human rights abuses by companies outside those countries. But these cases have not yet provided any redress for victims of abuse.

Beyond these extraterritorial cases, victims of human rights abuses involving companies continue to seek justice in the countries where they live. The majority of these cases are related to land rights. They often face steep hurdles, but a number of groundbreaking cases have been filed recently, including in Kenya, Myanmar, Peru and Thailand.

The ability to hold a company legally accountable for human rights abuses, somewhere in the world, is the lynchpin to encourage business to respect human rights. Without legal remedy to enforce human rights obligations, companies are able to operate with impunity – and too many do. Meanwhile, victims of abuse and the advocates working on their behalf are left vulnerable to legal harassment and, ultimately, without justice.

Table of contents

1. Introduction.....	3
2. Global trends	3
3. Recommendations & conclusion	8
4. About Business & Human Rights Resource Centre.....	9
5. Follow our work on Corporate Legal Accountability.....	9

1. Introduction

This briefing provides an overview of corporate legal accountability for human rights, summarising key trends and referring primarily to developments since our [second Annual Briefing in November 2013](#). It provides information about human rights lawsuits against companies for lawyers and non-lawyers – victims, advocates, NGOs, business people and others. The goal is to help a wide audience understand major issues in corporate legal accountability. The briefing represents only a tiny fraction of the wide range of abuses, advances and lawsuits in which companies are implicated, many more of which are available on [our website](#).

Further information about specific cases is available on Business & Human Rights Resource Centre’s [Corporate Legal Accountability Portal](#) (see section 5 for further details).

2. Global trends

2.1. Major avenues for extraterritorial claims closing & a striking accountability gap

Victims of business-related human rights abuse who do not have access to judicial remedy in their home country face fewer venues where extraterritorial claims can be heard. New restrictions on business and human rights lawsuits in the US and on funding for such cases in the UK have placed major barriers to filing new lawsuits. Our analysis of the data on our site clearly reveals that countries where multinational companies are headquartered must do much more to ensure access to legal remedy for victims of abuses involving those companies.

Many lawsuits we track are based on abuses in weak governance zones. In many countries, [such as Kazakhstan, the judiciary is not independent](#), and some lack any fully functioning courts at all. Even in countries with functioning judiciaries, unavailability of remedies against companies, lack of legal aid or other factors may lead victims to seek remedies where the companies are headquartered rather than in the victims’ own countries. Of the 108 cases we have profiled on our site, the majority relate to extraterritorial claims. Unfortunately, in many companies’ home countries, getting an extraterritorial claim into court can be difficult and the availability of venues for such claims is being significantly narrowed.

For example, in the United States following the US Supreme Court’s 2013 decision in [Kiobel v. Shell](#), lower courts have dismissed many cases under the narrower standard for extraterritorial jurisdiction stated by the Court, although the full contours of extraterritorial jurisdiction in US courts following *Kiobel* are still evolving. At the time of the *Kiobel* decision, there were at least 19 corporate Alien Tort cases pending in US courts. Since the case was decided, only one new Alien Tort case has been filed against a company in US court.

The *Kiobel v. Shell* [decision](#) restricted the application of the Alien Tort Claims Act (ATCA) in cases involving allegations of abuse outside the United States, holding that there is a presumption against extraterritorial application of US law. The *Kiobel* lawsuit alleged that Shell was complicit in torture, extrajudicial killings and other abuses of Ogoni people in the Niger Delta. The Court stated the facts of the case must “touch and concern” the United States with “sufficient force” to overcome this presumption against extraterritoriality.

Since the *Kiobel* decision, a number of lower courts have dismissed ATCA cases using this narrower standard. A majority of the ATCA cases that were pending when the *Kiobel* decision was issued have been dismissed, with courts finding that cases did not sufficiently “touch and concern” the United States. These include cases against [Occidental Petroleum](#) (alleging complicity in a 1998 bombing attack in Colombia), [Cisco](#) (over supplying technology that helped the Chinese Government to track and prosecute dissidents), [Drummond](#) (alleging complicity in killing a Colombian labour leader), companies associated with the South African [Apartheid government](#) (over their role in that government’s abuses), [Chiquita](#) (over its role in abuses by Colombian paramilitaries), [Rio Tinto](#) (alleging complicity in abuses during an armed conflict in Bougainville, Papua New Guinea) and [Daimler](#) (over its alleged role in abuses by the Argentinian military dictatorship). But not all US courts have taken such a strict line against ATCA cases since *Kiobel*. Some have permitted the plaintiffs to amend their complaints in order to show their cases’ ties to the United States, or have simply allowed cases to move forward. These include lawsuits against contractors accused of participating in torture at [Abu Ghraib](#), [ExxonMobil regarding abuses by security personnel in Aceh in Indonesia](#), and [Nestlé and others over forced child labour at cocoa suppliers in Côte d’Ivoire](#).

Victims have also long sought legal remedies against companies in English courts. However, in 2012 new legislation passed affecting the way in which plaintiffs’ lawyers could fund their work – the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO). Given the costly nature of transnational litigation, this change was significant, although as with *Kiobel*, just what the change means in practice is not yet clear. [Chris Esdaile, a solicitor with Leigh Day & Co.](#) in London, recently reflected on the on-going need for legal accountability and legal services since the passage of LASPO, saying: *“It is too soon to see the full impact of LASPO 2012. There is no doubt that the landscape has changed, and it remains to be seen how that change plays out in the long-term. However, in the meantime, the demand for our services remains high and we continue to issue new cases. Gauging any negative impact is made even more difficult because we remain one of the very few, if not the only UK firm doing this work post-LASPO.”* The official commentary to the UN Guiding Principles on Business and Human Rights identifies “difficulty in securing legal representation” as a key barrier to accessing remedies.

The fact that victims can no longer rely on ATCA is a major setback for these victims of abuse and their advocates. For over a decade we have closely tracked human rights lawsuits against companies around the world, and profiled over 100 in our Corporate Legal Accountability Project. Fully one-quarter of these are ATCA cases in the US regarding extraterritorial abuses. Until the *Kiobel* decision, US courts had heard more legal accountability cases associated with extraterritorial claims than all of the EU countries combined.

Our website and Corporate Legal Accountability portal are the most comprehensive resources worldwide on human rights lawsuits against companies. Analysing over 200 of the leading cases alleging corporate abuse around the world, a disturbing fact is clear:

Lawsuits in most OECD countries against companies headquartered in those countries for abuses abroad are far from keeping pace with allegations of abuses against those companies. This suggests strongly that most countries where multinational companies are headquartered are failing to provide adequate venues for remedy to victims of abuse.

Specifically, we reviewed 108 leading lawsuits that we have profiled, and another 102 cases that we have followed closely, yielding 210 leading human rights lawsuits against companies worldwide. We then analysed a separate set of data, over 2000 instances where the Resource Centre has invited companies to respond to allegations of human rights abuse over the last 10 years (the full list is [here](#)). In a large majority of these cases, the companies are headquartered in OECD countries – and most of the allegations were of abuse outside the country where the company is headquartered. The OECD’s Guidelines on Multinational Enterprises provide principles and standards of good practice consistent with applicable law and international standards, and these Guidelines devote an entire chapter to human rights.

Comparing our database of lawsuits to the over 2000 times we have sought responses to allegations of abuse, we found that *lawsuits* against companies in OECD countries claiming extraterritorial abuses – other than lawsuits in USA under the now-narrowed Alien Tort Claims Act – are disproportionately much lower than *all instances of concern over extraterritorial human rights impacts* raised with companies headquartered in the same countries. Specifically, 44% of the responses we have sought

have been from companies headquartered in OECD countries other than USA, regarding extraterritorial abuses. Yet only 18% of the lawsuits in our database are in those same countries, regarding extraterritorial abuses.

We would not expect the *numbers* of lawsuits to be comparable to the *numbers* of allegations of abuse; most alleged abuses do not result in lawsuits, for many reasons. But when in our database, the most comprehensive in the world on these issues, the *proportion* of lawsuits in OECD countries (except USA) alleging extraterritorial abuse is so much lower than the *proportion* of allegations of extraterritorial abuse against companies headquartered in the same countries, we must ask why this striking accountability gap exists.

One explanation might be that these allegations are being litigated in the countries where the companies operate and where the alleged abuse occurs – often called “host” countries – rather than in the country of the company’s headquarters. In fact many experts in corporate accountability argue that, wherever possible, the ideal would be to seek justice in the host country, where the victims live, as its courts are more accessible to victims and better able to enforce non-monetary remedies. But while these companies occasionally face litigation on human rights issues in host countries, our research shows that lawsuits in host countries do not begin to fill the accountability gap.

It is clear from the data, then, that **OECD countries do not provide access to adequate remedies** for victims of abuses involving companies headquartered there.

To be sure, increasing numbers of major multinationals are headquartered outside the OECD, e.g., in Brazil, China, India, Russia, South Africa, the Middle East and Southeast Asia. We receive many allegations of abuse involving these companies as well. And the situation for holding these companies legally accountable in their home countries is, if anything, even worse: jurisdiction in these countries for local companies’ impacts abroad is virtually non-existent.

We focus here on companies based in OECD countries, however, because they still represent the large majority of all major multinational companies, and of companies that we seek responses from. The accountability gap and failure to provide access to legal remedies also stand in sharp contrast to OECD countries’ commitments on business and human rights – both under the OECD Guidelines and under National Action Plans on business and human rights that many OECD governments have issued or are developing. A number of legal commentators and advocates have noted that these countries’ courts could and should be hearing business and human rights cases, but are not hearing them at all, or are accepting only a tiny number. [Wolfgang Kaleck from the European Center for Constitutional and Human Rights](#) has pointed out: *“For international organizations and for those of us here in Europe, our duty is to lend support to human rights activists under threat. The real test for Europeans, however, will be seeing how sincere the professed dedication to human rights proves to be when the complaints are directed not against China but against major corporations based here in Europe.”*

The ability to hold a company legally accountable for human rights abuses, somewhere in the world, is the lynchpin to encourage business to respect human rights. Without legal remedy to enforce human rights obligations, companies are able to operate with impunity – and too many do.

2.2. Legal harassment of human rights defenders

Meanwhile, victims of abuse and the advocates working on their behalf face legal harassment by companies and their allies in government. The law is a tool that is increasingly being sharpened for business, even as it has been dulled for human rights advocates. Specifically, [increasing legal attacks against human rights defenders](#) in an effort to impede their work present another major obstacle for victims of abuse seeking remedies from companies.

Human rights defenders have been targeted via harassment such as defamation and libel claims, tax investigations and efforts to deregister their organizations, casting a frozen pall on their activities. Most operate with very limited funds; the costs of defending themselves from such legal actions can make their work impossible. A number of countries have limited [foreign funding for NGOs](#), taking administrative and legal action to deregister them in many cases. [Michel Forst, the UN Special Rapporteur on Human Rights Defenders, recently highlighted](#) the particular risks faced by human rights

defenders working to hold businesses accountable for abuses. He identified emerging threats such as defamation and smear campaigns, and use and abuse of counter-terrorism laws to silence dissent.

The Observatory for the Protection of Human Rights Defenders recently [highlighted](#) the particularly dire situation of land rights defenders, listing judicial harassment as a major threat in addition to physical threats and violence. The report notes that these defenders are “imprisoned on the basis of repressive legislation and subjected to endless abusive charges, like ‘false propaganda’, ‘threatening state security’, ‘disturbing law and order’, that can carry lengthy prison sentences.”

Four recent examples illustrate this trend:

Andy Hall, a British labour rights activist and researcher, [faced six criminal and civil cases](#) brought under **Thailand’s** defamation laws and Computer Crimes Act in 2014, filed by pineapple processing company Natural Fruit. The claims relate to Hall’s reporting, for the NGO Finnwatch, on conditions at Natural Fruit factories including violence against employees, forced overtime and use of underage labour. The criminal charges against Andy Hall carry a maximum of eight years in prison, and civil damages could total over \$10 million. [The first trial recently finished, and Hall was acquitted](#) by the court because he had been interrogated in a manner that violated Thai law. The international human rights community has called on the Thai Government to drop the remaining lawsuits against Hall.

Human rights organizations operating in **Azerbaijan** have been subject to increasing repression and legal harassment. The 2015 European Games are scheduled to take place in Baku, and [civil society organizations have urged sponsors](#) to consider the human rights impacts of their decision to support the games. Azerbaijani legislation increasingly allows the state [to criminalise human rights defenders’ activities at will](#). [Human Rights Watch](#) states: “The government fears human rights work that exposes abuses, and its response is to abuse the law and push organizations to its margins. Groups that are outspoken and challenge government policies, or work on controversial issues, are now extremely vulnerable to criminal prosecution.” In response to these concerns, [BP, a sponsor of the 2015 European Games, said](#) that it believes “that the government of Azerbaijan has the primary responsibility to protect human rights and we remain ready to implement their guidance in this regard”, and that it does not “believe that seeking to influence the policies of sovereign governments could be considered to be a part of our role as a sponsor.” The UN Working Group on Business and Human Rights conducted a country visit to Azerbaijan in August 2014. The Working Group [expressed concern](#) that prominent civil society actors were placed in pretrial detention prior to the visit and other human rights groups were faced with registration troubles and other problems.

French President François Hollande visited **Niger** in July 2014. At the time of this visit, [several prominent members of Niger’s civil society were arrested](#) after urging greater transparency in dealings between the Government of Niger and extractive industries, particularly the French mining company Areva, and condemning the opacity of the process through which Areva is awarded contracts in Niger.

Finally, at the UN Forum on Business and Human Rights in Geneva last month, Maxima, an illiterate peasant farmer in rural **Peru**, sent [an emotional video message](#) describing the intimidation and threats against her for resisting forced eviction to make way for a mining project. Maxima currently faces charges of illegal occupation of her land in an on-going trial. She delivered a clear message of resilience: “I will not give up. I am demanding my rights that belong to me.”

In one potentially positive development in this area, the provincial government of Ontario, Canada, [introduced a bill](#) to address strategic lawsuits against public participation, so-called “SLAPPs”. These are “*meritless lawsuits...intended to prevent individuals from engaging in public debate in matters of public interest by burdening them with substantial legal costs, thereby forcing them to abandon their opposition and silencing criticism,*” according to the Canadian Environmental Law Association (CELA). This bill, the [Protection of Public Participation Act](#), would empower courts in Ontario to identify and quickly dismiss SLAPPs, according to CELA. The goal of this proposed legislation is to promote public participation in open debate on issues such as natural resource development.

Globally, however, the increasing legal harassment of human rights defenders is making their already challenging work even more difficult by taking their valuable time and scarce resources away from their core work. Advocates working on business and human rights issues are particularly vulnerable

because they are threatened by both the businesses they investigate as well as governments seeking to silence their voices.

2.3. New, but limited, venues for corporate human rights claims emerging

While the scope for remedy from US and English courts is potentially narrowing, other national courts are emerging as potential venues for extraterritorial claims. For example, in the last three years there have been three cases filed in Canadian courts addressing extraterritorial business-related human rights abuse. This is a slight but significant increase over the previous rate: only four such cases had been filed over the preceding 15 years. Most recently, in November 2014, [a group of Eritrean refugees filed a claim](#) against Nevsun alleging they had been subjected to forced labour at an Eritrean mine owned by the company. The other two [Canadian cases filed recently](#) deal with alleged abuses at mines in Guatemala.

In addition to Canadian cases, potentially path-breaking cases have been filed in European courts in the last year:

- **France:** In April 2014 three NGOs filed a lawsuit [in French court against the supermarket Auchan](#) alleging that the company had used misleading advertisements regarding the conditions in which its clothing was manufactured. Labels from Auchan's clothing range were found in the rubble of the Rana Plaza factory collapse in Bangladesh in April 2013. Two other recent extraterritorial cases are pending in French court. In late 2011 [two NGOs filed a criminal complaint against Amesys](#) (a subsidiary of Bull) alleging that the company was complicit in torture and other abuses committed by the Gaddafi government in Libya by providing it surveillance equipment. In 2012 [two NGOs filed a criminal complaint](#), urging a Paris court to investigate the involvement of Qosmos and other French companies in supplying surveillance equipment to the Bashar El-Assad government in Syria.
- **Switzerland:** In November 2013, a Swiss NGO filed a [criminal complaint against Argor-Heraeus](#) alleging that the company was involved in money laundering by refining gold pillaged by an armed group in Democratic Republic of Congo.

A criminal complaint was also filed in Germany in April 2013 [against Olof von Gagern, a senior manager of the timber firm Danzer Group](#). The complaint alleges von Gagern was complicit in violence and deaths, destruction of homes and other abuses by police and military during an attack on the village of Bongulu in northern Democratic Republic of Congo in 2011.

While these Canadian and European cases show where transnational human rights litigation may be going, there is no certainty they will provide effective remedies to victims of abuse. They are also few in number, and being heard in only a small handful of countries. In most countries in Europe and most major emerging economies, litigation against companies for their extraterritorial human rights impacts is essentially non-existent. The restriction on Alien Tort cases in the US closes off a major avenue for remedy that has not begun to be replaced.

Beyond these extraterritorial cases, victims of human rights abuses involving companies continue to seek justice in the countries where they live. The majority of these cases are related to land rights. They often face steep hurdles, but a number of groundbreaking cases have been filed recently, including in Kenya, Myanmar, Peru and Thailand (further details in section 2.4).

2.4 Emerging trends & looking ahead

Litigation in countries where alleged abuse occurred

Although the developments in extraterritorial cases mentioned above are central, victims of human rights do also seek justice from companies in the victims' own countries. Despite many difficulties, lawyers have recently filed cases in some countries where alleged abuses occurred. For example, in May 2014 in Myanmar, villagers filed a [lawsuit against Myanmar Pongpipat](#) and the state-owned Mining Enterprise 2 seeking compensation for damage to their land allegedly caused by the Heinda tin mining project. In June 2014 a Thai court agreed to hear a [lawsuit against the state-owned Electric Generating Authority of Thailand](#) for agreeing to buy electricity that will be generated by the Xayaburi dam in Laos.

The villagers who filed the lawsuit allege that the dam's environmental and health impact assessments were inadequate, and did not take into account the harms that they will suffer from the dam. In November 2014 [a Kenyan court](#) halted construction of a port until the amount of compensation required to be paid to those displaced by the construction could be determined. In Peru, indigenous groups have been working to protect their ancestral lands from illegal logging activity. In October 2014 the [Shipibo community filed a lawsuit](#) against the Peruvian Government for its failure to protect them and their land from illegal loggers and cocoa growers.

Also, this month [China's highest court announced](#) that it would grant public interest groups greater power to initiate legal action against polluters who ignore the country's environmental protection laws. Groups fighting to hold polluters accountable are to gain special status and have their court fees reduced.

US litigation

While remedies in US courts have been limited by the *Kiobel* decision, some victims of abuse are using US courts to support litigation in their own countries. The Foreign Legal Assistance statute allows plaintiffs in a foreign legal proceeding to ask a US federal court to obtain evidence from US people or companies who may have relevant information. [EarthRights International has developed a guide](#) for using this statute in corporate accountability lawsuits. EarthRights has filed three US actions under this statute: one seeking documents from Chevron relating to the impacts of gas flaring in Nigeria; one seeking evidence from Newmont relating to shooting of protestors in Peru; and one seeking evidence from Thomson Safaris relating to alleged land grabs from Maasai communities in Tanzania. Because these cases are pending, it is still too early to assess the impact of this strategy.

International developments

In addition to these cases in national courts, in October 2014 a group of [Cambodians filed a communication with the Office of the Prosecutor of the International Criminal Court](#) alleging that the Cambodian Government, its security forces and government-connected business leaders are involved in extensive, systematic land-grabbing, amounting to a crime against humanity. In light of the unavailability of national courts for many human rights claims against companies, Lawyers 4 Better Business has proposed an [international arbitration tribunal](#) on business & human rights.

3. Recommendations & conclusion

3.1 Recommendations

To companies:

- Create and participate in robust grievance mechanisms that comply with the UN Guiding Principles on Business and Human Rights' requirements of being Legitimate, Accessible, Predictable, Equitable, Transparent, Rights-Compatible, and based on engagement and dialogue with affected stakeholders.
- Do not use legal tools to harass human rights defenders.

Companies' obligations to respect human rights also include the responsibility to avoid actions that harm victims' human rights to access effective remedies. We recommend that companies:

- Do not seek to evade jurisdiction of one court, for example in their home country, if other available courts, for example in the country where the abuse took place, do not provide effective remedies.
- Avoid litigation strategies that could undermine existing judicial remedies for human rights abuses, particularly where the company has other means to defend itself.

To governments:

- Pass, enforce and defend laws that provide effective remedies for victims of human rights abuses involving companies headquartered in the government's territory – including for companies', and their subsidiaries', extraterritorial impacts.

- Take steps to address both legal and non-legal barriers faced by victims who seek to access effective remedies, such as allowing and providing mechanisms for (a) victims' lawyers to finance complex litigation and (b) victims to pursue collective or class actions; and defending activists and human rights lawyers who face legal harassment, other forms of intimidation or violence.

To lawyers advising companies:

- Using tools and guidance including those developed by the [International Bar Association](#) and [Shift](#), advise corporate clients on their responsibility to respect human rights under the UN Guiding Principles and other applicable international law, and the risks of failing to do so – even where those human rights obligations may not be the subject of clear and enforceable domestic laws.

3.2 Conclusion

Last month, people in the Indian city of Bhopal marked [30 years since a gas leak there by the Union Carbide plant](#), owned by a US company, killed nearly 4000 people immediately in the worst industrial accident in history. Thousands more have died since from on-going illnesses caused by the leak, according to the Indian Government, as well as contamination of soils and groundwater in Bhopal. Although Union Carbide, now owned by Dow Chemical, has settled Indian Government claims related to the accident, many victims and families of the dead have never received any redress. (Dow maintains that it is no longer liable for harms caused by the disaster because of payments it made to settle the government's claims.) The site remains contaminated, according to leading independent scientific studies.

For many around the world, Bhopal stands as a glaring example of corporate impunity. The sad truth is that, if another Bhopal occurred today, there are many indications that barriers to remedies would again lead to victims being denied justice. Addressing the largest event ever on business and human rights, the UN Third Annual Forum on Business & Human Rights, [Bettina Cruz of the Indigenous People Caucus](#) emphasised, "*States should ensure access to justice for victims of human rights violations...and provid[e] the necessary resources for supporting the victims...National action plans should...include the implementation of extraterritorial jurisdiction when victims do not attain justice in their own countries.*" In too many countries today, access to justice is under threat, not increasing. We will continue to work with governments, victims' advocates and responsible businesses to highlight both advances and setbacks that undermine real accountability. Those harmed by irresponsible corporate actions deserve no less.

4. About Business & Human Rights Resource Centre

[Business & Human Rights Resource Centre](#) is an independent non-profit organization that brings information on companies' human rights impacts, positive and negative, to a global audience. We have researchers based in Brazil, Colombia, Hong Kong, India, Japan, Jordan, Kenya, Mexico, Myanmar, Senegal, South Africa, UK, Ukraine and USA. Our [International Advisory Network](#), comprising 70 experts from all regions, is chaired by Mary Robinson, former United Nations High Commissioner for Human Rights and former President of Ireland. The Resource Centre was named as recipient of the [2013 Dodd Prize in International Justice and Human Rights](#). For further information about the Centre, see the "[About us](#)" section of our website, and a profile of our work by the *Financial Times* entitled "[A fair approach to human rights](#)".

5. Follow our work on Corporate Legal Accountability

Business & Human Rights Resource Centre will continue to bring the concerns of local advocates to an international audience and profile additional lawsuits against companies – both under-the-radar and high-profile cases.

Our [Corporate Legal Accountability hub](#) provides accessible, up-to-date, concise case profiles on over 100 lawsuits in all parts of the world. It is frequently updated with new case profiles and news of on-going lawsuits. The profiles link to arguments from both sides of cases where available, as well as articles and commentaries. The portal demystifies cases in non-legal terms and also provides resources for lawyers and others working in the field. It provides an international platform for advocates

and others to share information about corporate legal accountability and disseminate news about lawsuits to a global audience.

We publish a Corporate Legal Accountability Quarterly Bulletin in English, French, Russian and Spanish. Past issues of this bulletin are available [here](#). If you wish to receive this bulletin, please contact us. Our previous Annual Briefings are available [here](#). All of our website's items on lawsuits and regulatory actions involving companies and human rights abuses are [here](#).

If you would like to receive our free Weekly Updates, the sign-up form is [here](#).

Please do not hesitate to get in touch with any questions or suggestions of material for our portal and website:

- Sif Thorgeirsson, Corporate Legal Accountability Project Manager:
thorgeirsson@business-humanrights.org
- Elodie Aba, Legal Researcher:
aba@business-humanrights.org

The primary authors of this briefing were Sif Thorgeirsson & Elodie Aba; it was edited by Greg Regaignon (Research Director), with input from Phil Bloomer (Executive Director).

[Support our work](#)

Please consider donating to Business & Human Rights Resource Centre, to enable us to continue our work on corporate legal accountability, and to offer our information to a global audience without charge. As we do not accept donations from companies or company foundations, donations from individuals and independent foundations are essential for our work to continue.

Business & Human Rights Resource Centre is a Registered Charity in England & Wales (no. 1096664), and in the United States is a tax-exempt non-profit organization under Section 501(c)(3) of the Internal Revenue Code.