

Corporate Legal Accountability Quarterly Bulletin – Issue 10, September 2013

Welcome to the 10th 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, Corporate Legal Accountability Project Researcher, at aba@business-humanrights.org. Previous issues of this bulletin are available [here](#). This bulletin is now available in Spanish and French [here](#).

1. 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):

- [Lawsuit against African Barrick Gold \(re Tanzania\)](#): In July 2013 a group of 12 Tanzanians sued two companies affiliated with Barrick Gold in UK court, alleging complicity in killings and injuries of villagers by police guarding the North Mara Mine. The plaintiffs sued African Barrick Gold and North Mara Gold Mine Limited (NMGML), claiming that the mine and NMGML are controlled by African Barrick Gold and that African Barrick Gold failed to prevent the use of excessive force by police at the mine. The companies deny the allegations.
- [Lawsuit against COMILOG \(re Gabon\)](#): In 1991, the Gabonese mining firm COMILOG laid off 955 workers without notice or compensation and said they would receive severance in instalments. However, many claim they never received any severance. The French firm ERAMET subsequently became a majority owner of COMILOG. In 2007 over 800 former COMILOG workers brought a complaint before a French employment tribunal alleging unfair dismissal and requesting €65 million in compensation. In June 2013 the Paris Court of Appeal ruled that French courts have jurisdiction to hear the case. NGOs such as Sherpa see this decision as “emblematic” of the issue of corporate liability for business’ impacts abroad, and as potentially a “step toward the recognition of legal accountability of parent companies for the activities of their subsidiaries” (our unofficial translation; Sherpa’s original statement in French available [here](#)).
- [Lawsuit against Daimler \(re alleged complicity in abuses during “Dirty War” in Argentina\)](#): In 2004, 23 Argentinian citizens sued DaimlerChrysler (now Daimler) in US court under the Alien Tort Claims Act and the Torture Victims Protection Act. They alleged that Daimler’s subsidiary Mercedes Benz Argentina collaborated with state security forces to kidnap, detain, torture and kill the plaintiffs or their close relatives, employees of Mercedes Benz Argentina, during Argentina’s military dictatorship. The US Supreme Court will hear arguments in this case during its 2013-14 term.
- [Lawsuit against Danzer Group \(re Dem. Rep. of Congo\)](#): In April 2013, two NGOs filed a criminal complaint in Germany against Olof von Gagern, a senior manager of the timber firm Danzer Group. The complaint alleges von Gagern was complicit in human rights abuses by police and military during an attack on the village of Bongulu in northern Democratic Republic of Congo (DRC) in May 2011. A group of Bongulu villagers filed a complaint in DRC against Congolese military and police officers allegedly involved in the same 2011 incident. Both legal actions are ongoing.
- [Lawsuit against Thomson Safaris \(re Maasai people\)](#): In February 2010, a lawsuit was filed on behalf of Maasai pastoralists in the High Court of Tanzania against Tanzania Breweries (TB) and Tanzania Conservation Ltd (TC), a subsidiary of US company Thomson Safaris. The plaintiffs allege that they were forcefully evicted from their ancestral land by the defendants. The court ruled in favour of the defendants and dismissed the case in May 2013. The plaintiffs refiled their case in June 2013.

2. **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):

- [Abu Ghraib lawsuits against CACI, Titan \(now L-3\)](#): In June 2013 the US court hearing this case dismissed it, ruling that, as a result of the US Supreme Court's decision in *Kiobel v. Shell*, it lacked jurisdiction to hear the case under the Alien Tort Claims Act because the incidents happened outside the United States. The plaintiffs have filed a notice of appeal.
- [Apartheid reparations lawsuits](#): In August 2013, a US appeals court ruled that a lawsuit against Daimler, Ford and IBM regarding alleged complicity in crimes committed by the South African Government during *apartheid* should be returned to the lower court. The appeals court recommended dismissing the case, citing *Kiobel v. Shell*.
- [Lawsuit against Drummond \(re violence against trade unionists in Colombia\)](#): In July 2013 a US district court judge dismissed the case against the coal mining company Drummond finding that the court no longer had jurisdiction to hear the case, citing *Kiobel v. Shell*.
- [Lawsuit against Ford \(re alleged complicity in abuses during "Dirty War" in Argentina\)](#): In May 2013 an Argentinian federal court charged three former Ford Motor Argentina executives with crimes against humanity. The three men are accused of giving workers' names, pictures and home addresses to security forces who took over 20 union workers from Ford's factory in suburban Buenos Aires to be tortured and interrogated, and then sent the workers to military prisons.
- [Lawsuits against HudBay Minerals \(re human rights abuses in Guatemala\)](#): In July 2013 the Superior Court of Ontario ruled that the lawsuits may proceed to trial in Canadian court.
- [Kivalina lawsuit \(re global warming in Alaska\)](#): In May 2013 the US Supreme Court declined to hear the Native Alaskan village of Kivalina's appeal of the dismissal of its case against 19 oil & gas and energy companies.
- [Lawsuit against KBR \(re human trafficking in Iraq\)](#): In August 2013, a US federal court dismissed the Alien Tort Claims Act claims against KBR, but it ruled that the claims brought against KBR under the Trafficking Victims Protection Reauthorization Act may proceed. The trial is scheduled for April 2014.
- [Lawsuit against Nestlé \(re killing of trade unionist in Colombia\)](#): In May 2013 the prosecutor of the Swiss canton of Vaud dismissed the complaint against Nestlé because it was filed after the expiration of the statute of limitations. The plaintiffs have appealed the decision.
- [Lawsuit against PA Child Care \(re "kids for cash" scandal\)](#): In May 2013, a US appeals court upheld all but one of the convictions of Mark Ciavarella, a former judge who allegedly received kickbacks in return for sending teenage offenders to two privately-run juvenile facilities.
- [Lawsuit against Rio Tinto \(re conflict in Papua New Guinea\)](#): In June 2013, a US appeals court upheld the dismissal of the case, citing *Kiobel v. Shell*.
- [Lawsuit against Shell \(re oil pollution in Nigeria\)](#): In May 2013, Friends of the Earth Netherlands and Nigerian farmers appealed an earlier decision by a Dutch court ruling that Shell could not be held liable in the Netherlands for actions of its Nigerian subsidiary in Nigeria that caused environmental damage. [In another lawsuit in UK court by different plaintiffs](#), Shell is beginning settlement negotiations with 15,000 Nigerians claiming compensation for oil spills in 2008.
- [Lawsuit against Texaco/Chevron \(re oil pollution in Ecuador\)](#): In July-August 2013, US federal courts upheld subpoenas served by Chevron on Microsoft, Google and Yahoo! demanding private user information about environmental advocates, journalists, lawyers and others. Chevron sought this as part of its fraud lawsuit against certain Ecuadorian oil pollution plaintiffs and their lawyers.
- [Lawsuit against Union Carbide/Dow \(re Bhopal\)](#): In June 2013, a US appeals court upheld a lower court's dismissal of the case against Union Carbide over the 1984 gas leak and disaster. In July 2013, an Indian court summoned Dow Chemical Company to appear and explain why its subsidiary Union Carbide had ignored previous summons in the case.
- [US Deepwater Horizon explosion & oil spill lawsuits](#): BP's trial for negligence has been on-going since February 2013. BP requested to suspend payments to victims of the oil spill while alleged fraudulent claims were investigated; the US federal court rejected that request in July 2013.

- [Lawsuit against Vedanta Resources \(re Dongria Kondh in Orissa\)](#): In April 2013, India's Supreme Court upheld the ban on mining in the Niyamgiri hill range and ruled that the rights of the Dongria Kondh communities must be taken into account in deciding whether the mining project may go ahead.
 - [Lawsuit against Walmart \(re gender discrimination in USA\)](#): In August 2013, the US federal court issued an order denying the women class certification. If the women want to pursue the claims against Walmart, each will have to pursue her claims individually.
- 3. New translations:** We have translated the following case profiles into French:
- [Procès COMILOG \(Gabon\)](#) [Lawsuit against COMILOG (re Gabon)]
 - [Procès Qosmos \(Syrie\)](#) [Lawsuit against Qosmos (re Syria)]
 - [Procès Shell \(Nigeria\)](#) [Lawsuit against Shell (re Nigeria)]
 - [Procès SNCF \(Holocauste\)](#) [Lawsuit against SNCF (re Holocaust)]
 - [Procès Total en Belgique \(Myanmar\)](#) [Lawsuit against Total (re Myanmar)]
 - [Procès Veolia & Alstom \(projet de tramway de Jérusalem\)](#) [Lawsuit against Veolia & Alstom (re Jerusalem tramway project)]
- 4. Quarterly Bulletin in French & Spanish:** We are also issuing this full bulletin in French and Spanish, available [here](#). If you would like to receive it in French or Spanish in future, please let us know.
- 5. Resource Centre briefings:**
- **Corporate Legal Accountability Annual Briefing:** We will be launching our second Corporate Legal Accountability Annual Briefing in the coming weeks. Everyone receiving this Quarterly Bulletin will receive the annual briefing. This briefing will provide a global overview of trends and developments in the legal accountability field over the last year. To see our June 2012 Annual Briefing, click [here](#).
 - **Latin America & Caribbean Regional Briefing:** The Resource Centre has just launched its first Regional Briefing on Latin America & the Caribbean. The section on legal developments includes information about lawsuits against companies, including the following:
 - rulings by Argentinean and Chilean courts related to companies' actions during the former military governments;
 - environmental lawsuits against companies in Brazil, Chile, Costa Rica and Ecuador;
 - the lawsuit against HudBay Minerals in Canada, regarding violence in Guatemala;
 - lawsuits in USA against companies over violence in Colombia and Ecuador; and
 - the lawsuits against Monterrico Metals in UK and Peru, regarding alleged detention, torture and sexual assault in Peru.

The press release and the full briefing are available [here](#) (in English & Spanish).
 - **Freedom of Association briefing:** In July, the Resource Centre launched its first briefing on Business & Freedom of Association. It also includes a section on lawsuits against BP, Coca-Cola, Daimler, Drummond, Ford, Ledesma, Nestlé and Sinter Metal. The press release and full briefing are available [here](#).
- 6. 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.