



# GLOBAL JUSTICE: USING STRATEGIC LITIGATION TO COMBAT FORCED LABOR



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# TABLE OF CONTENTS

<b>EXECUTIVE SUMMARY</b> .....	<b>1</b>
<b>I COMBATING FORCED LABOR THROUGH STRATEGIC LITIGATION AROUND THE GLOBE</b> .....	<b>2</b>
<b>A. INTRODUCTION</b> .....	2
<b>B. WHY STRATEGIC LITIGATION IS NECESSARY</b> .....	3
<b>C. WHAT MAKES A CASE STRATEGIC?</b> .....	3
1. Choice of Defendant .....	4
2. Governmental or Other Institutional Failures in Prosecution of Forced Labor .....	4
3. Increasing Public Awareness .....	4
<b>II HOLDING INDIVIDUAL ACTORS ACCOUNTABLE</b> .....	<b>5</b>
<b>A. THE IMPACT OF DOMESTIC WORKER CASES:         HOLDING INDIVIDUALS ACCOUNTABLE</b> .....	5
<b>B. CASES AGAINST INDIVIDUAL ACTORS         CAN HAVE BROAD IMPACT</b> .....	6
<b>C. CORPORATE OFFICERS MAY BE         PERSONALLY LIABLE</b> .....	8
<b>III HOLDING CORPORATIONS ACCOUNTABLE</b> .....	<b>9</b>
<b>A. LEGAL ACTIONS AGAINST CORPORATIONS CAN INCREASE         ACCOUNTABILITY FOR RELIANCE ON FORCED LABOR</b> .....	9
<b>B. JURISDICTION WHEN THE WRONGDOING         IS EXTRATERRITORIAL</b> .....	10
<b>C. HOLDING PARENT COMPANIES LIABLE         FOR THE ACTIONS OF SUBSIDIARIES</b> .....	11
<b>IV HOLDING THE SUPPLY CHAIN ACCOUNTABLE: WHEN THE SUPPLY CHAIN BINDS</b> .....	<b>13</b>
<b>V HOLDING NATIONS ACCOUNTABLE</b> .....	<b>15</b>
<b>A. HOLDING STATE ACTORS ACCOUNTABLE         FOR DIRECT INVOLVEMENT</b> .....	15
<b>B. FAILING TO PREVENT, PROSECUTE, AND PROTECT:         WHEN GOVERNMENTS ARE COMPLICIT IN FORCED LABOR</b> .....	17
<b>VI CONCLUSION</b> .....	<b>20</b>
<b>ENDNOTES</b> .....	<b>21</b>



# EXECUTIVE SUMMARY

Forced labor is a feature, not a bug, in today's global economic system. Forced labor spans the globe. It involves multinational corporations. It is found in special economic zones—and war zones. And it is in everyone's backyard. Globally, 27.5 million people are victims of forced labor—domestic workers, construction crews, agricultural and factory laborers, and others in every part of our economy.

Ending forced labor will require a worldwide movement—one led by strategic litigation against its perpetrators, its governmental facilitators, and its beneficiaries.

Already there is real progress. Under laws such as the United States' Trafficking Victims Protection Reauthorization Act (TVPPRA), plaintiffs have the right to sue traffickers for the damages the victims have sustained. As of December 31, 2021, trafficking-victim plaintiffs had filed 539 civil cases under the TVPPRA. Courts have ordered more than \$265,009,825 in settlements and judgments for damages.

Strategic litigation often involves complex jurisdictional issues and an intricate interplay of international law and policy. Litigators must consider the choice of the defendant and who can be best held accountable. Strategic litigation is a mechanism to force nations to confront the challenges of forced labor. And it has the ability to demand corporate accountability by increasing the financial risk and the reputational harm to companies.

A single case can have wide-ranging effects—even without a final verdict. An out-of-court settlement can be enough to lead to industry-wide reforms, as was the case with a TVPPRA lawsuit against a commercial fishing vessel. And still-pending private suits can lead law enforcement agencies to initiate criminal investigations.

In European courts, companies and other private parties are being held liable if they knew, or should have known, that forced labor was being used at any point along the supply chain. Further, courts are increasingly willing to hold corporate directors personally liable for the forced labor that occurred on their watch. Under new “due diligence” laws, companies can be held liable for any harm that could have been prevented if they had fulfilled this due diligence vigilance requirement.

Strategic litigation is an essential tool to hold state actors and corporations accountable for their involvement in forced labor. Countries are being sued for investing in projects or contracting with companies relying on forced labor. Courts are compensating plaintiffs.

And that is exactly what strategic litigation aims to do: Compensate the people directly involved, while catalyzing systemic change in legislatures, in courts, in business, and beyond.



# COMBATING FORCED LABOR THROUGH STRATEGIC LITIGATION AROUND THE GLOBE

## A. INTRODUCTION

Forced labor is a feature, not a bug, in today's global economic system.

Forced labor's victims include children forced to work on the cocoa farms of the Ivory Coast. It includes women in Ecuador forced to make paper products bound for Europe. It includes domestic workers who can't leave abusive employers because they face deportation if they were to leave. It includes those in debt bondage—such as construction laborers working essentially for free to satisfy enormous debts that employers falsely claim they owe. Forced labor includes child soldiers. It includes the migrant workers who died while building Qatar's World Cup facilities and the Syrian laborers whose French employer paid millions to ISIS to keep its factory open during the country's civil war.

Forced labor includes domestic workers, construction crews, agricultural and factory workers, and others. It touches every part of the global economy.

Ending forced labor will require a worldwide movement—one led by strategic litigation against its perpetrators, its governmental facilitators, and its beneficiaries.

Strategic litigation offers recompense and justice to the plaintiffs. In the United States, the Trafficking Victims Protection Reauthorization Act (TVPRA)<sup>1</sup> gives plaintiffs a private right of action: Individuals have the ability to sue human traffickers for the damages they've sustained. As of December 31, 2021, plaintiffs had filed more than 539 civil cases under the TVPRA. Courts have ordered more than \$265,009,825 in public settlements and civil damages awards.<sup>2</sup>

Strategic litigation has proven to be an effective approach that brings about real, lasting change. It has already resulted in wins such as:

- first-of-a-kind court decisions enumerating new tests for personal and corporate liability
- incorporation of international laws banning forced labor into nations' common law
- court holdings that have resulted in new legislation
- court orders for nations deficient in the investigation of forced labor to improve their practices
- loss of funding for infrastructure programs that relied on state-sponsored forced labor

**\$265,009,825**

*The known damages plaintiffs have won as judgments  
or settlements in private TVPRA actions*



Each win in court is a warning to perpetrators that there is a risk to their wrongful conduct.<sup>3</sup> They can be held accountable. They may owe millions to those whom they have exploited and injured. They can lose contracts and be barred from the marketplace.

Strategic litigation can make the costs of forced labor outweigh the benefits.

## B. WHY STRATEGIC LITIGATION IS NECESSARY

Forced labor is ubiquitous across the globe.<sup>4</sup>

Consider these statistics:

- Globally, 27.5 million people are victims of forced labor exploitation.<sup>5</sup>
- The United States imports more than \$144 billion worth of goods made using forced labor each year.<sup>6</sup>
- Labor trafficking yields perpetrators an estimated \$150 billion in illegal profit each year.<sup>7</sup>

Legitimate businesses are subject to regulation and enforcement to protect employees' wellbeing<sup>8</sup> as well as economic and institutional concerns.<sup>9</sup> Yet perpetrators of forced labor have been, statistically speaking, able to evade criminal prosecution. While 27.5 million people are in non-sexual forced labor, in 2021, there were just 1,379 prosecutions against forced labor in the entire world.<sup>10</sup> In the United States, only 89 federal criminal cases charging forced labor were brought from 2015 to 2021.<sup>11</sup>

It's clear from statistics such as these that strategic litigation must be a primary tool for holding human traffickers accountable.

## C. WHAT MAKES A CASE STRATEGIC?

Strategic litigation against forced labor is a worldwide movement—and it must be. Most cases involve the movement of people and products across borders. These cases often involve complex jurisdictional issues and an intricate interplay of international law and policy. But strategic litigation is also about the choice of case and how it is litigated. The case must rest on its merits, but other factors come into play:

## 1. CHOICE OF DEFENDANT

Strategic litigation targets *specific bad actors*—including the individuals who recruit and hold workers in forced labor and the corporate entities that profit from the goods and services made by forced labor. These cases warn others who commit wrongdoing that they can be held accountable. They can inspire governments to act. And the cumulative effect should lead to systemic change.

## 2. GOVERNMENTAL OR OTHER INSTITUTIONAL FAILURES IN PROSECUTION OF FORCED LABOR

Local authorities are often aware of forced labor occurring on their watch. Some prosecute the victims as the wrongdoers, while still others refuse to act against these crimes. Corrupt officials even profit from the trafficking, and their corruption undercuts the rule of law.<sup>12</sup>

But successful civil cases shame governments into taking action.<sup>13</sup> And these cases can bring about systemic change, as courts are starting to sanction countries that fail to prevent trafficking and protect its victims.

## 3. INCREASING PUBLIC AWARENESS

By bringing cases where there is public interest and news coverage, strategic litigation seeks to increase public awareness. In the United Kingdom, consumers drink more than 100 million cups of tea a day.<sup>14</sup> But allegations abound that much of the tea marketed by U.K. brands was harvested by victims of forced labor and sexual abuse.<sup>15</sup> Hosting the World Cup should be a source of international pride for Qatar—but other countries discussed a boycott after learning of the forced labor used to build Qatar’s stadiums.<sup>16</sup> The Dutch have built ships since the 17th century<sup>17</sup>, but they now know one of their firms allegedly outsourced construction to a company with North Korean workers in “slave-like conditions.”<sup>18</sup> And the Chinese government’s mass detention of Uyghurs for forced labor overshadowed the Winter Olympics in 2022.<sup>19</sup>





# HOLDING INDIVIDUAL ACTORS ACCOUNTABLE



## A. THE IMPACT OF DOMESTIC WORKER CASES: HOLDING INDIVIDUALS ACCOUNTABLE

Taken individually, cases involving domestic workers' allegations against abusive employers may seem unlikely to drive a worldwide strategic litigation movement. But that is indeed what has been happening.

In the first decade after the TVPRA gave victims a private right of action against their traffickers, domestic workers brought *one-third* of all the federal cases brought under the TVPRA.<sup>20</sup>

Today, while the use of the TVPRA has grown, domestic workers' cases still make up almost one-fifth of federal TVPRA-related civil litigation. Today, while the use of the TVPRA has grown, domestic workers' cases still make up almost one-fifth of federal TVPRA-related civil litigation. Domestic worker cases have outpaced cases brought in every other labor sector.<sup>21</sup>

In the Middle East, the *kafala* system—an employment sponsorship system that legally ties migrants to their employers and facilitates workers' exploitation—has been under fire for years.<sup>22</sup> But it was a domestic worker who first challenged the *kafala* system in a Lebanese court.<sup>23</sup>

Plaintiff “MH” is suing a recruiter and her employer for the abuse she endured as an Ethiopian domestic worker working within Lebanon's *kafala* system.<sup>24</sup>

Fatima Shahade, Lebanon program manager at Legal Action Worldwide, directly affirmed the strategic nature of the lawsuit: “The litigation doesn't only target the legal aspect of MH's case, but it also aims to change the behavior and perception of the community towards the *kafala* system.”<sup>25</sup>

Around the world, the domestic worker cases prove that forced labor cases can be won. And they establish solid legal precedent for how relevant laws should be applied.

These cases are the blueprints for future litigation.<sup>26</sup>

## Lipenga: A Domestic Worker's Successful TVPRA Claim in Action

In *Lipenga v. Kambalame*, plaintiff Fainess Lipenga, a Malawian domestic worker, filed a TVPRA civil suit against her former employer, a diplomat from Malawi.<sup>A</sup>

Lipenga alleged that her employer lied to U.S. authorities to gain Lipenga a visa as a diplomatic domestic worker. Once Lipenga arrived in the United States, her employer seized Lipenga's passport and threatened to have Lipenga deported if she ever left her employer. Her employer forced Lipenga to work 18 hour days, seven days a week, yet she refused to pay for the work under the contract. In an environment both physically and psychologically abusive, she refused to allow Lipenga to leave the house without permission. When Lipenga was ill, she couldn't seek medical care.

The court ruled that the employer was liable under the TVPRA provision for involuntary servitude (i.e., she had knowingly obtained Lipenga's labor through force, threats of force, or abuse of legal process). Moreover, the defendant was also liable under the TVPRA's anti-trafficking provision, having brought Lipenga to the U.S. using force, fraud, or coercion. The court awarded Lipenga more than \$1.1 million in damages.<sup>B</sup>

## B. CASES AGAINST INDIVIDUAL ACTORS CAN HAVE BROAD IMPACT

Individuals who can be held liable for human trafficking include recruiters, supervisors, company owners, and others engaged in forced labor, as well as those who benefit from these practices. At a minimum, when faced with a well-researched and well-pled lawsuit, defendants must devote time and money for their legal defense. Defendants must also deal with the reputational costs of being branded as human traffickers. And if the plaintiffs prevail, the wrongdoers must pay direct compensatory damages and, in some cases, millions in punitive damages.<sup>27</sup>

With every lawsuit, the defendants and their peers are starting to get the message: Forced labor is no longer cost-effective.

A single case can result in industry-wide change.

For example, the international fishing industry is known for its reliance on forced labor. In a small case with an outsized impact, Indonesian fishermen Sorihin and Abdul Fatah used the TVPRA to sue the U.S. citizen who owns and captains *Sea Queen II*, a commercial fishing vessel.<sup>28</sup>

According to the complaint, the plaintiffs had been forcibly transferred to the captain's vessel by recruiters. For the next six months, they endured heavy labor and permanent injury while working. Then they were paid a fraction of what they were owed for their work.

After two years of litigation, the plaintiffs and defendant agreed to an out-of-court settlement. In addition to compensating the plaintiffs, the defendant-captain agreed to institute protections for his employees including:

- a code of conduct
- information apprising employees of their rights under U.S. law and contacts for legal assistance
- access to their passports
- medical attention for injuries
- minimum rest hours
- protective clothing at no cost
- the right to terminate the contract early without incurring penalties
- employment contracts in the employee's language<sup>29</sup>

At the time, plaintiffs' counsel, Cohen, Milstein, Sellers, & Toll PLLC partner Agnieszka Fryszman said, "This settlement should be a wake-up call to the commercial fishing industry. There's simply no excuse for turning a blind eye to human trafficking."<sup>30</sup>

Fryszman's admonition was correct; the litigation had an immediate impact.

Months before *Sorihin* had been filed, the Asian-Pacific fishing industry had been rocked by a [media expose](#) about the industry's reliance on forced labor.<sup>31</sup> In response, the Hawaii Longline Association defended its fleet—which included about 700 foreign fishermen on 140 boats—and an internal task force found no evidence of forced labor.<sup>32</sup> Still, pressure continued to mount. The longliners began discussing a workers' rights program, but nothing was released. Then, six weeks after *Sorihin's* settlement, the longliners finally released their code of conduct.<sup>33</sup> That code included all of the protections included in the *Sorihin* settlement.<sup>34</sup>

Hoping for a similar result are the plaintiffs in *Kumar et al. v. Bochasanwasi Shri Akshar Purushottam Swaminarayan Sanstha, Inc.*<sup>35</sup>

In May 2021, six named plaintiffs filed [a class-action](#) suit against Bochasanwasi Shri Akshar Purushottam Swaminarayan Sanstha, Inc. ("BAP").<sup>36</sup> The named plaintiffs represented a class of more than 200 Indian citizens who are members of the Scheduled Caste, also known as Dalit, and other marginalized communities in India.<sup>37</sup>

According to [the Kumar complaint](#), the defendants brought the plaintiffs to the United States under false pretenses, telling them they would be religious volunteers. In reality, the plaintiffs were forced to work in stone masonry and other construction jobs at a Hindu temple in New Jersey. Asserting claims under the TVPRA and state labor laws, the plaintiffs alleged that they were essentially imprisoned and forced to work in dangerous conditions—with one laborer dying during the construction.

Within hours after *Kumar* was filed, three U.S. federal agencies raided BAP in New Jersey and removed approximately 90 workers.<sup>38</sup> As news coverage of the suit and the raid circled the globe,<sup>39</sup> more victims came forward. In October 2021, *Kumar's* plaintiffs amended their complaint to include plaintiffs at four other temples across the United States.<sup>40</sup>

*Kumar* has a long way to go, but, given the response of U.S. authorities, the plaintiffs have already won a significant victory.



## C. CORPORATE OFFICERS MAY BE PERSONALLY LIABLE

Whether or not a corporation is found liable for forced labor,<sup>41</sup> courts can hold officers and directors personally liable for a company's use of forced labor.

The British High Court set out a new standard for doing just that.

In the matter of *Antuzis & Others v. DJ Houghton Catching Services Ltd.*, the plaintiffs were a group of Lithuanian men who alleged that they were trafficking victims brought to the United Kingdom and forced to work for the defendants as chicken catchers.<sup>42</sup> In addition to suing the corporate employer, the plaintiffs also sued the company's directors as individual defendants. The directors argued that they were immune from suit since, under British law, directors are exempt from personal liability for their company's actions.<sup>43</sup>

The High Court disagreed.

The *Antuzis* court held that the legal protection afforded corporate officers only applied when officers act within the scope of their authority. However, directors can be held personally liable if they breach their fiduciary duty and other responsibilities owed to the company.<sup>44</sup>

The *Antuzis* court explained that, in the instant case, the directors had decided the company would not pay a required minimum wage to its employees—thus they knowingly directed their company to act in a way that contravened British law.<sup>45</sup> Therefore, the defendants breached their fiduciary duty to the company and opened themselves up for personal liability.<sup>46</sup>

Under *Antuzis* and other developing law, directors of the future may be increasingly held liable for their companies' actions.<sup>47</sup>



# HOLDING CORPORATIONS ACCOUNTABLE



## A. LEGAL ACTIONS AGAINST CORPORATIONS CAN INCREASE ACCOUNTABILITY FOR RELIANCE ON FORCED LABOR

Around the world, courts, legislators, and litigators are giving new consideration on how to hold corporations accountable for forced labor and other human rights abuses.

For example, *Nevsun Resources Ltd. v. Araya* is a history-making case—the first case in Canada to allege a tort claim for modern slavery.<sup>48</sup>

In 2014, three Eritrean nationals filed a class action suit against Nevsun Resources, Inc., a Canadian mining company. According to the plaintiffs, they were forced to work at Eritrea’s Bisha Mine, owned by Nevsun, as part of Eritrea’s mandatory conscription program—which requires all young people to work in the military or national service and usually involves hard labor. Since Nevsun owns the Bisha Mine, the plaintiffs sued the company in Canadian court for forced labor and other claims.<sup>49</sup>

In a landmark 2020 ruling, the Supreme Court of Canada concluded that plaintiffs could pursue their claims against Nevsun in Canadian courts. The court explained that crimes against humanity and forced labor have attained the status of *jus cogens*—peremptory norms from which no derogation is permitted—and, “There is no doubt then, that customary international law is also the law of Canada.”<sup>50</sup> Further, these human rights provisions apply to private actors—individuals and corporations.<sup>51</sup>

In light of the ruling, Nevsun settled the case, paying the workers an undisclosed amount.<sup>52</sup>

*Nevsun’s* holding that a corporation can be liable for forced labor is by no means an outlier.<sup>53</sup>

In the United States, private causes of action can be brought against corporations under the TVPRA.<sup>54</sup> And of civil actions brought under the statute, almost three-quarters of them include at least one corporate defendant.<sup>55</sup>

A recent example of a successful TVPRA claim is *Wang et al v. Gold Mantis Construction Decoration (CNMI), LLC*.<sup>56</sup> A U.S. federal court entered a USD \$5.91 million default judgment in favor of seven Chinese construction workers against casino operator Imperial Pacific International (CNMI), LLC (“IPI”) for forced labor.<sup>57</sup> The court described IPI’s mistreatment of the workers as “appalling” and noted that “IPI was the driving force” behind the “egregious conditions” faced by the plaintiffs all “while benefiting from” that exploitation.<sup>58</sup>

**72%** of U.S. Trafficking Victims Protection Reauthorization Act (TVPRA) civil actions involve at least one corporate defendant

## B. JURISDICTION WHEN THE WRONGDOING IS EXTRATERRITORIAL

Jurisdiction can become complicated in any lawsuit, but forced labor cases often include parties from different countries and events that have taken place in still more countries. At the same time, incidents of forced labor more frequently occur in jurisdictions where state actors are complicit—which means a plaintiff is unlikely to prevail unless the case is litigated elsewhere.

Therefore, one of the most potent tools in strategic litigation is the ability to establish jurisdiction over extraterritorial abuses.

The United States embraced extraterritorial jurisdiction by expressly including it in the language of the TVPRA. As members of Congress explained in a Supreme Court amicus brief:

In 2008, Congress also clarified that the TVPRA was intended to reach extraterritorial conduct. The new § 1596 specified that “[i]n addition to any domestic or extra-territorial jurisdiction otherwise provided by law,” federal courts have jurisdiction to hear criminal and civil allegations of extra-territorial forced labor and other TVPRA violations committed by (1) U.S. nationals; (2) permanent resident aliens; or (3) anyone present in the United States. Id. § 223(a).<sup>59</sup>

At the time, then-senator Joe Biden said that, with the TVPRA, “We establish some powerful new legal tools, including increasing the jurisdiction of the courts.”<sup>60</sup> The Congressional Record states that “Section 223 amends chapter 77 of title 18 by increasing the jurisdiction of the courts to include any trafficking case found in or brought into the United States, even if the conduct occurred in a different country.”<sup>61</sup> A number of forced labor cases invoking extraterritorial jurisdiction are currently pending in U.S. federal courts. Those strategic litigation matters include cases alleging child forced labor in the cocoa industry brought against Nestle; a case alleging child forced labor in the cobalt mines of the Democratic Republic of Congo brought against Apple, Tesla, and other corporate giants; and a case alleging forced labor in the production of personal protective equipment against Kimberly Clark.

Similarly, some E.U. member-states have created statutes that make E.U. companies liable for reliance on forced labor, regardless of the location.<sup>62</sup>

And in the United Kingdom, the British Supreme Court has gone even further in recognizing the complex realities of employees’ cross-national litigation.

In *Vedanta Resources PLC v. Lungo*, Zambian workers sought to sue their local employer and its British parent company in British court.<sup>63</sup> The Supreme Court allowed the case to go forward, since “the court may permit service of English proceedings on the foreign defendant if cogent evidence shows that there is a real risk that substantial justice would not be obtainable in that foreign jurisdiction.”<sup>64</sup>

Under the *Vedanta* “substantial justice” principle, jurisdiction can be appropriate if a corrupt prosecutor or court would preclude recovery, or if a nation’s laws would be an unfair bar to the plaintiff’s claim. But *Vedanta* holds that courts can exercise jurisdiction if there are more pragmatic concerns, such as if the other nation that does not have enough skilled counsel able to handle a large action.<sup>65</sup> And the jurisdictional determination must be its own analysis—apart from other review of the facts at hand.<sup>66</sup>

## C. HOLDING PARENT COMPANIES LIABLE FOR THE ACTIONS OF SUBSIDIARIES

An estimated 60-80 percent of world trade comes through multinational firms.<sup>67</sup> This raises a question: if, when and how parent companies can be held liable for the acts of their subsidiaries and subcontractors.

The British Supreme Court began to answer those questions in the *Vedanta* case, establishing a landmark principle:

Breaking with the “legal separation” construct that parent companies and subsidiaries are not liable for the acts of the other,<sup>68</sup> the *Vedanta* court held that U.K. parent companies can be liable for the subsidiary’s wrongdoing. Further, when parent companies present

### Lafarge Cement Syria: The Groundbreaking Prosecution of a Multinational

In 2016, Sherpa, the European Center for Constitutional and Human Rights (ECCHR), and Syrian nationals filed suit in French court against Lafarge Cement Syria and its French parent company, Lafarge.<sup>c</sup> According to the plaintiffs, Lafarge paid an estimated €13,000,000 to the Islamic State of Iraq and Syria (ISIS) and other armed groups, so Lafarge could operate its Syrian cement factory during the height of the Syrian Civil War.<sup>d</sup> Lafarge allegedly forced its employees to work but took no precautions for their safety, even after ISIS had, on more than one occasion, kidnapped its employees. At one point, ISIS attacked the factory, and the employees were left on their own to escape.<sup>e</sup>

The plaintiffs allege that, when Lafarge had paid ISIS, it committed crimes against humanity, war crimes, and financing of terrorist activity, while it endangered and exploited its employees. This suit marks the first time a multinational firm was sued for those causes of action.<sup>f</sup>

Lafarge has since admitted to involvement with ISIS, its CEO resigned, and the multinational closed its Paris and Zurich offices.<sup>g</sup>

In September 2021, France’s highest court, *la Cour de Cassation*, ruled that Lafarge can be prosecuted for crimes against humanity. The court explained that, since ISIS’ sole need for funds was to conduct crimes against humanity, paying ISIS can make Lafarge complicit in its crimes.<sup>h</sup>

themselves as responsible for subsidiaries, the parents should be held accountable for them—even if their claims of supervision were less about a true exercise of control and more about marketing.<sup>69</sup>

When the *Vedanta* decision was announced, plaintiffs’ counsel Leigh Day attorney Martyn Day said, “I hope this judgment will send a strong message to other large multinationals that their CSR policies should not just be seen as a polish for their reputation but as important commitments that they must put into action.”<sup>70</sup>

Two British cases will test *Vedanta*’s impact:

*Josiya & 7,262 Others v. British American Tobacco Plc. et al.*<sup>71</sup>: In *Josiya*, more than 7,000 Malawian tenant tobacco farmers and their families, including child laborers, are asserting negligence and unjust enrichment claims against British American Tobacco, Imperial Brands, and their subsidiaries. The plaintiffs allege the British companies unjustly profited from the exploitation of the farmers and their families, while the firms knew that they were being subjected to forced labor and unlawful child labor.<sup>72</sup>

*Thomas & Ors v. PGI Group Ltd.*<sup>73</sup>: In this case, 31 Malawian women are suing British conglomerate PGI Group Ltd. for negligence. The women allege that PGI Group failed in its duty of care to the women, who purportedly sustained sexual abuse and other trauma while working for Lujeri Tea Estates, the women’s Malawi employer and a PGI Group subsidiary.<sup>74</sup> Media reports stated that the British firms have already suspended ties with Lujeri, even as they continue defending against the suit.<sup>75</sup>

The concern over subsidiary misconduct<sup>76</sup> has led to new legislation to address this issue.

In France, there have been major developments both in related civil and criminal law.

After the 2013 collapse of a Bangladesh factory producing clothes for French labels—when more than 1,000 workers died as a result of the collapse—national outrage spurred passage of a statute regulating French conglomerates’ international activities. Under the new law, French parent companies are now required to monitor subsidiaries for human rights abuses that occur anywhere in the world.<sup>77</sup> If the parents fail to do so, they can be liable for any harm that could have been prevented had they exercised the required vigilance.<sup>78</sup>





# HOLDING THE SUPPLY CHAIN ACCOUNTABLE: WHEN THE SUPPLY CHAIN BINDS

## IV

In the context of criminal law, non-governmental organization Sherpa and former employees of Qatari subsidiary QDVC brought complaints in France against the managers of QDVC and QDVC's parent company, Vinci Construction Grands Projets, alleging migrant workers had been subjected to forced labor on its construction sites for the 2022 World Cup in Qatar.<sup>79</sup> In November 2022, a french investigatory judge brought preliminary charges against Vinci subsidiary Vinci Construction Grands Projets for forced labor.<sup>80</sup>

Pressured by other nations considering a boycott of the World Cup, Qatar announced reforms for its migrant workforce—who make up 95% of Qatar's workforce. While these announcements were initially met with fanfare, researchers expressed concern that these reforms had not been implemented.<sup>81</sup>

In the United States, liability is not limited to companies with an overt contractual relationship with a vendor using forced labor. Instead, as a U.S. district court explained in *Maslic v. ISM Vuzem d.o.o., et al.*,

...the TVPRA provides to victims of coerced labor a cause of action against any third party who “knowingly benefits, financially or by receiving anything of value from participation in a venture which that person knew or should have known” relied on coerced labor. To state a claim under this cause of action, a plaintiff must allege that the defendant: (1) obtained a financial benefit from a venture that relied on the plaintiff's coerced labor and (2) knew or should have known about the plaintiff's coerced labor.<sup>82</sup>

However, when it comes to more clearly establishing broader accountability for forced labor, the U.K. and countries across Europe are using a “knew or should have known” standard, based in negligence causes of action, to find corporate liability for any forced labor along its entire supply chain.<sup>83</sup>



As of January 2022, Switzerland requires some firms to conduct due diligence on the companies' use of child labor or use labor within conflict zones—including any entity the Swiss firm controls, regardless of that entity's location.<sup>84</sup> Similar laws are already in force or under consideration across the E.U.<sup>85</sup>

The United Kingdom has one of the “most advanced jurisprudence[s] for corporate supply chain liability,”<sup>86</sup> as courts there are now applying a version of that “knew or should have known” standard to vendors along the supply chain.

For example, in *Begum v Maran*,<sup>87</sup> a Bangladeshi widow is seeking compensation for the death of her husband; he died while working as a shipbreaker in a Bangladeshi shipyard. Yet rather than suing her husband's employer, the widow sued the English shipping company that owned the vessel before the company sold it to an Asian shipbreaking company.

Traditionally, defendants are not responsible for the acts of a third party. But the U.K. Court of Appeal held that third-party liability could be appropriate in this case. The Court concluded that the English shipping firm had enough knowledge of the shipbreaking industry that the company knew, or should have known, where the ship would be dismantled, and the firm knew the dangers that the shipbreakers would face while working on it.<sup>88</sup> Given that, the firm could be held liable for the shipbreaker's death.

And echoing the case brought against Lafarge, criminal cases are also now being brought against companies alleged to be using suppliers relying on forced labor.

In September 2021, the European Center for Constitutional and Human Rights (ECCHR) filed a criminal complaint in Germany against European fashion brands and retailers including Hugo Boss and Lidl. ECCHR has alleged that the defendants have been “directly or indirectly abetting and profiting from alleged forced labor of the Uyghur minority in the Xinjiang Uyghur Autonomous Region (XUAR) in western China and might therefore be involved in crimes against humanity.”<sup>89</sup>





# HOLDING NATIONS ACCOUNTABLE

## V

Then, just three months later, ECCHR filed another criminal complaint in the Netherlands, against Patagonia, Nike, and other Dutch and U.S. brands that have headquarters in the Netherlands. In that case, ECCHR has alleged that these firms also have been directly or indirectly complicit in the Uyghur forced labor, and the organization is asking the Dutch Public Prosecutor to investigate the corporations' potential role in what may be crimes against humanity.<sup>90</sup>

### A. HOLDING STATE ACTORS ACCOUNTABLE FOR DIRECT INVOLVEMENT

According to the International Labor Organization, 3.9 million people are held in state-imposed forms of forced labor across the globe.<sup>91</sup> But holding state actors to account is exponentially more complex—because the entities that are supposed to catch perpetrators *are* the perpetrators.

As one example, while Eritrea is a party to international conventions that condemn forced labor, a United Nations inquiry concluded, “The use of forced labor is so prevalent in Eritrea that all sectors of the economy rely on it and all Eritreans are likely to be subject to it at one point in their lives.”<sup>92</sup> Therefore, while suing Eritrea would have symbolic significance, it is unlikely to result in meaningful change.

In such cases—when nations themselves are unlikely to act—a more effective approach may be to bring cases against the nation's business partners, third parties, and subcontractors. Human Rights for Eritreans, an advocacy foundation, did just that, when it filed suit against the European Union (E.U.), to block E.U. funding of an Eritrean road construction project.<sup>93</sup>

In its summons, the foundation charged that Eritrea was using forced labor in the construction project.<sup>94</sup> Thus the E.U.'s contribution of €200 million to the road project was subsidizing that country's use of forced labor. In doing so, the E.U. was violating its Charter of Fundamental Rights<sup>95</sup> and *jus cogens* norms.<sup>96</sup> At first, the E.U.'s administrative arm did not deny Eritrea's use of forced labor on the project.<sup>97</sup> Instead, it argued that the heavy equipment being used made lighter work for the conscripts.<sup>98</sup>

But within months, the E.U. realized this was not a sustainable position. By September 2020, the E.U. announced that it would no longer fund Eritrean road projects.<sup>99</sup> And the E.U. is rethinking future funding for Eritrea and elsewhere.<sup>100</sup>

Another example of challenging an affiliate, rather than the nation itself, can be found in *Rodriguez v. Pan American Health Org.*<sup>101</sup>

For decades, the Cuban government has allegedly deployed medical personnel abroad in conditions of forced labor:<sup>102</sup> An estimated 30,000-40,000 Cuban doctors and medical staff work in more than 60 countries.<sup>103</sup> Otto Reich, former U.S. assistant secretary of state for Western Hemisphere Affairs, described the program's significance:

Under the guise of a “voluntary, humanitarian, internationalist program,” Cuba generates between \$8 billion and \$11 billion every year from the forced labor of doctors and medical workers exported to foreign countries. . . . The above revenues comprise the single largest source of income for the Cuban military's coffers.<sup>104</sup>

To avoid unwanted political controversy for the nations relying on its forced labor, Cuba is further alleged to have contracted with Pan American Health Organization (PAHO) to operate the financing for the program on its behalf.<sup>105</sup>

In *Rodriguez*, four former Cuban doctors sued PAHO for TVPRA violations. In response, PAHO claimed it should be considered immune from suit. However, the district court concluded that PAHO was also engaged in commercial activity and held that immunity does not cover commercial activity. Thus, to the extent that the case relates to its commercial functions, the district court permitted the case to go forward.<sup>106</sup> PAHO appealed the ruling, and the District of Columbia Circuit Court of Appeals affirmed the district court's decision to let the case go forward.<sup>107</sup>



## B. FAILING TO PREVENT, PROSECUTE, AND PROTECT: WHEN GOVERNMENTS ARE COMPLICIT IN FORCED LABOR

For years, researchers have documented U.S. Department of Defense contractors' use of forced labor within active war zones.<sup>108</sup>

One such case, *Adhikari et al. v. KBR, Inc. et al.*<sup>109</sup> was brought before a U.S. federal court. In that case, five Nepali men are sued Kellogg, Brown, & Root (KBR), a U.S. military contractor. The plaintiffs alleged that KBR recruiters fraudulently claimed that the men would work in Jordanian hotels, but then transported the men against their will to Iraq, where they were forced to provide menial labor at U.S. Army military bases. The plaintiffs alleged KBR violated customary international law prohibiting trafficking in persons, forced labor, and other causes of action.<sup>110</sup> This case was recently dismissed after the parties reached a non-public resolution of the matter.

High-profile cases such as these have resulted in increased regulations that prohibit use of forced labor by U.S. government contractors,<sup>111</sup> yet there has been less evidence that the U.S. government has made substantial progress in investigating contractors facing these allegations.<sup>112</sup> To date, there have been no related federal prosecutions of military contractors by U.S. authorities.<sup>113</sup>

In the United Kingdom, the government found itself in court for its contract with Supermax, a Malaysian manufacturer alleged to rely upon forced labor. In January 2022, Malaysian workers asked the British court to review the U.K. National Health Service's decision to award a large contract for medical protective gear to Supermax. The workers alleged that the health service failed to conduct sufficient due diligence into forced labor allegations against Supermax before making the contract.<sup>114</sup> And, in November 2022, the workers prevailed. The U.K. government announced that it would launch a new procurement.

In courts all over the world, plaintiffs are arguing that, when governments knew, or should have known, that forced labor was happening, the countries should be held liable.

The plaintiffs are winning.

The European Court of Human Rights has held that Article 4 of the European Convention on Human Rights—which prohibits servitude and forced labor—established “positive obligations” that E.U. nations should fulfill to address human trafficking.<sup>115</sup> Member nations must:

- Implement an appropriate legislative and administrative framework to address human trafficking
- Penalize and prosecute trafficking
- Take protective measures to help victims or potential victims of trafficking
- Take operational measures to remove a victim or potential victim of trafficking from a situation that puts them at risk, when the state knows, or should have known of that risk
- Thoroughly investigate situations of potential trafficking<sup>116</sup>

## The “Positive Obligations” Governments Have Under the European Convention on Human Rights

**Prevent Human Trafficking**

**Prosecute Perpetrators**

**Protect Victims**

The force of these prevent, prosecute, and protect “positive obligations” can be seen in cases such as:<sup>117</sup>

*Chowdury and Others v. Greece* (2017)<sup>118</sup>: In a town of 2,000 residents, 150 Bangladeshi migrant workers were held in forced labor on strawberry farms. When the workers refused to work, a guard shot at and injured 30 of them. However, local prosecutors and a court failed to sufficiently investigate the event. The European Court of Human Rights concluded that Greece failed to fulfill its positive obligations to protect the workers and failed to hold those responsible accountable. The court ordered Greece to pay each petitioner €12,000-16,000, plus interest, and the petitioners’ legal costs.<sup>119</sup>

*Zoletic and Others v. Azerbaijan* (2021)<sup>120</sup>: Over a two-year period, a government contractor brought 750 Bosnian and Herzegovinian workers into Azerbaijan to work in construction projects in conditions so oppressive that three non-governmental organizations launched investigations into the situation. One worker filed suit, but the case was thrown out. The court held that, since Azerbaijani authorities failed to conduct an effective investigation into migrant workers’ claims, Azerbaijan must pay each worker €5,000 in damages.<sup>121</sup>

*V.C.L. and A.N. v. the United Kingdom* (2021)<sup>122</sup>: In *V.C.L.*, British law enforcement discovered two trafficked Vietnamese minors working in a secret cannabis factory. The U.K. authorities prosecuted them, rather than assisting them as trafficking victims. The court held that, since the U.K. failed to protect the juveniles, the U.K. must pay each victim €45,000 plus interest.<sup>123</sup>

While compensating plaintiffs, international courts are pursuing systemic change as well. These courts are issuing rulings requiring member-states to meet the standards set forth in relevant international conventions:

The Inter-American Court of Human Rights decided its first-ever human trafficking-related ruling in *Laborers at the Hacienda Brasil Verde v. Brazil* in 2016.<sup>124</sup> In that case, the court held that Brazil had failed to aid cattle ranch workers, despite its having actual knowledge of their forced labor and debt bondage; therefore, Brazil’s failure was a violation of the American Convention on Human Rights.

In addition to granting reparations for the plaintiffs, the court ordered Brazil to amend its domestic anti-trafficking laws to meet international standards.<sup>125</sup>

In October 2021, the Constitutional Court of Colombia ruled in favor of a plaintiff, a Venezuelan who had been trafficked to Colombia. The plaintiff had sued the Colombian government after authorities did not allow her to access the resources available for trafficking victims.<sup>126</sup>

## Furukawa: Two Steps Forward...

In January 2021, an Ecuadorian provincial court announced during a preliminary ruling that it was issuing a historic decision against Furukawa Plantaciones C.A. del Ecuador and the Ecuadorian government.<sup>I</sup>

In its decision, the court announced that Furukawa, a Japanese-owned company that, for 55 years, had used forced labor in its farms located in Ecuador, was liable for having kept 123 workers in forced labor and must pay compensation to the workers.<sup>J</sup>

The court also announced that the Ecuadorian government was partially responsible for the forced labor, since it had known about the deplorable conditions but failed to help the workers. The government, too, the court stated, must make amends.<sup>K</sup>

However, when the court ratified its decision, it affirmed Furukawa's liability but released the government from responsibility.

Determined to see the government held accountable, the plaintiffs have said they will appeal the decision.<sup>L</sup>

The Constitutional Court ordered its government to institute systemic changes in its response to human trafficking, including creating new law enforcement training relating to trafficking, improving investigation in response to trafficking cases, and increasing aid to its victims.

The court's decision has been heralded as a model for other nations in the region to follow.<sup>127</sup>

Another tool that could propel action is within the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Optional Protocol, CEDAW's supplemental treaty.<sup>128</sup>

Under CEDAW's Article 6, "States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women,"<sup>129</sup> and the Optional Protocol creates a complaint procedure for women who have been victims of human trafficking and forced labor.

If the CEDAW Committee concludes that a state has failed to meet its obligations under the treaty, the committee can issue a determination that the state should provide restitution to victims and implement reforms to prevent future victimization.<sup>130</sup> Signatory states are expected to follow the recommendations.<sup>131</sup>

A recent case using this complaint mechanism has been brought by a coalition led by Women's Link Worldwide, on behalf of Moroccan women who allege abusive labor conditions in Huelva, Spain.<sup>132</sup> The case is pending.

And just as domestic worker cases have led the field with cases holding individuals liable for forced labor, domestic worker cases are also leading in the quest for governmental accountability.

In *Siti Aisah and Others v. United States*, plaintiffs have brought a petition before the Inter-American Commission on Human Rights, alleging that the United States has failed its obligations under the American Declaration of the Rights and Duties of Man, because it does not sufficiently protect domestic workers employed by diplomats and foreign officials.<sup>133</sup> According to the petition, the U.S.



government's inaction is tantamount to discrimination that has left domestic workers vulnerable to exploitation and abuse.

If the Commission finds for the petitioners, it may recommend that the United States adopt legal and policy changes to protect domestic workers and prevent forced labor.<sup>134</sup>

As long as there's little risk of criminal prosecution or civil litigation, forced labor will remain a feature, not a bug, of the global economic system.

Knowing that, survivors of forced labor, litigators, and advocates are joining together to blaze a new trail of accountability for those who rely on forced labor. This coalition is succeeding—particularly through the support of organizations such as the Freedom Fund and other donors who have supported these initiatives.

Strategic litigation to combat human trafficking is still in the early stages, and far more remains to be done. As strategic litigation progresses, its community could benefit from studying other global initiatives—such as the environmental movement's transformative impact—to develop future directions for its work.

To date, progress has been limited by:

- a lack of support for attorneys in the regions most impacted by trafficking
- a lack of funding for direct legal fees and related costs
- a lack of aid for trafficking survivors—especially those who cannot access legal services
- a lack of resources for nonprofit organizations that support litigation against trafficking

But already, strategic litigation has shown that a single case can transform an industry—as it has with industrial fishing. Strategic litigation is forcing its perpetrators to realize that forced labor is no longer cost-effective. Instead, it can cost them millions. Strategic litigation is removing the distance between parent companies and the downstream entities whose malfeasance they've ignored for too long.

Strategic litigation can garner public pressure needed to end state actors' passive acquiescence. Strategic litigation can catalyze criminal prosecutions, shaming states into holding traffickers accountable. And strategic litigation can lead to court orders that force governments to make the reforms necessary to *prevent* forced labor and *prosecute* perpetrators and *protect* its victims.

Strategic litigation is one of the defining features in the global movement that will end forced labor.

# ENDNOTES

<sup>1</sup> 18 U.S.C. §1595.

<sup>2</sup> The estimate is from a December 2022 analysis of the Human Trafficking Legal Center’s database which tracks all TVPRA filings. The amount of damages is likely an underestimate since it only includes known court results and public settlements. See Merrick M. Black, Using Civil Litigation to Combat Human Trafficking: Federal Human Trafficking Civil Litigation Data Update, The Human Trafficking Legal Center (Dec. 2022), <https://htlegalcenter.org/wp-content/uploads/Civil-Litigation-2021-Data-Update.pdf>.

<sup>3</sup> See Melisa Thompson, *Civil Human Trafficking Lawsuits*, Markel.com (Sept. 3, 2021), <https://www.markel.com/insurance/insights-and-resources/civil-human-trafficking-lawsuits>.

<sup>4</sup> Forced labor is more prevalent than sex trafficking. Its most common form is debt bondage—when people work for little or no wages to pay off a debt or an advance, but the value of their work far exceeds any monies owed. See Int’l Labour Org. (ILO), *International Labour Standards on Forced Labour*, ILO.org (undated) [https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/forced-labour/lang--en/index.htm-P23\\_4841](https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/forced-labour/lang--en/index.htm-P23_4841) and Press Release, *Debt Bondage Remains the Most Prevalent Form of Forced Labour Worldwide—New UN Report*, U.N. OFF. OF THE HIGH COMMISS’R OF HUM. RTS., (Sept. 15, 2016), <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20504&LangID=E>.

<sup>5</sup> ILO, *Global Estimate of Modern Slavery: Forced Labour and Forced Marriage* 17 (2022). According to the ILO, out of the 27.5 million people trapped in forced labor, 17.3 million people are exploited in the private sector such as domestic work, construction or agriculture; 6.3 million persons in forced sexual exploitation and 3.9 million persons in forced labor imposed by state authorities.

<sup>6</sup> Global Slavery Index, *More than 400,000 Modern Slaves are Exploited in the United States*, Global Slavery Index (Jul. 18, 2018), <https://www.globallslaveryindex.org/news/more-than-400000-modern-slaves-are-exploited-in-the-united-states/> and Global Slavery Index, *G20 Analysis*, Walk Free, GlobalSlavery.org (2018), <https://www.globallslaveryindex.org/2018/methodology/g20-analysis/>.

<sup>7</sup> ILO at note 4. See also Kimberly Gianopoulos, *Federal Efforts to Prevent Imports Produced Using Forced Labor From Entering the U.S.*, U.S. GOV’T ACCOUNTABILITY OFF. (June 16, 2021), <https://www.gao.gov/blog/federal-efforts-prevent-imports-produced-using-forced-labor-entering-u.s>.

<sup>8</sup> In FY2020, the U.S. Department of Labor removed “667,492 workers from potential harm.” Press Release, *OSHA Remains Focused on Keeping Workers Safe in 2020*, U.S. DEP’T. OF LABOR (Dec. 2020), <https://www.osha.gov/news/newsreleases/national/12152020>.

<sup>9</sup> For the past 20 years, there has been a rise in anti-bribery statutes and related litigation. See *SEC Enforcement Actions*, SEC.gov (undated), <https://www.sec.gov/enforce/sec-enforcement-actions-fcpa-cases>; Henry Cassin, *2021 FCPA Enforcement Index*, FCPLA BLOG (Jan. 3, 2022), <https://fcpablog.com/2022/01/03/2021-fcpa-enforcement-index/> and Jean-Pierre Brun et al., *Public Wrongs, Private Actions*, WORLD BANK, Wash. DC (2015), <https://documents1.worldbank.org/curated/en/964411468127796449/pdf/Public-wrongs-private-actions-civil-lawsuits-to-recover-stolen-assets.pdf>.

<sup>10</sup> *Trafficking in Persons Report 2022* (2022), U.S. STATE DEP’T, <https://www.state.gov/wp-content/uploads/2022/10/20221020-2022-TIP-Report.pdf>.

<sup>11</sup> Analysis by The Human Trafficking Legal Center. By contrast, during that same timeframe, the U.S. brought 297 cases under the U.S. Foreign Corrupt Practices Act (“FCPA”) and related enforcement. In 2020, these cases resulted in \$6.4 billion in fines and penalties. See e.g., Gibson Dunn, *2020 FCPA Year End Update* (Jan. 20, 2021), <https://www.gibsondunn.com/2020-year-end-fcpa-update/> and Cassin, at note 9. See also Bruce Love, *After Pandemic Halts Many Investigations, FCPA Prosecutions Ramp Up Again*, NAT’L. LAW J. (Nov. 5, 2021), <https://www.law.com/nationallawjournal/2021/11/05/after-pandemic-halts-many-investigations-fcpa-business-is-ramping-up-again/?srlreturn=20220025100422>.

<sup>12</sup> Int’l Bar Ass’n. (IBA), *Human Trafficking and Public Corruption*, IBA (2016), <https://www.ibanet.org/MediaHandler?id=E34F-FA1D-8038-4AEC-A631-E0E2A7E0AD86>.

<sup>13</sup> Int’l Bar Ass’n. (IBA), *Human Trafficking and Public Corruption*, IBA (2016), <https://www.ibanet.org/MediaHandler?id=E34F-FA1D-8038-4AEC-A631-E0E2A7E0AD86>.

<sup>14</sup> UK Tea & Infusions Ass’n, *FAQs about Tea*, Tea.co.uk (undated), <https://www.tea.co.uk/tea-faqs>.

<sup>15</sup> Alison Maloney & Sophie Jane Evans, *Bitter Taste*, THE SUN (Apr. 3, 2021), <https://www.thesun.co.uk/news/14479682/abuse-tea-child-labour-rape-slavery/>.

<sup>16</sup> David Harding, *The Growing Calls for a Boycott of the Qatar World Cup*, THE INDEPENDENT (Mar. 3, 2021), <https://www.independent.co.uk/news/world/middle-east/qatar-2022-world-cup-fifa-b1811992.html>.

<sup>17</sup> NLFlag, *A Long and Distinguished Maritime History*, MINISTRY OF INFRASTRUCTURE & WATER MGMT, <https://nlflag.nl/business-nl/long-and-distinguished-maritime-history>.

<sup>18</sup> NLTimes, *North Korean Forced Laborer Sues Dutch Company* (Nov. 8, 2018), NLTimes.nl, <https://nltimes.nl/2018/11/08/north-korean-forced-laborer-sues-dutch-company>; Kieran Guilbert & Magdalena Mis, *Exclusive: North Korean Worker Seeks Dutch Shipbuilder’s Prosecution over Labor Abuses*, REUTERS, (Nov. 8, 2018, 5:35 AM.), <https://www.reuters.com/article/us-netherlands-lawsuit-traffic-ficking-exclu/exclusive-north-korean-worker-seeks-dutch-shipbuilders-prosecution-over-labor-abuses-idUSKCN1ND1BR>.

<sup>19</sup> Minky Worden, *Human Rights Abuses Will Taint the Olympics and the World Cup* (Jan. 3, 2022), WASH. POST, <https://www.washingtonpost.com/opinions/2022/01/03/beijing-olympics-human-rights-world-cup-qatar-sportswashing/>.

<sup>20</sup> Alexandra F. Levy, *Federal Human Trafficking Civil Litigation*, THE HUM. TRAFFICKING LEG. CTR. (Dec. 2018), <https://www.htlegal-center.org/wp-content/uploads/Federal-Human-Trafficking-Civil-Litigation-1.pdf> and *Federal Civil Human Trafficking Cases Involving Allegations of Domestic Servitude*, THE HUM. TRAFFICKING LEG. CTR. (Dec. 2018), <https://www.htlegalcenter.org/wp-content/uploads/Federal-Civil-Human-Trafficking-Cases-Involving-Allegations-of-Domestic-Servitude.pdf>.

<sup>21</sup> Black at 16.

<sup>22</sup> The kafala system gives an employer total control over their employee's immigration status and their employment—which include low (or no) pay, poor working conditions and often physical abuse. Further, “most workers need their sponsor's permission to transfer jobs, end employment, and enter or exit the host country. Leaving the workplace without permission is an offense that results in the termination of the worker's legal status and potentially imprisonment or deportation, even if the worker is fleeing abuse. Workers have little recourse in the face of exploitation, and many experts argue that the system facilitates modern slavery.” Kali Robinson, *What Is the Kafala System?* COUNCIL ON FOREIGN RELS. (Mar. 23, 2021), <https://www.cfr.org/background/what-kafala-system>.

<sup>23</sup> Dario Sabaghi, *Lebanon: Domestic Worker Sues Employer in First Lawsuit against Kafala Exploitation*, MIDDLE EAST EYE (Nov. 6, 2021, 11:01 UTC), <https://www.middleeasteye.net/news/lebanon-hears-first-lawsuit-over-kafala-exploitation>.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> See, e.g., domestic workers' impact in British and Pan-American cases such as: *Reyes v. Al-Malki & Another*, [2017] UKSC 61, <https://www.supremecourt.uk/cases/docs/uksc-2016-0023-judgment.pdf>; *Benkharbouche v. SSFCA*, [2017] UKSC 62, <https://www.supremecourt.uk/cases/docs/uksc-2015-0063-judgment.pdf>; and *Siti Aisah*, *infra* at note 136. See also Diane Taylor, *Domestic Workers Win Supreme Court Case against Saudi Diplomat*, THE GUARDIAN (Oct. 18, 2017, 07:00 EDT), <https://www.theguardian.com/law/2017/oct/18/former-saudi-diplomat-does-not-have-immunity-supreme-court-rules> and Noy Thrupkaew, *Sri Yatum's Escape*, WASH. POST (Oct. 6, 2021), <https://www.washingtonpost.com/magazine/2021/10/06/domestic-workers-diplomats/>.

<sup>27</sup> In Kendra Ross's case, Ross received \$8 million in damages for forced labor she had endured as a child. *Ross v. Jenkins*, No. 17-2547 (D. Kan. 2018), [https://ecf.ksd.uscourts.gov/cgi-bin/show\\_public\\_doc?2017cv2547-40](https://ecf.ksd.uscourts.gov/cgi-bin/show_public_doc?2017cv2547-40). See also Christine Hauser, *Woman Trafficked by Cult Is Awarded \$8 Million*, NY TIMES (May 25, 2018), <https://www.nytimes.com/2018/05/25/us/kendra-ross-cult-trafficking-case.html>.

<sup>28</sup> *Sorihin v. Nguyen*, 3:16-cv-05422 (N.D. Cal. Sept. 22, 2016), <https://legallaidatwork.org/wp-content/uploads/2018/01/Sorihin.COMPLAINT.pdf>.

<sup>29</sup> Legal Aid at Work, *Owner of U.S.-Based Fishing Vessel Agrees to Precedent-Setting Settlement Over Allegations Of Human Trafficking, Abusive Labor Practices* (Jan. 3, 2018), <https://legallaidatwork.org/releases/owner-u-s-based-fishing-vessel-agrees-precedent-setting-settlement-allegations-human-trafficking-abusive-labor-practices/>.

<sup>30</sup> *Id.*

<sup>31</sup> *Seafood from Slaves*, AP (2016), <https://www.ap.org/explore/seafood-from-slaves/>.

<sup>32</sup> Nick Grube, *Hawaii Longliners Take Action to Fight Poor Conditions and Human Trafficking*, HONOLULU CIV. BEAT (Feb. 7, 2018), <https://www.civilbeat.org/2021/02/hawaii-longliners-take-action-to-fight-poor-conditions-and-human-trafficking/>.

<sup>33</sup> Hawaii Longline Ass'n, *Code of Conduct for Decent Work in Fishing* (Feb.16, 2018), [https://cde4384f-5ed1-4bf2-b342-63982d693542.filesusr.com/ugd/fe9da7\\_dc55d3c0eff14dba9b9f90629bcc8afb.pdf](https://cde4384f-5ed1-4bf2-b342-63982d693542.filesusr.com/ugd/fe9da7_dc55d3c0eff14dba9b9f90629bcc8afb.pdf).

<sup>34</sup> *Id.*

<sup>35</sup> *Kumar et al. v. Bochasanwasi Shri Akshar Purushottam Swaminarayan Sanstha, Inc.*, 3:21-cv-11048 (N.J., May. 11, 2021), <https://decaturlgal.com/wp-content/uploads/2021/05/0001-KumarComplaint.pdf>.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> Annie Correal, *Hindu Sect Is Accused of Using Forced Labor to Build N.J. Temple*, NY TIMES (May 11, 2021) <https://www.nytimes.com/2021/05/11/nyregion/nj-hindu-temple-india-baps.html>.

<sup>39</sup> E.g., Fred Mogul, *Human Trafficking Allegations Thrust Caste Into Spotlight For American Hindus*, NPR (June 3, 2021, 5:00 AM), <https://www.npr.org/2021/06/03/1002547517/human-trafficking-allegations-thrust-caste-into-spotlight-for-american-hindus> and Reuters, *Indian Workers Allege 'Shocking Violations' in Building Hindu Temple*, TIMES OF INDIA (May 12, 2021, 08:47 IST), <https://timesofindia.indiatimes.com/nri/us-canada-news/indian-workers-allege-shocking-violations-in-building-hindu-temple-in-new-jersey/articleshow/82566031.cms>.

<sup>40</sup> *Kumar* at note 29.

<sup>41</sup> Corporate liability is addressed below.

<sup>42</sup> *Antuzis & Others v. DJ Houghton Catching Services Ltd.* [2019] EWHC 843 (QB), <https://www.bailii.org/ew/cases/EWHC/QB/2019/843.html>.

<sup>43</sup> Press Release, *High Court Rules Chicken Catcher Bosses Exploited Workers in Modern Slavery Case*, LeighDay.co.uk (Apr. 8, 2019), <https://www.leighday.co.uk/latest-updates/news/2019-news/high-court-rules-chicken-catcher-bosses-exploited-workers-in-modern-slavery-case/> and Felicity Lawrence, *Lithuanian Workers Win Exploitation Case against Kent Gangmasters*, THE GUARDIAN, (Apr. 11, 2019), <https://www.theguardian.com/global-development/2019/apr/11/lithuanian-workers-win-exploitation-case-against-kent-gangmasters-darrell-houghton-jacqueline-judge-chicken-catching>.

<sup>44</sup> *Antuzis* at note 36.

<sup>45</sup> Press Release, Leigh Day, and Lawrence, note 37.

<sup>46</sup> *Id.*

<sup>47</sup> E.g., directors may face shareholder derivative liability suits arising out of compliance requirements. See Joshua H. Grabar, *Shareholder Litigation In the Age of Financial and Social Responsibility*, EGLG (Jan. 12, 2021), <https://elgl.org/shareholder-litigation-in-the-age-of-financial-and-social-responsibility/> and Gibson Dunn, *ESG Legal Update*, Soc'y for Corp. Governance (Apr. 2020). Available at: <https://www.gibsondunn.com/wp-content/uploads/2020/10/Ising-Meltzer-McPhee-Percopo-Assaf-Holmes-ESG-Legal-Update-What-Corporate-Governance-and-ESG-Professionals-Need-to-Know-Society-for-Corporate-Governance-06-2020.pdf>.

- <sup>48</sup> *Nevsun Res. Ltd. v. Araya*, 2020 SCC 5 (2020), <https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/18169/index.do> and <https://www.canlii.org/en/ca/scc/doc/2020/2020scc5/2020scc5.html>.
- <sup>49</sup> *Id.*
- <sup>50</sup> *Id.*
- <sup>51</sup> *Id.*
- <sup>52</sup> Yvette Brend, *Landmark Settlement Is a Message to Canadian Companies Extracting Resources Overseas*, CBC (Oct 23, 2020, 4:13 PM PT), <https://www.cbc.ca/news/canada/british-columbia/settlement-amnesty-scc-africa-mine-nevsun-1.5774910>.
- <sup>53</sup> *Corporate Liability for Forced Labour and Human Trafficking*, INSTIT. FOR HUM. RTS. & BUS. (Oct. 2016). Available at: [https://www.ihrb.org/uploads/reports/IHRB%2C\\_Corporate\\_Liability\\_for\\_Forced\\_Labour\\_and\\_Human\\_Trafficking%2C\\_Oct.\\_2016.pdf](https://www.ihrb.org/uploads/reports/IHRB%2C_Corporate_Liability_for_Forced_Labour_and_Human_Trafficking%2C_Oct._2016.pdf)
- <sup>54</sup> TVPRA is certainly not the only option. An example of another useful statute is the Racketeer Influenced and Corrupt Organizations Act (“RICO”). *Greenberg Gross Files Federal Human Trafficking and RICO Lawsuit against La Luz Del Mundo*, GGTrialLaw.com (Feb. 17, 2020), <https://ggttriallaw.com/videos/greenberg-gross-files-federal-human-trafficking-and-rico-lawsuit-against-la-luz-del-mundo/>.
- <sup>55</sup> Black at 23.
- <sup>56</sup> *Wang v. Gold Mantis Constr. Decoration (CNMI), LLC*, No. 1:18-cv-00030, 2021 WL 2065398 (D. N. Mar. I. May 24, 2021), <https://casetext.com/pdf-sent?slug=wang-v-gold-mantis-constr-decoration-cnmi-llc>. The judgment was specifically for \$5.43 million plus attorneys’ fees.
- <sup>57</sup> *Id.*
- <sup>58</sup> *Id.* The decision is under appeal.
- <sup>59</sup> Amicus Curiae Brief of Members of Congress Senator Blumenthal, Representative Smith, et al., in Support of the *Respondents, Cargill, Inc. v. John Doe I, et al.* (2021). Retrieved at: [https://www.cohenmilstein.com/sites/default/files/Amicus\\_Brief\\_Nestle\\_Cargill\\_October\\_21\\_2020.pdf](https://www.cohenmilstein.com/sites/default/files/Amicus_Brief_Nestle_Cargill_October_21_2020.pdf).
- <sup>60</sup> 154 Cong. Rec. S4799-800 (daily ed. May 22, 2008) (statement of Sen. Biden), <https://www.govinfo.gov/content/pkg/CREC-2008-05-22/pdf/CREC-2008-05-22-senate.pdf>.
- <sup>61</sup> *Id.*
- <sup>62</sup> Discussion of these European statutes follows. Also relevant is that an E.U. member-state’s jurisdiction automatically includes cases over defendants located in any other E.U. member state. Jennifer A. Zerk, *Extraterritorial Jurisdiction*, Corp. Soc. Responsibility Initiative Working Paper No. 59 (2010), Cambridge, MA: Harvard Univ., [https://www.hks.harvard.edu/sites/default/files/centers/mrcbg/programs/cri/files/workingpaper\\_59\\_zerk.pdf](https://www.hks.harvard.edu/sites/default/files/centers/mrcbg/programs/cri/files/workingpaper_59_zerk.pdf).
- <sup>63</sup> *Vedanta Resources PLC and another v. Lungowe and Others*, [2019] UKSC 20, <https://www.supremecourt.uk/cases/uksc-2017-0185.html>. *While Vedanta is not a forced labor case, its holdings should apply to cases that involve forced labor and other related claims, such as those discussed in the next section.*
- <sup>64</sup> *Id.*
- <sup>65</sup> *Id.*
- <sup>66</sup> *Id.* Leigh Day’s Richard Meeran explained, “[T]he duty of care can result not only from negligent control of operational aspects of subsidiary operations but also from the involvement of the parent company in formulating and requiring adherence to policies on health and safety and the environment which are defective. . . . a parent company can owe a duty of care in respect of public statements it makes even if it doesn’t actually do those things.” See also Jeffrey Vogt, *A Commentary on the Laws of England*, 1 ILAW Network 4, 35 (2021).
- <sup>67</sup> Guillermo E. Pérez Crespo, *The Multiple Challenges of Globalisation for Union Action*, 1 ILAW Network 4, 47 (2021)(citation omitted).
- <sup>68</sup> The British Supreme Court later confirmed this analysis in *Okpabi & Others v. Royal Dutch Shell plc & Another* [2021] UKSC 3. See *Supreme Court Confirms UK Parent Company Liability for Acts or Omissions of a Foreign Subsidiary*, Dechert.com (Mar. 4, 2021), <https://www.dechert.com/knowledge/onpoint/2021/3/supreme-court-confirms-uk-parent-company-liability-for-acts-or-o.html>.
- <sup>69</sup> The British Supreme Court later confirmed this analysis in *Okpabi & Others v. Royal Dutch Shell plc & Another* [2021] UKSC 3. See *Supreme Court Confirms UK Parent Company Liability for Acts or Omissions of a Foreign Subsidiary*, Dechert.com (Mar. 4, 2021), <https://www.dechert.com/knowledge/onpoint/2021/3/supreme-court-confirms-uk-parent-company-liability-for-acts-or-o.html>.
- <sup>70</sup> Press Release, *Supreme Court Rules Zambian Villagers’ Case against Vedanta to be Heard in English Courts*, LeighDay.co.uk (Apr. 10, 2019), <https://www.leighday.co.uk/latest-updates/news/2019-news/supreme-court-rules-zambian-villagers-case-against-vedanta-to-be-heard-in-english-courts/>.
- <sup>71</sup> *Josiya & 7,262 Others v. British Am. Tobacco Plc et al.* [2021] EWHC 1743 (QB), <https://www.bailii.org/ew/cases/EWHC/QB/2021/1743.html>.
- <sup>72</sup> *Id.*
- <sup>73</sup> *Thomas & Others v. PGI Grp. Ltd* [2021] EWHC 2776 (QB), <https://www.casemine.com/judgement/uk/6178eb01b50db98e0c00c81f>.
- <sup>74</sup> *Id.* See AFP, *UK Conglomerate Sued Over Rape Allegations By Malawi Tea Workers*, INT’L BUS. TIMES (Mar. 28, 2021, 9:53 AM), <https://www.ibtimes.com/uk-conglomerate-sued-over-rape-allegations-malawi-tea-workers-3170556>.
- <sup>75</sup> AFP, *supra*. In October, PGI lost a motion to cap liability for the claimants’ costs at £150,000. Thomas at note 74.
- <sup>76</sup> Alejandro García Esteban & Christopher Patz, *Suing Goliath*, EUR. COAL. FOR CORP. JUST. (Sept. 2021). Available at: <https://corporatejustice.org/wp-content/uploads/2021/09/Suing-Goliath-FINAL.pdf>.

<sup>77</sup> *Loi Relative au Devoir de Vigilance des Sociétés Mères et Entrepris Donneuse d'Ordruve* (LdV) LOI n° 2017-399 (2017), <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000034290626/>. See also Ashley Hogan, *France Approves Law to Hold Parent Corporations Liable for Subsidiary Human Rights Violations*, JURIST (Feb. 23, 2017), <https://www.jurist.org/news/2017/02/france-approves-law-to-hold-parent-corporations-liable-for-subsidiary-human-rights-violations/>.

<sup>78</sup> ECCJ, *Corporate Due Diligence Laws and Legislative Proposals in Europe*, EUR. COAL. FOR CORP. JUST. (June 2021), <https://corporatejustice.org/wp-content/uploads/2021/07/Corporate-due-diligence-laws-and-legislative-proposals-in-Europe-June-2021.pdf>.

<sup>79</sup> *French Builder Vinci Faces Claim of Forced Labor in Qatar*, REUTERS, (Mar. 24, 2015), <https://news.trust.org/item/20150324091720-os69d/?source=spotlight>.

<sup>80</sup> *World Cup: French Company Charged with Forced Labor in Qatar*, Associated Press, November 9, 2022, <https://apnews.com/article/world-cup-soccer-sports-international-qatar-e9f1b97371bbc5592e2ec6239167ab3f>.

<sup>81</sup> John Holmes, Q&A, HUM. RTS. WATCH (Dec. 18, 2021, 3:15 PM EST), <https://www.hrw.org/news/2021/12/18/qa-migrant-worker-abuses-qatar-and-fifa-world-cup-2022#Q1> and Pete Pattison & Niamh McIntyre, *Revealed*, THE GUARDIAN (Feb. 23, 2021, 01:00 EST), [https://www.theguardian.com/global-development/2021/feb/23/revealed-migrant-worker-deaths-qatar-fifa-world-cup-2022?utm\\_term=Autofeed&CMP=tw\\_t\\_gu&utm\\_medium&utm\\_source=Twitter#Echobox=1614060688](https://www.theguardian.com/global-development/2021/feb/23/revealed-migrant-worker-deaths-qatar-fifa-world-cup-2022?utm_term=Autofeed&CMP=tw_t_gu&utm_medium&utm_source=Twitter#Echobox=1614060688).

<sup>82</sup> *Maslic et al., v. ISM Vuzem d.o.o. et al*, Case No. 21-CV-02556-LHK (N.D. Cal., Nov. 19, 2021), <https://casetext.com/case/maslic-v-ism-vuzem-doo-1>. Cf. the TVPRA provision: “An individual who is a victim of a violation of this chapter may bring a civil action against the perpetrator (or whoever knowingly benefits, financially or by receiving anything of value from participation in a venture which that person knew or should have known has engaged in an act in violation of this chapter) in an appropriate district court of the United States and may recover damages and reasonable attorneys’ fees.” 18 U.S.C. §1595(a).

In the instant case, plaintiffs alleged that a subcontractor relied on forced labor to construct a new facility for the auto manufacturer Tesla. While Tesla argued that it had not received a benefit from the coerced labor, the court said that the plaintiffs’ allegation—that Tesla had received the value of construction services—was enough to meet the TVPRA requirement.

The court also concluded that the plaintiffs had satisfied the test’s second with their allegation that Tesla managers had gone to the construction site and Tesla security guards checked in the subcontractor’s employees as they entered the site. *Id.*

<sup>83</sup> Tobias Koppmann, et al., *The New German Supply Chain Due Diligence Act*, NAT’L. LAW REV. (Jul. 14, 2021), <https://www.natlawreview.com/article/new-german-supply-chain-due-diligence-act-view-across-border> and ECCJ, *A Foot in the Door*, EUR. COAL. FOR CORP. JUST. (Feb. 16, 2021), <https://corporatejustice.org/news/a-foot-in-the-door-will-the-german-draft-law-open-doors-for-eu-wide-corporate-accountability/>; ECCJ, *Corporate Due Diligence Laws*, at note 81.

<sup>84</sup> James Reardon & Tomás Navarro, *Switzerland Now Has Mandated Human Rights Due Diligence*, FCPA BLOG (Jan. 25, 2022), <https://fcpa.blog.com/2022/01/25/switzerland-now-has-mandated-human-rights-due-diligence/>, and Vera Naegeli, *New ESG Due Diligence and Reporting Obligations*, Bär & Karrer (Jan. 2, 2022), <https://www.baerkarrer.ch/en/publications/new-esg-due-diligence-and-reporting-obligations>.

<sup>85</sup> *Id.* See also *Cross-border Guide to Parent Company Liability for Foreign Subsidiaries*, Norton Rose Fulbright (undated), <https://www.nortonrosefulbright.com/en/knowledge/publications/44841678/cross-border-guide-to-parent-company-liability-for-foreign-subsidiaries>.

<sup>86</sup> Esteban and Patz, at note 77.

<sup>87</sup> *Begum v Maran (UK) Ltd.*, [2021] EWCA Civ 326, <https://www.bailii.org/ew/cases/EWCA/Civ/2021/326.html>.

<sup>88</sup> *Id.*

<sup>89</sup> Press Release, *Forced labor of Uyghurs: German Textile Brands and Retailers Allegedly Complicit in Crimes against Humanity*, ECCHR (Sept. 5, 2021), <https://www.ecchr.eu/en/press-release/forced-labor-uyghurs-german-textile-brands/>. See also Q&A, ECCHR (Sept. 2021), [https://www.ecchr.eu/fileadmin/Q\\_As/QA\\_China\\_EN\\_Sept2021.pdf](https://www.ecchr.eu/fileadmin/Q_As/QA_China_EN_Sept2021.pdf)

<sup>90</sup> Press Release, *Human Rights Violations Off the Rack*, ECCHR (Dec. 2, 2021), <https://www.ecchr.eu/en/press-release/human-rights-violations-off-the-rack/>.

<sup>91</sup> ILO, *Global Estimate of Modern Slavery: Forced Labour and Forced Marriage* 17.

<sup>92</sup> *Report of the Commission of Inquiry on Human Rights in Eritrea*, UN HUM. RTS. COUNCIL, A/HRC/29/42 (2015), <https://www.ohchr.org/EN/HRBodies/HRC/ColEritrea/Pages/ReportColEritrea.aspx>.

<sup>93</sup> Kennedy Van der Laan, *Eritrean Organisation Summons the EU for Use of Forced Labour*, KVDL.com (Sept. 22, 2020), <https://kvd.com/en/articles/eritrean-organisation-summons-the-eu-for-use-of-forced-labour>. See also Matina Stevis-Gridneff, *Eritreans Sue E.U. Over Use of Forced Labor Back Home*, NY TIMES (May 13, 2020), <https://www.nytimes.com/2020/05/13/world/europe/eritrea-eu-lawsuit-forced-labor.html>.

<sup>94</sup> Van der Laan, *supra*.

<sup>95</sup> The E.U. Charter provides that, in member states,

“1. No one shall be held in slavery or servitude.

“2. No one shall be required to perform forced or compulsory labour.

“3. Trafficking in human beings is prohibited.”

Eur. Union Agency for Fundamental Rts., *Eur. Union Charter of Fundamental Rts.*, Art. 5, <https://fra.europa.eu/en/eu-charter/article/5-prohibition-slavery-and-forced-labour>.

<sup>96</sup> *Foundation Hum. Rts. for Eritreans v. Eur. Union*, 10.1-10.9. Available at: <https://kvd.com/uploads/Writ-of-Summons-Foundation-HRFE-EU.pdf>.

<sup>97</sup> Van der Laan at note 94.

<sup>98</sup> Stevis-Gridneff at note 94.



<sup>126</sup> Press Release, Sergio Camacho, *In a Historic Decision, the Constitutional Court of Colombia Orders Improvements to the Country's System of Protections for Victims of Trafficking in Human Beings*, WOMEN'S LINK WORLDWIDE (Nov. 30, 2021), <https://www.womenslinkworldwide.org/en/news-and-publications/press-room/in-a-historic-decision-the-constitutional-court-of-colombia-orders-improvements-to-the-country-s-system-of-protections-for-victims-of-trafficking-in-human-beings>. See also ACHR Welcomes the Court's Decision to Improve the Protection System for Victims of Human Trafficking, PAUDAL (Oct. 16, 2021), <https://www.paudal.com/2021/10/16/iachr-welcomes-the-courts-decision-to-improve-the-protection-system-for-victims-of-human-trafficking/>

<sup>127</sup> Camacho and Paudal, *supra*.

<sup>128</sup> Sarah Bessell, *Using the Optional Protocol Under CEDAW to Combat Human Trafficking*, THE HUM. TRAFFICKING LEGAL CTR. (ed. Martina E. Vandenberg) (2018). Available at: <https://htlegalcenter.org/wp-content/uploads/CEDAW-Optional-Protocol-Report.pdf>.

<sup>129</sup> *Convention on the Elimination of All Forms of Discrimination against Women*, UN Off. of the High Commisn'r on Hum. Rts. (undated), <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx>.

<sup>130</sup> Bessell, note 147.

<sup>131</sup> *Id.*

<sup>132</sup> Press Release, Laura Martínez Valero, *Women's Link Worldwide Urges the UN to Investigate Human Rights Violations against Migrant Women Performing Seasonal Farm Work in Spain's Strawberry Industry*, WOMEN'S LINK WORLDWIDE (Jun. 3, 2020), <https://www.womenslinkworldwide.org/en/news-and-publications/press-room/women-s-link-worldwide-asks-the-un-to-investigate-urgently-the-human-rights-violations-that-strawberries-women-seasonal-workers-suffer-in-spain>.

<sup>133</sup> *Siti Aisah and Others v. United States*, Inter-Am. Comm'n H.R., Report No. 224/20, Petition 1481-07 (2020), <http://www.oas.org/en/iachr/decisions/2020/usad1481-07en.pdf>.

<sup>134</sup> *Id.*

## ENDNOTES *Case Studies*

<sup>A</sup> *Lipenga v. Kambalame*, 219 F. Supp. 3d 517, 532 (D. Md. 2016), <https://casetext.com/case/lipenga-v-kambalame-1>. Lipenga also included other causes of action; however, the court's ruling on the TVPRA claims subsumed those results.

<sup>B</sup> *Lipenga v. Kambalame*, Case No.: GJH-14-3980, (D. Md. Jun. 8, 2017), <https://casetext.com/case/lipenga-v-kambalame-2>

<sup>C</sup> *Case Report: Lafarge in Syria*, ECCHR (Nov. 2016), <https://www.ecchr.eu/en/case/lafarge-in-syria-accusations-of-complicity-in-grave-human-rights-violations/>.

<sup>D</sup> *Case Report, supra*, and Claire Tixeire, *Can the Lafarge Case Be a Game Changer?* Bus. & Hum. RTS. CTR. (Aug. 31, 2019), <https://www.business-humanrights.org/en/blog/can-the-lafarge-case-be-a-game-changer-french-multinational-company-indicted-for-international-crimes-in-syria/>.

<sup>E</sup> *Id.*

<sup>F</sup> *French Company Lafarge Sued for Financing ISIS and Complicity in War Crimes and Crimes Against Humanity in Syria*, Sherpa.org (undated), <https://www.asso-sherpa.org/french-company-lafarge-sued-for-financing-isis-and-complicity-in-war-crimes-and-crimes-against-humanity-in-syria>.

<sup>G</sup> Ralph Atkins, Michael Stothard, and Harriet Agnew, *Cement Group Paid Third Parties for Help with Armed Groups around Plant*, FIN. TIMES (Mar. 2, 2017), retrieved at: <https://www.asso-sherpa.org/lafargeholcim-admits-to-unacceptable-activity-in-syria> and Emmanuel Jarry, *Lafarge Paid 13 Million Euros to Armed Groups to Keep Operating in Syria*, REUTERS (Dec. 12, 2017, 2:26pm) <https://www.reuters.com/article/us-lafargeholcim-syria-sherpa/lafarge-paid-13-million-euros-to-armed-groups-to-keep-operating-in-syria-rights-group-idUSKBN1E62OM>.

<sup>H</sup> *Cour de Cassation* [Cass.] [supreme court for judicial matters] crim. (Sept. 7, 2021), No. 19-87.367 (Fr.), [https://www.courdecassation.fr/decision/6137092ff585960512dfe635?search\\_api\\_fulltext=lafarge&sort=&items\\_per\\_page=&judilibre\\_chambre=&judilibre\\_type=&judilibre\\_matiere=&judilibre\\_publication=&judilibre\\_solution=&op=&date\\_du=2021-09-07&date\\_au=2021-09-08](https://www.courdecassation.fr/decision/6137092ff585960512dfe635?search_api_fulltext=lafarge&sort=&items_per_page=&judilibre_chambre=&judilibre_type=&judilibre_matiere=&judilibre_publication=&judilibre_solution=&op=&date_du=2021-09-07&date_au=2021-09-08). See also *Communiqué, Information Judiciaire Portant sur les Activités d'une Société Française pendant la Guerre Civile en Syrie*, Cour de Cassation (Sept. 7, 2021), <https://www.courdecassation.fr/getattacheddoc/6137092ff585960512dfe635/83c-621b48e3b144376838e311729885d> and AFP, *French firm Lafarge Loses Bid to Dismiss 'Crimes Against Humanity' Case in Syria*, France24 (Sept. 7, 2021), <https://www.france24.com/en/europe/20210907-french-firm-lafarge-loses-bid-to-dismiss-crimes-against-humanity-case-in-syria>.

<sup>I</sup> Diego Cazar Baquero & Susana Moran. *Abaca: Modern Slavery in the Ecuadorian Fields* (Trans.: Aida Calderon), PLAN V (Mar. 6, 2019), <https://www.planv.com.ec/abaca-modern-slavery-ecuadorian-fields>.

<sup>J</sup> See discussion in Anastasia Moloney, Reuters, *Ecuador's Plantation Workers Pin Hopes on Historic Slavery Ruling*, THOMSON REUTERS NEWS FOUND. (Feb. 5, 2021), <https://news.trust.org/item/20210205035922-9m3ly/> and Soledad García Muñoz, *Fourth Annual Report of the Special Rapporteurship on Economic, Social, Cultural and Environmental Rights (Redesca) of the Inter-American Commission On Human Rights*, Inter-Am. Comm'n H.R. (2020) at 116, <https://www.oas.org/en/iachr/docs/annual/2020/Chapters/redesca-en.PDF>.

<sup>K</sup> Moloney and García Muñoz, *supra*, at note 126. <https://www.oas.org/en/iachr/docs/annual/2020/Chapters/redesca-en.PDF>.

<sup>L</sup> *Provincial Court Ratifies that Furukawa Subjected Its Harvest Workers to Serfdom* (Oct. 19, 2021), Comité de Solidaridad, <https://www.furukawanuncamas.org/post/court-ratifies-serfdom-furukawa?lang=en>.



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