



ChainGE Lab
Labor Law for a
Global Value
Chain Economy



Funded by
the European Union



Transnational Litigation to Enforce Workers' Rights in Global Value Chains: Challenges, Limits, and Emerging Strategies

Urmila Bhoola and Hila Shamir
ChainGE Lab Research Group (ERC)

Transnational Litigation to Enforce Workers' Rights in Global Value Chains: Challenges, Limits, and Emerging Strategies

Authors

Urmila Bhoola, ChainGE Lab (ERC) Research Fellow, is an international human rights lawyer, former judge of the South African Labour Court and acting judge of the High Court, and former United Nations Special Rapporteur on Contemporary Forms of Slavery.

Hila Shamir, ChainGE Lab (ERC) Principal Investigator, is a Professor of Law at Tel Aviv University, whose research focuses on labour law, workers' rights, human trafficking, and global value chain governance.

Funding

This research received support from ChainGE Lab (ERC) (www.chaingelab.org), funded by the European Union, Horizon ERC grant ERC-2022- COG (New Labour Law, Project Number 101088188, PI Hila Shamir). Views and opinions expressed are, however, those of the author(s) only and do not necessarily reflect those of the European Union or the European Research Council Executive Agency (ERCEA) (the 'granting authority'). Neither the European Union nor the granting authority can be held responsible for these views and opinions.

Language editor: Amanda Dale

Graphic design: TAU Graphic Design Studio

Cover Image: Pexels (People Drying Fish at Beach)

Acknowledgements

We would like to thank Eden Engel and Suad Baloum, the research assistants who conducted the initial research for this work. We are deeply grateful to Debbie Siton for her thorough and thoughtful work across all aspects of the report. We also thank the ChainGE Lab (ERC) research community for their feedback, insights, and sustained engagement throughout the writing process.

We are especially indebted to the legal counsel, international NGO advocates, and academics who participated in interviews and generously shared their experiences and insights: Surendra Ananth (Malaysia), Chloé Bailey (Europe), Dr. Ebony Birchall (Australia), Liberty Bridge (U.K.), Terry Collingsworth (U.S.), Maggie Lee (U.S.), Fernanda de Mendonça Melo (Brazil), Prof. Livia Miraglia (Brazil), Prof. Justine Nolan (Australia), Dr. Miriam Saage-Maasz (Europe), Martina Vandenberg (U.S.), and James Yap (Canada). Their affiliations are listed in Appendix 1.

Citation

Urmila Bhoola & Hila Shamir, *Transnational Litigation to Enforce Workers' Rights in Global Value Chains: Challenges, Limits, and Emerging Strategies*, ChainGE Lab (ERC) (2026).

Contents

Introduction	5
The Challenge of Labour Rights-setting and Enforcement under Supply Chain Capitalism	6
Conceptual Framing: Litigation as a Contested Site of Norm-Translation	7
Methodology	8
Purpose and Structure of the Report	9
1. The Legal Terrain of Transnational Labour Litigation	11
The U.K. and Canada: Expanding the Duty of Care	11
The U.S.: Procedural Retrenchment and Statutory Narrowing	13
Europe Beyond the U.K.: Jurisdiction and Due Diligence	15
Cross-cutting Barriers	16
2. Procedural Closures	20
The Rana Plaza Litigation	20
Closure mechanism 1: Statutory time limits and choice of law rules	21
Closure mechanism 2: Gap in legal duties in supply chains—codes and CSR as non-binding governance	22
What Rana Plaza reveals about supply chain capitalism’s legal architecture	23
Impact beyond the courtroom	24
<i>Jabir v. KiK</i> (Germany): Jurisdiction without Remedy in the European Supply Chain	24
Closure mechanism: Private international law as a gatekeeper	25
Impact beyond the courtroom	26
What <i>KiK</i> reveals about the architecture of supply chain capitalism	27
<i>Nestlé USA v. Doe</i> (U.S.): Jurisdictional Gatekeeping and the Insulation of Supply Chain Decision-making	28
Closure mechanism: Extraterritoriality and the “touch and concern” test	28
Impact beyond the courtroom	30
<i>Coubaly v. Cargill</i> and <i>Ratha v. Phatthana</i> (U.S.): Standing, Causation, and the Limits of “Venture” Liability under the TVPRA	30
Closure mechanism: Standing and causal traceability in opaque supply chains	30
Impact beyond the courtroom	32
<i>Doe v. Apple</i> (U.S.): Buyer–seller Framing and the Limits of “Venture” Liability	33
Closure mechanism: “Participation in a venture” as a narrow gateway	33

3. Doctrinal Breakthroughs: Cracks in the Legal Architecture of Supply Chain Capitalism	36
<i>Vedanta v. Lungowe</i> (U.K.): Parent Company Responsibility as a Fact-sensitive Opening	36
Opening mechanism: Fact-sensitive duty of care and access to justice	37
What <i>Vedanta</i> reveals about cracks in the legal architecture of supply chain capitalism	37
Impact beyond the courtroom	38
<i>Nevsun v. Araya</i> (Canada): Customary International Law as a Domestic Source of Corporate Accountability	38
Opening mechanism: Customary international law as directly actionable in domestic courts	39
What <i>Nevsun</i> reveals about cracks in the legal architecture of supply chain capitalism	40
Impact beyond the courtroom	40
<i>Okpabi v. Royal Dutch Shell</i> (U.K.): Rejecting Formal Control as a Gatekeeper	41
Opening mechanism: Reframing parent company responsibility as fact-sensitive	42
What <i>Okpabi</i> reveals about cracks in the legal architecture of supply chain capitalism	42
Impact beyond the courtroom	43
<i>Limbu v. Dyson</i> (U.K.): Access to Justice and <i>Forum non Conveniens</i> Reimagined	43
Opening mechanism: Access to justice as a decisive forum factor	43
Impact beyond the courtroom	44
Synthesis: Doctrinal Breakthroughs as Conditional Openings	45
Emerging and Alternative Pathways	45
<i>Milasi Josiya v. British American Tobacco</i> : Price control, supply chain opacity, and evidentiary asymmetry	45
Recent signals in U.S. federal courts: <i>Jacobs Solutions</i> and <i>Bumble Bee Foods</i>	46
Beyond Tort: Administrative and Labour Law Accountability	47
<i>Ministry of Labour v. Inditex (Zara Brazil)</i> : Piercing contractual form through labour inspection	47
4. Statutory and HRDD Mechanisms: Litigation Diversification and HRDD-based Governance	49
5. Discussion: Transnational Litigation in a Fragmented Governance Landscape	52
Conclusion	55
Appendix 1: Interviewee profiles and dates of interviews	56

Introduction

Today, meaningful avenues for remedy against corporate abuse remain limited—both at the international level and within the home jurisdictions of multinational enterprises. As a result, claimants rarely receive acknowledgement of wrongdoing or adequate compensation for the harm they have suffered.

Interview with Miriam Saage-Maasz, Legal Director, ECCHR

Across the world, workers who find themselves on the lower tiers of global value chains (GVCs) and who produce the goods and services that sustain the global economy continue to labour under what are often unsafe, insecure, and exploitative conditions. Despite decades of reform efforts, the gap between the economic reach of multinational corporations (MNCs) and the legal protections available to the people working in their supply chains remains vast. This gap reflects a structural tension: production is organised transnationally, while labour and corporate law remain largely territorial; and labour law is built around the employment contract, whereas GVCs are organised through networks of contracts that distance lead firms from any direct legal relationship with workers.

This report explores transnational litigation as one of the primary mechanisms that can be leveraged to confront, if not fully resolve, this tension. It examines how legal action brought by, or on behalf of, workers in GVCs functions simultaneously as a strategy of resistance and as a practice constrained by the very legal architecture that enables supply chain capitalism. Workers, unions, and civil society organisations have increasingly turned to litigation to translate international labour norms into enforceable corporate obligations across jurisdictions.

Although most cases encounter significant procedural and doctrinal barriers, litigation has nonetheless generated wider ripple effects, spurring legislative reform, influencing corporate practices, and reshaping public expectations around accountability. Situating these developments within the political economy of supply chain capitalism, the report argues that transnational labour litigation has become a contested site of norm-translation, where the moral claims of workers' rights meet, test, and, at times, transform the legal structures governing global commerce.

The sections that follow outline the structural challenge of enforcing labour rights in GVCs and present the report's conceptual framing and analytical approach.

The Challenge of Labour Rights-setting and Enforcement under Supply Chain Capitalism

Twenty-first-century global production is often organised through GVCs: networks of suppliers, contractors, and subsidiaries dispersed across jurisdictions but governed by a handful of “lead firms”. These lead firms, located primarily in the Global North, capture the greatest share of value while outsourcing production to locations where wages are low and labour protections weak.¹ The result of this dynamic is what has been called *supply chain capitalism*:² an economic order in which the legal and organisational fragmentation of production systematically distances corporate power from responsibility for the rights of the workers whose labour sustains it.

In this system, labour law’s traditional architecture has lost much of its reach. Built for an industrial economy organised around direct employment and geographically-bounded enterprises, labour law presumes a dyadic relationship between employer and employee. Under supply chain capitalism, however, an actor with paramount influence on workers’ working conditions—that is, the lead firm that sets prices, production schedules, and quality standards—stands at a contractual and jurisdictional remove from the people who actually produce its goods. This shift, from firms owning the means of production to contracting them in (in legal terms, the switch from property to contract), renders it extraordinarily difficult for workers under current nationally-bounded and dyadically-structured labour law to hold lead firms accountable for workers’ rights violations or unsafe conditions.

At the same time, the governance of GVCs through soft law mechanisms—such as corporate social responsibility (CSR), voluntary codes of conduct, and, more recently, somewhat “harder” forms of mandatory human rights due diligence (HRDD) legislation—has, thus far, failed to transform the realities of working life on the factory floor. These initiatives often rely on corporate self-reporting and private auditing systems that rarely incorporate workers’ voices or collective enforcement, leaving the fundamental asymmetry of power in GVCs intact.³

Against this backdrop, transnational litigation appears particularly promising. It is one of the few available instruments that can pierce the territorial and institutional boundaries shielding lead firms from liability. Through tort, negligence, consumer, forced labour and trafficking claims, workers and their advocates have sought to extend domestic legal accountability to MNCs whose operations span multiple jurisdictions. Litigation offers the possibility of converting the moral and political commitments embedded in international norms—such as the United Nations Guiding Principles on Business and Human Rights—into binding obligations enforceable in domestic courts. It holds out the hope of remedy and recognition where state enforcement has failed.

Yet, the promise of transnational litigation operates against the grain of an architecture of private law, labour law, and corporate law that enables firms to disclaim accountability. The same legal

1 Gary Gereffi et al., *The Governance of Global Value Chains*, 12 REV. INT’L POL. ECON. 78 (2005).

2 Anna Tsing, *Supply Chains and the Human Condition*, 21 RETHINKING MARXISM 148 (2009).

3 GENEVIEVE LEBARON, *COMBATting MODERN SLAVERY: WHY LABOUR GOVERNANCE IS FAILING AND WHAT WE CAN DO ABOUT IT* (2020); EBONY BIRCHALL ET AL., *THE IMPACT OF STRATEGIC HUMAN RIGHTS LITIGATION ON CORPORATE BEHAVIOUR*, TheFreedom Fund (Nov. 2023), <https://cdn.freedomfund.org/app/uploads/2024/03/litigationimpactreport-2023.pdf>.

doctrines that facilitate global commerce—separate legal personality, contractual privity, *forum non conveniens*, and restrictive choice of law rules—also insulate corporations from liability. Courts have often interpreted these doctrines narrowly, treating transnational supply chains as collections of independent firms rather than as integrated systems of economic control.⁴ Even where judges have shown willingness to innovate, the procedural terrain, including statutes of limitation, evidentiary hurdles, and the application of foreign law under instruments such as the Rome II Regulation, has often foreclosed access to substantive adjudication.

In practice, then, transnational labour litigation functions within and against this architecture. It is shaped by doctrines that sustain corporate impunity even as it seeks to challenge them. Hence, litigators, unions, and civil society actors must use existing legal frameworks strategically—to push the boundaries of corporate liability, expose the limits of private law, and generate political and normative pressure for reform. As this report demonstrates, these cases rarely end in sweeping judicial victories. Their transformative potential lies instead in the processes of legal translation they set in motion—in how they reinterpret tort, corporate, and contract doctrines in light of transnational labour norms, mobilise new legal communities, and create the foundations for emerging statutory regimes of accountability.

Conceptual Framing: Litigation as a Contested Site of Norm-Translation

Transnational litigation to enforce workers' rights in GVCs has emerged as one of the most visible, and most contested, frontiers of accountability in GVC governance. Workers in GVCs and their advocates have turned to courts to translate international labour and human rights norms into enforceable corporate obligations; yet, as the cases in this report show, these efforts encounter powerful doctrinal and procedural barriers that reflect the architecture of global supply chain capitalism itself. **Litigation thus becomes not only a legal strategy but also a site of norm-translation**—a terrain where transnational accountability norms confront, adapt to, and occasionally reshape entrenched legal doctrines that were never designed to regulate transnational corporate power.

This report positions transnational labour litigation as a **contested practice operating both within and against the legal architecture of GVCs**. Within this architecture, doctrines such as separate corporate personality, limited liability, choice of law, and *forum non conveniens* structure a terrain that privileges capital mobility over workers' rights. Equally, litigation can push back *against* that structure—through strategic advocacy, creative argumentation and legal imagination, and coalition-building—forcing courts, legislators, and corporations to reconsider the boundaries of legal responsibility.

4 Judy Fudge & Guy Mundlak, *Peeling the Onion: On Choices Judges Make in Transnational Labour Litigation*, in *SOCIAL JUSTICE AND THE WORLD OF WORK: POSSIBLE GLOBAL FUTURES* 249 (Brian Langille & Anne Trebilcock eds., 2023).

Introduction

The report therefore bridges two influential frameworks that have long defined scholarly and policy debates about transnational corporate accountability:

- It draws on the idea of *strategic litigation as a driver of systemic change*, and on literature⁵ that shows that litigation can shift corporate culture, reshape policy, and generate accountability impacts beyond the courtroom, even where claimants lose on the merits.
- It builds on the insight that *judicial reasoning itself is a constitutive element of supply chain capitalism*. Fudge and Mundlak, for example, show how courts, by adhering to doctrines of jurisdiction, privity, and corporate separateness, sustain a global economic order that distances lead firms from liability for labour rights violations in their supply networks.⁶

Here, then, we examine how litigation navigates—and occasionally transforms—the structural and procedural barriers that define transnational corporate accountability. This dual framing—litigation within and against the architecture of supply chain capitalism—is the report’s key conceptual contribution. It highlights that transnational labour litigation is not merely an instrument of legal reform or an instance of judicial inertia, but a dynamic process through which legal norms, institutional constraints, and activist strategies continually interact.

Beyond conceptual framing, the report also identifies practical leverage points within existing legal architectures. By analysing where and how claims have been foreclosed, where doctrinal openings have emerged, and how litigation has interacted with legislative and regulatory reform, the report offers a strategic map for practitioners, advocates, and policymakers. It highlights the conditions under which transnational claims are most likely to proceed, the evidentiary and jurisdictional hurdles that must be anticipated, and the ways in which litigation can be deployed not only to seek remedy but also—no less important—to catalyse normative, institutional, and statutory change. Finally, the report situates this interaction in the current context of supply chain litigation, contributing to debate about how litigation conducted strategically can enhance the development of norms that entrench corporate accountability for workers’ rights violations.

Methodology

This report is based on a combination of doctrinal, empirical, and qualitative research methods. It draws primarily on an extensive review of case law, judicial decisions, and court filings related to transnational litigation on workers’ rights in GVCs, complemented by in-depth interviews with 12 individuals active in this field: lawyers, academics, and representatives of international non-governmental organisations (NGOs).

The legal analysis covers landmark and emerging cases from multiple jurisdictions, including the United States (U.S.), Canada, the United Kingdom (U.K.), Germany, Brazil, and Malaysia. The research involved reviewing pleadings, judgements, appellate decisions, and amicus briefs, as well as relevant legislative debates, policy documents, and secondary literature addressing

5 See, e.g., BIRCHALL ET AL., *supra* note 3.

6 Fudge & Mundlak, *supra* note 4.

Introduction

labour rights and corporate accountability. The goal here was to map doctrinal developments, procedural obstacles, and the strategic decisions that were made before and after cases were filed, all of which shape access to justice for workers in GVCs.

To supplement the documentary research, semi-structured interviews were conducted with legal counsel and advocates involved in key cases, academics working on business and human rights, and representatives of law firms, international NGOs, and law clinics supporting workers in transnational claims. The interviews provided qualitative insights into litigation strategies, judicial responses, and the broader advocacy ecosystems surrounding these cases.

All interviewees agreed to have their full names and institutional affiliations included in the report. A full list of interviewees, their affiliations, and dates of interviews is given in **Appendix 1**.

While the research draws on a broad and diverse range of sources, it is limited by the availability of public court filings and by the fact that some proceedings are still ongoing in several jurisdictions at the time of writing. The findings therefore represent a snapshot of a rapidly-evolving field rather than a comprehensive inventory of all transnational labour litigation worldwide.

Purpose and Structure of the Report

This report is intended as an analytical and practical resource for lawyers, civil society advocates, trade unions, and policymakers engaged in corporate accountability for labour rights in GVCs. It documents key developments in transnational labour litigation, identifies recurring procedural and substantive barriers to successful legal actions, and traces emerging legal and regulatory pathways for reform.

Drawing on comparative case law and practitioner interviews, the report synthesises more than two decades of litigation across the U.S., Canada, the U.K., Germany, Brazil, and Malaysia. It examines both the evolution of judicial doctrine and the strategic practices of litigators, unions, and civil society actors seeking to hold corporations accountable for their violations of workers' rights in transnational production networks.

Focusing specifically on labour, the report addresses a gap in the extant literature by showing how, although often dismissed on procedural grounds, workers' claims nonetheless generate broader effects, including legislative reform, changes in corporate conduct, and shifts in how accountability in supply chains is understood and pursued.

The analysis is structured around three interrelated themes that illustrate how transnational labour litigation operates as a contested site of norm-translation, in which global accountability norms are negotiated within domestic legal systems. The three themes are:

- *Procedural closures*

Many cases never reach substantive adjudication. Doctrines of jurisdiction, choice of law, and limitation periods often foreclose workers' claims at the threshold, as seen in the *Rana Plaza* litigation in the U.S. and Canada, and the *KiK* factory-fire case in Germany. Despite these undesired outcomes for claimants, such foreclosures have frequently produced helpful

advocacy, policy, and legislative effects. We refer to these outcomes here as “procedural closures”: cases in which claims are foreclosed at the threshold by jurisdictional, choice of law, standing, or limitation doctrines, preventing courts from reaching the merits.

- *Doctrinal breakthroughs*

In a smaller set of cases, courts have extended or reinterpreted existing doctrines to recognise corporate responsibility across borders. Landmark decisions such as *Nevsun v. Araya* in Canada and *Vedanta v. Lungowe* in the U.K. established that parent companies may owe duties of care to workers and communities affected by their subsidiaries. Ongoing litigation, including the *Dyson* and *British American Tobacco* cases, signals the potential extension of this reasoning to supply chain relationships beyond vertically-integrated corporate groups.

- *Statutory and HRDD mechanisms*

Recent legislative developments are reshaping the accountability landscape. France’s Duty of Vigilance Law, Germany’s Supply Chain Due Diligence Act, and Brazil’s labour inspection and “dirty list” mechanisms illustrate efforts to codify corporate due diligence and link preventive obligations to legal consequences. These regimes demonstrate how litigation and advocacy are feeding-back into statutory reform, creating hybrid models that combine public regulation with private enforcement.

As a whole, these three themes—procedural closure, doctrinal innovation, and statutory developments—show how transnational labour litigation is incrementally reconfiguring the field of corporate accountability in GVCs. Even where courtroom victories are rare, litigation continues to generate “cracks in the architecture” of supply chain capitalism, opening space for new norms of corporate responsibility and workers’ rights to emerge.

The report is written for a practitioner and policy audience and is designed to serve as both a diagnostic map of current litigation and a strategic resource for future legal and advocacy efforts. Its aim is not only to document judicial outcomes but also to capture the strategies, constraints, and innovations through which workers and their allies might be able to translate corporate responsibility from a normative commitment into an enforceable reality.

1

The Legal Terrain of Transnational Labour Litigation

Transnational litigation's prominence as a legal strategy for addressing labour rights violations in GVCs belies the fact that it operates within a legal environment marked by profound structural constraints.⁷ Claims brought by workers against MNCs must navigate fragmented legal systems, territorially-bounded jurisdictional rules, and private law doctrines that were never designed to regulate GVCs.⁸ As a result, access to remedy remains the exception rather than the norm.⁹

Across jurisdictions, courts have confronted similar questions: whether domestic law can be applied to harms occurring abroad; whether lead firms owe legal duties to workers employed by subsidiaries or suppliers; and how far private international law should accommodate claims arising from transnational corporate activity in GVCs.¹⁰ Judicial responses to these questions have diverged significantly, ranging from procedural foreclosure and statutory narrowing, on the one hand, to expansion of the duty of care, on the other.

The U.K. and Canada: Expanding the Duty of Care

The most significant doctrinal openings in transnational labour litigation have emerged in the U.K. and Canada. In a series of cases beginning in 2000 with *Lubbe v. Cape* and culminating in *Vedanta v. Lungowe* (2019) and *Okpabi v. Royal Dutch Shell* (2021), U.K. courts clarified that parent companies may, in certain circumstances, owe duties of care to individuals harmed by overseas operations.¹¹ These decisions rejected rigid, control-based tests and emphasised that liability depends on the factual extent of a parent company's involvement in, supervision of, or public representations about its subsidiaries' activities within GVCs.¹² The *Vedanta* court considered

7 Robert McCorquodale, *The Litigation Landscape of Business and Human Rights*, in HUMAN RIGHTS LITIGATION AGAINST MULTATIONALS IN PRACTICE 1, 1 (Richard Meeran & Jahan Meeran eds., 2021); EUROPEAN COALITION FOR CORPORATE JUSTICE (ECCJ), *SUING GOLIATH: HOW CORPORATIONS USE PROCEDURAL LAWSUITS TO SILENCE HUMAN RIGHTS DEFENDERS* (2021), <https://corporatejustice.org/wp-content/uploads/2021/09/Suing-Goliath-FINAL.pdf>; AMNESTY INTERNATIONAL AND BUSINESS & HUMAN RIGHTS RESOURCE CENTRE, *CREATING A PARADIGM SHIFT: LEGAL SOLUTIONS TO IMPROVE ACCESS TO REMEDY FOR CORPORATE HUMAN RIGHTS ABUSE* (2017), <https://www.amnesty.org/en/wp-content/uploads/2021/05/POL3070372017ENGLISH.pdf>.

8 Fudge & Mundlak, *supra* note 4.

9 ECCJ, *supra* note 7.

10 Nicolas Bueno & Claire Bright, *Implementing Human Rights Due Diligence through Corporate Civil Liability*, 69 ICLQ 789, 818 (2020); McCorquodale, *supra* note 7.

11 *Lubbe v. Cape Plc* [2000] UKHL 41; *Vedanta Resources PLC v. Lungowe and others* [2019] UKSC 20; *Okpabi v. Royal Dutch Shell* [2021] UKSC 3.

12 See reasoning in *Vedanta*, UKSC 20, at ¶¶ 44–60.

the factors relevant to establishing Vedanta’s liability for the conduct of its subsidiary’s mining operations, such as published materials that indicated its own assumption of responsibility for the maintenance of proper standards of environmental control over the activities of its subsidiaries, as well as evidence that it had not merely laid-down but also implemented those standards by training, monitoring, and enforcement.¹³ The court concluded that the liability of parent companies in relation to the activities of their subsidiaries is not a distinct category of liability in common law negligence but is to be determined by the general application of the duty of care rules. Ownership and control, it said, were not, in themselves, determinative, but “everything depended on the extent to which, and the way in which, the parent availed itself of the opportunity to take over, intervene in, control, supervise or advise the management of the relevant operations (including land use) of the subsidiary”.¹⁴

This approach was later applied in *Okpabi*. The court confirmed that there is no special test applicable to determining the responsibility of a parent company for the activities of its subsidiary, nor was it appropriate “to shoehorn all cases of the parent’s liability into specific categories”.¹⁵ Instead, the court considered the parent’s direction, control, and oversight vis-à-vis the subsidiary’s operations to be relevant, as well as organisational structure (whether the MNC Shell had, in fact, been operating as a single commercial undertaking).¹⁶

Canadian courts have gone further. In *Nevsun v. Araya* (2020), the Supreme Court of Canada held that claims based on violations of customary international law—including forced labour and slavery—could proceed against a Canadian corporation, recognising the possibility of civil liability grounded directly in international legal norms.¹⁷

Together, these cases in the U.K. and Canada reflect a judicial willingness to adapt tort law to the realities of transnational corporate power exercised through GVCs, even where final determinations on the merits remain rare. During the research interviews, when reflecting on the impact of these cases on the transnational litigation ecosystem, lawyers involved in litigation in the U.K. and Canada noted that these judicial innovations were not easily won and that they had significant implications for GVC litigation. Liberty Bridge, Senior Associate Solicitor with leading British law firm Leigh Day, explained that it took almost a decade for the firm to achieve success in establishing the corporate duty of care norm in the parent–overseas subsidiary context, and that the next challenge was to extend the doctrine to the supply chain context. Another interviewee, James Yap (Legal Counsel in *Nevsun*), reiterated the significance of the Canadian decision in recognising that international customary law is not a luxury but a moral and legal necessity, and in giving lower courts a broad licence to be creative in fashioning civil remedies for its violation.

13 *Vedanta*, at ¶ 61.

14 *Vedanta*, at ¶ 49.

15 *Okpabi*, *supra* note 11, at ¶ 27.

16 *Id.*, at ¶¶ 141–57.

17 *Nevsun Resources Ltd. v. Araya* [2020] 1 S.C.R 166.

The U.S.: Procedural Retrenchment and Statutory Narrowing

In contrast to the U.K. and Canada, U.S. courts have increasingly restricted the scope of transnational human rights litigation. Though earlier lower court cases such as *Doe v. Unocal* recognised corporate liability for aiding and abetting forced labour under international customary law,¹⁸ the Supreme Court progressively narrowed the reach of the Alien Tort Statute (ATS), most notably in *Kiobel v. Royal Dutch Petroleum Co.*, *Jesner v. Arab Bank*, and *Nestlé USA v. Doe*.¹⁹ While the ATS provides a civil cause of action for non-U.S. citizens injured by torts committed by non-U.S. persons in violation of the “law of nations” or customary international law,²⁰ these Supreme Court decisions emphasised presumptions *against* extraterritoriality, limited corporate liability, and imposed demanding requirements for establishing a sufficient domestic nexus in cases involving GVCs.²¹

18 *Doe v. Unocal*, 395 F.3d 932 (9th Cir. 2002). *Unocal* marked the first use of the Alien Tort Claims Act—predecessor to the ATS—in a forced labour case. The Burmese worker claimants alleged Unocal’s complicity in forced labour, torture, and other violations committed by the Myanmar military in connection with a pipeline project. The Ninth Circuit held that forced labour, murder, and rape violated the “law of nations” and were actionable. It held Unocal liable for its knowing complicity (aiding-and-abetting) in human rights abuses, overturning the lower court’s requirement of specific intent. See Rachel Chambers, *The Unocal Settlement: Implications for the Developing Law on Corporate Complicity in Human Rights Abuses*, 13 HUMAN RIGHTS BRIEF 14, 14–16 (2005); Yap interview.

19 *Kiobel v. Royal Dutch Petroleum Co.*, 569 U.S. 108, 133 S.Ct. 1659 (2013); *Jesner v. Arab Bank*, 138 S. Ct. 1386 (2018); *Nestlé USA, Inc. v. Doe*, 593 U. S. 628 (2021).

20 28 U.S.C §1350, originally enacted as part of the Judiciary Act of 1789, provides: “The district courts shall have original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States.” Although dormant for much of its history, the ATS was revived in the late-twentieth century as a vehicle for transnational human rights litigation, including claims against corporations for complicity in forced labour and other serious abuses committed abroad. See *Filártiga v. Peña-Irala*, 630 F.2d 876 (2d Cir. 1980), and *Sosa v. Alvarez-Machain*, 542 U.S. 692, 712–13, 724–25 (2004). In recent decades, however, the U.S. Supreme Court has progressively narrowed the statute’s reach, emphasising a presumption against extraterritorial application and imposing stringent requirements for establishing a sufficient connection between alleged abuses and U.S. territory. See *Kiobel*, *supra* note 19. In *Jesner*, *supra* note 19, the Supreme Court barred ATS suits against foreign corporations and further narrowed its extraterritorial application. Shortly thereafter, in *Nestlé*, *supra* note 19, the Supreme Court held that general corporate activity in the U.S. was insufficient for ATS claims and that claimants must plead domestic conduct that is, itself, tortious.

21 *Kiobel*, *supra* note 19, involved claims brought by Nigerian nationals residing in the U.S. against Dutch, British, and Nigerian corporations, alleging that they had aided-and-abetted the Nigerian Government’s violation of the law of nations in Nigeria. In *Kiobel*, the Supreme Court is said to have sounded a “death knell” for application of the ATS to *conduct* outside the U.S., when it invoked the presumption against its extraterritorial application. It held that claims must “touch and concern the territory of the United States ... with sufficient force” for the ATS to apply (*Kiobel*, 133 S. Ct. at 1669). See Gwynne Skinner, *Beyond Kiobel: Providing Access to Judicial Remedies for Violations of International Human Rights Norms by Transnational Business in a New (post-Kiobel) World*, 46 COL. HUM. RTS. L. REV 158 (2014); Roger Paul Alford, *Human Rights after Kiobel: Choice of Law and the Rise of Transnational Tort Litigation*, 63 EMORY L. J. 1089 (2014), Notre Dame Legal Studies Paper No. 1428. Following *Kiobel*, the Supreme Court rendered it even more difficult to override the presumption of extraterritoriality. For example, in *Daimler A.G v. Bauman*, 571 U.S 117 (2014), the Court held that jurisdiction extended only to those corporations headquartered or incorporated within a court’s jurisdiction, and that conduct of significant business by the corporation within the jurisdiction would not, alone, provide sufficient grounds to assert personal jurisdiction over it.

As a result, U.S. litigation has been characterised by procedural closures rather than doctrinal expansion. Terry Collingsworth, Executive Director of the Washington, DC-based International Rights Advocates, which represented the claimants in *Nestlé USA v. Doe*, as well as in *Coubaly v. Cargill and Doe v. Apple*, noted in the research interview that, in effect, *Nestlé* (discussed below) *broadened* the limitations imposed on extraterritorial jurisdiction in *Kiobel* by imposing stringent requirements for links between forced labour overseas and corporate conduct in the U.S. in order to invoke jurisdiction.

Statutory claims under the Trafficking Victims Protection Reauthorization Act (TVPR) have offered alternative pathways to common law civil liability for negligence under the ATS, particularly for forced labour claims arising in GVCs. Martina Vandenberg and Maggie Lee are President and Deputy Director, respectively, of the Human Trafficking Legal Center (HTLC), also based in Washington, DC, which has supported numerous worker claimants in TVPR claims. In their joint research interview, they explained that Congress had created extraterritorial jurisdiction for the TVPR, which permits a worker forced into labour abroad to bring a civil lawsuit in U.S. federal courts.²² Congress had also expanded liability to include not only direct perpetrators but also a defendant that “knowingly benefitted from participation in a venture” that it knew, or should have known, was engaged in forced labour, among other offences. However, these interviewees explained, recent appellate decisions have imposed strict requirements relating to causation, “participation in a venture”, and standing, leading to some dismissals at preliminary stages.²³ Vandenberg and Lee noted that this narrowing is inconsistent with the expanded liability provided-for in the TVPR, intended by Congress to act as a vehicle for workers trapped in forced labour abroad to hold U.S. MNCs accountable. Collingsworth also alluded to a similar dynamic, noting that this approach among U.S. federal courts had led to increasing use of innovative strategies through state tort law, consumer protection, and trade and tariff law litigation.²⁴

22 18 U.S.C. The TVPR is a U.S. federal statute that criminalises human trafficking and forced labour (§ 1589). It also provides a civil cause of action for victims in §1595, which states: “An individual who is a victim of a violation of this chapter may bring a civil action against the perpetrator (or whoever knowingly benefits, or attempts or conspires to benefit, 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 attorney’s fees.” Unlike the ATS, the TVPR expressly authorises extraterritorial jurisdiction in certain circumstances (*id.* § 1589 (e)).

23 *Coubaly v. Cargill Inc.*, No. 22-7104, 144 F.4th 343 (D.C. Cir. 2025); *Ratha v. Phatthana*, No.18-55041, 35 F.4th 1159 (9th Cir. 2022); *Doe v. Apple Inc.*, No. 21-7135, 96 F.4th 403 (D.C. Cir. 2024).

24 Collingsworth interview. See, e.g., details of litigation initiated by International Rights Advocates in November 2025 against Apple, under the District of Columbia Consumer Protection Act (CPPA) for false and deceptive marketing practices related to its supply chain for cobalt and other essential minerals from the Democratic Republic of Congo, <https://www.internationalrightsadvocates.org/cases/international-rights-advocates-v-apple-inc>; a July 2025 complaint under the CPPA filed by International Rights Advocates against Nestlé related to child labour in the cocoa supply chain in Côte d’Ivoire and Ghana, <https://tinyurl.com/y5tt6zh>; and a lawsuit, filed in partnership with Coffee Watch, against Starbucks for forced labour and human trafficking in the coffee supply chain, seeking relief including a ban on Brazilian coffee imports by major coffee multinationals, <https://www.internationalrightsadvocates.org/cases/coffee>; <https://tinyurl.com/33u555d2>. This strategy appears to have influenced similar claims in Australia, where the first consumer rights claim was filed against Kmart by the Australian Uyghur Tangritagh Women’s Association (AUTWA), alleging that the retail giant was sourcing some of its products from factories linked to forced labour camps in Western China and seeking proof of its publicly-proclaimed ethical sourcing practices. The application alleged that at least two garment suppliers

Notwithstanding its procedural limitations, U.S. proceedings have had the effect of prompting litigation to develop norms promoting corporate accountability in other jurisdictions. James Yap stated that, in developing a legal strategy for *Nevsun*, he was inspired by the litigation in *Doe v. Unocal*²⁵ and formulated a similar approach, illustrating how the architecture of corporate liability can be challenged through creative legal reasoning in transnational litigation.

Europe Beyond the U.K.: Jurisdiction and Due Diligence

In Europe, transnational labour litigation has been shaped by distinct jurisdictional rules and emerging regulatory frameworks. Miriam Saage-Maasz, Legal Director of the European Center for Constitutional and Human Rights (ECCHR) in Berlin, explained in her research interview that European Union (EU) instruments such as the Brussels Recast Regulation and the Rome II Regulation have facilitated access to courts in some cases, while simultaneously requiring the application of foreign law and local limitation periods that often prove fatal to claims arising in GVCs.²⁶ The *Jabir v. KiK* litigation,²⁷ which the ECCHR led, is an example of this contradiction.

At the same time, as noted by Chloé Bailey (Senior Legal Advisor, Business and Human Rights, ECCHR), mandatory HRDD legislation has begun to reshape the legal landscape governing GVCs. Laws such as France's Duty of Vigilance Law, Germany's Supply Chain Due Diligence Act, and Norway's Transparency Act signal a shift toward preventive regulation, yet generally stop short of creating robust civil liability for workers harmed in GVCs.²⁸ These regimes reflect

to Kmart were linked to the use of Uyghur forced labour in the Xinjiang region, and that Kmart was engaging in misleading or deceptive conduct under consumer law. See Bronwyn Herbert & Lucy Kent, *Kmart Denies Sourcing Any Products from Factories Linked to Forced Labour in China*, ABC NEWS (5 Aug. 2025), <https://www.abc.net.au/news/2025-08-05/kmart-products-allegations-forced-labour-source/105600184>.

25 *Unocal*, *supra* note 18.

26 Saage-Maasz interview. Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgements in civil and commercial matters (recast) (Brussels Recast), providing for jurisdiction of a state court over a company registered in that state; Regulation (EC) No. 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II), providing that the law applicable in non-contractual claims is the law of the state in which the harm occurred (*lex loci damni*); *Jabir v. KiK*, Case 7095/15, 7th Civil Chamber, Dortmund Regional Court (Germany), https://nrwe.justiz.nrw.de/lgs/dortmund/lg_dortmund/j2019/7_O_95_15_Urteil_20190110.html? [German]. *KiK* was the first tort-based human rights lawsuit in Germany. The court was obliged to apply the Brussels Recast and Rome II regulations, which rendered Pakistani law applicable to the claim related to a factory-fire that occurred in Pakistan.

27 Saage-Maasz interview.

28 Bailey interview. Loi 2017-399 du 27 mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre [Law 2017-399 of 27 March 2017 relating to the duty of vigilance of parent companies and ordering companies (1), or Corporate Duty of Vigilance Law] Journal Officiel de la République Française [J.O.] [Official Gazette of France], Mars 28, 2017 (French Corporate Duty of Vigilance Law; 7 Gesetz über unternehmerische Sorgfaltspflichten in Lieferketten (German Supply Chain Due Diligence Act), Juli 22, 2021, Elektronischer Bundesanzeiger [eBAZ] at 2959 2021 (Ger.)—entered into force on 1 January 2023. Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold (åpenhetsloven) [Act relating to enterprises' transparency and work on fundamental human rights and decent working conditions (Norway Transparency Act)], Lov 18 June 2021 nr. 99.

growing political recognition of corporate responsibility, while leaving questions about access to remedy and evidentiary burdens unresolved.²⁹

Cross-cutting Barriers

Transnational labour litigation is moulded not only by formal legal doctrine but also by a set of dense procedural, institutional, and structural barriers that recur across jurisdictions. Our interviews with litigators, NGO lawyers, and legal clinic practitioners consistently emphasised that workers' claims are rarely defeated by a single doctrinal rule. Rather, they are undermined by the cumulative interaction of multiple constraints embedded in private law, procedural law, and the very organisation of GVCs.³⁰ Some of these constraints are as follows:

- *Procedural form and collective action*

Large-scale labour rights violations in GVCs typically affect large groups of workers, making collective proceedings crucial for access to justice. Yet the availability of group or class actions varies widely across legal systems. Liberty Bridge explained that the U.K. is one of the notable common law jurisdictions that has procedures permitting large group claims in transnational human rights cases, while many civil law jurisdictions place strict limits on collective actions or do not allow them at all. Miriam Saage-Maasz noted that this very fact had presented a difficulty in German courts, where the ECCHR had litigated the *Jabir v. KiK* case.³¹ However, even where collective actions are formally available, courts may decline to certify classes, fragmenting claims and raising costs in ways that effectively deter litigation.³²

- *Judicial constraint and doctrinal inertia*

Across jurisdictions, courts operate within legal frameworks that were never conceived to regulate corporate responsibility for transnational labour harms. Interviewees emphasised that judges tend to rely on inherited doctrines of corporate law and private international law—such as limited liability, corporate separateness, and territorial jurisdiction—that privilege legal form over economic reality. Ebony Birchall (Deputy Director of the Business and Human Rights Access to Justice Lab at Macquarie Law School, Australia) observed at interview that transnational litigation happens in a legal environment that, itself, is shaped by supply chain capitalism. That is, no general rules exist to impose responsibility on lead firms

29 For a critique of HRDD, see, e.g., Ingrid Landau et al., *From Participation to Power: Human Rights Due Diligence Legislation, Unions, and Cross-Border Collective Bargaining* (forthcoming); Almut Schilling-Vacaflor & Maria-Therese Gustafsson, *Towards More Sustainable Global Supply Chains? Company Compliance with New Human Rights and Environmental Due Diligence Laws*, 33 ENVIRON. POLIT. 422 (2023); Surya Deva, *Mandatory Human Rights Due Diligence Laws in Europe: A Mirage for Rightsholders?* 36 LEIDEN J. INTL. L. 389 (2023).

30 ECCJ, *supra* note 7; interviews with Ananth; Bailey; Bridge; Collingsworth; Saage-Maasz; Vandenberg and Lee; Yap; and Miraglia and Melo.

31 *KiK*, *supra* note 26; Saage-Maasz interview.

32 Bridge interview; ECCJ, *supra* note 7; for an example of a large adverse costs-order against worker claimants that has had a chilling effect on future class actions, see *Das v. George Weston Limited*, 2017 ONSC 5583 (CanLII) (*Loblaws* costs-order decision). See also AMNESTY INTERNATIONAL, *supra* note 7, for discussion of these and other barriers.

for human rights violations perpetrated beyond the firm. Other interviewees emphasised that judicial reluctance to confront extraterritorial harms, coupled with courts' deference to established doctrinal categories, frequently results in narrow interpretations that shield corporate defendants from liability.³³

- *Technical and jurisdictional resistance*

Corporate defendants routinely deploy procedural strategies to delay, fragment, or terminate claims at an early stage. These include motions to strike, jurisdictional objections, *forum non conveniens* arguments, and challenges based on choice of law and limitation periods.³⁴ For instance, Liberty Bridge described defendants as highly strategic and persistent in their exploitation of procedural rules, often raising multiple objections at once, to increase claimant costs and deliberately prolong proceedings. Livia Miraglia and Fernanda de Mendonça Melo (Director and Legal Counsel, respectively, at Brazil's Federal University of Minas Gerais Clinic for Slave Labor and Human Trafficking) noted that corporations, given their political influence, deflected legal proceedings prior to commencement. Even where claims survive initial hurdles, favourable rulings often result in settlement rather than adjudication on the merits, limiting the development of precedent.³⁵

- *Access to legal representation and resources*

The lack of experienced legal representation constitutes one of the most significant practical barriers to transnational labour litigation. Such cases are costly, lengthy, and procedurally complex, exposing claimants to adverse cost risks and requiring substantial upfront investment.³⁶ Liberty Bridge noted that very few law firms are willing to undertake these cases on a contingency or “no win–no fee” basis. These constraints are particularly acute in Global South contexts. Livia Miraglia and Fernanda Melo emphasised that the cost and scarcity of legal representation are often the first (and most insurmountable) obstacles faced by workers seeking to challenge labour rights violations involving multinational buyers. A key example of this reality was cited in our research interview with Surendra Ananth, the Malaysian Legal Counsel involved in the *Limbu v. Dyson* case (discussed below). He referred to the difficulties claimants would have faced, had the case been heard in Malaysia rather than the U.K., Dyson's home jurisdiction, given the unavailability of contingency fee arrangements in Malaysia. Terry Collingsworth explained that, even where litigants overcome this kind of hurdle, in the U.S., they are likely to come before conservative federal judges more predisposed to applying doctrines that sustain corporate impunity rather than protect worker rights.

- *Opacity and the structure of GVCs*

The fragmented and opaque structure of GVCs poses a further structural barrier to lead-firm accountability. Establishing a legal connection between workers and lead firms requires proof of sourcing relationships, knowledge, and economic control—information that is typically

33 Interviews with Bridge; Collingsworth; and Yap. Fudge & Mundlak, *supra* note 4.

34 Bridge interview.

35 *Unocal*; *Nevsun*; *Vedanta*.

36 Interviews with Ananth; Bailey; Birchall; Bridge; Collingsworth; Miraglia and Melo; Saage-Maasz; and Nolan.

only held by the corporations themselves and inaccessible to workers without court-ordered disclosure.³⁷ Miraglia and Melo reported that, in Brazil, even where labour inspectors identify systemic violations, official reports often name only the direct employer, making it difficult to bring claims against lead firms higher up the chain. As a result, litigation frequently targets contractors with relatively limited resources, while lead firms remain legally insulated.

- *Power asymmetries and regulatory environments*

Interviewees also emphasised the profound power asymmetries that characterise transnational labour litigation. MNCs are well-resourced, legally sophisticated, and able to deploy political and economic influence to resist accountability.³⁸ In the U.K., they deploy every possible technical–legal point-of-leverage to wilfully prolong litigation.³⁹ In some jurisdictions, legislative changes have further narrowed avenues for liability. In Brazil, for example, reforms permitting the outsourcing of core production and limiting joint liability have reduced the legal exposure of lead firms, leaving only direct employers formally accountable for labour violations.⁴⁰

- *Substantive burdens and absence of local remedy*

Even where claims do overcome procedural hurdles, substantive legal standards present formidable challenges. Saage-Maasz, Chloé Bailey, and Justine Nolan (Director of the Australian Human Rights Institute) all spoke to this issue. They each pointed out that high evidentiary burdens relating to causation, knowledge, and control are particularly difficult to satisfy in tort-based claims. Liberty Bridge, too, noted that workers often lack effective remedies in the territories where the harms occur, due to weak enforcement, limited causes of action, or the insolvency of suppliers. These conditions frequently drive claimants to seek justice in the home-states of MNCs, despite the additional legal and logistical barriers such litigation entails.

Viewed as a whole, these cross-cutting barriers help explain why transnational labour litigation remains an exceptional and fragile pathway to accountability. They underscore why litigation must be understood not merely as a mechanism for judicial outcomes but as a strategic practice operating within, and constrained by, the legal architecture of GVCs.⁴¹ This point was emphasised by all of the practitioners and legal academics interviewed for this report. Justine Nolan, as well as Saage-Maasz, noted that strategic transnational litigation can fill the governance gap through its impact on corporate change as well as prompting changes in law and policy. Nolan underscored that the impact of strategic litigation must be assessed not in narrow terms (that is, financial compensation outcomes for the claimants) but relative to its

37 Collingsworth interview.

38 Miraglia and Melo interview.

39 Bridge interview.

40 Miraglia and Melo interview. They explained that the Brazilian Labor Reform Act No. 13.429/2017 made significant amendments to labour law and permitted unrestricted outsourcing, including the outsourcing of a corporation's core activity. See also João Renda Leal Fernandes, *Labor Law, CLT and the 2017 Brazilian Labor Reform*, 5 (7–8) PANOR. BRAZ. LAW 210 (2018), <https://doi.org/10.17768/pbl.y5.n7-8.p210-242>.

41 Fudge & Mundlak, *supra* note 4; ECCJ, *supra* note 7.

broader implications for law and policy reforms, corporate policy and practice, and increased judicial and public awareness. In this context, Nolan said, even litigation that is unsuccessful in the courts may well lead to valuable changes in corporate accountability. Similarly, Ebony Birchall emphasised that, although it is difficult to draw direct causal links, even adverse legal decisions can prompt changes in corporate behaviour, law and policies. Thus, despite being a pathway to accountability that is strewn with obstacles, litigation can constitute a powerful preventative measure and deterrent against corporate human rights abuses—irrespective of whether courts find in favour of claimants.⁴²

Against this backdrop, the analysis now turns to the case studies through which this report examines how transnational labour litigation functions as a contested site of norm-translation. The cases are analysed along three interrelated themes: **procedural closures**, where claims are dismissed at the threshold; **doctrinal breakthroughs**, where courts reinterpret existing legal doctrines to allow claims to proceed; and **statutory and HRDD pathways**, where litigation interacts with emerging regulatory frameworks. The three themes exemplify how global accountability norms are negotiated, resisted, and, at times, reconfigured under supply chain capitalism within domestic legal systems and in transnational governance.

42 Richard Meeran, *Multinational Human Rights Litigation in the United Kingdom: A Retrospective*, 6 Bus. & Hum. Rts. L. J. 225, 256 (2021).

2

Procedural Closures

The cases examined in this section illustrate how the cross-cutting barriers identified above materialise in concrete litigation outcomes. They illustrate instances in which courts closed the pathway to the determination of claims on their merits and relied, instead, on the traditional architecture of corporate law and private international law. These decisions exemplify the recurring challenges already highlighted in this report, including judicial reluctance to extend private law doctrines to transnational labour harm, the evidentiary difficulties created by opaque supply chains, and the structural disadvantage faced by workers seeking to litigate collectively across borders.

The Rana Plaza Litigation

The Rana Plaza building collapse in Bangladesh in 2013—which killed more than 1,100 workers and injured thousands more—became a defining test of whether lead firms in GVCs can be held legally accountable for catastrophic labour harms occurring in supplier workplaces. Despite the scale of the tragedy and extensive evidence of unsafe conditions, none of the main civil claims brought against major buyers of the products manufactured in the Rana Plaza building proceeded to determinations on the merits. Instead, courts treated the collapse as a harm located “there”, governed by “their” law, and legally disconnected from the corporate power located “here”. In that sense, Rana Plaza is a paradigmatic example of how the legal architecture of supply chain capitalism translates economic dependence into legal distance.⁴³

43 The Rana Plaza multi-storey complex housed factories producing ready-manufactured garments for Global North brands. The collapse highlighted the hazardous conditions to which the (mainly women and migrant) workers were subjected and the lack of corporate accountability for occupational health and safety in the industry. The repercussions from the collapse led to various public and private governance initiatives to address workers’ safety and remedy the injury and harm caused by the tragedy. Global clothing brands sourcing from Bangladesh signed the Accord on Fire and Building Safety in Bangladesh, as well as other initiatives, and the Bangladeshi Government made amendments to its labour laws. See, e.g., ECCHR, TEN YEARS AFTER RANA PLAZA: WORKERS SUBMIT COMPLAINT (n.d.), <https://www.ecchr.eu/en/case/zehn-jahre-nach-rana-plaza-beschaefigte-reichen-beschwerde-ein/>; Javed Siddiqui & Shahzad Nasir Uddin, *Human Rights Disasters, Corporate Accountability and the State: Lessons Learned from Rana Plaza*, 29 AAAJ 679 (2016); David J. Doorey, *Lost in Translation: Rana Plaza, Loblaws, and the Disconnect between Legal Formality and Corporate Social Responsibility*, presented at the Labour Law Research Network Conference at the University of Toronto (2017) and the Annual Law and Society Conference, Toronto (2017), <https://labourlawresearch.net/wp-content/uploads/2025/05/DooreyLostinTranslation.pdf>; Raam Dutia, *Five Years Later: Locating Justice, Seeking Responsibility for Rana Plaza*, DOING BUSINESS RIGHT BLOG (25 Apr. 2018), <https://tinyurl.com/mr4ypmfu>; ECCJ, *supra* note 7.

Two class actions brought in relation to the disaster—***Abdur Rahaman v. J.C. Penney (J.C. Penney)***⁴⁴ in the U.S., and ***Arati Rani Das v. George Weston (Loblaws)***⁴⁵ in Canada—illustrate the core closure mechanisms applied. In both, workers (or their families) sought damages for wrongful death and injury in negligence, arguing that the corporate defendants knew or should have known of unsafe conditions and, yet, failed to act. In both instances, the courts foreclosed the claims through a combination of (1) **territorial choice of law rules** (including limitation periods) and (2) **a narrow duty of care framework** that treated supply chain workers as legally “third parties” to whom lead firms generally owe no obligation, absent exceptional control or assumption of responsibility.⁴⁶

Closure mechanism 1: Statutory time limits and choice of law rules

A key feature of these two cases is that choice of law effectively determined whether the claims could survive at all. In *J.C. Penney*, the court applied the U.S choice of law rules and concluded that Bangladeshi law—and, critically, its limitation period—governed the claim. The analysis framed Bangladesh as the centre of gravity: the injury occurred there, the relevant conduct occurred there, and the relationship (as legally understood) was centred there, while the corporate defendants’ incorporation in Delaware was treated as comparatively incidental.⁴⁷

Similarly, the Ontario courts treated ***lex loci delicti*** as the governing baseline and declined to displace Bangladeshi law, despite the claimants’ argument that the allegedly wrongful decisions—how audits were designed, what standards were required, and whether remediation was demanded—had been taken in Ontario. The court rejected the argument that applying Bangladeshi law would produce injustice warranting departure from the general rule. The practical consequence was stark: the GVC was understood as a set of events anchored territorially to the site of harm, rather than as a *transnational* system of governance and control.⁴⁸

This legal “technicality” functions as one of the key ways in which private international law supports the corporate structure that undergirds supply chain capitalism: it reroutes accountability back to jurisdictions where enforcement is typically weak and legal tools for reaching lead firms are limited, even when corporate power and profit extraction are located elsewhere.

44 *Rahaman v. J.C. Penney Corporation Inc. et al. (J.C. Penney)*, No. N15C-07-174MMJ, 2016 WL 2616375 (Del. Super. Ct. May 4, 2016).

45 *Das et al. v. George Weston Ltd. et al. (Loblaws Appeal)*, 2018 ONCA 1053 (CanLII).

46 *Loblaws Appeal*, at ¶¶ 139–159, 176–179. The claimants were considered employees of the sub-supplier, to whom no duty of care was owed. In *J.C. Penney*, the Court found the claimants to be employees of the garment factories within Rana Plaza, and not of the defendants. The Court held that, even if the workers were considered independent contractors of the defendants, the defendants owed them no duty to protect against factory safety hazards, absent proof of control or an assumption of responsibility, *id.*

47 *Id.*

48 *Loblaws Appeal*, at ¶¶ 90–91.

Closure mechanism 2: Gap in legal duties in supply chains—codes and CSR as non-binding governance

Even where courts proceeded to consider negligence, both cases ran into the same barrier: courts refused to recognise a duty of care owed by lead firms to workers employed by supplier factories, absent strong evidence of direct control or a clear voluntary undertaking of responsibility.

Courts delivered these outcomes through familiar negligence doctrines—invoking nonfeasance, the absence of a “special relationship”,⁴⁹ and resistance to “novel” extensions of duty⁵⁰—while declining to engage fully with the policy implications of corporate sourcing decisions.

This stance did not emerge in the Rana Plaza litigation in isolation. It built on earlier U.S. case law that treated supplier codes of conduct and audit rights as instruments of voluntary governance, rather than as sources of legal obligation. In *Doe I v. Wal-Mart Stores Inc.* (2009), for instance, the court had rejected claims that supplier standards, inspection rights, or public commitments to ethical sourcing created enforceable duties toward workers employed by foreign suppliers. That decision reaffirmed that buyer–supplier relationships—even when the supplier is economically dependent on a sole or majority buyer—do not, alone, give rise to duties of care or monitoring obligations under common law negligence.⁵¹

In *J.C. Penney*, the claimants pointed to the company’s ethical sourcing statements and argued that the defendants knew or should have known of safety risks. The court held that ethical

49 *J.C. Penney* (in the absence of a special relationship, the defendants had no duty to take steps to implement oversight and safety mechanisms at the Rana Plaza building); *Loblaws Appeal*, at ¶¶ 139–143, 180–186 (the claimant’s factual allegations were insufficient to amount to the type of relationship or control over the supplier’s operations by Loblaws necessary to establish proximity or assumption of responsibility under English law and, thereby, impose a duty of care to protect against harm by third parties, where: Loblaws was not directly involved in managing the supplier; it had no means of control over where the manufacturing took place; and its only form of control would have been to cancel its orders for non-compliance with its CSR standards, which it had historically never done (*id.*, at ¶ 180)). In the absence of findings of control by Loblaws over the operations of its suppliers, and in the absence of assumption of responsibility for the structural safety of the Rana Plaza building, the Court declined to consider whether there were policy reasons that could justify imposing liability. Instead, it focused on negative policy concerns, such as the potential for indeterminate liability (*id.*, at ¶ 186).

50 The Appeal Court in *Loblaws* had regard to the approach of the lower court deciding against the recognition of a novel duty of care on the part of corporations, due to “negative policy factors, includ[ing] that liability under these circumstances would be indeterminate and disproportionate, result in a deluge of cases based on an assumption of responsibility, and encourage other potential defendants to adopt socially detrimental defensive practices that would adversely affect similar claimants and their economies” (*Loblaws Appeal*, at ¶¶ 56–57, 95–96).

51 *Doe I v. Wal-Mart Stores Inc.*, 572 F.3d 677 (9th Cir. 2009). The U.S. Court of Appeals for the Ninth Circuit held that Wal-Mart had no contractual duty to the supplier or its employees, where, in its code of conduct for suppliers (incorporated into its supply contracts with foreign suppliers), Wal-Mart reserved its right to inspect suppliers but did not assume a duty to do so (*id.*, at 681–682). The Court also rejected the claimants’ negligence claims, finding that: 1) Wal-Mart had no duty to monitor its suppliers or prevent the alleged intentional mistreatment of the claimants by suppliers (*id.*, at 683); 2) Wal-Mart owed no special duty to protect the claimants from suppliers’ alleged intentional misconduct, where the Court determined that Wal-Mart exercised minimal or no control over the claimants’ day-to-day work in suppliers’ factories abroad (*id.*, at 684); and 3) by reserving its rights to cancel supply contracts, any inspections were thus “gratuitous”, and, therefore, Wal-Mart did not undertake any obligation to protect the claimants (*id.*, at 684).

commitments do not, themselves, create a legal duty where one does not otherwise exist, and that an omission to act (nonfeasance) does not generate liability without a “special relationship”. Attempts to frame supply chain workers as “independent contractors” of the buyer, or to invoke a “peculiar risk” doctrine, were rejected; the court treated the building collapse as not a risk inherent to the buyers’ business and not something they could be expected to guard against merely due to sourcing from Bangladesh. The court emphasised that the buyer’s sourcing was indirect and did not amount to the kind of control or undertaking that would generate liability.⁵²

In the Canadian *Loblaws* litigation, the claimants similarly relied on corporate codes of conduct and argued that the public representations and auditing practices of the supermarket retailer—Canada’s largest—supported proximity and assumption of responsibility. The motion court and the Court of Appeal both treated the duty of care question as “novel” and declined to extend negligence in what it viewed as a “giant step”.⁵³ Importantly, the Court of Appeal expressed concern that imposing liability might discourage corporations from adopting codes of conduct or sourcing from low-wage countries altogether, and it raised fears of “indeterminate” or “disproportionate” liability, given the defendant’s limited role in creating the risk and inability to prevent harm. In effect, CSR and supplier codes were acknowledged⁵⁴ as governance practices but were not allowed to transform the legal baseline: that supply chain workers are legally situated outside the buyer’s protected legal relationship.⁵⁵

This logic echoes previous U.S. litigation on supplier codes, including *Doe I v. Wal-Mart*, where courts treated supply contracts (despite detailed terms on price, quality, deadlines, and standards) as insufficient to establish the kind of day-to-day control that would create an employment-like relationship or a duty to monitor.⁵⁶ The broader pattern is that supply chain governance via contract is legally characterised as operating at “arm’s length”, even where the buyer exercises significant economic power as a sole or majority purchaser and plays a central organisational role in structuring production.

What Rana Plaza reveals about supply chain capitalism’s legal architecture

The Rana Plaza litigation shows how two pillars of the legal architecture of GVCs interact to produce closures:

1. **Territoriality** assigns harms to the place of injury and reroutes claims toward the law (and limitation periods) of producer states—often, precisely where legal and regulatory “vacuum” conditions are a feature of the political economy that makes sourcing from these states profitable in the first place.⁵⁷
2. **Corporate distance**—expressed through narrow duty of care reasoning and reluctance to treat CSR codes as legally operative—preserves the separation between lead firms’ economic governance and legal responsibility. The buyer may structure incentives, dictate

52 *J.C. Penney*.

53 *Loblaws Appeal*, at ¶ 144.

54 *Id.*, at ¶ 181.

55 *Id.*, at ¶¶ 85, 178–187.

56 See *Wal-Mart*, *supra* note 51.

57 See *Loblaws Appeal*, at ¶¶ 20, 32–38.

detailed terms, and profit directly from the system, yet still be treated as too “remote” to owe obligations to the workers whose labour sustains the chain.⁵⁸

Together, these doctrinal pillars do not merely “fail” to deliver remedy; they actively translate supply chain organisation into the architecture of legal immunity of the lead firm. They make it possible for lead firms to exercise transnational power through contracts while remaining insulated by the very formal categories that contract law and corporate law supply.

Impact beyond the courtroom

The Rana Plaza cases also show, however, that procedural closure does not imply political or normative insignificance. Even without merits adjudication, the litigation contributed to broader accountability dynamics: it intensified public attention to the liability gap in GVCs, strengthened advocacy coalitions, and fed momentum toward legally-binding approaches—most notably, the turn toward mandatory due diligence regimes and debates about civil liability for supply chain harms.⁵⁹ In this sense, Rana Plaza exemplifies litigation’s role in norm-translation: claims were blocked doctrinally, yet they helped translate labour rights demands into a language that could travel into legislative and regulatory arenas. Miriam Saage-Maasz identified this litigation as having had a significant effect in prompting civil society advocacy that resulted in HRDD legislation in Germany. Similarly, Justine Nolan referred to policy change as a key impact resulting from increased social and corporate awareness following “unsuccessful” cases.

The Rana Plaza litigation shows how private international law and duty of care doctrines can close claims at the threshold by preserving the legal separation between lead firms and supplier workers. The next set of case studies traces similar foreclosure dynamics through different doctrinal pathways—including limitation periods under applicable foreign law in the EU context and jurisdictional gatekeeping in U.S. federal courts.

Jabir v. KiK (Germany): Jurisdiction without Remedy in the European Supply Chain

The litigation arising from the 2012 Ali Enterprises factory-fire in Pakistan, which killed 259 workers and seriously injured many others, posed a direct challenge to the assumption that European lead firms were legally insulated from labour harms occurring deep in GVCs.⁶⁰ The claim against KiK, a German retailer that sourced the majority of the factory’s output, tested whether EU procedural openness could translate into substantive accountability for supply

58 See *J.C. Penney; Loblaws Appeal*, at ¶¶ 178–187.

59 MICHAEL BADER & MIRIAM SAAGE-MAASZ, *TRANSNATIONAL LEGAL TACTICS FOR LABOUR: HOW TO MAKE USE OF CORPORATE ACCOUNTABILITY MECHANISMS*, Friedrich-Ebert-Stiftung (October 2021), 3. https://www.ecchr.eu/fileadmin/Publikationen/211025_transnational_WEB.pdf.

60 *KiK*, *supra* note 26. The Appellate Court dismissed the claim for legal aid to appeal to the Appellate Court of Hamm, Verdict of 21 May 2019, Az. 9 U 44/19.

chain labour violations. The case ultimately illustrates a distinct form of procedural closure: access to a European court without access to a remedy.⁶¹

Filed in 2015 by workers and families of the deceased, with the support of ECCHR and Pakistani trade unions, the claim was brought before the Regional Court of Dortmund, Germany. Unlike comparable claims in common law jurisdictions, KiK did not contest jurisdiction. Under the Brussels Recast Regulation, German courts had jurisdiction over companies domiciled in Germany; and, under the Rome II Regulation, the applicable law for non-contractual claims was the law of the place where the harm occurred: Pakistan.⁶²

This procedural configuration is significant. On the one hand, EU private international law removed a major barrier that often defeats transnational claims at the outset: *forum non conveniens*. On the other hand, it embedded the claim within the law—and, crucially, the limitation period—of the country where the harm occurred. In 2019, the Dortmund court dismissed the case as time-barred under Pakistani law, which imposed a two-year limitation period. In any event, the court found that the defendant was not liable under German law.⁶³

Closure mechanism: Private international law as a gatekeeper

The *KiK* case demonstrates how private international law can function as a double-edged sword in supply chain litigation. While EU rules facilitated jurisdiction in the lead firm's home-state, they also redirected the claim back to the legal conditions of the producer state. As in Rana Plaza, this had decisive consequences. The law governing the claim was not the law of the place where corporate decisions, audits, and purchasing practices were formulated, but the law of the place where workers laboured—and where legal time limits and remedial frameworks were least favourable to claimants.

This form of closure differs from the common law cases discussed earlier. Rather than rejecting duty or proximity outright, the court avoided adjudicating those questions altogether. The legal architecture of GVCs was preserved not through denial of responsibility but through temporal foreclosure: the claim expired before responsibility could be examined.⁶⁴

Before dismissal, the claimants had advanced a theory of liability that went to the heart of supply chain capitalism. They argued that KiK exercised decisive economic influence over Ali Enterprises, purchasing approximately 70 per cent of its output and requiring compliance with

61 *Id.* See Muhammed Azeem, *The KiK Case: A Critical Perspective from the South*, in *TRANSNATIONAL LEGAL ACTIVISM IN GLOBAL VALUE CHAINS: THE ALI ENTERPRISES FACTORY FIRE AND THE STRUGGLE FOR JUSTICE* 279–298 (Miriam Saage-Maasz et al. eds., 2021); see also Legal Opinion on English Common Law Principles on Tort, Jabir and Others v. Textilien und Non-Food GmbH, 7 December 2015, https://www.ecchr.eu/fileadmin/Juristische_Dokumente/_Opion_Essex_Jabir_et_al_v_KiK_2015.pdf; ECCHR, *KiK: PAYING THE PRICE FOR CLOTHING PRODUCED IN SOUTH ASIA*, <https://www.ecchr.eu/en/case/kik-paying-the-price-for-clothing-production-in-south-asia/>.

62 See *Kik*, *supra* note 26, at ¶¶ 42–44.

63 *Id.*

64 *Id.*, at ¶¶ 31–35; “The Chamber ultimately did not have to decide whether, according to the principles of Pakistani law, which are applicable to the case at hand pursuant to Article 4(1) of the Rome II Regulation, there is any legal basis for the payment claims asserted by the claimants, or whether the legal requirements for such a basis are met in this case, since, as a result, all of the claimants’ claims are time-barred” (*id.*, at ¶ 33, unofficial translation).

a detailed Code of Conduct covering health and safety. On this basis, they claimed that KiK had assumed responsibility for workplace conditions or exercised a form of de-facto control analogous to relationships in which courts have previously recognised corporate liability.⁶⁵

This case illustrates, as discussed earlier, the structural question at the centre of transnational labour litigation: whether a contractual purchaser–supplier relationship marked by significant economic dominance on the part of the buyer can generate legal responsibility for workers’ safety. It thus highlights a problematic feature of supply chain governance: lead firms articulate standards, conduct audits, and exert commercial pressure, yet remain legally characterised as operating at “arm’s length”.⁶⁶

Impact beyond the courtroom

Despite its procedural termination, *KiK* is widely regarded as a paradigmatic example of strategic transnational litigation. The case was part of a broader advocacy campaign, involving trade unions, international NGOs, and human rights organisations, that sought to render-visible the workers hidden in GVCs and challenge the structural inequalities between Global North buyers and Global South producers.⁶⁷

This broader strategy produced tangible effects. KiK provided immediate assistance of US\$ 1 million to victims.⁶⁸ In 2016, the company then agreed to pay additional compensation of US\$ 5.15 million to victims and families as a result of an agreement mediated by the International Labour Organization (ILO), IndustriALL Global Union, and the Clean Clothes Campaign, with the involvement of the German and Pakistani Governments.⁶⁹ Despite the compensation agreement,

65 In dismissing this as a basis for any claim under German law, the Court held: “It is particularly important to consider that the defendant had no direct contractual relationship whatsoever with the employees of Company B. Any liability on the part of the defendant could therefore only arise from the perspective of a contract for the benefit of third parties or with intellectual property rights for the benefit of third parties arising from the supply contract formerly existing between the defendant and Company B, with particular consideration of the code of conduct used by the defendant. However, it must be taken into account that the ‘Code of Conduct’ was directed exclusively at the defendant’s contractual partner—in this case, Company B—and obligated the latter to comply with certain minimum ethical, social, and labor law standards. The document does not indicate that the defendant’s employees should have any direct claims against the defendant as a result. The relevant requirements developed by case law for the assumption of a contract with protective effect in favor of third parties are not met, particularly the necessary proximity of the third party to the performance” (*id.*, at ¶¶ 47–48, unofficial translation). For further discussion of the Court’s treatment of the Code of Conduct, see Carolijn Terwindt et al., *Supply Chain Liability: Pushing the Boundaries of the Common Law?* 8 J. EUR. TORT L. 261, 272–273, 276–280 (2018); Michael Bader et al., *Strategic Litigation against the Misconduct of Multinational Enterprises: An Anatomy of Jabir and Others v. KiK*, 52 VERFASSUNG UND RECHT IN ÜBERSEE / LAW AND POLITICS IN AFRICA, ASIA AND LATIN AMERICA 156, 164 (2019).

66 See Terwindt et al., *supra* note 65 (on the “arm’s length” critique and supply chain governance discussion).

67 Saage-Maasz interview.

68 *KiK*, *supra* note 26, at ¶ 4.

69 *Id.*, at ¶¶ 4–11. For a discussion of the compensation issues, see Terwindt et al., *supra* note 65; ILO, *Compensation Arrangement Agreed for Victims of the Ali Enterprise Factory Fire in Pakistan* (10 Sept. 2016), <https://www.ilo.org/resource/news/compensation-arrangement-agreed-victims-ali-enterprise-factory-fire>; Clean Clothes Campaign, <https://cleanclothes.org/news/2016/statement-ali-enterprises>.

the claimants continued to seek a final court ruling on their claim. This underscores the fact that financial compensation and establishing legal responsibility were seen as separate objectives.⁷⁰

More broadly, the *KiK* case contributed to political momentum in Germany around corporate accountability in supply chains. Civil society actors involved in the litigation have linked the case to the subsequent adoption of the German Supply Chain Due Diligence Act; and our Germany-based interviewee, Miriam Saage-Maasz, pointed out that ECCHR has since filed complaints against *KiK* under the new regime, alleging failures to comply with HRDD obligations.⁷¹

What *KiK* reveals about the architecture of supply chain capitalism

KiK illustrates a core feature of the legal architecture governing GVCs: procedural access does not guarantee substantive accountability. EU private international law opened the courthouse door but also closed the path to remedy by anchoring responsibility in the law and timeframes of the producer state. In this way, jurisdictional openness coexists with remedial insulation.

Like Rana Plaza, the *KiK* litigation shows how supply chain capitalism is legally stabilised through doctrines that separate economic power from legal responsibility. Yet, it further exemplifies that even procedurally unsuccessful litigation can function as a site of norm-translation, generating compensation, regulatory reform, and new expectations about the responsibilities of lead firms in GVCs.⁷²

Rana Plaza and *KiK* reveal how different legal systems reproduce similar outcomes through distinct doctrinal pathways. In the common law cases, courts relied on territorial choice of law rules and narrow conceptions of duty of care to treat catastrophic supply chain harm as legally remote from lead firms' decision-making centres. In the European context, jurisdictional openness coexisted with remedial closure, as private international law grounded liability in the law and limitation periods of the producer state. In both settings, the legal architecture of GVCs translated economic power into legal distance, insulating lead firms from judicial scrutiny while preserving the formal integrity of corporate and contractual doctrine. The next cases we examine show how U.S. federal courts achieve comparable closures through jurisdictional gatekeeping and standing requirements under the ATS and TVPRA.

70 Saage-Maasz interview.

71 German Supply Chain Due Diligence Act, *supra* note 28; ECCHR, SYSTEMATIC VIOLATIONS OF LABOUR RIGHTS IN PAKISTANI GARMENT FACTORIES (n.d.), <https://www.ecchr.eu/en/case/systematic-violations-of-labour-rights-in-pakistani-garment-factories/>.

72 BIRCHALL ET AL., *supra* note 3.

Nestlé USA v. Doe (U.S.): Jurisdictional Gatekeeping and the Insulation of Supply Chain Decision-making

This litigation, brought by former child labourers from Mali against Nestlé and Cargill under the ATS,⁷³ presented one of the most sustained attempts to hold U.S.-based corporations to account for forced labour in GVCs.⁷⁴ Filed in 2005 by Terry Collingsworth and International Rights Advocates, the case sought damages for slavery and forced labour suffered on cocoa farms in Côte d’Ivoire that supplied the defendants. The claimants alleged that Nestlé and Cargill, as commercial partners and major global buyers, knowingly benefitted from and supported a system of child slavery through financing, training, and long-term commercial relationships with suppliers.⁷⁵

The claimants brought the claim in the U.S. federal court because no meaningful civil remedies were available in either Mali or Côte d’Ivoire and because key corporate decisions relating to sourcing, financing, and supply chain management were allegedly made within the U.S.⁷⁶ Extending over more than a decade of litigation, the case moved repeatedly between lower courts and the Supreme Court, ultimately becoming a central test of whether U.S. courts would permit ATS claims based on transnational supply chain harm.⁷⁷

Closure mechanism: Extraterritoriality and the “touch and concern” test

In 2021, the U.S. Supreme Court dismissed the claim, holding that the alleged conduct did not **“touch and concern”** the territory of the U.S. sufficiently to overcome the presumption against extraterritorial application of the ATS.⁷⁸ The majority reasoned that general corporate decision-making and oversight in the U.S. did not amount to aiding-and-abetting forced labour abroad, and that nearly all relevant conduct occurred overseas. On this basis, the Court concluded that the ATS could not serve as a vehicle for adjudicating supply chain labour abuses occurring outside U.S. territory.⁷⁹

73 See the discussion of the ATS and the *Kiobel* case, *supra* notes 19–21.

74 *Nestlé USA, Inc. v. Doe*, 593 U. S. 628 (2021).

75 *Id.* The claimants were Malians who alleged that, as children, they had been trafficked to, and enslaved in, the Ivory Coast to work in cocoa production. They sued defendants, including U.S.-based companies Nestlé USA, Inc. and Cargill, Inc., under the ATS for aiding-and-abetting child slavery. Although Nestlé and Cargill neither owned nor operated cocoa farms in the Ivory Coast, they did purchase cocoa from farms located there and provided them with technical and financial resources. On this basis, the claimants argued that the defendants “knew or should have known” of the exploitation, had failed to use their economic leverage to stop child slavery, and made their operational decisions from within the U.S. For more on this case, see International Rights Advocates, <https://www.internationalrightsadvocates.org/cases/doevsnestlecargill>.

76 Collingsworth interview.

77 For a summary of the procedural history preceding the Supreme Court case, see, e.g., Megan M. Coppa, *Doe v. Nestle, S.A.: Chocolate and the Prohibition on Child Slavery*, 23 *PACE INT’L L. REV.* 262, 281–303 (2021).

78 See *supra* notes 19–20 for discussion of the “touch and concern” test and related jurisprudence.

79 *Nestlé*, at 634 (“allegations of general corporate activity—like decision making—cannot alone establish domestic application of the ATS”, nor can “mere corporate presence” in the U.S., *citing Kiobel*, 569 U.S. at 125. The Court held that “[b]ecause making ‘operational decisions’ is an activity common to most corporations, generic allegations of this sort do not draw a sufficient connection between the cause of action respondents seek—aiding and abetting forced labor overseas—and domestic conduct”).

The *Nestlé* decision built on the well-established restrictive trajectory of Supreme Court decisions, illustrating how jurisdictional doctrine had become a primary mechanism through which U.S. courts limited corporate accountability for labour rights violations in GVCs.⁸⁰ Its reasoning extended and hardened the Court's earlier approach in *Kiobel*, transforming the ATS from a potential forum for addressing transnational corporate complicity into a heavily-policed jurisdictional gateway. In practical terms, the *Nestlé* decision established that, even where U.S. corporations design, finance, and profit from GVCs, such activities may remain legally irrelevant if the immediate exploitation occurs elsewhere.⁸¹

A striking feature of the *Nestlé* court's reasoning is its treatment of corporate headquarters and supply chain governance. The claimants had argued that Nestlé and Cargill exercised decisive influence from the U.S. through operational decisions, training, and financing that sustained forced labour in West Africa.⁸² The Court rejected this framing, characterising such activities as ordinary corporate conduct insufficient to establish a jurisdictional nexus. In doing so, it drew a sharp line between economic power and legal responsibility, reinforcing a vision of the corporation as territorially bounded even when its supply chains are global.

As highlighted earlier, the Court's logic exemplifies a core feature of the legal architecture of supply chain capitalism: lead firms may coordinate production, shape labour conditions, and capture value across borders, while jurisdictional doctrine treats those same activities as too diffuse or indirect to ground liability. The result is not merely dismissal of a particular claim but the normalisation of legal distance between corporate centres and labour exploitation that is embedded in supply chains.

The closure in *Nestlé* did not go uncontested. In a concurring opinion joined by two other Justices, Justice Sotomayor criticised the majority's approach as inconsistent with the historical purpose of the ATS, which was designed to provide a federal forum for redressing violations of international law and avoiding diplomatic conflict. She emphasised that international law has long prohibited slavery and forced labour, and rejected the notion that corporations should be categorically insulated from civil liability for aiding-and-abetting such abuses.⁸³ Notably, while the Court foreclosed this particular claim, it did not definitively resolve whether corporations can ever be sued under the ATS, leaving the doctrine formally open but functionally constrained. This ambiguity has produced what many observers describe as a paradoxical outcome: the

80 See *id.*, at 632–634. For detailed discussions of the narrowing of the ATS in *Nestlé*, see Sosa v. Álvarez-Machain, *supra* note 20; Kristen Eichensehr, *U.S. Supreme Court Holds Claims against U.S. Corporations for Aiding and Abetting Child Slavery Impermissibly Extraterritorial, Declines to Resolve Domestic Corporate Liability*, 115 AM J. INT'L L. 739 (2021); Charles Szymanski, Essay, *The Window Closes: Nestle, Inc. v. Doe and the Lost Promise of the U.S. Alien Tort Statute as a Means of Enforcing International Labor Law*, 1 DIRITTI LAVORI MERCATI INT'L L. 29, 32 (2022) (stating that *Nestlé* “all but foreclosed the use of the ATS” to combat labour abuses); Clara Petch, *What Remains of the Alien Tort Statute after Nestlé USA, Inc. v. Doe?* 42 NW. J. INT'L L. & BUS. 397 (2022); Desiree LeClercq, *Nestlé United States, Inc. v. Doe*. 141 S. Ct. 1931 (2021), 115 AM. J. INT'L L. 694 (2021); Caroline Zrinka Dzeba, *A Regional Custos Morum? Corporate Liability under International Law in North America after Nevsun Resources and Nestlé*, 54 CASE W. RES. J. INT'L L. 385 (2022); Emma Svoboda, *Policy as a One-legged Stool: U.S. Actions against Supply Chain Forced Labour Abuses*, 136 HARV. L. REV. 1763 (2023).

81 See history of ATS litigation, *supra* notes 20–21.

82 *Nestlé*, at 633.

83 *Nestlé*, Sotomayor, J. Concurring Opinion.

Court acknowledged, in principle, the possibility of corporate liability, while constructing jurisdictional barriers that render such liability largely unattainable in practice.⁸⁴

Impact beyond the courtroom

For advocates, the *Nestlé* decision represented a significant setback; but, more broadly, it did clarify the limits of ATS-based litigation and prompted a strategic pivot toward alternative legal tools. Interviewees emphasised that the narrowing of ATS jurisdiction underscored the importance of statutory avenues such as the TVPRA, which explicitly provides for extraterritorial jurisdiction and liability for entities that knowingly benefit from forced labour.⁸⁵

Nestlé constitutes a powerful example of litigation that is a contested site of norm-translation. While the claim was closed at the jurisdictional threshold, the litigation reshaped the legal and advocacy landscape by clarifying doctrinal limits, redirecting strategic efforts, and reinforcing calls for legislative and regulatory reform.⁸⁶

Read alongside *Rana Plaza* and *KiK*, *Nestlé* illustrates a third configuration of procedural closure. Where common law courts relied on choice of law and duty doctrines, and European courts relied on limitation periods embedded in private international law, U.S. federal courts achieved closure through jurisdictional gatekeeping grounded in extraterritoriality. In each setting, different doctrinal tools performed the same structural function: insulating lead firms from accountability for labour exploitation occurring in GVCs.

If *Nestlé* marked the tightening of ATS jurisdiction, subsequent cases under the TVPRA have tested whether statutory design can overcome these barriers—or whether standing, causation, and “venture” requirements will reproduce similar forms of procedural closure.

***Coubaly v. Cargill* and *Ratha v. Phatthana* (U.S.): Standing, Causation, and the Limits of “Venture” Liability under the TVPRA**

Following the contraction of ATS jurisdiction in *Nestlé*, litigants increasingly turned to the TVPRA as a statutory pathway for addressing forced labour in GVCs.⁸⁷ The cases of *Coubaly v. Cargill* and *Ratha v. Phatthana Seafood* tested the promise and limits of this shift.⁸⁸ Both involved claims by workers subjected to forced labour abroad who sought to hold U.S.-linked corporations civilly liable for knowingly benefitting from abusive supply chain practices. In both cases, courts foreclosed the claims at a preliminary stage, relying on standing, causation, and narrow interpretations of “participation in a venture”.

84 See, e.g., LeClercq, *supra* note 80. Petch, *supra* note 80; Phillip Ayers, *Nestlé v. Doe: A Death Knell to Corporate Human Rights Accountability?* 46 SEATTLE U. L. REV. 909 (2023).

85 Collingsworth interview; Vandenberg and Lee interview.

86 See International Rights Advocates’ litigation strategy, *supra* note 24.

87 See discussion on the TVPRA, *supra* note 22.

88 *Coubaly v. Cargill Inc.*, No. 22-7104, 144 F.4th 343 (D.C. Cir. 2025); *Ratha v. Phatthana Seafood Co., Ltd.*, 35 F.4th 1159 (9th Cir. 2022).

Closure mechanism: Standing and causal traceability in opaque supply chains

In *Coubaly*, eight former child labourers from Mali alleged that they had been trafficked into forced labour on cocoa farms in Côte d'Ivoire and that major U.S. cocoa importers—including Nestlé, Cargill, and others—had violated the TVPRA by participating in, and benefitting from, a supply chain tainted by child slavery. The U.S. Court of Appeals for the D.C. Circuit dismissed the claim for lack of standing, holding that the claimants failed to plausibly allege a causal connection between their injuries and the conduct of the defendant importers.⁸⁹

Crucially, the Court disputed neither the existence of forced labour nor the defendants' general involvement in the cocoa trade. Instead, it focused on traceability: the claimants had failed to identify the specific farms where they had worked, the ownership of those farms, and any direct sourcing link between those farms and the defendant corporations. The Court framed the question as one of plausibility rather than possibility—acknowledging that it was possible that some defendants had sourced cocoa from the farms in question, but concluding that this was not sufficiently pleaded.⁹⁰

This reasoning illustrates how supply chain opacity becomes a jurisdictional barrier. Workers were required to plead facts about sourcing relationships and commercial flows that are typically inaccessible to workers, absent disclosure by corporations. In effect, evidentiary asymmetry was transformed into a constitutional obstacle to adjudication.⁹¹

The Court distinguished *Coubaly* from *Doe v. Apple* (discussed below), where claimants had plausibly alleged that the defendant companies sourced cobalt from the very mines in which the claimants were forced to work.⁹² In *Coubaly*, by contrast, the absence of a “direct line” from claimants to defendants was fatal to standing, even though the defendants were major actors in the relevant commodity market.

A similar closure mechanism was employed in *Ratha v. Phatthana Seafood*, where Cambodian villagers alleged forced labour and human trafficking in seafood-processing facilities in Thailand that supplied the U.S. market. The claimants brought claims under the TVPRA against U.S.-linked companies alleged to have knowingly benefitted from abusive labour practices.⁹³ In this case, although the district court accepted that forced labour had plausibly occurred, and that U.S.-based entities were commercially connected to the supply chain, the Ninth Circuit

⁸⁹ *Coubaly*, *supra* note 88.

⁹⁰ *Id.*, at 347–348.

⁹¹ *Id.*, at 348: “The Plaintiffs lack standing because they have not ‘clearly allege[d] facts demonstrating’ the causal connection between the Importers’ alleged supply chain venture and the Plaintiffs’ forced labor.” *Id.*, at 349: “At most, the Plaintiffs allege that some farms were in ‘areas’ that ‘primarily’ sold cocoa to certain Importers, and other farms were in ‘areas’ that sold to ‘all’ Importers ... That does not plausibly allege that the Importers or their venture caused the Plaintiffs’ individual injuries. So it is thin factual support for the Plaintiffs’ conclusory allegation that they worked ‘on farms in Côte d’Ivoire ... [that] supply cocoa beans to the [Importers].” *Id.*, at 349–350: “To show standing at the motion-to-dismiss stage, the Plaintiffs needed to plausibly allege specific facts showing that the Importers sourced cocoa from the farms where they worked — either directly or through intermediaries. It’s not enough to allege only that some Importer might (or might not) have bought cocoa from a farm at a time that a Plaintiff might (or might not) have been forced to work there.”

⁹² *Doe v. Apple*, *supra* note 23, at 410.

⁹³ *Ratha*, *supra* note 88.

affirmed dismissal on the grounds that the claimants had failed to establish that the defendants knowingly benefitted from participation in a venture within the meaning of the statute. The Court rejected arguments based on agency, joint venture, or indirect benefit, emphasising that the TVPRA requires proof of actual knowing benefit—not attempted, conspiratorial, or attenuated participation.⁹⁴

Here again, the Court’s interpretation of statutory language functioned as a gatekeeping device, narrowing the circumstances under which supply chain relationships could ground liability. Even where goods produced with forced labour entered U.S. commercial streams, the absence of a tightly-defined venture relationship insulated downstream buyers from civil claims.⁹⁵

Coubaly and *Ratha* demonstrate that statutory design alone does not overcome the structural barriers of supply chain litigation. Although the TVPRA was intended to address some of the shortcomings of ATS-based claims—by authorising extraterritorial jurisdiction and extending liability to knowing beneficiaries—judicial interpretations of standing, causation, and “venture” have reproduced familiar forms of procedural closure.⁹⁶ In both cases, courts demanded a level of factual specificity regarding sourcing and commercial relationships that is all but impossible for workers to supply at the pleading stage. As a result, the burden of tracing complex, opaque supply chains fell on the very actors least able to access the necessary information, serving only to reinforce the legal distance between lead firms and labour exploitation embedded in global production.

Impact beyond the courtroom

Despite their undesired judicial outcomes for the claimants, these two cases illustrate litigation’s capacity to generate a valuable impact more widely. Following *Ratha*, advocacy organisations (such as the Human Trafficking Legal Center) successfully pressed Congress to amend the TVPRA to clarify that civil liability extends to entities that attempt or conspire to benefit from forced labour, directly responding to the Ninth Circuit’s narrow interpretation.⁹⁷ The rapid legislative response from Congress underscores how procedural closure in courts can catalyse statutory reform, even as individual claims fail.

If *Coubaly* and *Ratha* show how standing and causation doctrines constrain TVPRA claims, the next case, *Doe v. Apple*, reveals how courts assess similar allegations when claimants are able to plead a more direct supply chain connection, while still imposing demanding limits on “venture” liability.

94 *Id.*, at 1177–1178.

95 For criticism of the Court’s approach to venture liability and its low standard for “knowingly benefitting” under the TVPRA, see Adam J. Revello, *The Trafficking Victims Protection Reauthorization Act (TVPRA) and Civil Liability for Forced Labor in Global Supply Chains*, 99 NYU L. REV. 2186 (2024).

96 *Id.*; Fudge & Mundlak, *supra* note 4.

97 Section 1595(a) of title 18, United States Code, was amended to insert “or attempts or conspires to benefit” after “whoever knowingly benefits”. Trafficking Victims Prevention and Protection Reauthorization Act of 2022, Public Law No. 117-348 (01/05/2023), 136 Stat. 6211 (2023) (emphasis added). See Maggie Lee & Marina E. Vandenberg, *Congress Amends the TVPRA to Correct Ninth Circuit’s Erroneous Ruling in Ratha*, TRANSNATIONAL LITIGATION BLOG (1 Aug. 2023), <https://tlblog.org/congress-amends-the-tvpra-to-correct-ninth-circuits-erroneous-ruling-in-ratha/>.

Doe v. Apple (U.S.): Buyer–seller Framing and the Limits of “Venture” Liability

Doe v. Apple concerned claims by child miners and their families arising from forced labour and hazardous conditions in cobalt mines in the Democratic Republic of Congo (DRC). In these mines, the cobalt necessary for the production of lithium-ion batteries (used to power electronic products) is extracted. The claimants alleged that major U.S. technology companies—including Apple, Google, Microsoft, Dell, and Tesla—knowingly benefitted from forced labour through their participation in a global cobalt supply chain. They argued that the defendants’ demand for cobalt, combined with their purchasing power and oversight mechanisms, sustained a system of exploitation that should give rise to civil liability under the TVPRA.⁹⁸

Unlike *Coubaly*, the claimants in *Doe v. Apple* succeeded at the threshold stage in establishing standing. The Court of Appeals accepted that the claimants had suffered injury and that those injuries were plausibly traceable to the defendants’ conduct for jurisdictional purposes, allowing the Court to reach the merits of the TVPRA claims.⁹⁹ The case therefore provides a useful contrast: even where claimants overcome jurisdictional and standing barriers, procedural closure may still occur through restrictive interpretations of statutory liability.

Closure mechanism: “Participation in a venture” as a narrow gateway

The *Doe v. Apple* lawsuit alleged that the “Tech Companies” had violated the TVPRA by participating in the global cobalt supply chain—a “venture” with their cobalt suppliers that depends on using forced labour. The TVPRA provides a civil remedy against any entity that “knowingly benefits ... from participation in a venture” that violates federal slavery and human trafficking laws.

The Court adopted a narrow interpretation of the “participation in a venture” requirement, holding that ordinary commercial relationships do not, alone, meet the requirement and that, even when they form part of GVCs marked by severe labour exploitation, they do not constitute a venture in violation of the TVPRA.¹⁰⁰

98 *Doe v. Apple Inc.*, No. 21-7135, 96 F.4th 403 (D.C. Cir. 2024). Terry Collingsworth of International Rights Advocates argued the case and filed the briefs for the appellants. Martina Vandenberg and Agnieszka M. Fryszman were on the brief for *amici curiae* (Legal Scholars with Expertise in Extraterritoriality and Transnational Litigation) in support of the appellants.

99 *Doe v. Apple*, at 406–412.

100 TVPRA, *supra* note 22. The claimants argued that the supply chain was a TVPRA “venture” and that the defendants participated in that venture with the full knowledge that cobalt suppliers and their subsidiary mining companies employed and trafficked-in forced labour. They claimed that firms that participate in the cobalt market leverage the “murkiness” of the supply chain to conceal their systematic reliance on forced labour. The very opacity of the chain, they explained, empowers tech companies and their suppliers to deny any formal association with forced labour. And, to meet the demand for cobalt, the suppliers and their subsidiaries actively solicit and force children to work. *Doe v. Apple*, at 407. The Court found this insufficient on the grounds that the claimants did not adequately demonstrate that the tech companies had participated in a venture. There was no shared enterprise between them and the suppliers who facilitated forced labour; and the tech companies owned no interest in their suppliers and did not share in profits and risks. The claimants did not present a factual basis from which to infer a common purpose, shared profits

Procedural Closures

Although the claimants alleged that the defendants exercised significant market power, imposed standards on suppliers, and retained audit rights, the Court characterised these practices as consistent with an “arm’s length” buyer–seller relationship. It emphasised that the defendants did not share profits or risks with their suppliers, did not own or control the mines, and did not engage in a common enterprise directed at forced labour. The possibility that companies could influence conditions by threatening to withdraw business was treated as insufficient to establish participation in a venture; the only legally cognisable form of “control”, the Court reasoned, was the power to stop buying altogether.

In rejecting the claimants’ claims, the Court also held that the existence of audits and voluntary corporate social responsibility schemes was insufficient to establish knowing participation or substantial assistance in forced and child labour in the cobalt supply chain. As in earlier cases, governance mechanisms designed to manage reputational and operational risk did not translate into legal accountability for labour exploitation in the supply chain.¹⁰¹

Because the claimants’ TVPRA claims failed on the “venture” element, their parallel common law tort claims were also dismissed. Without a legally-sufficient connection between the defendants and the forced labour, the Court declined to impose joint or secondary liability, reinforcing the doctrinal separation between lead firms and harms occurring at the extraction stage of global production.¹⁰²

Doe v. Apple illustrates how statutory pathways designed to address forced labour can nonetheless reproduce familiar forms of procedural closure. Even when claimants plausibly trace injuries to specific suppliers and overcome standing hurdles, courts may still treat GVCs as collections of discrete, bilateral transactions rather than integrated systems of production and control. The effect is to preserve legal insulation at the apex of the chain, where purchasing decisions and profit-extraction occur.

Taken together, *Nestlé*, *Coubaly*, *Ratha*, and *Doe v. Apple* illustrate how U.S. courts have constructed a layered system of procedural closure in transnational labour litigation. Where the ATS is constrained by extraterritoriality and jurisdictional nexus requirements, the TVPRA’s broader statutory framework is narrowed, in practice, through demanding standards of causation, standing, and “participation in a venture”. Across these cases, courts consistently

and risk, or control; nor did they allege the tech companies and the cobalt suppliers had a type of direct and continuous relationship. The Court held that, although a formal business relationship is not necessary to be a participant in a venture, something more than engaging in an ordinary buyer–seller transaction is required to establish “participation” in an unlawful venture. It concluded that the tech companies were on opposite sides of an “arm’s length” transaction: the suppliers sell cobalt, and the tech companies buy it. *Doe v. Apple*, at 415.

101 The Court considered the claimants’ argument that the tech companies differed from ordinary buyers in that they had “a contractual right to inspect and ... control” the cobalt suppliers. It found this not to be sufficient and affirmed that there had only been one third-party audit. With regard to the allegation that the tech companies required some of the suppliers to join the Fair Cobalt Alliance, an industry-led programme in which companies self-monitor, the Court held that “the tech companies may exhort their cobalt suppliers to employ humane practices, and companies can mutually pledge to follow better labour standards, but neither circumstance gives buyers control over their suppliers or results in the sharing of risks and rewards”. *Doe v. Apple*, at 416.

102 *Id.*, at 412.

Procedural Closures

require workers to make out a case for forms of proximity and traceability that are exceptionally difficult to establish in opaque, multi-tiered production networks. The result is not a rejection of the wrongfulness of forced labour but a legal response that insulates lead firms from accountability by converting supply chain complexity into a barrier to adjudication.

Seen in comparative perspective, these U.S. cases do not suggest that successful transnational labour litigation is impossible to achieve, but they do illuminate the conditions under which it is foreclosed. Procedural closure emerges not as an accidental or case-specific outcome but as the predictable result of legal doctrines that prioritise territoriality, corporate separateness, and transactional framings of supply chains. Yet, the very repetition of these closures has generated pressure within legal systems, prompting strategic recalibration by litigators and, in limited contexts, judges' disposition to rethink established doctrines. It is against this background of systematic constraint that the significance of the next set of cases must be understood.

3

Doctrinal Breakthroughs: Cracks in the Legal Architecture of Supply Chain Capitalism

While the cases discussed in the previous section illustrate how transnational labour claims are routinely foreclosed at the threshold, a smaller set of more fragile decisions points in a different direction. In these cases, courts have permitted claims to proceed beyond jurisdictional and procedural barriers, allowing questions of corporate responsibility to be tested on their merits. These developments do not represent a wholesale shift in the legal treatment of GVCs. Rather, they reflect conditional doctrinal openings, achieved through fact-sensitive reasoning, the willingness of judges to interrogate corporate practices, and careful use of existing legal principles rather than the creation of new causes of action.

This section examines such “cracks” in the architecture of supply chain capitalism through a series of cases in which courts have declined to treat corporate structure, territoriality, or contractual form as dispositive at the outset. As the analysis shows, these breakthroughs are neither uniform nor secure. They depend on specific configurations of control, representation, access to justice, and judicial posture, and remain vulnerable to reversal, settlement, or narrowing on appeal. Precisely for that reason, they are analytically significant: they shed light on the limited conditions under which transnational litigation can momentarily disrupt the legal insulation that ordinarily protects lead firms in GVCs.

***Vedanta v. Lungowe* (U.K.): Parent Company Responsibility as a Fact-sensitive Opening**

Vedanta Resources PLC v. Lungowe marks one of the most important doctrinal openings in transnational corporate accountability litigation. Although the case did not concern workers’ rights directly, it has had profound implications for labour-related claims in GVCs.¹⁰³ This 2019 claim was brought by Zambian communities seeking compensation for environmental damage caused by pollution from a copper mine operated by Konkola Copper Mines (KCM), a subsidiary of Vedanta, an MNC domiciled in the U.K. The claim tested whether an England-domiciled parent company could owe a duty of care to individuals harmed by the overseas operations of its subsidiary.¹⁰⁴

103 *Vedanta* [2019] UKSC 20.

104 *Id.*

The defendants sought to prevent the claim from proceeding in England, arguing that the case constituted an abuse of EU jurisdictional rules and that there was no real issue to be tried against Vedanta itself. They characterised Vedanta as a passive shareholder and insisted that any alleged wrongdoing lay solely with the Zambian subsidiary. As in many transnational cases, the litigation thus turned initially on jurisdictional gatekeeping and on whether corporate form could be used to deflect responsibility before the merits were reached.

Opening mechanism: Fact-sensitive duty of care and access to justice

The English courts rejected this strategy. At each stage of the proceedings, they emphasised that the existence of a parent company duty of care is not determined by formal ownership alone but also by the actual role the parent plays in the management, supervision, and representation of the subsidiary's operations. Crucially, the courts accepted that, as a generalisation, this inquiry is inherently fact-specific and often cannot be resolved at a preliminary stage.¹⁰⁵

In its landmark judgement, the U.K. Supreme Court clarified that the question was not whether parent company liability constitutes a novel category of negligence, but whether—on ordinary tort principles—the facts alleged could support a duty of care. The Court identified several non-exhaustive scenarios in which such a duty might arise, including where a parent company takes responsibility for group-wide policies, actively supervises their implementation, or publicly holds itself out as exercising control over subsidiary operations. Importantly, these scenarios focused on corporate practice and representation, not on formal legal structure.¹⁰⁶

Equally significant was the Court's treatment of access to justice. Although it acknowledged that Zambia was, in principle, the more appropriate forum for claims against the subsidiary, it allowed the case to proceed in England because of the real risk that the claimants would be unable to obtain effective legal representation or funding in Zambia. The Court framed this not as a criticism of the Zambian judiciary but as a practical assessment of whether justice could realistically be achieved in that jurisdiction. In doing so, it recognised that procedural doctrines cannot be applied divorced from the material conditions under which transnational litigation occurs.¹⁰⁷

What *Vedanta* reveals about cracks in the legal architecture of supply chain capitalism

This case represents a departure from the logic of procedural closure examined earlier. Rather than treating corporate separateness, territoriality, or forum rules as decisive, the *Vedanta* court insisted on examining how corporate power is actually exercised within GVCs. This approach creates a narrow but meaningful opening: parent companies cannot rely solely on the formal structure of separate legal entities when their own policies, oversight, and public representations link them to harmful overseas operations.¹⁰⁸

105 *Id.*, at ¶¶ 49–62.

106 *Id.*, at ¶¶ 49–53 (duty of care framework).

107 *Id.*, at ¶¶ 66–87 (forum analysis) and ¶ 89 (access to justice reasoning).

108 Fudge & Mundlak, *supra* note 4; *Vedanta*, at ¶¶ 49–60 (parent company accountability).

The judgement also carefully avoids establishing no-fault liability. The Court stressed that liability depends on proof at trial and that many claims will ultimately fail on the facts. In this sense, *Vedanta* does not dismantle the legal architecture of supply chain capitalism; it loosens one of its joints, allowing scrutiny where corporate involvement is sufficiently substantiated.

Impact beyond the courtroom

Although the *Vedanta* litigation was ultimately settled after the jurisdictional ruling, its doctrinal significance has been substantial. The decision has reshaped the litigation strategies of claimants and defendants alike, signalling that parent company liability is no longer exceptional where evidence of control, policymaking, or public commitments exists.¹⁰⁹ It has also influenced courts beyond the U.K., most notably in Canada, where the Supreme Court's decision in *Nevsun* followed shortly thereafter and adopted an even more expansive approach to corporate accountability.¹¹⁰

Vedanta demonstrates how the careful application of ordinary tort principles can allow claims against parent companies to proceed. We now turn to *Nevsun*, which goes further still by testing whether violations of customary international law can, in their own right, ground civil liability against corporations in domestic courts.

Nevsun v. Araya (Canada): Customary International Law as a Domestic Source of Corporate Accountability

Nevsun v. Araya represents the most far-reaching doctrinal opening in transnational corporate accountability to date. The case arose from claims by Eritrean workers who alleged that they had been subjected to forced labour and other grave abuses at a mine in Eritrea owned by Nevsun Resources Ltd., a Canadian mining company. The workers claimed that their labour was coerced through Eritrea's system of indefinite national service and that the abuses they had suffered constituted violations of customary international law, including prohibitions against slavery, forced labour, cruel and inhuman treatment, and crimes against humanity.¹¹¹

109 Bridge interview. According to Bridge, following *Vedanta*, the U.K. courts are seen as a beacon of light in terms of holding MNCs to account for their actions abroad. The decision paved the way for the subsequent litigation in the *Dyson* and *British American Tobacco* cases (see *infra* note 128). See also Robert McCorquodale, *Vedanta v. Lungowe Symposium: Duty of Care of Parent Companies*, OPINIO JURIS (18 Apr. 2019), <https://opiniojuris.org/2019/04/18/symposium-duty-of-care-of-parent-companies/>; Liberty Bridge & Martyn Day, *Litigating Human Rights Group Claim Cases in England and Wales* (2025) (unpublished paper, on file with authors); Meeran & Meeran, *supra* note 7; Meeran, *supra* note 42.

110 Bridge interview; Yap interview.

111 *Nevsun*, *supra* note 17. The civil claim was brought before the Supreme Court of British Columbia in November 2014 by three Eritrean workers against Nevsun Resources Ltd., a Canadian corporation based in Vancouver. The claimants were former labourers at the Bisha Mine in Eritrea who had fled to Canada as refugees. They alleged that they, and many others similarly situated, were forced to work in the mine under Eritrea's mandatory "National Service Program" between 2008 and 2012, under harsh and degrading conditions including violence, forced labour, torture, and other human rights abuses. The Bisha Mine was operated by the Bisha Mining Share Company (BMSC), in which Nevsun held a 60 percent stake (the remainder being held by the Eritrean National Mining Corporation). The claim was based on domestic law (negligence) and

Unlike the cases examined in the Procedural Closures section of this report, *Nevsun* did not turn on jurisdictional gatekeeping, choice of law rules, or standing (although jurisdiction based on forum non conveniens was challenged in the lower courts, *Nevsun* did not appeal the finding on this issue before the Supreme Court of Canada). The central question was whether violations of customary international law could give rise to civil liability against a corporation under domestic common law—and whether such claims could proceed beyond the pleading stage.

Opening mechanism: Customary international law as directly actionable in domestic courts

Nevsun Resources sought to have the claims struck at an early stage, relying primarily on the act of state doctrine and arguing that customary international law norms do not give rise to civil remedies against corporations. The Supreme Court of Canada rejected both arguments. It held that the act of state doctrine does not bar Canadian courts from adjudicating claims involving foreign states where fundamental human rights are at issue, and that it was not “plain and obvious” that claims based on customary international law had no reasonable prospect of success.¹¹²

Crucially, the Court affirmed that customary international law is automatically incorporated into Canadian common law through the doctrine of adoption. Because the norms invoked—prohibitions on slavery, forced labour, torture, and crimes against humanity—are universally binding and of peremptory status (*jus cogens*), the Court held that it was at least arguable that their violation could ground a civil cause of action. Importantly, the Court rejected the idea that corporations enjoy categorical immunity from such norms, emphasising that international law has evolved beyond a purely state-centric framework.¹¹³

This move marks a type of doctrinal opening that is qualitatively different from that in *Vedanta*. Rather than relaxing procedural filters or reframing duty of care, *Nevsun* repositions the source of obligation itself, treating international human rights norms as part of the domestic legal fabric capable of generating remedies against corporate actors.

The Court’s decision was closely divided, with a 5-to-4 split, reflecting the novelty and ambition of the doctrinal move. The Dissent warned against judicial overreach and expressed concern about creating new causes of action without legislative guidance. The Majority, however, framed its holding narrowly: it neither determined that *Nevsun Resources* was liable, nor prescribed the precise form of remedy. Instead, it held only that the claims should be allowed to proceed to trial, where questions of liability and remedy could be addressed on the basis of a full factual record.¹¹⁴

international law violations (forced labour, slavery, cruel, inhuman or degrading treatment and crimes against humanity). See Beatrice A. Walton, *Nevsun Resources Ltd. v. Araya*, 115 AM. J. INT’L L. 107 (2021).

112 *Nevsun*, *supra* note 17, at 172–173, 177–178 (act of state doctrine).

113 *Id.*, at 173–175 (doctrine of adoption) and 170 (*jus cogens*).

114 *Id.*, at 168, 170 (Majority). The dissent rested on the question of whether corporations are bound by international law (Brown and Rowe JJ, at 170–173; and Côte and Moldaver, at 177) and whether the Court was required to recognise new nominate torts based on international customary law norms (at 175–176).

This restraint is significant. *Nevsun* does not establish automatic corporate liability for overseas human rights abuses. Rather, it affirms that Canadian courts cannot foreclose such claims at the outset simply because they rest on international law norms or involve foreign conduct. In this sense, the case opens a doctrinal space without predetermining its ultimate content.

What *Nevsun* reveals about cracks in the legal architecture of supply chain capitalism

Nevsun exposes a different vulnerability in the legal architecture of supply chain capitalism. Unlike procedural closures, which rely on territoriality, jurisdiction, or evidentiary barriers, *Nevsun* confronts the normative foundations of corporate non-liability directly. By recognising that corporations may be bound by—and civilly accountable for—violations of customary international law, the decision challenges the assumption that international human rights norms are merely aspirational or exclusively public in character.¹¹⁵

Furthermore, the case underscores the fragility of such openings. The Court emphasised that the mechanism for enforcing customary international law violations remains to be developed by trial courts, and that appropriate remedies are context-specific. The absence of clear remedial pathways, combined with the likelihood of settlement, means that the transformative potential of *Nevsun* remains contingent and incomplete.¹¹⁶

Impact beyond the courtroom

Although the *Nevsun* case was settled before trial, its influence has been considerable. It has reshaped the strategic imagination of litigators and scholars, signalling that domestic courts can play an active role in enforcing international human rights norms against corporate actors. Interviewees involved in the litigation emphasised that *Nevsun* represents a shift from treating international law as peripheral to treating it as a substantive source of obligation capable of reshaping domestic accountability.¹¹⁷

James Yap, Legal Counsel for the claimants in *Nevsun*,¹¹⁸ noted that the Court's decision on customary international law gives lower courts a broad licence to be creative in using it to fashion civil remedies. But it also means, he explained, that other common law courts will likely

115 *Id.*, at 168. See also James Yap, *Nevsun Resources Ltd. v. Araya: What the Canadian Supreme Court Decision Means in Holding Canadian Companies Accountable for Human Rights Abuses Abroad*, BUSINESS AND HUMAN RIGHTS CENTRE (2020), <https://tinyurl.com/4buf9ykv>; Julianne Hughes Jennett & Marjun Parcasio, *Corporate Civil Liability for Breaches of Customary International Law: Supreme Court of Canada Opens Door to Common Law Claims in Nevsun v Araya*, EJIL:TALK! (29 Mar. 2020), <https://www.ejiltalk.org/corporate-civil-liability-for-breaches-of-customary-international-law-supreme-court-of-canada-opens-door-to-common-law-claims-in-nevsun-v-araya/>; Vasudha Sinha, *The Pursuit of Domestic Remedies for Claims in International Law*, in REIMAGINING THE INTERNATIONAL LEGAL ORDER 241 (Vesselin Popovski & Ankit Malhotra eds., 2023).

116 *Id.* James Yap informed the authors that the case was settled after the Supreme Court ruling and that, to date, no further judicial decisions have emerged in Canada on tort liability for international customary law violations. See Bernise Carolino, *Nevsun Settles with Eritrean Claimants in Relation to Landmark Supreme Court of Canada Case*, CANADIAN LAWYER (5 Nov. 2020), <https://tinyurl.com/5a7nckaj>.

117 Yap interview.

118 *Nevsun*, *supra* note 17.

take up, and build on, the Canadian Supreme Court's suggestion that violations of customary international law may be civilly actionable in tort against corporations under domestic law.

More broadly, *Nevsun* illustrates how doctrinal breakthroughs often emerge not from procedural accommodation but from normative reclassification—redefining what counts as law, who is bound by it, and what kinds of harms demand legal response. It is precisely because such moves are rare and contested that they matter for understanding the future possibilities, and limits, of transnational labour litigation. *Nevsun* ultimately demonstrates how international law can be mobilised as a domestic source of corporate accountability. Subsequent cases have tested whether similar reasoning can be sustained, or narrowed, when courts confront less extreme facts, different industries, and/or stronger resistance from corporate defendants.

Vedanta and Nevsun, then, illuminate two distinct, but complementary, cracks in the legal architecture governing GVCs. *Vedanta* is situated within the familiar terrain of private law, showing how ordinary negligence principles can be applied in a fact-sensitive manner to recognise parent company duties of care, despite formal corporate separateness, where parent companies actively shape subsidiary operations or publicly assume responsibility for their conduct. As clarified and reinforced in the next case we will examine, *Okpabi*, this approach rejects rigid, control-based gatekeeping at the threshold and insists that parent company responsibility be assessed through a close examination of corporate *practice* rather than formal structure alone. *Nevsun*, by contrast, reconfigures the normative foundation of liability itself, treating prohibitions on forced labour and related abuses as part of domestic common law that is capable of grounding civil claims against corporations. Both cases resist the automatic translation of economic power into legal immunity, yet both remain doctrinally cautious: they open space for accountability without guaranteeing outcomes. Together, they demonstrate that doctrinal breakthroughs in transnational labour litigation are possible—but only where courts are willing to interrogate corporate practice, legal form, and the sources of obligation that structure global production.

Okpabi v. Royal Dutch Shell (U.K.): Rejecting Formal Control as a Gatekeeper

Returning to the private law duty of care framework developed in *Vedanta*, the decision in *Okpabi* consolidates and clarifies the conditions under which parent company liability claims may proceed in the English courts, while rejecting rigid, control-based gatekeeping at the threshold stage. *Okpabi* therefore extends and consolidates the doctrinal opening initiated in *Vedanta*.¹¹⁹ The case was brought by Nigerian communities who alleged that oil spills caused by Shell's Nigerian subsidiary had resulted from systemic environmental and safety failures sustained by group-wide practices. The claim raised a familiar question: under what conditions can a U.K.-domiciled parent company owe a duty of care to individuals harmed by the overseas operations of its subsidiary?

119 *Okpabi*, *supra* note 11.

Unlike *Vedanta*, both the High Court and the Court of Appeal initially dismissed the claim, holding that the claimants had failed to establish that there was a substantive “real issue” to be tried against the parent company. These courts adopted a restrictive, control-focused approach, requiring evidence that Royal Dutch Shell did, indeed, exercise day-to-day operational control over the Nigerian subsidiary. Per this view, the parent company’s role in setting group policies and standards was treated as insufficient to ground a duty of care.¹²⁰

Opening mechanism: Reframing parent company responsibility as fact-sensitive

The U.K. Supreme Court unanimously reversed these decisions. It rejected the idea that parent company liability depends on a threshold level of control, and emphasised that the existence of a duty of care must be assessed through a fact-sensitive inquiry into how corporate power is actually exercised. Drawing explicitly on *Vedanta*, the Court clarified that liability may arise through a range of corporate practices, including the promulgation of group-wide policies, supervision of subsidiary activity, and public representations about oversight—even where the parent does not directly manage day-to-day operations.¹²¹

The Court held that the lower courts had erred by engaging in a “mini-trial” at the jurisdictional stage. It stressed that complex questions about the relationship between parent and subsidiary should not be resolved on the basis of contested evidence at an early stage, particularly where much of the relevant information lies exclusively within the control of the defendant corporation. In doing so, the Court lowered the evidentiary burden at the threshold and affirmed that claims should not be struck-out simply because they are, on the face of it, difficult to prove.¹²²

What *Okpabi* reveals about cracks in the legal architecture of supply chain capitalism

Okpabi strengthens the doctrinal significance of *Vedanta* by dismantling a key defensive move long used by parent companies: the insistence that only direct, operational control can generate responsibility. By treating corporate policies, oversight mechanisms, and public commitments as potentially relevant sources of duty, the Court reframed parent company liability around corporate practice rather than corporate form.¹²³

Notwithstanding, the decision remains cautious. The Court did not determine that Royal Dutch Shell owed a duty of care, nor did it establish a presumption of liability for parent companies more generally. Instead, it reopened the space for factual inquiry, allowing the claim to proceed to the merits. In this sense, *Okpabi* represents a consolidation rather than

120 The case was similar to *Vedanta* and concerned the circumstances in which a U.K.-domiciled parent company of an MNC may owe a common law duty of care to communities that suffered harm as a result of the alleged systemic health, safety, and environmental failings of one of the corporation’s overseas subsidiaries. Nigerian communities sued Royal Dutch Shell, the parent company, in the wake of the Shell Group oil spills caused by its Nigerian subsidiary (SPDC). The High Court and Court of Appeal held that there was no arguable case based on a duty of care. Sales LJ dissented in the Court of Appeal, finding there to be a good arguable case that a duty of care was owed (*id.*, at ¶¶ 12–18; 75–100). For the control-based reasoning of the court, see *id.*, at ¶¶ 147–148.

121 *Id.*, at ¶¶ 142–153.

122 *Id.*, at ¶¶ 111, 120, 126–127, 133–134.

123 Fudge & Mundlak, *supra* note 4.

an expansion of the doctrinal opening: it ensures that *Vedanta*'s logic is not neutralised by overly-rigid threshold tests.

Impact beyond the courtroom

The significance of *Okpabi* lies less in its immediate outcome than in its structural message. It signals to litigants and courts alike that parent company liability cannot be dismissed by invoking abstract notions of corporate separateness or by prematurely demanding proof of control. By recalibrating the threshold inquiry, the decision widened the pathway, albeit modestly, for transnational claims against U.K.-domiciled corporations to be heard on their merits.¹²⁴

If *Okpabi* clarifies how duty of care claims against parent companies can survive early dismissal, the next case we analyse, that of *Dyson*, addresses different questions: where should such claims be heard, and how do access-to-justice considerations reshape the forum analysis in supply chain litigation?

Limbu v. Dyson (U.K.): Access to Justice and Forum non Conveniens Reimagined

The 2023 case of *Limbu v. Dyson*¹²⁵ concerned claims brought by migrant workers from Nepal and Bangladesh who alleged that they had been subjected to forced labour and severe exploitation while working for Malaysian suppliers manufacturing products for the Dyson Group. The workers alleged that the abuse they had suffered was connected to decisions, policies, and oversight failures originating in Dyson's U.K. headquarters, and that the U.K. parent companies should therefore bear responsibility alongside their Malaysian affiliates.¹²⁶

At first instance, the High Court stayed the proceedings on the basis of *forum non conveniens*, holding that Malaysia was the appropriate forum for the dispute. As in earlier cases,¹²⁷ this placed the claimants in the position of having to demonstrate a real risk that they would be denied justice in the foreign forum—a burden that has historically proven difficult to discharge.

Opening mechanism: Access to justice as a decisive forum factor

The Court of Appeal unanimously overturned this decision. It held that the High Court had committed multiple errors of principle and that England was clearly the appropriate forum for the claims. In reaching this conclusion, the Court emphasised factors often treated as secondary in forum analysis: the domicile of the defendants, the location of the alleged decision-making failures, practical convenience, and, critically, equality of arms between the parties.¹²⁸

124 BIRCHALL ET AL., *supra* note 3.

125 *Limbu and Others v. Dyson Technology* [2023] EWHC 2592 KB (High Court judgement).

126 *Id.*, at ¶ 1.

127 *Id.*, at ¶ 122. “The question [*forum non conveniens*] for the Court is ‘to identify the forum in which the case can be suitably tried for the interests of all the parties and for the ends of justice.’” *Id.*, at ¶ 27.

128 *Limbu and Others v. Dyson Technology* [2024] EWCA Civ 1564 (Court of Appeal Judgement).

Central to the Court’s reasoning was the recognition that the claimants, extremely impoverished migrant workers, faced substantial obstacles to pursuing litigation there, including the absence of contingency fee arrangements and the scarcity of suitably-resourced legal representation. By contrast, the availability of experienced counsel and litigation funding in England made a fair trial realistically possible. The Court thus treated access to justice not as an exceptional consideration but as integral to determining the proper forum.¹²⁹

Liberty Bridge, one of the Leigh Day solicitors involved in the High Court case, and who had represented the workers on a contingency fee basis, emphasised the significance of the case in ensuring access to justice for the migrant workers. Surendra Ananth, the Malaysian Legal Counsel who gave expert evidence in the case, noted in the research interview that the migrant worker claimants would have had difficulty returning to Malaysia for the trial, and that some were no longer legally resident in Malaysia. They would also have had difficulty obtaining legal representation in Malaysia, as not many lawyers undertake *pro bono* work, and contingency fee agreements are not permitted.

Dyson marked a significant recalibration of the *forum non conveniens* doctrine in the context of GVCs. Rather than presuming that the place of harm is the natural forum, the Appeal Court focused on where the alleged failures of oversight and governance had occurred, and on whether claimants could realistically vindicate their rights there. This approach shifts the burden of global production back toward corporate centres, aligning forum analysis more closely with the realities of supply chain management.¹³⁰ However, the decision remains procedural in nature. The Court did not rule on whether Dyson owed a duty of care to the claimants, nor did it resolve the substantive merits of the forced labour allegations. As in *Vedanta* and *Okpabi*, the breakthrough lies in allowing the claim to be heard, not in guaranteeing liability.¹³¹

Impact beyond the courtroom

The refusal of leave to appeal by the U.K. Supreme Court only reinforced *Dyson*’s significance.¹³² Together with *Vedanta* and *Okpabi*, the decision signals a readiness on the part of the judiciary to resist defensive forum strategies that would otherwise channel claims into jurisdictions where access to justice is illusory. It also underscores the importance of legal infrastructure—

129 Ananth interview. The High Court considered the evidence to this effect, led by expert witnesses such as Ananth, among others (see *Limbu* [2023] High Court Judgement, at ¶ 91), but paid scant regard to the access to justice issue.

130 See the Court’s forum analysis and discussion of *Vedanta* lineage, at ¶¶ 22, 34, 38–40, 63–70; and equality of arms analysis, at ¶¶ 59, 60, 75. For a broader comment on the case, see Zoya Yasmine & Ishyka Ahluwalia, *The Implications of the Limbu case for Tackling New Economic Imperialism in Global Value Chains*, BHRJ BLOG (31 Oct. 2025), <https://tinyurl.com/3c5tsh6z>. See also EKATERINA ARISTOVA, TORT LITIGATION AGAINST TRANSNATIONAL CORPORATIONS: THE CHALLENGE OF JURISDICTION IN ENGLISH COURTS (2024); Ugljesa Grusic, *Limbu v Dyson: The Death of Forum Non Conveniens in Human Rights and Environmental Litigation in England?* EAPIL BLOG (10 Feb. 2025), <https://tinyurl.com/3kp2wh75>.

131 Bridge, one of the solicitors involved in the case, indicated that preparation is underway for the trial in 2027. Bridge interview. See also Leigh Day, Press Release, *High Court Rules that Forced Labour and Exploitation Claims against Dyson Will Be Tried Next Year* (Jan. 14, 2026), <https://tinyurl.com/ky4d3umm>.

132 See *Limbu and Others v. Dyson Technology* [2025] UKSC/2025/0019.

funding, representation, and procedural flexibility—in shaping whether transnational labour claims can progress beyond the threshold.

Synthesis: Doctrinal Breakthroughs as Conditional Openings

Overall, *Vedanta*, *Okpabi*, *Nevsun*, and *Dyson* illuminate the limited and conditional nature of doctrinal breakthroughs in transnational labour litigation. Each case disrupts a different element of the legal architecture governing GVCs—corporate separateness, territoriality, forum allocation, or the public–private divide—but none displaces that architecture as a whole. What these cases share is not a uniform theory of liability but a judicial willingness to interrogate corporate practice, legal form, and access to justice at the threshold stage. They demonstrate that accountability is not foreclosed by doctrine *per se* but by how doctrine is applied. Breakthroughs emerge where courts resist formalism, remain attentive to evidentiary asymmetries, and treat corporate governance structures as legally salient rather than analytically irrelevant.

Emerging and Alternative Pathways

Alongside these landmark decisions, a growing set of cases illustrates how *Vedanta*-type reasoning and statutory labour protections are being tested in new factual and regulatory contexts. While these cases do not yet constitute stable precedent, they signal attempts to extend accountability beyond classic parent–subsidiary structures and to respond to extreme supply chain fragmentation.

***Milasi Josiya v. British American Tobacco*: Price control, supply chain opacity, and evidentiary asymmetry**

Milasi Josiya v. British American Tobacco (2021) involved claims brought by thousands of Malawian tobacco farmers and child labourers against major multinational tobacco companies domiciled in the U.K. Claimants alleged that the defendants knowingly benefitted from forced and child labour occurring deep within a highly-fragmented tobacco supply chain, and that pricing practices imposed by multinational buyers rendered lawful production conditions economically impossible.¹³³

133 *Josiya & Ors v. British American Tobacco Plc & Ors* [2021] EWHC 1743 (QB). The claimants, represented by law firm Leigh Day, included over 7,000 Malawian tobacco farmers and more than 3,000 child labourers who lived and worked on tobacco farms in remote regions of Northern and Central Malawi, from which tobacco is supplied to multinational tobacco corporations. They form part of complex tobacco supply chains in which they farm tobacco on land owned or leased by contract farmers, who, in turn, sell the tobacco to leaf buyers who supply the tobacco to corporations. The corporations purchase most of the tobacco grown in these supply chains in Malawi. The claimants alleged that they had been subjected to unlawful, exploitative, and dangerous conditions on the farms, including child and forced labour in hazardous working conditions with minimal protection against industrial accidents, injuries, and diseases. They claimed that the corporations facilitated, assisted, and/or encouraged these unlawful, exploitative, and dangerous conditions in order to acquire tobacco leaves at the lowest possible cost and to maximise the profits that could be made from the sale of cigarettes and other tobacco. The claimants also alleged that the defendants were fully aware (or

Unlike *Vedanta* and *Okpabi*, the claim did not rest on formal subsidiary relationships or direct operational control. Instead, it foregrounded price control and market dominance as mechanisms through which lead firms shape labour conditions without assuming contractual responsibility. The defendants sought to strike-out the claim on the basis that the claimants could not demonstrate documentary proof that the tobacco they produced was purchased by the defendants—a burden that reflects the extreme opacity of agricultural supply chains.

The High Court’s refusal to strike-out the claim at this preliminary stage is significant. While it does not resolve questions of liability, it signals judicial recognition that evidentiary barriers inherent in GVCs should not automatically defeat claims before disclosure. In this sense, *Milasi Josiya* illustrates an emerging application of *Vedanta*’s fact-sensitive approach beyond the parent–subsidiary model, testing whether economic leverage and pricing power can ground responsibility where formal contractual links are diffuse.¹³⁴

Recent signals in U.S. federal courts: *Jacobs Solutions* and *Bumble Bee Foods*

Recent U.S. district court decisions suggest that, even in light of *Nestlé* and the restrictive TVPRA jurisprudence discussed earlier in this report, lower courts remain divided on how far supply chain accountability claims should be permitted to proceed. In *F.C. v. Jacobs Solutions*, Filipino migrant workers alleged forced labour in Qatar during the construction of World Cup infrastructure, bringing claims under the TVPRA against U.S.-based corporations involved in subcontracting chains. The court allowed key TVPRA claims to proceed, accepting that allegations of “participation in a venture” and “knowing benefit” were plausibly pleaded at the standing stage.¹³⁵

Similarly, in *Angga v. Bumble Bee Foods*, migrant fishing workers alleged that a major U.S. tuna producer had knowingly benefitted from forced labour aboard vessels in its supply chain.

ought reasonably to have been fully aware), at all material times, of the conditions in which the tobacco they acquired and used was produced in Malawi. The defendant corporations brought an application to strike-out on the basis that the farmers had no documentary evidence that the farms on which they had worked supplied tobacco purchased by their companies and, therefore, no claimant had any proper basis for alleging that the tobacco leaves they grew were supplied to the defendants. The claimants were not in possession of documentary evidence linking the corporations to specific farms but did provide evidence, from a variety of sources, that demonstrated the likelihood that the corporations purchased tobacco leaves from their farms. Liberty Bridge, one of the solicitors who represented the claimants, explained to us the complexity of the litigation. She noted that the corporations might not have legal control over tobacco production, but they do control prices. One of the arguments made was that the corporations should know from the prices they pay for tobacco that it could not have been produced in fair working conditions, and, accordingly, they should be held responsible. The difficulty lies in producing evidence of a direct link between the tobacco farmers and the corporations. In preparation for trial, Leigh Day is tracing specific farms to link them to the purchasers. Bridge also noted that the parties are now engaged in exchanging documents to prepare for trial.

134 Bridge interview. For a discussion of the case, see Ekaterina Aristova, *Strategic Business and Human Rights Litigation: It Is a Marathon, not a Sprint*, 10 *BUS. & HUM. RTS. J.* 379 (2025); Business and Human Rights Centre, *Malawi: Lawsuit Filed in UK Court against British American Tobacco and Imperial Brands; Companies Alleged to be Profiting from Child Labour & Worker Exploitation on Tobacco Farms in Malawi* (Dec. 18, 2020), <https://tinyurl.com/ynnws5j6>.

135 *F.C. v. Jacobs Solutions*, Civil Action No. 23-cv-02660-CYC (D. Col.2025).

The court rejected the defendant’s motion to dismiss, holding that the claimants had made out a case in their pleadings.¹³⁶

These decisions do not disrupt the dominant pattern of procedural closure in U.S. courts; nor do they establish durable precedent. Rather, they highlight the contingent nature of TVPRA litigation, where outcomes turn on pleading strategy, factual specificity, and judicial posture. As such, they function less as breakthroughs than as signals of doctrinal instability, underscoring that U.S. supply chain litigation remains unsettled and highly sensitive to case framing.

Beyond Tort: Administrative and Labour Law Accountability

Ministry of Labour v. Inditex (Zara Brazil): Piercing contractual form through labour inspection

This case was brought against the Brazilian subsidiary of transnational Spanish fashion retailer Inditex (Zara Brazil) in 2017,¹³⁷ and represents a fundamentally different pathway to corporate accountability—one that bypasses tort law altogether. Following labour inspections that uncovered slave-like working conditions in subcontracted garment workshops in São Paulo, Brazilian labour authorities held Zara Brazil directly responsible for labour violations occurring within its supply chain. The inspectors concluded that Zara exercised decisive directive power over production, treating its supplier as a logistical intermediary rather than an independent contractor.¹³⁸

Brazilian labour courts upheld this assessment, piercing the contractual structure of the supply chain and identifying Zara as the “real employer” of workers subjected to forced labour. In doing so, the courts relied on domestic labour law doctrines, international labour standards, and the concept of *ajenidad* (alienation of labour), emphasising foreseeability, control, and the capacity to intervene. Unlike the tort cases discussed elsewhere in this report, liability was established through administrative enforcement and labour law reasoning, not negligence or jurisdictional doctrine.¹³⁹

136 *Angga et al. v. Bumble Bee Foods, LLC*, No. 3:2025cv00583—Document 29 (S.D. Cal. 2025).

137 *Ministério Público do Trabalho v. Inditex Brasil Comércio de Roupas Ltda. (Zara)*, *Tribunal Regional do Trabalho da 2ª Região* (São Paulo, Braz.) (2017).

138 The workshops were subcontractors to AHA, a major supplier of Zara Brazil at that time. According to the labour inspection reports, the workshops were exclusively sewing pieces for Zara. The conditions included: having to work up to 16 hours a day; illegal hiring practices; child labour; and restricted freedom of movement, whether through illegal deductions from wages or explicit prohibition on leaving the workshop without permission. Inspectors noted that AHA operated only as a “logistics arm” of Zara Brazil, which, in fact, exercised directive power over the entire supply chain—defining models, choosing fabrics, imposing deadlines, imposing quality controls, and requesting corrections, for instance. See André Campos et al., *From Moral Responsibility to Legal Liability?* Stichting Onderzoek Multinationale Ondernemingen (SOMO) & Repórter Brasil (2015), <https://www.somo.nl/wp-content/uploads/2015/05/From-moral-responsibility-to-legal-liability.pdf>.

139 Zara faced several sanctions, including a fine imposed by labour inspectors. The Labour Court of Appeal upheld the finding of the Labour Court that, if Zara had verified its supply chain, it would have been impossible not to acknowledge that working conditions at the subcontractor did not comply with labour laws. The

The *Zara* litigation is notable for two reasons. First, it demonstrates that effective accountability may be established outside private law frameworks, particularly where labour inspectorates possess investigatory authority, and where sanctions—such as Brazil’s “dirty list”¹⁴⁰—are linked to market-access mechanisms. Second, it shows how courts can combine hard law, soft law, and international commitments to impose direct responsibility on lead firms for supply chain abuses.¹⁴¹

The case also highlights the limits of transnational replication. The success of the Brazilian approach relied on institutional capacity, political will, and labour law traditions that are not easily transplanted. As such, *Zara* Brazil should be understood not as a model to be generalised but as evidence that alternative accountability architectures do exist—and that the dominance of tort-based litigation reflects structural choices rather than inevitability.

The emerging and alternative pathways to corporate accountability further show that transnational labour litigation does not unfold along a single doctrinal trajectory. Accountability may arise through tort, statute, administrative enforcement, or labour law—but, in each case, success depends on the interaction between legal form, institutional capacity, and the organisation of GVCs. The final section of this report turns to statutory and HRDD-based mechanisms, examining whether legislative interventions can address the structural barriers identified herein.

Court found that *Zara*’s lack of intervention to protect the rights of workers employed by the subcontractor amounted to wilful blindness. The principle of “wilful blindness” in Brazilian labour law refers to the acts of a company that intentionally decides to ignore matters that would otherwise render it civilly or criminally liable. The Court also upheld the principle of *ajenidad* (used to establish the factors required to define whether a worker is an employee or an independent contractor) and found that the outsourcing contract between the suppliers and a subcontractor to *Zara* was a simulated contract established with the intention of disguising a wrongful working situation. This finding was grounded in the fact that all the work performed by the subcontractor was directly coordinated and directed by *Zara*, which was the subcontractor’s only buyer. Consequently, all workers employed directly or indirectly by the subcontractor were considered by the Court to be *Zara*’s employees, and *Zara* was considered the real employer. In 2017, the Brazilian Labour Supreme Court (Ruling 331 original text: “CONTRATO DE PRESTACÃO DE SERVICOS. LEGALIDADE (nova redação do item IV e inseridos os itens V e VI à redação)—Res. 174/2011, DEJT divulgado em 27, 30 e 31.05.2011) upheld the decision to condemn *Zara* for the slave-like working conditions found in the subcontractor’s factories. See Ligia Ramia Munerati, *The Zara Case in Brazil: Juridical Effectiveness of Soft Law Measures Concerning Decent Work in Global Supply Chains*, SSRN 5 (11 Jul. 2019), <http://dx.doi.org/10.2139/ssrn.3411472>.

140 Another sanction imposed following the labour inspectorate investigation was to threaten *Zara* with being placed on the so-called “dirty list” of slave labour. This is a public registry of individuals or enterprises caught employing workers under conditions analogous to slavery—in effect, a “naming and shaming” mechanism that acts as a deterrent against forced labour and a de-facto enforcement mechanism vis-à-vis corporate abuses. Campos et al., *supra* note 138.

141 Ramia Munerati, *supra* note 139. In their interview, Miraglia and Melo also referred to the Labour Court’s historic decision in 2025 convicting Volkswagen for slavery-like practices in the Amazon, 50 years after the conduct in question among farms owned by Volkswagen’s Brazilian subsidiary; see Danielle Anne Pamplona & Hartmut Rank, *Volkswagen, Oxen, Timber, and Slave Labour in Brazil: The Hidden Truth of the Dictatorship*, VERFASSUNGSBLOG (9 Sept. 2025), <https://verfassungsblog.de/volkswagen-brazil-slave-labor/>.

4

Statutory and HRDD Mechanisms: Litigation Diversification and HRDD-based Governance

The limits of transnational labour litigation documented in the preceding sections have not led to its abandonment but to its strategic diversification. Interviewees consistently emphasised that many of the most severe labour rights abuses occur precisely because MNCs operate in jurisdictions with weak, compromised, or deliberately-undermined rule of law systems.¹⁴² In such settings, corporations are able to exploit regulatory gaps while insulating themselves from civil liability through jurisdictional doctrines, evidentiary asymmetries, and fragmented supply chain structures.¹⁴³

This being the case, workers' organisations and litigators have increasingly pursued multi-pronged accountability strategies, combining tort claims with consumer protection law, trade law, administrative complaints, and statutory HRDD mechanisms. This shift reflects a pragmatic response to repeated procedural closure in courts, as well as a broader reorientation of litigation, from a singular pursuit of damages toward a means of accumulating leverage across multiple legal and institutional sites.

As Terry Collingsworth explained, the persistent failure of tort and federal statutory claims in U.S. courts—most clearly illustrated by *Doe v. Apple*—has prompted a turn toward **consumer protection and trade-based litigation**. Rather than seeking to directly establish corporate liability for forced labour, these cases challenge false or misleading corporate representations about ethical sourcing, sustainability, and human rights compliance. Collingsworth also noted that claims brought under consumer protection statutes allege that corporations profit from forced and child labour while marketing their products as “ethical” or “responsible”, thereby deceiving consumers and investors.¹⁴⁴

In parallel, complaints filed under Section 307 of the U.S. Tariff Act seek to block the importation of goods produced with forced labour, shifting the focus from civil damages to **market access and regulatory enforcement**. Similar strategies are beginning to emerge outside the U.S., too,

142 Interviews with Bridge; Collingsworth; Miraglia and Melo; Saage-Maasz; Nolan; Vandenberg and Lee; and Yap.

143 Collingsworth interview; SHELLEY MARSHALL ET AL., MANDATORY HUMAN RIGHTS DUE DILIGENCE: RISKS AND OPPORTUNITIES FOR WORKERS AND UNIONS, RMIT University Business and Human Rights Centre; TraffLab ERC; and Labour, Equality and Human Rights (LEAH) research group, Monash Business School (2023), https://www.trafflab.org/_files/ugd/11e1f0_e1db27f1ec7f41459ac357d021f6011c.pdf.

144 Collingsworth interview; see International Rights Advocates v. Apple Inc., <https://www.internationalrightsadvocates.org/cases/international-rights-advocates-v-apple-inc>; and International Rights Advocates v. Tesla Inc., <https://www.internationalrightsadvocates.org/cases/tesla>.

including proceedings in Australia that challenge retailers' public claims of ethical sourcing in relation to forced labour in Xinjiang. Read together, these cases illustrate how litigation is being redeployed as a pressure-generating practice, targeting reputation, trade privileges, and regulatory compliance where courts have resisted direct responsibility.¹⁴⁵

Alongside this diversification of litigation strategies, the past decade has seen the rapid expansion of **mandatory HRDD legislation**, particularly in Europe. Interviewees framed the legislation as an institutional response to the demonstrated inability of private law litigation alone to deliver timely remedies for workers harmed in GVCs. As Chloé Bailey noted, HRDD should be understood as a parallel and complementary avenue for accountability that emerged precisely because litigation under existing tort frameworks had so often failed to provide access to justice.

European HRDD regimes reflect this logic. Laws adopted in France, Germany, the Netherlands, and Norway¹⁴⁶ impose binding obligations on companies to identify, prevent, and mitigate human rights risks across their supply chains, marking a shift away from voluntary CSR toward formal regulatory governance. Nevertheless, the design of most HRDD frameworks reflects a cautious and limited conception of responsibility. With the partial exception of France, enforcement is primarily administrative, and civil liability—where available—depends on proving failures in the due diligence process rather than proving the occurrence of harm itself.¹⁴⁷

Empirical assessments of early HRDD cases confirm these limits. While courts have ordered companies to revise deficient vigilance plans—emphasising risk mapping, monitoring, and consultation—very few cases have resulted in compensation for affected workers. As Bailey observed, access to remedy remains constrained by burdens of proof, information asymmetries, and corporate control over evidence. These are challenges that HRDD legislation has yet to resolve.¹⁴⁸

Taken together, these developments reveal a central flaw in emerging accountability frameworks. Responsibility is increasingly framed as a matter of process compliance, disclosure, and risk management, rather than as an obligation to ensure substantive labour outcomes or to

145 Tariff Act of 1930, 19 U.S.C. §307; see *supra* note 24 for Kmart/AUTWA proceedings in Australia.

146 See *supra* note 28.

147 Bailey interview; Chloé Bailey et al., FROM RIGHTS TO REALITY: ENSURING A RIGHTS-HOLDER-CENTRED APPLICATION OF THE FRENCH DUTY OF VIGILANCE LAW, CFFD-Terre Solidaire, ProDesc, and ECCHR (2023), https://www.ecchr.eu/fileadmin/user_upload/ECCHR_EDF_WEB.pdf; French Corporate Duty of Vigilance Law, *supra* note 28, and see Article L. 225-102-4 (III) of the French Commercial Code; INGRID LANDAU, HUMAN RIGHTS DUE DILIGENCE AND LABOUR GOVERNANCE (2023); for a discussion on HRDD in different jurisdictions, see James J. Brudney, *Hiding in Plain Sight: An ILO Convention on Labor Standards in Global Supply Chains*, 23 CHICAGO J. INT'L L. 272 (2023). For the first decision on the merits, see *Tribunal judiciaire de Paris [TJ] [Paris Judicial Court], Fédération des Syndicats Solidaires, Unitaires et Démocratiques des Activités Postales et de Télécommunications v. SA La Poste* (5 Dec. 2023) 21/15827. For further discussion, see Xavier Haranger, *First Appeal Decisions on the Admissibility of Actions Based on the Duty of Vigilance*, MORGAN LEWIS (24 Oct. 2024), <https://www.morganlewis.com/pubs/2024/10/first-appeal-decisions-on-the-admissibility-of-actions-based-on-the-duty-of-vigilance>; Giesela Ruhl, *Cross-border Protection of Human Rights: The 2021 German Supply Chain Due Diligence Act*, in FROM THEORY TO PRACTICE IN PRIVATE INTERNATIONAL LAW 163 (Justin Borg-Barthet et al. eds., 2024).

148 Ingrid Landau & Shelley Marshall, *Will Remedy Remain Rare? The Potential of Mandatory Human Rights Due Diligence to Redress Modern Slavery*, in MODERN SLAVERY AND THE GOVERNANCE OF GLOBAL VALUE CHAINS 126 (Hila Shamir et al. eds., 2025); Bailey interview.

provide redress for harm. In this way, HRDD risks legitimising existing power asymmetries by transforming corporate responsibility into an internal managerial exercise, even as it formalises expectations of corporate conduct.¹⁴⁹

Most HRDD frameworks, though, continue to position workers as passive beneficiaries of corporate processes, rather than as active agents with enforceable rights to participate in setting, monitoring, and enforcing labour standards along supply chains. Workers remain burdened with tracing opaque production networks, proving causation, and overcoming structural inequalities that favour corporate actors—constraints that echo those encountered in transnational litigation itself.

These emerging strategies suggest that transnational labour accountability is not advancing along a single doctrinal trajectory, nor converging toward a unified legal solution. Instead, accountability is being pursued through multiple, imperfect mechanisms, each addressing different facets of the governance gap created by GVCs.¹⁵⁰ Litigation, consumer law, trade measures, administrative enforcement, and HRDD regimes interact in uneven and often contradictory ways, producing incremental gains while leaving fundamental questions of power, agency, and remedy unresolved.

The Discussion reflects on what these patterns suggest about the future of transnational labour law—and the conditions under which legal strategies might better align corporate accountability with workers' lived realities in GVCs.

149 MARSHALL ET AL., *supra* note 143; Landau et al., *supra* note 29.

150 Cf. Guy Mundlak, *Transnational Labor Law as a Spiderweb: Is There a Spider? Is There a Web?* 57 CORNELL INT'L L.J. 123 (2024).

5

Discussion: Transnational Litigation in a Fragmented Governance Landscape

This report set out to examine transnational labour litigation as a response to a structural tension at the heart of GVCs: production is organised transnationally, while labour law, corporate law, and remedies remain largely territorial; and, while labour law presumes a direct employment relationship, GVCs operate through contractual networks that leave lead firms formally removed from workers. The cases analysed here strongly indicate that this tension cannot be resolved through litigation alone. Instead, transnational labour litigation unavoidably operates within a fragmented governance landscape—one marked by procedural barriers, selective doctrinal openings, and emerging regulatory experiments.

Across jurisdictions, the picture that emerges is deeply uneven. In some contexts, courts have shown a willingness to reinterpret existing doctrines to allow claims against parent companies or to recognise the relevance of international labour and human rights norms.¹⁵¹ In others, most notably in the U.S., courts have relied on jurisdictional gatekeeping and narrow interpretations of statutory liability to foreclose claims at the threshold.¹⁵² This divergence has led the global litigation terrain for corporate human rights accountability to be described as “muddy, with some shafts of sunlight”.¹⁵³

The scarcity of merits judgements confirming corporate liability for workers’ rights violations does not render transnational litigation insignificant. As a growing body of scholarship demonstrates, litigation’s impact cannot be measured solely by courtroom outcomes. Strategic litigation often fills governance gaps by prompting changes in corporate conduct, influencing law and policy reform, and reshaping judicial and public understandings of responsibility in GVCs.¹⁵⁴ From this perspective, even unsuccessful cases may produce meaningful accountability effects beyond compensation.

Seen through this lens, the three themes traced in this report—procedural closures, doctrinal breakthroughs, and emerging statutory and HRDD-based pathways—should not be understood as sequential stages or competing models. Rather, they constitute overlapping and interacting elements of an organic system of transnational labour governance.¹⁵⁵ Procedural closures reveal how private international law, corporate separateness, and evidentiary rules continue

151 *Vedanta; Okpabi; Nevsun*.

152 *Nestlé; Coubaly; Doe v. Apple*.

153 *McCorquodale*, *supra* note 7, at 1; *BIRCHALL ET AL.*, *supra* note 3.

154 *BIRCHALL ET AL.*, *supra* note 3; *Schilling-Vacaflor & Gustafsson*, *supra* note 29.

155 *Mundlak*, *supra* note 150.

to translate economic power into legal distance. Doctrinal breakthroughs demonstrate that this architecture is not immutable, but they also underscore the fragility and contingency of judicial openness. Statutory and HRDD regimes reflect political recognition of governance gaps, yet frequently reframe responsibility as a matter of process compliance rather than substantive obligation or remedy.¹⁵⁶

This fragmented landscape closely aligns with Mundlak’s depiction of transnational labour law as a “spiderweb”: a dense and uneven assemblage of norms, institutions, and actors, lacking a single centre of authority and allowing much to fall through the gaps.¹⁵⁷ In such a system, litigation does not function as a hierarchical enforcement mechanism but as one strand among many—capable of bearing weight in certain configurations, while remaining fragile when acting alone.

From the perspective of workers and trade unions, this has two important implications. First, transnational litigation should not be seen as a panacea for labour exploitation in GVCs. The procedural and structural barriers documented throughout this report make it clear that litigation alone cannot deliver systematic remedies or comprehensive protection. Second, nor should litigation be dismissed as futile. When deployed strategically, and in combination with other forms of pressure—such as regulatory advocacy, trade measures, consumer law, and collective action—it can contribute to reshaping the normative and institutional environment in which corporate decisions are made.

The interviews conducted for this report underscore this dual understanding. Practitioners emphasised that increasing awareness of corporate accountability norms—through soft law instruments, HRDD legislation, and prior litigation—has begun to expand the interpretive horizons of courts. What once appeared legally implausible, such as holding parent companies responsible for supply chain abuses, is now part of mainstream judicial and regulatory discourse.¹⁵⁸ Interviewees did stress, however, that litigation’s most enduring value often lies in its preventive and deterrent effects, its capacity to expose abuses, and its role in supporting broader struggles for worker power and collective voice.¹⁵⁹

This emphasis on worker agency and voice is also critical. As recent research on HRDD and global union strategies demonstrates, the effectiveness of these regimes depends heavily on whether they strengthen collective worker voice, transnational coordination, and institutional power, or whether they devolve into technocratic compliance exercises divorced from workers’ lived realities.¹⁶⁰

Finally, the discussion highlights the limits of purely legal solutions to transnational labour exploitation. Proposals for expanding extraterritorial jurisdiction, reforming choice of law rules, or introducing presumptions of corporate liability may address some doctrinal obstacles, but they are no substitute for broader political and institutional change. In the absence of a

156 MARSHALL ET AL., *supra* note 143; Landau et al., *supra* note 29.

157 Mundlak, *supra* note 150.

158 Bailey interview; Bridge interview.

159 Interviews with Bailey; Bridge; Saage-Maasz; Collingsworth; Yap; and Nolan.

160 MARSHALL ET AL., *supra* note 143.

Discussion

comprehensive international labour enforcement regime, transnational labour law will continue to develop through experimentation, contestation, and uneven advances across multiple sites.¹⁶¹

In this context, transnational labour litigation should be understood not as a singular pathway to justice, but as part of a broader repertoire of strategies through which workers, unions, and civil society actors seek to confront the power asymmetries embedded in GVCs. Its significance lies less in the promise of definitive legal resolutions than in its capacity to open cracks in the legal architecture of supply chain capitalism—cracks through which new norms, alliances, and forms of accountability may emerge.¹⁶²

161 Mundlak, *supra* note 150; Adelle Blackett, *EVERYDAY TRANSGRESSIONS: DOMESTIC WORKERS' TRANSNATIONAL CHALLENGES TO INTERNATIONAL LABOR LAW* (2019).

162 Birchall et al., *supra* note 3; Schilling-Vacaflor & Gustafsson, *supra* note 29.

Conclusion

This report has shown that transnational labour litigation is neither a panacea nor a dead end, but a contested and evolving practice situated within a fragmented governance landscape. While procedural barriers and doctrinal constraints continue to limit workers' access to remedy, selective judicial openings, strategic litigation beyond the courtroom, and emerging regulatory frameworks demonstrate that corporate non-liability is not immutable. Litigation matters, not only for the outcomes it produces but also for its capacity to translate labour and human rights norms into legal, institutional, and political pressure across jurisdictions. Its effectiveness, however, depends on how it interacts with other governance mechanisms and on whether it strengthens worker voice, collective power, and access to information. Understanding transnational labour litigation in this relational and structural way is essential for assessing both its limits and its potential in confronting labour exploitation in GVCs.

Appendix 1

Interviewee profiles and dates of interviews

1. Mr. Surendra Ananth—Advocate and Solicitor of the High Court of Malaysia, and human rights Legal Counsel and expert witness for claimants in *Limbu v. Dyson*. Online interview conducted on 11 August 2025
2. Ms. Chloé Bailey—Senior Legal Advisor, Business and Human Rights, ECCHR. Online interview conducted on 7 October 2025.
3. Dr. Ebony Birchall—Deputy Director of the Business and Human Rights Access to Justice Lab and Lecturer at Macquarie Law School. Online interview conducted on 29 October 2025.
4. Ms. Liberty Bridge—Senior Associate Solicitor, International Group Litigation, Leigh Day. Online interview conducted on 14 August 2025.
5. Mr. Terrence (Terry) Collingsworth—Founder and Executive Director of International Rights Advocates. Represented claimants in corporate human and labour rights litigation in the U.S., including *Doe I v. Wal-Mart*, *Nestlé*, *Coubaly v. Cargill*, *Kassim v. Cargill*, and *Doe I v. Apple*. Online interview conducted on 16 September 2025.
6. Prof. Livia Mendes Moreira Miraglia (Brazil)—Professor of Labour Law at Federal University of Minas Gerais (UFMG) and Director of the UFMG Clinic for Slave Labor and Human Trafficking. Joint online interview with Fernanda de Mendonça Melo conducted on 2 October 2025.
7. Ms. Fernanda de Mendonça Melo (Brazil)—Master’s degree holder and PhD candidate in Labour Law at the Federal University of Minas Gerais (UFMG). Lawyer and researcher at the UFMG Clinic for Slave Labor and Human Trafficking. Joint online interview with Prof. Miraglia conducted on 2 October 2025.
8. Prof. Justine Nolan—Director of the Australian Human Rights Institute and Professor in the Faculty of Law and Justice at the University of New South Wales, Sydney. Online interview conducted on 8 October 2025.
9. Dr. Miriam Saage-Maasz—Legal Director, European Centre for Constitutional and Human Rights (ECCHR). Represented the workers in *Jabir v. KiK* and was *amicus* for claimants in *Nestlé*, as well as representing workers and communities in other international human and labour rights cases. Online interview conducted on 4 September 2025.
10. Ms. Martina Vandenberg—Founder and President of the Human Trafficking Legal Centre (HTLC) and appeared for the *amicus* Legal Scholars with Expertise in Exterritorial and Transnational Litigation in support of claimants in *Doe v. Apple*. The HTLC has filed *amicus* briefs and acted as *pro bono* counsel in many civil litigation cases in U.S. federal courts under the TVPRA, including *Ratha v. Phatthana Seafood*, *Nestlé v. Doe/Cargill v. Doe* and *Doe v. Apple*. Written responses to interview questions provided on 3 October 2025.
11. Ms. Maggie Lee—Deputy Director of the Human Trafficking Legal Centre (HTLC). Written responses to interview questions provided on 3 October 2025.
12. Mr. James Yap—International human rights lawyer and co-Legal Counsel for the claimants in *Araya v. Nevsun*. President of Canadian Lawyers for International Human Rights (CLIHR), and former Acting Director of the International Human Rights Programme, University of Toronto. Online interview conducted on 10 September 2025.