



Research Objectives

Defining the current baseline of corporate responsibility by quantifying insights from litigation and guiding normative discussions around defining boundaries of corporate responsibility for human rights and environmental (HR/E) harms.



Methodology



20 YEARS OF
Business & Human Rights
Resource Centre



210 case profiles ¹
(204 after exclusion)



Case name, URL,
country of incident,
country of filing,
type/ place of litigation,
date of filing

6 Apr 2010
Business & Human
Rights Resource
Centre



Lidl



Clothing & textile



Germany, Bangladesh



Labour Rights, Supply
Chains, Personal Health

Share



Lawsuit

Lidl lawsuit (re working conditions in Bangladesh)

Status: **CLOSED**

Date lawsuit was filed
6 Apr 2010

Female

Consumer

Location of Filing: **Germany**

Location of Incident: **Bangladesh**

Type of Litigation: **Transnational**

Companies

Lidl

Germany

Retail

¹Business and Human Rights Resource Centre (BHRRC), *Lawsuit Database*, <https://www.business-humanrights.org/en/from-us/lawsuits-database/> (accessed 30 Jun. 2023).

Methodology

[Für die deutsche Beschreibung des Falles, klicken Sie hier.](#)

Plaintiffs: NGOs

On 6 April 2010, the Hamburg Consumer Protection Agency, supported by the European Centre for Constitutional and Human Rights (ECCHR) and the Clean Clothes Campaign (CCC), filed a lawsuit in Heilbronn district court against the German discount retailer Lidl. The complaint followed a Lidl advertising campaign which claimed that the company advocated for fair working conditions and contracted its non-food orders only from selected suppliers. In this campaign, Lidl also claimed that it opposed child labour as well as human and labour rights violations in its supply chain.

Industry where harm occurred: textiles

HR/E harms:
'Freedom of Association'

Relying on research compiled by ECCHR and CCC, the Consumer Protection Agency alleged that the working conditions in **Bangladeshi textile plants** in Lidl's supply chain did not comply with labour standards as set out by the International Labour Organization (ILO) and the *Business Social Compliance Initiative* (BSCI) code of conduct. Furthermore, it alleged that the companies in Lidl's supply chain violated labour laws, including the rights to freedom of association and collective bargaining and freedom from sex discrimination. The Agency claimed that the Bangladeshi employees worked excessive overtime (more than 12 hours per week) with no overtime premium, were not entitled to a holiday after 6 consecutive working days and were subjected to harassment and to payroll deductions as a punitive measure. Accordingly, the suit demanded that Lidl stop deceiving customers about fair working conditions in its supply-chain.

Alleged wrongdoings:
freedom of association, discrimination, sexual orientation, breach of labour law, working time, employment conditions

Case status: Settled

On 14 April 2010 **Lidl agreed to withdraw the public claims and advertisements** that its goods were being produced under fair and decent working conditions. A consent decree was filed with the court to memorialise this agreement. Additionally, Lidl is no longer permitted to refer to its membership in the BSCI in its advertising materials.

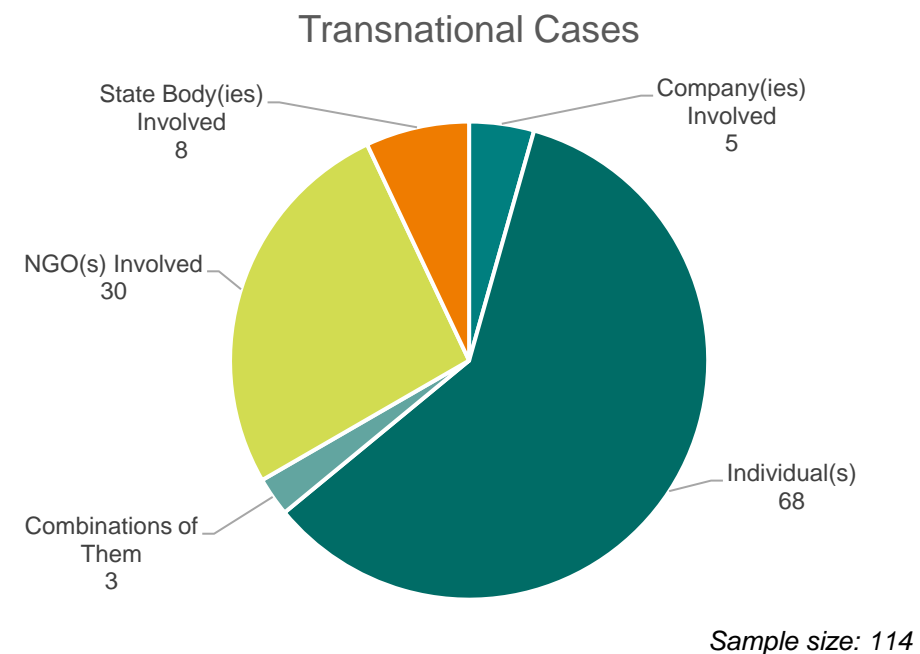
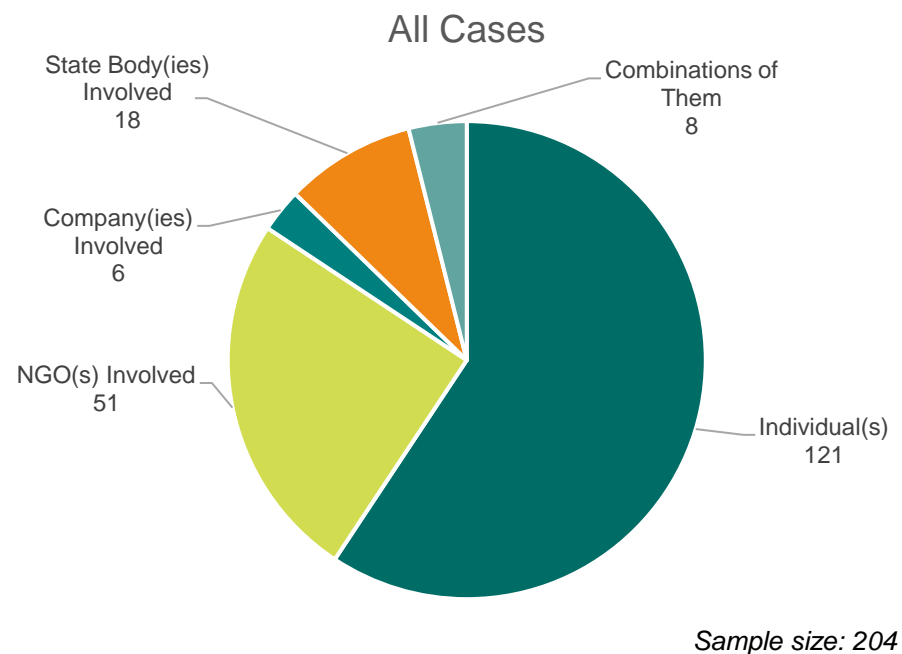
- [LIDL: Forced to Retract 'Ethical' claims](#), Labour Behind the Label, 14 Sep 2010
- [German] [Lidl dreht bei](#) ("Lidl turn about"), Hamburg Consumer Protection Agency, 10 Sep 2010
- [German] [Menschenrechtler verklagen Lidl](#) ("Human rights activists sue Lidl"), stern.de, 8 Apr 2010





Results: Types of Plaintiffs

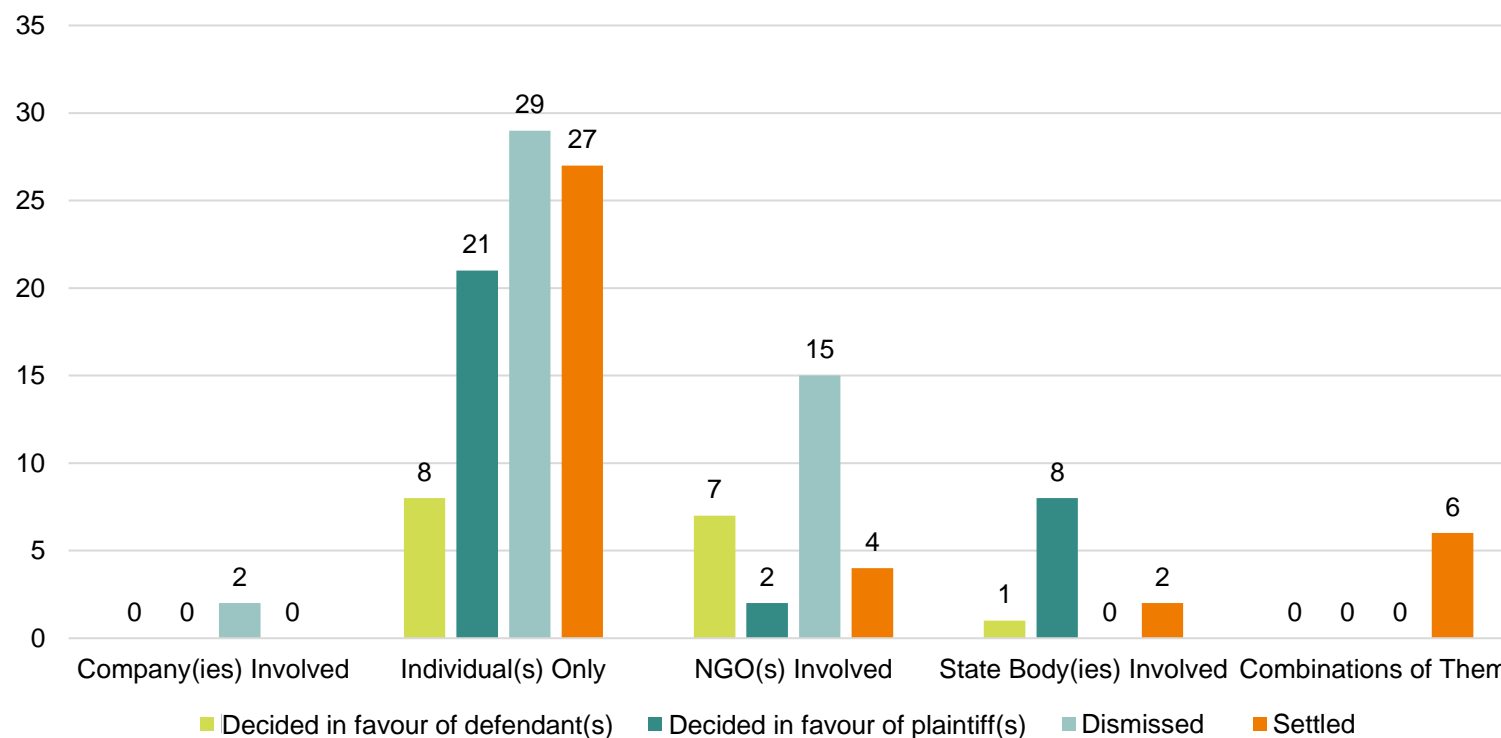
NGOs join lawsuits as official litigants in about one quarter of both all and transnational cases.





Results: Case Outcomes by Type of Plaintiffs

Our results do not show a positive influence of NGOs on case outcomes², which merits further exploration.

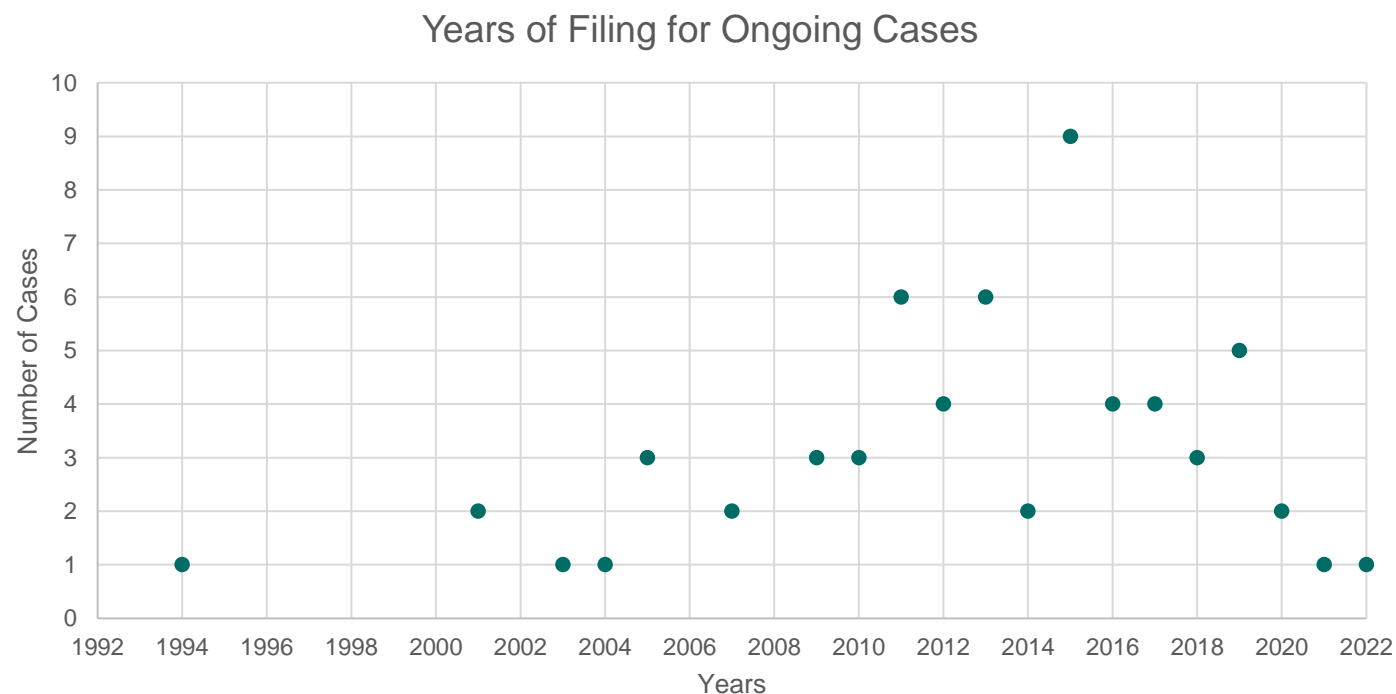
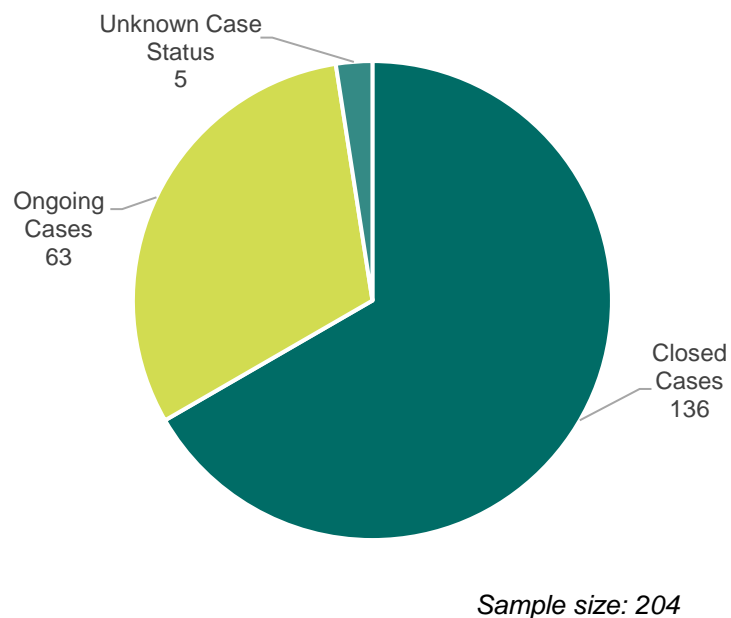


²63 'ongoing' cases, 5 'unknown' cases, and 4 'charges dropped by plaintiffs' cases have been excluded from the sample of 204 cases; resulting in a sample size of 132.



Results: Duration of 'Ongoing' Cases

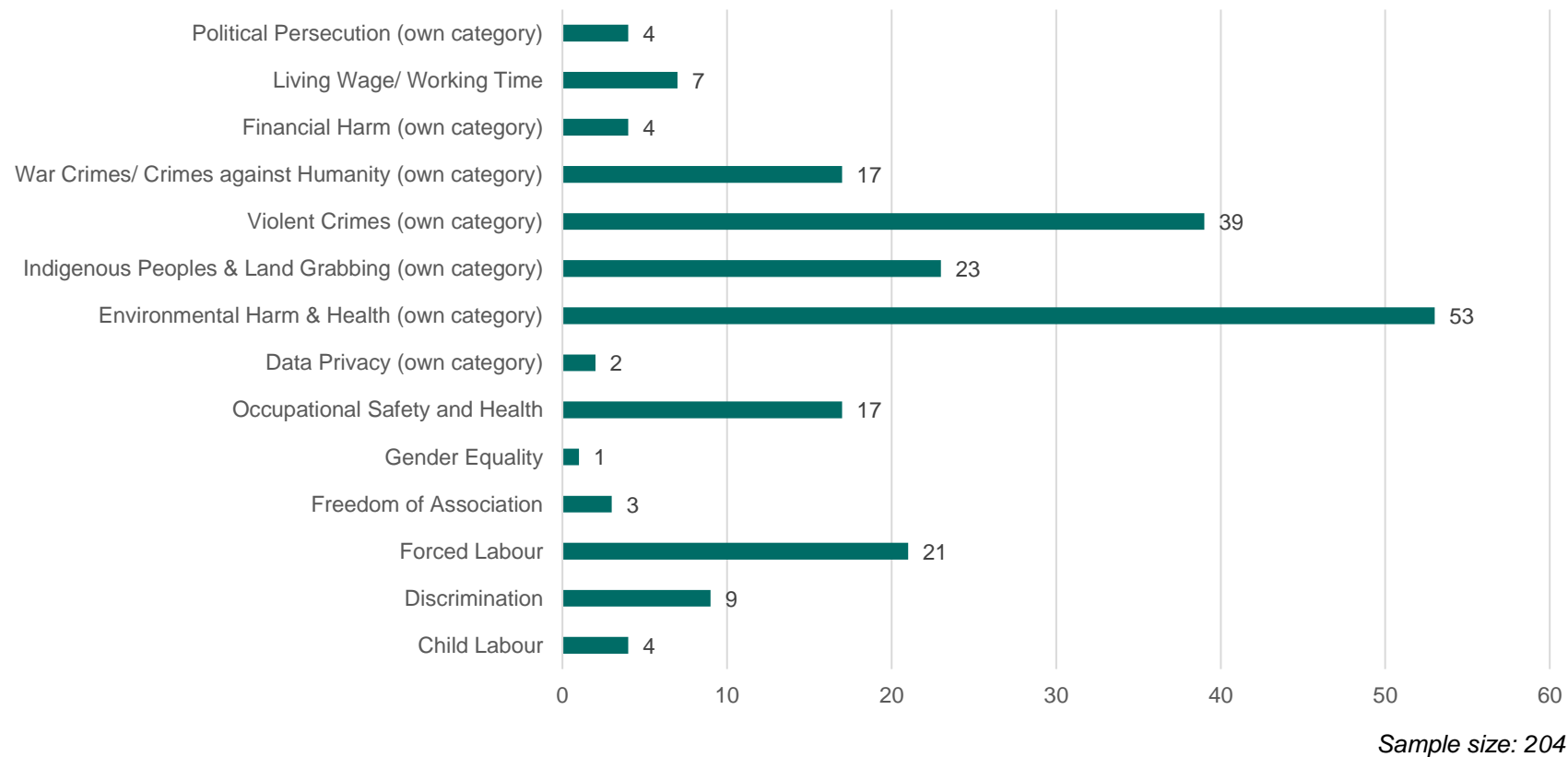
More than half of the 'ongoing' cases have been pending for 10 years or more (32 cases).



Sample size: 63



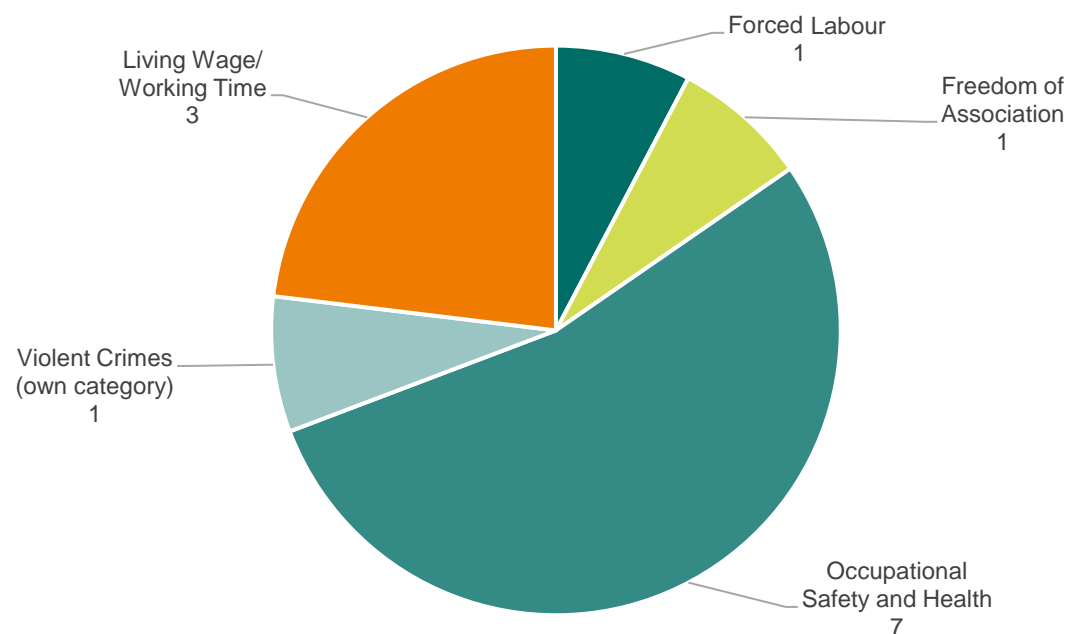
Results: Number of Cases per Type of HR/E Harm³



³Categories based on the United Nations Global Compact 'Business & Human Rights Navigator' and extended by authors.



Results: HR/E Harms in Sector ‘Consumer Durables & Apparel’



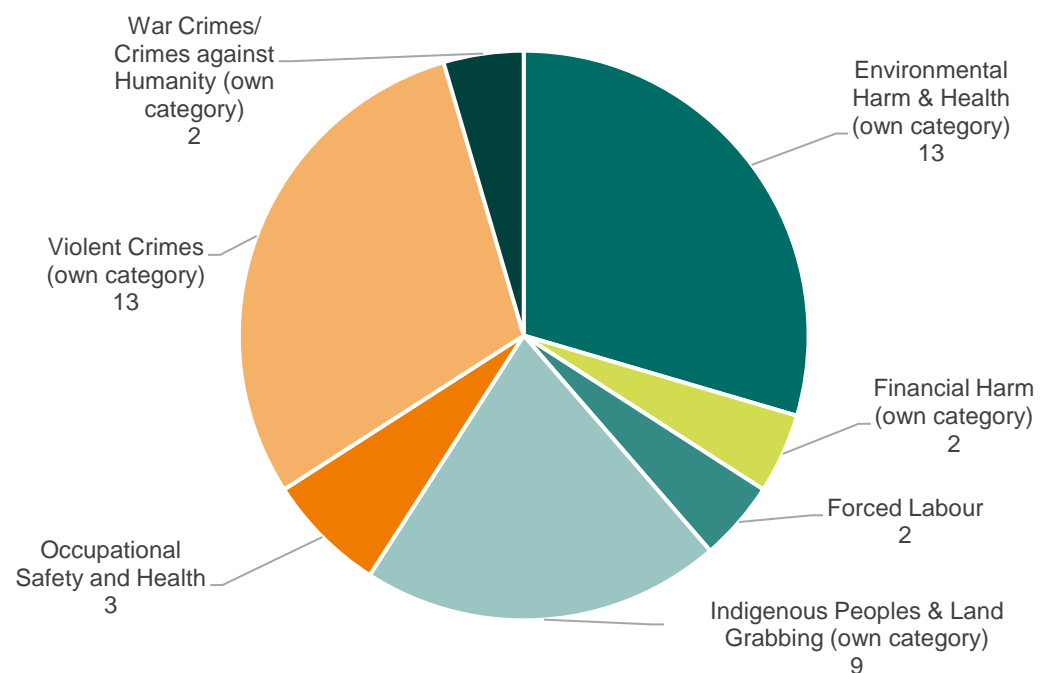
Subsectors included in this sector⁴:

Subsector	Count
2520 Consumer Durables & Apparel	13
25201010 Consumer Electronics	1
25201040 Household Appliances	1
25202010 Leisure Products	1
25203030 Textiles	10

⁴Sectors based on MSCI Inc.'s 'Global Industry Classification Standard'.



Results: HR/E Harms in Metal Mining Industry



Subsectors of 'Materials' sector included in this industry⁵:

1510 Materials	44
15104010 Aluminum	1
15104020 Diversified Metals & Mining	16
15104025 Copper	9
15104030 Gold	6
15104040 Precious Metals & Minerals	1
15104045 Silver	1
15104050 Steel	10

⁵Sectors based on MSCI Inc.'s 'Global Industry Classification Standard'.



Testing the Boundaries of Corporate Responsibility: Cases Relating to Climate Change/ Air Pollution

Case Name	Case Status	Date of Filing
Domestic Cases		
California communities' lawsuit against 37 fossil fuel companies (re climate change compensation)	Ongoing	17 Jul 2017
Kivalina lawsuit (re global warming)	Dismissed	26 Feb 2008
TotalEnergies lawsuit (re climate change, France)	Dismissed	29 Jan 2020
Lafarge & Suez Cement lawsuit (re air pollution, Egypt)	Ongoing	03 Oct 2016
Titan Cement lawsuit (re air pollution, Egypt)	Decided in favour of plaintiff(s)	03 Jan 2016
Transnational Cases		
RWE lawsuit (re climate change)	Ongoing	24 Nov 2015
Total lawsuit (re failure to respect French duty of vigilance law in operations in Uganda)	Dismissed	23 Oct 2019



Testing the Boundaries of Corporate Responsibility: Cases Brought under Focussed Mandatory Due Diligence/ Disclosure (mDDD) Laws

Case Name	Focussed mDDD Laws	Country of Incident	Country of Filing	Case Status
TotalEnergies lawsuit (re climate change, France)	France's Duty of Vigilance Law (2017)	France	France	Dismissed
EDF lawsuit (re indigenous rights in Mexico, filed in France)	France's Duty of Vigilance Law (2017)	Mexico	France	Ongoing
Total lawsuit (re failure to respect French duty of vigilance law in operations in Uganda)	France's Duty of Vigilance Law (2017)	Uganda	France	Dismissed
Nestlé lawsuit (re forced labour in Thai fishing industry)	California Transparency in Supply Chains Act (2010)	Unites States	United States	Ongoing
Hershey lawsuit (re child labour in Côte d'Ivoire, filed in California)	California Transparency in Supply Chains Act (2010)	Ivory Coast	United States	Dismissed
Costco lawsuit (re slave labour in Thailand)	California Transparency in Supply Chains Act (2010)	Thailand	United States	Dismissed

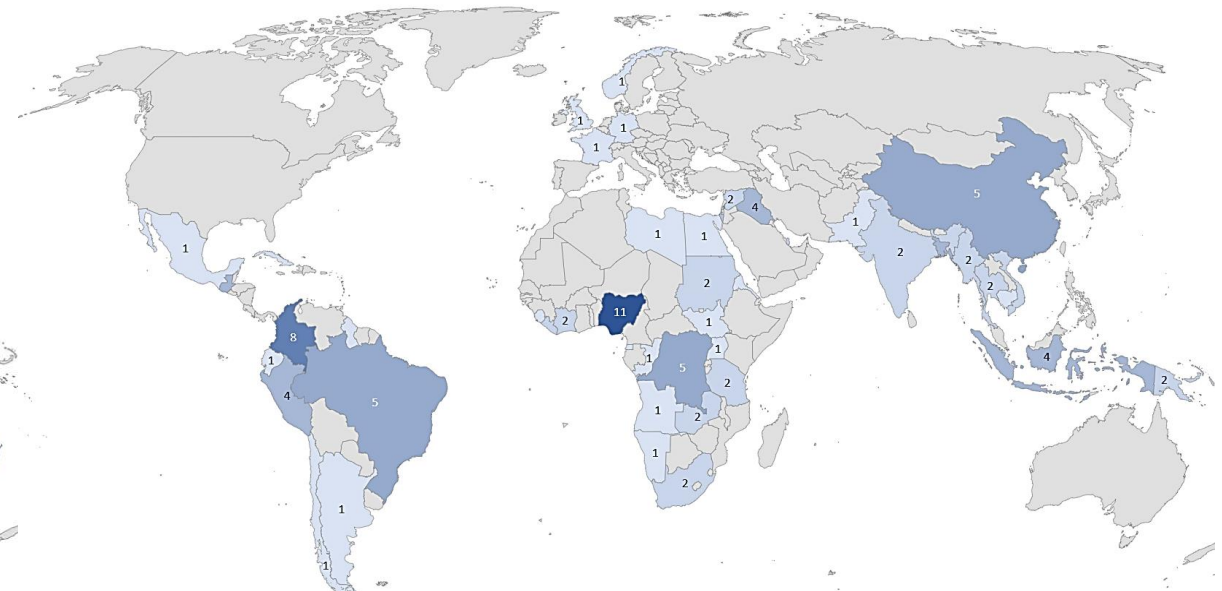


Reasons for Transnational Filing

Cases per Country of Filing



Cases per Country of Incident



 Colour gradient increasing with number of cases

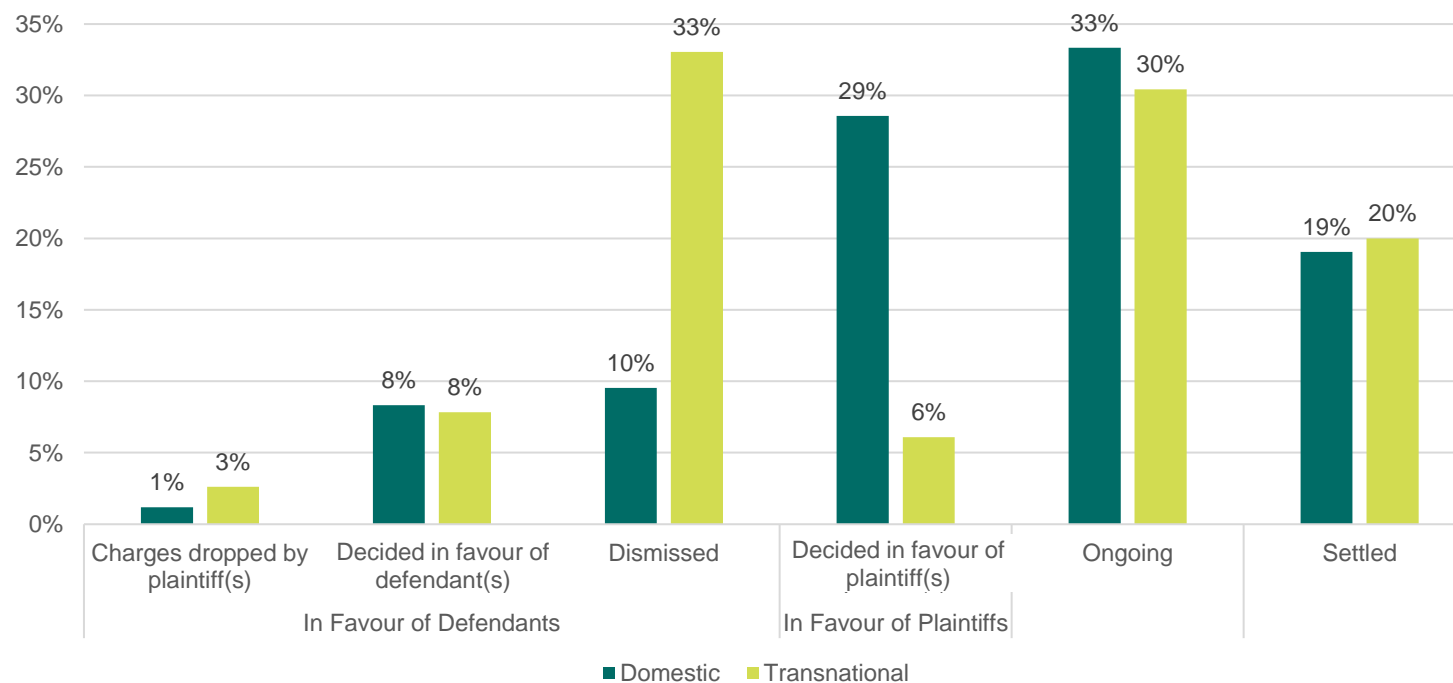
Sample size: 114



Results:

Comparison of Case Outcomes for Domestic and Transnational Filing

A notably higher proportion of transnational cases⁶ got dismissed.



⁶63 'ongoing' cases, 5 'unknown' cases, and 4 'charges dropped by plaintiffs' cases have been excluded from the sample of 204 cases; resulting in a sample size of 132.

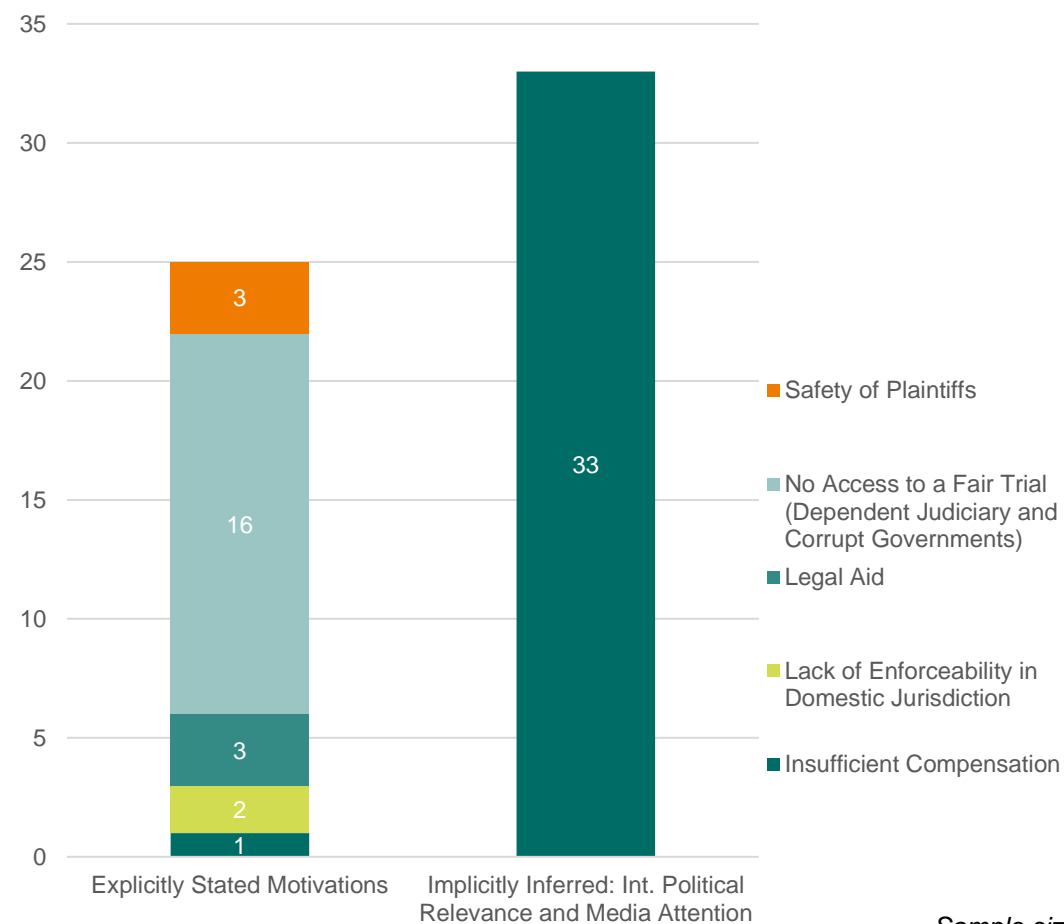


Categorisation: Factual and Legal Grounds for Transnational Filing

1 st Level: Reason for Choosing Transnational Filing	117	2 nd Level: Transnational Filing due to Defendant's Domicile	97
Transnational Filing as Default Recourse	12	Cause of Action: HR/E Harms	82
International Body	3	Direct Involvement of Defendant	14
No Liability Suit: Requirement of Further Documents	2	Statutory Duty of Care Obligation	2
Plaintiffs Domiciled in Country of Filing	7	Providing Business Services Abroad	6
Transnational Filing under Universal Jurisdiction	8	Inciteful Speech	1
Jurisdiction under Alien Tort Statute (US)	8	Transboundary Harm	5
Transnational Filing due to Defendant's Domicile	97	Indirect Involvement of Defendant	68
Defendant Domiciled Abroad	97	Liability for Suppliers' (In)Actions	7
		Liability as Major Shareholder (Not for Subsidiary)	1
		Liability for Subsidiary's and/or Own (In)Actions	34
		Liability with/ for Subsidiary - Complicity with State Body/ Terrorist Org.	26
		Other Causes of Action	15
		Leverage	1
		Violation of Contractual Obligations	1
		Insufficient Disclosures	8
		Financing by International Organisations	1
		Value Chain: Illegal Use of Proceeds from Purchase Transactions	3
		Value Chain: Illegal Use of Product	1



Categorisation: Identified Motivations of Plaintiffs for Transnational Filing



Sample size: 58



Concluding Remarks

Key Take-Aways

- Importance of a structured database for quantifying impacts of litigation
- Need for standardised categorisation in the field of business and human rights
- Plaintiffs face a wide array of difficulties in transnational litigation, but the challenges for companies to conduct business abroad are also constantly increasing

Challenges & Limitations

- Categorising subjective elements of litigation
- Access to data across different jurisdictions – language and resource barriers
- Reliance on BHRRC's corporate legal accountability database
- Further research could include more granular categorisation, additional variables, and a larger sample size



Thank You!



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