HUMAN RIGHTS ABUSES IN GLOBAL SUPPLY CHAINS: WHAT WERE THE LEGAL CONSEQUENCES FROM PAST SCANDALS?

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Nike accused of tolerating sweatshops

No action as Argentina's illegal sweatshops flourish
Two-thirds of the clothing industry is conducted in illegal workshops like one where two young boys died last month.

DRC: Apple, Tesla and Intel may have benefitted from mines using child labour — Global Witness

Coca-Cola boycott launched after killings at Colombian plants

Chile: UN experts demand justice for Arica residents still facing health problems almost 40 years after toxic waste dump by Swedish company Boliden Minerals AB

Food giants accused of links to illegal Amazon deforestation
Cargill, Bunge and Cofco sourced beans from companies allegedly supplied by a farmer fined for destroying swathes of rainforest

“All the chocolate sold in Brazil today is tainted by child labor”
Report on Brazil’s major cocoa-producing areas exposes labor and human rights violations
Google books Ngram Viewer: "supply chains" (1950-2019, 2023)
Lack of understanding of the legal consequences of human rights scandals in global supply chains

STARTING POINT OF THE STUDY

Research goal

- A systematic, empirical and comparative analysis on the subject
- To understand the landscape of the supply chain litigation; the criteria to determine liability; legal challenges associated with it, and the compensation to the victims
STARTING POINT OF THE STUDY

BHRRC Database

65 cases mapped regarding human rights abuses in global supply chains

22 cases had no legal consequences

43 cases had legal consequences

50 lawsuits and 14 agreements
15 cases were selected for an in-depth examination, considering the variety of jurisdictions and human rights issues:

- Claims
- Legal challenges
All the identified cases took place in the Global South. The lawsuits were mostly initiated in the Global North courts.
Supply chain cases over time in the Global North (the United States, Canada and Europe)

- Before 2008: U.S.
- Starting in 2009: not only in the U.S, but also in European and Canadian courts.
- In 2021: peak in litigation in Europe.
Roughly 75% are linked to labor rights. Spanned across various industry sectors.
The victims emerged as the most prevalent group, followed by NGOs and consumers. But they are not the only ones - a wider spectrum of plaintiffs can be seen in the chart.
QUALITATIVE REVIEW: TYPES OF CLAIMS

A variety of litigation strategies

- Consumer claims
- Duty of care claims
Different plaintiffs: not limit to consumer themselves, but also NGOs and public entities

Argument: consumers' right to access trustworthy information about business operations, highlighting that this also covers labor conditions issues
1. Consumer claims

**Nike case (1998):**
- In the Nike case, the plaintiff argued that *Nike engaged in false advertising by falsely claiming its respect for labor rights conditions* in its Southeast Asian subcontractors, despite global media reports of abuses in Nike's supply chain.
2. Duty of care claims

- Awareness of the probability of potential harm occurring
- Economic dependence
- Obligations formed through formal or informal contracts
Awareness of the harm

**Boliden case (2013):**
- Sweden company faced a lawsuit in Sweden regarding improper waste disposal in the 1980s in Chile.
- More than 800 Chilean suffered health damages.
- The plaintiffs in this case affirmed that the company knew previously about the risks due to a patent application.
Economic dependence

**KiK case (2015):**
- The plaintiffs argued that the company had a duty of care of its factory’s suppliers in Pakistan, **because it was the primary purchaser of the factory.**
- In this specific case, the factory caught fire in 2012 due to unsafety fire securities, resulting in **260 deaths.**
Obligations formed through formal or informal contracts

Coca-Cola case (2003):
- Some unions leaders were murdered and tortured in Cola-Cola’s suppliers in Colombia.
- The plaintiffs argued that the company had a duty of care with its suppliers’ labors, considering the bottler’s agreements.
Non-advanced legal cases

The cases that did not proceed further faced some challenges, all within Global North Courts:

- statute of limitations
- lack of traceability
- insufficient evidence

Agreements

In some cases, agreements addressed compensation for the victims, without any acknowledgment of corporate liability.

The involvement of International Labour Organization (ILO)
Advanced legal cases

The cases that did proceed further:
- **Meta case** (Kenya) - Procedural grounds
- **Maran case** (UK) - Procedural grounds
- **Olam case** (Brazil) - Merits
- **Zara case** (Brazil) - Merits

In Brazil, the decisions on merits were reached through public enforcement.
KEY CONCLUSIONS

01. Enforcement challenges in Global North Courts vs. the existence of enforcement in the Global South

02. Questions about sufficiency of compensation

03. The involvement of International Organizations

04. Exploring liability limits: extraterritoriality and shared responsibility
THANK YOU!

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