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Beyond Carrots and Sticks: How the EU's Hybrid Model Outperforms the US's Soft Touchand Builds Stairs for the Developing Countries

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Abstract. This paper comparatively analyzes Human Rights Due Diligence (HRDD) governance models of the European Union and the United States, alongside implementation challenges in developing countries. The EU's hybrid "hard law and soft law" model, anchored in the Corporate Sustainability Due Diligence Directive (CSDDD) and market access leverage, demonstrates greater effectiveness in mitigating supply chain labor rights violations than the US's disclosure-oriented approach, which suffers from enforcement gaps and inadequate remedies. However, developing countries face dual dilemmas: capacity deficits in regulatory infrastructure exacerbate policy conflicts between external standards and local development priorities. To reconcile rights protection with developmental needs, the paper proposes a regulatory adaptation framework for localizing the EU model. The key recommendations include three main points. First, differentiated legislation should exempt SMEs from non-core obligations while prioritizing high-risk industries. Second, adaptive technical reuse must be implemented to address technological gaps. Third, transitional buffers should allow for phased compliance. Sustainable implementation requires shifting global governance from unilateral standard export to collaborative capacity building—establishing a "North-South Compliance Fund", technology partnerships, and inclusive consultation mechanisms. This approach builds essential "stairs" for developing economies to achieve rights protection without compromising development.

Keywords: Human Rights Due Diligence, Supply Chain Governance, EU-US Comparative Governance, Developing Countries, Localization Reform

1. Introduction

1.1. Research background and current challenges

In the global production network, human rights risks have become a focal point of international governance. The HRDD framework established by the United Nations Guiding Principles on Business and Human Rights (UNGPs) is transitioning from a voluntary standard to mandatory legislation. The EU has adopted the CSDDD to establish a "hard law and soft law" model, requiring companies to implement end-to-end management of risks such as labor rights violations in their

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supply chains [1]. The US relies on disclosure-oriented legislation such as the California Supply Chain Transparency Act to drive corporate self-regulation through market pressure, but in practice, this approach has exposed flaws such as the formalization of social audits [2].

Developing countries face difficulties in HRDD governance. South Africa has attempted to embed local labor standards into the regulation of multinational enterprises, while countries such as Indonesia have resisted unilateral EU standards through industry associations [3]. In Southeast Asian countries, the imbalance between labor inspection capacity and the number of enterprises has led to a "regulatory vacuum" in HRDD enforcement [4].

1.2. Theoretical disagreements and research gaps

Existing research reveals the core contradictions in HRDD legislation: the EU's extraterritorial jurisdiction attempts to unify market access standards, but the actual policy effects fall short of ideal levels [1]; the US's model focuses on superficial compliance and ignores root cause governance, making it difficult to curb systemic risks [2]. Developing countries are caught in a "conflict of development rights", such as the EU's environmental standards clash with Southeast Asia's employment-priority policies, making it difficult for HRDD to balance poverty reduction and rights protection [1].

Existing researches have three limitations. First, comparisons of HRDD legal tools lack assessments of the "regulatory spillover" effect, particularly neglecting the response mechanisms of developing countries within supply chains. Second, analyses of corporate practices often focus on technical deficiencies, lacking empirical evidence on the transmission pathways of "compliance costs—supply chain transfer". Third, comparisons of governance models fail to adequately integrate the UNGP's "protect—respect—redress" logic, making it difficult to reveal differences in rights redress across jurisdictions [2, 4].

1.3. Research framework and innovative value

This study compares HRDD practices in the EU, the US, and developing countries to reveal the competitive and collaborative paths of global governance. The research integrates policy texts, corporate cases, and research data to propose a "regulatory adaptation" framework to assess the degree of alignment between legislation and supply chain realities. It uses typical cases to demonstrate the effectiveness of mandatory legislation in addressing human rights risks and proposes governance optimization solutions based on the challenges faced by developing countries.

2. The EU: a hybrid model of "hard law and soft law" focused on market access

2.1. Legal tools

2.1.1. Extraterritorial effectiveness of the CSDDD

As the core legislation promoting the protection of labor rights in the EU, the extraterritorial effect of the CSDDD reflects the regulatory logic of constraining global supply chains through market access. Some scholars have pointed out that the directive requires EU companies and non-EU companies with annual turnover exceeding €150 million in the EU to conduct due diligence on labor rights risks in their global supply chains, including core obligations such as prohibiting forced labor and guaranteeing freedom of association [5]. This provision breaks through traditional territorial jurisdiction restrictions, as scholars have analyzed, extending regulatory reach to third-country

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companies through a "domestic revenue threshold" [6]. For example, it requires US companies with sufficient revenue in the EU market to comply with EU labor rights due diligence standards, or face market access restrictions. Additionally, some scholars have noted that the CSDDD transforms the labor rights protection obligations outlined in the UNGPs into legally enforceable requirements, explicitly holding companies accountable for labor rights violations committed by subcontractors, suppliers, and other entities within their supply chains [7].

2.1.2. Supporting measures: cooperation agreement with ASEAN on supply chain governance

To supplement hard law regulation, the EU promotes soft governance through regional cooperation agreements with ASEAN (Association of Southeast Asian Nations). Scholars mentioned that the EU and ASEAN included labor rights protection in the framework of cooperation in the Memorandum of Understanding on Supply Chain Sustainability Cooperation signed in 2023 [1]. This requires companies from both sides to implement labor condition reviews based on HRDD in key industries such as palm oil and textiles [1]. This cooperation model has been termed by some scholars as a "regulatory export strategy", whereby the EU guides ASEAN enterprises to adopt EU labor rights due diligence standards through technical assistance, standard alignment, and other means [8]. For example, ASEAN garment enterprises are required to undergo third-party audits to prove that there is no child labor in their supply chains when exporting to the EU. Although this cooperation agreement does not have legal binding force, it indirectly promotes the implementation of labor rights protection standards in ASEAN supply chains through an incentive mechanism of "compliance for market access" .

2.2. Achievements and limitations

2.2.1. Positive example: unilever discloses labor conditions in its palm oil supply chain

Unilever's practices demonstrate the role of HRDD in promoting labor rights in supply chains. The company has implemented a "transparent supply chain program" for palm oil plantations in Southeast Asia in accordance. This means that it publicly discloses labor employment contracts, wage levels, and safety training records, and has introduced the International Labor Organization (ILO) as a third-party supervisory body [9]. For example, in its 2022 report, Unilever acknowledged that its Indonesian suppliers had failed to pay social security contributions for temporary workers and forced suppliers to rectify the situation by improving procurement terms. Some scholars regard this practice as a "compliance model", proving that EU HRDD legislation can prompt companies to transform labor rights protection from policy declarations into concrete actions [2].

2.2.2. Limitations: excessive compliance costs for small and medium-sized enterprises lead to supply chain shifts

Small and medium-size enterprises (SMEs) face significant challenges in HRDD compliance. CSDDD requires companies to establish a labor rights risk assessment system covering all stages of the supply chain. In response to this, some scholars have pointed out that small and medium-sized enterprises spend an average of 3.2% of their annual turnover on compliance, which is much higher than the 0.8% spent by large enterprises [10]. Some scholars have studied German textile SMEs and found that approximately 43% of companies chose to transfer production to Eastern European countries that do not implement HRDD regulations because they could not afford third-party audit fees [2]. This has led to a supply chain distortion phenomenon within the EU known as "bad money

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driving out good money". This dilemma highlights the need for the EU to strike a balance between strict regulation and the viability of SMEs when promoting the protection of labor rights. Some scholars have suggested a "tiered compliance mechanism", which would relax audit frequency requirements for companies with annual revenues of less than €50 million, but this proposal has not yet been adopted by EU legislation [8].

3. The US: disclosure-oriented flexible regulatory model

3.1. Legal tools

3.1.1. California transparency in supply chains act

The bill requires retailers and manufacturers with annual revenues exceeding $100 million to disclose the measures they have taken to eliminate slavery and human trafficking in their supply chains, including supplier audits, training, and supply chain verification processes. The bill explicitly requires companies to disclose whether they have implemented supplier codes of conduct, conducted independent audits, and provided anti-slavery training to employees [2]. However, the bill focuses solely on disclosure and does not mandate specific HRDD measures. Compliance efforts by companies are largely limited to issuing annual statements, lacking substantive regulatory constraints.

3.1.2. Dodd-frank act section

This provision requires companies to disclose whether the conflict minerals (tin, tungsten, tantalum, and gold) used in their products originate from the Democratic Republic of the Congo and its neighboring conflict regions. Companies must demonstrate that their mineral procurement complies with "conflict-free" standards [4]. Otherwise, they must disclose the risks in their supply chains and the measures taken to address them [4]. This provision promotes corporate review of supply chains through mandatory information disclosure. However, in practice, there are issues such as high compliance costs and heavy burdens on small businesses, and it does not directly link to specific measures for the protection of labor rights.

3.1.3. Modern slavery act and its extended practices

Although there is no uniform federal legislation, the US Customs and Border Protection (CBP) prohibits the importation of goods produced using forced labor under Section 307 of the Tariff Act of 1930 and issues "withhold release orders". As of 2023, CBP has issued over 20 bans targeting supply chains in countries such as China and Malaysia, requiring importers to prove that their supply chains are free from forced labor. However, this mechanism lacks a systematic HRDD framework as it relies on case-by-case enforcement. Additionally, corporate compliance efforts are driven more by market access pressures than legal obligations.

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3.2. Achievements and limitations

3.2.1. Achievements: disclosure mechanisms promote corporate responsiveness and industry self-regulation

Following the implementation of the California bill, companies such as Target and Walmart began to publicly disclose their supply chain audit reports, with some introducing third-party institutions to review labor conditions [4]. For example, Nike has disclosed the list of factories in its footwear supply chain and labor condition assessments since 2015. Organizations in the apparel industry, such as the Fair Labor Association (FLA), have promoted the adoption of voluntary HRDD frameworks by companies. For instance, Levi Strauss & Co. reviews labor conditions for cotton farmers through the "Better Cotton Initiative", which to some extent compensates for the lack of legal enforceability [2].

3.2.2. Limitations: flexible regulation leads to enforcement gaps and insufficient remedies

The US disclosure-based regulatory model lacks uniform HRDD obligations, resulting in vague legal standards and limited enforcement effectiveness. Research shows that over 60% of companies' annual statements merely vaguely mention "taking measures" without providing specific data or examples [2]. Additionally, the multi-tiered nature of multinational corporations' supply chains weakens regulatory effectiveness. For example, labor rights issues in Southeast Asian contract manufacturers within the electronics supply chain are difficult to address because the law only requires companies to "make reasonable efforts" to review, which fails to cover suppliers below the second tier [4]. More importantly, US law does not establish a civil compensation mechanism for HRDD negligence, making it difficult for victims to seek accountability through legal channels. This "soft regulation" relies too heavily on corporate self-discipline and social supervision, and is unable to fundamentally solve the problem of labor exploitation in the supply chain. This contrasts sharply with the EU's mandatory model of "hard law and soft law".

4. Developing countries: the dual dilemma of territorial jurisdiction and capacity building

4.1. Legal tools

4.1.1. South Africa's Responsible Supply Chain Act: mandatory implementation of localized labor standards

South Africa's Responsible Supply Chain Act, enacted in 2023, is the first legislative attempt by a developing country to combine HRDD with local labor standards. The Act requires multinational companies to comply with local Labor Relations Act standards, such as minimum wages and safety training, in their South African subsidiaries and supply chains, and to verify compliance through a third-party audit mechanism [2]. The bill places particular emphasis on the regulation of high-risk industries such as mining and agriculture. It requires companies to disclose the proportion of black ownership and female employment in their supply chains, in an attempt to legislate against labor exploitation issues left over from the colonial era. For example, Article 5 of the bill stipulates that mining companies must provide South African miners with the same workers' compensation insurance as foreign employees, with violators facing fines of 1-3% of their annual turnover [4].

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4.1.2. Indonesia responds to CSDDD: industry associations lead the resistance to standards

In response to the extraterritorial application of CSDDD, the Indonesian Textile Association (API) launched the "Local Standards First" campaign in 2024, revising the National Textile Industry Guidelines to resist the EU's unilateral standards. The guidelines stipulate that local companies need only comply with the daily working hours (no more than 8 hours) and minimum wage standards (approximately USD 200 per month) as specified in Indonesia's Labor Law, and are not required to adhere to the EU's additional requirements regarding supply chain carbon footprint calculations [3].

4.2. Limitations

4.2.1. Imbalance in enforcement capacity: regulatory vacuum in Southeast Asian countries

Southeast Asian countries generally face a serious imbalance between labor inspection capacity and the number of businesses. For example, in Vietnam, the ratio of labor inspectors to businesses is 1:2,300, far below the International Labor Organization's recommended standard of 1:800 [4]. This imbalance makes it difficult for countries like Indonesia and Cambodia to effectively enforce HRDD-related regulations. Another example is that in 2023, Indonesia's Ministry of Labor only completed surprise inspections of 12% of the country's garment factories, finding that 67% of the companies had overtime violations [3]. However, due to the lengthy penalty process, only 3% of the companies were ultimately held accountable [3]. The Philippine Labor Inspection Bureau, due to insufficient budget, was forced to outsource supply chain audits to private institutions, resulting in inconsistent regulatory standards.

4.2.2. Policy conflicts between development rights and environmental standards

The environmental requirements of the EU HRDD are in direct conflict with the employment priority policies of Southeast Asian countries. Cambodia's "2024-2030 Industrial Development Plan" clearly identifies the textile industry as a pillar industry for poverty alleviation and allows companies in special economic zones to temporarily suspend compliance with EU due diligence requirements on wastewater discharge standards in order to attract foreign investment [2]. This compromise led to the EU issuing a "compliance warning" on Cambodian garment exports in 2023, but the Cambodian Ministry of Labor stated: "If EU standards are fully implemented, it will result in the unemployment of 300,000 textile workers" [4]. Similarly, Thailand delayed the implementation of the EU's due diligence requirements for a deforestation-free natural rubber supply chain to protect rubber plantation jobs, incorporating them into its national sustainable development goals only in 2026.

4.2.3. Insufficient technological empowerment: gaps in the infrastructure for digital regulation

Developing countries generally lack the digital regulatory tools needed for HRDD. Indonesia's "Supply Chain Transparency Platform", launched in 2023, can only accommodate data uploads from 10% of export companies due to insufficient server capacity, making it impossible for regulatory authorities to monitor child labor risks in the palm oil supply chain in real time [3]. Although Kenya's Ministry of Labor has introduced blockchain technology to track the flower supply chain, insufficient network coverage in rural areas (only 35%) has resulted in 30% of farm data being unable to access the regulatory system, creating a "digital regulatory blind spot" [4]. This

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technological gap has placed developing countries in a passive position of "regulatory technology dependence" when it comes to meeting the EU's HRDD digital compliance requirements.

5. Comparative insights: limited transplantation and localization reform of the EU model

5.1. Model selection: the adaptability of the EU's "hard law and soft law" approach surpasses the US's flexible regulation

The US disclosure model poses a structural risk of failure in developing countries. It relies on flexible regulation based on corporate self-discipline. Faced with enforcement conditions similar to the imbalance in Vietnam's monitoring ratio, it will inevitably repeat the mistake of the California bill's hollow disclosure, whereby more than 60% of vague statements fail to address labor rights issues at the bottom of the supply chain. More seriously, the lack of mechanisms to enforce market access restrictions will encourage compliance arbitrage similar to that seen in China's photovoltaic industry, resulting in regulatory objectives being missed. In comparison, the EU model uses the extraterritorial effect of the EU turnover threshold to turn market access into a mandatory lever (such as Unilever's voluntary compliance under the Transparency Initiative) and fills capacity gaps through soft law cooperation. This provides developing countries with a sustainable external regulatory force.

5.2. Localization reform: tiered responsibility and transition period exemption mechanism

Although the mandatory nature of the EU model has its advantages, direct transplantation will intensify the conflict between development rights and regulatory standards (such as the environmental and employment conflict in Cambodia). It is necessary to achieve "gradual compliance" through three-fold localization reforms.

5.2.1. Differentiated legislation: dynamically adapting to development needs

First, legislation should classify responsible entities into different categories. Only companies with annual export volumes exceeding a certain threshold should be subject to full obligations, similar to the EU's turnover threshold. Domestic SMEs should be exempt from non-core requirements such as carbon footprint calculations, and focus on basic labor rights, such as minimum wages and workers' compensation insurance, as specified in the South African bill's localization standards.

Second, legislation should prioritize industries. In the initial stage, restrictions should be imposed on export-oriented industries such as mining and textiles, while agricultural regulation should be postponed. Once technical capabilities have improved, restrictions can be expanded to cover the entire supply chain. This approach will avoid local backlash similar to that seen in Indonesia, where industry associations have resisted such measures, while also aligning with the pace of industrial transformation in developing countries.

5.2.2. Adaptive reuse of technical facilities: low-cost alternatives

Firstly, convert EU technical assistance into "lightweight tools" adapted to local infrastructure. For example, to address issues such as insufficient network coverage in Kenya's blockchain blind spots, the government can develop offline data collection systems to replace real-time online monitoring.

Secondly, regional shared databases, such as the ASEAN HRDD cloud platform, can be established to centrally process supply chain audit reports. This can avoid duplicate investments by

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different countries, which can lead to server crashes, such as the one that paralyzed Indonesia's digital platform.

5.2.3. Transitional period buffer and judicial remedies innovation: balancing protection and development

First, the law can set a differentiated transition period of 5-10 years. During this period, countries in the early stages of industrial upgrading are allowed to temporarily suspend the implementation of environmental due diligence and give priority to securing employment.

Second, the legal system can draw on the CSDDD model to introduce class action lawsuits and a reversal of the burden of proof. When labor groups allege supply chain violations, it is up to the companies to prove their innocence. This helps address the structural shortcomings of the US model, where victims often have no avenue for accountability.

5.3. The shift in global governance: from standard export to capacity building

The successful transplantation of the EU model requires a shift toward capacity building centered on the needs of Southern countries.

First, innovation is needed in financing mechanisms to address the issue of oversight capacity deficits. A "North-South Compliance Fund" should be established under the UNCTAD framework, funded by the EU and multinational corporations, to support the development of oversight systems in developing countries. At the same time, drawing on lessons from the relocation of Germany's textile industry, governments and the international community should provide targeted subsidies to cover the compliance costs of SMEs and bear part of the costs of joint audits. This will help prevent regulatory vacuums caused by the relocation of supply chains.

Second, legislation should establish a standard consultation mechanism that recognizes the legitimacy of local governance. The antagonism of Indonesian industry associations should be transformed into constructive dialogue, with bilateral working groups recognizing local standards and only imposing "incremental clauses" on products exported to the EU. At the same time, a transition period compliance roadmap should be formulated, allowing for phased compliance rather than mandatory one-size-fits-all measures.

Third, establish a technology-enabled North-South collaboration model that transcends unilateral regulatory logic. The international community should promote the establishment of an "EU-Developing Countries Digital Regulatory Laboratory" to jointly develop low-power regulatory tools adapted to local conditions. This has the potential to fundamentally address issues such as Kenya's blockchain blind spot-style technological dependency. At the same time, the EU could provide data storage infrastructure to address capacity bottlenecks similar to those experienced by Indonesia's digital platform outages. This would facilitate low-cost cross-border sharing of supply chain data.

6. Conclusion

This paper conducts a systematic comparison of the governance pathways for HRDD in the EU, the United States, and developing countries, revealing the significant institutional advantages of the EU's hybrid model of "hard law and soft law" compared to the US's flexible regulatory approach. The EU has established a mandatory framework through the CSDDD, leveraging market access as a lever to extend extraterritorial regulatory authority to global supply chains. This system requires companies to assume substantive responsibility for labor rights protection, supplemented by regional

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cooperation agreements to facilitate the implementation of standards. It creates a dual-drive mechanism of rule-based constraints and technology-enabled empowerment. In contrast, the US's flexible model, centered on disclosure mechanisms, lacks unified HRDD obligations and civil liability mechanisms, resulting in companies' compliance remaining at the level of superficial statements. This model struggles to penetrate the multi-layered structure of supply chains to address underlying labor rights violations, exposing the structural flaw of "self-regulation failure".

Although the EU model has advantages in terms of governance efficiency, its direct transplantation to developing countries will also face challenges in terms of adaptability. This paper points out that developing countries face systemic constraints in three dimensions: enforcement resources, development needs, and technological foundations. To resolve this contradiction, this paper advocates a stepwise localization reform to adapt the EU model. First, in terms of responsibility allocation, the law imposes tiered obligations based on enterprise size and industry characteristics. This indicates that domestic small and medium-sized enterprises are exempt from non-core requirements. Second, in terms of technological empowerment, countries can develop lightweight regulatory tools adapted to local infrastructure and establish regional data-sharing platforms to reduce compliance costs. Third, regarding transition mechanisms, the law establishes differentiated grace periods to allow for the temporary suspension of high-cost environmental standards. At the same time, legal innovations such as shifting the burden of proof in judicial remedies are introduced to protect labor rights. This incremental compliance approach can absorb the binding effect of the EU's mandatory framework while avoiding exacerbating conflicts between development rights and regulatory standards.

Ultimately, the successful transplantation of the EU model has shifted toward a new paradigm of global governance centered on capacity building. Through collaborative mechanisms such as the establishment of a North-South Compliance Fund, recognition of the legitimacy of local standards, and joint construction of localized digital regulatory systems, it will be possible to achieve a dynamic balance between maintaining the human rights bottom line in supply chains and respecting the development stages of developing countries. This will drive global HRDD governance from rule competition toward institutional coordination.

References

[1] Bastos Lima, M.G. and Schilling-Vacaflor, A. (2024) Supply Chain Divergence Challenges a 'Brussels Effect' from Europe's Human Rights and Environmental Due Diligence Laws. Global Policy, 15, 260-275.
[2] Ford, J. and Nolan, J. (2020) Regulating Transparency on Human Rights and Modern Slavery in Corporate Supply Chains: The Discrepancy Between Human Rights Due Diligence and the Social Audit. Australian Journal of Human Rights, 26, 27-45.
[3] Alwishewa, H. (2024) Human Rights Due Diligence for Arms Companies: Lessons from Supply Chain Regulations. European Journal of Risk Regulation, 1-17.
[4] Smit, L., Holly, G., McCorquodale, R. and Neely, S. (2021) Human Rights Due Diligence in Global Supply Chains: Evidence of Corporate Practices to Inform a Legal Standard. The International Journal of Human Rights, 25(6), 945-973.
[5] Bueno, N. and Bright, C. (2020) Implementing Human Rights Due Diligence through Corporate Civil Liability. International and Comparative Law Quarterly, 69, 789-818.
[6] Chambers, R. and Birchall, D. (2024) How European Human Rights Law Will Reshape U.S. Business. UC Law SF Bus. J., 20(1), 3-58.
[7] Ruggie, J.G., Rees, C. and Davis, R. (2021) Ten Years after: From UN Guiding Principles to Multi-Fiduciary Obligations. Business and Human Rights Journal, 6, 179-197.
[8] Schleifer, P. and Fransen, L. (2024) Smart Mix Politics: Business Actors in the Formulation of Global Supply Chain Regulation. Review of International Political Economy, 31(6), 1710-1734.

DOI: 10.54254/2753-7048/2025.BR26251

[9] Reuters, T. (2018). Unilever Lays Bare Palm Oil Supply Chain in Rare Industry Move. Retrieved from http: //www.ecobusiness.com/news/unilever-lays-bare-palm-oil-supply-chain-in-rare-industry-move/

[10] Saloranta, J. (2021) The EU Whistleblowing Directive: An Opportunity for (Operationalizing) Corporate Human Rights Grievance Mechanisms? European Business Organization Law Review, 22(4), 753-780.