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Cross-Border Corporate Accountability for Human Rights Harms: Mandatory Due Diligence, Domestic Implementation, and Access to Remedy

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Abstract. This paper examines how mandatory human rights due diligence can strengthen cross-border corporate accountability while preserving national regulatory autonomy and meaningful access to remedy. Using a comparative qualitative analysis of Glencore's Badila oilfield dispute, the Rana Plaza disaster, and Vedanta Resources PLC v. Lungowe, it evaluates three dimensions of accountability: enforceable legal obligations, domestic implementation and affected-party participation, and practical access to remedy. The comparison shows that legal obligation alone is insufficient. Non-binding standards can establish expectations and identify corporate failures, but they may lack compulsory enforcement and remedial authority. Binding obligations are more meaningful when supported by capable domestic institutions, independent monitoring, participation by affected workers and communities, and accessible remedial mechanisms. Vedanta further demonstrates that formally available legal rights may provide limited accountability where claimants face practical barriers to representation, evidence, expertise, and judicial access. The paper argues that effective mandatory human rights due diligence therefore depends on institutional complementarity among prevention, enforcement, participation, and remedy. It proposes a framework of common minimum due diligence obligations implemented through domestic legislation, while preserving national authority over supervisory institutions, procedures, sanctions, safeguards, and remedies. The article therefore reframes the central question from whether due diligence should be mandatory to how mandatory duties can be designed to produce meaningful accountability in practice.

Keywords: Mandatory human rights due diligence, Cross-border corporate accountability, Access to remedy

1. Introduction

Corporate activity crosses borders easily; accountability often does not. Multinational enterprises operate through corporate groups, subsidiaries, suppliers, and contractors across multiple jurisdictions, while the institutions responsible for protecting human rights remain largely national. This creates an accountability gap when corporate decisions are made in one state, harmful impacts occur in another, and responsibility is divided among parent companies, suppliers, regulators, and

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private monitoring systems. International frameworks such as the UN Guiding Principles on Business and Human Rights and the OECD Due Diligence Guidance seek to address this gap by establishing expectations for identifying, preventing, mitigating, and remedying adverse human rights impacts [1, 2]. However, these standards do not independently create binding civil liability, leaving their practical effectiveness dependent on domestic law and enforcement institutions.

The growing development of mandatory human rights due diligence (mHRDD) seeks to convert some of these expectations into enforceable legal obligations. Yet enforceability alone does not guarantee effective accountability. Legal duties may remain ineffective where regulators lack adequate powers, workers and communities cannot participate meaningfully, corporate information is inaccessible, or affected parties face barriers to obtaining remedies. Recent scholarship also raises concerns that due diligence regimes developed in wealthier jurisdictions may extend regulatory expectations into the Global South without sufficient consideration of local institutions and regulatory priorities [3]. The central challenge is therefore not simply whether human rights due diligence should be mandatory, but how binding obligations can be combined with credible domestic implementation and practical access to remedy without displacing legitimate national regulatory authority.

This paper examines that problem through three case studies. Glencore's Badila oilfield dispute illustrates the possibilities and limits of non-binding corporate human rights standards and OECD National Contact Point oversight [4]. Rana Plaza demonstrates the weaknesses of voluntary auditing and the significance of enforceable commitments, independent inspection, worker participation, and domestic labour institutions [5, 6]. *Vedanta Resources PLC v. Lungowe* shifts attention to parent-company responsibility and access to justice, showing that the formal availability of a legal claim does not necessarily make a remedy practically accessible [7].

This paper asks: How can mandatory human rights due diligence frameworks strengthen cross-border corporate accountability while preserving national regulatory autonomy and meaningful access to remedy? It argues that effective accountability requires three mutually reinforcing elements: enforceable corporate obligations, credible domestic implementation and affected-party participation, and practical access to remedy. Mandatory due diligence can strengthen accountability beyond voluntary commitments, but its effectiveness depends on domestic institutions capable of supervising compliance, obtaining information, protecting affected parties, and providing meaningful remedies. The strongest model therefore establishes common minimum obligations while preserving national authority over enforcement, procedure, safeguards, penalties, and remedies.

The paper first examines the literature on business and human rights, mandatory due diligence, private supply-chain governance, parent-company responsibility, and access to remedy. It then explains the comparative methodology and hypotheses before analyzing Glencore, Rana Plaza, and *Vedanta*. The cross-case analysis identifies the conditions under which legal obligations become effective in practice, and the final recommendations propose a model mHRDD framework and clearly assigned domestic accountability and remedy functions supported by independent oversight.

2. Literature discussion

Business and human rights scholarship has increasingly focused on human rights due diligence (HRDD) as a means of preventing corporate harm across multinational operations and supply chains. The UN Guiding Principles on Business and Human Rights define HRDD as an ongoing process through which companies identify, prevent, mitigate, and account for adverse human rights impacts, while the OECD Due Diligence Guidance develops this process through risk identification,

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prevention, monitoring, stakeholder engagement, communication, and remediation [1, 2]. Smit et al. extend this discussion by examining how companies conduct due diligence in practice, showing that meaningful HRDD requires continuing engagement with risks throughout business relationships rather than one-time supplier screening [8].

A central debate concerns whether the existence of due diligence procedures actually produces better human rights outcomes. McCorquodale and Nolan caution against treating corporate policies, reporting, or formal compliance as evidence of effectiveness. They argue that HRDD should ultimately be evaluated according to whether it prevents harm and improves outcomes for affected rights holders [9]. De Schutter similarly argues that voluntary corporate responsibility frameworks are insufficient where compliance depends primarily on corporate discretion and advocates mandatory due diligence supported by enforcement and access to remedy [10]. The shift toward mandatory HRDD is reflected in domestic and regional legislation, including France's Duty of Vigilance Law and the EU Corporate Sustainability Due Diligence Directive [11-13].

Research on private supply-chain governance further demonstrates why binding duties alone may be insufficient. Locke argues that conventional corporate auditing often focuses narrowly on supplier violations while overlooking purchasing practices, subcontracting, production pressures, and other structural conditions that can contribute to labour abuses [14]. Scholarship following Rana Plaza similarly identifies important differences between voluntary auditing and governance arrangements that combine enforceable commitments with independent inspections, worker participation, complaint mechanisms, and remediation [5, 15]. These studies suggest that the effectiveness of corporate obligations depends not only on their legal force, but also on the institutions and affected parties involved in implementation.

A related body of scholarship examines parent-company responsibility and access to remedy. Transnational litigation may provide a route for affected communities to challenge the conduct of multinational enterprises, but the availability of a legal claim does not necessarily make a remedy accessible in practice. Scholarship on *Vedanta Resources* PLC *v. Lungowe* emphasizes both the potential for domestic tort law to scrutinize a parent company's own supervision or assumption of responsibility and the limitations of fact-specific litigation after harm has already occurred [16], [17]. Claimants may still face substantial barriers involving evidence, legal representation, expertise, funding, and jurisdiction. Preventive due diligence and civil liability therefore perform distinct but complementary functions: one seeks to address risk before harm occurs, while the other may provide accountability and remedy when prevention fails.

The expansion of mHRDD also raises questions about regulatory legitimacy and national autonomy. Li and Xiang argue that domestic due diligence laws, particularly those developed in Europe, can operate as de facto global regulation because their effects extend through multinational business relationships into other jurisdictions. From a Third World Approaches to International Law perspective, they caution that these regimes may reproduce Global North and Global South inequalities when regulatory standards are designed primarily in wealthier states but implemented throughout supply chains located elsewhere [3]. Their analysis complicates the assumption that stronger transnational regulation necessarily produces more legitimate accountability and highlights the importance of preserving meaningful roles for domestic institutions and affected communities.

These literatures therefore identify different but connected dimensions of the same problem. HRDD scholarship emphasizes prevention, supply-chain governance emphasizes implementation and participation, and transnational litigation emphasizes liability and remedy, while more recent scholarship raises questions about who designs and administers these rules across borders. This paper connects these dimensions by examining the institutional conditions under which mandatory

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human rights due diligence can produce meaningful accountability in practice. Through Glencore, Rana Plaza, and *Vedanta*, it argues that enforceable obligations are most effective when combined with credible domestic implementation, affected-party participation, and practical access to remedy. It further treats national regulatory autonomy as part of effective accountability, asking how common minimum obligations can strengthen domestic institutions without replacing them.

3. Methodology and hypotheses

This paper uses a comparative qualitative case-study approach to examine the conditions under which human rights due diligence can produce meaningful cross-border corporate accountability. Glencore, Rana Plaza, and *Vedanta Resources PLC v. Lungowe* were selected because they involve different accountability mechanisms and allow comparison across three dimensions: the legal force of corporate obligations, the strength of domestic implementation and affected-party participation, and practical access to remedy. The cases are not treated as identical tests or as evidence of universal causal relationships. Instead, each provides stronger evidence for particular parts of the argument.

The purposive case selection is designed to provide variation across distinct accountability mechanisms while examining the same broader problem of cross-border corporate responsibility. Glencore was selected to examine the limits of voluntary corporate human rights commitments and non-judicial oversight through the OECD National Contact Point system; Rana Plaza was selected because it allows comparison between pre-collapse voluntary auditing and post-collapse legally binding commitments supported by inspection and worker participation; and *Vedanta Resources PLC v. Lungowe* was selected because it addresses parent-company responsibility and the practical accessibility of judicial remedy. Other cases could have illustrated individual aspects of corporate accountability, but these three together allow comparison across the paper's three hypotheses: enforceable legal obligation, domestic implementation and participation, and practical access to remedy. The cases are therefore not presented as representative of all multinational enterprises or jurisdictions. Rather, they are purposively selected to illuminate how different legal and institutional mechanisms operate at different stages of the accountability process.

Effectiveness is assessed through four common indicators: whether obligations are legally enforceable, whether institutions can monitor and respond to non-compliance, whether workers and affected communities can participate meaningfully, and whether remedies are practically accessible. This distinguishes the formal existence of a rule from its implementation and effects while allowing consideration of differences in regulatory capacity, institutional resources, corporate structure, and available legal mechanisms.

H1, Enforceable Legal Obligation, predicts that binding corporate duties provide stronger accountability mechanisms than voluntary commitments alone. Glencore and Rana Plaza provide the principal comparative evidence. Glencore illustrates the limitations of corporate commitments and an OECD National Contact Point process lacking compulsory remedial powers, while Rana Plaza contrasts pre-collapse voluntary auditing with the legally binding Bangladesh Accord.

H2, Domestic Implementation and Participation, predicts that enforceable obligations are most effective when supported by capable domestic institutions, independent monitoring, transparency, and meaningful participation by affected workers and communities. Rana Plaza provides the strongest test, with Glencore offering a secondary comparison concerning the limits of oversight without compulsory powers.

H3, Practical Access to Remedy, predicts that formal rights and legal causes of action produce meaningful accountability only when affected parties can realistically access representation,

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evidence, expertise, enforcement institutions, and effective remedies. *Vedanta* provides the principal test, while the grievance and remediation mechanisms examined in Glencore and Rana Plaza provide secondary comparisons.

Together, the hypotheses examine three connected stages of accountability: legal obligation, implementation, and remedy. The comparison therefore asks not only whether mandatory due diligence is stronger than voluntary regulation, but under what institutional conditions binding obligations become effective in practice while preserving national authority over enforcement, procedure, safeguards, and remedies.

4. Case study 1: Glencore, Badila, and the limits of soft-law human rights due diligence

Glencore provides the clearest test of H1, Enforceable Legal Obligation, while also contributing to H2 on implementation and H3 on remedy. The case examines what human rights due diligence can achieve when corporate commitments and international standards exist, but the external oversight mechanism lacks binding enforcement powers. The principal accountability mechanism examined here is the UK National Contact Point (NCP) process under the OECD Guidelines for Multinational Enterprises.

Glencore had developed an extensive internal human rights framework before the dispute. Its 2019 *Human Rights Report*stated that the company was committed to the UN Guiding Principles on Business and Human Rights and the OECD Guidelines. Controlled assets were expected to identify and assess human rights risks, adopt preventive and mitigating measures, engage affected communities, maintain grievance mechanisms, monitor performance, and participate in remediation where appropriate [18]. These commitments incorporated many of the central elements associated with HRDD.

Yet Glencore's own reporting also revealed limitations in implementation. Enhanced supply-chain due diligence was still being introduced, reviews had identified inconsistencies among local grievance mechanisms, and further development of incident reporting and the company's Human Rights Risk Framework remained planned [18]. The relevant question was therefore not whether Glencore possessed human rights policies, but whether a system dependent substantially on corporate self-assessment, internal implementation, and reporting could provide effective accountability when serious disputes arose.

That question became significant at the Badila oilfield in Chad, operated by PetroChad Mangara Ltd. (PCM), a Glencore subsidiary. In September 2018, an earth bank supporting a wastewater basin collapsed, causing produced water to enter the Nya Pende River and surrounding farmland [19]. Residents later alleged a separate pipeline leak, although Glencore disputed that a recordable leak had occurred [19, 20]. The river was used by surrounding communities for water, agriculture, fishing, and livestock, making the incident relevant to environmental conditions, health, and local livelihoods [4].

Glencore characterized the wastewater incident primarily as flooding affecting farmland and stated that complaints were investigated with farmers and local representatives, with compensation provided where claims were accepted [18]. Rights and Accountability in Development reported broader community allegations involving health effects, environmental harm, and deficiencies in the recording and investigation of grievances [20]. Glencore disputed the alleged connection between its operations and reported medical conditions and later committed to further review of sampling procedures and grievance mechanisms [20]. These allegations were contested and should not be treated as judicially established facts. They nevertheless reveal the difficulties that arise when

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information about corporate impacts is produced and assessed largely through company-controlled processes.

The dispute also raised concerns about classification and disclosure. Glencore reported no serious human rights incidents for 2019 despite ten social and human rights incidents having been reported internally to its Board committee. The company also acknowledged that its methodology for identifying serious human rights incidents required further development [18, 21]. This does not establish deliberate concealment. Rather, it illustrates the discretion corporations may retain over how incidents are classified, investigated, and publicly reported within voluntary governance systems.

In September 2020, several organizations submitted a complaint to the UK NCP alleging that Glencore UK had failed to comply with the OECD Guidelines in connection with its business relationship with PCM. The complaint raised issues concerning due diligence, environmental protection, disclosure, community engagement, and remedy [19]. The NCP offered an external avenue for reviewing corporate conduct, but it was a non-judicial mechanism. It could assess compliance with the OECD Guidelines and issue recommendations, but it could not impose financial penalties, award compensation, or issue binding judicial orders [4].

In its 2024 Final Statement, the NCP found that Glencore UK had not complied with two OECD Guidelines provisions concerning risk-based due diligence and the prevention or mitigation of adverse impacts linked to its business relationship with PCM [4]. The finding was carefully limited. The NCP did not conclude that Glencore UK had directly caused all of the alleged harms and found insufficient evidence to establish the alleged pipeline leak [4]. The process therefore produced independent scrutiny and a finding concerning due diligence responsibilities, but it did not determine civil liability or provide a compulsory remedy.

The case provides qualified support for H1. Soft-law mechanisms are not without value. The OECD process established standards against which corporate conduct could be assessed, created an avenue for complaints, and produced an external finding concerning due diligence. Its limitations became apparent, however, when those findings could not themselves generate binding sanctions or remedies. Mandatory HRDD could address part of this gap by translating selected due diligence expectations into enforceable domestic obligations, although the existence of a legal duty would not by itself guarantee effective implementation or remediation [10].

Glencore also contributes to H2 and H3. Inconsistencies within grievance mechanisms and the NCP's limited remedial authority demonstrate that accountability depends not only on corporate standards but also on institutions with sufficient authority, access to information, and capacity to respond to non-compliance. At the same time, Glencore offers less evidence about direct affected-party participation and practical judicial access than the cases that follow. Its principal contribution is therefore to demonstrate the boundary between norm-setting and enforceable accountability: voluntary standards and non-judicial oversight can identify failures and encourage reform, but they may be unable to compel the sanctions or remedies necessary when voluntary compliance proves insufficient.

Rana Plaza provides the next stage of the comparison by examining what changes when stronger obligations are combined with independent monitoring, worker participation, remediation requirements, and domestic labour institutions.

5. Case study 2: Rana Plaza, enforceability, and worker participation

Rana Plaza provides the strongest evidence for H1, Enforceable Legal Obligation, and H2, Domestic Implementation and Participation, while offering secondary evidence for H3. Unlike Glencore,

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where the principal external mechanism examined lacked binding remedial powers, Rana Plaza allows comparison between pre-collapse voluntary auditing and post-collapse arrangements that combined enforceable commitments, independent inspection, worker participation, remediation, and domestic labour regulation.

On April 24, 2013, the Rana Plaza building in Savar, Bangladesh collapsed, killing 1,134 people and injuring more than 2,500 others. Five garment factories in the building produced clothing for international brands through supplier and subcontracting relationships [22, 23]. The disaster exposed a broader problem in global supply chains: multinational buyers could influence prices, deadlines, and production practices while responsibility for workplace safety remained divided among brands, suppliers, factory owners, auditors, workers, and Bangladeshi regulators [14, 23].

Before the collapse, multinational brands relied heavily on supplier codes of conduct, corporate social responsibility programmes, and private social audits. Yet these mechanisms did not prevent workers from entering an unsafe building. Two factories operating within Rana Plaza had previously been audited, illustrating that the existence of an audit did not ensure that serious structural risks would be identified or corrected [5]. Locke similarly argues that private compliance systems often concentrated on individual supplier violations while giving insufficient attention to purchasing practices, subcontracting, production pressures, and other structural conditions within global supply chains [14].

A major post-collapse response was the Bangladesh Accord on Fire and Building Safety. Unlike conventional voluntary auditing, the Accord imposed legally binding contractual commitments on participating brands and retailers and established independent inspections, public reporting, remediation requirements, worker complaint mechanisms, and participation by trade unions and worker representatives [5, 24]. Participating companies were therefore subject to enforceable commitments rather than relying solely on voluntary supplier codes.

The Accord should not, however, be treated as equivalent to statutory mandatory human rights due diligence. It was a binding contractual arrangement rather than legislation imposing a general due diligence duty on covered companies [24]. Its significance lies in showing what can change when corporate commitments become enforceable and are combined with independent monitoring and worker participation. Research identifies substantial improvements in building and fire safety following the post-Rana Plaza reforms, although problems involving wages, purchasing practices, and freedom of association remained [15, 25].

Rana Plaza also demonstrates why enforceability cannot be separated from domestic implementation. Post-collapse reforms strengthened Bangladesh's labour administration and inspection capacity alongside the transnational mechanisms created through the Accord [6]. Responsibilities therefore remained distributed among different institutions. Independent inspectors and the Accord monitored factory safety and remediation; workers and trade unions gained channels for participation and complaints, while Bangladeshi authorities retained responsibility for enforcing domestic labour law. International governance supplemented rather than replaced national regulatory authority.

This makes Rana Plaza particularly important for H2. Workers were not treated solely as passive beneficiaries of corporate compliance. Trade-union involvement, complaint mechanisms, independent inspections, and public reporting created channels through which affected parties could identify risks and challenge unsafe conditions [5]. Frenkel, Rahman, and Rahman similarly emphasize that lasting improvements depend on the interaction of transnational governance, domestic regulation, and workplace labour relations rather than any single regulatory instrument [25].

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The case also provides secondary evidence for H3. A separate Rana Plaza Arrangement was created to provide compensation to injured workers and the dependants of those killed, bringing together the Bangladeshi government, employers, worker organizations, international brands, and other stakeholders through an ILO-supported process [22]. This illustrates that recognition of rights is insufficient if affected individuals lack an institutional route through which compensation or other forms of remediation can actually be obtained. At the same time, the Arrangement was a negotiated compensation mechanism rather than a judicial determination of corporate liability, so it does not resolve the broader barriers to civil remedy examined later in *Vedanta*.

The case therefore provides strong but qualified support for H1. The contrast between voluntary auditing and the binding Accord suggests that enforceability can strengthen monitoring, remediation, and corporate responsibility. However, the Accord was contractual rather than statutory, and the evidence does not establish that every mandatory HRDD regime would produce the same results. Nor can post-collapse improvements be attributed to enforceability alone, because domestic reform, trade-union participation, independent inspection, international pressure, and public attention operated simultaneously.

Rana Plaza provides particularly strong support for H2. Its principal lesson is that enforceable commitments become more effective when institutions can monitor compliance and affected workers can participate meaningfully in implementation. The case therefore qualifies any assumption that mandatory due diligence is sufficient by itself. Legal duties may strengthen accountability, but their effects depend on inspection, information, worker voice, remediation, and capable domestic institutions.

Finally, Rana Plaza offers more limited support for H3. Compensation mechanisms created an important avenue for redress, but the case does not establish that affected workers enjoyed comprehensive access to judicial remedies or that corporate liability was fully resolved. It also cannot demonstrate that mandatory human rights due diligence would have prevented the 2013 collapse because the principal mechanisms examined here were introduced afterward.

Rana Plaza's central contribution is therefore comparative: voluntary auditing proved insufficient, while stronger safety outcomes followed when enforceable commitments were combined with independent monitoring, worker participation, remediation, and domestic institutional reform. The case moves the analysis beyond the soft-law limitations identified in Glencore and toward the question examined in *Vedanta*: whether an enforceable legal route can provide meaningful accountability when affected communities still face practical barriers to obtaining a remedy.

6. Case study 3: Vedanta Resources PLC v. Lungowe, parent-company responsibility, and access to remedy

Vedanta Resources PLC v. Lungowe provides the strongest evidence for H3, while also offering qualified support for H1. Whereas Glencore illustrates the limits of non-binding oversight and Rana Plaza demonstrates the importance of enforceability, implementation, and participation, *Vedanta*examines whether affected communities can use domestic courts to pursue a multinational parent company after alleged harm connected to the operations of a foreign subsidiary.

The case involved approximately 1,826 residents of Zambia's Chingola District who alleged that pollution from the Nchanga Copper Mine harmed local watercourses, health, land, farming, income, and livelihoods [7, 17]. The mine was operated by Konkola Copper Mines PLC (KCM), while Vedanta Resources PLC was its United Kingdom-domiciled parent company. The claimants brought negligence and statutory-duty claims under Zambian law against both companies [7].

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The central legal issue was whether Vedanta could potentially owe a direct duty of care to people affected by the operations of its separately incorporated subsidiary. The Supreme Court emphasized that parent and subsidiary companies remain separate legal persons and that a parent company does not become liable merely because it owns or controls a subsidiary's shares [7]. The relevant question was instead what Vedanta itself had done. A duty might arise where a parent company manages or jointly manages relevant activities, advises the subsidiary on risk management, exercises sufficient supervision or control, or otherwise assumes responsibility through its own conduct [7].

Vedanta's published environmental and sustainability policies were therefore significant. The claimants relied on materials describing group-wide environmental standards, board-level oversight, training, monitoring, and enforcement. The Supreme Court concluded that these materials were sufficient at the jurisdictional stage to support an arguable claim that Vedanta had assumed responsibility for environmental management at the mine [7]. The Court did not hold that the publication of corporate policies automatically creates liability. Their importance was evidentiary because they could help demonstrate the extent to which the parent company had actually involved itself in the subsidiary's operations.

This creates an important comparison with Glencore. In the Badila dispute, corporate human rights policies were examined primarily through a non-binding OECD process. In *Vedanta*, corporate policies could acquire legal significance because a domestic court could consider them as evidence relevant to a parent company's own assumption of responsibility. The case therefore provides qualified support for H1 by demonstrating how domestic tort law may attach legal consequences to a parent company's own conduct rather than relying solely on voluntary corporate commitments.

That conclusion must remain carefully limited. The Supreme Court did not determine that Vedanta actually owed or breached a duty of care, did not decide whether the alleged pollution caused the claimants' losses, and did not award compensation or environmental remediation [7]. The judgment also did not establish a general legal duty requiring multinational parent companies to conduct human rights due diligence throughout their corporate groups. It therefore established a potential route to liability rather than a final determination of corporate responsibility.

The second major issue concerned practical access to justice. The Supreme Court concluded that Zambia was ordinarily the proper forum because the alleged pollution, mine, witnesses, regulators, and much of the relevant evidence were located there, and Zambian law governed the claims [7]. Nevertheless, the proceedings were permitted to continue in England because there was a real risk that the claimants could not obtain substantial justice in Zambia [7].

Importantly, the Court did not question the competence or independence of the Zambian judiciary. Its concern was practical rather than institutional in that sense. The claimants faced serious difficulties financing complex group litigation and obtaining legal representation with sufficient resources and experience to manage extensive scientific and technical evidence [7]. The case therefore distinguishes between the formal availability of a legal forum and the realistic ability of affected communities to make use of it.

This makes *Vedanta* the strongest test of H3. The case demonstrates that the existence of a legal cause of action is insufficient if affected communities cannot realistically obtain representation, funding, evidence, expertise, and access to a forum capable of resolving the dispute. Meaningful access to remedy therefore depends not only on whether legal rights exist, but also on whether the surrounding institutions and procedures make those rights usable in practice.

The decision also reinforces the paper's treatment of national regulatory autonomy. Zambian law governed the underlying claims, and the Supreme Court accepted that Zambia was ordinarily the

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appropriate forum. The judgment did not replace Zambian law with international human rights standards or suggest that domestic regulatory authority should be displaced. The jurisdictional result arose from the specific risk that these claimants would not obtain substantial justice in practice. *Vedanta* therefore demonstrates how cross-border accountability can remain grounded in domestic law while responding to practical barriers created by transnational corporate structures.

The case further illustrates the distinction between preventive due diligence and reactive litigation. The UN Guiding Principles and OECD Due Diligence Guidance emphasize identifying, preventing, mitigating, monitoring, and remedying adverse impacts before or as they occur [1, 2]. Tort litigation generally operates after alleged harm and requires claimants to establish elements such as duty, breach, causation, and loss. It can provide an important avenue for accountability, but it remains fact-specific, resource-intensive, and dependent on access to evidence and legal expertise [16].

The case therefore provides qualified support for H1 and particularly strong support for H3. Its central contribution is to demonstrate that meaningful corporate accountability requires both an enforceable legal route and realistic access to the institutions that make that route usable. Preventive HRDD and civil liability should therefore be understood as complementary mechanisms. Due diligence seeks to identify and address risk before harm occurs, while accessible judicial remedies remain necessary when prevention fails.

Taken together, Glencore, Rana Plaza, and *Vedanta* establish a progression from standards, to implementation, to remedy. The next section compares the three cases directly to identify the institutional conditions under which human rights due diligence is most likely to produce meaningful cross-border accountability.

7. Cross-case analysis

The three cases reveal a common problem in cross-border corporate accountability: the existence of human rights standards is not the same as their effective implementation. Glencore, Rana Plaza, and *Vedanta Resources PLC v. Lungowe* involve different industries, institutions, and forms of alleged harm, but together they show that accountability depends on the interaction of three functions: enforceable legal obligation, credible implementation with affected-party participation, and practical access to remedy. No single mechanism performs all three functions adequately on its own.

The comparison provides qualified but consistent support for H1, Enforceable Legal Obligation. Glencore demonstrates the limits of a system in which extensive corporate human rights commitments are primarily reviewed through non-binding oversight. The UK NCP could assess Glencore UK's conduct and ultimately find non-compliance with two OECD Guidelines provisions, but the process did not itself provide binding liability, financial penalties, or compulsory compensation [4]. Soft-law mechanisms can therefore establish standards, receive complaints, and generate external scrutiny while remaining limited in the consequences they can impose.

Rana Plaza provides stronger evidence for H1 because it allows a clearer comparison between voluntary auditing and legally enforceable commitments. Before the collapse, supplier codes and private auditing did not prevent serious safety failures. The post-collapse Bangladesh Accord introduced legally binding contractual commitments alongside independent inspections, remediation requirements, public reporting, and worker complaint mechanisms [5]. Research documents substantial improvements in building and fire safety during the post-Rana Plaza period, although important labour problems remained [15]. The evidence therefore suggests that enforceability can

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strengthen accountability, but the conclusion remains qualified because the Accord was contractual rather than statutory mHRDD and operated alongside several other reforms.

Vedanta adds a different form of enforceability. Rather than imposing a general statutory due diligence obligation, domestic tort law created a potential route through which legal consequences could attach to a parent company's own supervision, control, or assumption of responsibility [7]. Corporate policies and public representations therefore need not remain entirely within voluntary governance if they provide evidence of a parent company's own conduct. At the same time, the Supreme Court decided only that the claim against Vedanta was arguable. It did not determine liability, causation, or entitlement to a remedy [7].

Taken together, the cases support a more precise conclusion than the claim that binding law is inherently effective. Enforceability changes the consequences that institutions can attach to corporate conduct, but it does not determine whether those obligations will function effectively in practice. This distinction is consistent with scholarship cautioning that due diligence should be evaluated by its effects on affected rights holders rather than by the existence of policies or procedures alone [9].

This leads to H2, Domestic Implementation and Participation, for which Rana Plaza provides the strongest evidence. The Bangladesh Accord combined enforceable commitments with independent inspection, trade-union participation, worker complaint mechanisms, transparency, and remediation, while reforms within Bangladesh strengthened labour administration and inspection capacity [5, 6]. Different institutions performed different functions within the same accountability structure. International and private governance did not remove the role of the state. Bangladeshi authorities continued to enforce domestic labour law while transnational mechanisms added monitoring, corporate obligations, and channels for worker participation.

Glencore supports H2 from the opposite direction. The company possessed human rights policies and grievance procedures, but its own reporting identified inconsistencies within grievance mechanisms, while the NCP lacked the coercive authority of a court or statutory regulator [4, 18]. The case therefore illustrates why implementation cannot depend exclusively on corporate processes or external institutions without sufficient enforcement powers. *Vedanta* reaches a related conclusion through the judicial context because legal accountability depended not only on the existence of a claim but also on institutions capable of handling complex evidence, multinational corporate structures, and large groups of affected claimants.

The comparison also demonstrates the importance of affected-party participation. Rana Plaza provides the clearest example because workers and trade unions were incorporated into inspection, complaint, and governance processes rather than treated solely as beneficiaries of corporate protection [5]. Glencore illustrates the difficulties that can arise when communities dispute how grievances and alleged harms have been recorded or investigated. Together, these cases suggest that HRDD should not operate merely as an internal corporate compliance exercise. Workers and affected communities can provide information necessary both to identify risks and to assess whether corporate responses are effective.

H3, Practical Access to Remedy, is most strongly supported by *Vedanta*. The Supreme Court's substantial-justice analysis demonstrates the distinction between formally possessing a legal right and realistically being able to exercise it. Although Zambia was ordinarily the proper forum, the Court identified serious practical barriers involving litigation funding, legal representation, and the expertise necessary to manage complex scientific evidence [7]. A cause of action therefore has limited practical value where affected parties cannot access the resources and institutions necessary to pursue it.

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Rana Plaza and Glencore reinforce this conclusion through non-judicial mechanisms. The Rana Plaza compensation process created an institutional route through which injured workers and dependants of those killed could receive compensation, demonstrating the importance of converting recognition of harm into an operational remedial process [22]. By contrast, the Glencore NCP process could identify due diligence failures but could not itself impose compensation or other compulsory remedies [4]. Remedy therefore emerges across the cases as a distinct component of accountability rather than an automatic consequence of establishing standards or identifying non-compliance.

The cases also clarify the relationship between cross-border accountability and national regulatory autonomy. None suggests that effective accountability requires replacing domestic legal systems with a single transnational enforcement institution. Rana Plaza demonstrates how transnational corporate obligations can operate alongside national labour enforcement [5, 6]. *Vedanta* remained grounded in Zambian substantive law even when English courts considered whether the claimants could obtain substantial justice in practice [7]. Glencore shows how international standards can guide corporate conduct and external review without themselves displacing domestic legal authority [4]. These cases therefore support a model in which common due diligence expectations establish a minimum baseline while states retain meaningful authority over enforcement institutions, procedures, safeguards, penalties, and remedies. This approach also responds to concerns that mHRDD regimes developed in wealthier jurisdictions may otherwise extend regulatory expectations into producing states without adequate consideration of local institutions and priorities [3].

The cross-case evidence therefore supports the paper's central argument of institutional complementarity. Enforceable obligations matter because they reduce dependence on corporate discretion. Domestic implementation and affected-party participation matter because legal duties require institutions capable of monitoring and applying them. Practical access to remedy matters because prevention can fail, and rights have limited value if affected people cannot pursue redress. Glencore, Rana Plaza, and *Vedanta* consequently show that no single accountability mechanism is sufficient on its own. Effective mHRDD instead requires the interaction of prevention, implementation, participation, and remedy, while allowing those functions to operate through legitimate domestic institutions.

8. Policy recommendations

The cross-case analysis demonstrates that stronger cross-border corporate accountability requires more than the adoption of substantive human rights standards. A workable framework must identify who creates the obligations, which institution supervises compliance, how affected parties participate, which remedies are available, and how cross-border implementation problems are addressed. Glencore illustrates the limits of external review without compulsory remedial authority, Rana Plaza demonstrates the importance of combining enforceability with independent monitoring and worker participation, and *Vedanta* demonstrates that formally available legal rights may remain difficult to exercise where claimants lack access to representation, funding, or expert evidence [4, 5, 7]. The recommendations therefore establish common accountability functions while preserving substantial national authority over institutional structure, enforcement procedure, safeguards, and remedies.

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8.1. Recommendation 1: enact mandatory human rights due diligence through domestic legislation

States should translate core HRDD expectations into binding domestic legislation rather than relying exclusively on voluntary corporate commitments or international soft law. The UN Guiding Principles define HRDD as an ongoing process through which businesses identify, prevent, mitigate, and account for adverse human rights impacts, while the OECD Guidance develops that process through risk identification, prevention and mitigation, monitoring, communication, stakeholder engagement, and remediation [1, 2]. Mandatory legislation would give selected elements of that process legal force while leaving implementation within domestic legal systems.

The European Union's Corporate Sustainability Due Diligence Directive provides one concrete example of how international or regional standards can be translated into domestic legal duties. In its current form, following the 2026 amendments, the Directive requires covered companies to conduct risk-based human rights and environmental due diligence involving integration into corporate policies, identification and assessment of impacts, prevention and mitigation, remediation, stakeholder engagement, complaints procedures, monitoring, and public communication [12, 13].

The proposed model should require covered companies to identify and assess serious human rights risks connected to their own operations, subsidiaries, and relevant business relationships; take reasonable measures to prevent or mitigate identified risks; respond to actual adverse impacts; monitor the effectiveness of those measures; engage affected workers and communities; establish accessible grievance mechanisms; disclose appropriate information; and provide or cooperate in remediation where required [1, 2]. These duties should also require companies to consider whether their own purchasing practices, production demands, contractual arrangements, or other commercial decisions contribute to adverse conditions within their supply chains. Research on private labour governance and Rana Plaza demonstrates why concentrating solely on supplier compliance can overlook purchasing pressures and other structural conditions associated with labour risks [14, 15, 24]. The amended CSDDD similarly identifies changes to a company's own business plans, strategies, operations, and purchasing practices as possible measures for addressing adverse impacts [12, 13].

The legislature must also define which companies are covered. A practical model should initially concentrate the most extensive duties on large multinational enterprises and parent companies, while permitting proportionate obligations for smaller enterprises where the severity of human rights risk justifies them. The current amended CSDDD illustrates one possible threshold-based approach: its principal EU-company threshold is more than 5,000 employees and more than €1.5 billion in worldwide net turnover, with separate provisions for qualifying parent companies and certain franchising and licensing structures [12, 13]. The proposed framework need not reproduce those thresholds, but the example demonstrates how legislation can specify corporate scope rather than leaving coverage undefined.

The legislation must next identify who supervises compliance. Each state should designate one or more competent supervisory authorities and give them sufficient legal powers and resources to request corporate information, investigate suspected violations, and conduct inspections in accordance with national law. The amended CSDDD follows this structure by requiring Member States to designate supervisory authorities under Article 24 and by requiring those authorities to possess adequate powers and resources, including powers to obtain information and undertake investigations under Article 25 [12, 13].

DOI: 10.54254/2753-7048/2026.39422

Those authorities should also possess corrective powers rather than merely advisory functions. Under the current CSDDD, supervisory authorities may require companies to cease infringements, prevent repetition, and, where appropriate, provide remediation proportionate to the infringement; remedial action does not itself prevent penalties or civil liability from arising where the applicable requirements are satisfied [12, 13]. A model mHRDD framework should similarly authorize domestic regulators to issue corrective orders and impose proportionate administrative consequences rather than limiting them to recommendations.

The legislation should also establish sanctions for non-compliance. The current amended CSDDD requires Member States to provide pecuniary penalties and permits public identification where a company fails to comply with a penalty decision; following the 2026 amendment, the maximum pecuniary-penalty limit must be set at 3 percent of the relevant worldwide turnover [12, 13]. The proposed framework need not prescribe an identical percentage for every jurisdiction, but it should require sanctions that are sufficiently significant to make compliance more than voluntary.

At the same time, mHRDD should remain a process-based obligation rather than strict liability whenever an adverse impact occurs. The UNGPs and OECD Guidance conceptualize due diligence as continuing risk identification, prevention, mitigation, tracking, communication, and remediation rather than as a guarantee that no harm will occur [1, 2]. The amended CSDDD similarly directs companies to take "appropriate measures" in light of the nature of the impact, the company's involvement, and its ability to influence relevant business partners rather than imposing automatic liability whenever harm exists [12, 13].

Civil liability should therefore remain distinct from administrative supervision. Under the current 2026 text of Article 29, the Directive no longer itself supplies the complete substantive basis for civil liability. Instead, where a company is held liable under national law for damage caused by failure to comply with the Directive's due diligence requirements, the affected person must have a right to full compensation, while the Directive preserves procedural protections concerning limitation periods, litigation costs, injunctive relief, and proportionate disclosure of evidence [12, 13]. This offers a useful model for balancing common accountability requirements with domestic rules governing causation, responsibility, and damages.

France's Duty of Vigilance regime provides another relevant domestic example. French law requires covered companies to establish and implement vigilance plans addressing serious risks involving human rights, health and safety, and the environment arising from their own activities, controlled companies, and certain established relationships with subcontractors and suppliers [11]. French law also permits a competent court, following the statutory notice procedure, to order a company to comply with its vigilance obligations [11]. The French legislation additionally links failure to comply with vigilance duties to ordinary civil-responsibility principles concerning damage that proper performance of those obligations would have prevented [11].

The principal implementation obstacle is regulatory capacity. A legal obligation will have limited practical effect where the designated authority lacks personnel, investigative powers, technical expertise, or access to corporate information. The CSDDD itself recognizes the institutional dimension by requiring supervisory authorities to possess adequate powers and resources [12, 13]. The proposed framework should therefore require states not merely to name an enforcement body but to provide it with sufficient statutory authority and institutional resources to perform its assigned functions.

A second obstacle is institutional fragmentation. Human rights impacts may simultaneously involve labour, environmental, corporate, consumer, or other regulators. The solution should not necessarily be the creation of one new agency. States should instead allocate responsibility clearly

DOI: 10.54254/2753-7048/2026.39422

and establish referral and information-sharing procedures among competent authorities. This approach better preserves national regulatory autonomy because states can place the required functions within existing labour ministries, corporate regulators, environmental bodies, national human rights institutions, or specialized agencies according to their own institutional structures.

Glencore and Rana Plaza demonstrate why both legal force and implementation capacity are necessary. The UK NCP could assess compliance with the OECD Guidelines and identify due diligence shortcomings but could not itself impose compulsory compensation or binding judicial remedies [4]. The Bangladesh Accord, by contrast, combined legally binding contractual commitments with inspections, remediation requirements, public reporting, and worker complaint mechanisms, although the Accord was not itself statutory mHRDD legislation [5, 24]. Recommendation 1 therefore operationalizes H1, Enforceable Legal Obligation, while recognizing that enforceability must be connected to institutions capable of applying the law.

8.2. Recommendation 2: assign domestic accountability, participation, and remedy functions

Once substantive duties exist, domestic legislation should specify which institutions perform the functions necessary to make those duties effective. These functions should include receiving complaints, obtaining relevant information, protecting affected parties, investigating non-compliance, coordinating regulators, ordering or monitoring corrective measures, referring appropriate cases to courts or other authorities, and communicating outcomes to affected parties. Rana Plaza, Glencore, and *Vedanta* collectively demonstrate why legal duties, implementation, participation, and remedy cannot be treated as interchangeable functions [4, 5, 7].

A designated supervisory authority should provide an accessible administrative route for complaints or substantiated concerns. Under the amended CSDDD, natural and legal persons may submit substantiated concerns through accessible channels where objective circumstances give them reason to believe that a company is not complying with national implementing law, and authorities must protect identifying information when appropriate and transfer complaints falling within another authority's competence [12, 13]. The Directive separately requires companies themselves to establish complaint and notification mechanisms for persons who are or may be affected, their representatives, civil society actors, trade unions, and other qualifying actors [12, 13].

Affected-party participation should not end when a complaint is filed. The amended CSDDD requires meaningful stakeholder engagement at specified stages of the due diligence process and requires companies to identify barriers to engagement and protect participants against retaliation or retribution [12, 13]. Rana Plaza provides an empirical justification for this approach because the post-collapse governance arrangements incorporated trade unions, worker complaint mechanisms, independent inspection, and remediation rather than leaving safety monitoring exclusively to corporate auditors [5, 15].

The domestic system should also establish a clear enforcement pathway after a complaint is substantiated. A regulator should be able to investigate the matter, require information, impose or seek corrective measures where legally authorized, and refer issues falling outside its competence to the appropriate institution. The CSDDD provides a concrete institutional model: Articles 24 to 27 connect designated supervisory authorities, investigatory powers, substantiated concerns, corrective action, and penalties within one administrative framework [12, 13].

Administrative enforcement should not replace judicial remedy. Where an affected person alleges compensable harm, access to courts should continue to operate under applicable domestic liability law. The amended CSDDD requires that relevant limitation rules not unduly obstruct damages claims, that proceedings not be prohibitively expensive, that claimants have access to injunctive

DOI: 10.54254/2753-7048/2026.39422

measures, and that courts be able to order proportionate disclosure of evidence where the claimant makes the required showing [12, 13]. These provisions are particularly relevant to transnational claims because important corporate evidence may be controlled by defendants rather than affected workers or communities.

Vedanta demonstrates why these procedural questions are integral to accountability. The UK Supreme Court concluded that Zambia was ordinarily the appropriate forum, but it separately considered whether the claimants could realistically obtain substantial justice in light of the cost of complex group litigation and difficulties obtaining sufficiently resourced legal representation and expert evidence [7]. The Court did not criticize the competence or independence of the Zambian judiciary; its concern centered on practical access to the resources necessary to pursue the claims [7]. A remedy that formally exists but cannot realistically be pursued provides incomplete accountability.

The proposed framework should therefore require states to address practical barriers while respecting domestic procedural traditions. Relevant mechanisms may include proportionate evidence-disclosure rules, protection against retaliation, reasonable limitation periods, access to injunctive relief, appropriate representative or collective procedures where permitted by domestic law, and review of administrative enforcement decisions. The amended CSDDD demonstrates that some procedural minimums can coexist with national civil-liability rules rather than requiring complete harmonization of private law [12, 13].

Implementation must also address confidentiality and defendants' procedural rights. The CSDDD permits protection of trade secrets and requires proportionality when courts order disclosure of evidence, including consideration of confidential information and the legitimate interests of the parties and third persons [12, 13]. A workable accountability regime should therefore strengthen access to information without assuming that all corporate records can be disclosed without restriction.

Cross-border implementation creates a further institutional problem when an investigation requires action in another jurisdiction. Within the EU system, a supervisory authority seeking to conduct an inspection in another Member State must request assistance from the authority in that state, while the European Network of Supervisory Authorities facilitates cooperation, coordination, and information-sharing among national regulators [12, 13]. The broader model proposed here should follow the same principle rather than granting domestic regulators unrestricted extraterritorial authority: cross-border assistance should operate through established bilateral, regional, or other lawful cooperation mechanisms.

This recommendation directly implements H2, Domestic Implementation and Participation, and H3, Practical Access to Remedy. Rana Plaza demonstrates why enforcement and worker participation matter; Glencore demonstrates the limits of review without compulsory remedial authority; and *Vedanta* demonstrates why a formally available legal route must also be practically accessible [4, 5, 7].

Together, the two recommendations establish a concrete implementation sequence. Domestic legislatures create enforceable HRDD duties; designated supervisory authorities investigate and administer compliance; workers and communities participate through complaint and consultation mechanisms; courts provide review and civil remedies under domestic law; and competent authorities use lawful cooperation mechanisms when enforcement requires action across jurisdictions. The model therefore establishes common accountability functions without requiring uniform national bureaucracies, procedural systems, or remedies.

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9. Conclusion

This paper asked how mandatory human rights due diligence can strengthen cross-border corporate accountability while preserving national regulatory autonomy and meaningful access to remedy. The three cases support a common conclusion: effective accountability depends on the interaction of enforceable corporate obligations, credible domestic implementation and affected-party participation, and practical access to remedy. International standards such as the UN Guiding Principles and OECD Due Diligence Guidance provide an important normative foundation, but their effectiveness ultimately depends on how they are translated into domestic law and institutions [1, 2].

The cross-case comparison shows why no single mechanism is sufficient on its own. Glencore demonstrates that non-binding oversight can establish standards and identify due diligence failures without necessarily producing compulsory sanctions or remedies [4]. Rana Plaza shows that enforceable commitments become more meaningful when combined with independent inspection, worker participation, remediation, and domestic labour institutions [5, 6]. *Vedanta* demonstrates that formal legal rights remain incomplete where affected communities cannot realistically access funding, representation, evidence, expertise, and an effective forum [7].

These findings support the paper's three hypotheses in a complementary rather than cumulative way. H1, Enforceable Legal Obligation, is supported by the contrast between voluntary commitments and mechanisms capable of attaching legal consequences to corporate conduct. H2, Domestic Implementation and Participation, is supported most strongly by Rana Plaza, where monitoring, worker voice, and domestic institutional capacity shaped how enforceable commitments operated in practice [5, 25]. H3, Practical Access to Remedy, is supported most strongly by *Vedanta*, which shows that rights become meaningful only when affected parties can realistically use the institutions designed to enforce them [7].

The analysis also clarifies the role of national regulatory autonomy. Stronger cross-border accountability does not require replacing domestic legal systems with a single international enforcement authority. A more defensible model establishes common minimum substantive obligations while leaving states meaningful authority over supervisory institutions, procedure, sanctions, evidentiary rules, safeguards, and remedies. This approach is consistent with the broader development of mandatory due diligence while responding to concerns that transnational regulatory frameworks may otherwise impose standards across jurisdictions without sufficient attention to local institutions and regulatory priorities [3, 10].

The policy recommendations follow directly from this institutional logic. Domestic legislatures should create enforceable HRDD duties, designated supervisory authorities should possess adequate investigatory and corrective powers, workers and communities should have meaningful complaint and participation mechanisms, and courts should remain available where civil remedies are appropriate. Existing legal models show that these functions can be assigned through domestic legislation without requiring identical national institutions, including France's Duty of Vigilance regime and the EU Corporate Sustainability Due Diligence Directive as amended in 2026 [11-13].

The analysis nevertheless has important limits. The three cases arise from different industries, jurisdictions, legal mechanisms, and forms of harm, so they cannot isolate the independent causal effect of enforceability, participation, or remedial access. Rana Plaza cannot establish that mandatory HRDD would have prevented the 2013 collapse because the principal binding mechanisms examined were introduced afterward [5]. *Vedanta*concerned jurisdiction and an arguable duty rather than a final determination of liability or compensation [7]. Glencore similarly

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demonstrates the limits of a particular non-judicial mechanism rather than proving how a statutory mHRDD regime would have operated in the same circumstances [4].

The paper's central contribution is therefore one of institutional complementarity. Enforceable duties reduce dependence on corporate discretion, domestic institutions make those duties operational, affected-party participation improves the information and oversight available to regulators, and accessible remedies remain necessary when prevention fails. The central challenge is not simply whether HRDD should become mandatory, but how prevention, implementation, participation, and remedy can be connected through legitimate domestic institutions without displacing national regulatory authority.

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