

Mapping the Future of Labor Rights Enforcement in Global Value Chains: A Comparative Analysis of Labor Governance Approaches

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1. Introduction

Protecting workers' rights in Global Value Chains (GVCs) depends not only on setting legal standards, but also on addressing the jurisdictional challenges and the multi-tiered structure of employment—which often distances lead firms from liability for workers' rights violations—and on ensuring effective enforcement, the essential element that makes labor regulation impactful both nationally and internationally.¹ In response to these challenges, a wide range of innovative legal, institutional, and private governance experiments has emerged. Yet in many of the labor governance tools that developed, enforcement beyond the borders of the state remains poor.

GVCs have become a dominant form of transnational production and service provision. Workers in factories worldwide manufacture goods for lead multinational corporations, though they are locally employed by contractors. Intermediate agents within these GVCs coordinate the process by pooling resources from various production sites, arranging the provision of raw materials, and managing the transport of finished products to destinations across the globe. When workers' rights

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¹ Ingrid Landau & Tess Hardy, *Transnational Labour Governance in Global Supply Chains: Asking Questions and Seeking Answers on Accountability*, in *DECENT WORK IN A GLOBALIZED ECONOMY* 43 (Guillaume Delautre, Elizabeth Echeverria Manrique & Colin Fenwick eds., 2021).

are violated by their immediate contractual employers, questions of enforcement arise. While the source of these rights lies in domestic (state) laws, they are also derived from transnational instruments such as international conventions, trade agreements, cross-border collective agreements, and obligations established through private ordering. A traditional Westphalian approach assigns enforcement responsibility to nation-states. However, the interconnected nature of global production and services necessitates transnational instruments that provide effective enforcement of workers' rights.

The field of transnational labor governance is expanding rapidly, featuring a wide range of instruments that often overlap in function yet differ in objectives, strategies, and framing of the problem.² In both empirical debates on the effectiveness of various instruments and normative discussions about future developments, enforceability is a central concern. While there is a multitude of instruments and regulatory initiatives in the field, some of them are designed as de-jure non-enforceable “soft law”, notably corporate private self-regulation in the form of voluntary obligations towards the ends of corporate social responsibility (CSR) and self-imposed obligations towards the improvement of environment-society-governance (ESG).³ Similarly, global framework collective bargaining agreements, which do not include a clear procedure for enforcement, are commonly regarded as a declaration of moral obligations.⁴

² Guy Mundlak, *Transnational Labor Law as a Spiderweb: Is there a Spider? Is there a Web?*, 57 CORNELL INT'L L.J. 123 (2024).

³ Sylvia I. Karlsson-Vinkhuyzen & Antto Vihma, *Comparing the Legitimacy and Effectiveness of Global Hard and Soft Law: An Analytical Framework*, 3 REG. & GOVERNANCE 400 (2009); Guido Ferrarini, *Sustainable Governance and Corporate Due Diligence: The Shifting Balance Between Soft Law and Hard Law*, in THE PALGRAVE HANDBOOK OF ESG AND CORPORATE GOVERNANCE 41 (Paulo Câmara & Filipe Morais eds., 2022); Elena Shih, Jennifer (JJ) Rosenbaum & Penelope Kyritsis, *Undermining Labor Power: The False Promise of the Industry-led Antislavery Initiatives*, in FIGHTING MODERN SLAVERY AND HUMAN TRAFFICKING: HISTORY AND CONTEMPORARY POLICY 141 (Genevieve LeBaron, Jessica R. Pliley & David W. Blight eds., 2021).

⁴ Christina Niforou, *International Framework Agreements and Industrial Relations Governance: Global Rhetoric versus Local Realities*, 50 BRIT. J. INDUS. REL. 352 (2012); Konstantinos Papadakis, *A Short History and Future Prospects of Cross-Border Social Dialogue and Global Industrial Relations Agreements*, in DECENT WORK IN A GLOBALIZED ECONOMY: LESSONS FROM PUBLIC AND PRIVATE INITIATIVES 133 (Guillaume Delautre, Elizabeth Echeverría Manrique & Colin Fenwick eds., 2021): 133, https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms_771481.pdf.

Other institutions in the transnational governance system may include some form of enforcement powers, but these remain ‘on the book’ with little active use ‘in action.’ For example, the operationalization of International Labor Organization (ILO) Conventions is based on the goodwill of member states that are required to ratify, implement domestically and ensure enforcement.⁵ Even when there is some form of de-jure enforcement mechanism, such as Art. 33 of the ILO constitution, it is hardly used.⁶ Similarly, bilateral and regional trade agreements present a potential for enforcement because states assume mutual obligations, but inter-state political considerations trump strict deployment of workers’ rights enforcement measures.⁷

Another variation of flawed enforcement measures involves statutory arrangements that focus on procedural requirements, such as reporting obligations, which may trigger some level of enforcement. A prime example of this development is the focus on modern slavery transparency legislation and due diligence reporting laws.⁸ However, these instruments primarily target compliance with processes and procedures rather than ensuring adherence to substantive norms.⁹

⁵ LARS THOMANN, STEPS TO COMPLIANCE WITH INTERNATIONAL LABOUR STANDARDS: THE INTERNATIONAL LABOUR ORGANIZATION (ILO) AND THE ABOLITION OF FORCED LABOUR 65 (2012); Nikita Lyutov, *The ILO System of International Labour Standards and Monitoring Procedures: Too Complicated to Be Effective*, 64 ZBORNIK PRAV. FAK. ZAGREB 255 (2014).

⁶ Francis Maupain, *The ILO Regular Supervisory System: A Model in Crisis?*, 10 INT’L ORG. L. REV. 117 (2013).

⁷ See, e.g., a study showing no positive impact to labor clauses in trade agreements: Isao Kamata, *Labor Clauses in Regional Trade Agreements and Effects on Labor Conditions: An Empirical Analysis* (IDE Discussion Paper No. 609, 2016), <https://www.ide.go.jp/English/Publish/Reports/Dp/609.html>.

⁸ California Transparency in Supply Chains Act, Cal. Civ. Code § 1714.43 (2012); the UK Modern Slavery Act 2015, c. 30 (Eng.); and Australia’s *Modern Slavery Act* 2018 (Austl.); Loi 2017-399 du 27 mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d’ordre [Law 2017-399 of March 27, 2017 on relating to the duty of vigilance of parent companies and ordering companies (1), or Corporate Duty of Vigilance Law], Journal Officiel de la République Française [J.O.] [Official Gazette of France], Mars 28, 2017; Gesetz über unternehmerische Sorgfaltspflichten in Lieferketten [Supply Chain Due Diligence Act], Juli 22, 2021, Elektronischer Bundesanzeiger [eBAAnz] at 2959 2021 (Ger.) (entered into force on January 1, 2023); Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold (åpenhetsloven) [Act relating to Enterprises’ Transparency and Work on Fundamental Human Rights and Decent Working Conditions], (Nor.) adopted by the Norwegian Parliament in June 2021 Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859, 2024, O.J. (L, 2024/1760).

⁹ Justine Nolan, *Hardening Soft Law: Are the Emerging Corporate Social Disclosure Laws Capable of Generating Substantive Compliance with Human Rights?*, 15 BRAZ. J. INT’L L. 65 (2018); Tamar Barkay & Hila Shamir, *Anti-Trafficking Chains in GVCs: Corporate Transparency Legislation and Worker Driven Social Responsibility in MODERN SLAVERY AND THE GOVERNANCE OF GLOBAL VALUE CHAINS* 180 (Hila Shamir, Bimal Arora, Shilpi Banerjee & Tamar Barkay eds., forthcoming 2025).

Despite the various forms of weak enforcement measures, there are few compelling examples where de jure and de facto forms of soft law have tangibly improved the enjoyment of workers' rights.¹⁰ Consequently, legal analyses discourse often call for 'adding bite' to the transnational labor law and governance framework, with enforcement heralded as the cornerstone of its future effectiveness.¹¹ If strong enforcement is deemed indispensable in domestic labor law systems, the many layers of vulnerability at the transnational level are all the more in need of legal enforcement.

The traditional image of enforcement envisions a straightforward process, grounded in clear rules, employer compliance, and swift remedies for violations.¹² However, this image is increasingly challenged by complex legal, structural, and procedural realities.¹³ Scholars of the legal process highlight the many obstacles that arise between the articulation of norms and the achievement of remedial outcomes in court when those norms are violated.¹⁴ Legal consciousness among workers is often weak; fragmented (or fissured) employment structures complicate the identification of

¹⁰ Some examples are detailed in the following and further discussed below. See Greg Asbed & Steve Hitov, *Preventing Forced Labor in Corporate Supply Chains: The Fair Food Program and Worker-Driven Social Responsibility*, 52 WAKE FOREST L. REV. 497 (2017); Judy Fudge & Genevieve Lebaron, *Regulatory Design and Interactions in Worker-Driven Social Responsibility Initiatives: The Dindigul Agreement*, 163 INT'L LABOUR REV. 575 (2024); THE REMEDY PROJECT, PUTTING THINGS RIGHT: REMEDIATION OF FORCED LABOUR UNDER THE TARIFF ACT 1930 (2023), <https://tinyurl.com/hmys83my>; Transparentem, "I Came Here with So Many Dreams": Labor Rights Abuses & the Need for Change in Mauritius' Apparel Factories (March 2025), <https://transparentem.org/report/mauritius-disclosure/>.

¹¹ JAAKKO SALMINEN, FROM NATIONAL PRODUCT LIABILITY TO TRANSNATIONAL PRODUCTION LIABILITY: CONCEPTUALIZING THE RELATIONSHIP OF LAW AND GLOBAL SUPPLY CHAINS (2017); Maria-Therese Gustafsson, Almut Schilling-Vacaflor & Andrea Lenschow, *The Politics of Supply Chain Regulations: Towards Foreign Corporate Accountability in the Area of Human Rights and the Environment?*, 17 REGUL. & GOVERNANCE 853 (2023); Mark Anner, Jennifer Bair & Jeremy Blasi, *Toward Joint Liability in Global Supply Chains: Addressing the Root Causes of Labor Violations in International Subcontracting Networks*, 35 COMP. LAB. L. & POL'Y J. 1 (2013); Hila Shamir & Shelley Marshall, *Reimagining Labor Governance in Global Value Chains: Lessons from the Mathadi Model for Adapting Wage Boards to Transnational Labor Governance*, 57 CORNELL INT'L L. J. 163 (2025).

¹² MICHAEL J. PIORE & ANDREW SCHRANK, ROOT-CAUSE REGULATION: PROTECTING WORK AND WORKERS IN THE TWENTY-FIRST CENTURY (2018).

¹³ Tess Hardy, *Digging into Deterrence: An Examination of Deterrence-Based Theories and Evidence in Employment Standards Enforcement*, 37 INT'L J. COMP. LAB. L. & INDUS. REL. 133 (2021).

¹⁴ Marc Galanter, *Why the "Haves" Come Out Ahead: Speculations on the Limits of Legal Change*, 9 LAW & SOC'Y REV. 95 (1974); LAUREN B. EDELMAN, WORKING LAW: COURTS, CORPORATIONS, AND SYMBOLIC CIVIL RIGHTS (2016); Kate Andrias, *The New Labor Law*, 126 YALE L.J. 2 (2016); Cynthia Estlund, *The Death of Labor Law?*, 2 ANN. REV. L. & SOC. SCI. 105 (2006).

responsible parties;¹⁵ and numerous barriers within the legal process itself—in procedural law, rules of evidence, and even substantive employment law—further hinder effective enforcement.¹⁶

The quest for effective enforcement lies at the intersection of innovation and expectation, requiring both a reimagining of non-enforceable and legally binding instruments, and a critical examination of emerging institutions that promise change even in the absence of traditional enforcement mechanisms. On one hand, it is essential to assess non-enforceable instruments (both *de jure* and *de facto*) and consider whether socio-economic incentives for compliance can substitute for "hard" legal enforcement. On the other hand, it is crucial to refine our understanding of how to develop effective enforcement measures by critically examining whether emerging institutions oriented toward this goal can fulfill their promise.

In this twofold inquiry, this article places greater emphasis on the second question while still giving necessary attention to the first. By mapping several potential pathways for the enforcement of workers' rights in GVCs, we argue that strict adherence to a simple link between norms and enforcement mechanisms fails to address the range of challenges encountered on the ground. Seeking both to analytically understand and to reframe enforcement in light of the complex, transnational, and multi-tiered realities of GVCs, we draw on existing institutional developments already embedded within the transnational governance system, whether routinely applied or still under development.

The article proceeds as follows: building on existing literature and our analysis of labor governance developments in GVCs, Section 2 offers an analytical framework consisting of six building blocks of effective enforcement, which together formulate a normative benchmark. Based on these criteria, Section 3 explores several avenues for development. The first avenue (a) explores the assumption that "soft" law cannot support effective enforcement. The following avenues examine

¹⁵ DAVID WEIL, *THE FISSURED WORKPLACE: WHY WORK BECAME SO BAD FOR SO MANY AND WHAT CAN BE DONE TO IMPROVE IT* (2014).

¹⁶ *See, e.g.*, for jurisdictional barriers in the GVC context: Judy Fudge & Guy Mundlak, *Peeling the Onion: On Choices Judges Make in Transnational Labour Litigation*, in *SOCIAL JUSTICE AND THE WORLD OF WORK: POSSIBLE GLOBAL FEATURES* 249 (Brian Langille & Anne Trebilcock eds., 2023).

methods for strengthening enforcement: (b) voluntary arrangements with explicit concern for enforcement, such as the OECD's National Contact Points (NCPs); (c) national corporate laws that extend procedural obligations into substantive due diligence requirements; (d) improvements within inter-state trade agreements; (e) transnational litigation; and (f) enhancements in transnational collective bargaining agreements. Section 4 brings together the findings and highlights the strengths and weaknesses of each avenue. Section 5 concludes by presenting an approach to enforcement found in a recent attempt by the International Labor Lawyers Assisting Workers to draft text for a Convention on Decent Work in Global Supply Chains,¹⁷ and by comparing it to the decentralized and uncoordinated experimentation that characterizes the current status quo.

2. An Analytical Framework for Enforcement in GVCs

The persistent and pervasive problem of enforcement of labor regulation in GVCs is part of a broader and long-lasting enforcement crisis in labor and employment law generally.¹⁸ While regulatory frameworks often set ambitious standards for protecting workers, the realization of these goals depends critically on the mechanisms through which compliance is ensured. Enforcement is not merely a technical or peripheral issue but rather the lynchpin of any effective labor regulation, whether at the national or international level.¹⁹ Even the most carefully crafted legal standards risk irrelevance without robust mechanisms to monitor, detect, and remedy violations.²⁰ Enforcement mechanisms provide the means to ensure compliance, address grievances, and create deterrence against future breaches.²¹

¹⁷ See INGRID LANDAU & SHELLY MARSHALL, *ILAW DRAFT TEXT FOR AN ILO CONVENTION ON DECENT WORK IN GLOBAL SUPPLY CHAINS* (2024), <https://www.ilawnetwork.com/wp-content/uploads/2024/04/ILAW-Draft-Text-for-an-ILO-Convention-on-Decent-Work-in-Global-Supply-Chains.pdf>.

¹⁸ Guy Davidov, *The Enforcement Crisis in Labour Law and the Fallacy of Voluntarist Solutions*, 26 INT. J. COMP. LAB. LAW & IND. REL. 61 (2010).

¹⁹ Landau & Hardy, *supra* note 1.

²⁰ Ingrid Landau & Shelley Marshall, *Will Remedy Remain Rare? The Potential of Mandatory Human Rights Due Diligence to Redress Modern Slavery*, in *MODERN SLAVERY AND THE GOVERNANCE OF GLOBAL VALUE CHAINS* 126 (Hila Shamir, Bimal Arora, Shilpi Banerjee & Tamar Barkay eds., forthcoming 2025).

²¹ KRISZTIÁN PÓSCH, ELLA COCKBAIN, JACK BEADSWORTH, SAM SCOTT, VIRGINIA MANTOUVALOU & BEN BRADFORD, *MEASURING THE SCALE AND NATURE OF LABOUR MARKET NON-COMPLIANCE AFFECTING PEOPLE IN*

These functions are particularly crucial in GVCs, where multi-tiered contracting and cross-border operations diffuse responsibility and dilute accountability.²² Subcontracting and outsourcing, common features of these chains, create layers of distance between the central corporate entities and workers, complicating accountability.²³ Additionally, the rise of precarious employment relationships and the proliferation of migrant workers exacerbate enforcement gaps, as these workers are often less aware of their rights and more vulnerable to exploitation.²⁴ Problems of scale and jurisdiction undermine the use of familiar domestic enforcement institutions.²⁵ Effective enforcement, therefore, requires mechanisms that are adaptable, inclusive, and capable of addressing systemic deficiencies across complex supply chains.

A Spectrum of Regulatory Approaches

Transnational governance of labor rights in GVCs operates across a spectrum of regulatory instruments, broadly categorized as ‘hard law’ and ‘soft law.’²⁶ Hard law refers to legally binding instruments, such as national statutes, international conventions, and enforceable contractual obligations. These mechanisms provide formal accountability structures, often backed by state authority and judicial processes.²⁷ Examples include traditional labor and employment protective legislation such as those around minimum wage.

PRECARIOUS WORK IN THE UK: FIRST PROJECT REPORT (2024), <https://assets.publishing.service.gov.uk/media/672a009f094e4e60c466d133/measuring-the-scale-and-nature-of-labour-market-non-compliance-affecting-people-in-precarious-work-in-the-uk.pdf>.

²² Shamir & Marshall, *supra* note 11.

²³ Davidov, *supra* note 18.

²⁴ Janice Fine & Tim Bartley, *Raising the Floor: New Directions in Public and Private Enforcement of Labor Standards in the United States*, 61 J. INDUS. REL. 252 (2019).

²⁵ James Brudney, *Reflections on Labor Standards in Global Supply Chains: Innovation and Scalability*, in POWER, PARTICIPATION, AND PRIVATE REGULATORY INITIATIVES: HUMAN RIGHTS UNDER SUPPLY CHAIN CAPITALISM 205 (Daniel Brinks, Julia Dehm, Karen Engle & Kate Taylor eds., 2021).

²⁶ Karlsson-Vinkhuyzen & Antto Vihma, *supra* note 3; Gregory C. Shaffer & Mark A. Pollack, *Hard vs. Soft Law: Alternatives, Complements, and Antagonists in International Governance*, 94 MINN. L. REV. 706 (2009).

²⁷ JOHN J. KIRTON & AND MICHAEL J. TREBILCOCK. HARD CHOICES, SOFT LAW: VOLUNTARY STANDARDS IN GLOBAL TRADE, ENVIRONMENT AND SOCIAL GOVERNANCE (2017).

In contrast, soft law encompasses non-binding guidelines, principles, and voluntary codes of conduct.²⁸ Instruments such as the United Nations Guiding Principles on Business and Human Rights (UNGPs) and corporate social responsibility (CSR) initiatives rely on moral suasion, market incentives, and reputational pressures rather than legal compulsion.²⁹ While these mechanisms lack formal enforceability, they may play a significant role in shaping norms, influencing behavior, and complementing hard law frameworks. However, as the extant literature in this field warns, an overreliance on voluntarist solutions can lead to a dilution of labor standards and undermine effective enforcement.³⁰

New modes of state intervention in GVCs, and emerging models of co-enforcement and worker-driven approaches offer innovative ways to strengthen the enforcement of labor standards.³¹ These models side-step the enforcement caricature of norms-infringements-courts-remedies. They involve different sources of norms, address different types of infringement and concerns with ex ante deterrence, and provide various forms of remedial power.³² Notably, they involve partnerships between governments, civil society organizations, and workers' groups to improve compliance. For instance, as Fine and Bartley illustrate, co-enforcement initiatives in the United States have successfully leveraged the local knowledge and trust of worker organizations to enhance monitoring and enforcement efforts.³³ Similarly, worker-driven approaches, such as the Fair Food Program, demonstrate the potential of empowering workers themselves to play an active role in

²⁸ Kevin T. Jackson, *Global Corporate Governance: Soft Law and Reputational Accountability*, 35 *Brook. J. Int'l L.* 41 (2010).

²⁹ Attila Kun, *From Transnational Soft Law to National Hard Law? -Regulating Supply Chains*, 8 *PECSI MUNKAJOGI KOZLEMENYEK* 53 (2015).

³⁰ Davidov, *supra* note 18; Nicholas Connolly, *Corporate Social Responsibility: A Duplicitous Distraction?*, in *NEW DIRECTIONS IN THE SOCIOLOGY OF HUMAN RIGHTS*, 106 (Patricia Hynes, Michele Lamb, Damien Short & Matthew Waites eds., 2014); Genevieve LeBaron, Remi Edwards, Tom Hunt, Charline Sempéré & Penelope Kyritsis, *The Ineffectiveness of CSR: Understanding Garment Company Commitments to Living Wages in Global Supply Chains*, 27 *NEW POLITICAL ECONOMY* 99 (2022); Kun, *supra* note 29; INGRID LANDAU, *HUMAN RIGHTS DUE DILIGENCE AND LABOUR GOVERNANCE* 143 (2023).

³¹ Janice Fine, *Enforcing Labor Standards in Partnership with Civil Society: Can Co-Enforcement Succeed Where the State Alone Has Failed?*, 45 *POL. & SOC'Y* 359 (2017).

³² Janice Fine & Jennifer Gordon, *Strengthening Labor Standards Enforcement through Partnerships with Workers' Organizations*, 38 *POL. & SOC'Y* 552-85 (2010).

³³ Fine and Bartley, *supra* note 24.

enforcement.³⁴ At the same time in recent years “global supply chains are increasingly politicized”,³⁵ leading global north governments to regulate for the ends of preventing GVCs’ adverse environmental and human impact.³⁶ Recent legislative developments range from national transparency legislations, (demonstrated by the UK and Australian Modern Slavery Acts) to more substantive Mandatory Human Rights Due Diligence (mHRDD) laws, which impose specific duties on corporations and their supply chains.³⁷ However, absent effective sanctions and enforcement mechanisms, this legislation still straddles the hard and soft law divide, fusing soft procedural strategies in seemingly hard national legislation.³⁸

Defining the building blocks of effective enforcement

To make sense of the proliferation of private and public initiatives to address workers' rights in GVCs, we position enforcement at its center and develop here a framework to analyze and compare the enforcement potential in different types of interventions. To this end we identify six core building blocks of enforcement. The six building blocks framework emerged from our reading of the enforcement literature,³⁹ our research and writing on labor governance, and our direct

³⁴ Asbed & Hitov, *supra* note 10; SUSAN L. MARQUIS, *WORKER-DRIVEN SOCIAL RESPONSIBILITY: A NEW, PROVEN MODEL FOR DEFINING, CLAIMING, AND PROTECTING WORKERS’ HUMAN RIGHTS* (Center for Labor and a Just Economy, 2023), https://clje.law.harvard.edu/app/uploads/2023/06/7.13.23_WSR_Report_Final.pdf.

³⁵ Matthew Amengual & Tim Bartley, *Global Markets, Corporate Assurances, and The Legitimacy of State Intervention: Perceptions of Distant Labor and Environmental Problems*, 87 AM. SOCIOLOGICAL REV. 383, 384 (2022).

³⁶ Joylon Ford & Justine Nolan, *Regulating Transparency on Human Rights and Modern Slavery in Corporate Supply Chains: The Discrepancy Between Human Rights Due Diligence and the Social Audit*, 26 AUSTL. J. HUM. RTS. 27 (2020); Christy Hoffman, *Corporate Legal Accountability: What Emerging Laws on Human Rights Due Diligence Mean for Trade Unions*, 31 INT’L UNION RTS. 3 (2024).

³⁷ Ronald C. Brown, *Due Diligence “Hard Law” Remedies for MNC Labor Chain Workers*, 22 UCLA J. INT’L L. & FOR. AFF. 119 (2018); LANDAU, *supra* note 30, at 112.

³⁸ On the UK Modern Slavery Act, see Tamar Barkay, Jonathan Davies, Irene Pietropaoli & Hila Shamir, *Anti-trafficking Chains: Analyzing the Impact of Transparency Legislation in the UK Construction Sector*, 49 LAW & SOCIAL INQUIRY. 2152 (2024); Barkay & Shamir, *supra* note 9. On HRDD: Kun, *supra* note 29; Landau, *supra* note 30.

³⁹ Leah Faith Vosko, *CLOSING THE ENFORCEMENT GAP* (2020); PIORE & SCHRANK, *supra* note 12; SHELLEY MARSHALL, *LIVING WAGE: REGULATORY SOLUTIONS TO INFORMAL AND PRECARIOUS WORK IN GLOBAL SUPPLY CHAINS* (2019); RALF ROGOWSKI, *REFLEXIVE LABOR LAW IN THE WORLD SOCIETY* (2013); Neil Gunningham, *Strategizing Compliance and Enforcement: Responsive Regulation and Beyond*, in *EXPLAINING COMPLIANCE: BUSINESS RESPONSES TO REGULATION 199* (Christine Parker & Vibeke Lehmann Nielsen eds., 2011); Kenneth W. Abbott & Duncan Snidal, *Taking Responsive Regulation Transnational: Strategies for International Organizations*, 7 REGUL. & GOVERNANCE 95 (2013); Vibeke Lehmann Nielsen & Christine Parker, *Testing Responsive Regulation in*

experience working with actors supporting workers' rights in GVCs. Developed through shared reflection and practical engagement, it offers an original analytical tool designed to capture the essential elements of effective enforcement in complex transnational settings. The six building blocks framework traces the path from the prescription of rights to the realization of remedial outcomes, integrating insights from regulatory typologies, accountability gaps, and enforcement mechanisms to offer a pathway toward more effective regulation.

In the remainder of Part 2 that follows, the framework will be elaborated. In Part 3 we apply it to evaluate common regulatory forms of labor governance in GVCs, highlighting both their potential and their limitations in addressing enforcement challenges in GVCs.

The Six Building Blocks of Enforcement

We propose a six-pronged framework to comparatively analyze the enforcement capacity of different governance and regulatory attempts to improve workers' rights in GVCs. The six interconnected building blocks we elaborate are a clear prescription of rights and obligations; effective information flow across the chain; safe grievance and complaint mechanisms; independent and competent oversight authorities; accessible, timely, and tailored dispute resolution; and meaningful redress and enforceability of remedies.

1. Clear and specific prescription of rights, duties, and obligations. While enforcement concerns are distinct from the actual writing of norms, the latter impact the efficacy of enforcement. Broad statements of legal norms, such as a general right of equality or fairness in wages and working conditions, while important symbolically, often fail to create enforceable standards.⁴⁰ Instead, enforceability demands precise delineation of what is expected from different stakeholders: employers, intermediaries, suppliers, workers, monitoring entities (such as

Regulatory Enforcement, 3 REGUL. & GOVERNANCE 376 (2009); Landau & Hardy, *supra* note 1; Davidov, *supra* note 18.

⁴⁰ Lauren B. Edelman, *Legal Ambiguity and Symbolic Structures: Organizational Mediation of Civil Rights Law*, 97 AM. J. SOCIO. 1531 (1992).

competent authorities), involved state agencies, and all relevant actors in a multipartite process of enforcement.⁴¹ Such clear delineation is a challenge that many existing private and public instruments fail.⁴²

2. Multidirectional Information Flows: A key element of enforcement is the movement of information within supply chains. Information must flow in several directions, each critical for overcoming obstacles to effective enforcement. First, **downstreaming** refers to ensuring that all stakeholders—particularly workers—are aware of their rights and obligations, as well as the mechanisms available to address violations. This builds directly on the first building block, the clear prescription of rights. Second, **upstreaming** highlights the need for enforcement systems to ensure that critical information travels upward to management and shareholders. Worker-driven enforcement models, such as the Fair Food Program, demonstrate how direct engagement with workers can foster transparency and accountability throughout the supply chain.⁴³ Third, **sidestreaming** emphasizes transparency to social and economic actors engaged in monitoring, such as consumers organizations, some municipalities, and socially responsible financial institutions. Consumers and their organizations, for instance, benefit from information about labor practices, enabling market-based sanctions against non-compliant companies and fostering consumer citizenship.⁴⁴ Other important audiences include municipalities⁴⁵ and financial institutions,⁴⁶ who can also exert pressure for improved labor conditions.

Fourth, **learning loops** focus on the aggregation of information about labor violations, grievance procedures, and outcomes into systemic knowledge. Effective enforcement mechanisms not only

⁴¹ Janice R. Bellace, *The Link Between International Labour Standards and Decent Work*, 151 INT'L LAB. REV. 241 (2012).

⁴² Annapurna Waughray, *Protect, Respect, and Remedy: The UN Framework for Business and Human Rights and the Rights of the Child*, in HUMAN RIGHTS OBLIGATIONS OF BUSINESS: BEYOND THE CORPORATE RESPONSIBILITY TO RESPECT? (Surya Deva and David Bilchitz eds., 2013).

⁴³ MARQUIS, *supra* note 34.

⁴⁴ Kevin Kolben, *The Consumer Imaginary: Labor Rights, Human Rights, and Citizen-Consumers in the Global Supply Chain*, 52 VANDERBILT L. REV. 839 (2021).

⁴⁵ Janice Fine, *New Approaches to Enforcing Labor Standards: How Co-Enforcement Partnerships Between Government and Civil Society Are Showing the Way Forward*, 2017 U. CHI. LEGAL F. 7 (2018).

⁴⁶ Thibault Darcillon, *How Does Finance Affect Labor Market Institutions? An Empirical Analysis in 16 OECD Countries*, 13 SOCIO-ECON. REV. 477 (2015).

resolve individual disputes but also enable institutional learning. By identifying patterns of abuse, evaluating the effectiveness of remedies, and refining governance processes, enforcement systems can dynamically adapt to the complex challenges of GVCs. For example, ongoing monitoring of grievances can inform regulatory reforms, guide industry-specific standards, focus enforcement agency efforts, and help courts distinguish between isolated mistakes and systemic violations.

All four forms of information flow are strengthened by cooperation with representatives of workers' interests— such as trade unions, worker organizations, and sometimes other community groups representing stakeholders within or across GVC nodes — who support workers in expressing grievances, asserting rights, and participating meaningfully in enforcement processes. Worker representation and tripartite governance structures help bridge communication gaps, ensuring that grievances are both raised and addressed.⁴⁷ Indeed, as Fine and Gordon argue, formally involving worker organizations in detection and enforcement is particularly crucial in low-wage sectors where traditional approaches often fail.⁴⁸ They leverage the insights and networks of those closest to the ground, enabling more effective monitoring of labor standards and fostering long-term compliance. By incorporating the knowledge and trust held by workers and their organizations, enforcement mechanisms can move beyond superficial compliance audits toward genuinely collaborative governance models.

However, it is unlikely that a single actor can effectively manage all four types of information flow. Proximity to workers and trust-building must be complemented by legitimacy derived from social enforcers (such as consumers and financial institutions), corporate headquarters, and international institutions. Building trust from below and legitimacy from above requires distinct methods of operation and organizational skills, both of which are essential for a robust and dynamic enforcement system.

3. Launching grievances or complaints without fear of retaliation: Moving beyond the preliminary stages of naming and informing about rights and obligations, effective enforcement

⁴⁷ Shamir & Marshall, *supra* note 11.

⁴⁸ Fine & Gordon, *supra* note 32.

requires that workers can identify the responsible actors (blaming) and assert their rights (claiming).⁴⁹ This, in turn, depends on workers' ability to initiate enforcement processes safely and without fear of retaliation. Precarious workers—particularly minorities and migrant workers—face significant barriers to speaking out against abuses.⁵⁰ Effective grievance systems therefore require safe reporting channels and strong whistleblower protections.⁵¹ Models of co-enforcement, where governments partner with civil society organizations, offer a potential solution by creating safe spaces for workers to raise concerns.⁵²

Worker organizations also play a crucial role by depersonalizing grievances, presenting them collectively rather than as individual complaints. In doing so, they help build trust, ensure workers feel secure in coming forward, and provide a stable and ongoing address for employers to engage with in resolving workplace issues.⁵³

4. A competent and independent authority with the capacity, authority, autonomy, and resources to remediate violations:

To operate effectively, competent authorities must have access to relevant information and function impartially, whether they are state bodies or parity-based institutions managed jointly by employers and workers.⁵⁴ However, many existing mechanisms fall short in this regard. For example, National Contact Points under the OECD Guidelines often lack the independence and

⁴⁹ William L.F. Felstiner, Richard L. Abel & Austin Sarat, *The Emergence and Transformation of Disputes: Naming, Blaming, Claiming*, 15 LAW & SOC. REV. 631 (1980–1981).

⁵⁰ PÖSCH et al., *supra* note 21. See also Desiree LeClercq, [in this volume](#).

⁵¹ David Lewis, *Labour Market Enforcement in the 21st Century: Should Whistleblowers Have a Greater Role?*, 50 IND. RELAT. J. 256 (2019).

⁵² Matthew Amengual & Janice Fine, *Co-enforcing Labor Standards: The Unique Contributions of State and Worker Organizations in Argentina and the United States*, 11 REGUL. & GOVERNANCE 129 (2017).

⁵³ David Weil, *Individual Rights and Collective Agents. The Role of Old and New Workplace Institutions in the Regulation of Labor Markets*, in EMERGING LABOR MARKET INSTITUTIONS FOR THE TWENTY-FIRST CENTURY 13 (Richard B. Freeman, Joni Hersch & Lawrence Mishel eds., 2005); Landau & Hardy, *supra* note 1.

⁵⁴ INTERNATIONAL LABOUR ORGANIZATION (ILO), GUIDELINES ON GENERAL PRINCIPLES OF LABOUR INSPECTION (2022), https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed_dialogue/@lab_admin/documents/genericdocument/wcms_844153.pdf.

resources needed to deliver meaningful outcomes.⁵⁵ In contrast, localized models such as the Mathadi Boards in India offer a promising alternative by combining sector-specific expertise with tripartite governance structures.⁵⁶ As with the third building block, competent authorities are strengthened when worker representatives are included, or at a minimum, when safeguards ensure that employer interests do not dominate decision-making.

5. Dispute resolution mechanisms must be accessible, affordable, and tailored to the nature of the grievance, ensuring that workers can seek redress without being deterred by lengthy, expensive, or overly complex processes. Dispute resolution mechanisms must be accessible, affordable, and tailored to the nature of the grievance, ensuring that workers can seek redress without being deterred by lengthy, costly, or overly complex processes. Effective frameworks should offer a range of options that accommodate both minor and systemic issues. Minor workplace disputes benefit from shop-floor problem-solving or mediation. Accessible and rapid dispute resolution mechanisms should also include autonomous actions, or "self-help remedies," such as the options for workers to withhold their labor collectively in a protected manner. Strikes, for instance, remain a powerful tool for workers to enforce their rights, particularly when formal mechanisms are inadequate or inaccessible. Similarly, the right to cease work in the face of imminent safety hazards represents another form of collective self-help.⁵⁷

Distinct from shop-floor grievances, certain matters require resolution beyond the individual workplace, enabling a broader examination of compliance practices and the assignment of responsibility to agents beyond the direct employer—whether the state or actors higher up in the GVC. However, initiating a formal process at higher levels of the chain is often slower and more complex than responding immediately at the workplace level. This is the case when a local and global union are involved to activate and assist in grievance and remediation, and might take even longer in other regulatory settings and absent such intermediating actors.⁵⁸ Regarding state-based

⁵⁵ LANDAU, *supra* note 30, at 80; *see also*, Ingrid Landau, *Human Rights Due Diligence and the Risk of Cosmetic Compliance*, 20 MELB. J. INT'L L. 221 (2019).

⁵⁶ MARSHALL, *supra* note 39, at 51; Shamir & Marshall, *supra* note 11.

⁵⁷ JEFFREY HILGERT, HAZARD OR HARDSHIP: CRAFTING GLOBAL NORMS ON THE RIGHT TO REFUSE UNSAFE WORK (2013).

⁵⁸ *See, e.g.*, THE REMEDY PROJECT, *supra* note 10; Transparentem, *supra* note 10.

enforcement, recent efforts have sought to expedite complaints handling, such as the North American USMCA rapid response mechanism and the European Union’s 15-Point Action Plan to promote sustainable trade.⁵⁹ Similarly, initiatives demanding that business entities in GVCs handle problems more effectively—such as voluntary codes for sugarcane production or conflict minerals regulations—often merge with emerging state-based due diligence requirements or sector-specific arrangements. The actual implementation of corporate responses largely depends on the organizational strength of CSR and compliance units within global brands.

Despite these developments, many existing mechanisms still fall short of meeting accessibility, affordability, and effectiveness standards. For example, the original arbitration process under the Bangladesh Accord on Fire and Building Safety, modeled on commercial arbitration, was criticized for being costly, cumbersome, and time-consuming, leading eventually to an adoption of a revised arbitration process better suited to labor disputes.⁶⁰ In response to such gaps, initiatives

⁵⁹ The United States-Mexico-Canada Agreement (USMCA) introduced the Facility-Specific Rapid Response Labor Mechanism (RRM) to expedite the enforcement of workers' rights, particularly focusing on freedom of association and collective bargaining. This mechanism allows for swift action when violations are identified at specific facilities. For instance, the RRM has been invoked multiple times, leading to tangible outcomes such as reinstatement of workers, back pay, and the establishment of independent unions. *See*, LeClercq, [this volume](#). In the European Union, the 15-Point Action Plan on Trade and Sustainable Development (TSD) aims to enhance the implementation and enforcement of labor and environmental standards in trade agreements. A key feature of this plan is the establishment of a Single Entry Point for complaints, streamlining the process for stakeholders to raise concerns about TSD commitments. This initiative reflects the EU's commitment to more assertive enforcement of TSD chapters in its trade agreements. *See* European Commission Services, *Feedback and Way Forward on Improving the Implementation and Enforcement of Trade and Sustainable Development Chapters in EU Free Trade Agreements* (Non-paper of the Commission Services, 2018), <https://www.politico.eu/wp-content/uploads/2018/02/TSD-Non-Paper.pdf>.

⁶⁰ The dispute resolution mechanism under the Bangladesh Accord allowed for disputes to be resolved through arbitration administered by the Permanent Court of Arbitration (PCA) in The Hague, under the UNCITRAL Arbitration Rules. The revised arbitration mechanism, adopted in 2021, “establishes a linkage to the International Labor Arbitration and Conciliation Rules, which were formulated to provide the procedural foundation for the swift and efficient resolution of disputes stemming from international labor agreements, including those related to supply chain arrangements and similar contracts aimed at promoting and safeguarding the rights of workers in the global trade industry.” Elmar Buchstätter & Manuel Heise, *Navigating the Legal Landscape of Global Framework Agreements (GFAs): Is Arbitration the North Star?*, 8 Y.B. ON INT’L ARB. & ADR 169, 178 (2024); Bruno Simma & Giorgia Sanguolo, *The Hague Rules on Business and Human Rights Arbitration: Some Challenges and Responses*, 28 SW. J. INT’L L. 401 (2023); Richard Croucher, Mark Houssart, Lilian Miles & Philip James, *Legal Sanction, International Organisations and the Bangladesh Accord*, 48 INDUS. L.J. 549 (2019). *See also* PCA, Introduction to the International Labour Arbitration and Conciliation Rules, July 2, 2021, https://docs.pca-cpa.org/2022/06/3dd0e0dd-2021-july-2-international_labour_arbitration_.pdf; Center for International Legal Cooperation, *The Hague Rules on Business and Human Rights Arbitration*, (Dec. 2019), <https://docs.pca-cpa.org/2019/12/The-Hague-Rules-on-Business-and-Human-Rights-Arbitration.pdf>; The Hague Rules serve as a

like the *Model Arbitration Clauses for the Resolution of Disputes under Enforceable Brand Agreements* (2021) aim to create frameworks that are fair, affordable, enforceable, efficient, adaptable, and transparent.⁶¹ While these efforts represent important progress, their industry-wide adoption remains limited.⁶² To enhance enforcement, dispute resolution systems must strike a balance between affordability and efficiency, while retaining enough flexibility to accommodate the varying nature of workplace grievances. This dual emphasis ensures that mechanisms remain accessible for workers in resource-constrained settings while maintaining the capacity to address systemic challenges within GVCs.⁶³

Overall, the expectation is to devise a governance system that acknowledges both tracks—quick response at the shop floor and thorough, yet accessible, institutions for systemic and structural violations. However, the distinction between an accessible shop-floor response and higher-level systemic intervention is not always clear-cut. For instance, incidents such as abusive management practices or sexual harassment may initially appear as isolated relational issues but often point to deeper systemic problems rooted in workplace culture. Similarly, cases of wage theft may reflect not only individual wrongdoing but broader patterns of non-compliance throughout supply chains. Recent international framework agreements have established multi-tiered systems for handling different types of grievances. Worker-Driven Social Responsibility (WSR) initiatives, such as the Fair Food Program and the Dindigul Agreement, exemplify how enforcement models can address multiple layers: resolving minor disputes at the shop floor level while escalating severe or systemic grievances to independent oversight bodies or arbitration mechanisms.⁶⁴ By differentiating between the scales of problems, enforcement systems can allocate resources more efficiently and avoid overburdening mechanisms designed for rapid resolution. Moreover, systemic grievances

basis for the *International Labour Arbitration and Conciliation Rules*, INT'L ACCORD (July 2, 2021), https://internationalaccord.org/wp-content/uploads/2023/02/2021JU_1.pdf [<https://perma.cc/9JWM-EZQ6>].

⁶¹ Clean Clothes Campaign, Global Labor Justice, International Labor Rights Forum, & Worker Rights Consortium, *Model Arbitration Clauses for the Resolution of Disputes Under Enforceable Brand Agreements* (2020), https://cleanclothes.org/file-repository/arbprojfinaldraft_june-17-2020-1.pdf/view.

⁶² Walton Pantland, *It's Time to Build a Global Arbitration System to Defend Workers' Rights*, EQUAL TIMES, Sept. 8, 2022.

⁶³ Simma & Sangiuolo, *supra* note 59.

⁶⁴ Fudge & Lebaron, *supra* note 10; Alysha Kate Shivji, *Rightsholder-Driven Remedy for Business-Related Human Rights Abuse: Case of the Fair Food Program*, 193 J. OF BUS. ETHICS 363.

can be escalated into policy-level interventions through strategic litigation, industry-wide agreements, or regulatory reforms, thereby preventing recurring violations and fostering accountability throughout the supply chain. The ability to shift between different levels of intervention is closely linked to the learning loops discussed earlier.

6. Meaningful Redress and Enforceability of Remedies: Enforcement must ultimately lead to meaningful redress and enforceability of remedies that address workers' harm and incentivize compliance. This objective encompasses several components reflecting different aspects of remediation.

First, **individual remediation for past wrongs** should include both financial compensation and restorative actions. Financial compensation is essential to address the tangible economic harm suffered by workers, such as lost wages, medical expenses, or other material damages resulting from labor rights violations. Alongside financial remedies, meaningful apologies play a crucial role in acknowledging the harm done and contributing to a sense of restitution and dignity for affected workers. Apologies recognize the moral and relational dimensions of labor rights violations, offering symbolic reparation that can help rebuild trust and affirm workers' worth beyond monetary compensation.⁶⁵

Second, effective remediation must also **identify the agents responsible for implementing future change**, ensuring that violations do not recur. Both financial and non-financial remedies may be fulfilled by various actors along the value chain, including intermediating bodies such as auditing bodies, local communities, unions, or by agents whose actions contributed to non-compliance. Remedies can be assigned to the "deep(er) pockets," who must either initially shoulder the burden or work to allocate responsibility among multiple parties involved.⁶⁶

⁶⁵ Masihiro Suzuki & Tamera Jenkins, *Apology–Forgiveness Cycle in Restorative Justice, But How?*, 29 INT'L REV. VICTIMOLOGY 259 (2022); Deborah L. Kidder, *Restorative Justice: Not “Rights”, but the Right Way to Heal Relationships at Work*, 18 INT'L J. CONFLICT MGMT. 4 (2007). Maximilian J. L. Schormair & Lara M. Gerlach, *Corporate Remediation of Human Rights Violations: A Restorative Justice Framework*, 167 J. BUS. ETHICS 475 (2020).

⁶⁶ Yossi Dahan, Hanna Lerner & Faina Milman-Sivan, *Shared Responsibility and Labor Rights in Global Supply Chains*, 182 J. OF BUS. ETHICS 1025 (2023).

Third, and more broadly, remediation must serve an **expressive function** by assigning responsibility throughout complex GVCs. Lead firms frequently benefit from their position of power—controlling production without ownership and influencing working conditions without formal employment relationships—thereby insulating themselves from accountability for violations deeper in their supply chains.⁶⁷ Addressing this imbalance requires mechanisms that emphasize the shared responsibility of buyers, intermediaries, suppliers, and all actors who exert control over labor conditions.⁶⁸

When considering the three objectives, soft law interventions, almost by definition, do not have remedial power.⁶⁹ Procedural systems, such as the new wave of state legislation, slide away from the ‘soft law’ end of the enforcement continuum but still do not offer a robust remediation process.⁷⁰ For example, Landau and Marshall, in exploring mandatory HRDD legislation, emphasize that while mHRDD laws represent a step forward in integrating remediation into corporate obligations, they often fall short of delivering effective remedies for past wrongs, but they may have an effect on future prevention while expressively assigning responsibility.⁷¹ But even frameworks that are aligned closer to the ‘hard law’ end of the continuum lack robust enforcement mechanisms to ensure that remedies are delivered to affected workers. These can be enforced domestically, but cross-borders enforcement is more difficult to achieve.⁷² This fragmented system of accountability underscores the need for harmonized national and international approaches that can overcome structural barriers to effective redress.⁷³

⁶⁷ Mark Anner, *Squeezing Workers’ Rights in Global Supply Chains: Purchasing Practices in the Bangladesh Garment Export Sector in Comparative Perspective*, 27 REV. INT’L POL. ECON. 320 (2019); Anner, Bair, & Blasi, *supra* note 11.

⁶⁸ Dahan, Lerner & Milman-Sivan, *supra* note 66.

⁶⁹ Barnali Choudhury, *Balancing Soft and Hard Law for Business and Human Rights*, 67 INT’L & COMP. L.Q. 961 (2018).

⁷⁰ Kun, *supra* note 29, at 53; Nolan, *supra* note 9.

⁷¹ Landau & Marshall, *supra* note 20. *See also* SHELLEY MARSHALL, INGRID LANDAU, HILA SHAMIR, TAMAR BARKAY, JUDY FUDGE & AURET VAN HEERDEN, *MANDATORY HUMAN RIGHTS DUE DILIGENCE: RISKS AND OPPORTUNITIES FOR WORKERS AND UNIONS* (2023).

⁷² Fudge & Mundlak, *supra* note 16.

⁷³ Pascal McDougall, *Global Value Chains, Labor Rights, and the Nature of Transnational Law*, 72 AM. J. COMP. L. 33 (2024).

Ensuring meaningful remediation across these three dimensions—redress for past harms, guarantees of future change, and expressive accountability—requires a re-engagement with the earlier building blocks. Joint employment status in regulatory frameworks (Building Block 1) offers one of the most comprehensive ways to recognize shared responsibility, by treating lead firms and suppliers as co-employers. This approach extends legal accountability to powerful actors at the top of the chain, preventing them from fully outsourcing responsibility for labor standards.⁷⁴ Regulatory measures that require buyers to monitor and remediate labor rights violations through binding agreements with suppliers create pathways for a more equitable distribution of responsibility.⁷⁵ Ongoing monitoring processes resonate with Building Block 2, emphasizing the importance of continuous information flow.

However, as Nguyen points out,⁷⁶ the growing power and autonomy of some first-tier suppliers—often referred to as "Big Suppliers"—complicates the traditional buyer-driven globalization narrative. These suppliers are not passive actors but exercise significant control over labor conditions and production processes. Accordingly, independent mechanisms (Building Block 4) that impose transparency and due diligence obligations on suppliers as well as buyers are critical for ensuring accountability across the supply chain. Complementary tools, such as mHRDD legislation and enforceable brand commitments, further reinforce this culture of accountability by embedding due diligence obligations into contractual arrangements and by creating robust monitoring and enforcement systems.

In sum, the six building blocks of enforcement are deeply interconnected, together forming a cohesive framework for addressing the complex challenges of labor governance in GVCs. Even

⁷⁴ Anner, Bair, & Blasi, *supra* note 11; Brishen Rogers, *Toward Third-Party Liability for Wage Theft*, 31 BERKELEY J. EMP. & LAB. L. 1 (2010).

⁷⁵ Jaakko Salminen, *The Accord on Fire and Building Safety in Bangladesh: A New Paradigm for Limiting Buyers' Liability in Global Supply Chains?*, 66 AM. J. COMP. L. 411 (2018).; Dahan, Lerner & Milman-Sivan, *supra* note 66.

⁷⁶ Trang Nguyen, *Hidden Power in Global Supply Chains*, 64 HARV. INT'L L.J. 35 (2023).

when no single mechanism fully satisfies all six dimensions, the framework provides a valuable tool for assessing where soft law initiatives may nonetheless exert real enforcement power, and where ostensibly hard-law mechanisms may fail when operating within the transnational, multi-tiered structures of GVCs. By moving beyond rigid classifications of regulation as "hard" or "soft," the framework offers a more nuanced lens through which to evaluate the effectiveness of diverse governance strategies in promoting workers' rights across global supply chains.

Methodology: Applying the Framework

This study adopts a comparative qualitative analysis of key enforcement mechanisms in global value chains (GVCs), using case study methodology. By combining comparative labor law analysis with in-depth case studies, the research examines the effectiveness of enforcement frameworks in different regulatory settings. A comparative approach allows for a systematic evaluation of how enforcement models operate across jurisdictions, industries, and regulatory regimes. It highlights both the strengths and limitations of existing legal and non-legal mechanisms, providing insights into the evolving landscape of labor rights enforcement.

This study employs a case study approach to analyze distinct models of labor rights enforcement in global value chains, categorized into three main types. The first type includes explicitly soft-law measures, to which legal enforcement is seemingly unrelated. **Private ordering systems**, such as corporate codes of conduct and industry-led certification schemes, rely on voluntary compliance and reputational incentives rather than legal enforcement. **International instruments based on goodwill**, demonstrated by the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct that require to establish National Contact Points (NCPs), rely on inter-state peer pressure and business' voluntary good-will response, but lack binding legal force.

A second type introduces enforcement through traditional hard legal measures, in which infringement of legal norms can lead to enforcement through litigation or compatible arbitration proceedings. These are demonstrated here in three examples. First, **state-based regulatory interventions**, such as Germany's Supply Chain Due Diligence Act and France's Duty of Vigilance Law, impose binding obligations on corporations through legal mandates, administrative

penalties, and civil liability. Second, **transnational litigation** based on the enforcement of private law measures according to the rules of private international law. Third, inter-state (unilateral, bilateral and multilateral) **trade arrangements** that prescribe labor norms and arbitration proceedings when states fail to implement and comply with these norms.

A third type refers to a broad category that does not rely on top-down state-based regulation as its starting point, but instead develops through **bottom-up grassroots power**. This category spans the full soft-hard law spectrum. At the softer end are goodwill statements in global framework agreements and efforts to mobilize collective power across borders to enforce local and transnational labor standards. At the more institutionalized end are multi-actor, multi-tiered enforcement models, such as the Fair Food Program and the Bangladesh Accord, which are characterized by layered governance structures and overlapping mechanisms of oversight and redress. Each of these models is evaluated using the six enforcement building blocks framework to assess its effectiveness in ensuring compliance, addressing grievances, and providing meaningful remedies.

The study does not treat enforcement as a static legal structure but rather as a dynamic process shaped by institutional design, regulatory oversight, corporate behavior, and worker agency. By adopting this methodological lens, the study enables an in-depth exploration of how enforcement operates in practice, taking into account the legal, political, and economic factors that influence compliance, accountability, and redress within GVCs.

3. Applying the enforcement framework

This section applies the six building-blocks enforcement framework to a range of regulatory and governance avenues that incorporate or aim to strengthen workers' rights in GVCs. The first part explores how even soft-law instruments may exhibit certain enforcement capacities, while the subsequent sections focus on initiatives designed to move beyond soft law toward more robust enforcement models.

Type 1: non-binding instruments

In this category of "soft law" measures, formal legal enforcement is absent. Instead, compliance relies on economic, reputational, and social pressures rather than binding legal obligations. While these instruments lack full enforcement capacity, they still contribute important elements, such as detailed norm-setting, information flows, and grievance facilitation, which form part of a composite enforcement landscape.

(f) Enforcement in private ordering systems

While 'soft law' is often characterized by its lack of formal enforcement, the label encapsulates a diverse landscape of transnational private regulatory instruments—such as corporate codes and voluntary standards.⁷⁷ Legal enforcement is substituted by assumptions on varied motivations for compliance with self-imposed standards, and social-economic enforcement by consumers, communities and financial institutions. However, these measures bring together several building blocks of legal enforcement. For instance, private ordering in the form of corporate codes often have the advantage of providing **highly detailed norms**, though with regards to the adoption of ILO standards, this is at times limited.⁷⁸ The level of detail can be explained by their focus on a single value chain (corporate codes), a sector (forests, cane sugar, diamonds) or topic (health and safety), but also on the basis of the assumption that they remain 'soft'. ESG reporting can aid in collective **information** and providing a learning mechanism. Individual grievances are generally difficult to launch, but corporate codes sometimes require a digital hotline systems for grievances. Corporate codes vary in their approaches to **remedial action**.⁷⁹ They may refer to possible sanctions on non-compliant contractors, but more often show preference to attempt improvement

⁷⁷ LUC FRANSEN, CORPORATE SOCIAL RESPONSIBILITY AND GLOBAL LABOR STANDARDS: FIRMS AND ACTIVISTS IN THE MAKING OF PRIVATE REGULATION (2011); Tim Bartley, *Corporate social responsibility: codes, compliance and ESG ratings*, in HANDBOOK ON GLOBALISATION AND LABOUR STANDARDS 400 (Kimberly A. Elliott ed., 2022).

⁷⁸ Luis Torres, Daniel Ripa, Aditya Jain, Juan Herrero & Stavroula Leka, *The Potential of Responsible Business to Promote Sustainable Work—An Analysis of CSR/ESG Instruments*. 164 SAFETY SCIENCE 106151 (2023); Elena Sychenko, *Labour Rights and International Labour Standards in the ESG Agenda*, 16 ITALIAN LAB. LAW E-J. 135 (2023).

⁷⁹ Mark Anner, *Corporate Social Responsibility and Freedom of Association Rights: The Precarious Quest for Legitimacy and Control in Global Supply Chains*, 40 POL. & SOC'Y 609 (2012).

measures. These instruments are strong with regard to expressive admission of responsibility, although they are also used to distance the legal responsibility of the higher nodes in the GVC from the compliance failures of employers down the value chain. Overall, the potential for these instruments to deter non-compliance or shift corporate occurs through economic, reputational, and contractual channels rather than traditional legal sanction.

(g) Conventions based on goodwill (e.g., OECD guidelines and NCPs):

While conventions based on goodwill—such as the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights (UNGPs)—are non-binding, they provide the basis for other instruments, such as mandatory human rights due diligence laws which we consider next. They have a comparative advantage in encouraging **information flows** through voluntary human rights due diligence, promoting **grievance mechanisms**, and the establishment of **competent and independent authorities** to mediate complaints.⁸⁰ **The competent and independent authorities** established by the OECD Guidelines – the National Contact Points - offer a more structured avenue for redress, but vary widely in capacity, resources, and protections against retaliation.⁸¹ Despite these limitations, these instruments express a growing normative expectation of corporate accountability which has had great influence across the enforcement ecosystem.

The voluntary nature of private self-regulation and promotional international instruments may suggest they are averse to idea of enforcement. Admittedly, without addressing all six building blocks, legal enforcement does not exist. Notably missing are the core of building blocks 4-5 and clear compensation methods of building block 6. However, these measures offer some advantages

⁸⁰ Gefion Schuler, *Effective Governance Through Decentralized Soft Implementation: The OECD Guidelines for Multinational Enterprises*, 9 GERMAN L. J. 1753 (2008).

⁸¹ Leyla Davarnejad, *In the Shadow of Soft Law: The Handling of Corporate Social Responsibility Disputes Under the OECD Guidelines for Multinational Enterprises*, 2 J. DISP. RESOL. 351 (2011); Kinnari Bhatt & Gamze Erdem Türkelli, *OECD National Contact Points as Sites of Effective Remedy: New Expressions of the Role and Rule of Law within Market Globalization?*, 6 BUS. & HUM. RTS. J. 423 (2021).

towards a composite model of enforcement that should not be overlooked: the details of norms, information (up and side streaming, information loops and organizational learning), and the introductory of key agents who can mediate grievances, even if only on a voluntary basis.

Type 2: binding instruments

In this category of "hard law" measures, the basic premise is that some form of formal legal, state-based, enforcement exists. This section examines how state-based norms and institutions—such as due diligence laws, trade agreements, and transnational litigation—engage with the six building blocks of enforcement. While these instruments move beyond the voluntary commitments of soft law, they still face significant challenges in delivering effective, worker-centered enforcement across complex global supply chains.

(h) National Corporate law mechanisms – HRDD

Mandatory human rights due diligence (mHRDD) laws—such as France’s Duty of Vigilance Law,⁸² Germany’s Supply Chain Due Diligence Act,⁸³ and the EU Corporate Sustainability Due Diligence Directive (CSDDD)⁸⁴—mark a significant step forward in embedding legal **rights, duties, and obligations** into corporate supply chain regulation. Unlike earlier transparency-based laws, mHRDD laws include binding **enforcement mechanisms**, such as fines and civil liability.⁸⁵

⁸² Loi 2017-399 du 27 mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d’ordre, *supra* note 8; Sandar Cossart & Mathilde Silvestre, *Four Years Later—the Impact and Potential of the French Law on the Duty of Vigilance*, 15 ZEITSCHRIFT FÜR MENSCHENRECHTE 84 (2021).

⁸³ Gesetz über unternehmerische Sorgfaltspflichten in Lieferketten [Supply Chain Due Diligence Act], July 22, 2021, BGBl I at 2959 (Ger.), *supra* note 8.

⁸⁴ Directive (EU) 2024/1760, June 13, 2024 (EU), *supra* note 8.

⁸⁵ Alejandra Ancheita, *Promoting Climate Justice in Transnational Fora: The Case of Unión Hidalgo vs Électricité de France and the French Corporate Duty of Vigilance Law*, in HUMAN RIGHTS AND ENVIRONMENTAL DUE DILIGENCE IN GLOBAL VALUE CHAINS: PERSPECTIVES FROM THE GLOBAL SOUTH 19 (Tobias Wuttke, Lise Smit, Asmita Parshotam, Alejandra Ancheita & Abu Meridian eds. 2022); Libby Annat, *First Case Filed Under the German Supply Chain Due Diligence Act Against Tom Tailor, Amazon, and IKEA by Bangladeshi Workers*, DUE DILIGENCE DESIGN, April 27, 2023, <https://duediligence.design/first-case-filed-under-the-german-supply-chain-due-diligence-act-against-tom-tailor-amazon-and-ikea-by-bangladeshi-workers/>.

However, the effectiveness of these mechanisms varies. While they aim to strengthen **information flows** through required risk assessments and reporting, these flows often remain procedural and do not consistently engage workers or generate actionable insights.⁸⁶ In terms of **grievance mechanisms**, Germany's law mandates accessible and anonymous complaint channels,⁸⁷ while the CSDDD requires both judicial and non-judicial mechanisms. Yet, many remain company-managed and lack worker trust or transparency. France's law allows court-based redress but remains inaccessible for most workers without intermediary support.⁸⁸ The presence of **competent and independent authorities** is stronger in Germany, where the Federal Office for Economic Affairs and Export Control (BAFA) oversees compliance, though questions persist about its capacity and independence.⁸⁹ The CSDDD also relies on national authorities, raising concerns about consistency and effectiveness across jurisdictions. While these laws offer more structured **dispute resolution mechanisms**, they are still hampered by accessibility barriers and procedural burdens.⁹⁰ Despite these weaknesses, mHRDD laws improve the **distribution of responsibility** along the value chain and provide legal hooks for accountability,⁹¹ even if the systemic capacity for **learning loops** and cross-border coordination remains underdeveloped.

⁸⁶ SHERPA, VIGILANCE PLANS REFERENCE GUIDANCE. (2019), https://www.asso-sherpa.org/wp-content/uploads/2019/02/Sherpa_VPRG_EN_WEB-VF-compressed.pdf; Stéphane Brabant, Charlotte Michon & Elsa Savourey, *The Vigilance Plan: Cornerstone of the Law on the Corporate Duty of Vigilance*, 50 REVUE INTERNATIONALE DE LA COMPLIANCE ET DE L'ÉTHIQUE DES AFFAIRES – SUPPLÉMENT À LA SEMAINE JURIDIQUE ENTREPRISE & AFFAIRES 1 (2017).

⁸⁷ Stefan Koos, *The German Supply Chain Due Diligence Act 2021 and Its Impact on Globally Operating German Companies*, in 2ND RIAU ANNUAL MEETING ON LAW AND SOCIAL SCIENCES 111 (2021); Markus Krajewski, Kristel Tonstad & Franziska Wohltmann, *Mandatory Human Rights Due Diligence in Germany and Norway: Stepping, or Striding, in the Same Direction?* 6 BUS. & HUM. RTS. J. 550 (2021).

⁸⁸ See also MARSHALL ET AL., *supra* note 71.

⁸⁹ David Weihrauch, Sophia Carodenuto & Sina Leipold, *From Voluntary to Mandatory Corporate Accountability: The Politics of the German Supply Chain Due Diligence Act*, 17 REGUL. & GOVERNANCE 909 (2023).

⁹⁰ Stéphane Brabant & Elsa Savourey, *A Closer Look at the Penalties Faced by Companies*, 50 REVUE INTERNATIONALE DE LA COMPLIANCE ET DE L'ÉTHIQUE DES AFFAIRES – SUPPLÉMENT À LA SEMAINE JURIDIQUE ENTREPRISE & AFFAIRES 1 (2017).

⁹¹ Dalia Palombo, *The Duty of Care of the Parent Company: A Comparison Between French Law, UK Precedents and the Swiss Proposals*, 4 BUS. & HUM. RTS. J. 265 (2019).

(d) Trade-related instruments

Trade instruments—such as trade agreements and import bans—are often assumed to potentially⁹² be among the most powerful enforcement tools in global supply chains due to their ability to impose **direct economic sanctions** and create strong market-based incentives for compliance.⁹³ Unlike private governance mechanisms, which rely on voluntary compliance, some trade instruments impose legally binding obligations or economic consequences on non-compliant suppliers.⁹⁴ Their primary enforcement appeal lies in their ability to impose direct sanctions, such as denying access to markets, thereby creating tangible financial incentives for compliance.⁹⁵ They provide a reference to **rights, duties, and obligations**, as seen in the USMCA’s linkage of market access to collective bargaining rights and Section 307’s prohibition on goods produced with forced labor.⁹⁶ However, the reference to well established norms remains within the limitations of few general and vaguely defined norms. The generality of the norms can be inclusive, allowing diverse claims that are connected to broad statements on association and unfree labor, but they are also exclusionary because they don’t prescribe detailed norms and are therefore easy to circumvent.⁹⁷ Their capacity to enable effective **information flows** is weak, as these mechanisms rely on top-

⁹² This is only potentially the case because most trade agreements do not include such mechanisms but rather include declaratory labor clauses without an enforcement mechanism. See discussion in Franz Christian Ebert, *Labour Provisions in EU Trade Agreements: What Potential for Channelling Labour Standards-Related Capacity Building?*, 155 INT’L LAB. REV. 4017 (2016).

⁹³ Cayla D. Ebert, *Effectiveness of Labor Provisions Within Free Trade Agreements Between the United States and Latin American Countries*, 27 MINN. J. INT’L L. 245 (2018); Franz Christian Ebert, Francesca Francavilla & Lorenzo Guarcello, *Tackling Forced Labour in Global Value Chains: What Role for Trade Instruments?* in MODERN SLAVERY AND THE GOVERNANCE OF GLOBAL VALUE CHAINS 180 (Hila Shamir, Bimal Arora, Shilpi Banerjee & Tamar Barkay eds., forthcoming 2025).

⁹⁴ Maria Anna Corvaglia, *Labour Rights Protection and Its Enforcement Under the USMCA: Insights from a Comparative Legal Analysis*, 20 WORLD TRADE REV. 648 (2021); Alvaro Santos, *Reimagining Trade Agreements for Workers: Lessons from the USMCA*, 113 AJIL UNBOUND 407 (2019).

⁹⁵ Jennifer Gordon, *The US Forced Labor Import Ban as a Tool to Raise Labor Standards in Supply Chain Contexts: Strategic Approaches to Advocacy* (March 4, 2024), <https://ssrn.com/abstract=4756721> or <https://dx.doi.org/10.2139/ssrn.4756721>.

⁹⁶ ILO, LABOUR PROVISIONS IN G7 TRADE AGREEMENTS: A COMPARATIVE PERSPECTIVE, 2019, <https://www.ilo.org/publications/labour-provisions-g7-trade-agreements-comparative-perspective>; ILO, INTEGRATING TRADE AND DECENT WORK VOLUME 2: THE POTENTIAL OF TRADE AND INVESTMENT POLICIES TO ADDRESS LABOUR MARKET ISSUES IN SUPPLY CHAINS, 2023, <https://www.ilo.org/publications/integrating-trade-and-decent-work-volume-2-potential-trade-and-investment>.

⁹⁷ Matthew M. Higgins, *Closed Loophole, Open Ports: Section 307 of the Tariff Act and the Ongoing Importation of Goods Made Using Forced Labor*, 75 STAN. L. REV. 917 (2023); Desirée LeClercq, *A Worker-Centered Trade Policy*, 61 COLUM. J. TRANSNAT’L L. 733 (2023).

down, state-led channels that exclude workers and fail to promote transparency or adaptive learning.⁹⁸ While workers and NGOs may trigger action through **grievance mechanisms**, they remain sidelined in investigations and remediation processes, limiting their agency and reinforcing externally imposed enforcement.⁹⁹ The absence of truly **competent and independent authorities**—with customs bodies lacking labor rights expertise—further undermines robust enforcement.¹⁰⁰ There is also a glaring lack of structured **dispute resolution mechanisms** or transparent appeals processes, making enforcement opaque and unpredictable. Most significantly, trade instruments fail to provide meaningful **remediation**, rarely delivering compensation or structural improvements for workers,¹⁰¹ and remain narrowly focused on extreme abuses like forced labor, while overlooking widespread violations such as wage theft and occupational hazards.¹⁰² In short, while trade tools offer the appearance of strong enforcement, their design and implementation fall short of delivering sustained, systemic protection for workers across global value chains.

⁹⁸ Irene Pietropaoli, Owain Johnstone and Alex Balch, *Policy Brief: Effectiveness of Forced Labour Import Bans* (Modern Slavery and Human Rights Policy and Evidence Centre, 2025), <https://files.modernslaverypec.org/production/assets/downloads/MSPEC-Import-Bans-Briefing.pdf?dm=1739286324>; Anti-Slavery International and European Center for Constitutional and Human Rights, *Anti-Slavery International and European Center for Constitutional and Human Rights' Position on Import Controls to Address Forced Labour in Supply Chains* (Briefing Note, June 2021), <https://www.antislavery.org/wp-content/uploads/2021/06/Anti-Slavery-International-ECCHR-Import-Controls-Position-Paper-1.pdf>; *Integrating Trade and Decent Work Vol. 2, XVII* (Marva Corley-Coulibaly, Franz Christian Ebert & Pelin Sekerler Richiardi eds., 2023), <https://www.ilo.org/publications/integrating-trade-and-decent-work-volume-2-potential-trade-and-investment>.

⁹⁹ DESIREE LECLERCQ, ALEX COVARRUBIAS-V & CIRILA QUINTERO RAMÍREZ, ENFORCEMENT OF THE UNITED STATES-MEXICO-CANADA AGREEMENT ("USMCA") RAPID RESPONSE MECHANISM: VIEWS FROM MEXICAN AUTO SECTOR WORKERS (2024); <https://ecommons.cornell.edu/server/api/core/bitstreams/3255c7bc-cc5b-42b5-8700-cc58b158e527/content>.

¹⁰⁰ Josh LaFianza, *Threatening Ill-Gotten Gains: Analyzing the Effectiveness of a Forced Labor Import Ban in the European Union* (Stanford-Vienna European Union Law Working Papers No. 60, 2022), <https://law.stanford.edu/wp-content/uploads/2022/05/EU-Law-WP-60-LaFianza.pdf>.

¹⁰¹ Gordon, *supra* note 95; *but see* for some counter examples: THE REMEDY PROJECT, *supra* note 10. Indeed, though in some cases the state imposing the ban may work with suppliers to transform exploitative labour practices, currently in the US, they are not obligated to do so. *See, e.g.* Allie Brudney, *Using the Master's Tools to Dismantle the Master's House: 307 Petitions as a Human Rights Tool*, CAL Blog, (August 3, 2020), <https://corpaccountabilitylab.org/calblog/2020/8/28/using-the-masters-tools-to-dismantle-the-masters-house-307-petitions-as-a-human-rights-tool>. *See also* the discussion in Ebert, Francavilla & Guarcello, *supra* note 93.

¹⁰² LeClercq, *supra* note 97.

(e) Transnational litigation

Transnational litigation is often perceived as the gold standard of enforcement, promising strong **rights, duties, and obligations**, individual or collective **grievance mechanisms**, access to an independent judiciary, and the potential for significant **remediation** through pecuniary compensation or injunctive relief. Its high visibility also offers expressive value, reinforcing brand accountability and influencing broader compliance behavior. **In its ideal form, such litigation should end with strong remedial action for past wrongs.** It should also carry with it a strong **expressive message** regarding the responsibility of brands for workers' rights all the way down the value chain.¹⁰³ However, in practice, this idealised vision is rarely realised.¹⁰⁴ Litigation remains inaccessible to most workers due to the immense legal and logistical distance between the shopfloor and foreign courts. Workers face formidable barriers in launching **grievances or complaints**, including jurisdictional hurdles, forum non conveniens objections, and courts' reluctance to adjudicate events outside their territory.¹⁰⁵ There is little provision for **affordable, accessible dispute resolution mechanisms**, and no reliable system for enforcing judgments across borders. Even where suits have been filed, they have seldom resulted in successful **remediation**, with no final rulings delivering enforceable remedies to affected workers, therefore leaving open for the future the possibility of enforcing judgements across jurisdictions.¹⁰⁶ Moreover, the absence

¹⁰³ Erika de Wet, *Decentralized Enforcement of International Labour Standards: The Role of Domestic Courts*, in *ILO100: Law for Social Justice* 279 (George P. Politakis, Tomi Kohiyama & Thomas Lieby eds., 2019).

¹⁰⁴ Judy Fudge & Guy Mundlak, *Peeling the Onion: On Choices Judges Make in Transnational Labour Litigation*, in *SOCIAL JUSTICE AND THE WORLD OF WORK: POSSIBLE GLOBAL FUTURES* 249 (Brian Langille & Anne Trebilcock eds., 2023)

¹⁰⁵ David J. Doorey, *Lost in Translation: Rana Plaza, Loblaw, and the Disconnect Between Legal Formality and Corporate Social Responsibility* (unpublished manuscript, 2018), available at: <https://www.canlii.org/en/commentary/doc/2018CanLIIDocs10590#!fragment//BOCwhgziBcwMYgK4DsDWszIQeW4BUBTADwBdoByCgSgBplTCIBFRQ3AT0otokLC4EbDtyp8BQkAGU8pAELcASgFEAMioBqAQOByAYRW1SYAEbRS2ONWpA>

¹⁰⁶ In fact, no transnational litigation of this kind ended in a verdict to which it was possible to apply the general norms of private international law regarding enforcement across jurisdictions. The few successful cases ended in settlements outside the court after the courts upheld the plaintiffs' factual and doctrinal claims in preliminary proceedings. At the same time there were instances in which courts granted high awards to defendants (business) after the lawsuit was

of timely, participatory processes means transnational litigation does not facilitate meaningful **information flows**, nor does it engage **competent and independent authorities** in ways that support systemic change. While litigation’s symbolic and deterrent potential remains, its practical enforcement capacity is currently limited and demands significant reform to become a viable rights-protection mechanism within global value chains.

In sum, the current enforcement measures offer important advances but remain limited in their impact. While all three approaches—trade agreements, transnational litigation, and mHRDD legislation—introduce detailed enforcement mechanisms, those that have been tested have produced only sporadic outcomes, and mHRDD frameworks are still largely untested. These experiences highlight the persistent gap between establishing enforcement measures and achieving meaningful application in practice. This gap becomes clearer when viewed through the lens of the six building blocks, as each approach shows conceptual strengths in some areas but significant deficiencies in others.

Type 3: idiosyncratic grass-roots governance methods

This category includes enforcement models developed from the bottom up, rather than through top-down regulatory initiatives. These measures tend to be highly responsive to local needs and conditions, often achieving greater legitimacy among workers. However, they typically lack the institutional reach and resources needed for broad systemic application across GVCs. Despite their limitations, they offer important innovations in worker-driven enforcement and collective governance.

(f) Worker Driven Social Responsibility and Enforceable Brand agreements

Worker-Driven Social Responsibility (WSR) models—such as the Fair Food Program, the Dindigul Agreement, and the Lesotho Agreements—are the result of experimentation with

dismissed. For example, in *Das v George Weston Limited*, 2017 ONSC 5583, the Ontario court granted a \$2.3 million cost award to the two defendants. See, Doorey, *ibid.*

different forums, structures, and instruments for social dialogue to address decent work in supply chains by social partners.¹⁰⁷ They emerge from prior efforts that involve active participations of workers’ representatives, such as global framework agreements and labor activism across borders, but also from local operations of work centers.¹⁰⁸ They establish **Enforceable Brand Agreements (EBAs)** setting binding **rights, duties, and obligations** through enforceable contracts between brands and suppliers, with clearly defined standards on wages, working conditions, and protections against gender-based violence.¹⁰⁹ A major strength is their emphasis on robust **information flows**, achieved through worker-led monitoring, continuous feedback loops, and real-time reporting mechanisms.¹¹⁰ WSR EBAs also excels in providing safe and independent **grievance mechanisms**, which are accessible, rapid, and trusted by workers, with swift resolution processes and binding corrective actions.¹¹¹ Moreover, WSR frameworks include **competent and independent authorities**—such as the Fair Food Standards Council and Dindigul Monitoring Committee—that oversee compliance and remediation without corporate interference.¹¹² Their **dispute resolution mechanisms** are tailored to worker needs, allowing resolution of most grievances within days or weeks,¹¹³ unlike slower, costlier arbitration models such as the Bangladesh Accord’s process.¹¹⁴ Importantly, WSR delivers meaningful **remediation**, not only through compensation but also through structural changes and economic sanctions—suppliers that

¹⁰⁷ Jeremy Blasi & Jennifer Bair, *An Analysis of Multiparty Bargaining Models for Global Supply Chains*, (ILO Conditions of Work and Employment Series No. 105, 2019), https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40ed_protect/%40protrav/%40travail/documents/publication/wcms_655541.pdf.

¹⁰⁸ Papadakis, *supra* note 4.

¹⁰⁹ Fudge & Lebaron, *supra* note 10.

¹¹⁰ Thomas Haipeter, Markus Helfen, Anja Kirsch, Sophie Rosenbohm & Christine Üyük, *Industrial Relations at Centre Stage: Efficiency, Equity and Voice in the Governance of Global Labour Standards*, 28 INDUSTRIELLE BEZIEHUNGEN / THE GERMAN J. OF INDUS RELATIONS 148 (2021); MARQUIS, *supra* note 34; Fabiola Mieres & Siobhán McGrath, *Ripe to Be Heard: Worker Voice in the Fair Food Program*, 160 INT’L LAB. REV. 631 (2021).

¹¹¹ Kathryn Babineau & Maya Stephens, *Hotlines, Private Regulation, and Farm Migrant Labor Rights: Effective Grievance Mechanisms and the Role of Accessibility*, 43 GEOGRAPHY RES. F. 53 (2024); Jonathan Kaufman & Katherine McDonnell, *Community-Driven Operational Grievance Mechanisms*, 1 BUS. & HUM. RTS. J. 127 (2016).

¹¹² MARQUIS, *supra* note 34; Asbed & Hitov, *supra* note 10.

¹¹³ Fudge & Lebaron, *supra* note 10.

¹¹⁴ Katerina Yiannibas, *The Use of Arbitration to Resolve Transnational Labour Disputes*, in SOCIAL JUSTICE AND THE WORLD OF WORK: POSSIBLE GLOBAL FEATURES 249 (Brian Langille & Anne Trebilcock eds., 2023); Richard Croucher, Mark Houssart, Lilian Miles & Philip James, *Legal Sanction, International Organisations and the Bangladesh Accord*, 48 INDUS. L.J. 549 (2019).

violate standards can be removed from corporate purchasing lists, creating real market consequences.¹¹⁵

The success of the WSR model is viewed by covering all the proposed building blocks of enforcement, but it also has its limitations. The financial burden of arbitration is often significant, potentially deterring broader use of the arbitration process. While FFP and other EBAs such as the Dindigul Agreement demonstrate the effectiveness of localized, worker-led dispute resolution models,¹¹⁶ the Bangladesh Accord highlights the risks of relying on international commercial arbitration without adaptation to the labor context.¹¹⁷ Further, lead firms are often not directly **bound by enforcement obligations**, undermining full accountability and enabling “capital flight”. Moreover, WSR initiatives rely on brand goodwill for funding and continued participation, posing risks to financial sustainability and long-term scalability.¹¹⁸ Finally, the success of bringing together several enforcement mechanisms that are tailored to the local circumstances, also indicates the difficulty of diffusion and replication.

Table 1 summarizes the comparison between the different regulatory tools we reviewed and analyzed, depicting the various enforcement forms, highlighting their strengths and weaknesses, on the basis of the six building blocks we propose. Overall, as the comparison table shows, enforcement gaps persist across all models. While worker-driven approaches show the highest potential for ensuring compliance and delivering tangible improvements for workers in GVCs, they face structural challenges in securing sustainable funding and expanding their reach. Transnational litigation, despite its theoretical promise, remains largely ineffective as an

¹¹⁵ Sifat Amita & Mark Anner, *Worker Voice and Enforceable Brand Agreements (EBAs)*, in *WORKER VOICE: WHAT IT IS, WHAT IT IS NOT, AND WHY IT MATTERS* 17 (Mark Anner & Matthew Fischer-Daly, 2023).

¹¹⁶ Fudge & Lebaron, *supra* note 10; Amita & Anner, *supra* note 111.

¹¹⁷ See references discussing the dispute resolution mechanism under the Bangladesh and International Accord, *supra* note 60.

¹¹⁸ Brudney, *supra* note 25; see Kathryn Babineau & Jennifer Bair, *The Art of Using Supply Chains to Defend Worker Rights, Beyond Trafficking and Slavery*, *OPEN DEMOCRACY*, Dec. 14, 2020, 11:17 AM, <https://tinyurl.com/2aka25pk>; Kathryn Babineau, Jennifer Bair & Victor Yengle, [this volume](#).

enforcement tool due to its procedural barriers and lack of consistent remedies. Finally, soft forms contribute to enforcement, despite the claim rendering soft law separate formal legal enforcement. Their strength appears only when combined with other measures, particularly in the integrative form of WSR.

Comparison– Regulatory Types Compared Along the Six Building Blocks of Enforcement

Regulatory Type Enforcement Building Block	<i>Clear Prescription of Rights</i>	<i>Multi-Directional Information Flows</i>	<i>Safe Grievance Mechanisms</i>	<i>Independent Oversight</i>	<i>Accessible Dispute Resolution</i>	<i>Meaningful Remedies</i>
<i>Private Ordering (Corporate Codes)</i>	Often detailed but non-binding	Limited to audits, mostly top-down	Company-controlled, risk of retaliation	Weak, self-monitored	Limited, structured processes	no inconsistent brands may disengage
<i>International Guidelines (OECD, UNGPs)</i>	Broad commitments	Encouraged but voluntary	NCPs exist but lack strong protections	Dependent on state willingness to enforce	Mediation-based, slow and non-binding	Recommendations only; lacks enforceability
<i>Mandatory HRDD Laws</i>	Legally binding norms, but often procedural HRDD	Improved via reporting, not information	Some mechanisms exist, but often	Varies; some regulatory agencies, some judicial	Court-based, costly, and difficult	Focused on prevention, for limited past harm redress

			most important for workers	employer- controlled		workers to access	
<i>Trade Instruments (USMCA, Sec. 307)</i>	Clear legal obligations but limited in scope	Hierarchical, little transparency	Workers can file complaints, but have little agency	Customs agencies with limited expertise	Adversarial, little worker involvement	Rarely compensates workers directly	
<i>Worker-Driven Social Responsibility (WSR)</i>	Specific, binding, and enforceable	Worker-led, continuous feedback loops	Independent, worker-trusted mechanisms	Independent monitoring by worker-led committees	Rapid, accessible, and worker-friendly	Tangible, enforceable economic consequences	
<i>Transnational Litigation</i>	Legal obligations exist but difficult to enforce	Highly limited; dependent on legal actors	Theoretical access to courts but prohibitive legal barriers	Judicial oversight, but often inaccessible for workers	Lengthy, costly, and jurisdictionally complex	Potentially strong, but rarely enforced in practice	

5. The road from here: Hard law international instrument or de-centered experimentation

This section explores two pathways for advancing labor rights enforcement. The first approach envisions a ‘hard law’ international convention, providing a coherent and enforceable framework that integrates elements of corporate due diligence, collective bargaining, and state-led oversight. Such an initiative—exemplified by the recent proposal for an ILO Convention on Decent Work in Global Supply Chains¹¹⁹—seeks to address the deficiencies of voluntary frameworks by embedding robust enforcement mechanisms into international labor law.

In contrast, the second approach embraces regulatory pluralism, emphasizing the value of ongoing, decentralized experimentation across multiple governance instruments. This model recognizes the potential for national human rights due diligence laws, supply chain agreements, and hybrid co-enforcement initiatives to drive incremental improvements in labor governance. The flexibility and adaptability offered by this approach are beneficial in the face of evolving value chain dynamics and political-economic constraints.

(a) Hard Law international instrument – Towards A GVC Convention

Efforts to establish a binding international framework to regulate transnational business conduct and enforce human rights obligations have been underway for decades, though they have faced significant political and practical challenges. Against this backdrop, recent embryonic steps towards developing a binding ILO Convention on Decent Work in Global Supply Chains represent a significant normative development, but not one for which practical success is likely. Unlike previous UN initiatives, the proposed convention is rooted in the ILO’s tripartite structure, engaging governments, employers, and workers to ensure enforceability while maintaining flexibility for state-level implementation. It is based on all building blocks and thus aims at strong enforceability. The draft text builds on the models for mandatory human rights due diligence, such as the EU CSDDD, that have their origins in the UNGPs, but also proposes a genuinely tripartite

¹¹⁹ LANDAU & MARSHALL, *supra* note 17.

process for due diligence more suited to the ILO, coupled with the scaffolding for cross-border collective bargaining.

Because the draft text for a Convention is targeted to sit within the ILO ecosystem, it calls on the already **clear prescription of the rights of workers** established by 105 years of previous ILO Conventions, including, importantly, freedom of association and the right to withhold labor. It places an obligation on member-states to place **duties on business** to prevent (Article 5) labor rights harms and remedy them after they occur. With regards to **multidirectional information flows**, it provides that ‘Members shall ensure that workers and workers’ organizations have the right to request information’ concerning business ‘supply chains and other business relationships and how the undertaking addresses potential and actual labour rights harms’ (Article 7). The requirement for company-based grievance mechanisms (Article 8), in addition to regular consultation, provides the basis for workers informing management about their concerns and grievances, with strong protections against repercussions. Grievance procedures may be regulated by means of collective agreements (Article 8(3)).

The ILO is charged in the draft text with analyzing the complaints made to competent authorities and judiciaries to assess broader trends and themes. This, it is hoped, will both address systemic problems and creating **learning loops** that translate individual grievances into institutional change. Based on the analysis of complaints, the ILO is also responsible for coordinating between the network of member-states, as well as developing guidance, model clauses and other instruments.

While the draft text for a Convention is a centralized mechanism in the sense that it is an international instrument, ratification, implementation and most enforcement of the standards would occur at a company and member-state level. In this sense, enforcement is de-centralized and will be adapted to company and country level jurisdictions. Complaints can be launched by worker representatives to company grievance mechanisms, competent authorities, or national-level judiciaries, depending on the style of regulation in the member-state. This method preserves the advantage, and formulates an incentive, for further explicating corporate responsibility as the basis of well-tailored norms and corporate institutions.

Companies have a duty to ‘take appropriate steps to **remedy** within a reasonable period of time any labour rights harms which they have caused or to which they have contributed in their own activities, the activities of their subsidiaries, their supply chains and other business relationships’ (Article 9(1)). Furthermore, **competent and independent authorities are given strong authority to remediate violations**, with an obligation to coordinate with their counterparts from other states where cross-border supply chains are involved. These cross-border cooperation provisions play a crucial role in **ensuring that the entire value chain—from lead firms to smaller suppliers—can be investigated and regulated**.

Perhaps the biggest innovation of the draft text for an ILO Convention on Decent Work in Global Supply Chains establishes a robust framework for social dialogue and cross-border collective bargaining, ensuring that workers can meaningfully engage in shaping labor standards at all levels of the supply chain.

Taken together, these provisions create a system of decentralized labor governance that leverages both national and international institutions. Instead of relying solely on top-down regulatory enforcement, the Convention encourages negotiation, consensus-building, and binding commitments between workers, employers, and states. This approach acknowledges the economic power dynamics within global supply chains and seeks to ensure that workers at all levels can collectively bargain for fairer wages, improved working conditions, and enhanced rights protections without fear of corporate impunity or legal fragmentation.

b) The Current Situation: Decentered Experimentation?

The alternative to an international governance instrument is the current situation mapped in the middle section of this paper: decentered and dynamic process.¹²⁰ Taken together, this accumulation of mechanisms involves multiple regulatory actors, including states, businesses, civil society, and

¹²⁰ Julia Black, *Decentring Regulation: Understanding the Role of Regulation and Self-Regulation in a “Post-Regulatory” World*, 54 CURRENT LEGAL PROBS. 103 (2002); Colin Scott, *Analysing Regulatory Space: Fragmented Resources and Institutional Design*, PUB. L. 283 (2001).

workers, contribute to enforcement in ways that can be overlapping, complementary, or even contradictory. A pluralistic enforcement ecosystem is championed by New Governance scholars as an alternative to a singular, hierarchical approach.¹²¹ Each enforcement model, flawed in itself, necessitate interactions with other regulatory forms.

Private ordering systems, such as corporate codes of conduct and industry-led certification schemes, offer flexibility that enables adaptation to different industry contexts and regulatory landscapes. Conventions based on goodwill, such as the OECD Guidelines for Multinational Enterprises and National Contact Points (NCPs), provide a transnational grievance framework, enabling affected communities to raise human rights concerns beyond their domestic legal systems. State-based regulatory interventions, such as mandatory human rights due diligence laws, encourage information flows of all kinds, and introduce legal obligations and potential sanctions, shifting corporate accountability from voluntary commitments to enforceable duties.¹²² The effectiveness of these mechanisms depends not only on legal mandates but also on their interaction with other enforcement structures, including private governance initiatives and civil society monitoring. Worker-driven social responsibility initiatives, demonstrate the potential of participatory enforcement by centering workers and civil society actors in compliance efforts. Examples such as the Fair Food Program and Bangladesh Accord illustrate how independent monitoring and legally binding agreements can create worker-responsive enforcement structures that address power imbalances more effectively than traditional corporate audits.¹²³

Conclusion

While it might be argued that, taken together, these models suggest that regulatory pluralism offers an alternative to centralized enforcement, it remains an open question whether such pluralism is desirable or sufficient. Decentered regulatory approaches emphasize adaptability and networked

¹²¹ Kenneth W. Abbott & Duncan Snidal, *Strengthening International Regulation Through Transmittal New Governance: Overcoming the Orchestration Deficit*, 42 VAND. J. TRANSNAT'L L. 501 (2009). Scott Burris, Peter Drahos & Clifford Shearing, *Nodal Governance*, 30 AUSTL. J. LEGAL PHIL. 30 (2005).

¹²² Kevin Kolben, *Transnational Labor Regulation and the Limits of Governance*, 12 THEORETICAL INQUIRIES L. 403 (2011).

¹²³ John Braithwaite, *Responsive Regulation and Developing Economies*, 34 World Dev. 884 (2006).

governance, where regulatory influence is dispersed and exercised through interactions rather than top-down directives.¹²⁴ However, the uncoordinated layering of multiple measures can create significant gaps that undermine the objectives of enforcement.¹²⁵ Theories of regulatory orchestration suggest that enforcement can be strengthened when multiple regulatory actors coordinate across different levels, leveraging their respective strengths to close these gaps.¹²⁶ This is precisely the role envisaged for the ILO and a network of competent state authorities in the draft text for a proposed ILO Convention on Decent Work in Global Supply Chains.

Ultimately, we do not see regulatory pluralism as a panacea for labor rights protection. Rather, the six-building-block framework proposed here invites deeper exploration of how enforcement mechanisms can be recalibrated, interconnected, and adapted to cover all stages of the enforcement process. Soft law measures can contribute where hard law mechanisms are weak, and vice versa. Different hard law interventions may strengthen enforcement efforts in one area while compromising others. This tradeoff is particularly evident in the tension between decentralized, shopfloor-level responses and centralized measures aimed at addressing systemic violations.

The same innovation that allows for tailoring enforcement measures to the specific needs of a value chain or sector also makes it difficult to systematically scale and replicate best-case solutions. The proposed ILO Convention attempts to solve the problem of systematic global application, but this ambition also lies at the core of its difficulty in gathering broad support from employers and states.

¹²⁴ Colin Scott, REGULATION IN THE AGE OF GOVERNANCE: THE RISE OF THE POST-REGULATORY STATE 145-174 (2004); Abbott & Snidal, *supra* note 121.

¹²⁵ Mundlak, *supra* note 2.

¹²⁶ Sarah Rennie, Tim Connor, Annie Delaney & Shelley Marshall, *Orchestration from Below?: Trade Unions in the Global South, Transnational Business and Efforts to Orchestrate Continuous Improvement in Non-State Regulatory Initiatives*, 40 UNSW L.J. 1275 (2017).