

MAPPING THE FUTURE OF LABOR RIGHTS ENFORCEMENT IN GLOBAL VALUE CHAINS: A COMPARATIVE ANALYSIS OF LABOR GOVERNANCE APPROACHES

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Enforcing labor rights in global value chains (GVCs) remains a critical challenge, as traditional regulatory approaches struggle to contend with the complexities of global production. This Article introduces a novel analytical framework to diagnose and address enforcement deficits by moving beyond the simplistic “hard” versus “soft” law dichotomy. We propose six core ‘building blocks’ of effective enforcement: clear prescription of rights, multidirectional information flows, safe and accessible grievance mechanisms, independent and competent oversight, accessible dispute resolution, and meaningful redress.

The Article applies this framework to comparatively analyze a range of governance instruments, including private corporate codes, state-based due diligence laws, transnational litigation, and worker-driven social responsibility (WSR) models. Our analysis reveals that while no single model is a panacea, WSR initiatives are the most effective, as they holistically integrate all six building blocks. We find that ostensibly “hard” laws often possess significant practical weaknesses, whereas “soft” mechanisms can contribute vital functions to a broader enforcement ecosystem. The Article’s primary contribution is a diagnostic tool that enables the strategic design of composite enforcement systems, leveraging synergies between different regulatory forms to provide robust and sustainable protection for workers.

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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 multitiered 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 have emerged. Yet in many of the labor governance tools that have 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 around the world 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 are violated by their immediate contractual employers, questions of enforcement arise. Workers' rights are derived from multiple sources, notably from domestic (state) laws, but also from transnational instruments such as international conventions, trade agreements, cross-border collective agreements, and obligations established through private ordering. The traditional Westphalian approach assigns enforcement responsibility to nation-states. However, the interconnected nature of global production and services necessitates transnational instruments that match the multiple sources 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 are 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

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 et al. eds., 2021).

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 et al. eds., 2021).

framework collective bargaining agreements, which do not include a clear procedure for enforcement, are commonly regarded as a declaration of moral obligations.⁴

Other institutions in the transnational governance system may include some form of enforcement powers, but these remain “on the books” with little active use “in action.” For example, the operationalization of International Labour Organization (ILO) Conventions is based on the goodwill of member states that are required to ratify them, implement them domestically and ensure enforcement.⁵ Even when there is some form of de-jure enforcement mechanism, such as Art. 33 of the ILO constitution,⁶ it is rarely used.⁷ Similarly, bilateral and regional trade agreements present a potential for enforcement because states assume mutual obligations, but inter-state political considerations trump the strict deployment of workers’ rights enforcement measures.⁸

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.⁹

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- 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, 133 (Guillaume Delautre et al. eds., 2021), https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms_771481.pdf.
 - 5 Int’l Labour Org. [ILO], *Constitution of the International Labour Organization*, art. 19 ¶5 (entered into force Apr. 1, 1919, as amended 1946), https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:62:0::NO::P62_LIST_ENTRIE_ID:2453907 (providing that ILO Conventions bind only those member states that ratify them, and that enforcement relies on domestic implementation). See 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 Article 33 authorizes the ILO to call on all members to take collective action against noncompliant states. See Int’l Labour Org. [ILO], *Constitution of the International Labour Organization*, *supra* note 5, art. 33.
 - 7 Francis Maupain, *The ILO Regular Supervisory System: A Model in Crisis?*, 10 INT’L ORG. L. REV. 117 (2013).
 - 8 See, e.g., a study showing no positive impact of labor clauses in trade agreements: Isao Kamata, *Labor Clauses in Regional Trade Agreements and Effects on Labor Conditions: An Empirical Analysis* (IDE Discussion Papers no. 609, 2016), <https://www.ide.go.jp/English/Publish/Reports/Dp/609.html> [<https://perma.cc/J2WW-R2GF>].
 - 9 California Transparency in Supply Chains Act, Cal. Civ. Code § 1714.43 (West 2012); the UK Modern Slavery Act 2015, c. 30; 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 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 [eBAnz] 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

However, these instruments primarily target compliance with processes and procedures rather than ensure adherence to substantive norms.¹⁰

Despite the various forms of weak enforcement measures, there are a few compelling examples where de-jure and de-facto forms of soft law have tangibly improved the enjoyment of workers' rights.¹¹ Consequently, legal analyses often call for "adding bite" to the transnational labor law and governance framework, with enforcement heralded as the cornerstone of its future effectiveness.¹² 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.¹³ However, this image is increasingly being challenged by complex legal, structural, and procedural realities.¹⁴ 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.¹⁵ Legal consciousness among workers is often weak; fragmented (or fissured) employment structures complicate the identification

Directive (EU) 2019/1937 and Regulation (EU) 2023/2859, 2024, O.J. (L, 2024/1760) 5 July 2024, <https://eur-lex.europa.eu/eli/dir/2024/1760/oj/eng> [<https://perma.cc/WXD6-HYQP>].

- 10 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: Structural Comparison of Corporate Transparency Legislation and Worker-driven Social Responsibility*, in *MODERN SLAVERY AND THE GOVERNANCE OF GLOBAL VALUE CHAINS* 180 (Hila Shamir et al. eds., 2025).
- 11 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> [<https://perma.cc/DET7-GXJE>]; TRANSPARENTEM, "I CAME HERE WITH SO MANY DREAMS": LABOR RIGHTS ABUSES & THE NEED FOR CHANGE IN MAURITIUS' APPAREL FACTORIES (2025), <https://transparentem.org/report/mauritius-disclosure/> [<https://perma.cc/SX8Q-5CY7>].
- 12 JAAKKO SALMINEN, *FROM NATIONAL PRODUCT LIABILITY TO TRANSNATIONAL PRODUCTION LIABILITY: CONCEPTUALIZING THE RELATIONSHIP OF LAW AND GLOBAL SUPPLY CHAINS* (2017) (doctoral thesis, University of Turku) https://research-api.cbs.dk/ws/portalfiles/portal/62141980/salminen_dissertation.pdf [<https://perma.cc/4MXZ-XP5J>]; Maria-Therese Gustafsson et al., *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 et al., *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 (2024).
- 13 MICHAEL J. PIORE & ANDREW SCHRANK, *ROOT-CAUSE REGULATION: PROTECTING WORK AND WORKERS IN THE TWENTY-FIRST CENTURY* (2018).
- 14 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).
- 15 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).

of responsible parties;¹⁶ and numerous barriers within the legal process itself—in procedural law, rules of evidence, and even substantive employment law—further hinder effective enforcement.¹⁷

The quest for effective enforcement requires rethinking both the key ingredients of effectiveness and the extent to which different regulatory instruments support enforceability. This twofold objective allows us to move beyond the oversimplified distinction between hard and soft law. On one hand, it is crucial to assess ostensibly non-enforceable instruments (both de-jure and de-facto) and recognize their contribution to the process of enforcement. On the other hand, it is equally important to identify the missing enforcement components in allegedly hard law instruments, which may undermine their effectiveness.

To address these objectives, Part I introduces a framework of six building blocks of enforcement—clear rights, information flows, grievance mechanisms, independent oversight, dispute resolution, and meaningful redress. These blocks are interconnected and mutually reinforcing, but they should not be understood as a binary checklist: mechanisms may operate without one or more of them, though they are weaker as a result. This framework serves as an ideal type against which to assess the strengths, gaps, and complementarities of diverse governance arrangements.

Part II applies this six-part framework to evaluate a spectrum of regulatory approaches. The assessment starts by challenging the assumption that soft law cannot support effective enforcement, before turning to instruments more commonly associated with strengthening it. These include (a) voluntary arrangements with explicit concern for enforcement, such as the OECD's National Contact Points (NCPs); (b) national corporate laws that extend procedural obligations into substantive due diligence requirements; (c) improvements within inter-state trade agreements; (d) transnational litigation; and (e) enhancements in transnational collective bargaining agreements.

I. 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 by means of which compliance is ensured. Addressing the challenge of compliance is particularly crucial in GVCs, where multitiered contracting, subcontracting, and cross-border

¹⁶ DAVID WEIL, *THE FISSURED WORKPLACE: WHY WORK BECAME SO BAD FOR SO MANY AND WHAT CAN BE DONE TO IMPROVE IT* (2014).

¹⁷ For jurisdictional barriers in the GVC context, see, e.g.: 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).

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).

operations diffuse responsibility,¹⁹ create layers of distance between central corporate entities and workers, and ultimately complicate and dilute accountability.²⁰ Problems of scale and jurisdiction undermine the use of familiar domestic enforcement institutions.²¹ 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.²² Effective enforcement therefore requires mechanisms that are adaptable, inclusive, and capable of addressing structural and systemic deficiencies across complex supply chains.

A. A Spectrum of Regulatory Approaches

Transnational governance of labor rights in GVCs operates across an array of regulatory instruments, often distinguished according to a “hard law” and “soft law” classification.²³ Hard law refers to legally binding instruments, such as national statutes, enforceable contractual obligations, and some international conventions. These mechanisms provide formal accountability structures, often backed by state authority and judicial processes.²⁴

In contrast, soft law encompasses nonbinding guidelines, principles, and voluntary codes of conduct.²⁵ Instruments such as the United Nations Guiding Principles on Business and Human Rights (UNGPs) and CSR initiatives rely on moral suasion, market incentives, and reputational pressures rather than legal compulsion.²⁶ 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, overreliance on voluntarist solutions can lead to a dilution of labor standards and undermine effective enforcement.²⁷

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

19 Shamir & Marshall, *supra* note 12.

20 Davidov, *supra* note 18.

21 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 et al. eds., 2021).

22 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).

23 Karlsson-Vinkhuyzen & 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).

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

25 Kevin T. Jackson, *Global Corporate Governance: Soft Law and Reputational Accountability*, 35 BROOK. J. INT'L L. 41 (2010).

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

27 Davidov, *supra* note 18; Nicholas Connolly, *Corporate Social Responsibility: A Duplicious Distraction?*, in NEW DIRECTIONS IN THE SOCIOLOGY OF HUMAN RIGHTS 106 (Patricia Hynes et al. eds., 2014); Genevieve LeBaron et al., *The Ineffectiveness of CSR: Understanding Garment Company Commitments to Living Wages in Global Supply Chains*, 27 NEW POLITICAL ECONOMY 99 (2022); Kun, *supra* note 26; INGRID LANDAU, *HUMAN RIGHTS DUE DILIGENCE AND LABOUR GOVERNANCE* 143 (2023).

labor standards.²⁸ These models move beyond the conventional enforcement paradigm of norms, infringements, courts, and 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.²⁹ 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 some cities in the United States have successfully leveraged the local knowledge and trust of worker organizations to enhance monitoring and enforcement efforts.³⁰ Similarly, worker-driven approaches, such as the Fair Food Program, demonstrate the potential of empowering workers themselves to play an active role in enforcement.³¹ At the same time, in recent years "global supply chains are increasingly politicized,"³² leading Global North governments to regulate for the ends of preventing GVCs' adverse environmental and human impact.³³ Recent legislative developments range from national transparency laws, such as the UK and Australian Modern Slavery Acts, which require corporations to disclose measures taken to identify and address modern slavery in their supply chains, to more substantive mandatory human rights due diligence (mHRDD) laws, which impose specific duties on corporations and their supply chains.³⁴ 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.³⁵

B. 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 the 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

28 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).

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

30 Fine & Bartley, *supra* note 22.

31 Asbed & Hitov, *supra* note 11; SUSAN L. MARQUIS, *WORKER-DRIVEN SOCIAL RESPONSIBILITY: A NEW, PROVEN MODEL FOR DEFINING, CLAIMING, AND PROTECTING WORKERS' HUMAN RIGHTS* (2023), https://clje.law.harvard.edu/app/uploads/2023/06/7.13.23_WSR_Report_Final.pdf [<https://perma.cc/YL9V-KDJP>].

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

33 Jolyon 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).

34 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 27, at 112.

35 On the UK Modern Slavery Act, see Tamar Barkay et al., *Anti-trafficking Chains: Analyzing the Impact of Transparency Legislation in the UK Construction Sector*, 49 LAW & SOC. INQUIRY 2152 (2024); Barkay & Shamir, *supra* note 10. On HRDD, see Kun, *supra* note 26; LANDAU, *supra* note 27.

blocks framework emerged from our analysis of the enforcement literature,³⁶ our research and writing on labor governance, and our direct 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 proposed 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.

C. *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.

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.³⁷ What enforceability demands, however, is the precise delineation of what is expected from different stakeholders: employers, intermediaries, suppliers, workers, monitoring entities (such as competent authorities), relevant state agencies, and all actors involved in a multipartite process of enforcement.³⁸ Such clear delineation is a challenge that many existing private and public instruments fail, in part because they are often drafted as broad, consensus-based declarations designed to accommodate diverse stakeholders, rather than as precise and enforceable prescriptions.³⁹

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,

36 LEAH FAITH VOSKO, *CLOSING THE ENFORCEMENT GAP* (2020); PIORE & SCHRANK, *supra* note 13; 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 Regulatory Enforcement*, 3 *REGUL. & GOVERNANCE* 376 (2009); Landau & Hardy, *supra* note 1; Davidov, *supra* note 18.

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

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

39 Surya Deva, *Treating Human Rights Lightly: A Critique of the Consensus Rhetoric and the Language Employed by the Guiding Principles*, in *HUMAN RIGHTS OBLIGATIONS OF BUSINESS: BEYOND THE CORPORATE RESPONSIBILITY TO RESPECT?* 78 (Surya Deva & David Bilchitz eds., 2013).

but also intermediaries such as supplier management and local supervisors—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.⁴⁰ Third, **sidestreaming** emphasizes transparency toward social and economic actors engaged in monitoring, such as consumer 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 noncompliant companies and fostering consumer citizenship.⁴¹ Other important audiences include municipalities⁴² and financial institutions and investors,⁴³ 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 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.⁴⁴ 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.⁴⁵ These organizations 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,

⁴⁰ MARQUIS, *supra* note 31.

⁴¹ Kevin Kolben, *The Consumer Imaginary: Labor Rights, Human Rights, and Citizen-Consumers in the Global Supply Chain*, 52 VANDERBILT L. REV. 839 (2021).

⁴² 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. 143 (2018).

⁴³ Thibault Darcillon, *How Does Finance Affect Labor Market Institutions? An Empirical Analysis in 16 OECD Countries*, 13 SOCIO-ECON. REV. 477 (2015).

⁴⁴ Shamir & Marshall, *supra* note 12.

⁴⁵ Fine & Gordon, *supra* note 29.

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. The ability to launch grievances or complaints without fear of retaliation: Moving beyond the preliminary stages of naming and informing about rights and obligations, effective enforcement requires that workers can identify the responsible actors (blaming) and assert their rights (claiming).⁴⁶ 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.⁴⁷ Effective grievance systems therefore require safe reporting channels and strong whistleblower protections.⁴⁸ Models of co-enforcement, where governments partner with civil society organizations who have gained workers' trust, offer a potential solution by creating safe spaces for workers to raise concerns.⁴⁹

Unions and other worker organizations can also play a crucial role by depersonalizing grievances, presenting them collectively rather than as individual complaints. In doing so, they help build trust, ensure that workers feel secure in coming forward, and provide a stable and ongoing address for employers to engage with in resolving workplace issues.⁵⁰

4. A competent and independent authority to remediate violations: To operate effectively, competent authorities, be they state bodies or parity-based institutions managed jointly by employers and workers, must have access to relevant information and function impartially.⁵¹ However, many existing mechanisms fall short in this regard. For example, NCPs under the OECD Guidelines often lack the independence

46 William L.F. Felstiner et al., *The Emergence and Transformation of Disputes: Naming, Blaming, Claiming*, 15 LAW & SOC. REV. 631 (1981).

47 KRISZTIÁN PÓSCH ET AL., MEASURING THE SCALE AND NATURE OF LABOUR MARKET NON-COMPLIANCE AFFECTING PEOPLE IN PRECARIOUS WORK IN THE UK: FIRST PROJECT REPORT (2024). See also Desiree LeClercq, *Private Monitoring and Reporting in Public International Law*, 27 THEORETICAL INQUIRIES L. 187 (2026).

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

49 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).

50 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 et al. eds., 2005); Landau & Hardy, *supra* note 1.

51 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.

needed to deliver meaningful outcomes.⁵² Auditors in the private sector and global civil society are dependent on the brands that hire them.⁵³ INGOs that take part in transnational standard setting and monitoring are typically constrained by limited resources.⁵⁴ In contrast, localized models such as the Mathadi Boards in Maharashtra, India offer a promising alternative by combining sector-specific expertise with tripartite governance structures.⁵⁵ 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 that are accessible, affordable, and tailored to the nature of the grievance: Such mechanisms must ensure that workers can see redress without being deterred by lengthy, expensive, or overly complex processes. Effective frameworks should offer a range of options that accommodate both minor and systemic issues. Minor workplace disputes, such as resolving scheduling conflicts, correcting payroll errors, or addressing workplace harassment, benefit from shop-floor problem-solving or mediation. Shop-level managers often have the capability and an interest in resolving such issues promptly to avoid disruption and maintain productivity. 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.⁵⁶

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—either the state or actors (lead firms or big suppliers) 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. In the absence of a local and global union, such a process will likely be extremely time-consuming and slow.⁵⁷ Recent state-based efforts have sought to expedite the handling of complaints, such as the USMCA Rapid Response Mechanism and the European Union’s 15-Point Action Plan to promote sustainable trade.⁵⁸ Similarly, initiatives requiring business entities

52 LANDAU, *supra* note 27, at 80. See also Ingrid Landau, *Human Rights Due Diligence and the Risk of Cosmetic Compliance*, 20 MELB. J. INT’L L. 221 (2019).

53 Jodi L. Short et al., *Improving Working Conditions in Global Supply Chains: The Role of Institutional Environments and Monitoring Program Design*, 73 ILR REV. 873 (2020).

54 RICHARD M. LOCKE, *THE PROMISE AND LIMITS OF PRIVATE POWER: PROMOTING LABOR STANDARDS IN A GLOBAL ECONOMY* 23 (2013).

55 MARSHALL, *supra* note 36, at 51; Shamir & Marshall, *supra* note 12.

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

57 See, e.g., THE REMEDY PROJECT, *supra* note 11; TRANSPARENT, *supra* note 11.

58 The United States-Mexico-Canada Agreement (USMCA) introduced the Facility-Specific Rapid Response Labor Mechanism to expedite the enforcement of workers’ rights, focusing particularly on freedom of association and collective bargaining. See LeClercq, *supra* note 47. In the European Union, the 15-Point

in GVCs to address problems—such as voluntary codes for sugarcane production or conflict minerals regulations—often converge with emerging state-based due diligence laws or sector-specific schemes. In practice, corporate responses depend heavily on the organizational capacity of brands' CSR and compliance units.

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 the adoption of a revised arbitration process better suited to labor disputes.⁵⁹ In response to such gaps, initiatives like the Model Arbitration Clauses for the Resolution of Disputes under Enforceable Brand Agreements (2020) aim to create frameworks that are fair, affordable, enforceable, efficient, adaptable, and transparent.⁶⁰ While these efforts represent important progress, their industry-wide adoption remains limited.⁶¹ 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.

Overall, the expectation is to devise an enforcement system that acknowledges both tracks—quick response at the shop floor and thorough, yet accessible, institutions for systemic and structural violations. Recent international framework agreements have established multitiered 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.⁶² While the line between shop-floor disputes and systemic grievances is not always clear-cut, enforcement systems still benefit from attempting to differentiate between

Action Plan on Trade and Sustainable Development (TSD) aims to enhance the implementation and enforcement of labor and environmental standards in trade agreements through a single entry point for complaints, streamlining the process for stakeholders to raise concerns about TSD commitments. See EUR. COMM'N SERV., *FEEDBACK AND WAY FORWARD ON IMPROVING THE IMPLEMENTATION AND ENFORCEMENT OF TRADE AND SUSTAINABLE DEVELOPMENT CHAPTERS IN EU FREE TRADE AGREEMENTS* (2018), <https://www.politico.eu/wp-content/uploads/2018/02/TSD-Non-Paper.pdf> [<https://perma.cc/T3G7-DN3D>].

59 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. See 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). The Hague Rules serve as a 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>].

60 CLEAN CLOTHES CAMPAIGN ET AL., *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 [<https://perma.cc/2Z8D-ETLA>].

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

62 Fudge & Lebaron, *supra* note 11; Alysha Kate Shivji, *Rightsholder-Driven Remedy for Business-Related Human Rights Abuse: Case of the Fair Food Program*, 193 J. OF BUS. ETHICS 363 (2024).

the scales of problems. The ability to shift between different levels of intervention is closely linked to the learning loops discussed above.

6. Meaningful redress and enforceability of remedies: Enforcement must ultimately lead to meaningful redress and remedies that rectify 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.⁶³

Second, effective remediation must also **identify the agents responsible for implementing future change**, ensuring that violations do not recur. Both financial and nonfinancial remedies may be applied by various actors along the value chain, including intermediating bodies such as auditing bodies, local communities, unions, or agents whose actions contributed to noncompliance. Remedies can be assigned to the "deep(er) pockets," who must either initially shoulder the burden or work to allocate responsibility among the multiple parties involved.⁶⁴

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.⁶⁵ Addressing this imbalance requires mechanisms that emphasize the shared responsibility of buyers, intermediaries, suppliers, and all actors who exert control over labor conditions.⁶⁶

Building Blocks Summary: In sum, the six building blocks of enforcement are deeply interconnected and mutually reinforcing, together forming a cohesive framework for addressing the complex challenges of labor governance in GVCs. As Figure 1 illustrates, the six building blocks are not positioned on a linear spectrum

63 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).

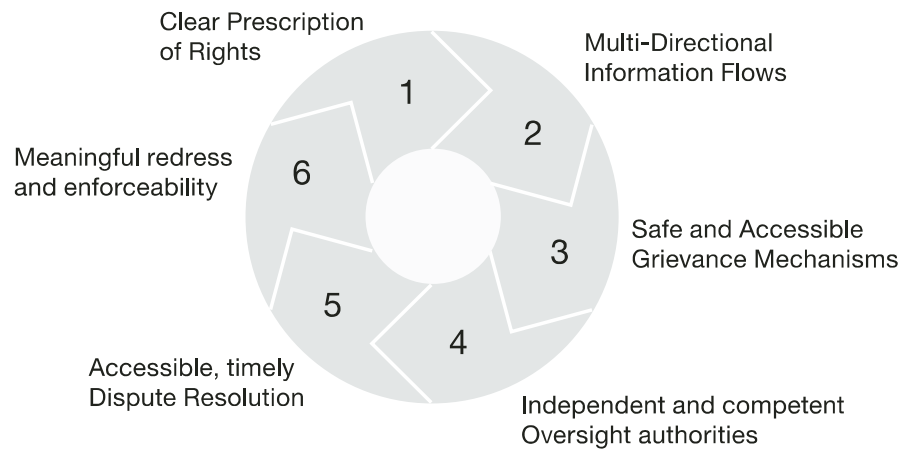
64 Yossi Dahan et al., *Shared Responsibility and Labor Rights in Global Supply Chains*, 182 J. OF BUS. ETHICS 1025 (2023).

65 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 et al., *supra* note 12.

66 Dahan et al., *supra* note 64.

but form part of a cyclical, interdependent framework. Each block connects with and reinforces the others, together forming the conditions for effective enforcement

Figure 1: The six building blocks of enforcement



The proposed framework should not be understood as a binary checklist in which the absence of any one block renders enforcement impossible. Instead, it is best seen as an ideal type against which to assess the strengths, gaps, and complementarities of existing mechanisms. At the same time, even when most enforcement mechanisms do not satisfy all six dimensions, the framework provides a valuable analytical tool. It helps identify where soft law initiatives may nonetheless exert real enforcement power and where ostensibly hard law mechanisms may fail within transnational, multitiered structures. By moving beyond rigid classifications of regulation as either “hard” or “soft,” the framework offers a more nuanced lens for evaluating the effectiveness of diverse governance strategies in promoting workers’ rights across global supply chains.

II. APPLYING THE ENFORCEMENT FRAMEWORK

To demonstrate the use of the proposed analytical framework, we analyze distinct models of labor rights enforcement in GVCs categorized into three main types. The first type includes explicitly soft law measures, to which legal enforcement is seemingly unrelated, including **private ordering systems**, such as corporate codes of conduct and industry-led certification schemes, or international **instruments based on goodwill**, as exemplified by the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct that require the establishment of NCPs.

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 by 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** is based on the enforcement of private-law measures according to the rules of private international law. Third, trade bans and inter-state (bilateral and multilateral) **trade arrangements** 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 rather develops through **bottom-up grassroots power**. This category spans the full soft-to-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 harder end there are multi-actor, multitiered enforcement models, such as the Fair Food Program and the Bangladesh Accord (and the International 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. Our aim is to highlight variation and draw out the most analytically significant elements, rather than provide a comprehensive survey of examples. In discussing each regulatory and governance type, we selected examples to illustrate how the model operates in practice. These examples are not exhaustive but rather salient illustrations that, in our view, best capture the distinctive features and enforcement dynamics of each category. By adopting this methodological lens, this Article sheds light on how enforcement operates in practice, taking into account the realities of legal, political, and economic constraints.

A. Type 1: Nonbinding 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 and enforceable legal obligations. While these instruments lack full enforcement capacity, they still contribute important elements, such as norm-setting, information flows, and grievance facilitation, which form part of a composite enforcement landscape.

1. 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.⁶⁷ Taking the place of legal enforcement are assumptions regarding the varied motivations for compliance with self-imposed standards, and social-economic enforcement by consumers, communities and financial

⁶⁷ 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).

institutions. However, these measures bring together several building blocks of legal enforcement. For instance, private ordering in the form of corporate codes often has the advantage of providing **highly detailed norms**, albeit with regard to the adoption of ILO standards⁶⁸ this is at times limited.⁶⁹ The level of detail can be explained by their focus on a single value chain (corporate codes), sector (forests, palm oil, mica) or topic (health and safety, gender based violence), but also on the basis of the assumption that they remain soft. ESG reporting can aid in collecting **information** and providing a learning mechanism. Individual grievances are generally difficult to launch, but corporate codes sometimes require some hotline systems for workers' grievances. Corporate codes vary in their approaches to **remedial action**.⁷⁰ They may refer to possible contractual sanctions on noncompliant contractors, but more often show a preference for attempting improvement measures. These instruments are robust 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 noncompliance or shift corporate accountability remains mostly weak, absent key enforcement building blocks, and when successful it occurs where economic, reputational, and contractual pressures are available to induce enforcement.

2. Guidelines and Conventions Based on Goodwill

Conventions based on goodwill—such as the OECD Guidelines for Multinational Enterprises and the UNGPs—are nonbinding, but 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.⁷¹ For example, the **competent and independent authorities** established by the OECD Guidelines—the NCPs—offer a structured avenue for redress, but vary widely in capacity, resources, and protections against retaliation.⁷² Despite these limitations,

⁶⁸ For example, many codes reference the ILO's core labor standards, esp. the 1998 Declaration on Fundamental Principles and Rights at Work. See International Labour Organization [ILO], *Declaration on Fundamental Principles and Rights at Work* (June 18, 1998 amended June 10, 2022), https://www.ilo.org/sites/default/files/2024-04/ILO_1998_Declaration_EN.pdf.

⁶⁹ Luis Torres et al., *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).

⁷⁰ 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).

⁷¹ Gefion Schuler, *Effective Governance Through Decentralized Soft Implementation: The OECD Guidelines for Multinational Enterprises*, 9 GERMAN L. J. 1753 (2008).

⁷² 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).

these instruments express a growing normative expectation of corporate accountability, which has had great influence across the enforcement ecosystem.

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The voluntary nature of private self-regulation and promotional international instruments may suggest that they are averse to the idea of enforcement. Admittedly, without even attempting to address all six building blocks, legal enforcement does not exist. Notably missing are the core of building blocks 4–5 and the clear compensation methods of building block 6. However, these measures offer some advantages 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 introduction of key agents who can mediate grievances, even if only on a voluntary basis.

B. Type 2: Binding Instruments

In this category of hard law measures, we examine how state-based norms and institutions—such as due diligence laws, trade agreements, and transnational litigation—engage with the six building blocks of enforcement. Although these instruments move beyond the voluntary commitments of soft law, they may fall short in delivering effective, worker-centered enforcement across complex GVCs. As the discussion below will show, in practice, many operate more like procedural or symbolic obligations than genuinely enforceable hard law.

1. National Corporate Law Mechanisms – HRDD

Mandatory human rights due diligence (mHRDD) laws—such as France’s Duty of Vigilance Law,⁷³ Germany’s Supply Chain Due Diligence Act,⁷⁴ and the EU Corporate Sustainability Due Diligence Directive (CSDDD)⁷⁵—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.⁷⁶ However, the effectiveness of these mechanisms varies. While they aim to strengthen **information flows** through required risk assessments and reporting, these flows often do not engage the workers

73 Loi 2017-399 du 27 mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d’ordre, *supra* note 9; 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).

74 Gesetz über unternehmerische Sorgfaltspflichten in Lieferketten [Supply Chain Due Diligence Act], July 22, 2021, BGBl I at 2959 (Ger.), *supra* note 9.

75 Directive (EU) 2024/1760, June 13, 2024 (EU), *supra* note 9.

76 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 et al. 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, Apr. 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/> [<https://perma.cc/R3PZ-R7EM>].

themselves or generate actionable insights.⁷⁷ In terms of **grievance mechanisms**, Germany's law mandates accessible and anonymous complaint channels,⁷⁸ while the CSDDD requires both judicial and nonjudicial mechanisms. However, many of these 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.⁷⁹ 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.⁸⁰ The CSDDD too 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.⁸¹ Despite these weaknesses, mHRDD laws improve the **distribution of responsibility** along the value chain and provide legal hooks for accountability,⁸² even if the systemic capacity for **learning loops** and cross-border coordination remains underdeveloped.

2. Trade-Related Instruments

Trade instruments—such as trade agreements and import bans—are often assumed to potentially⁸³ 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.⁸⁴ Some trade instruments impose legally binding

77 SHERPA, VIGILANCE PLANS REFERENCE GUIDANCE (2019), https://www.asso-sherpa.org/wp-content/uploads/2019/02/Sherpa_VPRG_EN_WEB-VF-compressed.pdf [<https://perma.cc/2ZVR-NF8S>]; Stéphane Brabant et al., *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).

78 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 et al., *Mandatory Human Rights Due Diligence in Germany and Norway: Stepping, or Striding, in the Same Direction?* 6 BUS. & HUM. RTS. J. 550, (2021).

79 SHELLEY MARSHALL, ET AL., MANDATORY HUMAN RIGHTS DUE DILIGENCE: RISKS AND OPPORTUNITIES FOR WORKERS AND UNIONS (2023), https://www.trafflab.org/_files/ugd/11e1fo-e1db27f1ec7f41459ac357d021f6011c.pdf [<https://perma.cc/ZUQ2-DRKW>].

80 David Weihrauch et al., *From Voluntary to Mandatory Corporate Accountability: The Politics of the German Supply Chain Due Diligence Act*, 17 REGUL. & GOVERNANCE 909 (2023).

81 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).

82 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).

83 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 the 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).

84 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 et al., *Tackling Forced Labour in Global Value Chains: What Role for Trade Instruments?*, in MODERN SLAVERY AND THE GOVERNANCE OF GLOBAL VALUE CHAINS 95 (Hila Shamir et al. eds., 2025).

obligations or economic consequences on noncompliant suppliers.⁸⁵ 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.⁸⁶ 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 of goods produced with forced labor.⁸⁷ However, most trade agreements include general and vaguely defined norms. The generality and ambiguity of the norms can be inclusive, creating room for broad recognition and allowing diverse claims that are connected to broad statements on association and unfree labor, but they are also exclusionary, often far from enabling concrete enforcement because they don't prescribe detailed norms and are therefore easy to circumvent.⁸⁸ Their capacity to enable effective **information flows** is weak, as these mechanisms rely on top-down, state-led channels that exclude workers and fail to promote transparency or adaptive learning.⁸⁹ 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.⁹⁰ The absence of truly **competent and independent authorities**—with customs bodies lacking labor rights expertise—further undermines robust enforcement.⁹¹ There is also a glaring lack of structured **dispute resolution mechanisms** or transparent appeals processes, making enforcement opaque and unpredictable. Most significantly, trade

85 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 AM. J. INT'L. L. UNBOUND 407 (2019).

86 JENNIFER GORDON, *THE US FORCED LABOR IMPORT BAN AS A TOOL TO RAISE LABOR STANDARDS IN SUPPLY CHAIN CONTEXTS: STRATEGIC APPROACHES TO ADVOCACY* (2024), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4756721.

87 INTERNATIONAL LABOUR ORGANIZATION [ILO], *LABOUR PROVISIONS IN G7 TRADE AGREEMENTS: A COMPARATIVE PERSPECTIVE* (2019), https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@dgreports/@ddg_p/documents/publication/wcms_719226.pdf; INTERNATIONAL LABOUR ORGANIZATION [ILO], *INTEGRATING TRADE AND DECENT WORK VOLUME 2: THE POTENTIAL OF TRADE AND INVESTMENT POLICIES TO ADDRESS LABOUR MARKET ISSUES IN SUPPLY CHAINS*, Marva Corley-Coulibaly et al. eds., (2023), https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40dgreports/%40inst/documents/publication/wcms_903192.pdf.

88 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).

89 SOFIA GONZALEZ DE AGUINAGA, *POLICY BRIEF: EFFECTIVENESS OF FORCED LABOUR IMPORT BANS* (2025), <https://files.modernslaverypec.org/production/assets/downloads/MSPEC-Import-Bans-Briefing.pdf?dm=1739286324> [HTTPS://PERMA.CC/PG2Q-R92D]; ANTI-SLAVERY INT'L & EUR. CTR. FOR CONST. & HUM. RTS. POSITION ON IMPORT CONTROLS TO ADDRESS FORCED LABOUR IN SUPPLY CHAINS (2021), <https://www.antislavery.org/wp-content/uploads/2021/06/Anti-Slavery-International-ECCHR-Import-Controls-Position-Paper-1.pdf> [https://perma.cc/GDH7-8SWV]; ILO, *INTEGRATING TRADE AND DECENT WORK VOL. 2*, *supra* note 87.

90 DESIREE LECLEERCQ ET AL., *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>.

91 Josh LaFianza, *Threatening Ill-Gotten Gains: Analyzing the Effectiveness of a Forced Labor Import Ban in the European Union* (Stan.-Vienna Eur. Union L., Working Paper No. 60, 2022), <https://law.stanford.edu/wp-content/uploads/2022/05/EU-Law-WP-60-LaFianza.pdf> [https://perma.cc/7ATZ-KZWM].

instruments fail to provide meaningful **remediation**, rarely delivering compensation or structural improvements for workers,⁹² and remain narrowly focused on extreme abuses like forced labor, while overlooking widespread violations such as wage theft and occupational hazards.⁹³ In short, while trade instruments such as import bans and labor provisions in trade agreements appear to offer powerful enforcement leverage, their design and implementation remain inconsistent, opaque, and often detached from the workers themselves, ultimately falling short of delivering sustained and systemic protection for workers across GVCs.⁹⁴

3. *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.⁹⁵ 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. In practice, however, this idealized vision is rarely realized.⁹⁶ Litigation remains inaccessible to most workers due to the immense legal and logistical distance between the shop floor 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.⁹⁷ 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.⁹⁸

92 GORDON, *supra* note 86. *But see* for some counterexamples THE REMEDY PROJECT, *supra* note 11. Indeed, though in some cases the state imposing the ban may work with suppliers to transform exploitative labor practices, currently in the U.S., 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*, CORP. ACCOUNTABILITY LAB BLOG, (Aug. 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> [<https://perma.cc/5BKV-D6DL>]. *See also* the discussion in Ebert et al., *supra* note 84.

93 LeClercq, *supra* note 88.

94 Jennifer Gordon, *The U.S. Forced Labor Import Ban: A Tool for Raising Labor Standards in Supply Chains?*, 76 UC L. J. 1025 (2025).

95 Erika de Wet, *Decentralized Enforcement of International Labour Standards: The Role of Domestic Courts*, in *ILO100: Law for Social Justice* 279 (George P. Politakis et al. eds., 2019).

96 Fudge & Mundlak, *supra* note 17.

97 David J. Doorey, *Lost in Translation: Rana Plaza, Loblaw, and the Disconnect Between Legal Formality and Corporate Social Responsibility* (2018) (unpublished manuscript).

98 In fact, no transnational litigation of this kind has 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 have been instances in which

Moreover, the absence of timely, participatory processes means that 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 for it to become a viable rights-protection mechanism within GVCs.

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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.

C. 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.

1. Worker-Driven Social Responsibility and Enforceable Brand Agreements

WSR models—such as the Fair Food Program, the Dindigul Agreement, and the Lesotho Agreements—are the result of experimentation with different forums, structures, and instruments for social dialogue to address decent work in supply chains by social partners.⁹⁹ They emerge from prior efforts that involve the active participations of workers' representatives, such as global framework agreements and labor activism across borders, but also from local operations of work centers.¹⁰⁰ 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

courts granted high awards to defendants (business) after the lawsuit was dismissed. For example, in *Das v George Weston Limited* (2017) ONSC 5583 (Can.), the Ontario court granted a \$2.3 million cost award to the two defendants. See Doorey, *supra* note 97.

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

100 Papadakis, *supra* note 4.

gender-based violence.¹⁰¹ A major strength is their emphasis on robust **information flows**, achieved through worker-led monitoring, continuous feedback loops, and real-time reporting mechanisms.¹⁰² WSR EBAs also excel in providing safe and independent **grievance mechanisms**, which are accessible, rapid, and trusted by workers, with swift resolution processes and binding corrective actions.¹⁰³ 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.¹⁰⁴ Their **dispute resolution mechanisms** are tailored to worker needs, allowing resolution of most grievances within days or weeks,¹⁰⁵ unlike slower, costlier arbitration models such as the Bangladesh Accord’s process.¹⁰⁶ Importantly, WSR delivers meaningful **remediation**, not only through compensation but also through structural changes and economic sanctions—suppliers that violate standards can be removed from corporate purchasing lists, creating real market consequences.¹⁰⁷

To achieve enforcement and remediation, the WSR structure deliberately harnesses the asymmetrical power dynamics in supply chains, using lead firms’ leverage over suppliers to secure respect for workers’ rights.¹⁰⁸ In addition, in order to mitigate the risk of harming workers through potential job loss when noncompliant suppliers are excluded from supply chains, these programs create incentives for suppliers to comply. For example, the stronger versions of WSR balance this pressure with positive inducements: lead firms share costs (e.g., the penny per pound premium in the Fair Food Program or contributions to safety remediation costs in the Accord) and sometimes commit to long-term contracting and continued sourcing when suppliers meet compliance obligations.¹⁰⁹

The success of the WSR model can be explained in its coverage of all the proposed enforcement building blocks, but it also has its limitations. The financial burden of arbitration is often significant, potentially deterring broader use of the arbitration

¹⁰¹ Fudge & Lebaron, *supra* note 11.

¹⁰² Thomas Haipeter et al., *Industrial Relations at Centre Stage: Efficiency, Equity and Voice in the Governance of Global Labour Standards*, 28 THE GER. J. OF INDUS. RELS. 148 (2021); MARQUIS, *supra* note 31; Fabiola Mieres & Siobhán McGrath, *Ripe to Be Heard: Worker Voice in the Fair Food Program*, 160 INT’L LAB. REV. 631 (2021).

¹⁰³ 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).

¹⁰⁴ MARQUIS, *supra* note 31; Asbed & Hitov, *supra* note 11.

¹⁰⁵ Fudge & Lebaron, *supra* note 11.

¹⁰⁶ 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 et al., *Legal Sanction, International Organisations and the Bangladesh Accord*, 48 INDUS. L.J. 549 (2019).

¹⁰⁷ 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).

¹⁰⁸ See Kathryn Babineau et al., *Taking the Fair Food Program Global: Pathways to Expanding Worker-Centered Private Regulation in Supply Chains*, 27 THEORETICAL INQUIRIES L. 159 (2026).

¹⁰⁹ Barkay & Shamir, *supra* note 10.

process. While the Fair Food Program and other EBAs such as the Dindigul Agreement demonstrate the effectiveness of localized, worker-led dispute resolution models,¹¹⁰ the Bangladesh Accord also underscores the risks of transplanting international commercial arbitration into labor rights enforcement without appropriate procedural adaptation to protect workers' interests.¹¹¹ Further, lead firms are often not directly **bound by enforcement obligations**, undermining full accountability and enabling "capital flight." Indeed, despite also being called *enforceable* brand agreements, WSR initiatives continue to rely on brand goodwill for funding and continued participation, posing risks to financial sustainability and long-term scalability.¹¹² Finally, the success of bringing together several enforcement mechanisms that are tailored to the local circumstances also indicates the difficulty of diffusion and replication.

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Table 1 summarizes the comparison between the different regulatory tools we have reviewed and analyzed, depicting the various enforcement forms and 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 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 from formal legal enforcement. Their strength appears only when combined with other measures, particularly in the integrative form of WSR.

¹¹⁰ Fudge & Lebaron, *supra* note 11; Amita & Aner, *supra* note 107.

¹¹¹ See references discussing the dispute resolution mechanism under the Bangladesh Accord and International Accord, *supra* note 59.

¹¹² Brudney, *supra* note 21. See also Kathryn Babineau & Jennifer Bair, *The Art of Using Supply Chains to Defend Worker Rights, Beyond Trafficking and Slavery*, OPEN DEMOCRACY (Dec. 14, 2020) <https://tinyurl.com/2aka25pk> [<https://perma.cc/85HJ-NL2B>]; Babineau et al., *supra* note 108.

Table 1: Comparison– Regulatory Types Compared Along the Six Building Blocks of Enforcement

Enforcement Building Block:	Clear Prescription of Rights	Multi-Directional Information Flows	Safe Grievance Mechanisms	Independent Oversight	Accessible Dispute Resolution	Meaningful Remedies
Regulatory Type						
Private Ordering (Corporate Codes)	Often detailed but nonbinding	Limited to audits, mostly top-down	Company-control risk of retaliation	Weak, self-monitored	Limited, no structured processes	Inconsistent, brands may disengage
International Guidelines (OECD, UNGPs)	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
Mandatory HRDD Laws	Legally binding norms, but often procedural HRDD	Improved via reporting, but not the information most important for workers	Some mechanisms exist, but often employer-controlled	Varies; some regulatory agencies, some judicial	Court-based, costly, and difficult for workers to access	Focused on prevention, limited past harm redress
Trade Instruments (USMCA, Sec. 307)	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
Worker-Driven Social Responsibility (WSR)	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
Transnational Litigation	Legal obligations exist, but are difficult to enforce	Highly limited; dependent on legal actors	Theoretical access to courts but prohibitive legal barriers	Judicial oversight, but often inaccessible to workers	Lengthy, costly, and jurisdictionally complex	Potentially strong, but rarely enforced in practice

CONCLUSION

This Article addresses the persistent crisis of labor rights enforcement in GVCs by introducing a new analytical framework to diagnose weaknesses and identify pathways toward more effective governance. Its central contribution is ‘the six building blocks’ framework—clear rights, multidirectional information flows, safe grievance mechanisms, independent oversight, accessible dispute resolution, and meaningful redress—which moves beyond the often simplistic and at times misleading dichotomy between “hard” and “soft” law.

By systematically applying this framework to a diverse range of regulatory models, from private codes of conduct to national due diligence laws and transnational litigation, our analysis generates a nuanced understanding of how enforcement operates in practice. The framework’s diagnostic power reveals that ostensibly hard legal instruments frequently lack essential components for effective application, while soft initiatives can fulfill crucial, albeit incomplete, enforcement functions. Most significantly, this comparative analysis demonstrates that WSR models and EBAs currently represent the most robust approach precisely because they are the only models to holistically integrate all six building blocks, creating a cohesive and worker-centered system of accountability. Their effective enforcement power may be one reason for their slow development in the transnational governance toolbox.

Ultimately, this Article does not advocate a single solution, but offers scholars, policymakers, and practitioners a more sophisticated and nuanced analytical tool. The six building blocks framework moves beyond blunt regulatory categories toward the strategic design of composite enforcement ecosystems. By pinpointing gaps and highlighting potential synergies across mechanisms, it provides a pathway for constructing more resilient and integrated governance systems capable of delivering meaningful and sustainable protections for workers throughout GVCs.