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Corporate Human Rights Due Diligence: Should India Adopt a Mandatory Framework?

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Abstract

Global supply chains, characterized by the growing engagement of multinational enterprises, has exacerbated concerns surrounding business-related human rights violations such as labour exploitation, environmental damage, unhealthy work environment, and other fundamental human rights abuses. This has catalysed the transformation of discretionary Corporate Social Responsibility (CSR) practices into mandated Corporate Human Rights Due Diligence (CHRDD) framework where businesses are obliged to conduct assessment of human rights risks, preventing and mitigating adverse human rights impacts, and providing remedy. This paper interrogates whether India ought to implement a mandatory CHRDD framework and how to achieve it, through analysis of conceptual framework of human rights due diligence, evolution of international law on corporate human rights and the regulatory regimes introduced in France, Germany and the EU. Subsequently, the paper will scrutinise India's legislative landscape including the Companies Act 2013, Business Responsibility and Sustainability Reporting (BRSR) regime of SEBI, existing labour and environmental legislation, constitutional provisions and judicial trends to gauge the adequacy and effectiveness of the legal system in curbing corporate human rights risks.

The paper adopts doctrinal as well as comparative research method to ascertain whether a mandatory CHRDD is a suitable legal option for India. The study concludes that the existing legal framework in India provides strong but fragmented safeguards, and the country should implement a mandatory CHRDD framework, in phases based on risk and proportionality, to promote greater corporate accountability, foster investor confidence, align the national framework with global standards and thereby pursue the goal of sustainable economic development without undermining fundamental human rights.

Keywords: Corporate Human Due Diligence (CHRDD); corporate governance; Corporate Social Responsibility (CSR); sustainable economic development; fundamental human rights.

1 Introduction

The unprecedented scale of globalization and the integration of multinational corporations into sophisticated international supply chains have radically altered the relationship between business enterprises and human rights. While corporations have come to represent indispensable vehicles for economic development, job creation, and technological innovation, their operations have been increasingly implicated in negative human rights outcomes including labour exploitation, poor working conditions, environmental harm, the forced eviction of indigenous communities, child labour, discrimination, and violations of the right to health and a clean environment. This has highlighted the deficiencies of preexisting models of corporate governance that often prioritize shareholders' interests above social responsibility.

Accordingly, discourse has moved from one of voluntary corporate philanthropy towards one that holds companies legally accountable for identifying, preventing, mitigating, and remedying adverse human rights impacts arising from their activities and business relationships.

CHRDD is now at the heart of this burgeoning regime of corporate responsibility, denoting an ongoing, risk-based process whereby enterprises assess actual and potential human rights impacts and integrate preventive and responsive measures throughout their operations and business relationships.

The evolution from voluntary standards to mandatory legislation has seen a steady yet marked shift in the international legal arena. Soft-law instruments like the United Nations Guiding Principles on Business and Human Rights (2011), the OECD Guidelines for Multinational Enterprises, and International Labour Organization's labour standards set the baseline standards for respect for human rights by business entities. Several countries have since implemented and enacted legislation obliging enterprises to carry out human rights due diligence throughout their supply chains, imposing regulatory penalties and legal liability on companies failing to comply.

Examples include France's Duty of Vigilance Law, Germany's Supply Chain Due Diligence Act, and the European Union's Corporate Sustainability Due Diligence Directive.

This trend reflects a consensus among States to demand greater accountability for the human rights implications of corporate operations that extends across a firm's entire value chain, and which is independent of States' capacity to effectively regulate businesses. India as one of the world's fastest-growing economies, and a major actor in the global manufacturing and trading arena, has a particularly interesting role to play in this burgeoning area. The Indian legal framework already contains several provisions governing corporate behaviour through the Companies Act, 2013, for example – in terms of labour, environment, and Corporate Social Responsibility, as well as Sustainability disclosures prescribed by SEBI. Yet, there remains no statutory obligation forcing companies to systematically conduct human rights due diligence in their business activities and across their global value chains.

Given the increasing access Indian firms have to the global market place where mandatory due diligence is quickly becoming the norm, it becomes critical to ask whether the country is sufficiently prepared from a legal standpoint to adapt.

Given this background, the present research critically evaluates whether India ought to mandate corporate human rights due diligence, taking into consideration the concepts and development of CHRDD globally, India's current regulatory landscape, and the possible implications.

Conceptual Framework of Corporate Human Rights due Diligence (CHRDD)

Corporate Human Rights Due Diligence (CHRDD) has emerged as one of the most significant developments in the field of business and human rights. It represents a systematic and continuous process through which business enterprises identify, assess, prevent, mitigate, monitor, and account for the adverse human rights impacts of their activities, products, services, and business relationships. Unlike conventional legal compliance, which primarily focuses on adherence to statutory obligations, CHRDD requires corporations to proactively integrate respect for internationally recognised human rights into every stage of their decision-making processes. It reflects a shift from reactive liability to preventive corporate governance, recognizing that businesses have an independent responsibility to respect human rights regardless of whether domestic legislation explicitly imposes such obligations.

The concept of CHRDD was formally articulated in the United Nations Guiding Principles on Business and Human Rights (UNGPs), unanimously endorsed by the United Nations Human Rights Council in 2011. The UNGPs are founded upon three mutually reinforcing pillars: the State's duty to protect human rights, the corporate responsibility to respect human rights, and the need to ensure access to effective remedies for victims of business-related human rights abuses. Within this framework, human rights due diligence functions as the principal mechanism through which corporations discharge their responsibility to respect human rights. Principle 17 of the UNGPs provides that businesses should undertake ongoing due diligence to identify actual and potential adverse human rights impacts, integrate findings into corporate processes, monitor the effectiveness of their responses, and communicate publicly how such impacts are addressed. Accordingly, CHRDD is not merely a compliance exercise but an integral component of responsible corporate governance and sustainable business management.

The due diligence process generally comprises four interrelated stages. The first stage involves identifying and assessing actual or potential human rights risks associated with corporate operations and supply chains. Businesses are expected to evaluate how their activities may affect employees, consumers, local communities, indigenous populations, contract workers, and other stakeholders. Risk identification extends beyond a company's direct operations to encompass subsidiaries, suppliers, contractors, and other entities with whom it maintains business relationships.

The second stage requires companies to integrate the findings of these assessments into internal governance structures and implement preventive or mitigating measures. This may include revising procurement policies, strengthening labour standards, conducting supplier audits, providing employee training, and incorporating contractual safeguards designed to minimize the likelihood of human rights violations. Preventive action must be proportionate to the severity and likelihood of identified risks and should reflect meaningful engagement with affected stakeholders.

The third stage focuses on monitoring and evaluating the effectiveness of the measures adopted. Human rights risks are dynamic and may evolve as business operations expand or supply chains become more complex. Consequently, corporations are expected to establish continuous monitoring mechanisms, conduct periodic reviews, and maintain transparent reporting systems that enable stakeholders to assess whether preventive strategies are achieving their intended objectives.

The final stage concerns remediation. Where corporations have caused or contributed to adverse human rights impacts, they are expected to provide or cooperate in effective remedies through judicial or non-judicial grievance mechanisms. Appropriate remedies may include financial compensation, restoration of rights, public apologies, rehabilitation, policy reforms, or guarantees of non-repetition. Access to effective grievance mechanisms strengthens corporate accountability while reinforcing public confidence in responsible business conduct.

Although CHRDD is frequently discussed alongside Corporate Social Responsibility (CSR) and Environmental, Social, and Governance (ESG) frameworks, these concepts are distinct in both purpose and legal character. CSR under the Companies Act, 2013 primarily encourages corporate contributions to social development through specified philanthropic activities, whereas CHRDD requires businesses to prevent and address adverse human rights impacts arising directly from their commercial activities. Similarly, ESG frameworks primarily serve investors by measuring corporate sustainability performance through environmental, social, and governance indicators. Human rights due diligence, by contrast, is fundamentally rights-based rather than investment-oriented, focusing on the protection of individuals and communities affected by corporate conduct rather than solely enhancing corporate reputation or financial performance.

The normative foundations of CHRDD extend beyond the UNGPs. The OECD Guidelines for Multinational Enterprises on Responsible Business Conduct require enterprises to conduct risk-based due diligence throughout their global operations and supply chains while promoting responsible business practices across sectors. Likewise, the International Labour Organization (ILO) has developed internationally recognized labour standards addressing freedom of association, collective bargaining, abolition of forced labour, elimination of child labour, equal remuneration, and non-discrimination in employment. Together, these international instruments establish a coherent framework that increasingly influences domestic legislation across jurisdictions. Although many of these standards initially possessed a voluntary character, they have progressively informed binding legal obligations in several countries, reflecting an emerging international consensus that corporate respect for human rights constitutes an essential element of modern corporate governance rather than a matter of voluntary ethical commitment.

Global Evolution of Mandatory Human Rights Due Diligence Laws

In response to the growing problem of business related human rights abuses, there has been an international shift in the regulatory arena. The regulation of corporate responsibility had previously been conducted under the banner of voluntary agreements, such as UN Guiding Principles on Business and Human Rights, the OECD Guidelines for Multinational Enterprises, as well as numerous Corporate Social Responsibility policies. Whilst these tools were the standard setters of responsible business practices and were adhered to universally, the voluntary nature thereof had restricted the successful enforcement thereof. There were many cases, however, relating to labour exploitation, environmental damage, unhealthy working environments, human rights abuse throughout supply chains of corporations around the world, that exposed that voluntary commitments on the side of corporations were simply not enough.

France: The Duty of Vigilance Law

With the introduction of the Duty of Vigilance Law (Loi de Vigilance) in 2017, France became the first country to legislate a comprehensive and mandatory human rights due diligence law. Driven by the catastrophic consequences of industrial accidents like the collapse of the Rana Plaza garment factory in Bangladesh in 2013, French parliamentarians recognized how the economic power of multinational corporations influenced the activities of their subsidiaries, subcontractors, and suppliers, but did not translate into legal liability for violations of human rights committed outside of French borders. The Law compels French companies with more than 5,000 employees working within the country or more than 10,000 employees internationally to devise, publicize, and effectively implement a plan of vigilance, setting forth and analyzing risks to human rights, fundamental freedoms, health and safety, and environmental concerns throughout all operations, subsidiaries, subcontractors, and supply chains.

It necessitates the establishment of risk assessment processes, preventive measures, monitoring mechanisms, and grievance mechanisms.

If companies fail to do so and harm occurs, they may be held civilly liable where victims demonstrate the absence or insufficiency of the vigilance plan contributed to their suffering. While some challenges remain regarding the enforcement and application of the Law by French courts, its impact has been to transform the way that large companies in France consider and address human rights issues, pushing corporations towards preventative rather than solely preparatory action.

Germany: The Supply Chain Due Diligence Act

Furthermore, Germany tightened the mandatory approach by introducing the “Act on Corporate Due Diligence in Supply Chains” (“Lieferkettensorgfaltspflichtengesetz”) which came into force in January 2023. Instead of the mostly vigilantly focused approach, the German Law introduces a procedure-oriented liability regime setting clear standards of risk management across national and global supply chains. Initially targeting large German firms with at least 3,000 employees, the law extended to enterprises with over 1,000 employees and obliges companies to establish a “risk management system,” which must enable them “to detect, prevent, minimize, or otherwise address adverse impacts of their business activities on the human rights of the persons working for them and on the environment”. The legislation specifically addresses: forced labor, child labour, discrimination, lack of work safety, restrictions on the right to form or join labor unions, unlawful land seizures, as well as the “environmentally relevant”.

The European Union Corporate Sustainability Due Diligence Directive

The most advanced legislative intervention in this space is the EU Corporate Sustainability Due Diligence Directive (CSDDD) adopted in 2024. Whereas individual member states already have existing national legislation that limits their jurisdiction, the CSDDD will introduce a common regulatory framework in human rights and environmental due diligence for all EU Member States. The CSDDD will be binding on all large EU companies, as well as some large non-EU companies active in the EU.

This will mandate such businesses to take steps to identify, prevent, mitigate, and end adverse human rights and environmental impacts that their activities may cause, and remediate them in their subsidiaries and value chains.

The new regime also puts a particular emphasis on the transition towards a low-carbon economy, with a mandatory element to devise climate transition plans consistent with international climate agreements. The Directive includes a novel element regarding civil liability, in which victims of violations would be able to obtain damages where a business deliberately or negligently fails to comply with its due diligence obligations. Moreover, administrative authorities will be tasked with investigating businesses and imposing administrative sanctions, while a mechanism for meaningful consultation with stakeholders including workers and affected communities has been envisaged to boost corporate transparency and accountability. The Directive follows a pattern by which the EU increasingly attempts to infuse climate goals and human rights standards in corporate governance and business regulation, and may have implications on many companies located in regions as diverse as India.

What India Needs to Learn?

France, Germany and the European Union offers four key lessons for India as it plans corporate human rights regulation. First, while voluntary commitments on corporate social responsibility have value, these approaches are insufficient to tackle the risks of systematic human rights violations within intricate global supply chains. Compulsory due diligence laws would impose binding commitments on businesses, thereby incentive's a preventive approach to human rights compliance as opposed to the reactive one, where businesses deal with litigation after incidents have occurred.

Second, past international experience shows that the implementation of due diligence laws may consider varying burdens for businesses on the basis of size, sector, complexity of operations and the scale of risk of adverse human rights impacts.

Such a approach could allow India to provide effective protection to affected populations and prevent harms while not imposing excessive costs of compliance on its vast micro, small and medium enterprises (MSMEs).

Third, the effectiveness of compulsory legislation relies on robust oversight mechanisms: clear regulatory reporting, independent institutions, accessible grievances mechanisms, and accessible legal remedies. Such provisions would translate the substantive goals of the law into actual improvements in business practices and prevent it from degenerating into a procedural exercise. The state would have an important role to play in providing businesses with adequate technical assistance to comply with the new requirements.

Lastly, experience from abroad demonstrates that, beyond human rights, compulsory due diligence legislation can support good corporate governance, investor confidence, sustainable economic growth, and trade.

Increasingly, many global corporations would also expect their suppliers to comply with global standards for human rights due diligence and those of Indian firms operating in global export-intensive markets may face increasing commercial pressure to do the same. A thoughtfully designed mandatory due diligence regime would not only help protect human rights but also enhance India's position within global supply chains, and reconfirm India's constitutional aspirations towards dignity, equality and sustainable development.

Existing Indian Legal Framework: Is India Prepared for Mandatory Corporate Human Rights Due Diligence

Currently there is no single statute that imposes Mandatory CHRDD on corporate enterprises. Nevertheless, a body of laws and regulatory measures exists which together build a body that guides and supports ethical corporate behavior, labor protection, environmental sustainability and corporate accountability. Even though these laws represent a developing commitment by India to responsible business and sustainable development, it is still fragmented and to a great extent is a “reactive mechanism” approach. Unlike the due diligence approaches mandated by a number of laws in countries like France, Germany, and EU, the current body of laws does not require an enterprise to address the risk of a human right, assess the actual and potential.

Companies Act, 2013 - A host of other significant reforms aimed at beefing up corporate governance and corporate accountability were enacted by the Companies Act, 2013 (“Act”). While the Act may not have introduced Corporate Human Rights Due Diligence by name, it is important to see that a few of its provisions push businesses towards responsible conduct. First is the establishment, in the Companies Act 2013, of a mandatory framework of Corporate Social Responsibility or CSR as provided for under Section 135 of the Act. Such eligible companies will have to contribute a minimum of two percent of the average net profits for purposes as stated in Schedule VII (which includes areas like education, health, environment, gender equality, rural development and poverty eradication, etc.).

As has been highlighted, one unique feature of the CSR framework of India is the creation of what may be the first statutory definition of philanthropy. In other words, CSR requires a business enterprise to ‘do something good’ to help the society at large through charitable initiatives, whilst CHRDD obliges businesses to prevent and remedy the adverse impacts they cause to people in the course of conducting their own businesses. Thus, fulfilling CSR obligations cannot substitute the need for a formal human rights due diligence process. Second is the codification of responsibilities of Directors as laid out in Section 166 of the Act whereby, the Directors are subject to fiduciary duties such as that of a director acting in good faith and in the best interests of the company; to further the objects of the company; to exercise due care, skill and diligence; and acting in the interests of all stakeholders including the community and the environment. The explicit inclusion of community and environmental interests in such duties indicate an ongoing shift toward an increasingly stakeholder oriented model of corporate governance.

It needs to be highlighted that the directors fiduciary duties are quite generic, and do not require the former to undertake human rights risk assessment or implementing any such preventive due diligence measure in corporate value chains.

SEBI's Business Responsibility and Sustainability Reporting Framework - Amidst growing emphasis on ESG issues, SEBI, in the recent years, has stepped up the level of sustainability disclosures of listed companies. Mandated for the largest listed companies based on market capitalization, the Business Responsibility and Sustainability Reporting (BRSR) framework requires the company to make disclosures on their policy and practices with respect to environmental impact, labour practices, human resource development and employees well-being, worker safety and occupational health, consumer interests and quality of products/services, and other ethical aspects.

<u>Labour and Employment Laws</u> - India has a long history of labor laws designed to shield workers from exploitation and hazards. The reforms consolidated multiple laws into four Codes on Wages, Industrial Relations, Occupational Safety, Health & Working Conditions and Social Security. These are intended to ensure adequate compensation, workplace safety, social protection, and freedom from discrimination.

Other specific laws-like those on child labor (Child and Adolescent Labor Act, 1986) and bonded labor (Bonded Labor System (Abolition) Act, 1976)-also exist, all of which are an expression of India's constitutional commitments to labor rights and human dignity.

While India has in place these extensive legal protections, implementation is not always effective. Conditions of employment in much of India-particularly in areas with informal work, contract arrangements, diffuse supply chains, and insufficient labor inspections-often leave workers vulnerable. Moreover, labor laws typically only hold direct employers responsible for infractions, rather than parent companies for the conduct of their suppliers, contractors, and international business partners, which is the very issue mandatory human rights due diligence legislation is intended to help close.

<u>Environmental Protection Laws</u> - Environmental Protection It is another key area in the Indian Corporate Regulation system. The Central Government has the authority to protect, improve, and clean the environment under the Environment (Protection) Act, 1986 which also involves regulations in industrial activities. In addition to it, The Water (Prevention and Control of Pollution) Act, 1974 and The Air (Prevention and Control of Pollution) Act, 1981 exist to regulate the pollution by the industries and conserve natural resources.

A number of environmental damages, such as deforestation, pollution of water bodies and land, safe management of hazardous wastes, and climatic change, have now started being seen as the violation of human rights to life, health, livelihoods, and a clean environment.

Indian environmental laws have, in fact, time and again, acknowledged and validated this relation and accordingly placed a precautionary approach on industries to take care of the environment, with remedies such as the liability for compensating those who have suffered. Yet, in most of the cases environmental laws address harms after they have been caused and with few exceptions of EIA, the law doesn't make corporations' undertake systematic human rights and environmental due diligence through their supply chain; hence limited scope of preventive risk management.

<u>Constitutional Foundations and Judicial Developments</u> - A Framework for Corporate Human Rights Accountability in India: The Constitution as a Normative Standard Article 14, Constitution of India, (1950) – ensures Equality before law. Article 19 of the Constitution guarantees Fundamental Freedoms. Article 21 of the Constitution protects the right to life and personal liberty.

Article 23 prohibits slavery, forced labour, trafficking and binds the State not to enforce forced labour of any description.

Article 24 prohibits employment of children below 14 years of age in any hazardous occupation. Articles 14, 19 and 21 collectively can form basis for an “instrument to protect human beings from abuse”. Combined, all five articles create a constitution.

Current legal provisions in India reflect existing commitment to good corporate governance, labor protection, environmental sustainability, and human rights guarantees enshrined in the Indian Constitution. Important foundations are laid in the Company Act 2013, the BRSR reporting requirement of the Securities Exchange Board of India, the body of Indian labor legislation and environment statutes and judicial developments that could support a future mandatory framework of CHRDD. These,however, operate individually, and not through the integrated risk-preventing framework characteristic of current mandatory due diligence laws and directives.

Should India Adopt a Mandatory Corporate Human Rights Due Diligence Framework?

In recent years, as business enterprises have become increasingly recognized as important players in the determination of social, economic and environmental outcomes, the debate whether to continue to rely on voluntary adherence to business respect of human rights or to make it legally binding has been gaining traction. Given the global interconnections of supply chains, the ramifications of decisions taken by businesses tend to be not just contained within their nation state but spilling out to impact labour workers, the public, tribal communities, indigenous people and the environment. Although India has already done a good deal to encourage responsible corporate behavior, both in terms of corporate governance reforms, disclosure of performance in sustainability reports, its labour and employment legislation and environmental protection, the absence of a Corporate Human Rights Due Diligence (CHRDD) framework questions the robustness of such frameworks in protecting and vindicating the human rights of people. Thus, whether it should introduce such a due diligence system need be evaluated.

Existing Indian legal frameworks primarily address the consequences of rights abuses rather than the prevention thereof, providing remedies in the form of compensation or judicial intervention only once such rights have been violated. By obligating companies to conduct due diligence on the potential human rights risks of their business, a mandatory due diligence regime would move beyond reactive legal redress towards a proactive framework, requiring companies to identify and prevent human rights risks in sectors where issues of labour exploitation, poor working conditions and environmental pollution remain prevalent – namely textiles, mining, pharmaceuticals, construction, electronics and agriculture.

The mandatory application of due diligence would facilitate the integration of human rights into corporate strategy by making it incumbent upon boards and senior management to set up appropriate governance structures and processes to identify, assess, monitor, and mitigate human rights risks and to be held accountable for them across their businesses. This would foster a move beyond profit-centric, shareholder-focused approaches to a stakeholder-centric governance model that would take into account the needs and legitimate interests of employees, communities, customers, investors and the environment. This approach aligns itself well with the fiduciary duties of company directors, as stipulated under Section 166 of the Companies Act, 2013, and in accordance with global trends. Three, to attract more investors and to access international capital markets.

Institutional investors and socially responsible investors would consider their investment decisions on the basis of the companies' performance on Environmental, Social, and Governance (ESG) factors, as well as the risk associated with inadequate human rights performance that could lead to legal and reputational damages.

In doing so, responsible investors would favor companies that have already implemented measures and processes for carrying out due diligence, reduce risk, improve their reputation, enhance investor confidence, and ultimately enhance India’s ability to attract more sustainable investment and encourage responsible business practice. Four, to align with international trade practices. Many destination markets for Indian goods and services, particularly in the EU, require the adoption of due diligence legislation to ensure companies conform to basic human rights standards.

India’s exporters participating in global supply chains may soon be forced to comply with their partners' requirements to be legally protected and contractually satisfied regarding the due diligence measures undertaken. A mandatory due diligence framework will ensure legal certainty for Indian companies engaged in export business and enhance the competitiveness of their enterprises internationally. Five, to mitigate corporate risks.

Failure to protect basic human rights could result in expensive lawsuits, supply chain disruption, loss of consumer confidence, and damage to a company’s reputation.

Through a process of risk assessment, potential violations can be proactively identified and mitigated, thus avoiding costly legal and other business risks. The implementation of due diligence will provide a mechanism for businesses to effectively manage their long-term legal, financial, and reputational risks and protect their organizational resilience. Six, to enhance accountability under Indian constitutional principles. It is also essential to frame such law within the contours of our constitutional commitment to human dignity, equality, and social justice and against a background where violations of fundamental rights guaranteed under our Constitution - such as protection from exploitation, forced labour, discrimination and environmental harm - are on rise.

Despite its potential benefits, CHRDD presents several practical and legal challenges as well. One of the principle concerns relates to compliance costs. In order to develop a full due diligence system a company has to expend a great sum of money on assessments of risks and suppliers, independent auditors, employee training programs, grievance redress mechanisms and reporting systems. It is only large multinational companies that have both the financial and administrative capabilities required for this purpose, small and medium-sized enterprises will find themselves under severe financial duress. Indian MSMEs that constitute a large part of Indian industrial output and employ the vast majority of the country's workforce might face the same situation.

MSMEs in India do not possess adequate capital, financial and managerial wherewithal to handle the additional compliance requirements. Mandating strict due diligence procedures on these entities without government support will have a discouraging impact on the start-up scene, compromise competitiveness, increase operational costs and hinder overall development. Thus, the obligations will need to be scaled for different sizes of companies. Regulatory overlaps. Currently India has many different sets of laws regulating corporate activities: The Companies Act, the SEBI Regulations, the Labor Laws and numerous environmental and consumer protection regulations all implemented by different regulatory authorities.

A mandatory due diligence law could simply add another layer of complexity to already over-burdened regulatory structures by duplicating compliance obligations, contradicting certain requirements and complicating compliance.

For example, the Companies Act, SEBI Regulations, various sector-specific laws on labor, environment, consumer goods already include similar due diligence provisions. Harmonizing the proposed law with the already existing legal framework including those under Companies Act, 2013, SEBI regulations, Labor Code and environmental laws will be necessary for the proposed law. Enforcement agency. Mandatory due diligence law is meaningful if there exists strong regulatory institutions that will implement it effectively by monitoring compliance and taking appropriate action against errant entities.

In India, however, enforcement agencies already face significant constraints on finances, personnel and processes. Therefore, if the CHRDD mandate does not improve institutional capacities of such agencies it will likely remain an exercise in form. Increase in Litigation.

The risk of a significant increase in the number of litigation – civil as well as regulatory – in relation to human rights abuses by corporations is also a risk factor. However, excessive and frivolous litigation could lead to legal uncertainties, increased business costs, and discourage foreign investment. It would be prudent to incorporate detailed provisions related to scope of the law, standards of evidence, available defence and appropriate judicial or administrative procedures.

While the risks relating to costs of compliance, administrative burdens and enforcement challenges need to be seriously considered, the benefits of adopting a mandatory CHRDD framework would by far outweigh these concerns. As is clear from experiences in other jurisdictions, it is possible to address such challenges through risk- and company/sector-based proportionate legislation, instead of imposing a uniform obligation on every business. This can involve stricter due diligence standards for large corporations that operate in high-risk sectors and lighter compliance measures for SME s (including self-declarations or simple reporting mechanisms, sector-specific guidelines or government assistance).

More significantly, non-adopting such legislation could be a far more expensive proposition. Human rights abuses can trigger industrial accidents, environmental catastrophes, labor unrest, reputational disasters, contractual disputes and exclusion from global markets. Preventive due diligence enables enterprises to anticipate risks before they materialize into actual liabilities or business disruptions. Thus, CHRDD should not be treated as another regulatory hurdle but rather as an investment in sound corporate governance and resilient economic development. For India, enacting a tailored mandatory CHRDD framework provides an opportunity to modernise its regulatory framework for businesses, bolster its constitutional ethos, and enhance its global competitiveness.

Such legislation should draw inspiration from international experience while taking account of India’s constitutional scheme, developmental objectives, industrial complexity, and economic conditions, and implement it in a phased, risk-and impact-based manner that is both proportionate and effective. The time has come for India to proceed with its Corporate Human Rights Due Diligence through comprehensive legislative framework, that fosters the balance between accountability and enabling of responsible businesses.

2 Recommendations

From the foregoing, we note that although India has a robust legal and constitutional framework for the promotion of Corporate Responsibility, the country is yet to establish a holistic legal instrument to require companies to proactively identify and manage human rights risks that arise from their operations and value chains. Considering the increasing integration of the Indian economy into global value chains and the global consensus around Mandatory Corporate Human Rights Due Diligence (CHRDD), it is time for the Indian Parliament to adopt a well-crafted legislative framework. However, in doing so, it must take into account India's specific economic and institutional realities and refrain from copying international models wholesale.

India's path towards Mandatory CHRDD could include the following elements: First, The Indian Parliament should enact a standalone Corporate Human Rights Due Diligence Statute, or amend the Companies Act, 2013, in a significant way to make due diligence obligations binding.

Firstly, the legislation should delineate the scope of human rights due diligence (HRDD), specify the businesses which will fall under the remit of HRDD legislation, lay down minimal compliance standards, and mandate effective enforcement.

Secondly, HRDD should be implemented in a phased and risk-based approach. Mandatory obligations could apply, in the first instance, to large, listed, public limited companies, multinational enterprises and businesses in high-risk sectors (such as mining, textile, apparel, construction, infrastructure, agriculture, mining, oil & gas, manufacturing, pharmaceuticals). Small and medium enterprises could be brought within the ambit of such legislation over a period through simplified compliance requirements, state support, technical assistance and capacity-building programs.

Thirdly, Due diligence should extend to all parts of a company's value chains, including subsidiaries, contractors, suppliers and their subcontractors. With modern corporations often engaging in extensive outsourcing, a limited focus on direct employer-employee relationships alone will not suffice. Businesses must take proactive steps to identify, prevent and mitigate human rights risks that arise throughout their value chain through transparent procurement policies, contractual clauses, ongoing audits, and robust monitoring.

Fourth, the legislation must embed robust corporate governance in relation to human rights. The board of directors of the companies must be responsible for providing oversight on human rights risks and ensure integration of these risks into their strategic decision-making and management.

The management of companies must put in place effective compliance mechanisms, conduct regular risk assessment, and align company policies with international human rights standards. This would reinforce their duties under Section 166 of the Companies Act, 2013 to act in good faith in promoting the best interests of the company, and not in a manner which is harmful to the interests of its stakeholders.

Fifth, the CHRDD framework should include effective, accessible and transparent grievance mechanisms, both internal and external. Businesses should be required to establish internal complaint mechanisms, which would enable their workers, customers, suppliers, local communities and other stakeholders to raise human rights concerns without any fear of retaliation.

In addition to internal mechanisms, businesses should be encouraged to participate in external mechanisms to resolve their grievances through mediation, conciliation, arbitration or other forms of appropriate remediation. In addition, SEBI's Business Responsibility and Sustainability Reporting (BRSR) should be mandated and further strengthened. Companies should be required to disclose, under BRSR, their human rights risk assessments, impact assessments and management measures; supply chain due diligence practices; ongoing consultations with stakeholders; details of grievances raised and remedies provided. This would significantly increase transparency in how companies are addressing human rights issues.

The Government should consider setting up a specialized regulatory body or designating a existing institution that will have the mandate to oversee implementation of HRDD legislation. This authority would need to have powers to guide companies, monitor compliance, investigate complaints and impose appropriate administrative sanctions. Close collaboration among the Ministry of Corporate Affairs, SEBI, the Ministry of Labour and Employment, environmental regulators and the National Human Rights Commission will be critical for a coordinated approach to CHRDD. Finally, Any legislative intervention should be complemented by sustained public awareness, training, and capacity building efforts aimed at businesses, regulators, the judiciary and civil society organisations in order to foster a culture of responsible corporate behaviour and ensure smooth implementation of the mandatory HRDD regime.

3 Conclusion

Corporate Human Rights Due Diligence CHRDD can be interpreted as a fundamental change in the nature of the relationship between companies and human rights. Under current trends in the globalised economy corporations no longer be regarded merely as engines of economic growth, but as influential players, able to greatly impact upon the rights and well being of workers, consumers, local communities and the environment. Therefore, rather than relying upon voluntary CSR initiatives as a means for companies to satisfy their human rights obligations, there is a gradual move to establish legally enforceable duties for businesses to proactively identify, prevent, mitigate and remedy their actual and potential adverse human rights impacts.

The international developments witnessed in France, Germany and in the EU, indicate the progressive adoption of mandated human rights due diligence as an indispensable aspect of modern corporate governance.

As evidenced by this study, there is a substantial existing Indian legal basis that would facilitate the adoption of a human rights based corporate governance regime. The Companies Act, 2013, SEBIs Business Responsibility and Sustainability Reporting framework, numerous labour and environmental laws, constitutional provisions and progressively developed jurisprudence on Corporate Social Responsibility have laid the ground work for the protection of rights, the well-being of stakeholders and the protection of the environment and the promotion of corporate accountability. The current legal regime in India, however, operates in a disparate and unco-ordinated fashion and does not, as yet, create a coherent, preventive, risk-based system of corporate human rights due diligence. It is primarily directed at rectifying wrong doing once it occurs, as opposed to the pre-emptive measures advocated by CHRDD.

Moreover, comparative analysis provided herein illustrates that the motivation behind mandated due diligence is not simply to create further compliance burdens for companies.

Rather, the goal is to foster moreresponsible behaviour by businesses that will reduce their long-term legal, financial, and reputational risks. Companies that adequately conduct due diligence on human rights risks are more likely to maintain investor trust and confidence, enhance stakeholder relations, improve supply chain security and meet growing requirements for entry into international trade markets. Given that business operators are increasingly facing demands to comply with internationally agreed upon minimum standards on human rights in a number of regions and trade agreements, Indian exporting industries will inevitablyface greater pressure to conform with internationally recognised practices for human rights due diligence.

That being said, challenges pertaining to implementation costs, bureaucratic burden, regulatory capacity and impacts on MSMEs must not be dismissed. These challenges, nonetheless, should not serve as a deterrent to addressing the current regulatory vacuum in India. The focus must, instead, be placed on drafting appropriate legislation that is risk-based and sensitive to the national economic context of India.

Thus, implementing a staged process that entails tiered compliance obligations depending on the size and sector of enterprise, adequate coordination among government departments and agencies and comprehensive support through capacity-building and advisory services will allow India to effectively introduce mandated due diligence without undermining its competitiveness or creating disincentives for economic activity.

The research thus recommends the introduction of mandatory Corporate Human Rights Due Diligence Legislation in India, possibly through a separate statute or through an amendment of the Companies Act, 2013 and the relevant regulations. The proposed legislation should incorporate internationally established best practices while being sensitive to the existing constitutional values of dignity, equality, social justice, and sustainability in India. The CHRDD legislation should encompass due diligence across a companies value chain, establish clear responsibilities for directors, introduce mandated disclosure mechanisms, promote easy and accessible remedy and grievance processes and mandate independent oversight. In conclusion, the enactment of mandatory Corporate Human Rights Due Diligence law in India should not be perceived merely as another reform measure, but rather as strategic investment in responsible corporate conduct and the overall growth of a sustainable economy.

Through a rigorous implementation of CHRDD, India will strengthen the protection of rights and liberties for its citizens, enhance its corporate reputation, attract ethically driven investment, ensure access to overseas markets and maintain its leadership role as a global economy dedicated to fairness and sustainability.

In a time where an organizations legitimacy is Increasingly tied to its performance on human rights, mandating CHRDD will not only prove necessary, but also contribute to the overall pursuit of sustainable development and economic inclusivity.

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