Safeguarding Human Rights Against Multinational Enterprises' Abuse: The Necessity of Mandatory Due Diligence Regulations

Chongxu Shan

Room 301, Building 9, Ya Yuan, Tianquan Town, Ganjingzi District, Dalian, Liaoning Province, China

20221101@stu.neu.edu.cn

Abstract. As globalization and economic development progress, corporate human rights abuses have drawn increasing attention from the international community. However, existing international norms fall short in protecting human rights. This study employs a comparative research method to examine Mandatory Human Rights Due Diligence (MHRDD) laws in different countries, contrasting the shortcomings of international norms with the advantages of MHRDD laws. Through these comparisons and an investigation of the concepts and history of MHRDD laws, the study highlights their importance. Additionally, the research provides recommendations based on an evaluation of existing legislation. These suggestions aim to enhance the comprehensiveness of MHRDD laws, increase the number of companies required to conduct Human Rights Due Diligence (HRDD), address imbalances in rights, focus on result oriented HRDD, establish red lines, and offer effective remediation avenues. This will contribute to the promotion of human rights protection among global enterprises and the further improvement of human rights protection mechanisms.

Keywords: MHRDD laws, HRDD, human rights abuse, multinational enterprises.

1. Introduction

An open letter to industrial copper-cobalt mining companies operating in Lualaba/Haut Katanga said that they are a group of domestic and international civil society organizations in the Congo [1]. They have raised concerns about human rights violations and noticed that the COVID-19 prevention measures adopted by major industrial mining companies in the provinces of Lualaba and Haut-Katanga had violated the rights of workers.

These organizations have sent requests to the general managers of the major mining companies in the region, hoping that they can take measures to address the issue of workers' human rights violations and provide financial compensation to the workers whose rights have already been violated.

It can be seen that the workers mentioned in the letter have had multiple legitimate human rights violated by the mining companies. Workers are forcibly confined within the mining site, which infringes upon their freedom. Meanwhile, there are insufficient safety measures during their work, endangering their right to health and a safe working environment. Workers are forced to labor in the mines, violating their right to work freely.

However, while numerous human rights of workers have been violated, why have the aforementioned civil society organizations and citizens not chosen to sue these illegal mining companies in court, instead opting to request that the mine general managers take responsibility for their illegal actions? At the same time, one can imagine that if these mining companies were to reject the proposals of the civil society organizations, what should the workers whose human rights have been violated do? Seek legal assistance from the international community? International human rights law only regulates issues with states as the main subjects. Seek help from international organizations such as the United Nations? What if some of these companies have not accepted the norms of international organizations? Moreover, these soft laws do not have legal binding force [2]. Therefore, in order to protect these workers whose human rights have been violated, there should be a legally binding hard law that addresses corporate human rights violations, which is the MHRDD laws.

However, many academic theories point out that there are several issues with MHRDD laws. Firstly, the laws may not adequately protect the full range of human rights [3]. Secondly, it may be

difficult to implement these laws in companies of all sizes [3]. Thirdly, it may be challenging to balance the unequal positions of people whose rights have been violated and the companies responsible for the violations [3]. Additionally, the laws may only require companies to go through the process of human rights due diligence without placing sufficient emphasis on the outcomes [4]. Finally, there may be a lack of clearly defined legal boundaries between lawful and unlawful activities. There may also be a lack of compulsory remedies for those whose rights have been violated [5].

Based on the limitations of existing research, the author conducts a historical analysis of HRDD and compares it with the implementation of MHRDD laws in other jurisdictions, in order to demonstrate the necessity of MHRDD laws and suggest potential directions for their future development.

2. Overview of MHRDD Laws

2.1. The Concept of MHRDD Laws

HRDD refers to the process by which companies assess and manage the negative human rights impacts that may arise from their business activities [6]. The process aims to ensure that companies respect and protect human rights, and take necessary measures to prevent, mitigate, and remedy the risk of human rights abuses. HRDD is a proactive management practice. It can help companies fully consider human rights factors in their business activities. In this way, they can avoid or minimize potential negative impacts. At the same time, HRDD is also one of the core contents of corporate social responsibility advocated by the international community.

Both the MHRDD laws and HRDD aim to ensure that companies respect and protect human rights in their business activities. They also aim to avoid or minimize potential negative impacts. HRDD is a voluntary management practice adopted by companies, while MHRDD laws are enforced by governments through legislation and other means. These laws require companies to conduct HRDD in their global supply chains, and to assume corresponding responsibilities and obligations.

MHRDD laws refer to situations where companies are required to conduct an investigation to determine whether their business activities have a negative impact on human rights and to take measures to remedy such impacts. These laws require companies to fulfill their human rights responsibilities in their business operations, ensuring that they do not directly or indirectly cause human rights violations, and providing remedies for affected individuals. MHRDD laws typically apply to multinational enterprises with operations in multiple countries and involve issues related to human rights, such as environmental pollution, labor rights, child labor, anti-corruption, and supply chain management. Currently, several European countries have passed similar laws to encourage companies to implement their human rights responsibilities globally.

Therefore, MHRDD laws can be seen as a supplement and reinforcement to HRDD. In practice, HRDD is often subject to limitations and challenges, such as companies unwilling to voluntarily disclose information and inadequate regulation. MHRDD laws can eliminate these barriers and enable more comprehensive and practical human rights due diligence by companies, thus better protecting human rights.

2.2. The History of MHRDD Laws

2.2.1 The origin of MHRDD laws

The origin of MHRDD laws can be traced back to the aftermath of World War II, when the international community was shocked and outraged by large-scale human rights violations in human history.

In 1945, the United Nations was established. Its charter included provisions and principles for the protection of human rights, which was an important milestone for the international community's attention to human rights issues. In light of this, the UN Declaration of Human Rights was adopted in 1948, providing a framework for the development and promotion of international human rights law

[7]. This historic document established the concept of universal human rights. In 1998, the UN High Commissioner for Human Rights proposed the UN Global Compact, which called on businesses to uphold social responsibilities in areas such as environment, labor, and human rights in their commercial operations [8].

In 2010, France adopted a guidance document called "Guide du reporting RSE" on corporate social responsibility, which recommended that companies carry out HRDD in their supply chains [9]. In 2017, the French "Duty of Vigilance Law" was also passed, which requires large companies to conduct human rights and environmental due diligence in their supply chains [10]. The law also imposes fines and other measures on companies that violate the law to ensure sustainable development of society [10]. This was the world's first MHRDD law.

2.2.2 The development of HRDD

The emergence of France's "Guide du reporting RSE" has promoted the popularization of the concept of HRDD and MHRDD laws internationally. Respect and protection of human rights have become essential components of corporate social responsibility. The development of HRDD has rapidly progressed in two main directions: first, evolving into guiding documents of international organizations; and second, developing into mandatory domestic laws within countries.

In 2011, both the Organisation for Economic Co-operation and Development (OECD) and the United Nations Human Rights Council (UNHRC) adopted measures to safeguard human rights by issuing guiding documents.

OECD published the "Guidelines for Multinational Enterprises," which includes advisory provisions on how companies should fulfill their social responsibilities and respect human rights [11]. Simultaneously, the OECD also initiated the MNE Watch program, aiming to monitor and promote multinational enterprises' compliance with the guidelines and collaborate with local stakeholders to ensure these companies follow best practices and respect human rights in their overseas activities.

The UNHRC adopted the United Nations Guiding Principles on Business and Human Rights (UNGPs), which aim to encourage businesses to respect human rights and require them to conduct HRDD in their operations to ensure that their activities do not negatively impact the human rights of local communities, employees, customers, and stakeholders [12]. The UNGPs assist companies in adhering to the "Respect-Protect-Fulfill" principles (i.e., respect for human rights, protection of human rights, and fulfillment of human rights) promoted by the UNGPs. Furthermore, the UNGPs provide guidance on how businesses should manage risks and issues related to human rights, as well as offering remedies and compensation to individuals and groups who have suffered harm [13].

As a domestic legal translation of the UNGPs, the UK introduced the Modern Slavery Act in 2015, adopting a "naming and shaming" regulatory model. It requires UK business organizations meeting specific criteria to provide slavery and human trafficking statements for each fiscal year (i.e., disclosure obligations) in response to "modern slavery behaviors" resulting from refugee policies [14]. The Netherlands enacted the Child Labor Due Diligence Act to prohibit the use of child labor in the provision of products or services [18]. On June 11, 2021, the German Bundestag passed the "German Supply Chain Due Diligence Act," which will be implemented in phases on January 1, 2023, and January 1, 2024 [15].

At the European Union (EU) level, the EU is working to introduce unified legislation. This legislation focuses on corporate supply chain human rights and environmental due diligence obligations. The aim is to maintain the EU's advantages in preventing and mitigating human rights or environmental risks within corporate supply chains, ultimately contributing to sustainable development. In early 2021, the European Parliament passed a resolution urging the European Commission to expedite the development of an EU directive on supply chain human rights and environmental protection. On February 23, 2022, the European Commission published the draft "Corporate Sustainability Due Diligence Directive" (CSDD). Once enacted, this directive will be the first binding regulation on supply chain human rights and environmental protection within the EU [16].

3. The Importance of MHRDD Laws

Due to the absence of specific laws addressing human rights violations by multinational corporations, applying a country's domestic laws to such issues can lead to many problems. For example, issues can arise due to an incomplete legal system, host countries lacking regulatory bodies, and judicial systems that are unable to protect the rights and interests of victims. The absence of relevant laws can be susceptible to political influence, resulting in cases not being adjudicated fairly. Multinational corporations have substantial resources and influence, and when legal norms lack specificity, they can potentially sway judicial decisions in host countries.

Therefore, at the current stage, countries without MHRDD laws generally use international norms, such as international law and international guiding documents, to address such issues. Although international human rights law and guiding documents play a role in protecting human rights and regulating corporate behavior, they have evident flaws and shortcomings in practically addressing human rights violations by multinational corporations.

3.1. Insufficiencies of Existing International Norms

3.1.1 International human rights law

At present, global human rights legislation primarily encompasses the conventions listed in Table 1 below.

Table 1. Some major international human rights laws

No.	Name		Release Date	Issuing Authority	Main Content
1	Universal Declaration of Human Rights		1948	United Nations General Assembly	This document establishes the essential human rights and liberties that every individual should have access to and serves as a universal benchmark for all citizens and countries to pursue.
2	International Covenant on Civil and Political Rights		1966	United Nations General Assembly	This lays out people's civic rights, including freedom of expression, the right to assemble, and voting rights while forbidding practices like torture, enslavement, and capital punishment.
3	International Covenant on Economic, Social and Cultural Rights		1966	United Nations General Assembly	This sets forth personal economic, social, and cultural entitlements, encompassing the rights to employment, education, and access to healthcare.
4	Others	International Convention on the Elimination of All Forms of Racial Discrimination	1965	United Nations General Assembly	This forbids every instance of racial discrimination and racism, encompassing civil, political, social, and cultural rights for all persons.
5		Convention on the Elimination of All Forms of Discrimination against Women	1979	United Nations General Assembly	Its goal is to eradicate all types of discrimination against women and guarantee gender equality in both legal and practical aspects.
6		Convention on the Rights of the Child	1989	United Nations Children's Fund	It sets forth the rights to which children are entitled, including the right to development, life, protection, and participation, and mandates governments to safeguard the rights and well-being of children.

The law of international human rights has limitations in protecting basic human rights of individuals and societies. While international law of human rights possesses a certain level of binding power, its effectiveness is closely tied to the participation of states and the status of international legal subjects [17].

Firstly, international human rights law mainly consists of international treaties, which are legally binding only on countries that have joined the treaty. However, there are differences in the participation of different countries. Some countries may choose not to join certain international treaties due to specific political, economic, or cultural reasons. For example, North Korea has not yet

joined the International Covenant on Civil and Political Rights because its political system conflicts with the provisions of the covenant, such as freedom of speech and association [18]. This variation among different countries makes it difficult for international law of human rights to form a global legal safeguard when addressing corporate human rights violations.

Secondly, even if some countries join international treaties, it is difficult to address corporate human rights violations. This is due to the fact that multinational companies are not considered subjects under international law, and therefore are not directly obligated by international human rights law. Multinational companies lack autonomous legal standing within the international law framework; they are merely legal entities established by domestic law and lack corresponding legal status within the international legal system. Hence, when dealing with human rights infringements by multinational companies, it often requires the cooperation and coordination of domestic legal mechanisms to better protect human rights.

Additionally, as multinational corporations' operations often involve multiple countries, the complexity of international legal jurisdiction increases. This means that there are differences in legal norms, judicial procedures, and evidence collection among countries, making it difficult to unify the legal risks and liabilities faced by corporations in different countries. At the same time, due to the strong economic power and legal resources of multinational corporations, they can sometimes evade legal risks through various means, making it difficult for individuals and societies whose basic human rights have been violated to receive the protection they deserve.

3.1.2 International non-binding guidelines

Currently, the International non-binding guidelines on protecting human rights mainly include the following, as shown in Table 2.

Table 2. Some mainstream non-binding guiding documents on protecting human rights internationally include

No.	Name	Release Date	Issuing Authority	Main Content
1	United Nations Guiding Principles on Business and Human Rights	2011	United Nations Human Rights Council	It proposes that companies should respect basic rights, prevent basic rights violations, conduct human rights due diligence, and provide remedies, among other principles.
2	Organization for Economic Cooperation and Development Guidelines for Multinational Enterprises	2011	Organisation for Economic Co-operation and Development	The focus is on companies' adherence to social responsibilities in domains like human rights, employment, environmental concerns, and consumer rights.
3	International Labour Organization Declaration on Fundamental Principles and Rights at Work	1998	International Labour Organization	It advocates for workers' fundamental rights. These include the rights to freedom of association and collective bargaining, the eradication of forced labor and child labor, and the prohibition of discrimination.

International guidelines as a means of addressing corporate human rights violations also have significant limitations in their practical application, which may restrict their effectiveness in addressing human rights abuses by multinational enterprises.

First, lack of specificity and clarity. International guiding documents are designed to promote international cooperation and improve global governance levels, so they are often very broad and abstract. Since these documents are consensus reached through political negotiation, it is difficult to provide specific interpretation and details at the implementation level, which brings challenges for the implementers. For example, a guiding document on human rights protection may propose the principle of "no discrimination," but it does not provide detailed instructions on how to implement this principle. Different countries or organizations may have varying interpretations and views on the specific content of these principles based on their understanding and interests. Therefore,

implementing these guiding documents in the international community requires more specific and clear interpretation.

Second, the lack of a compulsory enforcement mechanism. International guiding documents are consensus reached through negotiations between governments or international organizations. Although international guiding documents have universal significance, they do not have legal binding force. This greatly limits the practical effectiveness of these documents, and in many cases, they can only play a superficial role in promoting action. Furthermore, even if the international guiding documents contain some binding clauses, it is difficult to impose sanctions on countries or organizations that violate the provisions. This is because enforcing these sanctions requires cooperation among all parties and negotiation on the specific measures of sanctions. This necessitates political will and cooperation between the parties, but in reality, many countries have conflicting interests and disagreements, making it difficult to reach a consensus.

Third, constrained by domestic legislation and policies. Since international guiding documents are not legal documents and do not have legal binding force, countries can selectively accept and implement certain principles in their domestic legislation and policies, or they can completely ignore the requirements therein. For example, in some countries, due to political, economic, cultural, and other reasons, they may not be able to fully accept certain principles in international guiding documents. These countries may make appropriate modifications or adjustments to these principles in their domestic legislation and policies to adapt to their actual conditions. This could result in the actual effectiveness of international guiding documents being weakened or invalidated in these countries. Furthermore, in some countries, governments may choose to ignore some of the requirements in international guiding documents and focus only on their own interests and desires.

3.2. The Advantages of MHRDD Laws

3.2.1 The specificity and predictability of MHRDD laws

MHRDD laws, as codified laws, inherently possess the advantages of codified laws, including specificity and predictability. Compared to other non-codified laws, MHRDD laws have higher levels of specificity and predictability, and can provide more comprehensive and robust protection for those in need.

First, the specificity and predictability of mandatory human rights due diligence laws provide better opportunities for victims to seek legal remedies. Since these provisions are already written into law, victims of human rights violations can obtain relief through clear and explicit legal provisions and judicial procedures, without worrying about finding applicable regulations or loopholes in the law. In this way, the legitimate rights and interests of those affected by human rights violations can be protected more effectively.

Second, the introduction of MHRDD laws will also help businesses better understand legal standards, thereby avoiding potential conflicts and disputes. MHRDD laws clearly stipulate the human rights responsibilities that businesses must fulfill when conducting commercial activities, which means that companies can avoid possible legal conflicts by complying with these legal standards. Consequently, companies will not only safeguard their own interests more effectively but also fulfill their social responsibilities more comprehensively.

Lastly, the emergence of MHRDD laws provides a clear legal basis for citizens, businesses, and the judiciary. If a company violates relevant regulations, citizens or victims can protect their legitimate rights and interests through judicial procedures. At the same time, the judiciary can also supervise and penalize companies according to the provisions of this law. In this way, a more robust foundation for the relationship between citizens, businesses, and the judiciary can be established.

3.2.2 The coercive force of MHRDD laws

Compared to non-binding international guidelines, the biggest advantage of MHRDD laws is their coercive force. This means that such laws can exert clear binding effects on citizens, businesses, and government agencies, and any violations of the provisions will face severe legal sanctions.

Firstly, MHRDD laws are enforceable regulations recognized by authoritative national institutions. Compared to non-binding guidelines, MHRDD laws highlight the significance of safeguarding basic rights and advancing corporate social responsibility more efficiently. Therefore, implementing these laws can receive support and supervision from the government and judicial departments, thereby more effectively safeguarding citizens' legitimate rights and interests.

In addition, mandatory human rights due diligence laws have compulsory enforcement power. If a company violates these legal provisions and infringes on human rights, the judicial department can take coercive measures to uphold the authority of the law. These measures may include fining the company, revoking licenses, or punishing responsible individuals. In this way, it can better prevent companies from violating human rights protection laws for the sake of economic benefits.

3.2.3 The high compatibility of MHRDD laws

MHRDD laws, as self-created laws of a country, have better compatibility compared to international conventions and non-binding guiding documents. This is mainly reflected in the following aspects:

Firstly, MHRDD laws can better adapt to a country's specific situation and legal system. Since the legal and institutional systems of each country are unique, the scope of application for international conventions and non-binding guiding documents is usually quite broad and abstract. However, MHRDD laws are enacted by the country's legislative body, which means their provisions can better align with the country's specific situation and legal system, making it easier to gain support and enforcement from the country's government and judiciary.

Secondly, mandatory human rights due diligence laws have better compatibility with other domestic laws in a country. Generally speaking, international conventions and non-binding guiding documents are designed to protect human rights, but their provisions may conflict or overlap with other domestic laws. MHRDD laws, on the other hand, are enacted by a country's legislative body, resulting in a closer relationship with other domestic laws. This ensures that there are no contradictions or conflicts between provisions and regulations, thus avoiding difficulties in legal enforcement.

Lastly, mandatory human rights due diligence laws are more likely to generate widespread social consensus within a country. Since these regulations are enacted by a country's legislative body, various stakeholders can express opinions and make suggestions during the drafting process, making the law more representative and authoritative. As a result, the law is better recognized and accepted by domestic businesses, citizens, and government agencies, making it easier to form a broad social consensus and achieve legal objectives.

4. Suggestion

Although MHRDD laws possess multiple strengths in tackling human rights infringements by global corporations [19], they face some practical challenges due to their relatively short development history. In one aspect, mandatory human rights due diligence is a relatively new concept, emerging later in the domains of global human rights law and corporate social responsibility. As a result, there is a lack of comprehensive legal regulations and practical experience, making it difficult to form a complete set of standards and norms. In another aspect, the implementation of MHRDD laws requires access to and processing of sensitive information such as corporate trade secrets and financial reports. This necessitates that relevant regulatory authorities possess the necessary technical and professional knowledge while also ensuring the protection of businesses' legal rights and avoiding unnecessary losses due to investigations. To improve MHRDD itself, it can be addressed from the following perspectives.

4.1. Enhance the Comprehensiveness of the MHRDD Laws

MHRDD laws should explicitly require enterprises to conduct comprehensive HRDD, encompassing the mitigation of negative effects on human rights, workers' rights, environmental

protections, and climate change [20]. Laws that focus only on specific human rights or labor rights are problematic, as this approach would hinder businesses in thoroughly managing their human rights-related risks.

A comprehensive human rights due diligence process can help companies identify and assess various human rights risks and impacts associated with their operations, enabling them to take appropriate measures to mitigate or eliminate those risks. For instance, if a supplier of the enterprise is found to employ child labor, the company will need to take action to ensure its supply chain complies with international labor standards to avoid condemnation from society and the government for violating labor rights.

In contrast, laws focusing on specific human rights can lead to loopholes or deficiencies, as they may allow some companies to exploit gaps and evade regulation. By requiring companies to conduct comprehensive HRDD, it ensures that all human rights issues are incorporated into their management scope.

Therefore, MHRDD laws should require companies to conduct comprehensive HRDD to ensure that they safeguard and uphold all human rights, workers' rights, environmental protections, and negative consequences associated with climate change.

4.2. Increase the Number of Enterprises Supporting Human Rights

Nowadays, governments around the world are introducing MHRDD laws to make sure companies comply with basic rights principles while pursuing economic development. However, mandating all companies to conduct HRDD may be challenging and difficult to implement. Therefore, adopting a gradual approach, requiring companies of a certain size or scale to carry out HRDD, while encouraging all businesses to engage in this work, seems to be a viable solution.

In 2017, France passed a MHRDD law, which applies to companies registered in France with more than 5,000 employees or those with over 10,000 employees overseas [10]. The Netherlands has also enacted a similar law, applicable to companies registered in the country with more than 250 employees [21]. Germany followed suit in 2021, with a law covering companies registered in Germany with over 3,000 employees. These laws require certain businesses to investigate human rights issues in their supply chains and commercial activities to identify and address any human rights-related concerns [15].

These laws aim to encourage multinational corporations to comply with human rights standards in their global operations and provide better protection for affected stakeholders [3]. While these laws apply only to large companies, they are expected to pave the way for lowering the thresholds for companies required to conduct HRDD as such laws become more widespread in other countries.

4.3. Address the Imbalance of Rights

As more and more companies become involved in global supply chains, human rights issues have become a topic of growing concern. According to the UNGPs, businesses are responsible for investigating the human rights impacts of their commercial activities and taking appropriate measures to address these issues. However, in practice, HRDD may limit the interests of businesses themselves and the supervision and control of state agencies over them [12]. Therefore, the UNGPs' HRDD focuses more on risk assessment for businesses.

In this context, many people worry that the rights between businesses and victims are imbalanced, as companies can choose to meet only the minimum legal standards or evade legal liability by using complex supply chain structures. Taking Germany as an example, the country implemented a MHRDD law in 2021, granting legal standing to domestic trade unions and non-governmental organizations to represent affected rights holders in lawsuits. This law ensures that victims can hold businesses accountable through judicial channels, promoting corporate compliance with human rights issues.

In summary, although the current UNGPs' HRDD focuses more on risk assessment for businesses. By drawing on Germany's approach, a more fair and balanced solution can be provided for the rights relationship between companies and victims [22].

4.4. Results-oriented

At present, the laws of most countries only stipulate the process of HRDD, without specific requirements for the results. This means that even if a company conducts HRDD, it will not be penalized by law if the expected results are not achieved. Therefore, the effectiveness of HRDD is still uncertain.

The author believes that HRDD is still in its early stages and needs continuous improvement and development. Furthermore, future laws should gradually shift from process to outcome. By imposing stricter requirements on companies, human rights issues can be effectively addressed [4]. For example, by requiring companies to take specific measures to improve human rights conditions and establishing relevant institutions to monitor the implementation of companies, the effective implementation of HRDD can be promoted. Regulatory agencies should regularly review companies' HRDD reports and ensure they comply with standards and legal requirements. When violations occur, regulatory agencies should take appropriate punitive measures.

4.5. Set Red Line

It can be found in research that in the HRDD measures of France, the Netherlands, Switzerland, Norway, and Germany, there needs to be more clarity in setting red lines. Establishing red lines plays an irreplaceable role in perfecting HRDD measures and is an issue that governments need to pay attention to.

The purpose of setting red lines is to regulate and limit corporate behavior before human rights violations occur. For instance, companies may be barred from participating in specific business activities, preventing them from accessing certain markets right from the start. Likewise, boundaries should be established for particular products, like tobacco items. Tobacco firms can never wholly honor all human rights, so the New Zealand government suggested banning cigarettes for upcoming generations, forbidding anyone born after 2008 from buying them [23]. Without such boundaries, businesses that produce and market intrinsically detrimental goods might continue infringing on human rights while appearing to reduce risk, such as endorsing e-cigarettes as a less harmful alternative to traditional cigarettes [24].

4.6. Ensure Effective Remedies

MHRDD laws in most countries only stipulate the process of HRDD and do not provide specific punitive measures for companies that violate human rights or strong remedial provisions. This means that even if companies conduct HRDD, they will not be subject to legal penalties if they fail to achieve the expected results or engage in human rights violations.

To address this issue, MHRDD laws should include provisions for remedying victims of human rights violations. In this way, if a company violates human rights after conducting HRDD, the victims can still be remedied. Moreover, these remedial measures should provide civil, administrative, and criminal remedies to ensure that victims receive comprehensive compensation and a fair judicial process [25].

At the same time, the author believes that MHRDD laws should include remedial measures that have preventive, remedial, and deterrent effects. By doing so, punitive measures are already established by law before companies undertake HRDD, thereby increasing the incentives for businesses to comply with human rights standards. Under these circumstances, companies may be more cautious in considering the impact of their business decisions, further promoting the implementation of HRDD.

5. Summary

In the context of globalization and economic development, the safeguard and uphold of human rights by businesses have become a consensus and requirement of the international community. However, existing international norms have certain shortcomings in protecting human rights and cannot regulate all existing countries. For example, the subjects of international law on human rights are states rather than businesses, international non-binding guidance documents lack specificity, clarity, and enforceability, and are subject to domestic legislation and policy constraints. MHRDD laws, as an emerging human rights protection mechanism, can overcome the shortcomings of international norms in protecting human rights, and thus have significant research implications.

Based on the study of the concept, history, and advantages of MHRDD laws, this article puts forward some practical suggestions. These suggestions aim to enhance the comprehensiveness of MHRDD laws, strengthen corporate support for basic rights, address human rights imbalances, and provide effective remedies. This will help promote the protection of human rights by global businesses and further improve the human rights protection mechanism.

References

[1] "Open Letter to Industrial Copper-Cobalt Mining Companies Operating in Lualaba/Haut Katanga," Human Rights Watch, Jun. 11, 2020. [Online]. Available: https://www.hrw.org/zh-hans/news/2020/06/11/375394.

[2] U. Baxi, "Nevsun:" Bus. Hum. Rights J., 2020.

[3] S. Deva, "Mandatory human rights due diligence laws in Europe: A mirage for rightsholders?" Leiden J. Int. Law, pp. 1–26, 2023.

[4] N. Bueno and C. Bright, "Implementing Human Rights Due Diligence through Corporate Civil Liability," Int. Comp. Law Q., vol. 69, pp. 789-816, 2020.

[5] L. Chiussi Curzi, General Principles for Business and Human Rights in International Law, Brill, 2021.

[6] N. Bernaz and I. Pietropaoli, "Developing a Business and Human Rights Treaty: Lessons from the Deep Seabed Mining Regime Under the United Nations Convention on the Law of the Sea," Bus. Hum. Rights J., 2020.

[7] United Nations, "Universal Declaration of Human Rights," 1948. [Online]. Available: https://www.un.org/en/about-us/universal-declaration-of-human-rights.

[8] UN Global Compact, "UN Global Compact," [Online]. Available: https://www.unglobalcompact.org/. [Accessed: Month Day, Year].

[9] French Ministry of Economy, Industry, and Employment, "Guidelines for Multinational Enterprises Operating in Accordance with the United Nations Global Compact," 2010.

[10] French National Assembly, "Law No. 2017-399 of 27 March 2017 Relating to the Duty of Vigilance of Parent Companies and Ordering Companies," 2017.

[11] OECD, "Guidelines for Multinational Enterprises," Jun. 15, 2011. [Online]. Available: https://mneguidelines.oecd.org/.

[12] United Nations, "Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework," 2011.

[13] "Corporate Liability for Transboundary Environmental Harm," Springer Science and Business Media LLC, 2023.

[14] UK Modern Slavery Act, 2015. [Online]. Available: https://www.legislation.gov.uk/ukpga/2015/30/contents/enacted.

[15] German Federal Ministry for Economic Cooperation and Development, "The German Supply Chain Act," 2021. [Online]. Available: https://www.bmz.de/en/policy/business-and-human-rights/lieferkettengesetz/index.html.

[16] European Commission, "Proposal for a Corporate Sustainability Duty of Care Directive," Feb. 23, 2022. [Online]. Available: https://ec.europa.eu/info/publications/proposal-corporate-sustainability-duty-care-directive-2022_en.

[17] D. Moeckli, S. Shah, and S. Sivakumaran, International Human Rights Law, 2022.

[18] International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc.

[19] P. Verbruggen, "New Liabilities in Global Value Chains: An Introduction," Eur. J. Risk Regul., 2022.

[20] C. Macchi, "The Climate Change Dimension of Business and Human Rights: The Gradual Consolidation of a Concept of 'Climate Due Diligence'," Bus. Hum. Rights J., vol. 6, pp. 93, 2021.

[21] M. H. F. M. ten Berge, "The Dutch Child Labor Due Diligence Act: An Innovative Response to Corporate Human Rights Abuses," Bus. Hum. Rights J., vol. 1, no. 1, pp. 129-136, 2016.

[22] E. Savourey and S. Brabant, "The French Law on the Duty of Vigilance: Theoretical and Practical Challenges Since its Adoption," Bus. Hum. Rights J., vol. 6, pp. 141, 2021.

[23] "New Zealand to Ban Cigarettes for Future Generations," BBC News, Dec. 9, 2021. [Online]. Available: www.bbc.com/news/world-asia-59589775.

[24] "E-cigarettes Could be Available on NHS to Tackle Smoking Rates," BBC News, Oct. 29, 2021. [Online]. Available: www.bbc.com/news/health-59083491.

[25] UN Working Group on Business and Human Rights, "Human Rights and Transnational Corporations and Other Business Enterprises," A/72/162, Jul. 18, 2020.