From Voluntarism to Accountability: Mandatory Human Rights Due Diligence in Malaysia and Indonesia

[1]Nisar Mohammad Ahmad*

[1]Associate Professor, Faculty of Syariah and Law, Universiti Sains Islam Malaysia, 71800 Nilai, Negeri Sembilan, Malaysia

DOI: https://doi.org/10.47772/IJRISS.2026.101000610

Received: 21 October 2026; Accepted: 26 October 2026; Published: 12 November 2026

ABSTRACT

Voluntary corporate social responsibility (CSR) has long been the dominant way of governing the social and environmental costs of production in Southeast Asia, yet persistent labour exploitation, supply-chain opacity and resource degradation in palm oil, electronics and mining suggest that voluntarism cannot deliver Sustainable Development Goal (SDG) 12. This article asks how Malaysia and Indonesia are moving from philanthropic CSR towards human rights due diligence (HRDD), and which design conditions turn a legal mandate into genuine diligence. Using doctrinal and functional comparative analysis, with the two countries paired as a most-similar-systems design, of statutes, regulations, national action plans, official guidance and reported enforcement episodes up to 12 October 2026, it assesses each system against five dimensions of accountability: legal basis, scope, substantive content, enforcement and access to remedy, using explicit coding criteria and a framework that operationalises, rather than replaces, the UNGP and OECD due diligence standards as a state-side test of accountability. Three findings emerge from the documentary evidence. First, both countries occupy an intermediate zone combining policy-level HRDD expectations, sectoral hard law and disclosure duties, but neither has enacted a general statutory HRDD duty backed by civil liability. Second, Indonesia's experience with mandatory CSR under Article 74 of Law No. 40 of 2007 is consistent with the proposition that mandating a duty without specifying its content tends to produce philanthropy rather than diligence, although firm-level behaviour was not tested. Third, external market regulation appears, on the documentary evidence, to be the most consequential source of enforcement in Malaysia and an important driver of reform in Indonesia, yet the 2026 narrowing of the European Union's Corporate Sustainability Due Diligence Directive weakens that driver. The article concludes that a calibrated, risk-based statutory HRDD framework, anchored in domestic law, integrated with existing reporting regimes and supported by accessible remedy, is a credible route to SDG 12 and, as a normative recommendation distinct from its documented findings, proposes seven design principles for such a framework, while questions of firm-level compliance and outcomes for rightsholders are left for further empirical research.

Keywords: Human rights due diligence, corporate social responsibility, SDG 12, Malaysia, Indonesia

INTRODUCTION

Global production networks allow firms to separate the place where economic value is captured from the place where social and environmental costs are borne. Lead firms in importing markets source commodities and components through layers of suppliers, and the weakest regulatory oversight often coincides with the most hazardous work. For roughly three decades the principal response has been voluntary: codes of conduct, philanthropic programmes, social auditing and sustainability reporting, collectively grouped under the label of corporate social responsibility (CSR). The adoption of the UN Guiding Principles on Business and Human Rights (UNGPs) in 2011 gave the field a more rigorous normative core, namely the corporate responsibility to respect human rights through ongoing human rights due diligence (HRDD) (UN Human Rights Council, 2011). The difference is fundamental. As the Malay-language edition of the official UN and SUHAKAM guidance puts it, the UNGPs express a global expectation of all companies rather than a

voluntary effort that a firm may undertake depending on its other priorities, and community philanthropy cannot offset a failure to respect rights in its own operations (Suruhanjaya Hak Asasi Manusia Malaysia [SUHAKAM] & Office of the High Commissioner for Human Rights [OHCHR], 2019, pp. 11–12).

Malaysia and Indonesia form an instructive pair. Together they dominate global palm oil supply, and both host electronics, rubber-glove, timber and mineral-processing industries that depend heavily on migrant and low-wage labour. Both are Muslim-majority ASEAN states, both have adopted national policy instruments based on the UNGPs, and both are being drawn into the regulatory orbit of the European Union and the United States through trade. Yet they differ in legal tradition (common law in Malaysia; a civil-law system with customary overlays in Indonesia), in their experience of mandated CSR, and in the speed at which they are moving towards binding HRDD obligations. Sustainable Development Goal (SDG) 12 is where these dynamics converge. Target 12.6 asks states to encourage companies, especially large and transnational ones, to adopt sustainable practices and integrate sustainability information into their reporting cycle (UN General Assembly, 2015). Yet Jägers (2021, p. 209) finds that the 2030 Agenda refers to the UNGPs only once, in paragraph 67, and that states' voluntary national reports on the SDGs tend to invoke the vaguer notion of CSR rather than business and human rights language. The extractive and agricultural practices that SDG 12 seeks to reform are also the sites of forced labour, child labour, land dispossession and unsafe work, which engage SDG 8.7 (ending forced labour) and SDG 16.3 (access to justice). A legal analysis of SDG 12 that ignores human rights accountability is therefore incomplete.

The scholarly debate on whether HRDD should be mandated has moved quickly. Bonnitcha and McCorquodale (2017) argued that the UNGP concept of due diligence is a process standard distinct from the legal due diligence familiar in tort and corporate law, so that its translation into statute raises definitional difficulties; Ruggie and Sherman (2017) replied that it is best read as a standard of conduct calibrated to risk. Empirical work shows why the question matters. A study for the European Commission found that only slightly more than a third of surveyed companies undertook due diligence covering all human rights and environmental impacts, and that a clear majority of respondents favoured mandatory rules (Smit et al., 2020). Studies of corporate practice likewise identify gaps between the UNGP standard and what companies actually do, which supports the case for a clearer legal standard (McCorquodale et al., 2017; Smit et al., 2021). The social auditing on which voluntary regimes rely has well-documented weaknesses (LeBaron et al., 2017). Yet mandatory HRDD is not a panacea. Deva (2023) warns that European laws risk becoming procedural compliance exercises that leave rightsholders without effective redress, particularly where liability is limited or evidentiary burdens fall on claimants, and Nolan (2018) cautions that disclosure laws do not automatically generate substantive compliance. Lichuma (2024) argues, through a rituals-and-ritualism lens, that the regulatory effectiveness of mandatory due diligence laws depends on whether their obligations are transformed into rituals akin to cultural norms; otherwise, ritualism entrenches a status quo in which companies externalise harm. Dehbi and Martin-Ortega (2023), examining the French, German, Norwegian and EU frameworks, likewise find little integration of human rights and environmental scope and limited avenues for remedy. Schilling-Vacaflor and Lenschow (2023) similarly identify persisting challenges in hardening foreign corporate accountability. On the state side, Krajewski (2018, pp. 13, 33–38) argues that existing doctrine already supports a home-state duty to regulate transnational business activities where harm is predictable and preventable, and that state practice falls into three families: civil liability, disclosure and due diligence requirements.

Critical synthesis of the literature. Read critically, the literature falls into four strands, each with limits that shape the design of this study. The first, doctrinal strand (Bonnitcha & McCorquodale, 2017; Ruggie & Sherman, 2017; Krajewski, 2018; Augenstein, 2022) establishes that due diligence can be legislated and that states have a duty to regulate, but it is largely conceptual and does not indicate which design features make a statute effective. The second, evidential strand (Smit et al., 2020, 2021; McCorquodale et al., 2017; LeBaron et al., 2017) documents the shortcomings of voluntary practice, but it does so largely through company-level data and critiques of the audit system, and not through comparison of the legal regimes of producer states. The third strand, the critical literature on mandatory HRDD (Nolan, 2018; Deva, 2023; Lichuma, 2024; Dehbi & Martin-Ortega, 2023; Schilling-Vacaflor & Lenschow, 2023), is the most useful for present purposes because it identifies recurring failure modes: procedural box-ticking, limited remedy and weak

liability. However, it concerns European laws, several of which are recent or not yet fully applied, so that evidence of their effects is still largely prospective, and it pays little attention to the producer states that must live with their consequences, a gap that Dehbi and Martin-Ortega (2023) themselves note. The fourth strand, on Southeast Asia (Nordin et al., 2016; Ahmad, 2021; Amiati et al., 2024; Rumasukun, 2025), is largely descriptive and confined to a single country, and much of it predates the policy and legislative developments examined here. Two disagreements running through these strands matter for this article. Whether the UNGP concept of due diligence can be translated into a justiciable legal standard remains contested (Bonnitcha & McCorquodale, 2017; Ruggie & Sherman, 2017), and whether disclosure-based and process-based laws change corporate conduct, and not merely corporate reporting, remains unresolved (Nolan, 2018; Deva, 2023). This article does not attempt to settle either debate. It uses them to specify what a comparison of legal regimes must examine, namely the legal form of the duty, its content, and the consequences attached to it.

Four gaps remain. First, work on Malaysia has largely documented early policy initiatives and the potential of the UNGPs rather than assessing the enforceability of what has been adopted (Ahmad, 2021, pp. 946, 949; Nordin et al., 2016). Recent Indonesian scholarship has examined the weaknesses of the CSR framework and corporate criminal liability under the new Criminal Code, but the forthcoming HRDD regulation has not yet been assessed in a comparative frame (Amiati et al., 2024; Rumasukun, 2025, p. 237). Second, the two systems are rarely compared side by side, and doing so allows the role of design choices to be examined, although not conclusively isolated. Third, the 2026 narrowing of the EU Corporate Sustainability Due Diligence Directive (CSDDD) has not yet been absorbed into debates in either country. Fourth, the literature rarely states operational criteria for comparing regimes, so that conclusions about which design features matter are difficult to test or replicate; the coding rubric in Table 3 responds to this gap.

The article addresses these gaps through three research questions. How have Malaysia and Indonesia moved from voluntary or philanthropic CSR towards HRDD, and where does each now sit on the spectrum from soft law to enforceable obligation? What do their experiences reveal about the conditions under which a legal mandate produces genuine diligence rather than disclosure or philanthropy? How are external regulatory pressures reshaping domestic incentives, and what reforms would best align both systems with SDG 12?

The article makes three contributions. It provides an up-to-date comparison of two systems usually studied separately. It introduces a five-dimension analytical framework which, without displacing the UNGP and OECD standards on which it draws, converts their process expectations into a state-side test that separates the form of an HRDD obligation from its content, enforceability and remedial reach (see Table 2). And it draws out a lesson from Indonesia's earlier mandatory-CSR experience that has not been fully absorbed in current reform debates. Its objective is to propose a calibrated reform pathway grounded in that comparison. The framework is an analytical tool for comparison and diagnosis and is not offered as a new normative standard of corporate conduct.

METHODOLOGY

The study is normative (doctrinal) legal research combined with a functional comparative method. It employs three approaches. The statutory approach examines the legislation, regulations, national action plans and official guidance through which each state addresses corporate human rights impacts. The conceptual approach draws on the UNGP and OECD frameworks, on the doctrine of the state duty to protect, and on the debate about the legal character of due diligence, to define what an HRDD obligation requires (Krajewski, 2018, pp. 13–15; OECD, 2018; UN Human Rights Council, 2011). The comparative approach asks which legal and policy instruments perform, in each country, the function of requiring or inducing companies to identify and address human rights and environmental risks in their operations and supply chains, rather than asking whether the two countries have identical institutions. Malaysia and Indonesia are paired as a most-similar-systems design: both are Muslim-majority ASEAN commodity exporters that have adopted UNGP-based national policy instruments, but they differ in legal origins and regulatory style, which helps to examine, though not conclusively to isolate, the role of design choices.

Primary legal materials comprise statutes and regulations (including the Human Rights Commission of Malaysia Act 1999, Companies Act 2016 and Employment Act 1955, and Indonesian Law No. 40 of 2007, Law No. 25 of 2007, Government Regulation No. 47 of 2012, Law No. 1 of 2023 on the Criminal Code and Presidential Regulation No. 60 of 2023), a Constitutional Court decision, EU legislation (including Directive (EU) 2026/470, which amended the CSDDD), and the national action plan and guidance documents of both states. Secondary materials comprise peer-reviewed scholarship, institutional publications of the Human Rights Commission of Malaysia (SUHAKAM), the UN Office of the High Commissioner for Human Rights and the OECD, and reputable legal and press reports where the status of a rapidly moving instrument cannot yet be established from a final published text (Table 4 identifies each such reliance). Indonesian-language materials are cited in English paraphrase, and the Malay-language SUHAKAM–OHCHR guidance is cited in the author's translation. The cut-off date is 12 October 2026.

Materials were identified through the official gazettes and ministry portals of each state, the databases of the EU, and the reference list of the scholarship cited. They were analysed in three steps: classification of each instrument by legal character (statute, regulation, policy or guidance); coding of each against the five dimensions of accountability set out in Table 1, which stresses that persuasion must stand behind a credible enforcement ladder, scored with the rubric in Table 3; and comparison across the two systems. To strengthen the reliability of the analysis, official or primary sources were preferred wherever available, claims resting on ministerial statements or press reports are identified as such in the text, and the characterisation of each instrument was checked against at least two independent sources.

Table 1: Five dimensions of accountability used in the analysis

Dimension	Guiding question
Legal basis	Is the duty in a statute, executive regulation, policy plan or voluntary guide?
Scope	Which firms, which impacts, and how far along the value chain?
Substantive content	Does the duty require a continuing risk-management process (the UNGP/OECD steps), or only policy statements, reporting or community spending?
Enforcement	Who supervises, and what sanctions follow non-compliance?
Access to remedy	Can affected persons obtain redress from the firm, including through courts, grievance mechanisms or national institutions?

Source: Author's framework (2026)

Relationship to the UNGP and OECD standards. The five dimensions are not presented as a rival to the UNGPs or the OECD Due Diligence Guidance, but as a way of testing how far a domestic legal order gives them effect. The two instruments address different actors. The UNGPs set out the state duty to protect (Pillar I), the corporate responsibility to respect, including due diligence (Pillar II), and access to remedy (Pillar III) (UN Human Rights Council, 2011), while the OECD Guidance describes the six-step process that enterprises should follow (OECD, 2018). Neither is designed to classify and compare domestic legal regimes, and both leave to the "smart mix" of measures that states may adopt (SUHAKAM & OHCHR, 2019, pp. 10, 12–13) the questions that matter most once a state decides to legislate: in what legal form, for which firms, with what content, under whose supervision and with what consequences. Table 2 maps each dimension to its UNGP and OECD anchor and states what the dimension adds. The distinctive analytical value is threefold. First, the framework locates a regime by the combination of its attributes and not by a single binary label of voluntary or mandatory, which is what allows "mandate without content" to be

distinguished from "policy without mandate" (see Comparative Assessment). Second, it treats enforcement as a dimension separate from legal basis, so that a binding rule without a credible sanction, or a detailed process without a binding source, is visible as such. Third, it applies the same criteria to hard-law, soft-law and market-based instruments, which is necessary where, as in both countries, much of the operative pressure comes from policy guidance or from foreign regulators. The limits of the framework should equally be stated: it draws its content from the UNGPs and the OECD standards, it does not generate a new normative standard, and it has not been validated against outcomes for rightsholders.

Table 2: Relationship between the five-dimension framework and the UNGP and OECD standards

Dimension	UNGP anchor	OECD Guidance anchor	What the standards leave open	What the framework adds
Legal basis	State duty to protect; "smart mix" of mandatory and voluntary measures (Pillar I; GP 1–3)	Addressed to enterprises; does not prescribe a legal form	Which legal form should give effect to the expectation	Codes the legal form of each instrument, so that policy, guidance and statute are not treated as equivalent
Scope	Risk- and severity-based responsibility extending to business relationships (Pillar II; GP 14, 17)	Risk-based prioritisation across supply chains	Which firms, sectors and tiers of the value chain a state obliges	Records who is covered by a legal duty, as distinct from who is expected to act
Substantive content	Assessing impacts, integrating findings, tracking and communicating (GP 17–21)	Six-step due diligence process (OECD, 2018)	How far a law must replicate the process, rather than require policies or reports	Tests whether a legal duty requires continuing risk management or only statements, reporting or spending
Enforcement	State duty to enforce laws and to investigate, punish and redress (GP 1, 3)	Not addressed	Who supervises, with what powers and sanctions	Treats supervision and sanctions as a separate dimension, so that binding law without consequences is visible
Access to remedy	State-based judicial and non-judicial mechanisms and effectiveness criteria (Pillar III; GP 25–31)	Step 6: provide for or cooperate in remediation	Whether affected persons have a legal route against the firm, and not only company-level remediation	Assesses remedy against the firm through courts, grievance mechanisms and national institutions

Source: Author's analysis based on UN Human Rights Council (2011) and OECD (2018)

Operational criteria and coding. Each instrument was coded against the five dimensions using the criteria in Table 3, and each dimension was assigned one of four ratings: Strong, Partial, Weak or Not assessable. The rating describes the legal regime as it stands, and not the quality of corporate behaviour. "Not assessable" was used where the content of an instrument has not been published in final form, notably the Indonesian draft regulation, so that promised or provisional content is not credited as existing law. The ratings were assigned by the author through close reading of the instruments and are reported with their reasons in the text and in Table 6, so that readers can contest individual judgments.

ISSN No. 2454-6186 | DOI: 10.47772/IJRISS | Volume X Issue X October 2026

Table 3: Coding rubric for the five dimensions of accountability

Dimension	Indicators examined	Strong	Partial	Weak
Legal basis	Source and rank of the instrument; whether it imposes a legal duty specific to human rights and environmental due diligence	General statutory HRDD duty, or equivalent binding regulation	Binding sectoral, disclosure or CSR law performing part of the HRDD function; policy-level HRDD expectation	Policy, guidance or voluntary instrument only
Scope	Firm size and sector; impacts covered; reach along the value chain	Large firms and high-risk sectors across the value chain, with risk-based extension	Limited to a sector, to listed issuers or to the firm's own operations	Expectation without defined addressees
Substantive content	Whether the duty requires the continuing risk-management steps in OECD (2018)	Process required and specified in binding text	Process described in guidance only, or binding duty limited to conduct standards, reporting or spending	No process content
Enforcement	Designated supervisor; investigatory powers; graduated sanctions	Independent supervisor with graduated sanctions that are applied	Sanctions exist for related breaches, or consequences arise mainly from external actors	No domestic sanction attached to HRDD
Access to remedy	Civil cause of action; grievance mechanisms; powers of national institutions	Right of action against the firm and effective state-based mechanisms	Mechanisms exist but are recommendatory, discretionary or limited in reach	No route against the firm for failure of HRDD

Source: Author's coding rubric (2026), derived from Table 1, UN Human Rights Council (2011) and OECD (2018). "Not assessable" is recorded where no final text exists.

Source hierarchy and handling of conflicting or incomplete evidence. Sources were ranked in four tiers: (1) the text of the instrument itself in an official publication; (2) other official publications, including national action plans, official guidance and agency notices; (3) official statements reported by news agencies or institutions; and (4) law-firm and press summaries. Where sources conflicted, the higher tier prevailed; where two sources in the same tier conflicted, the more recent was preferred and the discrepancy is noted in the text. Where evidence was incomplete, as with instruments that exist only as drafts or announcements, the instrument was coded "Not assessable" for the dimensions concerned, no content was inferred from its stated aims, and the finding is expressed as provisional. Claims that rest on tiers (3) and (4) are identified as such where they appear, and Table 4 records, for the recent developments on which the argument depends, the source relied on and its verification status as at the cut-off date. Statements about the effectiveness of enforcement and about corporate behaviour are inferences from documentary evidence, such as the publicly reported outcomes of enforcement actions, and are worded as such.

Table 4: Verification register for recent legal and policy developments (as at 12 October 2026)

Development relied on	Authoritative source	Evidence relied on in this article	Verification status
Narrowed CSDDD: thresholds, dates, liability, climate plans	Directive (EU) 2026/470, Official Journal, 26 February 2026 (in force 18 March 2026)	Law-firm summaries of the published text (Latham & Watkins, 2026), corroborated by further independent summaries	Figures consistent across summaries; the Official Journal text is controlling for final wording
EUDR application dates	Regulation (EU) 2023/1115 as amended by Regulation (EU) 2025/2650	The regulation as amended, corroborated by law-firm commentary	Dates of 30 December 2026 and 30 June 2027 corroborated
EU Forced Labour Regulation	Regulation (EU) 2024/3015	The regulation itself	Official instrument cited
Malaysia NAPBHR 2025–2030	Legal Affairs Division, Prime Minister's Department (2025)	The plan itself (Action G1.30 on mandatory due diligence); Bernama (2026) for the number of actions	Plan consulted; the number of actions rests on the press report
Malaysia HRDD Guide (7 October 2026)	The Guide (title: Human Rights Due Diligence Guide for Businesses in Malaysia)	Bernama (2026); Malay Mail (2026)	Launch reported by two news sources; text of the Guide not analysed; guidance, not law
Indonesia Presidential Regulation No. 60 of 2023	Regulation text (official gazette)	Makarim & Taira S. (2026) for its characterisation	Secondary characterisation; to be checked against the official text
Indonesia draft regulation on compliance assessment	None: text unpublished at the cut-off date	RRI (2026a, 2026b); TUAC (n.d.); Makarim & Taira S. (2026)	Official statements only; coded Not assessable; 2028 target reported by trade unions
Indonesia Criminal Code (in force 2 January 2026) and Law No. 1 of 2026	Law texts	Amiati et al. (2024); law-firm commentary (Mondaq, n.d., 2026)	Effective date and corporate sanctions rest on commentary; to be checked against the texts
US CBP actions on Top Glove and FGV	CBP determinations and releases	CBP (2021); Sandler, Travis & Rosenberg (2026)	Top Glove from CBP; FGV revocation and the USD 85 million figure from trade-law commentary

Source: Author's compilation (2026)

Five limitations should be acknowledged. First, the analysis is documentary: it does not measure firm-level compliance or outcomes for workers, and it does not rest on interviews. Second, the field is moving rapidly, and the status of several instruments, notably Indonesia's draft presidential regulation, rests on official statements rather than a final text. Third, two countries cannot support strong generalisation to ASEAN as a

whole, although they account for much of the region's commodity trade. Fourth, the ratings in Tables 3 and 6 reflect the judgment of a single coder, and no test of inter-coder reliability was possible. Fifth, because the analysis is documentary, statements in this article about the effectiveness of enforcement and about corporate behaviour are inferences from publicly reported episodes and secondary sources and not tested findings, and the pairing of two countries cannot control for all differences between them; alternative explanations are therefore considered in the Comparative Assessment.

RESULTS AND DISCUSSION

Normative Foundations: From the Duty to Protect to Mandatory Due Diligence

The UNGPs are not an instrument that states can ratify and do not create new legal obligations; they elaborate existing international standards, some of which bind states, and they anticipate that domestic law will give effect to them (SUHAKAM & OHCHR, 2019, p. 9). The same guidance rejects the idea that the UNGPs are merely voluntary. The state duty to protect against abuse by business derives from binding human rights treaties, the corporate responsibility to respect is a minimum expectation that many states reflect in domestic law, and the UNGPs expressly contemplate a "smart mix" of mandatory and voluntary measures and periodic review of whether domestic law adequately addresses gaps (SUHAKAM & OHCHR, 2019, pp. 10, 12–13). This is the doctrinal opening for mandatory HRDD: it is not a departure from the UNGPs but one of the options they invite states to consider.

Scholarship deepens that foundation. Augenstein's (2022) tenth-anniversary essay reads the first decade of the UNGPs as pointing towards a new legal consensus on business and human rights. Krajewski (2018, pp. 23–27, 38) argues that a state exercising jurisdiction over a parent or ordering company has an independent duty to regulate its transnational activities when human rights harm is predictable and preventable, grounded in the no-harm rule and the due diligence principle and not merely in the regulatory failure of host states. He distinguishes civil liability, transparency and disclosure, and due diligence requirements as the three emerging regulatory techniques and identifies the 2017 French duty of vigilance law as the first comprehensive due diligence statute (Krajewski, 2018, pp. 33–38).

These foundations bear on both countries in two ways. As host states, Malaysia and Indonesia owe a territorial duty to regulate the employers and suppliers operating on their soil, and the findings below show that this duty is only partly discharged. As home states, they also exercise jurisdiction over companies whose operations affect rights abroad. The Malaysian experience is illustrative: in 2014 SUHAKAM received a memorandum from non-governmental organisations alleging that a Malaysian company building the Don Sahong dam in Laos had affected communities along the Mekong in Cambodia, Thailand and Vietnam, and it decided to act even though the project lay outside Malaysia because the company was within its reach (Aishah Bidin, 2018, p. 4). A statutory HRDD duty would give such action a firmer legal basis.

The External Regulatory Environment

Domestic reform in both countries cannot be understood without the external pressure exerted through market access. The EU's CSDDD originally required companies above 1,000 employees and EUR 450 million in turnover to carry out risk-based due diligence across their chains of activities, with a harmonised civil-liability provision (European Parliament & Council of the European Union, 2024a). The Omnibus I simplification package, finally approved by the Council on 24 February 2026 and published in the Official Journal two days later as Directive (EU) 2026/470 (European Parliament & Council of the European Union, 2026), which entered into force on 18 March 2026, substantially narrowed it. The Directive now applies to EU companies with more than 5,000 employees and EUR 1.5 billion in net worldwide turnover, with transposition due by 26 July 2028 and application from 26 July 2029; the obligation to adopt climate transition plans was removed and liability will be governed by national law (Latham & Watkins, 2026). For Southeast Asian suppliers the final text limits information requests to smaller business partners, yet covered buyers are still expected to push requirements down through contracts and supplier codes (Latham & Watkins, 2026).

Product-based rules reach producers irrespective of the size of any buyer. The EU Deforestation Regulation covers palm oil, rubber and timber and requires operators to show that products are deforestation-free and legally produced; its application has been postponed, most recently to 30 December 2026 for large and medium operators and 30 June 2027 for micro and small operators (European Parliament & Council of the European Union, 2023). The Forced Labour Regulation will prohibit placing on the EU market products made with forced labour, applying from December 2027 (European Parliament & Council of the European Union, 2024b). In the United States, withhold release orders (WROs) under section 307 of the Tariff Act 1930 have blocked goods suspected of being made with forced labour. As the Malaysian discussion shows, these orders produced some of the most visible remediation in the region.

The external environment is therefore double-edged. On the documentary evidence it appears to have been the most consequential source of enforceable consequences in Malaysia, and an important driver of reform in Indonesia through its bid to accede to the OECD, although these inferences rest on publicly reported episodes and not on systematic enforcement data, but the 2026 retrenchment of the CSDDD shows that it cannot be relied upon to remain stable or comprehensive. That the European framework is itself contested, as Schilling-Vacaflor and Lenschow's (2023) analysis of its persisting challenges indicates, is directly relevant to producer states. Dehbi and Martin-Ortega (2023) add that Global South governments and rightsholders have largely been absent from European policy-making on mandatory due diligence, that the Norwegian and EU laws leave companies considerable discretion over stakeholder engagement, and that company-run monitoring without public oversight risks cosmetic, tick-box compliance. The point strengthens the argument for domestic legal anchors that do not depend on a buyer's jurisdiction.

Malaysia: Policy, Disclosure and Sectoral Law

Disclosure and corporate governance. Malaysia has no general CSR statute. CSR developed through listing rules, governance codes and government encouragement. Even before the UNGP era, the regulatory body Bursa Malaysia launched the FTSE4Good Bursa Malaysia Index in 2014, issued a sustainability guide for directors recommending the integration of human rights into business strategies, and in 2013 published a corporate governance guide encouraging whistle-blowing on human rights abuses, while the Companies Commission of Malaysia circulated best-practice guidance pointing to the Global Reporting Initiative, ISO 26000 and the UN Global Compact (Nordin et al., 2016, pp. 106–107). The Main Market Listing Requirements now oblige listed issuers to publish a sustainability statement in their annual reports (paragraph 9.25 and Appendix 9C), and the Malaysian Code on Corporate Governance 2021 expects boards to oversee sustainability (Bursa Malaysia, n.d., para. 9.25 & App. 9C; Securities Commission Malaysia, 2021). The Companies Act 2016 frames directors' duties around the best interests of the company (section 213) and does not expressly require directors to consider human rights impacts (Companies Act 2016, s. 213). The result is a disclosure-oriented environment with substantial transparency obligations but no general legal duty to identify, prevent and remedy adverse human rights impacts. Nolan's (2018) warning that disclosure does not guarantee substantive compliance applies squarely here.

Policy architecture. SUHAKAM was an early mover, holding roundtables on business and human rights from 2010 and publishing a Strategic Framework for a National Action Plan in 2015 that identified migrant worker exploitation, impacts of hydropower and plantation projects on indigenous peoples, and workplace discrimination as priority risks (Nordin et al., 2016, pp. 107–109). The government published a National Baseline Assessment in August 2024, whose lead consultant summarised its thrust in three words: mainstream, mandatory and marginalised people, recommending that human rights and environmental due diligence be made mandatory (AmerBON Advocates, n.d.). The first National Action Plan on Business and Human Rights (NAPBHR) 2025–2030, launched in 2025, is organised around governance, labour and environment and comprises 135 strategic actions (Bernama, 2026). Read against the text of the plan itself, its treatment of mandatory due diligence is cautious: Action G1.30 provides for an assessment of the feasibility of mandatory human rights and environmental due diligence, beginning with high-risk sectors and later extending to all sectors, while businesses are told that they should not wait for new laws before acting (Legal Affairs Division, Prime Minister's Department, 2025). The path was long. After SUHAKAM's 2015 framework, the Legal Affairs Division of the Prime Minister's Department was assigned as the focal agency

on 20 June 2019 and the Cabinet approved the development of a plan on 6 December 2019, with a baseline assessment to follow (Ahmad, 2021, p. 949). On 7 October 2026 the government launched an HRDD Guide for Businesses, formally titled the Human Rights Due Diligence Guide for Businesses in Malaysia and presented by the Minister for Law and Institutional Reform at the National Conference on Business and Human Rights 2026 (Malay Mail, 2026), to help companies identify, prevent, mitigate and address adverse impacts (Bernama, 2026). These are significant developments, but their legal character should be stated precisely. The NAPBHR and the Guide are policy and guidance instruments. The Minister presented the Guide as a management and decision-making tool rather than another compliance document (Malay Mail, 2026), which is consistent with its status as guidance. On the evidence available, Malaysia has not enacted a general statutory HRDD duty, and nothing in the published materials creates a civil cause of action for breach of a due diligence standard. Avellaneda San Antonio's (2023) comparative study of Finland and Spain suggests why this matters: national action plans are soft-law tools whose recurring shortcoming is their capacity to produce and verify results, which is why measurable indicators are needed to give them accountability value.

Sectoral hard law. Malaysia nonetheless has binding sectoral law that performs part of the HRDD function: the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 and the Employment Act 1955, both amended in 2022, address exploitation, forced labour and employment standards, and the Workers' Minimum Standards of Housing and Amenities Act 1990, as amended in 2019, regulates employer-provided accommodation, a persistent risk factor for migrant workers. Compliance is the weak point: a figure reported in the press and repeated in the literature holds that 91.1 per cent, or 1.4 million, of foreign workers were housed in accommodation that did not comply with that Act, a gap discovered when enforcement was stepped up during the COVID-19 pandemic (Ahmad & Supaat, 2024, pp. 179, 181). Malaysia has also adopted a National Action Plan on Forced Labour for 2021–2025 and committed to the ILO Forced Labour Protocol. In palm oil, Malaysian Sustainable Palm Oil (MSPO) certification became mandatory in January 2020, with independent audits. These instruments define standards of conduct, but they largely regulate employers in Malaysia and rarely require a firm to investigate conditions deeper in its own supply chain or among foreign suppliers.

Enforcement by external pressure. The most consequential enforcement of HRDD-like behaviour has come from outside. US Customs and Border Protection (CBP) issued WROs against glove manufacturer Top Glove (July 2020, expanded to a Finding in March 2021), FGV Holdings (30 September 2020), among others. The Top Glove Finding was modified in September 2021 after the company had paid more than USD 30 million in remediation to workers (U.S. Customs and Border Protection [CBP], 2021). The FGV order was lifted with effect from 15 January 2026 (Sandler, Travis & Rosenberg, 2026). CBP reports that its eight WROs and Findings in Malaysia's palm oil and glove sectors since 2019 resulted in the repayment of more than USD 85 million in withheld wages and recruitment fees to workers (Sandler, Travis & Rosenberg, 2026). These episodes suggest that a credible sanction can induce a firm to carry out something close to a full HRDD cycle: identification of forced-labour indicators, remediation, verification and monitoring. But the enforcer was a foreign customs authority, the remedy was channelled through commercial negotiation rather than a legal right of the workers, and the FGV process lasted more than five years. A domestic equivalent, with comparable consequences and a role for affected workers, would be a considerable advance. This reading rests on public reports of settlements and CBP determinations; the content and durability of the firms' internal due diligence were not examined, and other factors, such as commercial pressure from buyers, may also have contributed.

Access to remedy. The UNGPs treat state-based non-judicial mechanisms as an essential complement to the courts and require them to meet effectiveness criteria such as legitimacy, accessibility, predictability and equitability (Aishah Bidin, 2018, p. 1). SUHAKAM's own account of its experience is candid about the gaps. The Commission can inquire into complaints, summon witnesses and make recommendations under the Human Rights Commission of Malaysia Act 1999, but it has no power to enforce its recommendations or to enter business premises without notice, and its inquiry is barred where the matter is before a court (Aishah Bidin, 2018, pp. 2–4). It received 78 complaints related to business and human rights between 2015 and July 2017, ranging from wage and dismissal disputes to rights of workers to hold their own passports, land

acquisition for highways and plantation or logging activity affecting indigenous peoples and villagers (Aishah Bidin, 2018, p. 3). Its national inquiry into indigenous land rights shows how the Commission can address systemic problems, but its reliance on other agencies underlines the structural weakness of remedy (Aishah Bidin, 2018, pp. 4–5).

Assessment. Applying the rubric in Table 3 (ratings in Table 6), Malaysia is rated Partial on legal basis, scope and substantive content, because its policy architecture, disclosure rules and sectoral hard law perform part of the HRDD function without imposing a general duty, and Weak on enforcement and access to remedy, because no domestic sanction attaches to due diligence as such and the national human rights institution can only recommend. Its trajectory is one of progressive institutionalisation of HRDD expectations through policy, with the legal transition still ahead.

Indonesia: From Mandatory CSR to Prospective Mandatory HRDD

Mandatory CSR and its lesson. Indonesia was among the first countries to mandate CSR: Law No. 40 of 2007 on Limited Liability Companies required companies operating in or related to natural resources to carry out "social and environmental responsibility" (Article 74), and the Investment Law (Law No. 25 of 2007) separately obliged investors to implement CSR and attached administrative sanctions (Law No. 25 of 2007, arts. 15(b), 34; Law No. 40 of 2007, art. 74). The Constitutional Court upheld Article 74 in Decision No. 53/PUU-VI/2008, and Government Regulation No. 47 of 2012 followed (Constitutional Court of Indonesia, 2009; Government Regulation No. 47 of 2012). The lesson is that mandating a duty without specifying its content tends to produce philanthropy rather than diligence. Article 74 and its implementing regulation left the content of "responsibility" largely to the company's own plans and budgets. Companies therefore tended to channel the obligation into community development spending, the very expression of CSR that the UNGPs distinguish from the responsibility to respect (SUHAKAM & OHCHR, 2019, pp. 11–12). The mandate was a mandate to spend, not a mandate to identify, prevent and remedy harm, and an affected community had no clear route to hold a company to account. A recent review likewise describes the CSR framework as irregular, unsystematic and vague, without clear guidelines or effective enforcement even where CSR is mandatory (Rumasukun, 2025, p. 237). This lesson bears directly on current reform: a statutory HRDD duty that is not specific about process, standard and consequence risks reproducing the Article 74 experience under a new label.

The HRDD turn. Indonesia's National Strategy on Business and Human Rights, Presidential Regulation No. 60 of 2023, was issued in 2023. It promotes HRDD, but it targets government institutions, does not impose a mandatory duty on business and specifies no penalties for non-compliance (Makarim & Taira S., 2026). A Ministry of Human Rights circular effective 25 August 2025 encourages businesses to carry out self-assessments through a risk assessment platform (Makarim & Taira S., 2026). The government is now drafting a presidential regulation on compliance assessment of business actors in business and human rights. According to official statements, President Prabowo approved the drafting on 2 February 2026, the government aims to finalise the text by the end of 2026, with nationwide socialisation in 2027, and trade unions report a target of mandatory enforcement from 2028 (Radio Republik Indonesia [RRI], 2026a; Trade Union Advisory Committee to the OECD [TUAC], n.d.). The draft is linked to Indonesia's bid to accede to the OECD, which requires adherence to the OECD Guidelines for Multinational Enterprises and their due diligence expectations (RRI, 2026a; TUAC, n.d.). The most recent official statement consulted, made on 3 June 2026 by an acting director general of the Ministry of Human Rights, still described the draft as being prepared and said that it aims to clarify which party is responsible for preventing and addressing human rights impacts of business activities and to ensure redress for victims; the report of that statement mentions no text, sanctions or enforcement date (RRI, 2026b). The target of mandatory enforcement from 2028 is therefore reported only by trade unions and is not confirmed by the official statements consulted, and the draft is coded Not assessable in Table 6. As at the cut-off date, Indonesia has therefore not yet enacted a general HRDD duty, and the final content of the draft is unpublished. Three questions will determine whether it escapes the Article 74 trap: whether it specifies the HRDD process by reference to the OECD steps; whether it provides graduated sanctions and an independent supervisor; and whether it gives affected persons a route to remedy. Unions have meanwhile insisted on meaningful participation in the design and

implementation of the framework (TUAC, n.d.). Delalieux et al.'s (2023) analysis of the roles civil society plays in CSR legislation supports that insistence, because the design of such laws is itself an arena in which affected groups need a voice.

Criminal liability as a complementary layer. Indonesia's new Criminal Code (Law No. 1 of 2023), which Amiati et al. (2024) noted was set to take effect in 2026 and which, according to law-firm commentary, took effect on 2 January 2026 (Mondaq, n.d.), recognises corporations as subjects of criminal law and attaches corporate responsibility to, among other grounds, a corporation allowing an offence to be committed or failing to take concrete steps to prevent it, avert its impact and ensure legal compliance (arts. 46–49; Amiati et al., 2024, pp. 239–240, 244). That formulation echoes the preventive logic of due diligence, and the authors argue that it opens the way to corporate liability for complicity in genocide and crimes against humanity through aiding and abetting and a corporate culture theory (Amiati et al., 2024, pp. 243–245). Two limits matter for this study. The provisions concern gross violations rather than the everyday labour and land harms that arise in SDG 12 supply chains, and, although law-firm commentary indicates that the Code as in force provides for fines in eight categories and for additional sanctions that include public announcement of the judgment, licence revocation and closure of all or part of the business, and that Law No. 1 of 2026 adjusted these provisions, including by allowing an additional fine of up to 10 per cent of annual profit in some circumstances (Mondaq, n.d., 2026), these provisions have not been verified against the official text and their application to supply-chain harms is untested; before the Code took effect, the authors had observed that it gave no guidance on sanctions suited to corporations (Amiati et al., 2024, p. 243). Criminal law is therefore a backstop for the worst cases and not a substitute for a preventive HRDD duty.

Comparative Assessment

Table 5 summarises both systems against the five dimensions, and Table 6 reports the resulting ratings under the rubric in Table 3. The comparison supports the first finding of this study: both countries now occupy an intermediate zone. Each has a UNGP-based national policy instrument, an HRDD guide or self-assessment tool, and binding sectoral laws on labour and trafficking, but neither has enacted a general statutory HRDD duty with enforcement and civil liability.

Table 5: Comparative assessment of Malaysia and Indonesia (as at 12 October 2026)

Dimension	Malaysia	Indonesia
Legal basis	No general HRDD statute; NAPBHR 2025–2030 and HRDD Guide (policy); listing rules; sectoral Acts	Law No. 40/2007 art. 74 (mandatory CSR); Perpres 60/2023 (strategy); draft Perpres on compliance assessment (pending)
Scope	Listed issuers (disclosure); employers under sectoral law; MSPO certification for palm oil	Companies in natural-resource sectors (CSR); draft HRDD rule aimed first at large companies
Substantive content	Process described in Guide; binding law mainly standards of conduct and disclosure	CSR content left to company plans and budgets; HRDD content awaits final text
Enforcement	No domestic HRDD sanction; strongest consequences from US WROs	CSR non-compliance referred to sanctions in other legislation; HRDD sanctions not yet defined
Access to remedy	SUHAKAM can inquire and recommend, but cannot enforce; no civil cause of action for HRDD breach	Remedy mechanisms promised in draft; independent supervision still to be defined

Source: Author's analysis (2026)

Table 6: Ratings by dimension under the coding rubric (as at 12 October 2026)

Dimension	Malaysia	Indonesia
Legal basis	Partial: listing rules, the Companies Act and sectoral Acts are binding but do not impose HRDD; HRDD appears only in policy (NAPBHR, Guide)	Partial: Article 74 imposes a binding CSR duty that does not perform the HRDD function; Presidential Regulation No. 60 of 2023 is a strategy addressed to government
Scope	Partial: listed issuers (disclosure), employers under sectoral law, MSPO for palm oil; value chain largely outside	Partial: companies in or related to natural resources (CSR); scope of the draft regulation Not assessable
Substantive content	Partial: process described in a non-binding Guide; binding law is mainly conduct standards and disclosure	Weak for CSR (content left to company plans and budgets); HRDD content Not assessable
Enforcement	Weak: no domestic HRDD sanction; strongest consequences come from foreign authorities	Weak for CSR (sanctions referred to other legislation); HRDD sanctions Not assessable
Access to remedy	Weak: SUHAKAM can inquire and recommend but cannot enforce; no civil cause of action for HRDD breach	Weak under Article 74 (no clear route for affected communities); remedy in the draft Not assessable

Source: Author's coding under the rubric in Table 3 (2026). Ratings are the author's judgment and are open to contestation.

The comparison supports the second finding. Malaysia is a case of policy without mandate: it has designed the architecture of HRDD but left it to the market and to foreign regulators to supply consequences. Indonesia is a case of mandate without content: it has had a legal obligation for almost two decades which, on the documentary and secondary evidence reviewed, appears to have produced community-development spending rather than diligence. Their futures converge on the same design problem, which is how to couple a mandate with a specified process and an enforcement ladder. The third finding concerns the external environment: the fact that foreign customs authorities, not domestic regulators, generated the largest known remediation payments in Malaysia's palm oil and glove sectors is consistent with limited domestic enforcement, although the absence of systematic enforcement data means that this inference is tentative, and the narrowing of the CSDDD removes one lever on which the producer states had come to rely. Differences in legal tradition may help to account for differences in form, but they do not obviously account for the common deficit in enforcement and remedy, which is consistent with the absence of a specified, enforceable duty. This article does not claim that the absence of such a duty is the only or a proven cause, and the next section sets out institutional differences and rival explanations.

Institutional and Regulatory Differences, and Alternative Explanations

Institutional and regulatory differences. The two systems differ in ways that bear on how each has approached the move from voluntarism. Malaysia's route has been disclosure-led and policy-led: its principal binding instruments are listing requirements administered through Bursa Malaysia, governance codes and sectoral labour statutes, and its national human rights institution has recommendatory powers only (Aishah Bidin, 2018, pp. 2–4; Securities Commission Malaysia, 2021). Indonesia's route has been command-based in form but unspecific in content: a duty was placed in company and investment legislation and its content left to company plans and implementing regulation, and the current reform is being prepared as an executive regulation under ministerial leadership, with OECD accession as a stated link (Law No. 40 of 2007, art. 74; Law No. 25 of 2007; RRI, 2026a; TUAC, n.d.). The vehicle for reform also differs. Malaysia's plan envisages a feasibility assessment of mandatory due diligence (Legal Affairs Division,

Prime Minister's Department, 2025), whereas Indonesia's draft is a presidential regulation, which ranks below a statute in Indonesia's hierarchy of legal norms and may therefore limit the sanctions and civil remedies that it can create; this cannot be assessed until the text is published.

Alternative explanations. The common deficit in enforcement and remedy could be explained in ways other than the absence of a specified duty, and the documentary evidence in this article cannot exclude them. Five are noted. (i) Export exposure: the prominence of US withhold release orders in Malaysia may reflect the concentration of Malaysian exports in sectors targeted by US enforcement as much as weak domestic enforcement, so that the Malaysian episodes may overstate the contrast with Indonesia. (ii) Capacity and resources: limited inspection capacity, rather than the content of the law, may explain weak enforcement; the housing non-compliance figure cited above came to light only when inspections were stepped up during the COVID-19 pandemic (Ahmad & Supaat, 2024). (iii) Political economy: relationships between the state and large firms, including state-linked firms, may affect willingness to enforce; this study does not examine them. (iv) Path dependence and timing: Indonesia's early mandate (2007) and Malaysia's later policy turn may reflect different historical moments and not only design choices, so the two cases are not equivalent natural experiments. (v) Reporting bias: the enforcement episodes known to the author are those that were publicised, and unreported domestic enforcement would not appear in a documentary study. These explanations are not mutually exclusive with one another or with the design-based reading advanced here. They are treated as hypotheses for empirical investigation, and the article's claims about the effect of design choices should be read accordingly.

Islamic Ethical Resonance

Both countries are Muslim-majority societies, and Islamic ethical concepts offer a normative language that can strengthen the legitimacy of HRDD without being a source of the legal duty. Murphy and Smolarski (2020) argue from normative Islam, drawing on the objectives of Islamic law (maqasid al-shari'ah), that large firms in Muslim-majority countries have a moral obligation to assist in sustainable socio-economic development and in advancing human rights.

Concepts of trust (amanah), justice ('adl) and the prohibition of oppression (zulm) are consistent with the core UNGP idea that a firm must avoid causing or contributing to harm and must remedy it when it occurs. The resonance should not be overstated: Islamic ethics supply moral legitimacy and a framing familiar to policymakers, but they do not specify the procedural content of due diligence or replace enforceable domestic legislation. Their practical value is to support the argument that mandatory HRDD is consistent with local values and not an imposition from importing markets.

A Calibrated Reform Pathway

Status of the proposals. The seven principles that follow are normative recommendations derived from the comparative analysis and the literature. They are not findings of the documentary study and have not been tested empirically; their feasibility and likely effects would need to be assessed through consultation, regulatory impact analysis and empirical work with firms and workers.

Drawing the findings together, the article proposes a calibrated, risk-based statutory framework built on seven design principles. First, the duty should be anchored in statute and specify its content by reference to the OECD's six-step process, namely embedding responsible conduct, identifying impacts, ceasing and mitigating them, tracking, communicating and providing for remediation (OECD, 2018). This is the direct response to the Article 74 lesson. Second, scope should be phased and risk-based: large companies and high-risk sectors (palm oil, rubber gloves, electronics, mining and timber) first, with obligations scaled to size and risk as the UNGPs themselves provide. Third, small suppliers and smallholders should be supported rather than burdened; the EU's value-chain cap on information requests offers a model of proportionality, and public guidance and shared tools should reduce the cost of compliance (Latham & Watkins, 2026).

Fourth, HRDD should be integrated with existing reporting regimes rather than layered on top of them. In

Malaysia this means linking the Bursa sustainability statement and the national sustainability reporting framework to HRDD process, so that disclosure reports what was done and not simply what policies exist; in Indonesia it means aligning the new regulation with existing CSR and sustainability reporting obligations so that the old Article 74 spending is redirected towards remediation and prevention. Fifth, enforcement should follow a responsive pyramid, from guidance and supervision to administrative penalties and, at the apex, civil liability for harm caused by failure to carry out due diligence. The French duty of vigilance experience, in which the Constitutional Council struck down fines because of the vagueness of the duty, shows that specification and sanction must be designed together (Krajewski, 2018, pp. 37–38).

Sixth, access to remedy must be built into the framework. Operational-level grievance mechanisms should meet the UNGP effectiveness criteria, courts should be open to claims, and national human rights institutions need enhanced powers. In Malaysia SUHAKAM's lack of enforcement authority and power of unannounced entry should be addressed in any reform of the Commission's Act; in Indonesia the role of the National Human Rights Commission should be strengthened (Aishah Bidin, 2018, pp. 3–4). Deva's (2023) warning is the benchmark: a framework that leaves rightsholders without redress will be a compliance exercise rather than accountability. His analysis also points to a complementary design choice. Because a process duty alone does not address asymmetries of power, states should pair HRDD with outcome-oriented rules, including red lines for practices such as forced labour (Deva, 2023). Rightsholders must also take part in design, implementation and monitoring, since company-defined engagement perpetuates imbalances, and engagement should be differentiated by group: Dehbi and Martin-Ortega (2023) note that impacts vary for women, migrants and Indigenous peoples, and Vijeyarasa and Liu (2022) show, for the garment sector, why SDG-framed accountability needs an explicit gender perspective. Seventh, results should be measured. Avellaneda San Antonio's (2023) analysis suggests that indicators for business and human rights should be designed into national action plans from the start so that progress on diligence, not merely the number of guides issued, can be verified. Such indicators would also give substance to SDG 12.6, whose official indicator counts companies publishing sustainability reports rather than companies preventing harm, which fits Jägers's (2021, pp. 208–210) finding that the SDG framework seldom adopts the language of corporate accountability.

CONCLUSION

Documented findings. This article has compared how Malaysia and Indonesia are moving from voluntary CSR towards HRDD and has assessed each against five dimensions of accountability. It finds that both occupy an intermediate zone: Malaysia has built a strong policy and disclosure architecture, but with no general statutory duty and weak remedy; Indonesia has more than a decade of experience with mandatory CSR, an experience consistent with the view that a duty without content yields philanthropy rather than diligence, and is now drafting a presidential regulation that could become its first mandatory HRDD instrument from about 2028, a target reported by trade unions and not confirmed in a published text.

External market regulation appears to be the most consequential source of enforcement in Malaysia and an important driver of reform in Indonesia, but the 2026 narrowing of the CSDDD and the uncertain future of deforestation and forced-labour rules show that it is not a stable foundation. The comparison suggests that the decisive variable is not whether a duty is labelled mandatory, but whether it specifies process, attaches graduated consequences and gives affected people a way to obtain redress, an interpretation that is consistent with the documentary evidence but from which rival explanations, discussed above, cannot be excluded.

Policy recommendations. The implication for SDG 12 is that responsible production cannot be left to disclosure and goodwill. A calibrated, risk-based statutory framework, anchored in domestic law, integrated with existing reporting regimes, supportive of small suppliers and designed around remedy, is proposed as a credible route to reconcile market access, competitiveness and human dignity.

Matters requiring further empirical investigation. The following questions cannot be resolved by documentary analysis and are left open: (i) whether, and how far, the Article 74 CSR mandate produced philanthropy rather than diligence at firm level; (ii) whether the remediation in the Top Glove and FGV

episodes led to durable changes in firms' internal due diligence and in workers' conditions; (iii) the relative weight of the alternative explanations considered above; (iv) the content and implementation of Indonesia's regulation once published; and (v) whether Malaysia takes up the National Baseline Assessment's recommendation of mandatory due diligence, and the feasibility assessment in Action G1.30 of the NAPBHR, in its next phase of legal reform. Such work would require interviews, firm-level data and workers' accounts of remedy, none of which this study used.

Ethical Considerations

This study is doctrinal and comparative legal research based entirely on publicly available legal instruments, official documents, published scholarship and press reports. It involved no human participants, personal data or animals, and therefore did not require ethical approval.

Conflict of Interest

The author declares that there is no conflict of interest in relation to this article.

Data Availability Statement

No new datasets were generated or analysed in this study. All primary and secondary sources relied upon are publicly available and are cited in the References section, with web addresses provided where applicable. Recent legal and policy developments were checked against the sources identified in Table 4; where only secondary reports were available, this is stated in the text.

REFERENCES

1. Ahmad, N. M. (2021). National action plan on business and human rights (NAP-BHR) in Malaysia: Current status and future prospects for a governance tool. In A. Ismail et al. (Eds.), E-Prosiding Seminar Antarabangsa Islam dan Sains 2021 (SAIS 2021) (pp. 944–952). USIM Press.
2. Ahmad, N. M., & Supaat, D. I. (2024). Policy pathways for transforming 3D sectors in Malaysia. Journal of Law & Governance, 7(1), 175–185.
3. Aishah Bidin. (2018, November 27). Role of NHRIs in facilitating access to remedy for business-related human rights impacts: Malaysian perspective [Statement]. UN Forum on Business and Human Rights, Human Rights Commission of Malaysia.
4. AmerBON Advocates. (n.d.). 173 action items recommended for Malaysia's national action plan on BHR. https://www.amerbon.com/blawg/173-action-items-recommended-for-malaysias-national-action-plan-on-bhr
5. Amiati, M., Adhryansah, & Prihandono, I. (2024). Human rights violations and corporate criminal liability: An analysis of the new Indonesian criminal law. Sriwijaya Law Review, 8(2), 230–248.
6. Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007, Act 670 (Malaysia).
7. Augenstein, D. (2022). Towards a new legal consensus on business and human rights: A 10th anniversary essay. Netherlands Quarterly of Human Rights, 40(1), 35–55.
8. Avellaneda San Antonio, S. (2023). Role of human rights indicators in national action plans on business and human rights: Comparative analysis of Finland and Spain. The Age of Human Rights Journal, 20, Article e7500.
9. Bernama. (2026, October 7). Malaysia launches human rights due diligence guide for businesses. https://bernama.com/en/news.php?id=2616464
10. Bonnitcha, J., & McCorquodale, R. (2017). The concept of "due diligence" in the UN Guiding Principles on Business and Human Rights. European Journal of International Law, 28(3), 899–919.
11. Bursa Malaysia. (n.d.). Main Market listing requirements. Bursa Malaysia.
12. Companies Act 2016, Act 777 (Malaysia).
13. Constitutional Court of Indonesia. (2009). Decision No. 53/PUU-VI/2008 (14 April 2009).
14. Dehbi, F., & Martin-Ortega, O. (2023). An integrated approach to corporate due diligence from a human rights, environmental, and TWAIL perspective. Regulation & Governance, 17(4), 927–943.

15. Delalieux, G., Kourula, A., & Pezet, E. (2023). Civil society roles in CSR legislation. Journal of Business Ethics, 190(2), 347–370.
16. Deva, S. (2023). Mandatory human rights due diligence laws in Europe: A mirage for rightsholders? Leiden Journal of International Law, 36(2), 389–414.
17. Employment Act 1955, Act 265 (Malaysia).
18. European Parliament & Council of the European Union. (2023). Regulation (EU) 2023/1115 of the European Parliament and of the Council of 31 May 2023 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation. Official Journal of the European Union, L 150, 9 June 2023, as amended by Regulation (EU) 2025/2650.
19. European Parliament & Council of the European Union. (2024a). Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence. Official Journal of the European Union, L, 2024/1760, 5 July 2024.
20. European Parliament & Council of the European Union. (2024b). Regulation (EU) 2024/3015 of the European Parliament and of the Council of 27 November 2024 on prohibiting products made with forced labour on the Union market. Official Journal of the European Union, L, 2024/3015, 12 December 2024.
21. European Parliament & Council of the European Union. (2026). Directive (EU) 2026/470 of the European Parliament and of the Council amending, among others, Directive (EU) 2024/1760 as regards certain corporate sustainability due diligence requirements (Omnibus I). Official Journal of the European Union, L, 2026/470, 26 February 2026.
22. Government Regulation No. 47 of 2012 on Social and Environmental Responsibility of Limited Liability Companies (Indonesia).
23. Human Rights Commission of Malaysia Act 1999, Act 597 (Malaysia).
24. Jägers, N. (2021). UN Guiding Principles at 10: Permeating narratives or yet another silo? Business and Human Rights Journal, 6(2), 198–211.
25. Krajewski, M. (2018). The state duty to protect against human rights violations through transnational business activities. Deakin Law Review, 23, 13–39.
26. Latham & Watkins. (2026). EU sustainability omnibus published in the Official Journal. https://www.lw.com/en/insights/eu-sustainability-omnibus-published-in-the-official-journal
27. Law No. 1 of 2023 on the Criminal Code (Indonesia).
28. Law No. 25 of 2007 on Investment (Indonesia).
29. Law No. 40 of 2007 on Limited Liability Companies (Indonesia).
30. LeBaron, G., Lister, J., & Dauvergne, P. (2017). Governing global supply chain sustainability through the ethical audit regime. Globalizations, 14(6), 958–975.
31. Legal Affairs Division, Prime Minister's Department. (2025). National action plan on business and human rights 2025–2030. Putrajaya: Legal Affairs Division, Prime Minister's Department.
32. Lichuma, C. O. (2024). Mandatory human rights due diligence (mHRDD) laws caught between rituals and ritualism: The forms and limits of business authority in the global governance of business and human rights. Business and Human Rights Journal, 9, 250–269.
33. Makarim & Taira S. (2026, January). Follow up regulation on Indonesian private sector human rights due diligence expected in 2026. MT Advisory, (5). https://www.makarim.com/news/follow-up-regulation-on-indonesian-private-sector-human-rights-due-diligence-expected-in-2026
34. Malay Mail. (2026, October 7). Human rights shouldn't be a box-ticking exercise, Azalina tells businesses. https://www.malaymail.com/news/malaysia/2026/10/07/human-rights-shouldnt-be-a-box-ticking-exercise-azalina-tells-businesses/238033
35. McCorquodale, R., et al. (2017). Human rights due diligence in law and practice: Good practices and challenges for business enterprises. Business and Human Rights Journal, 2(2), 195–224.
36. Mondaq. (n.d.). Indonesia new criminal code: Overview of criminal liability for corporations. https://www.mondaq.com/crime/1727312/indonesia-new-criminal-code-overview-of-criminal-liability-for-corporations

37. Mondaq. (2026). Changes to criminal penalties for corporations under Law No. 1 of 2026. https://www.mondaq.com/crime/1779180/changes-to-criminal-penalties-for-corporations-under-law-no-1-of-2026
38. Murphy, M. J., & Smolarski, J. M. (2020). Religion and CSR: An Islamic "political" model of corporate governance. Business & Society, 59(5), 823–854.
39. Nolan, J. (2018). Hardening soft law: Are the emerging corporate social disclosure laws capable of generating substantive compliance with human rights? Brazilian Journal of International Law, 15(2), 65–83.
40. Nordin, R., et al. (2016). Integrating human rights into business: Current initiatives in Malaysia. The Law Review, 98–111.
41. OECD. (2018). OECD due diligence guidance for responsible business conduct. OECD Publishing.
42. Presidential Regulation No. 60 of 2023 on the National Strategy on Business and Human Rights (Indonesia).
43. Radio Republik Indonesia. (2026a, February 3). President Prabowo approves draft regulation on business, human rights. Voice of Indonesia. https://rri.co.id/en/national/2155146/president-prabowo-approves-draft-regulation-on-business-human-rights
44. Radio Republik Indonesia. (2026b, June 3). Government draft regulation aims to safeguard human rights in business. Voice of Indonesia. https://rri.co.id/en/national/2466319/government-draft-regulation-aims-to-safeguard-human-rights-in-business
45. Ruggie, J. G., & Sherman, J. F., III. (2017). The concept of "due diligence" in the UN Guiding Principles on Business and Human Rights: A reply to Jonathan Bonnitcha and Robert McCorquodale. European Journal of International Law, 28(3), 921–928.
46. Rumasukun, M. R. (2025). Human rights due diligence and corporate accountability: A strategic approach to sustainable governance in Indonesia. Golden Ratio of Mapping Idea and Literature Format, 5(2), 236–255.
47. Sandler, Travis & Rosenberg. (2026, January). Forced labor import restrictions on some palm oil lifted. ST&R Trade Report. https://www.strtrade.com/trade-news-resources/str-trade-report/trade-report/january/forced-labor-import-restrictions-on-some-palm-oil-lifted
48. Schilling-Vacaflor, H., & Lenschow, A. (2023). Hardening foreign corporate accountability through mandatory due diligence in the European Union? New trends and persisting challenges. Regulation & Governance, 17(3), 677–693.
49. Securities Commission Malaysia. (2021). Malaysian code on corporate governance. Securities Commission Malaysia.
50. Smit, L., et al. (2020). Study on due diligence requirements through the supply chain: Final report. Publications Office of the European Union.
51. Smit, L., et al. (2021). Human rights due diligence in global supply chains: Evidence of corporate practices to inform a legal standard. International Journal of Human Rights, 25(6), 945–973.
52. Suruhanjaya Hak Asasi Manusia Malaysia & Office of the High Commissioner for Human Rights. (2019). Soalan-soalan kerap ditanya tentang prinsip-prinsip panduan mengenai hak asasi manusia dan perniagaan [Frequently asked questions about the guiding principles on business and human rights] (HR/PUB/14/3). SUHAKAM.
53. Trade Union Advisory Committee to the OECD. (n.d.). Trade unions push for meaningful role in Indonesia's new human rights due diligence regulation. https://tuac.org/news/trade-unions-push-for-meaningful-role-in-indonesias-new-human-rights-due-diligence-regulation/
54. UN General Assembly. (2015). Transforming our world: The 2030 agenda for sustainable development (UN Doc. A/RES/70/1).
55. UN Human Rights Council. (2011). Guiding principles on business and human rights: Implementing the United Nations "Protect, Respect and Remedy" framework (UN Doc. A/HRC/17/31).
56. U.S. Customs and Border Protection. (2021, September 9). CBP modifies forced labor finding on Top Glove Corporation Bhd. [Press release]. Business & Human Rights Resource Centre. https://business-humanrights.org/en/latest-news/cbp-modifies-forced-labor-finding-on-top-glove-corporation-bhd

57. Vijeyarasa, R., & Liu, M. (2022). Fast fashion for 2030: Using the pattern of the Sustainable Development Goals (SDGs) to cut a more gender-just fashion sector. Business and Human Rights Journal, 7, 45–66.
58. Workers' Minimum Standards of Housing and Amenities Act 1990, Act 446 (Malaysia).