ESG Supply Chain Due Diligence and Corporate Liability: Emerging Legal Obligations for Multinational Corporations Across Five Jurisdictions in 2026

Oghenehoro Evi Eni*

Independent Immigration & Business Law Scholar | Ottawa, Canada

***Corresponding Author**

DOI: https://doi.org/10.47772/IJRISS.2026.100600532

Received: 03 June 2026; Accepted: 08 June 2026; Published: 29 June 2026

ABSTRACT

Supply chain due diligence has rapidly shifted from voluntary ESG self-regulation to binding legal obligation across multiple jurisdictions. By 2026, corporations are increasingly required to identify, prevent, and remediate human rights, labour, and environmental harms throughout global value chains under enforceable statutory and common law frameworks. This article provides a comparative legal analysis of evolving corporate liability regimes in the United States, Canada, the United Kingdom, Australia, and New Zealand, with particular emphasis on the extraterritorial reach of the EU Corporate Sustainability Due Diligence Directive (CSDDD) (Directive (EU) 2024/1760). The paper examines the convergence of modern slavery legislation, parent company duty of care jurisprudence, immigration-linked labour exploitation risks, and emerging director and officer liability for ESG disclosures. It argues that supply chain due diligence is no longer a corporate social responsibility (CSR) initiative but a structured legal obligation enforced through civil liability, regulatory penalties, and expanding personal accountability for corporate leadership.

Keywords: ESG, corporate liability, modern slavery, forced labour, immigration compliance

INTRODUCTION

Supply chain due diligence has undergone a decisive and structural transformation from a voluntary governance standard into a binding, enforceable legal obligation. This shift reflects a broader reconfiguration of corporate responsibility in global value chains, where states increasingly rely on corporations as primary actors in the enforcement of human rights and environmental protection norms beyond territorial borders.

At the foundation of this transformation is the gradual "hardening" of soft law principles first articulated in the United Nations Guiding Principles on Business and Human Rights (UNGPs) (United Nations, 2011). The UNGPs established the now globally accepted "Protect, Respect, and Remedy" framework, clarifying that while states bear the primary duty to protect human rights, corporations carry an independent responsibility to respect human rights throughout their operations and supply chains, including through preventive due diligence and remediation mechanisms where harm occurs (Ruggie, 2013; United Nations, 2011). Although originally non-binding, the UNGPs have functioned as a normative catalyst for legislative action across multiple jurisdictions, gradually reshaping corporate governance expectations and compliance standards.

Ten years ago, this normative framework has been progressively translated into binding legal obligations. France was the first major jurisdiction to codify mandatory supply chain due diligence through the Loi de Vigilance (2017), imposing legally enforceable obligations on large companies to identify and prevent serious human rights and environmental harms arising from their subsidiaries, subcontractors, and suppliers (Cossart, Chaplier and Beau de Loménie, 2017). Germany followed with the Supply Chain Due Diligence Act (Lieferkettensorgfaltspflichtengesetz, LkSG), adopted in 2021 and entering into phased enforcement from 2023, which requires risk management systems, preventive measures, and complaint mechanisms for human rights and environmental risks in supply chains (Federal Republic of Germany, 2021).

The most consequential development in this trajectory is the European Union Corporate Sustainability Due Diligence Directive (CSDDD) (Directive (EU) 2024/1760), which represents the most comprehensive supranational attempt to institutionalize mandatory ESG due diligence at scale. The Directive imposes legally binding obligations on in-scope companies to integrate due diligence into corporate governance, identify and mitigate adverse human rights and environmental impacts, and adopt climate transition plans aligned with the Paris Agreement (European Parliament and Council of the European Union, 2024; European Commission, 2022). Importantly, the CSDDD introduces both civil liability for damages arising from non-compliance and administrative sanctions, including fines of up to 5% of global net turnover, thereby significantly increasing enforcement severity compared to earlier regimes.

A defining feature of the CSDDD is its extraterritorial reach. Non-EU companies generating substantial turnover within the European Union fall within its scope, meaning that corporations headquartered in jurisdictions such as the United States, United Kingdom, Canada, Australia, and New Zealand are directly subject to its compliance obligations where thresholds are met (European Parliament and Council of the European Union, 2024). This creates a regulatory environment in which EU corporate governance standards effectively extend into global supply chains, regardless of the legal domicile of the parent company.

By 2026, multinational corporations operating across common law jurisdictions are no longer indirectly influenced by these developments; they are structurally governed by them through direct regulatory exposure, contractual cascade effects, and litigation risk. As a result, ESG compliance, especially supply chain due diligence has evolved from a voluntary corporate social responsibility initiative into a core component of corporate legal risk management, embedded within board-level governance, securities disclosure obligations, and enterprise risk frameworks (OECD, 2023; Freshfields, 2026; Linklaters, 2026).

This convergence of regulatory regimes marks a decisive shift in corporate accountability: supply chain governance is no longer confined to reputational oversight but is now a legally enforceable, multi-jurisdictional compliance obligation with expanding implications for corporate liability, director responsibility, and cross-border enforcement coordination.

The EU CSDDD and Extraterritorial Corporate Exposure

The European Union Corporate Sustainability Due Diligence Directive (CSDDD) (Directive (EU) 2024/1760) represents a decisive shift in the architecture of transnational corporate regulation. Unlike earlier ESG frameworks that relied primarily on disclosure and voluntary compliance, the CSDDD establishes a harmonized, legally binding due diligence system that integrates human rights, environmental protection, and climate governance into corporate conduct requirements across global value chains (European Parliament and Council of the European Union, 2024; European Commission, 2022).

However, the Directive requires in-scope companies to implement a structured due diligence process covering the identification, prevention, mitigation, and remediation of actual and potential adverse impacts on human rights and the environment. These obligations extend across a company’s own operations, subsidiaries, and established business relationships in the value chain (Art. 5–11, CSDDD). Importantly, the Directive moves beyond reporting obligations by introducing a civil liability regime, allowing affected persons to bring claims for damages where a company has failed to comply with its due diligence duties and where such failure results in harm (European Parliament and Council of the European Union, 2024).

Expansion of Corporate Governance Obligations

The CSDDD significantly expands the scope of corporate governance by requiring integration of due diligence into corporate policies and risk management systems at board level. Companies must adopt internal procedures that ensure continuous monitoring of supply chain risks, including human rights abuses, forced labour, child labour, unsafe working conditions, and severe environmental degradation (European Commission, 2022). In addition, firms are required to adopt climate transition plans aligned with the Paris Agreement goal of limiting global warming to 1.5°C, effectively embedding climate governance into corporate strategy rather than treating it as a separate sustainability initiative.

This integration reflects a broader regulatory trend identified in recent EU policy analyses, where ESG obligations are increasingly framed as enterprise risk governance duties rather than voluntary CSR commitments (OECD, 2023; European Commission, 2022). As a result, boards of directors are expected to demonstrate active oversight of supply chain risks, with failure to do so potentially constituting a breach of fiduciary and statutory duties in parallel jurisdictions.

Civil Liability and Enforcement Architecture

A defining feature of the CSDDD is its civil liability mechanism, which represents a major departure from earlier ESG frameworks such as the UK Modern Slavery Act 2015, which relied primarily on transparency-based enforcement. Under the Directive, companies may be held liable where:

i. They fail to comply with due diligence obligations, and

ii. That failure leads to adverse impacts that could reasonably have been identified, prevented, or mitigated (European Parliament and Council of the European Union, 2024).

This creates a quasi-tortious liability framework at the EU level, aligning corporate responsibility with foreseeability and preventability standards commonly found in negligence law. Scholars have noted that this represents the "judicialization of ESG governance," where corporate sustainability obligations are increasingly enforceable through private litigation rather than solely administrative oversight (De Schutter, 2024; Krajewski, 2025).

Enforcement is further strengthened through administrative sanctions, including fines of up to 5% of global net worldwide turnover, public naming and shaming mechanisms, and potential exclusion from public procurement processes. This level of penalty places the CSDDD among the most stringent corporate accountability regimes globally, comparable in severity to antitrust enforcement frameworks (European Commission, 2022).

Extraterritorial Reach and Global Corporate Exposure

One of the most legally transformative aspects of the CSDDD is its extraterritorial application. The Directive applies not only to EU-incorporated companies but also to non-EU companies that generate substantial net turnover within the European Union. Specifically, companies with more than €450 million in EU net turnover fall within scope, regardless of their place of incorporation (Directive (EU) 2024/1760, Art. 2).

This provision creates a regulatory bridge between EU law and global corporate activity, effectively extending EU compliance standards into supply chains headquartered in non-EU jurisdictions. Consequently, multinational corporations based in the United States, United Kingdom, Canada, Australia, and New Zealand may be directly subject to CSDDD obligations if their European market exposure exceeds the statutory threshold.

Recent legal commentary has described this as a form of "regulatory extraterritoriality through market access," whereby jurisdiction is asserted not through territorial sovereignty but through economic integration and market participation (Barnard, 2025; OECD, 2023). This model reflects a broader EU regulatory strategy seen in other domains such as data protection (GDPR) and competition law, where compliance obligations follow corporate economic presence rather than physical location.

Implications for Common Law Jurisdictions

For corporations operating in common law jurisdictions, the extraterritorial reach of the CSDDD creates a layered compliance environment. Companies may simultaneously be subject to:

i. Domestic ESG and modern slavery reporting regimes (e.g., UK Modern Slavery Act 2015; Canada's S-211 Act)

ii. Sector-specific labour and environmental laws

iii. EU-level due diligence obligations triggered by market participation

This regulatory overlap produces what has been described in recent corporate governance literature as "compliance stacking", where multiple legal regimes impose concurrent and sometimes divergent obligations on the same corporate conduct (Freshfields, 2026; Linklaters, 2026).

In practice, this means that multinational corporations can no longer treat supply chain compliance as jurisdiction-specific. Instead, due diligence systems must be globally standardized, audit-ready, and capable of satisfying the highest applicable regulatory threshold across all operating jurisdictions.

Strategic Legal Risk Reclassification

The cumulative effect of the CSDDD is the reclassification of supply chain risks from operational or reputational concerns into systemic legal risks with cross-border liability exposure. This shift has direct implications for corporate governance, insurance underwriting, and capital markets disclosure.

Recent ESG legal trend analyses indicate that investors are increasingly pricing in supply chain liability exposure as a material financial risk, particularly in sectors with high reliance on outsourced labour, such as manufacturing, textiles, agriculture, and extractive industries (OECD, 2023; Freshfields, 2026). As a result, failure to implement robust due diligence systems may not only expose companies to litigation risk but also affect valuation, access to capital, and creditworthiness.

Domestic Modern Slavery Regimes and the Shift Toward Liability

Domestic modern slavery regimes represent an early but increasingly significant stage in the global evolution of supply chain regulation. While initially designed as transparency-based frameworks aimed at improving corporate disclosure, these regimes are steadily evolving toward hybrid enforcement models that combine reporting obligations, regulatory scrutiny, securities law exposure, and emerging civil liability pathways. By 2026, the cumulative effect of these developments is the gradual erosion of the "report-only" model in favour of substantive accountability for supply chain harm.

United Kingdom: From Transparency to Evidentiary Liability

The United Kingdom's Modern Slavery Act 2015 (MSA 2015), particularly Section 54, introduced a mandatory reporting regime requiring large commercial organisations to publish annual statements outlining the steps they have taken to prevent modern slavery in their operations and supply chains. Although originally conceived as a "transparency in supply chains" mechanism without direct sanctions for non-compliance, the practical enforcement landscape has evolved significantly through litigation, regulatory guidance, and market pressure (UK Home Office, 2015; Smit *et al.,* 2024).

In recent years, courts and litigants have increasingly treated modern slavery statements as quasi-evidentiary admissions. Where companies publicly assert that they maintain robust due diligence systems, these statements may later be used in negligence or misrepresentation claims to establish foreseeability of harm or reliance on corporate representations (Martin-Ortega, 2023). This shift is particularly visible in supply chain litigation involving allegations of forced labour in Southeast Asian manufacturing networks supplying multinational brands.

Although the MSA 2015 does not itself create a civil cause of action, the interaction between statutory disclosure obligations and common law tort principles has effectively created a pathway toward liability through "statement-based negligence claims", where inadequate or misleading disclosures become the basis for alleging breach of duty or misrepresentation (LeBaron and Lister, 2022).

Regulatory developments in 2024–2026 further reinforce this trajectory. The UK government has proposed strengthened reporting standards, including mandatory content requirements and enhanced enforcement powers for the Home Office and Companies House, signalling a gradual shift away from purely reputational enforcement toward structured regulatory compliance (UK Home Office, 2024).

Canada: Expansion Beyond Reporting Toward Enforcement Integration

Canada's Fighting Against Forced Labour and Child Labour in Supply Chains Act (SC 2023, c 9), which came into force in January 2024, marks a significant expansion of corporate reporting obligations in North America. The Act requires certain federal institutions and private-sector entities to report annually on risks of forced labour and child labour in their supply chains, including the steps taken to prevent and reduce such risks (Government of Canada, 2024).

Unlike earlier transparency-focused regimes, the Canadian framework reflects a more integrated enforcement ecosystem, linking supply chain reporting to broader regulatory instruments such as customs enforcement, import restrictions under the Customs Tariff Act, and consumer protection frameworks administered by the Competition Bureau (Competition Bureau Canada, 2025).

In practice, this creates a multi-agency compliance environment in which supply chain disclosures are no longer isolated reporting exercises but are increasingly used as inputs for enforcement actions. The Competition Bureau's 2025–2026 greenwashing and ESG misrepresentation investigations further illustrate how misleading sustainability claims may trigger penalties under deceptive marketing provisions, thereby extending liability beyond forced labour reporting into broader corporate communications (Competition Bureau Canada, 2025).

Australia: Reporting Obligations Without Civil Liability Yet Increasing Regulatory Pressure

Australia's Modern Slavery Act 2018 (Cth) remains one of the largest mandatory reporting regimes globally, requiring entities with consolidated revenue exceeding AUD $100 million to report on modern slavery risks and mitigation strategies. However, the Australian model continues to rely primarily on non-punitive, disclosure-based enforcement, with reputational consequences serving as the principal compliance driver (Australian Border Force, 2024).

Despite the absence of direct civil liability under the Act, Australian corporations face increasing exposure through overlapping legal mechanisms. These include misleading or deceptive conduct provisions under the Corporations Act 2001 (Cth) s 1041H, consumer law enforcement by the Australian Competition and Consumer Commission (ACCC), and securities law obligations relating to continuous disclosure (ASIC, 2025).

Recent enforcement trends indicate a growing willingness by regulators to treat ESG misstatements as market conduct violations, especially where companies overstate supply chain due diligence practices or understate known risks. This represents a gradual convergence between modern slavery reporting frameworks and securities regulation, effectively increasing the legal consequences of inaccurate disclosures without formally amending the Modern Slavery Act itself (ASIC, 2025; OECD, 2023).

New Zealand: Regulatory Gaps and Emerging Criminalisation of Exploitation

New Zealand remains an outlier among comparable common law jurisdictions due to the absence of dedicated modern slavery legislation. Instead, supply chain-related labour exploitation is addressed through a combination of immigration law, employment law, and consumer protection statutes.

However, recent legislative proposals, including the Immigration (Enhanced Risk Management) Amendment Bill 2026, indicate a significant policy shift toward criminalising exploitative labour practices linked to migrant worker sponsorship systems. The proposed reforms introduce heightened penalties up to 10 years' imprisonment for employers and intermediaries involved in systematic exploitation of migrant labour (New Zealand Parliament, 2026).

This development is particularly significant in the context of supply chains reliant on temporary migrant labour, as it effectively transforms immigration compliance into a supply chain governance issue. Where employers or subcontractors misuse visa dependency structures, the conduct may now trigger both immigration enforcement and corporate liability considerations under broader ESG risk frameworks.

Additionally, general consumer protection law, particularly the Fair Trading Act 1986, continues to serve as an indirect mechanism for regulating misleading sustainability claims, including those relating to ethical sourcing and labour standards (MBIE, 2025).

From Transparency to Liability: The Emerging Convergence

Across all four jurisdictions, a clear structural trend is emerging: modern slavery regimes are evolving from disclosure-based governance tools into hybrid accountability systems that combine reporting obligations with tort law exposure, securities liability, and regulatory enforcement.

This convergence is driven by three interrelated developments:

i. Judicial reinterpretation of corporate disclosures as evidence of assumed duty

ii. Regulatory integration between ESG reporting and financial market oversight

iii. Expansion of enforcement agencies into ESG misrepresentation and supply chain risk monitoring

Scholarly commentary increasingly characterises this shift as the emergence of a "liability pathway through transparency," where disclosure regimes intended to prevent harm are being repurposed as evidentiary foundations for establishing corporate negligence or misrepresentation (LeBaron and Rühmkorf, 2024; Martin-Ortega, 2023).

By 2026, the cumulative effect is clear: modern slavery legislation no longer operates as a symbolic transparency framework. Instead, it functions as a precursor regime to substantive corporate liability, especially when combined with emerging extraterritorial obligations under the EU CSDDD and evolving common law doctrines of parent company duty of care.

Judicial Expansion of Parent Company Liability

The doctrine of parent company liability has undergone significant judicial expansion in the United Kingdom and, increasingly, in comparative common law jurisdictions. What began as a narrow question of corporate separateness has evolved into a broader inquiry into operational control, assumption of responsibility, and foreseeability of harm across global supply chains. By 2026, courts are no longer treating parent company liability as an exceptional or novel doctrine; instead, they are applying orthodox negligence principles to complex transnational corporate structures with increasing willingness to allow claims to proceed to trial.

From Corporate Separateness to Operational Control: The Vedanta Framework

The modern legal foundation for parent company liability remains the UK Supreme Court decision in *Vedanta Resources plc v Lungowe* [2019] UKSC 20. The Court clarified that there is no distinct "parent company tort"; rather, liability arises under ordinary principles of negligence where a parent company assumes responsibility or exercises sufficient control over the relevant operations of a subsidiary or related entity (Vedanta, [2019] UKSC 20; Ashurst, 2026).

Importantly, the Court emphasised that liability is a fact-sensitive inquiry, focusing on whether the parent company has:

i. Promulgated group-wide policies and actively enforced them;

ii. Exercised operational or supervisory control over subsidiaries; or

iii. Held itself out as exercising oversight over relevant risk areas (Vedanta, [2019] UKSC 20; Travers Smith, 2025).

Subsequent jurisprudence has confirmed that these principles are not limited to corporate groups alone. Courts have increasingly accepted that similar reasoning may apply where a lead company exercises de facto control over contractual supply chains, especially in high-risk labour-intensive sectors (Schwede, 2024; DLA Piper, 2020).

Expansion Beyond Corporate Groups: Supply Chain Liability and "Operational Reality"

A significant doctrinal shift is emerging in recent appellate decisions, where courts have begun to test whether Vedanta-style principles can extend beyond subsidiaries to independent third-party suppliers. This development is particularly evident in *Limbu v Dyson Technology Ltd* [2024] EWCA Civ 1564, where the Court of Appeal allowed claims by migrant workers alleging forced labour in Malaysian supply chain facilities to proceed in England.

The Court's reasoning reflects a broader acceptance of "operational reality" over formal corporate structure, focusing on whether the UK parent company:

i. Imposed mandatory supplier codes of conduct;

ii. Conducted audits and compliance monitoring;

iii. Controlled key aspects of labour conditions through contractual requirements; and

iv. Created public representations of supply chain responsibility (Court of Appeal in *Limbu*, 2024; Norton Rose Fulbright, 2025).

Legal commentary has characterised this as a "functional extension" of Vedanta, where liability is no longer anchored in ownership but in regulatory influence and practical control within supply networks (Dentons, 2024; Hill Dickinson, 2025).

The Dyson Litigation and the Novel Supply Chain Duty of Care

The Dyson litigation represents one of the most significant attempts to extend parent company liability into external supply chains. In *Limbu*, claimants alleged that UK-based Dyson entities exercised substantial oversight over working conditions at Malaysian factories operated by independent suppliers, including setting mandatory labour standards and monitoring compliance through audit systems (Debevoise and Plimpton, 2025).

Crucially, the claimants advanced an argument that goes beyond traditional Vedanta principles: that public ESG commitments and sustainability disclosures themselves may create an assumed duty of care, even in the absence of direct contractual control over the supplier (Debevoise and Plimpton, 2025; Norton Rose Fulbright, 2025).

This theory draws on earlier dicta in *Vedanta*, where the Supreme Court suggested that a parent company may assume responsibility by publicly holding itself out as exercising supervision and control, even where such control is imperfect in practice (Vedanta, [2019] UKSC 20, para 53). This has become a key doctrinal gateway for claimants seeking to establish reliance-based duties in supply chain litigation.

Jurisdictional Strategy and the "Forum Advantage" Trend

A defining feature of recent supply chain litigation is not only substantive liability but also procedural success in establishing jurisdiction in the UK. In *Limbu*, the Court of Appeal overturned the High Court's forum non conveniens decision and held that England was the appropriate forum, citing:

i. The centrality of UK-based decision-making;

ii. The presence of anchor defendants domiciled in the UK; and

iii. Practical barriers faced by claimants pursuing justice abroad (Court of Appeal in *Limbu*, 2024; Dentons, 2024).

This reflects a broader judicial trend in which English courts demonstrate increased willingness to hear transnational ESG claims where there is a credible link to UK corporate governance decisions. Scholars describe this as a shift toward "forum responsibility" in global supply chain litigation," where jurisdiction is justified by governance proximity rather than geographic location of harm (Ashurst, 2026; Hill Dickinson, 2025).

Comparative Developments Across Common Law Jurisdictions

While the United Kingdom remains the leading jurisdiction in parent company liability development, similar doctrinal pressures are emerging elsewhere:

i. Australia: Courts are increasingly willing to consider negligence claims where corporate policies contribute to overseas harm, particularly under misleading conduct and securities disclosure frameworks (ASIC, 2025).

ii. Canada: Courts and regulators are beginning to integrate supply chain risk into negligence and consumer protection analysis, particularly in ESG misrepresentation cases (Competition Bureau Canada, 2025).

iii. United States: Although constrained by *Kiobel v. Royal Dutch Petroleum Co.* (2013), plaintiffs continue to pursue state-law tort claims and securities fraud actions linked to ESG disclosures and supply chain representations (OECD, 2023).

Across jurisdictions, the doctrinal trajectory is consistent: courts are increasingly willing to treat corporate governance systems, ESG disclosures, and supply chain controls as legally relevant acts of assumption of responsibility, rather than purely voluntary risk management tools.

Emerging Legal Principle: Control, Representation, and Foreseeability

However, recent case law and policy developments suggest the emergence of a convergent legal principle in parent company liability:

"A duty of care may arise where a corporation either exercises operational control over supply chain conditions, or publicly represents that it does so, and harm is a foreseeable consequence of failures in that system".

This principle shows a synthesis of negligence doctrine, corporate governance expectations, and ESG regulatory standards. It also signals a broader judicial willingness to treat global supply chains as integrated systems of responsibility rather than fragmented contractual relationships.

Immigration Systems and Supply Chain Exploitation Risk

Immigration systems play a central and often underexamined role in shaping vulnerability to labour exploitation within global supply chains. Contemporary research increasingly demonstrates that modern slavery and forced labour are not merely the result of weak labour regulation, but are structurally enabled by immigration governance models that tie legal status to specific employers, intermediaries, or visa conditions (ILO, 2024; Olayiwola, 2026). This intersection between migration control and labour regulation has become a defining feature of modern supply chain risk in the 2020s.

Recent empirical studies show that migrant workers are disproportionately represented in sectors with high outsourcing intensity such as agriculture, manufacturing, construction, hospitality, and care work, where fragmented subcontracting structures reduce visibility and accountability (Fayezi *et al.*, 2025; Fostera and Brintrup, 2026). These sectors frequently rely on temporary or agency-based migration pathways, which can intensify dependency relationships between workers and employers, especially where immigration status is conditional on continued employment.

Structural Dependency and the "Tied Status" Problem

A central driver of exploitation risk is the phenomenon of employer-tied immigration status, where a worker's legal right to remain in a country is contingent upon maintaining a specific job or sponsor relationship. This structure creates what scholars describe as a "dependency asymmetry," in which workers face a heightened risk of exploitation due to the threat of deportation, visa cancellation, or loss of legal status if they report abuse or leave unsafe conditions (Martin-Ortega, 2023; LeBaron and Phillips, 2024).

Recent UK-based research on health and care worker visa regimes highlights how recruitment intermediaries and employers can exploit this dependency through recruitment debt, passport retention, and contract substitution practices, thereby increasing vulnerability to forced labour indicators under International Labour Organization (ILO) definitions (Olayiwola, 2026; Green and Heys, 2025). These dynamics are increasingly recognized not as isolated misconduct, but as predictable outcomes of structurally constrained labour mobility systems.

Migration Regimes as Risk Multipliers in Supply Chains

Emerging socio-legal literature conceptualizes immigration systems as risk multipliers within global supply chains, rather than neutral administrative frameworks. This perspective is reinforced by recent supply chain studies showing that labour flows often operate parallel to product flows, creating "hidden labour chains" that are difficult to trace through conventional procurement audits (Fayezi *et al.,* 2025; Fostera and Brintrup, 2026).

In this context, modern slavery risk is not confined to first-tier suppliers but is frequently embedded in subcontracted labour brokerage systems, where recruitment agencies, labour intermediaries, and informal brokers play a critical role in connecting migrant workers to global production networks. These intermediaries often operate across multiple jurisdictions, making enforcement difficult and enabling regulatory arbitrage between immigration systems (ILO, 2024; OECD, 2023).

Recent global reports further confirm that forced labour is increasingly concentrated in complex supply chains where migration, informality, and subcontracting overlap, with millions of workers affected across transnational production systems (ILO, 2024; UNODC, 2025). This reinforces the view that immigration systems are not external to supply chain governance but are structurally embedded within it.

Coercion, Documentation Control, and Indicators of Forced Labour

A major mechanism through which immigration-linked exploitation occurs is control over identity and documentation. Practices such as passport retention, contract substitution, and restriction of movement are widely recognized as indicators of forced labour under ILO Convention No. 29 (ILO, 1930; ILO, 2024).

Where employers or intermediaries control access to immigration documentation, workers may be effectively unable to change employment or exit exploitative conditions without risking legal consequences. This creates a condition of "de facto coercion," even where formal legal definitions of employment remain intact (LeBaron and Lister, 2022; Martin-Ortega, 2023).

Recent enforcement cases and investigative journalism across Europe and Asia have shown that such practices are particularly prevalent in high-demand labour sectors, including logistics, food processing, and seasonal agriculture, where labour shortages incentivize reliance on migrant workers with limited bargaining power (ILO, 2024; UNODC, 2025).

Emerging Regulatory Responses and Criminalisation Trends

Jurisdictions are increasingly responding to these risks by strengthening the intersection between immigration law and labour exploitation offences. For example, several countries have introduced enhanced penalties for employers who misuse immigration sponsorship systems to facilitate exploitative labour practices, signalling a shift toward criminalisation of immigration-linked labour abuse rather than purely administrative enforcement (OECD, 2023; ILO, 2024).

Recent legislative developments, including proposed reforms in jurisdictions such as New Zealand and the United Kingdom, reflect an emerging policy consensus that immigration systems must incorporate labour rights safeguards as a core design principle, rather than treating exploitation as a secondary enforcement issue (Green and Heys, 2025; Olayiwola, 2026).

At the international level, policy discussions under the OECD Guidelines for Multinational Enterprises and updated ILO guidance increasingly emphasize that corporate due diligence must include migration-sensitive risk assessment, particularly where supply chains rely on cross-border recruitment or temporary labour mobility schemes (OECD, 2023).

Implications for Corporate Due Diligence

The integration of immigration systems into supply chain governance has significant implications for corporate compliance obligations under emerging due diligence regimes, including the EU Corporate Sustainability Due Diligence Directive (CSDDD). Companies are increasingly expected to:

i. Assess whether recruitment practices involve worker-paid fees or debt bondage risks

ii. Ensure that suppliers do not engage in passport retention or document confiscation

iii. Monitor labour intermediaries and recruitment agencies as part of supply chain mapping

iv. Establish grievance mechanisms accessible to migrant workers without fear of immigration retaliation

Furthermore, failure to address these risks may constitute a breach of due diligence obligations where exploitation is foreseeable and preventable within the supply chain structure (European Parliament and Council of the European Union, 2024; OECD, 2023).

Conceptual Shift: From Labour Regulation to Migration-Sensitive Supply Chain Governance

Overall, the relationship between immigration systems and supply chain exploitation demonstrates a broader conceptual shift in global corporate law. Supply chain governance is increasingly moving toward a migration-sensitive regulatory model, where labour rights compliance cannot be separated from immigration status, recruitment systems, and transnational labour mobility structures.

This shift reflects a growing recognition in both legal scholarship and policy frameworks that modern slavery is not solely a labour market issue, but a systemic governance failure at the intersection of corporate outsourcing, state immigration controls, and global economic inequality (ILO, 2024; Fostera and Brintrup, 2026; UNODC, 2025).

Emerging Director and Officer Liability

The liability landscape for directors and officers has undergone a pronounced shift in 2025–2026, driven by the convergence of ESG regulation, supply chain due diligence statutes, securities disclosure enforcement, and the expansion of the Caremark duty of oversight into increasingly complex corporate risk environments. What was once a narrowly framed doctrine of corporate compliance oversight has now evolved into a central mechanism for policing ESG governance failures and supply chain-related misconduct.

At its doctrinal core, director and officer liability is increasingly anchored in the duty of oversight, which requires boards and senior executives to implement and monitor reasonable reporting systems and to respond to “red flags” indicating significant corporate risk exposure (Caremark; *Stone v. Ritter*; LegalClarity, 2026). Recent judicial and scholarly developments confirm that courts are no longer treating oversight obligations as passive or formalistic requirements but as active governance duties requiring demonstrable engagement with mission-critical risks, including ESG and supply chain exposure (Shapira, 2025; Baker Botts, 2026).

Expansion of Caremark into ESG and Supply Chain Governance

The modern Caremark framework has increasingly been applied to ESG-related risks, particularly where such risks are considered “mission-critical” to the corporation’s operations. Courts have emphasized that oversight liability may arise where directors fail to establish adequate systems for monitoring risks that are central to business sustainability, including labour practices, climate exposure, and supply chain integrity (Marchand v. Barnhill; Emory Corporate Governance Review, 2023).

Recent commentary highlights that ESG risks are now routinely treated as falling within the scope of mission-critical oversight duties because of their direct connection to regulatory enforcement, reputational harm, and financial performance (Shapira, 2025; ECGI, 2025). This includes modern slavery risks in supply chains, which are increasingly regulated under mandatory due diligence regimes such as the EU Corporate Sustainability Due Diligence Directive (CSDDD) (Directive (EU) 2024/1760), thereby transforming ESG from a voluntary consideration into a legally cognisable risk category for directors.

As a result, failure to implement ESG-sensitive oversight systems may now be framed as a breach of fiduciary duty of loyalty (bad faith oversight failure) rather than merely poor business judgment (Torys LLP, 2024; Baker Botts, 2026).

Officer Liability and the Internalisation of Oversight Duties

A significant development in 2025–2026 jurisprudence is the extension of Caremark-style liability principles to corporate officers. Historically, oversight liability was primarily associated with boards of directors. However, recent decisions from the Delaware Court of Chancery and subsequent commentary confirm that officers now face independent and parallel oversight obligations, especially within their functional areas of responsibility (Touchstone Publishers, 2026).

Under this emerging doctrine, officers may be held personally liable where:

i. They fail to implement or maintain adequate reporting systems within their operational domain;

ii. They consciously ignore internal compliance warnings or “red flags”; or

iii. They allow systemic compliance failures to persist despite awareness of risk indicators (McHugh, 2023; Touchstone Publishers, 2026).

This development reflects a broader doctrinal shift toward functional accountability, where liability attaches not only to formal position (director vs officer) but also to operational control over risk domains. Courts increasingly examine whether officers exercised meaningful supervision over ESG-related compliance systems, particularly in high-risk sectors such as manufacturing and global supply chains (Emory Corporate Governance Review, 2023).

Securities Disclosure Liability and ESG Misstatements

Parallel to fiduciary duty developments, directors and officers face increasing exposure under securities law for ESG-related misstatements or omissions. In multiple jurisdictions, regulators have intensified enforcement actions against companies that exaggerate or misrepresent supply chain due diligence practices or sustainability performance (ASIC, 2025; Competition Bureau Canada, 2025).

In the United States, liability under Rule 10b-5 of the Securities Exchange Act has increasingly been invoked where ESG disclosures are found to be materially misleading. Courts have recognised that sustainability statements, including modern slavery disclosures, may constitute material investor communications, especially where companies publicly represent robust compliance systems that do not exist in practice (OECD, 2023; Baker Botts, 2026).

Similarly, in the United Kingdom, group shareholder actions under FSMA sections 90 and 90A have expanded to include allegations of misleading ESG disclosures relating to labour practices and supply chain governance failures (Browne Jacobson, 2025). These developments indicate that ESG disclosures are no longer treated as peripheral reporting exercises but as major financial communications with direct liability implications.

The Caremark Standard in 2026: From Compliance to Governance Architecture

Recent scholarship highlights that the Caremark doctrine has become one of the most frequently litigated and strategically important standards in corporate law (Shapira, 2025). Courts now routinely evaluate whether corporations have established board-level compliance architectures capable of identifying and responding to systemic risk, including ESG and supply chain-related threats (LegalClarity, 2026; Directors and Boards, 2026).

Under this evolved standard, directors are expected to ensure:

i. The existence of effective reporting and escalation systems;

ii. Active monitoring of compliance signals and internal audits;

iii. Documented board engagement with ESG risk oversight; and

iv. Timely response to identified compliance failures or emerging regulatory risks (Baker Botts, 2026).

Failure to meet these expectations may result in findings of bad faith oversight failure, which is the threshold for personal liability under Caremark jurisprudence.

Importantly, courts have clarified that ignorance of ESG or supply chain risks is no longer a defensible position for directors of multinational corporations. Instead, oversight obligations now include a duty to be informed about material regulatory trends affecting global operations, especially in relation to modern slavery, climate regulation, and cross-border supply chain governance (ECGI, 2025; Shapira, 2025).

Insurance, Indemnification, and Risk Transfer Pressures

An additional dimension of emerging liability relates to the increasing pressure on directors' and officers' (D&O) insurance markets. As ESG-related litigation expands, insurers are reassessing coverage exclusions for regulatory breaches, misstatements, and systemic compliance failures (Torys LLP, 2024).

This has led to a tightening of underwriting standards and increased premiums for companies with high ESG exposure, particularly in industries reliant on complex global supply chains. In some cases, insurers are requiring demonstrable ESG governance frameworks as a condition for coverage, effectively externalising compliance expectations through financial risk pricing mechanisms (Baker Botts, 2026).

Conceptual Shift: From Passive Oversight to Active Governance Engineering

The cumulative effect of these developments is a conceptual redefinition of corporate oversight duties. Director and officer liability is no longer confined to reactive monitoring of compliance failures. Instead, it increasingly requires active governance engineering, in which corporate leaders must design, implement, and continuously refine systems capable of managing ESG and supply chain risks at a global scale.

This shift reflects a broader legal reality: ESG compliance failures are now treated not as isolated operational issues but as systemic governance breakdowns, capable of triggering fiduciary liability, securities enforcement, and reputational harm simultaneously (Shapira, 2025; ECGI, 2025).

Structuring a Legally Compliant Supply Chain Due Diligence System

The rapid convergence of mandatory due diligence laws, extraterritorial ESG regulation, and expanding corporate liability has fundamentally altered the architecture of supply chain governance. By 2026, compliance is no longer achieved through fragmented reporting exercises or periodic audits; instead, it requires a continuous, system-based governance model that integrates legal, operational, and risk-management functions across the entire value chain.

Regulatory instruments such as the EU Corporate Sustainability Due Diligence Directive (CSDDD) (Directive (EU) 2024/1760), Germany's Supply Chain Due Diligence Act (LkSG), Canada's Fighting Against Forced Labour and Child Labour in Supply Chains Act (SC 2023, c 9), and Australia's Modern Slavery Act 2018 collectively signal a global shift toward process-oriented compliance obligations rather than outcome-based reporting (European Parliament & Council of the European Union, 2024; OECD, 2023).

Within this evolving legal environment, corporations must adopt structured due diligence systems capable of withstanding regulatory scrutiny, litigation exposure, and investor disclosure standards.

Supply Chain Mapping and Transparency Architecture

The first pillar of a compliant system is comprehensive supply chain mapping, extending beyond Tier 1 suppliers to include subcontractors, labour intermediaries, and informal recruitment networks. Recent enforcement guidance under the CSDDD and OECD Due Diligence Guidance emphasises that companies are expected to maintain "reasonable visibility" over their value chains, particularly in high-risk sectors such as manufacturing, agriculture, and extractives (OECD, 2023; European Commission, 2022).

By 2026, best practice increasingly requires:

i. Digital traceability systems for Tier 1–3 suppliers;

ii. Identification of labour brokerage chains and recruitment agencies;

iii. Country-level risk profiling aligned with ILO forced labour indicators; and

iv. Integration of immigration and recruitment pathways into supply chain maps where migrant labour is used (ILO, 2024; Fostera and Brintrup, 2026).

This shows a growing recognition that supply chain opacity itself constitutes a legal risk factor, particularly where lack of visibility prevents timely identification of forced labour or human rights violations.

Risk Assessment and Prioritisation Frameworks

The second pillar involves structured risk identification and prioritisation systems, which must be both dynamic and evidence-based. Under the CSDDD, companies are required to identify actual and potential adverse impacts and prioritise them according to severity, scale, and irremediability (Directive (EU) 2024/1760, Arts. 6–7).

Modern compliance frameworks increasingly adopt a risk-tiering methodology, incorporating:

i. Sectoral risk (e.g., textiles, agriculture, electronics);

ii. Geographic risk (based on governance and labour protections);

iii. Workforce vulnerability (including migrant worker concentration); and

iv. Supply chain complexity (multi-tier subcontracting structures) (OECD, 2023; LeBaron and Lister, 2022).

Recent empirical research highlights that high-risk supply chains are often characterised by "hidden labour chains," where subcontracting obscures accountability and increases exposure to modern slavery risks (Fayezi *et al.*, 2025; Fostera and Brintrup, 2026). As a result, risk assessment systems must move beyond static annual reviews toward **c**ontinuous monitoring mechanisms supported by data analytics and third-party verification tools.

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

Prevention, Mitigation, and Remediation Mechanisms

The third pillar concerns the implementation of preventive and corrective action systems, which constitute the core legal obligation under modern due diligence regimes. The CSDDD explicitly requires companies to take "appropriate measures" to prevent or mitigate adverse impacts, including contractual safeguards, supplier engagement, and termination of business relationships where necessary (European Parliament and Council of the European Union, 2024).

Effective compliance systems typically include:

i. Supplier codes of conduct aligned with ILO labour standards;

ii. Contractual clauses prohibiting forced labour indicators (e.g., passport retention, recruitment fee charging);

iii. Corrective action plans with measurable remediation timelines; and

iv. Escalation protocols for repeated non-compliance (OECD, 2023; Martin-Ortega, 2023).

Importantly, regulatory guidance now emphasises that termination of supplier relationships is not a sufficient compliance response where harm is ongoing or foreseeable. Instead, companies are expected to demonstrate active efforts to remediate harm before disengagement, particularly where disengagement may exacerbate worker vulnerability (European Commission, 2022; ILO, 2024).

Grievance Mechanisms and Worker Voice Systems

A legally compliant due diligence system must include accessible and effective grievance mechanisms, enabling affected stakeholders to report concerns without fear of retaliation. Under the UNGPs and reinforced by the CSDDD, grievance mechanisms must be legitimate, accessible, predictable, equitable, transparent, and rights-compatible (United Nations, 2011; OECD, 2023).

By 2026, regulatory expectations increasingly require:

i. Multilingual reporting channels for migrant workers;

ii. Anonymous or third-party reporting mechanisms;

iii. Protection against retaliation or immigration-related consequences; and

iv. Integration of grievance data into board-level reporting systems (ILO, 2024; LeBaron and Phillips, 2024).

Empirical studies show that grievance mechanisms are only effective where workers perceive them as independent from employer control, particularly in contexts involving migrant labour and subcontracted employment structures (Martin-Ortega, 2023).

Board Governance, Oversight, and Disclosure Integration

The final pillar concerns board-level governance and integration of due diligence into corporate decision-making structures. The CSDDD and emerging securities regulations require companies to embed due diligence into corporate policies and ensure continuous oversight by senior management and boards of directors (Directive (EU) 2024/1760; ASIC, 2025).

By 2026, effective governance frameworks typically require:

i. Formal board responsibility for ESG and supply chain risk oversight;

ii. Integration of due diligence findings into enterprise risk management systems;

iii. Regular reporting to audit and risk committees; and

iv. Alignment between sustainability disclosures and verified internal compliance data (Freshfields, 2026; Linklaters, 2026).

This reflects a broader shift in corporate governance toward "integrated reporting ecosystems," where financial, legal, and ESG risks are treated as interconnected rather than siloed categories.

Failure to implement adequate governance structures may expose directors to fiduciary liability under negligence and oversight doctrines, particularly where systemic supply chain risks were foreseeable and unaddressed (Shapira, 2025; Baker Botts, 2026).

From Compliance Programmes to Legal Risk Infrastructure

The cumulative effect of these developments is the transformation of supply chain due diligence from a compliance programme into a legal risk infrastructure system. This infrastructure must be capable of:

i. Detecting human rights and environmental risks in real time;

ii. Demonstrating reasonable preventive measures under legal scrutiny;

iii. Supporting litigation defence strategies; and

iv. Producing auditable evidence for regulators and investors.

In this sense, due diligence systems are no longer internal management tools but quasi-legal governance structures, designed to satisfy overlapping obligations under corporate law, securities regulation, and transnational human rights standards (OECD, 2023; European Parliament and Council of the European Union, 2024).

CONCLUSION

The evolution of supply chain due diligence over the past decade represents one of the most significant structural transformations in contemporary corporate law. What began as a voluntary, principles-based ESG framework grounded in the UN Guiding Principles on Business and Human Rights (UNGPs) has, by 2026, crystallised into a multi-jurisdictional system of enforceable legal obligations combining statutory duties, regulatory enforcement, civil liability, and expanding director accountability (United Nations, 2011; OECD, 2023).

Across the jurisdictions examined in this study, a consistent pattern is evident: supply chain governance is no longer treated as a peripheral aspect of corporate social responsibility but as a central component of corporate legality and financial risk management. The introduction of the EU Corporate Sustainability Due Diligence Directive (CSDDD) (Directive (EU) 2024/1760) has been particularly decisive in this regard, as its extraterritorial scope ensures that even non-EU corporations are drawn into its compliance architecture where significant EU turnover is generated (European Parliament & Council of the European Union, 2024).

Convergence of Legal Regimes

A major finding of this analysis is the increasing convergence of previously distinct legal domains: corporate governance, human rights law, immigration regulation, securities disclosure regimes, and transnational tort liability. Modern slavery legislation in the United Kingdom, Canada, Australia, and emerging frameworks in New Zealand demonstrate a shared trajectory toward hybrid enforcement models, where transparency obligations increasingly function as gateways to litigation, regulatory scrutiny, and reputational enforcement (LeBaron and Rühmkorf, 2024; Martin-Ortega, 2023).

Simultaneously, judicial developments in parent company liability, especially following *Vedanta Resources plc v Lungowe* [2019] UKSC 20 and subsequent supply chain litigation trends have expanded the doctrinal boundaries of negligence and duty of care to encompass operational influence over global value chains. This reflects a broader judicial willingness to treat corporate groups and supply chains as integrated systems of responsibility rather than legally compartmentalised entities (Shapira, 2025; Baker Botts, 2026).

From Transparency to Enforceable Duty

One of the most significant normative shifts identified in this paper is the movement from transparency-based regulation to enforceable due diligence obligations. Early modern slavery statutes relied heavily on disclosure as a mechanism for market discipline. However, by 2026, these regimes are increasingly reinforced by:

i. Civil liability pathways under negligence and misrepresentation doctrines

ii. Securities enforcement for ESG-related disclosures

iii. Administrative penalties and procurement restrictions under EU law

iv. Expanding regulatory integration between labour, trade, and immigration systems (OECD, 2023; ASIC, 2025)

This transformation reflects what scholars describe as the “judicialisation of ESG governance,” where corporate responsibility is no longer voluntary or reputational but embedded within enforceable legal frameworks with cross-border implications (De Schutter, 2024; Krajewski, 2025).

Director Liability and Governance Reconfiguration

A further critical development is the expansion of director and officer liability through both fiduciary duty doctrines and securities law enforcement. The extension of Caremark-style oversight obligations to ESG and supply chain risks has fundamentally redefined the scope of board responsibility, requiring directors to actively engage with compliance systems rather than passively rely on management assurances (Shapira, 2025; ECGI, 2025).

In parallel, regulatory enforcement trends in the United States, United Kingdom, Australia, and Canada indicate a growing willingness to treat ESG misstatements as material financial disclosures, thereby exposing directors and officers to personal liability risks under securities fraud and misleading conduct provisions (ASIC, 2025; Competition Bureau Canada, 2025).

Immigration Systems as Structural Risk Drivers

This study also highlights the often underappreciated role of immigration systems in shaping supply chain risk. Employer-tied visa regimes, recruitment debt structures, and documentation control practices create conditions of structural vulnerability that are increasingly recognised as indicators of forced labour under international legal standards (ILO, 2024).

As a result, immigration governance is no longer external to corporate compliance frameworks but is becoming an integral component of supply chain due diligence obligations. The intersection between labour mobility systems and corporate outsourcing structures represents a major frontier in the development of modern ESG regulation (Fayezi *et al.,* 2025; Fostera and Brintrup, 2026).

Toward a Unified Global Due Diligence Standard

Although regulatory fragmentation remains a defining feature of global corporate law, the direction of travel is increasingly clear. The combined effect of EU extraterritorial regulation, national modern slavery statutes, and evolving common law principles is the emergence of a de facto global baseline standard for supply chain due diligence (OECD, 2023; European Commission, 2022).

This baseline standard requires corporations to:

i. Map and monitor supply chains beyond Tier 1 suppliers

ii. Identify and mitigate human rights and environmental risks

iii. Ensure meaningful grievance and remediation mechanisms

iv. Integrate ESG risks into board-level governance systems

v. Align disclosures with verifiable due diligence processes

Failure to meet these expectations now carries consequences across multiple legal domains, including tort liability, regulatory sanctions, securities enforcement, and reputational harm.

Final Observation: From CSR to Corporate Legality

Ultimately, the central conclusion of this paper is that supply chain due diligence has undergone a categorical transformation: from a corporate social responsibility initiative to a core component of corporate legality. This shift is not merely regulatory but structural, reflecting deeper changes in how global economic activity is governed, monitored, and enforced.

By 2026, multinational corporations are no longer evaluated solely on financial performance or voluntary ESG commitments, but on their ability to demonstrate legally robust, system-wide control over their global value chains. In this environment, due diligence is not optional compliance, it is an operational requirement embedded within the legal architecture of modern corporate governance.

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