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EXTRATERRITORIAL DUE DILIGENCE: THE IMPACT OF THE EU CORPORATE SUSTAINABILITY DIRECTIVE ON INDIAN LABOUR COMPLIANCE

~ Biswarup Saha

ABSTRACT

The European Union (EU) Corporate Sustainability Due Diligence Directive (CSDDD) has transformed transnational corporate governance and domestic labour compliance. This paper discusses in detail the legal, economic and operational conflicts resulting from the extraterritorial application of the CSDDD to the Indian manufacturing and textile industries. The European parent companies have, in effect, codified international standards of human rights and environmental due diligence throughout their global chains of activities. This has created friction with the Indian suppliers whose primary regulations and standards include the Occupational Safety, Health and Working Conditions Code, 2020, and the Contract Labour (Regulation and Abolition) Act, 1970. Thus, these regulations and standards are thus subject to European compliance enforcement through private contracts, with all the implications of civil liability under the CSDDD and the “audit fatigue” amongst the Indian suppliers and the broader geo-political decisions for the Global South covered by this paper, that is, regulatory domination.

INTRODUCTION

The United Nations Guiding Principles on Business and Human Rights (UNGPs) and the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises have been the primary soft-law instruments supplementing the protection of labour rights in the Global South.^{1, 2} However, the European Union has disrupted this established equilibrium by enacting the Directive (EU) 2024/1760 on Corporate Sustainability Due Diligence (CSDDD), thus bringing major changes to the global value chains.^{3, 4}

The CSDDD legally binds European and designated non-EU corporations to identify, prevent, mitigate, and remedy the adverse human rights and environmental impacts within their "chains of activities".⁵ In doing so, the EU leverages its extraterritorial market power.^{6, 7}

India is transforming its domestic labour architecture through four consolidated Labour Codes, setting the statutory baseline for factory conditions, wages, and safety. But the European legislation presents a complex legal and economic paradox in the global textile and manufacturing supply chain.^{8, 9} The EU CSDDD requires adherence to standards that often exceed Indian statutory requirements, particularly regarding the rights of subcontracted, informal, and contract labour,¹⁰ which results in European parent companies being legally compelled to enforce standards based on International Labour Organisation (ILO) Core Conventions upon their Indian partners through private commercial contracts, generally manifested as Supplier Codes of Conduct.^{11, 12}

This paper provides a comprehensive analysis of this conflict by systematically deconstructing the CSDDD framework, analysing the limits of prescriptive jurisdiction under international law, scrutinising the Indian domestic labour framework, and evaluating the realities of

¹ U.N. Office of the High Comm'r for Human Rights, *Guiding Principles on Business and Human Rights*, U.N. Doc. HR/PUB/11/04 (2011).

² Org. for Econ. Co-operation & Dev. [OECD], *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct* (2023).

³ Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859, 2024 O.J. (L).

⁴ Nicolas Bueno et al., *The EU Directive on Corporate Sustainability Due Diligence (CSDDD): The Final Political Compromise*, 9 BUS. & HUM. RTS. J. 294 (2024).

⁵ Directive (EU) 2024/1760, *supra* note 3, at art. 1.

⁶ Anu Bradford, *The Brussels Effect*, 107 NW. U. L. REV. 1 (2012).

⁷ Lena Hornkohl, *The Extraterritorial Application of Statutes and Regulations in EU Law*, MAX PLANCK INST. LUXEMBOURG FOR PROCEDURAL L. RES. PAPER SERIES (2022).

⁸ Occupational Safety, Health and Working Conditions Code, 2020, No. 37, Acts of Parliament, 2020 (India).

⁹ Code on Wages, 2019, No. 29, Acts of Parliament, 2019 (India).

¹⁰ Contract Labour (Regulation and Abolition) Act, 1970, No. 37, Acts of Parliament, 1970 (India).

¹¹ Inditex, Code of Conduct for Manufacturers and Suppliers (2012).

¹² H&M Group, H&M Group Annual and Sustainability Report 2022 (2023).

transnational forced compliance, auditing regimes, and civil liability. Through this analysis, the paper illustrates how extraterritorial European legislation allows the EU to rewrite Indian labour compliance, bypassing traditional state-to-state diplomatic channels in favour of privatised, commercial enforcement.

RESEARCH METHODOLOGY

This paper uses a doctrinal and analytical research methodology, consisting of examining primary statutory instruments with a critical analysis of secondary literature.

First, the core legal analysis unpacks the Directive (EU) 2024/1760 (CSDDD) by analysing its scope, extraterritoriality, civil liability regimes and integration of ILO Core Conventions. Second, it analyses the Indian domestic statutory framework by examining the Occupational Safety, Health and Working Conditions Code, 2020 and the Contract Labour (Regulation and Abolition) Act, 1970 to establish the domestic baseline for the labour standard compliance. To bridge the gap between law and practice, this paper uses qualitative document analysis of the publicly available Supplier Codes of Conduct of large European multinational retailers, such as Inditex and H&M Group, and relies on empirical data from the Periodic Labour Force Survey (PLFS) and reports of reputable international organisations, such as the ILO, to account for the socio-economic realities of the informal labour market in India. By linking these cross-jurisdictional legal texts to economic realities, this research is able to assess the frictions created by transnational private enforcement.

THEORETICAL FOUNDATIONS AND THE SHIFT FROM SOFT TO HARD LAW

To appreciate the ramifications of the CSDDD, it is necessary to trace its roots. The Directive does not invent new rights out of nothing. Rather, it is the product of decades of efforts to translate voluntary international standards into public law.

The modern framework for business and human rights is the UNGPs. Under the UN Human Rights Council's 2011 framework, there are three pillars of the UNGPs: the responsibility of the state to protect human rights, the corporate responsibility to respect human rights, and access to remedies.^{13, 14} Pillar II provides an expectation that businesses should conduct human rights due diligence (HRDD) to identify, prevent, mitigate, and account for how they mitigate their adverse human rights impacts.¹⁵ This approach is reflected in the OECD Guidelines for

¹³ U.N. Office of the High Comm'r for Human Rights, *supra* note 1.

¹⁴ John Gerard Ruggie, *Just Business: Multinational Corporations and Human Rights* (2013).

¹⁵ U.N. Office of the High Comm'r for Human Rights, *supra* note 13.

Multinational Enterprises.¹⁶

For years, these instruments were regarded as “soft law” that influenced the behaviour of companies and were often cited in the CSR reports of major European brands that source from India, but were not put into action.¹⁷ A company failing to carry out proper HRDD in the Indian supply chain might suffer reputational damage or negative criticism from non-governmental organisations, but rarely face civil or administrative penalties in its home country.¹⁸

The transition from soft law to hard law progressed as European member states, frustrated by the uneven application of voluntary standards, adopted their own domestic due diligence laws. France implemented the *Loi de Vigilance* in 2017, and Germany followed with the *Lieferkettensorgfaltspflichtengesetz* (LkSG) in 2021.^{19, 20} This fragmentation was seriously endangering the coherence of the EU internal market and prompted the European Commission to propose a unified directive in February 2022.^{21, 22}

The draft of the CSDDD was controversial. Early versions envisaged broad liability regimes and applied to a large number of companies. In the wake of the geopolitical and energy crises of early 2020, huge lobbying and concerns about Europe's future competitiveness produced the “Omnibus I” legislative package for 2025/2026.^{23, 24} The Omnibus revision significantly diluted the scope of the original proposal, but kept the ethos of mandatory extraterritorial due diligence, cementing the EU as a global regulator.²⁵

THE EUROPEAN UNION’S EXTRATERRITORIAL AMBITION: THE CSDDD FRAMEWORK

The CSDDD was signed by the co-legislators on 13 June 2024 and entered into force within a couple of months, representing the latest exercise of EU regulatory power in the global supply

¹⁶ Org. for Econ. Co-operation & Dev. [OECD], *supra* note 2.

¹⁷ Claire Macchi, *The UN Guiding Principles' Orbit and Other Regulatory Regimes in the Business and Human Rights Universe*, 35 EUR. J. INT'L L. (2024).

¹⁸ *Id.*

¹⁹ Loi n° 2017-399 du 27 mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre, J.O., Mar. 28, 2017 (Fr.).

²⁰ Lieferkettensorgfaltspflichtengesetz [LkSG] [Act on Corporate Due Diligence Obligations in Supply Chains], July 16, 2021, BGBl I at 2959 (Ger.).

²¹ Proposal for a Directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence, COM (2022) 71 final (Feb. 23, 2022).

²² Bueno et al., *supra* note 4.

²³ ClientEarth, *Sustainability Due Diligence after the Omnibus: Legal Implications for the CSDDD* (2026).

²⁴ Proposal for a Directive amending Directives 2006/43/EC, 2013/34/EU, (EU) 2022/2464 and (EU) 2024/1760 as regards certain corporate sustainability reporting and due diligence requirements, COM (2025) 80 final (Feb. 26, 2025).

²⁵ ClientEarth, *supra* note 23.

chain sector. It requires companies to adopt sustainable and responsible practices in their domestic and international business operations.²⁶

Currently, the CSDDD applies to a narrow segment of the corporate market. The Directive applies to EU companies with over 1,000 employees and a total worldwide turnover of more than EUR 450 million in the last financial year.²⁷ For international law, the Directive also applies to companies that exist under the legislation of a third country if they made a net turnover of more than EUR 450 million in the Union in the financial year preceding the last financial year.²⁸ This establishes a direct territorial nexus through economic activity, and projects EU law onto foreign entities.

The new CSDDD utilises the term “chain of activities” rather than the wider term “value chain.” The chain of activities includes both the activities of upstream partners involved in the production of goods or the provision of services as well as specific downstream activities such as distribution, transport, and storage carried out for or on behalf of the company.²⁹ For Indian suppliers, this is a distinction without a difference in practice. An EU brand importing clothing from India has to take note not only of its Tier-1 cut-and-make shops, but also of its Tier-2 dyeing houses, Tier-3 spinning mills, and even their farm-level cotton purchase.³⁰ The Directive requires companies to map these tiers and monitor these deep levels of activity and bring even the least formal sectors of the Indian economy under European regulation.

The CSDDD mandates companies to conduct risk-based human rights and environmental due diligence. Article 7 of the CSDDD requires companies to incorporate due diligence into their policies and risk management processes, such as adopting a code of conduct for their business partners.³¹ Article 8 requires the recognition and assessment of actual or potential adverse impacts, while Article 9 requires prioritising these impacts according to their severity and likelihood.³²

The coercive nature of the Directive is laid out in Articles 10 and 11. Under these provisions, companies are obliged to take a proactive stance in averting and lessening any adverse impacts, and to put an end to those that have materialised.³³ The CSDDD is unambiguous: should a firm uncover a serious human rights violation at an Indian operation for which there is no remedy

²⁶ Directive (EU) 2024/1760, *supra* note 3.

²⁷ *Id.* at art. 2(1).

²⁸ *Id.* at art. 2(2).

²⁹ *Id.* at art. 3(g).

³⁰ Clean Clothes Campaign, *Tailored Wages: The State of Pay in the Global Garment Industry* (2024).

³¹ Directive (EU) 2024/1760, *supra* note 3, at art. 7.

³² *Id.* at arts. 8, 9.

³³ *Id.* at arts. 10, 11.

or way to mitigate the harm, it must see to the responsible termination of the business tie.³⁴ A point of no little controversy, this mandate can result in large scale job losses among the Indian workforce the Directive is supposed to be safeguarding when disengagement is abrupt.

There is also an onus on firms to put in place grievance and notification channels that are open to individuals and organisations like civil society or Indian trade unions, so they may lodge well-founded complaints in confidence with the European parent.³⁵

In matters of corporate governance, the CSDDD is as much about global climate goals as it is human rights. Any company falling under the Directive's purview has to devise and implement a transition plan to deal with climate change.³⁶ By all means, the plan should see to it that the firm's strategy and business model can coexist with the Paris Agreement's 1.5 degree Celsius cap and the move to a sustainable economy.³⁷

For Indian manufacturing partners, this creates a great deal of secondary pressure. European brands are making it clear to their suppliers what is expected as they work out their Scope 3 emissions from the supply chain. One sees major apparel retailers insisting that their dyeing and washing plants put in place decarbonisation measures to bring down operational emissions by more than 4.2 per cent a year.³⁸ An Indian supplier that does not put the money into zero-liquid discharge or renewables will find its European contracts in jeopardy. So, in effect, the CSDDD is an environmental decree for the Global South.

THE INTERNATIONAL LAW DIMENSION: JURISDICTION, SOVEREIGNTY, AND TRADE

Customary international law provides that the basis of prescriptive jurisdiction, which is the power of a State to apply its law to the activities, relations or status of persons, is essentially the principle of territoriality.³⁹ A state may also regulate conduct within its borders, and the conduct of its nationals abroad. However, the CSDDD uses a sophisticated legal mechanism known as "territorial extension".⁴⁰ A territorial link triggers the Directive's application, for example, a non-EU company's turnover in the EU single market or an EU parent company's incorporation. But conduct entirely outside the EU, such as labour conditions in an Indian factory, shapes the substantive regulatory determination.⁴¹

³⁴ European Coalition for Corporate Justice (ECCJ), *Transposition Guide for the CSDDD* (2026).

³⁵ Directive (EU) 2024/1760, *supra* note 3, at art. 14.

³⁶ *Id.* at art. 22.

³⁷ *Id.*

³⁸ H&M Group, *supra* note 12; Inditex, *supra* note 11.

³⁹ Cedric Ryngaert, *Jurisdiction in International Law* (2d ed. 2015).

⁴⁰ Joanne Scott, *The New EU 'Extraterritoriality'*, 51 COMMON MKT. L. REV. 1343 (2014).

⁴¹ *Id.*

This, according to legal scholars and policymakers in the Global South, violates the sovereignty of third countries such as India.^{42, 43} The EU bypasses the Indian legislature by establishing the labour and environmental standards that Indian factories need to comply with to be able to supply the European market, thus substituting the normative choices of the Indian state with its own.⁴⁴ In contrast, the supporters of the Directive argue in favour of this extraterritoriality on the basis of universal human rights, arguing that the prevention of serious human rights violations (like forced labour or systemic child labour) is a common good that goes beyond strict territorial formalism.⁴⁵ The EU also stresses that it is only regulating under which circumstances goods may enter its internal market, an exercise of economic sovereignty to prevent the internal market being tainted by human rights abuses.⁴⁶

The CSDDD's introduction also intersects closely with international trade law, particularly the General Agreement on Tariffs and Trade (GATT), and the Agreement on Technical Barriers to Trade (TBT).^{47, 48} These are de facto non-tariff barriers (NTBs) to trade since European companies require Indian suppliers to upgrade their facilities, pay liveable wages or put in place expensive environmental technologies in an effort to meet CSDDD requirements.⁴⁹

Under WTO jurisprudence, a member state may take measures restricting trade in pursuit of a legitimate objective. The protection of human health, safety and the environment is explicitly recognised as legitimate objectives in Article 2.2 of the TBT Agreement.⁵⁰ Similarly, GATT Article XX permits general exceptions for measures "necessary to protect public morals" or "human, animal or plant life or health", provided that such measures are not arbitrary or unjustifiable discrimination between countries where the same conditions prevail.⁵¹

The EU defends the CSDDD and related legislation under these exceptions, arguing that the multilateral trading system has to support sustainable development and that consumers have a moral right not to be complicit in supply chain abuses.⁵² However, such measures are viewed with deep suspicion from the perspective of the Indian Ministry of Commerce and industry

⁴² Anton Zimmermann, *The CSDDD's Extraterritorial Reach and International Law*, LAW SCH. POL'Y REV. (Sept. 18, 2026).

⁴³ Talal Abdulla Al-Emadi et al., *The EU Corporate Sustainability Due Diligence Directive: Implications and the Qatari Case Study*, 18 J. WORLD ENERGY L. & BUS. 1 (2025).

⁴⁴ Zimmermann, *supra* note 42.

⁴⁵ Ryngaert, *supra* note 39.

⁴⁶ Scott, *supra* note 40.

⁴⁷ General Agreement on Tariffs and Trade, Oct. 30, 1947, 61 Stat. A-11, 55 U.N.T.S. 194 [hereinafter GATT].

⁴⁸ Agreement on Technical Barriers to Trade, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1A, 1868 U.N.T.S. 120 [hereinafter TBT Agreement].

⁴⁹ Observer Research Foundation, *Trade and Environment: The Policy Interplay* (2024).

⁵⁰ TBT Agreement, *supra* note 48, at art. 2.2.

⁵¹ GATT, *supra* note 47, at art. XX.

⁵² European Parliament, *Strengthening the EU's resilience against economic pressure*, EXPO_STU(2026)783629 (2026).

bodies such as the Federation of Indian Export Organisations (FIEO).⁵³ They are often characterised as a kind of disguised protectionism – a “mirroring” of high EU standards intended to compensate for the competitive advantage of low-cost labour and relaxed regulatory regimes in developing countries.^{54, 55}

The structural ingenuity and main source of friction of the CSDDD lies in its annexes, which attach the corporate due diligence obligation to universally recognised international human rights treaties and ILO Core Conventions.⁵⁶ These include the ban on forced labour, child labour and discrimination, and the guarantee of freedom of association and collective bargaining.⁵⁷

India, as a founding member of the ILO and a ratifier of many core conventions, has been historically reluctant to incorporate these standards strictly into binding trade agreements, preferring gradual domestic implementation suited to its unique socioeconomic developmental stage.⁵⁸ The CSDDD effectively circumvents the negotiation of treaties between states. It converts these ILO conventions from aspirational obligations at the state level into immediate, privately enforceable commercial obligations.⁵⁹ Even if India is not formally ratified to specific ILO protocols, or even if its domestic enforcement is slow, Indian factories are bound to comply with these international norms at once to retain access to European buyers.⁶⁰

LABOUR CODES AND SYSTEMIC INFORMALITY

To better understand the operational friction caused by the CSDDD, a look at the domestic legal landscape of the Indian factories supplying the European market is required. The labour market in India is highly informal, structurally complex and has undergone a huge legislative overhaul recently to consolidate more than forty central labour laws into four different Codes.^{61,}

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The defining feature of the Indian workforce is its all-pervasive informality. This precariousness is brought to life by the 2025 PLFS data. The overall Labour Force Participation Rate (LFPR) was apparently steady at 59.3 per cent, and the official unemployment rate was

⁵³ Observer Research Foundation, *supra* note 49.

⁵⁴ Peter-Tobias Stoll et al., *The Demand for 'Mirror Clauses' in EU Free Trade Agreements*, European Parliament EXPO_STU(2025)754486 (2025).

⁵⁵ Centre for WTO Studies, *Trade and Environment: India's Evolving Approach*, Working Paper No. 91 (2024).

⁵⁶ Directive (EU) 2024/1760, *supra* note 3, at Annex I.

⁵⁷ *Id.*

⁵⁸ Centre for WTO Studies, *supra* note 55.

⁵⁹ Bueno et al., *supra* note 4.

⁶⁰ Inditex, *supra* note 11.

⁶¹ Occupational Safety, Health and Working Conditions Code, 2020, No. 37, Acts of Parliament, 2020 (India).

⁶² Code on Wages, 2019, No. 29, Acts of Parliament, 2019 (India).

at an extraordinarily low level of 3.1 per cent, but the qualitative nature of this employment is strikingly different.^{63, 64}

The informal employment rate was a staggering 87.2 per cent.⁶⁵ More than 73 per cent of non-agricultural workers were engaged in proprietary and partnership enterprises, and thus firmly located in the unorganised sector where statutory protections rarely reach.⁶⁶ Moreover, the organised manufacturing sector, which is the sector that the CSDDD is targeting, has seen contract workers account for some 42 per cent of factory employment in recent years, a huge increase from the 16.5 per cent of factory employment in the late 1990s.⁶⁷ This structural shift to casualisation of labour and layered subcontracting is a response to historically rigid domestic labour laws and immense global price pressures, allowing Indian manufacturers to stay hyper-competitive.⁶⁸ This is exactly the demographic that CSDDD seeks to protect, and this is where the CSDDD directly clashes with the dominant economic model of Indian manufacturing.

The new baseline for factory conditions in India is the Occupational Safety, Health and Working Conditions Code, 2020 (OSH Code).⁶⁹ The OSH Code consolidates legacy legislation like the Factories Act of 1948 and provides uniform standards for working hours, leave entitlements and hazard elimination.⁷⁰ For instance, Section 22 of the Code mandates the constitution of Safety Committees in specified establishments, which needs to be approached in a bipartite manner for workplace safety.^{71, 72}

However, the OSH Code has one fundamental structural limitation: the threshold of applicability. It is usually only applicable to establishments with ten or more employees (or twenty, depending on the use of power).⁷³ The Indian garment and textile industry has a large share of the production in micro-enterprises and home-based work.⁷⁴ In industrial clusters like Tirupur in Tamil Nadu or Metiabruz in West Bengal, complex embroidery, beading and finishing work is routinely outsourced to women working from home, well outside the formal

⁶³ Ministry of Statistics and Programme Implementation, *Periodic Labour Force Survey (PLFS) – Annual Report, July 2023 – June 2024*, Gov't of India (2025).

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ Bus. Standard, *35 Years of Liberalisation: India's Workforce Remains Largely Informal* (2025).

⁶⁸ *Id.*

⁶⁹ Occupational Safety, Health and Working Conditions Code, 2020, No. 37, Acts of Parliament, 2020 (India)..

⁷⁰ *Id.*

⁷¹ *Id.* at § 22.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ Int'l Labour Org. [ILO], *Towards Better Work: Understanding Labour in Apparel Global Value Chains* (2014).

regulatory perimeter.⁷⁵

The deep below the surface tiers of the supply chain is not covered by the OSH Code. However, the CSDDD does not recognise such domestic statutory thresholds, and an EU brand is legally liable for human rights impacts across its entire “chain of activities”.⁷⁶ This requires Indian primary suppliers to map, monitor and regulate their own informal subcontractors, a task that is close to impossible given the vast, undocumented nature of the Indian informal economy.⁷⁷ The CSDDD, which draws heavily from ILO standards and the UNGPs, mandates that workers in the supply chain be paid an “adequate living wage”.⁷⁸ This creates serious economic and legal friction with Indian law. Article 43 of the Constitution of India directs the State to secure a “living wage” and conditions of work ensuring a decent standard of life, but this is a Directive Principle of State Policy and is not judicially enforceable.^{79, 80}

In actual practice, the Indian statutory law strictly works on the principle of “minimum wage”. Minimum wages as prescribed by State Governments vary widely across jurisdictions, skill levels and industries, often just above subsistence level under the Code on Wages, 2019.^{81, 82} As an illustration, a notified monthly minimum wage for an unskilled worker in some Indian states might be roughly USD 78, but a true living wage calculated to cover food, housing, education, health, and discretionary income for a family is substantially higher.⁸³

The CSDDD effectively forces Indian suppliers to give up the state-mandated minimum wage in favour of a higher, internationally calculated wage metric by requiring European buyers to ensure a “living wage” in their supply chains. While socially beneficial for the worker, this unilaterally imposed standard severely undermines the global cost competitiveness of Indian factories, when European buyers are often unwilling to increase their purchasing prices to subsidise this wage gap.^{84, 85}

Repeatedly pointed out as one of the most important risks under the CSDDD framework is the use of subcontracted labour.⁸⁶ This area is covered in India by the Contract Labour (Regulation

⁷⁵ *Id.*

⁷⁶ Directive (EU) 2024/1760, *supra* note 3, at art. 3.

⁷⁷ Clean Clothes Campaign, *supra* note 30.

⁷⁸ Directive (EU) 2024/1760, *supra* note 3.

⁷⁹ INDIA CONST. art. 43.

⁸⁰ *Standard Vacuum Refining Co. of India v. Its Workmen*, A.I.R. 1961 S.C. 895 (India).

⁸¹ Code on Wages, 2019, No. 29, Acts of Parliament, 2019 (India).

⁸² *Id.*

⁸³ Clean Clothes Campaign, *supra* note 30.

⁸⁴ *Id.*

⁸⁵ Int'l Labour Org. [ILO], *supra* note 74.

⁸⁶ Directive (EU) 2024/1760, *supra* note 3, at Annex I.

and Abolition) Act, 1970 (CLRA), which will eventually be incorporated in the OSH Code.⁸⁷ The CLRA makes a clear distinction between the “principal employer” and the “contractor.” Historically in India, major employers have used contractors specifically to distance themselves from the liabilities of direct employment, insulating themselves from claims for permanent employment, bonuses and full social security.⁸⁸

This legal firewall was deeply entrenched by the landmark Supreme Court of India judgment in *Steel Authority of India Ltd. (SAIL) v. National Union Waterfront Workers* (2001).^{89, 90} The Court held that even if the government prohibits the use of contract labour in a particular process under the CLRA, the existing contract workers do not ipso facto become direct, permanent employees of the principal employer.⁹¹ This decision saved the structural flexibility of Indian manufacturing.

But at its heart the CSDDD pierces this corporate veil. It implies that the European parent company and, consequently, the Indian principal supplier contracted are required to actively take responsibility for the labour conditions of all workers in the chain of activities, either directly employed or through third-party labour contractors.^{92, 93} This compels Indian principal employers to police their contractors in a way that is unprecedented under domestic law.

PRIVATE CONTRACTUAL CASCADES AND AUDIT REALITIES

The translation of the CSDDD’s macro-level legal mandates into micro-level factory compliance in India occurs through a specific legal mechanism: the private commercial contract. European parent companies do not have direct statutory authority over Indian factories; rather, they govern through purchasing power.

European brands enforce the CSDDD by embedding its requirements into highly detailed, binding Supplier Codes of Conduct.⁹⁴ For instance, Inditex (the parent company of Zara) maintains a rigorous Code of Conduct for Manufacturers and Suppliers. It strictly prohibits child labour, setting a minimum age of 16 (often higher than the 14-year baseline in some domestic contexts), forbids forced labour in accordance with ILO Convention 29, guarantees freedom of association (ILO Conventions 87 and 98), and mandates strict health, safety, and

⁸⁷ Contract Labour (Regulation and Abolition) Act, 1970, No. 37, Acts of Parliament, 1970 (India).

⁸⁸ *Id.*

⁸⁹ *Steel Authority of India Ltd. v. National Union Waterfront Workers*, (2001) 7 S.C.C. 1 (India).

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² Directive (EU) 2024/1760, *supra* note 3.

⁹³ *Id.*

⁹⁴ Inditex, *supra* note 11.

environmental standards.⁹⁵ Similarly, the H&M Group's Sustainability Commitment sets mandatory requirements that are integrated directly into their master purchasing agreements.⁹⁶ To comply with the CSDDD, European brands mandate that their Tier-1 Indian suppliers not only adhere to these codes but also cascade these exact contractual obligations down to their own subcontractors.⁹⁷ This creates a chain of private law indemnities and warranties. If a severe human rights violation is discovered in an Indian dyeing unit, the Indian primary supplier is in breach of contract with the European buyer, risking immediate termination of the business relationship, financial penalties, and the catastrophic loss of future orders.⁹⁸

Compliance with these Supplier Codes of Conduct is monitored and verified through private social auditing frameworks. The most prominent among these are the Sedex Members Ethical Trade Audit (SMETA), the Social Accountability International SA8000 standard, and the Worldwide Responsible Accredited Production (WRAP) certification.^{99, 100} These audits are routinely conducted by the massive multinational inspection firms such as SGS, Bureau Veritas, and Intertek.^{101, 102}

However, the proliferation of the CSDDD alongside varying national European supply chain laws has led to a highly fractured compliance landscape. Because different European buyers utilise slightly different auditing standards, a single Indian garment factory may be subjected to dozens of distinct social audits in a single year.¹⁰³ This phenomenon, universally referred to within the industry as "audit fatigue," places an immense administrative and financial burden on the supplier, diverting resources away from actual operational improvements towards mere bureaucratic compliance.¹⁰⁴

The sheer impossibility of reconciling strict European demands with the commercial reality of the fast-fashion industry has birthed the systemic practice of "double bookkeeping".¹⁰⁵ European codes strictly demand a maximum 48-hour work week with stringent limits and premium pay for overtime. However, the commercial reality dictated by these same European buyers involves impossibly short lead times, high seasonal volatility, and relentlessly squeezed

⁹⁵ *Id.*

⁹⁶ H&M Group, *supra* note 12.

⁹⁷ Inditex, *supra* note 11.

⁹⁸ European Coalition for Corporate Justice (ECCJ), *supra* note 34.

⁹⁹ Sedex, *SMETA Audit Methodology* (2024).

¹⁰⁰ Social Accountability International, *SA8000 Standard* (2014).

¹⁰¹ Bureau Veritas, *Social Audits and SMETA Certification* (2025).

¹⁰² SGS, *Supply Chain Assurance* (2025).

¹⁰³ Clean Clothes Campaign, *supra* note 30.

¹⁰⁴ *Id.*

¹⁰⁵ Int'l Labour Org. [ILO], *supra* note 74.

profit margins.¹⁰⁶

To survive, Indian suppliers frequently maintain two distinct sets of records: one authentic set reflecting the actual, often excessive working hours and piece-rate wages necessary to meet production targets, and a second, highly sanitised set designed purely to pass European social audits.^{107, 108} The CSDDD aims to end this opacity, but it does not really address the root cause. Without a fundamental restructuring of purchasing practices, such as European brands adjusting their lead times and paying higher wholesale prices to cover the actual cost of compliance, the structural drivers of audit deception remain firmly intact.^{109, 110}

Empirical research, including data derived from the ILO's Better Work programme, demonstrates that while higher labour standard compliance can theoretically increase a supplier's likelihood of retaining major buyers, the financial burden of upgrading facilities, implementing advanced occupational health systems, and paying living wages falls disproportionately on supplier.^{111, 112} In the hyper-competitive Indian apparel sector, the sudden imposition of CSDDD-aligned standards without corresponding financial support threatens to drive smaller, less capitalised factories out of business, paradoxically leading to market consolidation and job losses.¹¹³

CIVIL LIABILITY AND PRIVATE INTERNATIONAL LAW IMPLICATIONS

One of the most radical, and legally controversial, aspects of the CSDDD is the introduction of a civil liability regime under Article 29.¹¹⁴ This provision will alter the face of transnational litigation, allowing victims of human rights or environmental abuses, be it an injured Indian factory worker or a rural community impacted by toxic effluent discharge, to directly sue the European parent company in European courts.¹¹⁵ Liability applies if the damage resulted from the intentional or negligent breach of the company's due diligence obligations for prevention, mitigation or remediation.^{116, 117}

The operation of this civil liability regime is, for the most part, based on European private international law, in particular the Rome II Regulation (Regulation (EC) No 864/2007) on the

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ Clean Clothes Campaign, *supra* note 30.

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ Int'l Labour Org. [ILO], *supra* note 74.

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ Directive (EU) 2024/1760, *supra* note 3, at art. 29.

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ European Coalition for Corporate Justice (ECCJ), *supra* note 34.

law applicable to non-contractual obligations.¹¹⁸ In principle, under Rome II (*lex loci damni*), the law applicable to a tort claim is the law of the country where the damage occurs.^{119, 120} Thus, an Indian worker suing in a German or French court would normally have their case decided under Indian tort law.¹²¹

Article 29(7) was introduced to the CSDDD's initial draft, acknowledging that domestic tort law in developing countries may be insufficient as a remedy for complex due diligence failures. The controversial provision required Member States to ensure that liability rules of the CSDDD would be regarded as 'overriding mandatory provisions' in the sense of Article 16 of Rome II.^{122, 123} Such a mechanism would have enabled the European courts to apply the strict liability standards of the CSDDD to an India based case, and completely displace Indian domestic tort law.¹²⁴

However, this mechanism was heavily curbed in the 2025/2026 Omnibus revision,^{125, 126} after a heavy political backlash on European competitiveness and fear of endless litigation. Article 29(7) was deleted by the Omnibus Directive so the liability regime does not need to be an overriding mandatory provision anymore.¹²⁷ Therefore, the regime of civil liability has been very fragmented. Although the Directive preserves the general principle of full compensation, the real determination of liability will largely depend on the national transposition of the Directive by each EU Member State and the judicial interpretation of the conflict-of-law rules.¹²⁸

However, even in the Omnibus scale-back, the threat of cross-border litigation continues to serve as a powerful enforcement tool, changing the risk calculus for European brands sourcing from India.¹²⁹ But if there is an industrial disaster at an Indian facility, like the catastrophic Rana Plaza collapse in Bangladesh, claimants may try to hold the European buyer liable for insufficient due diligence.¹³⁰

This poses serious evidentiary problems, particularly regarding the use of private audits and

¹¹⁸ Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II), 2007 O.J. (L 199) 40.

¹¹⁹ *Id.* at art. 4.

¹²⁰ *Id.*

¹²¹ Geert Van Calster, *European Private International Law* (3d ed. 2021).

¹²² Regulation (EC) No 864/2007, *supra* note 118, at art. 16.

¹²³ Proposal for a Directive, COM (2022) 71 final, *supra* note 21.

¹²⁴ *Id.*

¹²⁵ Proposal for a Directive amending Directives, COM (2025) 80 final, *supra* note 24.

¹²⁶ ClientEarth, *supra* note 23.

¹²⁷ *Id.*

¹²⁸ Zimmermann, *supra* note 42.

¹²⁹ European Coalition for Corporate Justice (ECCJ), *supra* note 34.

¹³⁰ Clean Clothes Campaign, *supra* note 30.

whether the brand is insulated from any liability if it relies on a faulty SMETA or SA8000 audit that failed to catch a structural flaw or a systemic labour rights violation in an Indian factory. The CSDDD explicitly aims to promote companies to go beyond a mere “tick-box” approach to compliance, demanding that appropriate measures are actually effective and proportionate to the severity of the impacts.^{131, 132} Therefore, it is probable that a European parent company will not be protected from liability by obtaining a clean audit certificate from a third-party firm if the underlying due diligence process was fundamentally superficial or if the brand ignored systemic industry warnings.¹³³

SYNTHESIS AND GEOPOLITICAL IMPLICATIONS

The implementation of the CSDDD is a historic moment for India’s export economy and establishes a bifurcated regulatory landscape. The factories serving the domestic market are subject to the flexibilities and constraints of the OSH Code 2020 and the CLRA, while the export-oriented units have to adhere to a far more stringent regime mandated by Europe.

Macro-economically, the Indian government sees the extraterritorial scope of the CSDDD as an advanced non-tariff barrier to trade. Indian industry is subjected to European levels of environmental and social compliance costs, which offset India’s comparative advantage in labour costs.¹³⁴ This has been a very controversial point in the long-lasting negotiations of the EU-India Free Trade Agreement (FTA).¹³⁵

Whereas the EU is eager to cement stringent Trade and Sustainable Development (TSD) chapters in the FTA, India has historically resisted linking trade access with domestic labour and environmental policies, seeing such linkages as encroachments on its sovereign developmental trajectory.¹³⁶ But the CSDDD is unilateral and avoids such diplomatic deadlocks. European standards will be imposed on Indian suppliers through private contracts regardless of the formal FTA negotiations.¹³⁷

Indian suppliers will have to rise above the culture of surface compliance to succeed in this new regulatory paradigm. This involves significant capital investment in traceability technologies, transparent human resource systems and environmental infrastructure (for example, zero liquid discharge systems for textile dyeing).¹³⁸ The Indian government also

¹³¹ Directive (EU) 2024/1760, *supra* note 3.

¹³² European Coalition for Corporate Justice (ECCJ), *supra* note 34.

¹³³ *Id.*

¹³⁴ Observer Research Foundation, *supra* note 49.

¹³⁵ Centre for WTO Studies, *supra* note 55.

¹³⁶ *Id.*

¹³⁷ European Parliament, EXPO_STU(2026)783629, *supra* note 52.

¹³⁸ Inditex, *supra* note 11.

needs to hasten the process of formalisation of the economy. The new Labour Codes, with their present exclusions, represent a necessary first step in upgrading the statutory baseline.¹³⁹ Expansion of vocational training and formalisation of the vast unorganised sector will be necessary to fulfil the evidentiary requirements of European supply chain mapping.

KEY FINDINGS AND RECOMMENDATIONS

The analytical methodology adopted in this paper results in some important findings on the intersection of EU extraterritorial legislation and Indian domestic labour law.

First, the research finds a significant jurisdictional mismatch between the CSDDD's "chain of activities" mandate and the Indian OSH Code's statutory thresholds, leaving deep-tier informal subcontractors outside domestic statutory protection, but in theory subject to strict European compliance. Second, the paper identifies the systemic "audit fatigue" and the economic evasion tactic of "double bookkeeping" as direct by-products of the imposition of living wages and strict work-hour limits upon suppliers without a corresponding alteration in the purchasing practices (pricing and lead times) of European buyers. Moreover, the dilution of the overriding mandatory rule in the Rome II regime results in a highly fragmented civil liability regime and further complicates the path for Indian claimants pursuing cross-border tort litigation. In view of these findings, the paper calls for a paradigm shift from unilateral impositions to bilateral harmonisation. European multinationals are encouraged to move from a strict 'compliance and termination' model to a 'capacity building and shared responsibility' model, financially subsidising the gap between Indian statutory minimum wages and European mandated living wages. Furthermore, policymakers are advised to construct resilient institutional bridges in the ongoing EU-India FTA negotiations to align due diligence expectations with India's developmental trajectory and phased formalisation of the informal economy at the domestic level.

CONCLUSION

The analytical methodology followed in this paper yields several important findings on the intersection of EU extraterritorial legislation and Indian domestic labour law.

Firstly, the research finds a severe jurisdictional mismatch between the CSDDD's "chain of activities" mandate and the Indian OSH Code's statutory thresholds, leaving deep-tier, informal subcontractors simultaneously outside domestic statutory protection but theoretically subject to strict European compliance. Secondly, the paper identifies systemic "audit fatigue" and the

¹³⁹ Occupational Safety, Health and Working Conditions Code, 2020, No. 37, Acts of Parliament, 2020 (India).

economic evasion tactic of "double bookkeeping" as direct by-products of enforcing living wages and strict work-hour limits upon suppliers without a corresponding alteration in the purchasing practices (pricing and lead times) of European buyers. Finally, the dilution of the overriding mandatory rule within the Rome II framework makes the civil liability regime highly fragmented and adds to the difficulties faced by Indian claimants seeking cross-border tort litigation. As a response to these findings, the paper calls for a paradigm shift from unilateral imposition to bilateral harmonisation. European multinational enterprises are urged to move from a strict 'compliance and termination' model to a 'capacity building and shared responsibility' model, financially subsidising the gap between Indian statutory minimum wages and European mandated living wages. Moreover, policymakers are encouraged to create strong institutional bridges in the ongoing EU-India FTA negotiations so as to align due diligence expectations with India's domestic developmental trajectory and phased formalisation of the informal economy.