

The Accountability Gap: How National Sovereignty Shields Corporations from Human Rights Enforcement in the Global South

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ABSTRACT

The relationship between multinational corporations (MNCs) and human rights in the Global South has generated significant academic debate, yet one structural barrier is underdiscussed: national sovereignty. Frameworks like the International Labor Organization Declaration on Fundamental Principles and Rights at Work and the World Trade Organization's labour standards provisions set out clear expectations for how workers should be treated, but enforcement is left entirely to individual states, often resulting in poor implementation of such standards. Meaning, accountability relies on whether a government chooses to act, not on any binding external obligation. This paper argues that national sovereignty is the primary reason why global enforcement of corporate human rights standards consistently falls short in the Global South. Drawing on a qualitative literature review across economics, political science, and international law, it looks at three connected themes: the ongoing debate over whether MNCs actually help or harm workers in developing countries, the role domestic governance plays in shaping labour outcomes, and why existing international enforcement mechanisms keep failing in practice. The paper finds that enforcement gaps are not simply down to corporate misconduct or poorly designed frameworks. The deeper issue is that governments in the Global South frequently have strong economic incentives to attract foreign investment, which makes meaningful enforcement of labour and human rights standards politically and economically costly. Sovereignty, in this context, ends up functioning less as a protection for citizens and more as cover for governments avoiding external pressure and as a means to retain Foreign Direct Investment (FDI). The paper concludes by considering what might actually change this, including binding treaty mechanisms and regional enforcement bodies, and whether any of these are realistic given the current international system.

INTRODUCTION

During times of celebration, or even day-to-day for many women around the world, glitter makes an appearance on one's body, either on the eyelids, cheeks, or even on other parts of their bodies. The shimmer in that highlighter, the glow in that eyeshadow comes from mica, a mineral that catches light in a

way that has made it indispensable to the global cosmetics industry. However, the shimmer in that highlighter, the glow in that eyeshadow, comes at a cost that rarely appears on the label. At least 22,000 children work in illegal mica mines across Jharkhand and Bihar in India, extracting the mineral that ends up in the products of some of the most recognisable brands in fashion and beauty (Terre des Hommes 2015). The conditions are dangerous, the pay negligible, and the legal accountability nonexistent. Brands including L'Oreal, Estée Lauder, as well as automotive manufacturers including BMW, have been aware of these supply chain conditions for years (DanWatch 2014; Bengtsen and Paddison 2016). Yet no corporation has faced legal prosecution, and no government has been compelled to act (Ethical Consumer 2022). The glitter on your face may have a body count, and the system that allows that is not an accident.

This is not a one-off incident, nor is it an oversight. It is a deeply entrenched pattern, the predictable outcome of a system built around the economic incentives that propel state actions in the Global South and national sovereignty, the principle that what happens inside a country's borders is that country's business alone (Hall 2010). India has child labour laws, such as the Child Labour (Prohibition and Regulation) Act 1986, amended in 2016, which prohibits the employment of children under 14 in hazardous occupations and processes (Government of India 1986, amended 2016). It has mining regulations, such as the Mines Act 1952, which prohibits any person under the age of 18 from working in any mine, above or below ground (Government of India 1952). But no outside body can compel it to enforce them, and with foreign investments at stake, the political will for the state to strictly enforce the human rights laws so rarely materialises (Lin 2006). The corporations at the end of the supply chain hide behind this principle being complicit in the outcome without the accompanying accountability, as they did not directly employ the miners and they don't have the rights to enforce such human rights laws in the host country, so international frameworks cannot easily punish them either (Mintz-Habib 2009).

This paper examines that structural problem. Drawing on existing literature across economics, political science, and international law, it asks to what extent national sovereignty hinders effective global enforcement of corporate human rights standards in the Global South. It argues that sovereignty is the primary reason enforcement consistently fails and why frameworks like the International Labor Organization (ILO) Declaration (ILO 1998) and World Trade Organization (WTO) labour provisions (WTO 1996) remain largely toothless in practice, and why the gap between international standards and lived reality in the Global South continues to widen, not just a background condition.

This paper hypothesises that national sovereignty is the primary structural reason why corporate human rights enforcement fails in the Global South. The argument is not that international frameworks are poorly designed per se, but that there are competing forces at play that counterbalance the human rights regime, the predominant of which is the principle of sovereignty and state autonomy. This core global principle relies on the idea that each state should be able to govern and adjudicate within its own borders, including making economic policy decisions for its people (Hall 2010). In practice, this means that states in the Global South face strong economic incentives, primarily the need to attract and retain FDI in a competitive global environment, that make meaningful enforcement of labour and human rights standards politically and economically costly (Lin 2006; Chan and Ross 2003). When protecting workers and attracting foreign capital come into conflict, investment tends to win in the Global South, and sovereignty

means no outside body can override that choice. The result is a system where rules exist on paper but the mechanism for enforcing them is structurally compromised. Sovereignty in this context functions not as a protection for citizens but as cover for governments avoiding external accountability and even internal pressure, and indirectly as a shield for the corporations operating within their borders for their less than ideal business practices. Until that structural tension is addressed, corporate human rights enforcement in the Global South will remain largely voluntary and therefore largely ineffective, regardless of how well designed the frameworks themselves are.

This paper draws on a qualitative literature review of thirteen peer-reviewed academic sources, organised thematically across three areas, supplemented by analysis of three case studies of corporate human rights enforcement failure in the Global South: mica mining in India, Shell's oil operations in Nigeria, and Chiquita Brands' operations in Colombia.

The findings, discussed in full in the sections that follow, establish three consistent patterns across the literature: that MNC impact on labour standards is inconclusive and heavily mediated by political and institutional factors; that domestic governance matters more than corporate behaviour in determining whether workers are protected; and that international enforcement mechanisms consistently fail at the point where they require states to act. Both the literature and the case studies point toward a single structural explanation: sovereignty, by routing all enforcement through states with competing economic incentives, creates a system in which corporate human rights accountability in the Global South is structurally compromised regardless of the quality of the frameworks in place.

EXISTING SCHOLARSHIP

This section reviews the existing academic conversations across three distinct but related themes: the debate on whether multinational corporations (MNCs) help or harm workers in the Global South overall, the role of domestic governance separate from MNCs' corporate behavior, and why international enforcement mechanisms struggle to function in practice. Together, these sources establish that both corporate behaviour and domestic politics matter, but the extant scholarship fails to consider another important factor: sovereignty.

Do MNCs help or harm workers in the Global South?

The relationship between MNCs and labour standards in the Global South is one of the most contested areas in the existing literature, and the evidence does not point cleanly in either direction. On one hand, there is meaningful empirical support for the view that MNC presence benefits workers. Brown, Deardorff, and Stern (2004) find that workers employed by multinational firms tend to receive higher wages than those in comparable domestic employment, and Quinlivan (2000) similarly argues that many accusations levelled at MNCs including exploitation and worsening poverty are largely exaggerated, with foreign direct investment (FDI) generally improving economic welfare through job creation and increased

wages. However, this optimistic picture becomes significantly harder to sustain when the broader picture is examined. Mintz-Habib (2009) demonstrates that MNC investment flows selectively to a small number of fast-growing developing countries, leaving much of the Global South largely unaffected, and that even where MNCs are present, their influence on labour standards is mediated by a complex web of actors including trade unions, governments, non-government organizations (NGOs), the WTO, and the ILO, none of whom holds sole responsibility or can unilaterally drive improvement. Brown, Deardorff, and Stern (2004) themselves complicate their own findings by noting that mandating higher wages could simply encourage firms to relocate production to cheaper locations, ultimately harming the very workers such policies intend to help. What this body of scholarship reveals then is not a verdict on MNCs but something more uncomfortable: that labour outcomes in the Global South are shaped as much by political and institutional factors as by corporate behaviour itself, which raises the question of where the real structural problem actually lies.

The role of domestic governance

Shifting the lens away from corporations toward the political institutions surrounding them reveals a different and arguably more significant set of drivers. Rodrik (1999) finds that countries with stronger democratic institutions consistently pay higher wages even after controlling for productivity and income levels, suggesting that how a country is governed matters as much as what corporations do within it. This finding carries an uncomfortable implication: if authoritarian or weak governments are partly responsible for low labour standards, then directing accountability efforts solely at MNCs may be missing the point entirely. Moran (2002) reinforces this from a different angle, arguing that host government policy choices are the decisive factor in determining whether FDI improves or worsens conditions for workers, with governments that actively regulate investment seeing consistently better outcomes than those competing on the basis of cheap and unprotected labour. The competitive dynamic between developing country governments is itself a major part of the problem. Chan and Ross (2003) show that South-South competition, where developing countries undercut each other to attract the same pool of foreign investment, drives a structural race to the bottom in wages and standards that has as much to do with government behaviour as with corporate pressure. Srinivasan (1998) pushes this further still, arguing that in economies like South Asia where the majority of workers are self-employed and entirely outside the formal MNC employment relationship, the focus on corporate wage standards misses far larger structural problems including trade barriers, domestic corruption, and governance failures that affect considerably more people than MNC labour practices ever could. Taken together, this scholarship makes a compelling case that domestic governance is not a background condition but a central driver of labour outcomes, and that any account of human rights enforcement failures in the Global South that treats it as secondary is fundamentally incomplete.

Why international enforcement mechanisms fail

Even setting aside the limitations of corporate behaviour and domestic governance, the international mechanisms specifically designed to enforce human rights standards have consistently failed to close the

gap between standards on paper and reality on the ground. The ILO, the primary international body charged with overseeing labour standards globally, has been widely characterised as lacking any real enforcement power, with member states able to ratify conventions without facing any consequences for non-compliance (Mintz-Habib 2009). Consumer pressure and activist campaigns have attempted to fill this void, but Elliott and Freeman (2001) find that market-based accountability is inherently limited, dependent on sustained public attention, and reaching only the most visible firms rather than the broader supply chains where conditions are often worse. The structural divide between developed and developing countries over whether labour standards should be linked to trade has further weakened international authority, leaving bodies like the WTO and ILO without meaningful power to compel action (Chan and Ross 2003). At the deepest level, Hall (2010) identifies the root of this problem: the international system is built around state sovereignty, and the UN Charter's non-interference principle means there is no outside body that can actually force a country to comply with human rights obligations. Enforcement ultimately depends on whether states *choose* to cooperate, and when they do not, the system has no real answer (Hall 2010). What emerges across this scholarship is a picture of enforcement mechanisms that are structurally dependent on the willingness of states and corporations to self-regulate, without any binding external authority capable of compelling compliance when that willingness is absent.

What the existing literature does not adequately address is why this enforcement gap persists so consistently across such varied contexts, despite decades of standard-setting and advocacy. The scholarship reviewed above identifies the relevant actors and documents their limitations, but stops short of offering a structural explanation for why the system as a whole keeps producing similar outcomes. This paper argues that the missing explanation is the core global principle of and respect for national sovereignty. Because frameworks like the ILO Declaration and WTO labour provisions are non-binding and route all enforcement through individual states, accountability is ultimately dependent on domestic political will. And as the governance literature makes clear (Rodrik 1999; Moran 2002; Chan and Ross 2003), states in the Global South frequently face strong economic incentives, primarily the need to attract and retain FDI in a competitive global environment, that make meaningful enforcement politically and economically costly. Sovereignty in this context functions not as a protection for citizens but as a structural barrier to external accountability pressures, shielding both governments and the corporations operating within their borders from the consequences of non-compliance. By placing sovereignty at the centre of the analysis, this paper fills a gap in the existing literature and offers a structural explanation for a pattern that has been extensively documented but not yet adequately explained.

ARGUMENT

In this section, I establish the core argument and hypothesis of this paper: that national sovereignty is the primary structural reason why corporate human rights enforcement fails in the Global South. This argument rests on two interconnected claims. First, that sovereignty as a legal and political principle gives states the exclusive right to govern within their own borders, meaning no outside body can compel them to enforce international standards against corporations operating on their territory. Second, that states in

the Global South face strong economic incentives, primarily the need to attract and retain FDI, that make meaningful enforcement politically and economically costly even when the theoretical will to act exists. Together, these two claims explain why the enforcement gap identified in the existing scholarship is not accidental but rather structurally entrenched.

Sovereignty as a principle establishes that each state holds supreme authority over its own territory and domestic affairs to the exclusion of external powers (Akani 2019). Critically however, what developing countries actually experience is not full sovereignty but sovereignty on dictated terms, shaped by the interests of more powerful states and international institutions (Akani 2019). This creates a double bind at the heart of the enforcement problem: external actors cannot intervene in a state's domestic affairs because of the non-interference principle — the foundational rule in international law, codified in Article 2(7) of the UN Charter, that prohibits outside bodies from interfering in matters that fall within a state's domestic jurisdiction (United Nations 1945) — but the states holding that sovereignty are themselves constrained by the economic and political demands of more powerful global actors, leaving the corporations operating within their borders largely unaccountable to anyone (Akani 2019; Hall 2010).

This double bind is most clearly visible in the relationship between sovereignty and FDI. Finding a balance between attracting foreign investment and protecting national economic sovereignty is one of the central challenges facing developing countries in the global economy, and many developing countries already fear that international investment agreements compromise their sovereignty in investment and contractual negotiations (Lin 2006). This means governments in the Global South are reluctant to use their sovereignty in ways that might deter the foreign capital they depend on. Sovereignty in this context is not simply a shield against outside pressure — it is deployed against the human rights treaties, international organisations, and accountability commitments that seek to impose external standards within a state's borders. It is not wielded against corporations to demand better conduct or fairer terms. It is wielded against the oversight mechanisms that would require governments to enforce their own international obligations, protecting a state's right to govern what happens within its borders on its own terms, including the right to place economic interests above human rights enforcement.

The relationship between sovereignty and FDI in the Global South is not neutral and has never been. Newly decolonised states attempted to use sovereignty to assert economic self-determination through the proposed New International Economic Order in the 1970s (United Nations 1974), only for a Washington Consensus driven model of FDI to be adopted instead. The Washington Consensus, promoted by institutions including the International Monetary Fund and World Bank, required developing countries to open their markets to foreign investment, reduce government regulation, and privatise state assets in exchange for access to capital — effectively imposing a market ideology on developing economies and undermining their genuine economic sovereignty (Guntrip 2016). Decades of unequal power relations have left developing states structurally dependent on foreign capital in ways that limit their real capacity to enforce standards against corporations, meaning the enforcement gap is as much a product of history as it is of present-day political choices.

While recent reforms to international economic law have begun to reassert developing countries' right to regulate MNC activities for legitimate social purposes, this reassertion remains incomplete and contested, with powerful economic interests continuing to resist meaningful state regulation of corporate behaviour (Georgieva 2025). Even where developing states attempt to use their sovereignty to regulate corporations, they face significant pushback from international economic frameworks that have historically prioritised investment liberalisation — the process of reducing or removing government restrictions on foreign investment, making it easier for corporations to operate across borders with fewer regulatory constraints — over state regulatory authority (Guntrip 2016; Lin 2006).

Hall (2010) provides another crucial insight, establishing that the international system's non-interference principle means no outside body can actually force a country to comply with human rights obligations, and that enforcement ultimately depends on whether states choose to cooperate. When this is combined with the economic reality that states in the Global South face structural incentives to attract FDI that make enforcement of human rights standards against corporations politically costly, the result is a system in which accountability is systematically undermined regardless of how well designed the frameworks on paper are. Therefore, I argue and hypothesise that national sovereignty, operating in combination with the economic dependencies that characterise the Global South's relationship with foreign capital, is the primary structural reason why corporate human rights enforcement in the Global South consistently fails. It is not that rules do not exist, or that corporations are uniquely powerful, or that international frameworks are poorly designed. It is that the architecture of the international system, built around sovereignty and state consent, makes meaningful external enforcement largely unattainable, structurally, and the economic incentives facing Global South governments make meaningful internal enforcement politically unlikely.

METHODOLOGY

This research relies on a qualitative literature review and thematic case analysis as its primary methodology. Rather than collecting original data, it synthesises existing peer-reviewed academic scholarship across economics, political science, and international law to build a structured argument in response to the research question. The paper does not use quantitative data, statistical modelling, or surveys.

Sources were identified through three channels: the works cited pages of the three foundational papers anchoring the literature review, peer-reviewed academic articles retrieved using search terms including "national sovereignty corporate human rights enforcement," "FDI developing countries labour standards," "MNC labour standards Global South," and "sovereignty non-interference human rights," searched on databases including NBER, JSTOR, Cambridge Core, ResearchGate, and Emerald Insight. Sources were selected solely on the basis of their direct relevance to the three thematic areas of the paper and were not selected to confirm the hypothesis in advance.

The paper draws on thirteen academic sources in total. For the economics and labour standards themes, these are Brown, Deardorff and Stern (2004), Quinlivan (2000), Mintz-Habib (2009), Rodrik (1999), Moran (2002), Chan and Ross (2003), Srinivasan (1998), and Elliott and Freeman (2001). For the sovereignty and international law themes, the sources are Hall (2010), Akani (2019), Guntrip (2016), Lin (2006), and Georgieva (2025).

To ground the theoretical argument in concrete real-world examples, the paper analyses three case studies of documented corporate human rights enforcement failure in the Global South. Case studies were identified through the Business and Human Rights Resource Centre database, Amnesty International reports, UN agency reports, and academic literature on corporate accountability. Selection criteria required each case to involve a named multinational corporation, a specific Global South country, documented human rights violations, a clear and evidenced record of enforcement failure, and identifiable domestic laws and international treaties that were violated but not enforced. The three cases selected are: mica mining in Jharkhand and Bihar, India (2014 to present), involving documented child labour in illegal mines supplying major cosmetics and automotive brands with no resulting corporate prosecution; Shell's oil operations in the Niger Delta, Nigeria (1990s to present), involving decades of environmental destruction, the execution of activists, and a formal African Commission ruling that Nigeria never complied with; and Chiquita Brands' banana operations in Colombia (1997 to 2004), involving documented payments to a US-designated terrorist paramilitary group with no domestic prosecution by the Colombian state, and accountability emerging only through home-state legal mechanisms in the United States.

The analysis conducted across both the literature review and the case studies is qualitative and thematic. The paper looks for recurring patterns in the language and conclusions of the academic sources, specifically identifying whether enforcement failure is consistently located at the point where international standards require domestic state action, and whether economic incentives are identified as the primary reason states fail to act. In practical terms, this means searching each source for language indicating that states lack political will to enforce standards, that economic incentives such as FDI attraction override enforcement, that international frameworks are non-binding or voluntary and therefore ineffective, or that enforcement failure persists despite the existence of applicable laws. In the case studies, the same pattern is applied: the paper identifies whether laws and treaties existed that should have compelled action, and whether enforcement failure can be traced to state-level choices driven by economic dependency rather than an absence of applicable rules. Where such state-level choices are identified, they are treated as direct expressions of the national sovereignty principle, which is the exercise of a state's autonomous right to govern within its own borders, including the right to determine whether and how international obligations are enforced domestically.

The hypothesis is only considered supported if the majority of sources identify state-level political will or economic incentives as the primary determinant of enforcement outcomes, and if all three case studies demonstrate enforcement failure despite the existence of applicable domestic and international legal obligations. The hypothesis is considered partially supported if sovereignty is identified as a contributing but not primary factor. It is considered unsupported if sources consistently identify corporate

self-regulation, international pressure, or framework design failures as the dominant explanation for enforcement gaps. This threshold is set in advance to ensure the analysis does not rely on the personal judgement of the author and confirmation bias, but on a consistent and transparent standard applied equally across all sources and cases.

ANALYSIS

The pattern that emerges across the literature is not one of absent rules or poorly designed frameworks. International standards exist. The ILO Declaration, WTO labour provisions, and UN Guiding Principles on Business and Human Rights all set out clear expectations for how corporations should behave and how states should hold them accountable (ILO 1998; WTO 1996; United Nations 2011). And yet conditions for workers in the Global South remain consistently poor, and accountability for corporations consistently fails to materialise. The question is not whether rules exist. It is why, given that they do, enforcement so reliably breaks down at the same point.

Brown, Deardorff and Stern (2004) find that MNC-employed workers tend to earn higher wages than those in domestic employment, and Quinlivan (2000) argues that accusations of exploitation are largely exaggerated, with FDI generally improving welfare in host countries. Neither paper identifies the absence of rules as the reason enforcement fails. What both papers reveal is that outcomes depend heavily on factors that are institutional and political rather than corporate. Brown, Deardorff and Stern (2004) note that mandating higher wages risks prompting firms to relocate production to cheaper locations — states cannot enforce standards against corporations without risking the loss of the investment their economies depend on. The enforcement gap is not a regulatory gap. It is a political one.

Mintz-Habib (2009) makes this more explicit. MNC investment flows selectively to a small number of fast-growing developing countries, leaving much of the Global South largely unaffected, and even where MNCs are present, labour outcomes are mediated by a complex web of actors including governments, trade unions, NGOs, the WTO, and the ILO. Mintz-Habib (2009) characterises the ILO as lacking any real enforcement power, with member states able to ratify conventions without facing any consequences for non-compliance. The ILO's inability to compel compliance is not a design flaw. It is a structural consequence of the non-interference principle, which prevents any outside body from overriding domestic state decisions. The enforcement gap exists because accountability is routed through states that have no binding obligation to act, and in the Global South, strong economic reasons not to.

Rodrik (1999) finds a robust and statistically significant positive relationship between democratic institutions and wages, even after controlling for labour productivity and income levels, and the association holds both across countries and over time within countries. Political institutions, not framework quality or corporate conduct, are the primary determinant of whether workers are protected. In countries where governments actively choose to regulate and enforce labour standards, workers are better protected. In countries where governments prioritise attracting investment over enforcement, they are not.

The enforcement gap maps onto the governance gap, and the governance gap is a product of how states choose to exercise their sovereign authority domestically.

Moran (2002) finds that host government policy choices are the decisive factor in determining whether FDI improves or worsens conditions for workers. Governments that actively set and enforce conditions on foreign investment such as minimum wage requirements, workplace safety standards, and collective bargaining rights see consistently better wages and labour protections for workers than governments that attract investment primarily by offering low labour costs and weak enforcement of existing laws. Governments choose not to enforce standards because doing so undermines their competitive position in attracting FDI, and sovereignty means no outside body can override that choice. Chan and Ross (2003) show that South-South competition, where developing countries undercut each other to attract the same pool of foreign investment, drives a structural race to the bottom in wages and standards. Every state that lowers its standards to attract investment is exercising its sovereign right to set domestic policy. Every state that declines to enforce human rights standards against a foreign corporation is exercising its sovereign right to determine how international obligations are implemented domestically. The cumulative effect of these individually sovereign choices is a system in which global enforcement is structurally near impossible, because achieving it would require states to collectively subordinate their sovereign authority to an external enforcement mechanism — something the sovereignty principle, by design, makes impossible. Each state retains the right to determine how international obligations are implemented within its own borders, meaning no single state can be compelled to enforce standards it has chosen to deprioritise, and no global body has the authority to override that choice. The result is a race to the bottom: as developing countries compete with each other to attract the same pool of foreign investment, each has an incentive to offer cheaper labour and weaker protections than its neighbour, because enforcing standards risks losing investment to a country that does not. Every state would need to enforce simultaneously for this dynamic to stop, but sovereignty ensures that each state makes that decision independently, based on its own economic interests, with no external mechanism capable of compelling the coordinated action that would be required to break the cycle.

Srinivasan (1998) adds that focusing on MNC wage standards misses far larger structural problems including trade barriers, domestic corruption, and governance failures that affect considerably more people than MNC labour practices ever could. Elliott and Freeman (2001) find that consumer pressure and activist campaigns are inherently limited, reaching only the most visible firms and dependent on sustained public attention. Every alternative to state enforcement that has been tried consumer activism, voluntary corporate codes, international monitoring has proven insufficient because none of it can replicate the binding authority that only states possess, and states in the Global South have strong economic reasons not to exercise that authority against corporations.

Akani (2019) establishes that sovereignty gives each state supreme authority over its own territory and domestic affairs, and that what developing countries actually experience is not full sovereignty but sovereignty on dictated terms, shaped by the interests of more powerful states and international institutions. Even when developing states want to enforce human rights standards, their sovereignty is constrained by the economic and political demands of more powerful global actors, meaning enforcement

is blocked from both directions. Hall (2010) reinforces this, confirming that enforcement of human rights obligations depends entirely on whether states choose to cooperate, and that the international system has no mechanism to compel them when they do not.

Guntrip (2016) shows that newly decolonised states attempted to use sovereignty to assert economic self-determination through the proposed New International Economic Order in the 1970s (United Nations 1974), only for a Washington Consensus driven model of FDI to be adopted instead, effectively imposing a market ideology on developing economies and undermining their genuine economic sovereignty. Decades of unequal power relations have left developing states structurally dependent on foreign capital in ways that limit their real capacity to enforce standards against corporations. The enforcement gap is as much a product of history as it is of present-day political choices. Lin (2006) argues that the tension between attracting FDI and protecting economic sovereignty is one of the central challenges facing developing countries, and that fear of compromising sovereignty in investment negotiations makes governments reluctant to deploy that sovereignty against corporations. Georgieva (2025) confirms that even recent attempts to reassert developing states' regulatory authority over MNCs remain incomplete and contested, with powerful economic interests continuing to resist meaningful state regulation of corporate behaviour.

Across all thirteen sources, enforcement failure is located at the level of domestic state action rather than at the level of framework design or corporate behaviour. States in the Global South consistently fail to enforce applicable international standards against corporations, and the primary reason is not an absence of rules but an absence of political will driven by economic incentives. Every source that engages with enforcement failure, whether from an economics, political science, or legal perspective, identifies state-level choices as the determining variable.

In India, the enforcement failure cannot be attributed to an absence of applicable law. India's Child Labour (Prohibition and Regulation) Act 1986 (Government of India 1986, amended 2016), the Mines Act 1952 (Government of India 1952), ILO Convention No. 182 (ILO 1999), the UN Convention on the Rights of the Child (United Nations 1989), and the UN Guiding Principles on Business and Human Rights (United Nations 2011) all provided a clear legal basis for action. The violations were documented and publicly reported from 2014 onward by DanWatch, Al Jazeera, and the Business and Human Rights Resource Centre. Children as young as five were found working in unlined mine shafts, earning approximately 50 rupees per day (equivalent to \$0.52 USD) while the mica they extracted sold for over \$1,000 per kilogram at wholesale (DanWatch 2014; Ethical Consumer 2022). At least seven child deaths from mine collapses were reported in a three-month period in 2017, with investigators noting the true figure was likely considerably higher (Upstream Journal 2023). The Jharkhand state government's response was to consider legalising the illegal mines rather than closing them, a decision consistent with the economic dependence of the region on mica revenues and government sensitivity to FDI flows (Reuters 2021). MNCs cited supply chain opacity as a reason they could not be held responsible, arguing they could not trace mica beyond their direct suppliers. No corporation faced legal prosecution. The Responsible Mica Initiative, launched in 2017 and backed by L'Oreal, Estée Lauder, and Merck among others, set a target of eradicating child labour by 2022. That target was not met. By 2022, five third-party

supply chain audits had been conducted across the entire industry (Ethical Consumer 2022). As of 2024, approximately 10 percent of India's mica mining workforce still comprises children, and the eradication target has been extended to 2030 (Responsible Mica Initiative 2022). The pattern is consistent with what the literature identifies as the primary driver of enforcement failure: the Indian government possessed the legal authority to act and chose not to, for reasons traceable to the economic incentives that sovereignty allows it to act on without external consequence.

In Nigeria, the same pattern is evident. Shell's subsidiary, Shell Petroleum Development Company of Nigeria Limited, operated in a joint venture with the Nigerian National Petroleum Corporation, meaning the Nigerian government was a direct financial beneficiary of Shell's operations. Following decades of oil spills, gas flaring, and environmental degradation across Ogoniland, the African Commission on Human and Peoples' Rights formally found Nigeria in violation of Articles 2, 4, 14, 16, 18(1), 21, and 24 of the African Charter in 2001 and issued a set of remedial orders, including stopping attacks on Ogoni communities, investigating violations, prosecuting responsible officials, compensating victims, and conducting a comprehensive clean-up of affected lands and waterways (African Commission on Human and Peoples' Rights 2001). Nigeria did not comply with any of these orders (Amnesty International 2020). Legal proceedings pursued through US courts under the Alien Tort Statute and through UK and Dutch courts were ultimately limited by jurisdictional constraints arising from the same sovereignty principle that prevented external compulsion of the Nigerian government domestically. Shell reached a settlement of \$84 million in the Bodo spill cases in 2015 without admitting liability (Al Jazeera 2015), and in 2023 announced the divestiture of its Nigerian onshore assets (BBC 2023). The enforcement failure in this case is not attributable to an absence of applicable rules or unproven violations. The African Commission's 2001 ruling established both. What the case illustrates is that the Nigerian government's financial relationship with Shell through the NNPC joint venture created a direct economic incentive not to enforce the obligations it was legally and internationally bound to uphold, and that sovereignty meant no outside body could override that decision.

In Colombia, the same dynamic is evident, and confirms a pattern identified in the paper's conclusion: that when host states fail to enforce, accountability can only emerge through home-state mechanisms. Between 1997 and 2004, Chiquita Brands International, through its Colombian banana subsidiary Banadex, made over 100 payments totalling approximately \$1.7 million to the Autodefensas Unidas de Colombia (AUC) — a right-wing paramilitary organisation designated as a foreign terrorist organisation by the United States government in 2001 (US Department of Justice 2007). The AUC was responsible for the killings of thousands of Colombian civilians during the country's civil conflict, including trade unionists and banana workers in the regions where Chiquita operated. The payments were reviewed and approved by senior Chiquita executives, and continued for years after the AUC's designation as a terrorist organisation (US Department of Justice 2007). Colombia never prosecuted Chiquita. No domestic legal action was taken against the corporation for its role in financing a paramilitary group that terrorised the communities in which it operated. The applicable legal framework — including Colombia's own criminal law on financing illegal armed groups and international humanitarian law obligations — existed but was not enforced by the Colombian state (EarthRights International 2024). Accountability came entirely

through home-state mechanisms in the United States. In 2007, Chiquita pleaded guilty to a US federal criminal charge of engaging in transactions with a foreign terrorist organisation and agreed to pay a \$25 million fine (US Department of Justice 2007). In June 2024, a federal jury in West Palm Beach, Florida found Chiquita liable for the wrongful deaths of eight Colombian men murdered by the AUC and ordered the company to pay \$38.3 million in damages — the first time a US jury held a major American corporation liable for human rights complicity abroad (Associated Press 2024; EarthRights International 2024). The Colombian state's failure to pursue domestic accountability for Chiquita's role is directly traceable to the sovereignty dynamic this paper identifies: a government operating within the constraints of its own economic and political environment, with no outside body capable of compelling it to act against a major agricultural employer in a region where its political and economic footprint was substantial. The fact that justice ultimately arrived through US courts — not Colombian ones — is itself the most direct confirmation of the paper's central argument: enforcement depends on whether a state chooses to act, and when it does not, the sovereignty principle ensures it faces no external consequence.

Across all three cases, applicable laws and treaties existed, violations were documented, and enforcement failure was traceable to state-level choices driven by economic dependency. No source in the literature identifies corporate self-regulation, international pressure, or framework design failures as the dominant explanation for enforcement gaps. The counter-argument that some MNCs voluntarily improve conditions, acknowledged in Quinlivan (2000) and Brown, Deardorff and Stern (2004), does not address the structural reason enforcement fails — the absence of any binding external mechanism capable of compelling compliance when states choose not to act. The counter-argument that MNC location decisions drive the race to the bottom, as Chan and Ross (2003) show, is a legitimate observation, but corporate behaviour and sovereignty constraints operate together to produce enforcement failure, with sovereignty being the condition that makes corporate behaviour difficult to regulate externally. On the basis of this analysis, the hypothesis is supported. National sovereignty, operating in combination with the economic dependencies that characterise the Global South's relationship with foreign capital, is the primary structural reason why corporate human rights enforcement in the Global South consistently fails.

CONCLUSION

This paper set out to ask to what extent national sovereignty hinders effective global enforcement of corporate human rights standards in the Global South. The existing scholarship establishes that MNC impact on labour standards is inconclusive and heavily mediated by political and institutional factors, that domestic governance matters more than corporate behaviour in determining whether workers are protected, and that international enforcement mechanisms consistently fail at the point where they require states to act. All three cases examined — mica mining in India, Shell's oil operations in Nigeria, and Chiquita Brands' operations in Colombia — show the same pattern: applicable laws existed, violations were documented, but enforcement did not follow, because the states responsible for acting had strong economic reasons not to. On the basis of this, the hypothesis is strongly supported. National sovereignty, operating alongside the economic dependencies that define the Global South's relationship with foreign

capital, is the primary structural reason why corporate human rights enforcement in the Global South consistently fails. However, this conclusion is grounded in a qualitative synthesis of thirteen academic sources and three illustrative case studies rather than a comprehensive cross-regional primary data collection, which is an empirical limitation of this paper.

The significance of this finding is that it reframes where the problem actually sits. If enforcement failed because rules were poorly designed or because specific corporations were uniquely bad actors, the fix would be relatively simple. What this paper finds is that the problem is deeper than that. As long as all corporate accountability is routed through individual states, and as long as those states face strong incentives to prioritise investment over enforcement, the gap between international standards and lived reality in the Global South will persist. Targeting individual brands, while important for public awareness, also does not address that structural reality. The architecture of the international system itself is what produces the enforcement gap, and that is what needs to change.

What that change looks like in practice is a harder question. Binding treaty mechanisms that impose legal obligations on both states and corporations beyond what domestic political choices can override represent the most direct response to the problem identified here. Regional enforcement bodies with genuine sanctioning authority offer another route. Supply chain due diligence legislation in consumer countries (shifting enforcement responsibility to the home states of MNCs rather than the host states in the Global South) is a third (French Republic 2017; Federal Republic of Germany 2021). Chiquita's operations in Colombia are instructive here: the only accountability the company faced came through US home-state jurisdiction, illustrating both the potential and the current limitations of this approach. Each of these approaches tries to close the gap by reducing how much accountability depends on the political will of states with the least incentive to act. Whether any of them are achievable within the current international system is an open question this paper does not attempt to answer, but identifying sovereignty as the structural barrier is the necessary starting point.

Future research could build on this in several directions. A systematic cross-country analysis of enforcement outcomes against sovereignty and FDI indicators would give the pattern identified here a stronger empirical foundation. Comparative research into cases where enforcement did succeed, where a Global South government acted against a corporation despite economic pressure, could illuminate what conditions make enforcement more likely. Research into the early effects of supply chain due diligence legislation would test whether shifting responsibility to home states actually produces better outcomes. Each of these directions would move the conversation from documenting the problem toward identifying what might realistically change it.

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