

Governance through Law and Equity: Codifying Human Rights and Fair Labor Standards Directly into

Corporate Due Diligence Laws

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Kariuki Muigua*

Abstract

This paper discusses how the ideal of good governance can be achieved in the corporate world. The paper observes that promoting good corporate governance is necessary towards ensuring that corporations are run efficiently, effectively, ethically and transparently towards Sustainable Development. However, the paper notes that achieving good governance remains a challenge in the corporate world. It highlights some of the governance challenges facing corporation. Due to governance risks and concerns facing corporations, the paper posits that it has become increasingly necessary to strengthen corporate governance through law and equity. In particular, the paper observes that development and implementation of corporate due diligence laws is vital towards promoting good corporate governance for Sustainable Development. The paper discusses how human rights and fair labor standards can be codified directly into corporate due diligence laws towards strengthening corporate governance through law and equity.

1.0 Introduction

Good governance plays a key role in promoting sustainability. For instance, good governance ensures the presence of effective legal, institutional, policy and ethical frameworks needed to implement Sustainable Development objectives¹. It has been observed that effective governance institutions, processes and systems that are responsive to public needs deliver essential services and promote inclusive and sustainable growth². Good governance includes transparent, accountable, and democratic institutions and processes that can unlock Sustainable Development Goals (SDGs) at all levels³.

Strengthening governance at all levels is therefore important towards achieving Sustainable Development. In particular, good governance plays an important role in achieving sustainability by establishing the rules and regulations that guide behavior and shape outcomes; stipulating environmental laws, policies, regulations and institutions that promote sustainable practices; and

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¹ United Nations., 'Good Governance in Sustainable Development' Available at <https://sdgs.un.org/partnerships/good-governance-sustainable-development> (Accessed on 25/09/2026)

² United Nations Development Programme., 'Governance for Sustainable Development: Integrating Governance in the Post-2015 Development Framework' Available at <https://www.undp.org/sites/g/files/zskgke326/files/publications/Discussion-Paper--Governance-for-Sustainable-Development.pdf> (Accessed on 25/09/2026)

³ Ibid

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fostering accountability and transparency in decision-making processes⁴. Good governance entails several elements including participation, respect for the rule of law, promotion of human rights, transparency, responsiveness, consensus building, accountability, equity, inclusiveness, effectiveness and efficiency which all play a key role in the global quest for sustainability⁵.

The role of good governance as a driver for sustainability is enshrined under the United Nations 2030 Agenda for Sustainable Development⁶. In order to achieve Sustainable Development, SDG 16 requires states to promote peaceful and inclusive societies, provide access to justice for all and build effective, accountable and inclusive institutions at all levels⁷. SDG 16 recognizes that tenets of good governance including adherence to the rule of law; equal access to justice for all; effective, accountable and transparent institutions at all levels; responsive, inclusive, participatory and representative decision-making at all levels; public access to information; and protection of human rights are essential in achieving Sustainable Development⁸.

Good governance is a cross-cutting theme that applies in both public and private spheres. For instance, through good corporate governance, corporations can support economic growth, social equity and environmental protection towards sustainability⁹. It has been observed that by embracing the tenets of good governance, corporations can promote ethical behaviour, manage both internal and external risks effectively and enhance their reputation towards long-term success and sustainability¹⁰. In particular, embracing the tenets of good governance in the private sphere is crucial in light of the negative impacts of corporations on human rights and the environment¹¹.

This paper discusses how the ideal of good governance can be achieved in the corporate world. The paper observes that promoting good corporate governance is necessary towards ensuring that corporations are run efficiently, effectively, ethically and transparently towards Sustainable

⁴ Ramzy. O et al., 'Sustainable Development & Good Governance.' *European Journal of Sustainable Development* (2019), 8, 2, 125-138

⁵ Ibid

⁶ United Nations General Assembly., 'Transforming Our World: the 2030 Agenda for Sustainable Development.' 21 October 2015, A/RES/70/1., Available at <https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda%20for%20Sustainable%20Development%20web.pdf> (Accessed on 25/09/2026)

⁷ Ibid

⁸ Ibid

⁹ Organisation for Economic Co-operation and Development., 'OECD Principles of Corporate Governance.' Available at <https://www.oecd.org/daf/ca/Corporate-Governance-Principles-ENG.pdf> (Accessed on 25/09/2026)

¹⁰ What is corporate governance? The 2025 guideline., Available at <https://www.imd.org/blog/governance/what-is-corporate-governance/> (Accessed on 25/09/2026)

¹¹ Sozinova. A et al, 'Economic Environmental Activities of Russian Corporations' *International Journal of Economics and Financial Issues*, Volume 6, Issue 1, 2016, p. 52-56.

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Development. However, the paper notes that achieving good governance remains a challenge in the corporate world. It highlights some of the governance challenges facing corporations. Due to governance risks and concerns facing corporations, the paper posits that it has become increasingly necessary to strengthen corporate governance through law and equity. In particular, the paper observes that development and implementation of corporate due diligence laws is vital towards promoting good corporate governance for Sustainable Development. The paper discusses how human rights and fair labor standards can be codified directly into corporate due diligence laws towards strengthening corporate governance through law and equity.

2.0 Role of Good Governance in Promoting Corporate Sustainability

Due to the vital role that corporations play in the global economy, ensuring corporate sustainability is a prerequisite towards transforming how corporations are directed and controlled towards Sustainable Development. Corporate sustainability involves balancing the desire for profitability in companies with societal Sustainable Development needs including long-term economic growth, environmental protection and social responsibility¹². Corporate sustainability has also been described as an approach of conducting business that creates sustainable, long-term shareholder, employee, consumer, and societal value¹³. It has been observed that corporate sustainability ensures that companies embrace responsible environmental, social, economic, and governance strategies thus supporting societal progress towards Sustainability Development¹⁴.

In particular, good governance is central to achieving corporate sustainability. It has been observed that since corporations possess vast powers in the modern global economy, good corporate governance is key towards building an environment of trust, transparency and accountability necessary for fostering long-term investment, financial stability and business integrity, thereby supporting stronger growth and more inclusive and prosperous societies¹⁵. By embracing tenets of good governance, corporations can not only boost their profitability and reputation but can also enhance benefits to other stakeholders including employees, customers, investors, the environment, local communities and the society at large¹⁶. Good governance can enhance corporate sustainability through effective and efficient management practices which

¹² Organisation for Economic Co-operation and Development., 'Corporate Sustainability' Available at <https://www.oecd.org/en/topics/sub-issues/corporate-sustainability.html> (Accessed on 26/09/2026)

¹³ Corporate Sustainability: Environmental, Social, and Economic Pillars., Available at <https://www.investopedia.com/articles/investing/100515/three-pillars-corporate-sustainability.asp> (Accessed on 26/09/2026)

¹⁴ Ibid

¹⁵ Organisation for Economic Co-operation and Development., 'OECD Principles of Corporate Governance.' Op Cit

¹⁶ What Is Corporate Sustainability? Why It Matters to Business., Available at <https://www.amu.apus.edu/area-of-study/business-administration-and-management/resources/what-is-corporate-sustainability/> (Accessed on 26/09/2026)

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positively affect the ecosystem, the community and economic development¹⁷. In addition, it has been correctly observed that by embracing the tenets of good corporate governance, corporations can promote ethical behaviour, manage both internal and external risks effectively and enhance their reputation towards long-term success and sustainability¹⁸. The fundamental elements of good governance in corporations include responsibility, transparency, accountability, responsiveness, equity, adherence to the rule of law, and environmental stewardship¹⁹.

Upholding good governance in businesses is therefore necessary towards promoting corporate sustainability. In particular, Environmental, Social and Governance (ESG) has emerged as a framework that can enable corporations to foster good governance for sustainability. ESG includes key elements around environmental and social impact, as well as how governance structures can be amended to maximize stakeholder well-being towards corporate sustainability²⁰. This concept takes the holistic view that sustainability extends beyond just environmental issues and incorporates social and governance aspects in the corporate sustainability discourse²¹. In general, ESG aims to integrate Environmental, Social and Governance factors in corporate policies, activities and decision-making processes in order to enhance the profitability, sustainability and social impact of corporations²². It has been argued that ESG plays a fundamental role in the corporate sustainability discourse since it provides a holistic framework that can enable companies to promote sustainable investments that generate long-term financial returns while also taking into account the social and environmental impacts of economic activities and promoting transparency and corporate responsibility²³.

In particular, the governance tenet of ESG is critical towards promoting good corporate governance towards Sustainable Development. This tenet seeks to inculcate the fundamental tenets of good governance such as transparency, accountability, rule of law, responsibility, shareholder rights, and board diversity into businesses towards achieving corporate sustainability²⁴. The governance pillar of ESG has been described as the oldest since governance

¹⁷ Boeva. B et al., 'Corporate Governance and the Sustainable Development.' *European Journal of Economics and Business Studies*, Volume 7, No. 1 of 2017

¹⁸ What is corporate governance? The 2025 guideline., Available at <https://www.imd.org/blog/governance/what-is-corporate-governance/> (Accessed on 26/09/2026)

¹⁹ Good Corporate Governance: The Importance and Key Benefits., Available at <https://www.dilitrust.com/good-governance-the-benefits/> (Accessed on 26/09/2026)

²⁰ Peterdy. K., & Miller. N., 'ESG (Environmental, Social, & Governance).' Available at <https://corporatefinanceinstitute.com/resources/esg/esg-environmental-social-governance/> (Accessed on 26/09/2026)

²¹ Ibid

²² Li. T.T et al., 'ESG: Research Progress and Future Prospects.' *Sustainability*, No. 13 of 2021

²³ The 3 pillars of Sustainability: Environmental, Social and Economic., Available at <https://www.enel.com/company/stories/articles/2023/06/three-pillars-sustainability> (Accessed on 26/09/2026)

²⁴ United Nations Development Programme., 'ESG: From Challenges to Opportunities' Available at <https://www.undp.org/belarus/stories/esg-challenges-opportunities> (Accessed on 26/09/2026)

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has been an integral part of robust investment for ages even before the rise of environmental and social movements²⁵. It has been argued that governance is one of the most important pillars of the ESG equation since it is prerequisite for achieving the entire spectrum of ESG goals²⁶. Good governance ensures that the right structures, processes, systems and policies are in place thus providing a platform towards achieving ESG goals for people and planet.

Good governance is therefore a prerequisite towards ensuring corporate sustainability. In particular, realising the governance tenet of ESG provides a pathway that can enable corporations to meet their obligations to both people and planet. However, ensuring good governance remains a challenge for corporations all over the world. For example, challenges such as corruption, lack of board diversity, weak transparency and accountability mechanisms, and failure to embrace Corporate Social Responsibility (CSR) undermine good corporate governance²⁷. In addition, due to poor governance policies and practices, the activities of corporations are increasingly violating human and environmental rights. It has been observed that corporations can undermine human and environmental rights including through unfair and discriminatory labour practices, land injustices such as displacement of indigenous and local populations to support corporate development activities, and environmental harm and pollution due to unsustainable development and resource extraction²⁸.

In light of the foregoing, it is imperative to incorporate good governance in corporations through law and equity towards upholding corporate sustainability for the benefit of the economy, environment and society.

3.0 Codifying Human Rights and Fair Labor Standards Directly into Corporate Due Diligence Laws

Ensuring good corporate governance is a key global priority towards promoting corporate sustainability. In particular, due to governance challenges facing corporations all over the world, it has been necessary to promote good corporate governance through law and equity. Law is a key tool towards ensuring good corporate governance through binding rules, policies, practices and processes that can ensure that corporations are directed, controlled and managed in accordance with fundamental tenets of good governance including transparency, accountability,

²⁵ Muigua. K., 'Embracing Environmental, Social and Governance (ESG) Principles for Sustainable Development in Kenya.' Available at <https://kmco.co.ke/wp-content/uploads/2022/07/Embracing-ESG-Principles-for-Sustainable-Development-in-Kenya.pdf> (Accessed on 26/09/2026)

²⁶ World Economic Forum., 'Why Sustainable Governance and Corporate Integrity are Crucial for ESG' Available at https://www.weforum.org/agenda/2022/07/the-g-in-esg-3-ways-to-not-missit/?DAG=3&gclid=CjwKCAjw5MOlBhBTEiwAAJ8e1q7lLuk_egfH4cyQe8v1kIMLHVQXfYG6_juEF202fNzXAhU7B25YlxC7Z0QAvD_BwE (Accessed on 26/09/2026)

²⁷ Filatotchev, I. & Stahl, G. K., 'Towards Transnational CSR. Corporate Social Responsibility Approaches and Governance Solutions for Multinational Corporations.' *Organizational Dynamics*, Volume 44, No.2

²⁸ Amnesty International., 'Corporations' Available at <https://www.amnesty.org/en/what-we-do/corporate-accountability/> (Accessed on 26/09/2026)

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responsibility, risk management, equity, diversity and human rights²⁹. It has been observed that law translates ethical guidelines into mandatory legal obligations that can ensure that corporations uphold the elements of good governance³⁰. Law ensure that companies operate in a transparent, accountable, equitable and responsible manner with emphasis on protecting the interests of shareholders, stakeholders, the environment, and society³¹.

Law and equity can therefore enhance good corporate governance towards Sustainable Development. In particular, corporate due diligence laws have emerged as a defining feature that is enhancing corporate governance through law and equity. For instance, corporate due diligence laws are being enacted all over the world requiring companies to address concerns such as the potential for human rights abuses and environmental damage across their activities and supply chains³². It has been observed that corporate due diligence laws, especially Human Rights and Environmental Due Diligence Laws (HREDD), are playing a key role in moving away from voluntary expectation of business responsibility to mandatory requirements on human rights, fair labor standards and environmental conservation³³. Corporate due diligence laws including HREDD are envisaged under the *United Nations Guiding Principles on Business and Human Rights*³⁴ which recognize the role of businesses to uphold human rights including fair labor standards. In order to meet their responsibility to respect human rights, the Guiding Principles require business enterprises to have in place laws, policies and processes appropriate to their size and circumstances, including a policy commitment to meet their responsibility to respect human rights³⁵; a *human rights due diligence* process to identify, prevent, mitigate and account for how they address their impacts on human rights³⁶; and processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute³⁷. The United Nations Guiding Principles on Business and Human Rights therefore envisage the use of corporate due

²⁹ Institute for Research on Labor and Employment, 'Law and Corporate Governance' Available at <https://irle.berkeley.edu/wp-content/uploads/2005/03/Law-and-Corporate-Governance.pdf> (Accessed on 26/09/2026)

³⁰ Role of Law in Corporate Governance, Available at <https://www.open.edu/openlearncreate/mod/page/view.php?id=225132> (Accessed on 26/09/2026)

³¹ Ibid

³² European Commission, 'Corporate Sustainability Due Diligence' Available at https://commission.europa.eu/topics/business-and-industry/company-law-and-corporate-governance/corporate-sustainability-due-diligence_en (Accessed on 26/09/2026)

³³ British Institute of International and Comparative Law, 'Towards New Human Rights and Environment Due Diligence Laws: Reflections on Changes in Corporate Practice' Available at <https://www.biicl.org/publications/towards-new-human-rights-and-environment-due-diligence-laws-reflections-on-changes-in-corporate-practice?cookieset=1&ts=1790410804> (Accessed on 26/09/2026)

³⁴ United Nations Guiding Principles on Business and Human Rights, Available at https://www.ohchr.org/sites/default/files/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf (Accessed on 26/09/2026)

³⁵ Ibid

³⁶ Ibid

³⁷ Ibid

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diligence laws including human rights due diligence towards ensuring respect for human rights incorporate activities.

Corporate respect for human and environmental rights is therefore no longer a voluntary obligation but a mandatory requirement towards corporate sustainability. Consequently, there is need to codify human rights including fair labor standards directly into corporate due diligence laws towards promoting corporate sustainability. Through this approach, it is possible to promote good corporate governance including through effective protection of human rights including labor rights, promoting sound environmental conservation for the benefit of present and future generations, and increased transparency, accountability, equity and efficiency in businesses³⁸. It has been observed that the United Nations Guiding Principles on Business and Human Rights provide a framework that can guide states to develop legally binding measures to protect human rights including fair labor standards in business activities since voluntary measures continue to leave significant gaps in human rights protections³⁹.

Consequently, states can utilise the United Nations Guiding Principles on Business and Human Rights to codify human rights and fair labor standards directly into corporate due diligence laws including through the use of mandatory human rights due diligence (mHRDD). It has been observed that mHRDD are legally binding tools that require companies to actively assess, mitigate, and address human rights impacts in their activities⁴⁰. In addition, mHRDD can promote socially responsible and sustainable business practices that uphold both human and environmental rights⁴¹. States can therefore codify human rights and fair labor standards directly into corporate due diligence laws through mHRDD legislation towards strengthening corporate governance through law and equity.

4.0 Conclusion

Governance is a fundamental element of corporate sustainability. Due to the adverse impacts that businesses have on human and environmental rights, there is need to strengthen corporate governance through law and equity towards protecting people and planet. In particular, codifying human rights and fair labor standards directly into corporate due diligence laws provide a suitable approach towards promoting good corporate governance through law and equity⁴². In particular, states can utilise mHRDD frameworks towards codifying human rights

³⁸ European Commission., 'Corporate Sustainability Due Diligence' Op Cit

³⁹ Office of the United Nations High Commissioner for Human Rights., 'Mandatory human rights due diligence (mHRDD)' Available at <https://www.ohchr.org/en/special-procedures/wg-business/mandatory-human-rights-due-diligence-mhrdd> (Accessed on 26/09/2026)

⁴⁰ Transparency International Kenya., 'Human Rights Due Diligence Framework and Guidelines Toolkit (HRDD Toolkit)' Available at <https://tikenya.org/2025/04/03/human-rights-due-diligence-framework-and-guidelines-toolkit-hrdd-toolkit/> (Accessed on 26/09/2026)

⁴¹ Office of the United Nations High Commissioner for Human Rights., 'Mandatory human rights due diligence (mHRDD)' Op Cit

⁴² European Commission., 'Corporate Sustainability Due Diligence' Op Cit

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