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9–10 January 2026

Prestige Institute of Management and Research, Indore

Indian Journal of Law and Society proudly present this Special Issue as the publication partner of the conference.

21st Prestige International Conference on Management (PICOM 2026) on 'Resilient Leadership for Sustainable Growth'

(9–10 January 2026)

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21st Prestige International Conference on Management (PICOM 2026) on 'Resilient Leadership for Sustainable Growth'

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CONCEPT NOTE

The 21st Prestige International Conference on Management (PICOM 2026), hosted by Prestige Institute of Management and Research (PIMR), Indore, was held in hybrid mode on 09–10 January 2026 on the theme "Resilient Leadership for Sustainable Growth." The conference provided an international platform for academicians, industry leaders, researchers, and students to examine how resilience-oriented leadership agility, ethical governance, innovation, digital readiness, and sustainability integration enabled organizations to anticipate disruption, adapt under uncertainty, and deliver long-term stakeholder value. PICOM 2026 was positioned as a multi-disciplinary forum with tracks spanning HR, Finance, IT & Data Analytics, Economics, Operations/Operational Management, and Law, and it featured a Best Ph.D. Contest, a student presentation track, and a research workshop conclave on publishing in high-impact journals; submissions were intended to undergo structured peer review with publication avenues and recognition such as best paper presentation certificates, as stated by the organizers.

ABOUT THE INSTITUTION

Prestige Institute of Management and Research is a growth-oriented institution of professional education and training, established in 1994 with full-time MBA and BBA, and now offering a wide range of programmes including multiple MBA specialisations, BCA, B.Com. (Hons.), mass communication, foreign trade, and law degrees (BA LL.B. (Hons.), B.Com. LL.B. (Hons.), BBA LL.B. (Hons.), LL.B., LL.M.), along with a Ph.D. research centre in Management. It has been autonomous since 2006, is NAAC-accredited with 'A' grades in 2009 and 2014 and an 'A++' grade in 2021, is ISO 9001:2008 certified, is recognised by the UGC under 2(f) and 12(b), serves as a NAAC mentor institute under the UGC Paramarsh Scheme, and its MBA has been accredited by the NBA under AICTE (2000, 2003, 2012); it is also consistently ranked among leading business schools in national surveys by agencies such as Business Today, Cosmode, MHRD, Business India, and Outlook.

Indian Journal of Law and Society

PREFACE

Welcome to the Special issue (February 2026) of the Indian Journal of Law and Society [ISSN: 2583-9608]. The Indian Journal of Legal Studies (IJLS) is a prestigious double-blind peer-reviewed scholarly publication dedicated to advancing legal research and analysis. It is with great pleasure and enthusiasm that we present this platform for scholarly discourse and exploration of contemporary legal issues and their societal impact. As the founders of this journal, Gurudutt, Arvind, and Nishu Kumar, we aspire to create a space where scholars, practitioners, students and enthusiasts can engage in meaningful discussions and contribute to the development of a just and inclusive society.

This Special Issue was curated to strengthen rigorous, policy-relevant legal scholarship and to amplify research engaging directly with contemporary societal challenges. It was further enriched through an academic collaboration with the **21st Prestige International Conference on Management (PICOM 2026) on "Resilient Leadership for Sustainable Growth,"** which highlighted the importance of interdisciplinary engagement between law, governance, management, and sustainability. The issue brought together diverse voices and methodological approaches doctrinal, socio-legal, comparative, and interdisciplinary reflecting how law functions not only as a system of rules but also as a living institution shaping rights, institutions, markets, technology, and public welfare. Through careful editorial screening and a robust double-blind review process, the editorial team sought to uphold high scholarly standards, encourage clarity and originality, and publish work that advances both academic understanding and practical relevance.

The invitation extended to an IJLS representative to participate in the 21st Prestige International Conference on Management (PICOM 2026) on "Resilient Leadership for Sustainable Growth" provided a valuable opportunity to engage with an international scholarly and practitioner community and to situate legal inquiry within wider conversations on leadership, governance, and sustainable development. The collaboration highlighted that resilience is not solely a managerial capability but also a legal and institutional one shaped by regulatory design, crisis governance, corporate accountability, data protection and cybersecurity frameworks, ESG compliance, and ethical decision-making. Engagements with academicians, researchers, and practitioners reinforced the

value of creating credible publication pathways for interdisciplinary work and of transforming conference deliberations into enduring scholarly contributions. The representative *'s* participation also reaffirmed IJLS *'s* commitment to bridging disciplines and encouraging research that connects legal analysis with measurable societal outcomes.

Academic collaborations such as the engagement with the 21st Prestige International Conference on Management (PICOM 2026) on "Resilient Leadership for Sustainable Growth" play a critical role in advancing scholarship that is both credible and socially meaningful. Conference–journal partnerships create structured ecosystems where ideas are tested, refined, and strengthened through peer feedback, cross-disciplinary debate, and engagement with real-world challenges. Such collaborations broaden research horizons, improve methodological rigor, and cultivate networks that support co-authorship, thematic special issues, and long-term scholarly communities. In an era marked by climate risk, digital disruption, inequality, and evolving governance expectations, academic collaborations provide the connective tissue that enables integrated thinking and responsible, evidence-based solutions.

IJLS serves as a platform for presenting high-quality legal research by prioritizing originality, analytical depth, and scholarly integrity through a structured double-blind peer review process. The journal welcomes submissions that contribute to legal theory, doctrinal development, and socio-legal understanding, while also encouraging interdisciplinary scholarship that situates law within society, governance, technology, and public policy. Through initiatives, IJLS expands the visibility of meaningful research and supports the translation of conference insights into archival scholarship. In doing so, the journal offers authors a rigorous yet constructive publication pathway and provides readers with research that is methodologically sound, ethically grounded, and responsive to contemporary legal and societal debates.

With an esteemed editorial board comprising of Dr. Arun Verma, Dr. Alok Kumar, Dr. Gyandeep Chaudhary, Dr. Mithilesh Kumar Pandey, Dr. Avinash Kumar Pandey, Mr. Nishu Rai, Ms. Shubhangi Khandelwal and Mr. Gaurav Kumar, we have assembled a group of accomplished individuals who bring diverse perspectives and expertise to guide the journal's vision.

In this issue, we are privileged to feature twelve papers that explore a wide range of legal topics, showcasing the breadth and depth of contemporary legal scholarships. Each contribution provides unique insights and critical analyses, shedding light on significant issues that demand our attention and consideration.

Dr. Navneet Kaur's paper, "A Critical Analysis of Crisis Management and Institutional Resilience from the Perspective of Leadership in the Indian Scenario," argues that India*'s* crisis-response outcomes are weakened less by the absence of formal institutions and more by *leadership and design failures* within them especially leadership ambiguity, limited adaptive capacity, and weak psychological resilience during high-impact events. Using a doctrinal legal method, it critiques how the Disaster Management Act, 2005 framework (NDMA/SDMAs/NCMC) and related judicial approaches still permit fragmented coordination, unclear chains of command, and thin accountability standards, which become visible during disasters, industrial incidents, and public-health emergencies. The paper*'s* core thrust is that "institutional resilience" must be legally hard-wired through clearer role demarcation, decentralised decision-making, multi-stakeholder coordination, and leadership capacity-building that includes crisis communication and psychological-capital training so the Article 21 duty to protect life is operationalised, not merely stated.

Anam Mishra, Shaily Jain, and Nainika Gupta's paper, "Public-Private Partnerships as a Legal and Financial Tool for Sustainable Development and Social Equity," frames PPPs as a crucial mechanism for infrastructure and SDG delivery, but contends that India*'s* PPP ecosystem is undermined by a fragmented, guideline-driven regime rather than a coherent statute creating gaps in transparency, risk allocation, dispute resolution, and enforceable social/environmental safeguards. The authors highlight how model concession agreements often prioritise financial viability over equity and sustainability, while tools like EIAs become procedural formalities; this leads to outcomes such as weak community participation, land-acquisition conflicts, and affordability concerns. The paper ultimately recommends structural legal reforms stronger disclosure and oversight, rule-based renegotiation, improved institutional capacity, and embedding equity/affordability obligations directly into PPP contracting so that PPPs deliver inclusive development rather than uneven growth.

Rashi Vaidya and Tanishka Gora's paper, "Foreign Private Equity in Indian Healthcare: Rethinking PPP Models for Equity, Access, and Sustainability," examines how policy shifts

enabling 100% FDI under the automatic route especially post-2015 liberalisation for brownfield hospitals have accelerated foreign private equity control over major hospital chains and, in turn, stress-tested India*'s* healthcare PPP architecture. The authors argue that traditional PPP models (built for domestic trusts/family-run providers) are constitutionally and structurally misaligned when the dominant counterparty is financial capital with high return targets, because current concessions and approvals lack enforceable tools to prevent value-extraction practices that erode affordability and geographic equity. Anchored in Article 21 right-to-health jurisprudence (e.g., Paschim Banga), the paper calls for redesigning PPP and investment conditions to hard-wire access, pricing discipline, monitoring, and long-term sustainability so the State*'s* non-derogable welfare obligations are not diluted through delegation to profit-driven intermediaries.

Dr. Kawaljeet Kaur and Ms. Rajandeep Kaur's paper, "An Analysis of the Complex Framework of Corporate Accountability and Sustainable Development from the Perspective of Environmental Degradation in the Indian Scenario," argues that environmental harm from corporate activity persists in India not because law is absent, but because enforcement and accountability mechanisms remain structurally weak. Using doctrinal analysis of constitutional principles, environmental statutes, judicial decisions (including the evolving role of the NGT), and international sustainability commitments, the authors identify recurring gaps regulatory loopholes, disjointed governance, inadequate corporate disclosure, and a compliance-only mindset that treats sustainability as box-ticking rather than core governance. The paper concludes that meaningful corporate environmental responsibility requires tighter regulatory control, stronger transparency/reporting standards, clearer doctrines of liability, and closer alignment between domestic enforcement and international sustainability norms to prevent sustainable-development goals from being systematically undermined.

Ms. Gurleen Kaur's paper, "Protecting Human Rights in the Digital Era Through the Use of Artificial Intelligence and Privacy," analyses how AI-driven data practices especially profiling, biometric identification, and surveillance intensify privacy risks in ways that directly implicate human dignity, autonomy, and equality as human-rights concerns. The paper surveys key legal frameworks (international instruments, GDPR/AI Act references, Indian constitutional rights under Articles 14/19/21, and Indian privacy jurisprudence such as Puttaswamy) and argues that current protections often lag behind AI-specific harms due to enforcement and design gaps. It also emphasises that mitigating privacy risk is not only

legal but technical and ethical, highlighting privacy-preserving approaches like differential privacy and federated learning alongside governance principles such as transparency, fairness, and accountability. Overall, the author advocates a rights-based AI governance model that couples regulation with "privacy by design" and public digital literacy so innovation does not erode privacy as a fundamental right.

Utkarsh Mishra and Simran Bundela's paper, "Legal & Ethical Safeguard for Data Protection, Cybersecurity and AI Governance," argues that the scale of modern data generation and routine user/organisational negligence has pushed privacy and security into a high-risk zone where legal compliance alone is insufficient without ethical governance. The authors situate India*'s* baseline protections in the IT Act, 2000 (including compensation/penalties and confidentiality provisions) and press for stronger, regularly updated frameworks that regulate how data is collected, processed, and used especially as AI systems amplify risks like bias, opacity, privacy leakage, and societal harms. The paper treats data as a strategic asset ("new currency") and maps practical threat vectors cyberattacks, identity/financial fraud, reputational loss, and even national-security risks arguing for institutional oversight, secure processing standards, and clearer accountability across AI governance, cybersecurity, and data-protection regimes. In essence, it calls for resilient, adaptive state leadership that integrates legal and ethical safeguards to protect rights while sustaining innovation.

Abeer Tiwari and Atreya Deshpande's paper, "Beyond 2%: Technology-Driven CSR, BRSR and Environmental Accountability in Corporate India," examines how India*'s* mandatory CSR regime under Section 135 of the Companies Act, 2013 has reframed CSR from voluntary philanthropy into a statutory governance tool and asks whether this "2% spend" model actually produces *substantive* environmental outcomes rather than mere expenditure compliance. Using a doctrinal lens (statutes, case law, and corporate disclosures), the authors connect CSR*'s* environmental mandate (Schedule VII) with constitutional environmental principles and global commitments (SDGs/Paris Agreement), and then evaluate how regulatory instruments like the CSR Rules and SEBI*'s* BRSR can strengthen transparency and ESG comparability. The paper*'s* key claim is that while reporting and CSR spending have increased, environmental initiatives frequently remain short-horizon and low-impact due to weak monitoring, uneven enforcement, and the absence of uniform sustainability metrics so it proposes reforms focused on impact assessment standards, stronger verification, and incentivising "technology-driven CSR"

(clean energy, water, circular economy, R&D/incubators) to reduce greenwashing and better align CSR with India*'s* climate-governance agenda.

CS Shraddha Jain and Dr. Rajendra Kumar Meena'*s* paper, "Oppression, Mismanagement, and the Role of Class Actions in Strengthening Corporate Governance in India," critiques the real-world limits of minority-shareholder protection under the Companies Act, 2013 by contrasting the traditional oppression/mismanagement remedies (Sections 241–244) with the newer but underutilised class action mechanism under Section 245. The authors argue that minority shareholders remain structurally "passive" in promoter-dominated Indian companies, and that relief under Sections 241–242 is often constrained by high thresholds, tribunal discretion, and procedural delays, which collectively blunt enforcement against governance abuse. They position Section 245 as conceptually transformative because it can enable collective enforcement against companies, directors, auditors and advisors, but show why it has remained largely aspirational: numerical eligibility barriers, procedural ambiguity, lack of litigation funding, scarce precedent, and low investor awareness. Drawing comparative insights from the US/UK, the paper recommends streamlining thresholds and procedure, strengthening NCLT capacity, enabling funding/associations, and improving investor education so class actions become a practical accountability lever that complements regulators and deepens shareholder democracy.

Sreelekshmi R and DhanushaNayan J P'*s* paper, "Whistle Blower Protection in Private Sector: Relevance in Ensuring Ethical Leadership," argues that India*'s* whistleblowing ecosystem remains disproportionately "public-sector centric," leaving private-sector employees especially in high-impact domains like finance, healthcare and IT exposed to retaliation risks that suppress disclosure of fraud, corruption and unethical conduct. The authors frame whistleblower protection as both a legal and organisational-behaviour problem: even where written policies exist (safe reporting channels, non-retaliation clauses), they often fail without credible ethical leadership and a workplace climate that reduces fear and stigma. The paper links ethical leadership to stronger internal reporting culture, better risk management, and early detection of wrongdoing (before it becomes systemic), and emphasises that law alone cannot deliver protection if organisational culture punishes dissent. Overall, it calls for a balanced model combining legal safeguards with robust internal compliance architecture, leadership-driven integrity norms, and

enforceable anti-retaliation mechanisms so whistleblowing becomes a proactive governance strategy rather than a risky last resort.

Tanushree Gupta and Dr. Khushboo Natholia's paper, "BRSR and Corporate Liability: A Critical Appraisal," evaluates SEBI*'s* 2021 Business Responsibility and Sustainability Reporting (BRSR) framework as a major shift from voluntary, inconsistent BRR disclosures toward mandatory ESG reporting for the top 1000 listed companies but questions whether BRSR creates *real* accountability or mostly a disclosure culture. The authors argue that the framework*'s* heavy reliance on self-reporting, limited assurance requirements, and weak penalty architecture can incentivise selective disclosure and greenwashing, making "transparency" an inadequate substitute for enforceable liability. They explore how BRSR could interact with Companies Act duties (especially Section 166 directors' duties) and evolving environmental liability jurisprudence, suggesting that courts may eventually treat BRSR statements as evidentiary representations in disputes about due diligence, misrepresentation, and breach of fiduciary duty though the absence of an explicit statutory bridge makes this uncertain and case-specific. The paper closes with reforms aimed at independent audits/assurance, clearer enforcement pathways, and stronger legal integration between ESG reporting and substantive corporate liability to ensure sustainability disclosures translate into measurable responsibility.

Ms. Geeti Dwivedi and Dr. Sunita Arya's paper, "State Land Alienation Laws and Customary Rights: Conflict and Convergence in Tribal Panchayats of Western Madhya Pradesh," analyses the persistent gap between formal legal protections against tribal land alienation and the on-ground reality in western Madhya Pradesh (notably districts like Jhabua, Alirajpur and Dhar), where indirect dispossession continues despite statutory restrictions. The authors map conflicts between state land regimes (including the Madhya Pradesh Land Revenue Code, 1959) and the lived customary tenure systems of tribal communities, while also examining "convergence points" through participatory institutions like Gram Sabhas and Panchayati Raj bodies, especially under frameworks like the Forest Rights Act, 2006. Their core finding is that poor enforcement, weak recognition of customary tenures, and administrative workarounds enable alienation through informal transfers and record manipulation so the protective promise of state law often fails in practice. The paper argues that empowering Gram Sabhas as genuine gatekeepers, harmonising statutory rules with customary governance, and strengthening

participatory adjudication are essential for long-term land security and rights-realisation in Scheduled Areas.

Isha Jain and Dr. Jyoti Panchal Mistri's paper, "Cyber Crime and Cyber Security: Legal Challenges and Policy Responses," surveys the escalation of cybercrime alongside India*'s* deepening digitisation (e-commerce, online banking, e-governance, social media), and contends that cyber offences are structurally harder to police because they are anonymous, fast-moving, technologically adaptive, and often transnational. The authors outline major cybercrime forms (hacking, malware/ransomware, phishing/social engineering, identity theft and online fraud) and stress how user negligence and low awareness expand the attack surface making cybersecurity as much a behavioural/public-awareness challenge as a technical one. Legally, the paper argues that India*'s* framework (centred on the IT Act, 2000 and related instruments) faces persistent lacunae because offence-techniques evolve faster than statutory updates and enforcement capacity, producing gaps in deterrence and victim redress. It concludes by calling for a more comprehensive and continuously updated policy architecture combining legal reform, stronger enforcement capability, institutional coordination, and sustained digital literacy/awareness programs to build a secure and trustworthy digital ecosystem.

These contributions exemplify the caliber and diversity of scholarship that the Indian Journal of Law and Society aim to promote. By publishing rigorous research, thought-provoking analyses and innovative perspectives, we hope to contribute to the development of legal theory, practice, and policy.

We extend our heartfelt gratitude to the authors for their invaluable contributions and commend them for their dedication to advancing legal scholarships. We would also like to express our appreciation to our esteemed editorial board members and reviewers for their support, encouragement and scholarly comments. As we embark on this journey with the Indian Journal of Law and Society, we invite all legal scholars, practitioners, and students to actively engage with the journal, submitting their research, sharing their insights, and joining us in shaping the discourse on law and society in India and beyond.

Gurudutt, Arvind and Nishu Kumar
Founders, Indian Journal of Law and Society

Indian Journal of Law and Society

EDITORIAL BOARD MEMBERS

with professional contributions including advisory and research roles linked to parliamentary work and Transparency International.

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A CRITICAL ANALYSIS OF CRISIS MANAGEMENT AND INSTITUTIONAL RESILIENCE FROM THE PERSPECTIVE OF LEADERSHIP IN THE INDIAN SCENARIO

By Dr. Navneet Kaur[*]

ABSTRACT

The growing vulnerability of India to natural catastrophes, population health crises, and industrial disasters has added pressure on the crisis governance and leadership systems. Even though there are elaborate statutory mechanisms provided under the Disaster Management Act, 2005, there are still serious institutional and leadership failures in the event of high-impact crises. This paper looks at the role of leadership ambiguity, poor adaptive capacity and poor psychological resiliency in undermining the institutional effectiveness in managing crisis in India. It takes the approach of doctrinal research of law in order to study statutory frameworks on crisis response including the Disaster Management Act, 2005, operation of the National Disaster Management Authority, State Disaster Management Authorities and the National Crisis Management Committee as well as judicial response to significant crises such as industrial disasters and emergency in relation to health. The review shows that there are structural deficiencies in statutory interpretation, coordination requirements and accountability arrangements that lead to fragmented crisis governance. The article is an addition to the study of law, combining leadership theory and crisis law, constitutional requirements pursuant to Article 21 and administrative responsibility principles. It proposes a rebalanced legal policy that entrenches adaptive leadership, decentralized power, and multi-stakeholder coordination in the crisis management regime in India.

Keywords: Crisis Management; Disaster Law; Institutional Resilience; Leadership; India.

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I. Introduction

In India, the reaction to crisis management is getting increasingly complex during recent decades as it depends on the confluence of socio-economic gaps, rapid population growth, climate-related disasters, technological hazards, and the problems relating to the governance. The occurrence in India is very diverse in recurrent crises like cyclones, floods, droughts, pandemics, industrial accidents and conflicts, border conflict, and institutional collapses and failures. Factors inherent in these crises point to incompatibility on the rate at which these risks are altering and the capacity of institutions and leadership to adjust to these changes. The increasing risk of climatic events and the peculiarities of the ecological region and great concentration of people in the nation increase the impact of disasters that is why the efficiency of the leadership will be the determining factor of resistance (Deepa et al., 2025).

India has established a complex legislative, institutional system of crisis management. The National Disaster Management Act of 2005 formalized a multi-layered arrangement of the National Disaster Management Authority (NDMA), State Disaster Management Authorities (SDMAs), District Disaster Authority (DDMAs) and agencies specialized in a particular crisis such as the National Crisis Management Committee (NCMC). Even though these structures are good structural undertakings, the real-world cases are keen to indicate that there is always endless lapses of coordination, preparedness, communication, and clear leadership. The situation in the field of disaster response is also far from being even because of administrative capacity, resources, and lack of political focus inconsistency spread among the states (Joseph et al., 2023).

In this case, the problem of leadership goes out as the central point where institutional resilience is centred. Resilience does not only entail the capacity to absorb a shock but also, it is also the capacity to anticipate, adopt and transform after a crisis. The leadership influences all the components of resilience, including strategic plans, managing the use of resources, instant decision-making, and inter-agency coordination and communication with the participants, and the ultimate learning once the crisis is over. As researchers claim, there are at least three characteristics of a leadership style, emotional competence, and adaptive capacity that drive the organisational readiness and the outcomes of future crisis (Dewani et al., 2025; Williams et al., 2017).

However, its leadership crisis is still insufficient due to systemic issues such as bureaucratic hierarchy, political interference, broken chains of command, and lacking standards of

leadership development programmes. Decision-making processes can be reactive and protocol-constrained to the extent that there is little ability to improvise, stimulate the intellect, and bottom-up innovation. This can be quite an issue in a high stress environment where crisis is dynamic and requires prompt decision making.

The present paper will critically analyze the Indian leadership environment in crisis and on three major determinants of institutional resilience that is, leadership ambiguity, intellectual stimulation, and psychological capital. Using the latest literature, governmental structures, and intersectoral perceptions, the paper argues that India needs a multi-dimensional leadership model that will include the flexibility, emotional stability, and decentralised capacity training. The heightening of the leadership in the bureaucracy, politics as well as the community is also required to transform the environment that is crisis-prone in India into the vigorous ecosystem.

II. Identification of Statement of the Research Problem

India has a sophisticated statutory and institutional framework of managing crisis and disaster which is majorly guided by the Disaster Management Act, 2005. But history shows us again and again that responses to crisis are characterized by failure to coordinate, lack of clarity in leadership and failure of institutions to hold themselves accountable. Lack of clear demarcated authority, unequivocal interpretation of statutory requirement and scarcity of judicially enforceable leadership performance standards have led to an ad hoc, and reactive governance. This study focuses on the main issue of the ability of the current Indian legal system to facilitate successful leaders of crisis scenarios and institutions, or the lack of statutory clarity and gaps in governance to bode constitutional duty regarding protection of life and welfare of the people.

III. Research Methodology

It uses a doctrinal legal research methodology but is concerned with the examination of primary legal sources such as statutes, rules, executive guidelines and judicial decisions as regards crisis and disaster governance in India. The main legal framework of analysis comprises the Disaster Management Act, 2005, the subsidiary regulations, NDMA guidelines, and the provisions of the constitution, especially Article 21. Court decisions made when there is industrial catastrophe, environmental emergencies, and when there is a general national health crisis are studied to evaluate how courts understand the role of a state and administrative liability. Legal findings are contextualized using secondary sources including academic

literature, policy documents, and studies on governance. It is a qualitative analytical methodology to assess normative coherence, statutory effectiveness, and institutional design.

IV. Analysis & Findings

A. *Leadership Ambiguity and Crisis Decision-Making in India*

One of the most persistent issues of India, in terms of crisis response and institutional resilience, is that of leadership is unclear. They are ambiguous when there is a problem with roles, responsibilities, and authority lines, and hence, slow or contradictory decisions are made. Contemporaneous NDMA, SDMAs, NCMC, line ministries, paramilitary forces, and state administrations also be inclined to give up parallel chains of command lack of an apparent chain of command (Tomar and Srivastava, 2025). Such complexity in the structure undermines coordination, especially in the scenario of a multi-state or multi-sectoral crisis.

The vagueness of leadership has manifested itself in the irregularity of the guidelines provided by the national and state authorities in the case of major crises such as COVID-19 epidemics, national lockdowns, and disastrous industrial accidents. To give an example, the issue of health requirements and migration transportation regulation, along with the operations of quarantine showed the lack of the coherent system of managing the crisis. Deepa et al. (2025) reveal that the institutional logics conflicting with each other during the crisis delays the process of developing a shared sense-making procedure and such procedure restrains the adaptive and transformative resilience.

It may also be regarded via the celebration of the Bhopal Gas Tragedy and the Vizag Gas Leak (2020) manufacturing tragedy that additionally uncovers the problem of fragmentation in leadership. At local level, the district governments are confronted with clandestine jurisdiction of environmental bodies as compared to the industry safety agency alongside the emergency agencies. This indecisiveness slows down the rate of operation, restricts the flow of information, and slows down the marshalling of the technical and medical forces.

Moreover, the oscillations of the centralized modes of political regulating, the decentralized administrative practice perplex. Political leaders tend to give commands without being adequately clear on how the bureaucrats implement them, thereby the bureaucrats become uncertain with regards to the priorities of the institution. This affects crisis logistics, evacuation, and interdepartmental coordination decisions. As observed by the authors such as

Mizrak (2024), countries in which the role of crisis leadership has a well-organized structure are better off compared to countries with a disseminated structure of authority.

Absence of clarity in leadership hence becomes a giant challenge in the preparedness of the India crisis. It responds slowly, develops inconsistencies in mass communications, and extinguishes the trust in citizens. The key to conquering the ambiguity will require a clear command structure, crisis plans, areas of clarity and coordination in leadership training, which is constituent of becoming clear, coordinated and collaboratively make decisions

B. *Intellectual Stimulation and Adaptive Leadership Capacity*

One such attribute of a leader is intellectual stimulation, which encourages creativity, analytical reasoning, and creativity of innovation among the teams, mostly during the period when the crisis is shifting at a very high rate. The idea of adaptive leadership when flexibility, experimentation, and scenario-based thinking leads is regarded at the global level as extremely critical in managing disasters. However, according to the researchers, the culture of leadership in India remains highly marked by hierarchical models of authority and systems that are based on compliance and do not support risk-taking (or innovativeness) (Joseph et al., 2023).

The agility to solve problems developed out of the bureaucracy left behind by colonial governance is founded upon adherence to the rules and not solving problems in an agile manner. This results in the fact that procedural compliance and innovative approaches to crisis are deemed more significant to the eyes of the officers and crisis managers. This deep-rooted mentality is a compelling hindrance in emergencies where the established policies might not be relevant in solving the complexity or a new scenario with professionalism. Dewani et al. (2025) provided that the resilience of a particular organisation is also improved by supporting the leadership through intellectual stimulation, the exchange of information, questioning the assumptions, and empowering the frontline agents.

Moreover, adaptive leadership requires an interdisciplinary collaboration which is an indispensable need in case of multi-dimensional crisis such as disasters associated with pandemic or climate situation. However, the Indian bureaucratic training programmes still subject the students to small details of crisis simulation, cross-sectoral or international best practices. Compared to the states in which the academic of crisis leadership is well-developed, India relies on the tenure-based promotion principle rather than adaptive skills demonstrated (Chatterjee et al., 2024).

The second point of intellectual stimulation is the ability to operate with technological and datadriven decision-making tools to foresee and manage crisis. Even though India has been developing in the field of early warning and digital governance, at the same time, the leaderships in the district and state levels are not necessarily even trained to read complex data and implement predictive analytics in the decision-making process. This inhibits the disaster forecasting and risk mapping, and real-time response coordination of organizations.

Systemic reform, i.e. introducing crisis laboratories, cross-sector education, the exchange of learning across states, opening leadership to the world, etc., must therefore be reinforced, in order to promote adaptive leadership. The ability to develop intellectual stimulation, adaptive skills will make Indian institutions more responsive, proactive and resilient.

C. *Psychological Capital and Emotional Competence in Crisis Leadership*

The psychological capital (PsyCap) that encompasses such crucial aspects as resilience, hope, efficacy, and optimism is the needed element of effective leadership in the time of crisis. Having psychological capital leaders would be better placed to handle the uncertainty and motivate teams, effective communication, and creating stability in the organization during times of crisis. Dewani, Mehta, and Jha (2025) emphasize that the development of behavioural response within the organization is almost entirely pegged on the emotional resilience criteria, especially in cases where the organization is stressed.

The area that the crisis managers can operate in India is the area where they must be criticized politically, the administrative hierarchies and the increased expectations directed towards the people. Such circumstances are likely to cover emotional and physical strength and accumulate state of decision paralysis. These are risk aversion, excess caution, or overreliance on strict procedures that leaders may develop. This impacts negatively on responsiveness and agility to the crisis.

Also important are emotional competence such as empathy, self-regulation and social awareness. The emotionally competent leaders in the research by Shingwekar and Maurya (2025) have a superior communication that contributes to the reduced panic and misunderstanding in terms of the crisis moment. The training of emotional intelligence is however yet to be of significance in Indian administration training and political leaders.

Another aspect of psychological capital is self-efficacy. High self-efficacy leaders are prone to making bold decisions, delegating where necessary, and making rational risk assessment

decisions. Lack of positive behavior on the contrary, leaders with low psychology capital levels may not make any critical decision or may delay decision making, thereby rendering the institute weak.

The organizational culture also affects psychological capital. The unfavorable work environment characterized by strict communication patterns, high degree of hierarchical structure, and punishments contribute to the absence of psychological safety and make sure that crisis managers are hesitant to speak out and propose innovative solutions. Williams et al. (2017) assert that psychological safety is built by resilient organizations by means of open communication and sharing of issues.

To increase the level of psychological capital among Indian leaders, the trainings programmes are to be accompanied with stress management, emotional intelligence, the team psychology and cognitive resilience. Incorporating the creation of psychological capital in the conceptual framework of NDMA, SDMA, and administration academies would be far-reaching in the performance of crisis management leaders.

D. *Resource Mobilization and Bureaucratic Coordination Challenges*

One of the critical parameters in crisis managements capacity is resource mobilization in that it directly influences the rate, scale, and effectiveness in responding to emergencies. The problem with resource mobilization in the Indian context concerns bureaucratic faction, financial limitations, logistic congestion and excessive imbalance in the administrative strength on the state level. Despite the mature legislative and institutional system, NDMA, SDMAs, and NCMC, mobilization of resources does not always work in the high impact of disasters, as the operations and the formal structures are at variance (Tomar and Srivastava, 2025).

Other most endemic problems include the inflexibility of the bureaucracy system. Many of the guidelines that guide procurement processes, deployment, and authorization of emergency expenditures are burdened with bureaucratic procedures. This contributes to the delays in mobilization of required medical supplies, rescue equipment, evacuation means, and communication. During the second wave of the COVID-19, one such issue is the hearing of a lack of oxygen exacerbating the crisis not only since he could not receive the required amount, but also due to the deficiency of transport infrastructure and adequate inter-state correspondence facilities. This is because the bottlenecks show that, the fact that India has

massive resources is balanced by bureaucratic inertia which rids speedy implementation of the same.

The other component of the mobilization of resources is the inequality of institutional capacity in the states. The more developed states such as Kerala, Tamil Nadu and Maharashtra state have a comparatively well-developed system of disaster management and system of early warnings and trained personnel. Less fortunate neighborhoods, in turn, might lack well-developed emergency services. The SDMAs are also far more disproportionate on effectiveness purposes such that the resilience outcomes in the country do not reflect consistent performance. The resilience of organizations requires well-adjusted systems as indicated by Sanjay et al. (2025) even though the governance in India is highly decentralized and thus the discrepancies in a system are normal rather than complementary.

Moreover, a system of integrating the resources of the privates into the national crisis responding has not been present. The knowledge of the private sector is hardly reached through formal systems, even with its heavy corporate-level logistics systems and healthcare facilities as well as the available technological capabilities. The COVID-19 pandemic showed that private hospitals and companies played a very important role in supporting the efforts of the government and the fact was nearly spontaneous rather than a planned one. Emami et al. (2024) emphasize that the partnerships between the public and the private are specifically linked to the resilient systems that incorporate clear frameworks rather than some types of arrangements that were created in the crisis period.

Cooperation with civil society organizations is also problematic. Thousands of NGOs and volunteering organizations are available in India, and the situation is generally complicated by the unclear government-related processes, registration, and external financing. The norm in disaster situation circumstances is that local NGOs tend to be faster than the government to get to the remote locations but lack coordination and thus, overlay each other in some areas and show gaps in others.

To improve the potential of managing its crises, it is necessary to make the resources mobilization reforms focus on the ease of bureaucratism, real-time logistical preparations, and the standardized relations with the participants of the private market and civil society. Digital resource tracking systems, cross state resource-sharing agreements, and decentralized warehousing are some of the digital resources that can improve operational preparedness. The

leadership must take the position of a facilitative trait where accentuation is liable to change, coordination and anticipatory planning to rigid procedural adherence in the following directions.

E. *Institutional Resilience Frameworks: Learning from Domestic and Global Experiences*

The institutional resilience has to do with the capability of an organization to perceive threats, adsorb shocks, behavior change, and that of change in structure to reduce the vulnerability of the organization over the long term. The Indian state helps to tune an institutional resilience to the interaction between governance structure, leadership behaviors, financial assets and the organizational culture. Despite the strengthening of structural preparedness of the country through Disaster Management Act (2005) and other reforms institution resilience has been unreliable and responsive, as opposed to being proactive.

The studies throughout the globe indicate that resilience systems integrate both crisis management and organizational learning in the long run. Williams et al. (2017) assert that organizations that can integrate crisis response with resilience-building processes reflect the positive recovery outcomes. The resiliency structure in India is however flawed in terms of institutional memory. The disaster post-assessments are superficial and determining the lessons are not consistently generalized towards the national and state guidelines. An example of this, in as much as the cities of Mumbai, Chennai and Hyderabad are still experiencing the recurrent cases of urban flooding, the reality of the structural vulnerability which is in regard to drainage, zoning, and emergency planning is continuously but futilely unreadable.

The international structures such as Disaster Risk Reduction Framework as designed by the Sendai Framework emphasize on four major aspects, which involve, understanding of the risk in disasters, better governance, resilience investment and effective responsiveness through preparedness. Mizrak (2024) observes that highly institutional resilient countries can invest heavily in risk resilient based planning as well as decentralized decision-making. India has adopted elements of Sendai inaction plans (both at the national level and states level), which remain decentralized in its implementation. Many state governments lack overlapping risk assessment or vulnerability maps. Communicacy of the environment, health, infrastructure, and disaster management departments contribute to impediment of holistic risk management.

This is a solid version of crisis governance models which is anchored on sound local institutions worldwide. Disaster management by community of Japan, digital surveillance

incorporated in South Korea, and collaborative emergency governance in New Zealand give a valuable lesson as an example. These systems were characterized by community engagement, open communication, and empowered local agencies. As one of the potentials in India, Panchayati Raj Institutions (PRIs) are empowered with potential of decentralized resilience building but lack training, authority and resources. Training workshops rather than continuous training programmes are limited to capacity building projects on district collectors, block development officers and local councils.

The other areas of the health sector can be applied in the analysis of resilience. Emami et al. (2024) have discussed that robust health systems need to be redundant, able to overcome, polyvalent protocols, and coordination of high quality. The case of pandemics and disease outbreaks in India also reveals the successes (i.e. the fact that India manages to create and spread vaccines) and the failures of the situation such as the lack of government spending on health, the lack of ICU, and the lack of skilled personnel.

The response-based approach to resilience in institutional issues in India has to be transformed to anticipatory and transformative model. This means the improvement of data processes, the proactive nature of analytics, the sharing of wisdom between states, and societal-level disaster planning and leadership continuum. A fusion of both the local and international best practices that are achieved by means of proper correspondence to the socio-economic conditions of the local background can add much value to the institutional competencies to manage complex crises.

F. *Crisis Communication Gaps and their Impact on Resilience*

Communication in relation to the crisis is a very important component of successful crisis management since it determines the behavior of the people involved, institutional confidence, and the synergy to action. Frequently, deficiencies in communication have undermined the resiliency in India by developing false information, misunderstandings among people, and inconsistency of policies put into practice. Shingwekar and Maurya (2025) claim that rigid and slow, and extremely bureaucratic approaches to communication have contributed to mistrust of the population and stagnation of the organization's experience of crisis situations.

One of the major problems is that communication between the main government and state is not unified. In crisis situations, as it occurred during the COVID-19 pandemic, the citizens have received conflicting information on the lockdown regulations, traveling, testing, and the

right to vaccination. These inconsistencies were not just administrative lapses, but there were more fundamental communication gaps between political and bureaucratic leadership. Deepa et al. (2025) reported that the reaction to the crisis is delayed because of the lack of consistency in instructions due to fragmented institutional logics.

The absence of caring and ready communication is another issue. Crisis messages use in India is primarily transmitted via the use of technical bullets or legal messages or general press conferences. These lack the emotional element to soothe the citizens and do away with panic. The authors recommend applying the 3E model Empathy, Engagement, and Explanation, a model of communication effectiveness improvement that consists of a theoretical framework (Shingwekar and Maurya 2025). Popular paranoia should also be addressed by the leaders, and they must be capable of conveying the rationale of any action and seek consultations with people and not command them how to act.

Misinformation is also one of the key setbacks. The massive Indian digital infrastructure and the low digital literacy is resulting in spread of rumours in some regions. During an emergency, falsehood can lead to failure to follow safety measures, panic-buying, social disorder or vaccine skepticism. Good leadership entails instituting quick communication networks, fact-check departments, and coordination with the media so as to collaborate with them in a bid to maintain rumours and update them instantaneously.

The other area that has not been covered is communication with the front-line responders. There must exist a good internal communication to coordinate various sectors of agencies that include police, medical staff, the manpower in disaster response, and even the district administrations. However, internal communication is generally novel, top-down, and slow, which makes the execution in the field slow. Real-time dashboards, mobile communications tools, and integrated emergency operation centers can be helpful in improving the flow of information.

Lastly, crisis communication is not much inclusive in India. Most of the vulnerable groups which tend to be sidelined in the information dissemination process are migrant workers, rural residents, linguistic minorities, and people with disabilities. The 2020 migrant crisis has revealed that millions of individuals were unable to have or had very limited official knowledge regarding their plans of transport, distribution of food, or shelter. Some of the processes through communication that should be incorporated to make it inclusive include

multilingual messages, visual messages and assistance, community radio, and cooperation with local organizations.

Improvement of the crisis communication, consequently, should involve institutionalisation of open-mindedness systems, single-handling messaging, media association and community interaction strategies. Leaders should consider adopting communication that is founded on compassionate, transparent and friendly communication to strengthen the trust and institutional power.

G. *Multi-Stakeholder Leadership: Integrating Bureaucracy, Politics, and Civil Society*

Plays are designed using complex socio-political situations in which the structure of government, political leadership, players in the business sector and civil society form part of those who play crucial roles. The Indian society is stratified, and the crisis management cannot be addressed only with help of the state institutions but of course requires the multi-stakeholder and integrated model of leadership. This model is to include bureaucratic leadership to be institutional, political leadership to provide legitimacy and mobilization of people, and civil society leadership to work with communities, provide final-mile, and become socially resilient. Sanjay et al. (2025) state that excellent organizational resilience is developed when such different stakeholders act as a team rather than as individuals.

Indian response system to crisis is comprised of bureaucratic leadership. The local collectors, the state secretaries, the emergency management commissioners and the administrative officers oversee the implementation of legal frameworks, inter-agencies, and efficiency in the application of functions. They should be able to execute the role of activation of emergency operation centers, relief allocation and management of evacuations, and implementation of recovery plans. As much as the bureaucratic leadership is core, rigid hierarchies, workloads, fragmentation of the procedures and lack of ability in the newer crisis, competencies become limiting. The political directive, as well as the statutory requirements imposed on the bureaucrats, is usually in conflict with each other, and it may also hinder a prompt response in case of a crisis. Joseph et al. (2023) emphasize that rather than the control-based model of leadership, bureaucratic heads should concentrate on bureaucratic Leadership model that incorporates the community involvement modes as well as the technical expertise (facilitative leadership models).

Centrality is also very high in political leadership. It is with the political actors that crisis discourses and the distribution of resources, the politics of bureaucracy, and engagement with the citizens are constructed. In effect, health ministers or mayors can mobilize the feeling of the people, act fast to make decisions and lobby policy changes, and chief ministers. However, it can be regarded that political leadership can be an obstacle to the management of crisis as some decisions can be made based on electoral interests, regionalism, or partisanship. Deepa et al. (2025) are of the opinion that, the compatibility of the political administration significantly diminishes the flexibility of the institutions especially when the power leaders like the radicalisation of the political interests at the expense of the independence of the administration. The optimal crisis leadership paradigm must, therefore, be comprised of a combination of both institutional skills and political power in which all decisions made must be informed by scientific facts and participatory leadership as opposed to political expediency.

The crisis in India also depends on the leadership of the civil societies. Good participation in relief efforts, awareness, and rehabilitation by non-governmental organizations, volunteer organizations, community organizations, and even religious organizations is also good. This is because their membership to communities makes them more effective as they can focus on vulnerable groups unlike government agencies. To take a case in point, during the COVID-19 crisis, community kitchens, oxygen distribution centers, vaccination efforts as well as transportation of migrant workers were at the heart of the civil society organizations. As it is observed by Anand (2025), the non-formal networks and social capital generally empower resilience in the country more than formal governance. Nevertheless, the demands of registration, lack of finances, and bureaucratic suspicion are some of the structural barriers to the full potential of civil society cooperation.

The other significant stakeholder in crisis leadership is that of the private sector. The businesses of the company possess logistic systems, innovative skills, supply-chain background, and technological innovations that can play an enormous role in the national response capacities. The financiers of the crisis collection concerning corporate social responsibility (CSR) are corporations but a more holistic process is required to enable cohesiveness of the merits of the private sector to be a systematic part of the emergency management systems. To be resilient during a crisis, Mizrak (2024) states that the contemporary world should have a combined effort of the government and the business environment rather than improvised options. The situation in the global-supply-chain disruptions in India demonstrate that the government

agility of the private sector to fill the void does not have to be improvised but must be institutionalised.

Through the diversity of the actors on board, the multi- stakeholder leadership must as well incorporate co- production of crisis strategies where each of the stakeholders will assume his role based on his strength. The result of co-production is better innovation, inclusivity, and problem solving depending on the situation. This within Indian context would imply that it ought to establish partnership with the state governments, cross-sectoral training and institutionalization of partnership between the NDMA, the state governments, the civil society organizations, the academic institutions and the corporate entities. Williams et al. (2017) state that the distributed leadership model is used to run resilient organizations, where the leadership was not exercised by one person but emerged as the output of the coordinated and collaborative action.

Another aspect of the multi-stakeholder leadership is community-led resilience. The local communities are most affected, especially in remote or marginalized areas, in most cases when a disaster strikes. Its involvement of the community is significant in the dissemination of early warning, evacuation assistance, mobilization, and cultural adaptation of crisis response locally as well in terms of resources. Emami et al. (2024) believe the institutional preparedness is greatly enhanced by a decentralized and community-oriented approach that will ensure the recovery in the long term. There is a contextual understanding of PRI, urban local bodies, and self-help groups regarding them, yet they must be more firmly integrated into formal crisis governance structures.

However, there are his levels of conflicting priorities, the absence of communication, institutional silos, and power asymmetries, which does not allow the stakeholders to cooperate with one another. The political leaders may attach significance to visibility, bureaucrats to procedure and civil society to speed and flexibility. The disparities prevent the coordinated action without clearly defined collaborative forms. The failure of the management of the past crises, as Chatterjee et al. (2024) explain, is typically associated with the lack that exists in the coordination of the agencies that work under the same mandate.

To solve these problems, India must institutionalize multi-stakeholder leadership by:

1. Joint crisis planning across the government (Cross-government), civil society, academic and corporate.

2. Cross-sectoral training on crisis leadership is through simulations and common exercises.
3. Integrated communication channels with the aim of establishing a fluent flow of information amongst the agencies.
4. Legal issues of the partnership of the law between the state and the private, with more accountability and transparency in response to crisis.
5. District level disaster planning community representation in institutions.

Such measures can transform crisis response systems into intertwining cooperation and strengthening alongside flexibility within a decentralized and hierarchical way. Lastly, such aspect of crisis leadership in India is required to unite institutional resilience resulting to the crisis by bureaucratic, political, and community players in such a manner that co-creation of institutional resilience to the crisis is achieved, rather than created ex post.

V. Conclusion

The complex dynamics of crisis management and institutional resilience in managing disasters of governing India have been critically addressed in the paper concerning the leadership aspect. By the analysis, it becomes known that crises, whether natural, technical, or even governance-related are the things that reveal the loopholes in the leadership models, the governance structures, system of resources mobilization, communications systems, and the learning systems in the institution. Regardless of the strong presence of legislative system and an institutional structure in responding to the disaster, it is undeniable that disaster management in India depends a lot on the quality leadership that heads these institutions.

In its turn, leadership ambiguity was also pointed out among reasons that impeded crisis coordination. The existence of simultaneous functions on the side of the NDMA, SDMAs, line ministries, and political departments, bewilder decision-making and slows it down. All these systems are related to decentralized power and conflicting institutional logics as observed by Deepa et al. (2025) degrading sense making of crisis and delaying adaptive response. The answer to this kind of issue must deal with reprimanding the chain of command, positioning in roles, as well as a collection of less ambiguous intergovernmental coordinating guidelines.

The paper has also revealed that intellectual stimulation and adaptive leadership is needed in managing fast changing crises. Lack of creativity in problem solving and rapid paced invention is still a deep-rooted aspect of the administrative culture in India because high level of

hierarchy and procedural method of solving problems is highly practiced in the country. Joseph et al. (2023) state that one of the features that should be taken into account in the administrative capacity-building programmes is inter-disciplinary training, data-driven decision-making, and cross-sectoral collaboration. Without the adaptive leadership, the institutions will only be reactive and not anticipatory.

Psychological capital and emotional intelligence was also found to be another important characteristic of resilience in leadership. There is a need to have good crisis managers who are not only technically gifted and strategically gifted, but are also emotionally strong, sensitive, and communicative individuals. Dewani et al (2025) argued that with the help of psychological capital, leaders will remain stable within the environment in order to influence teams and survive through uncertainty. Emotional intelligence, stress management and group problem-solving as the training modules would therefore be very beneficial in leadership within Indian institutions.

The paper has also observed another constraint to mobilisation of resources through bureaucratic inflexibility, inequalities of the capacities of the different states as well as inadequate integration of civil society and capabilities of the entities of the private sector. The fact that institutional resilience is encouraged by an efficient flow of resources inside the sector and across regions cannot be denied (Sanjay et al., 2025). There are electronic resource-trace mechanisms, decentralised chain supply, and institutionalised relationships amongst the populace and the privates, which can make India more prepared to go.

Crisis communication has been a highly relevant, and, nevertheless, underestimated resilience determinant. The insufficiency, discontinuity, or failure to be understood by communication of any given governmental entity does not only create confusion amongst the people but also diminishes the level of trust thereby leading to non-compliance and social panic. Shingwekar and Maurya Empathy, Engagement, and Explanation model (2025) will come in handy to fix the current options of crisis communication in India.

Lastly the part of the discussion on multi-stakeholder leadership emphasizes the role of a combination of bureaucratic power and political legitimacy, agility in the market and the role played by the civil society. The one actor cannot manage socio-economically geographically complex societies such as India in cases of crisis. A good emergency response depends on the ability of the leaders to create strategies collectively, mobilize resources, and attempt to

organize the responses. The distributive leadership model that must apply in this case then is institutional resilience that should not be grounded on hierarchical control but rather on collaboration.

In general, the crisis management situation in India is evolving, yet it has a long way to reach. The reinforcement of leadership at all levels namely political, bureaucratic, institutional level, and the community amongst others is necessary in order to establish a robust nation that is capable of responding to present and coming challenges. Multi-dimensional leadership approach that will include the elements of flexibility, emotional aptitude, technological expertise, and alliance with stakeholders will help India change the existing scenario of reactionary approach in combating crisis management to proactive management of risks. It is only through such an institution of leadership transformation that India can gain maximum of its institutional power and guard its citizens against the emerging complexity of the twenty-first century.

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PUBLIC-PRIVATE PARTNERSHIPS AS A LEGAL AND FINANCIAL TOOL FOR SUSTAINABLE DEVELOPMENT AND SOCIAL EQUITY

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ABSTRACT

Public-Private Partnership has played a vital role to achieve sustainable development goals. In the context of law, Public-Private Partnership enables organized cooperation that confirms to legal frameworks, guaranteeing openness, responsibility and fair resource distribution. Public Private Partnership is important for attracting private funding to expand and improve infrastructure services that prioritize people and the environment which is necessary to achieve sustainable development. Public-Private Partnership can be a central medium through which most of the infrastructure and services involved in sustainable development are provided, managed including specific urban safety, adaptability and sustainability projects. The role of public sector is to provide financial resources and enhance the quality of infrastructure assets and services. Attaining sustainable development requires attracting private financing to expand infrastructure and improve access to infrastructure services that prioritize people and the planet. Social justice and human rights played a vital role under sustainable development. When social justice and human rights are upheld, sustainable development is made possible. In order to support sustainable development initiatives, this paper investigates how Public-Private Partnership models are governed by legal provisions, policies and regulatory mechanisms.

Keywords: Public-Private Partnership, Sustainable Development, Social Equity, Infrastructure, Environment, Adaptability.

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I. Introduction

Public-Private Partnerships (PPPs) have become a key device in the development strategy of India, which allows the government to access the capital, experience, and effectiveness of the private in creating infrastructure and providing the population with necessary services. PPPs have been considered important in filling the gap in infrastructure in India, which is widely short of infrastructure, particularly through highways and airports in addition to healthcare, education and urban development. Nevertheless, the legal and regulatory framework of PPPs is still in disintegration and creates an important number of loopholes and structural issues that tend to hinder the delivery of the long-term sustainability and fair social outcomes. Currently, India lacks a detailed PPP law. The system is instead based on a patchwork of guidelines, model concession agreements (MCAs)[1], and sector-specific policies based on the directions of the Ministry of Finance Department of Economic Affairs (DEA), NITI Aayog, and line ministries. Lack of a cohesive legal system leads to imbalance in the structuring of projects, risk sharing, dispute resolution and accountability. Most PPP contracts are based on MCAs, and they are most of the time inflexible to reflect sectoral differences, environmental interests, and changing socio economic values.

The problem of asymmetric risk allocation is among the core legal issues. The PPP contracts often impose a great part of financial and operational risks on the government, particularly when the demand forecast is unrealistic, or in case of a situation of the force majeure. These imbalances cause stalling of projects, renegotiations and high fiscal burdens. Additionally, transparency in the bidding, awarding, and renegotiation procedures is not legally required which leaves room to corruption, conflict of interests and subjectivity. The legal provision that requires concession agreements to be publicly disclosed is also poor and therefore, the stakeholders find it difficult to evaluate the impacts of projects.

The other issue of concern is that there is poor incorporation of sustainability and social equity into the PPP legal system. The environmental impact assessments (EIAs) are not taken seriously tools but formalities. [2]The possible problems of PPP projects include land acquisition controversy, the relocation of local communities, environmental destruction, and unfair allocation of key services. The current legislative measures such as the Land Acquisition Act, 2013, and environmental laws occasionally conflict with obligations that have been contractually established with the private partners which creates legal confusion and additional

[1] Asian development Bank, Public-Private Partnership Operational Framework (2018).
[2] M. S. Sahoo, Public–Private Partnerships in India: Lessons from Experiences (Oxford Univ. Press 2017).

legal disputes. The absence of enforceable legal requirements of the corporate bodies to achieve the sustainability goals or affordability further increases the social inequities.

To sum it up, although PPPs have an incredible potential of boosting the infrastructure development of India, the existing legal framework needs significant changes to seal the loopholes, enhance accountability, and focus the design and implementation of the projects on sustainability and social equity.[3]

II. Identification of Statement of the Research Problem

The academic literature on Public–Private Partnerships (PPPs) in India highlights both their transformative potential and the persistent legal and structural deficiencies that hinder sustainable and equitable outcomes. According to early research conducted by the World Bank and Asian Development Bank, they support the use of PPPs as the key solutions in bridging gaps in infrastructures in developing economies. According to Indian scholars like M. S. Sahoo and Vinod Gupta, PPPs served to make highways, energy and urban sectors grow faster but also point to the disjointed regulatory framework of such collaborations. According to research by the NITI Aayog and the Kelkar Committee, lack of a unified PPP legislation is one of the main reasons to lack efficiency and point to contractual rigidity, lack of effective risk allocation, and insufficient dispute-resolution instruments. According to the arguments presented by scholars such as S. L. Rao and A. Ghosh, the PPP contracts give more attention to financial viability as opposed to environmental and social factors and lead to negative consequences of marginalized communities, in particular, the new projects requiring substantial land area.

III. Research Methodology

The approach that is taken in the current study is that of doctrinal methodology i.e. the compilation of theoretical materials. The research work is mainly based on the secondary sources such as the provisions of the constitution, statutes, rules, model concession agreements (MCAs), government reports, recommendations of expert committees and judicial decisions. The main documents to be part of the legal analysis include the guidelines of the PPP by the Ministry of Finance, the sector frameworks by NITI Aayog and the Kelkar Committee Report. The interpretation and assessment of the existing legal provisions of the contract law, land

[3] Asian Development Bank, *supra* note 1.

acquisition, environmental regulation and the accountability of the people is carried out in a doctrinal approach. The given approach will assist in detecting inconsistencies, gap, and ambiguity of the current regulatory framework. The study also employs a comparative approach, where the international PPP frameworks are analysed including the UK, Australia, and multilateral agencies to show the best practices around the globe as well as determine their applicability to India. The selected PPP projects in the roads, airports, and urban development, a case-study approach is used to investigate the practical challenges associated with the risk allocation, transparency, compliance with sustainability and community impact.

IV. Analysis & Findings

A. *Conceptual and Theoretical Framework of PPPs*

The idea behind the Public Private Partnerships is based on the principle of shared responsibility in which both the public sector and the private enterprises collaborate to offer infrastructure or make public services that neither of the two entities could have done effectively in the absence of the other. PPP intertwines the social welfare objectives of the government sector with the efficiency of the business sector hence a consortium is created through the long term contracts. The essence of this system is the realization that the government retains the ownership and regulatory authority and the private partner undertakes the design, construction, financing, operation or maintenance. The model is based on the concept of risk distribution, value-at-money, performance-based contracting, and long-run sustainability. PPPs are guided by the fact that risks are best allocated to the party that can best handle them and hence cost-effective and higher service provision. The implementation of the performance monitoring, accountability, and prioritization of the public interest are also conceptually found within the framework, but at the same time, the innovation offered by the private sector and the capital and managerial expertise are exploited.

PPPs are structured around a performance-based system, where payments or revenues are linked to the attainment of certain service standards, measurable outputs, and predetermined performance indicators. Such a scheme motivates the private partners to uphold the quality, eliminate the waste of resources, and implement the innovative practices. However, the public sector is very much needed for the contract supervision, performance checking, tariff regulation (where applicable) as well as ensuring the accountability of citizens. Transparency, competitive bidding, and strong institutional frameworks are some of the necessary conditions for the integrity of PPP processes to be maintained.

There are various models of PPP depending on how the responsibilities are divided and the nature of the project. The major ones are Build–Operate–Transfer (BOT), Build Own Operate Transfer (BOOT), Design–Build–Finance–Operate–Transfer (DBFOT), and Operation & Maintenance (O&M) contracts. Each model differs in the degree of private sector involvement, the duration of the partnership, and the transfer obligations at the end of the concession period. The fundamental goal is the same, however, that is to employ private sector skills to provide public services at a lower cost and with better quality. With the help of PPPs, the public sector can overcome its limitations, and at the same time, innovation is encouraged, resource utilization becomes better, and quality infrastructure is delivered. If done properly, PPPs can not only fasten the pace of a country's development but also improve the quality-of-service delivery and enhance the country's economic competitiveness. On the other hand, the success of PPPs is hinged on the presence of sound legal frameworks, transparent procurement processes, efficient risk management, and uninterrupted regulatory oversight.

1. Build Operate Transfer (BOT): The government, by a single-handed decision, construction and operations are handed over to a private party for a fixed number of years (usually, several decades or more). The control is again handed over to the government after that period of time.

2. Build Operate Own (BOO): It is similar to a BOT, but the private company is not obliged to transfer the project to the government at any time. Design-Build (DB): A government agency signs a contract with a private party to design and build the project for a specified amount. The government remains owner and can choose to operate it by itself or hire a company for that purpose.

3. Buy Build Operate (BBO): The government sells off a project that has been completed and may have been operated by the government for some time to a private party who will take full charge. The private party might be required to invest in the restoration or the expansion of the project.

B. *Constitutional and Legal Basis*

The rules for Public–Private Partnerships (PPPs) in India are not defined by one single law. They are rather derived from a mix of constitutional provisions, legislative powers, regulatory statutes, government policies, and judicial interpretation. PPPs are carried out within this wide constitutional framework which allows the State to work with private entities for the creation of the infrastructure and the provision of the public services.

1. Constitutional Basis

The constitutional foundation of PPPs is mainly identifiable in the distribution of legislative powers in the Seventh Schedule. The Union List gives the Central Government the power to make laws in major infrastructure sectors like national highways, railways, ports, airports, and telecommunications. This, in turn, allows PPP interventions at the national level. On the other hand, the State List enables State Governments to take care of public health, local transport, water supply, land development, and rural infrastructure. As a result, PPPs can operate at the State and municipal levels. Besides that, the Concurrent List also allows the participation of both Union and States in areas such as electricity, forests, and economic planning. Therefore, it is possible to have collaborative PPP implementations across jurisdictions. Such allocation of powers essentially forms the basis of constitutionally permissible PPPs at three governance levels.

Besides legislative competence, the executive powers of the government are of great help to the PPP framework. According to Articles 73 and 162[4], the executive is permitted to take action on a matter in which it has a legislative authority. Moreover, Article 298 distinctly attributes to the Union and States the power to carry trade, business, and enter into contracts, whereas Article 299 lays down the formalities for government contracts. These provisions constitute the constitutional support system for concession agreements, long-term service delivery contracts, and other PPP arrangements. If contractual procedures are in line with Article 299, PPP contracts are recognized as being valid and enforceable under constitutional law. The Directive Principles of State Policy (DPSPs) are also quite significant in this regard as they provide for socio-economic justice and the fair use of resources. Among others, Articles 38, 39(b), 41, and 47[5] urge the State to promote public welfare, allocate community resources in a way that benefits everyone, and to improve public health. PPPs do not contradict the constitution as they attract private sector capital and working knowledge that in turn quicken the realization of infrastructure and services which are essential. Therefore, going for PPPs is in agreement with the wider constitutional framework of development which is welfare-oriented. The constitution, in fact, sets another condition for fundamental rights to be respected. Fairness and non-arbitrariness, as stipulated in Article 14, are two of the principles with which PPP projects should comply. This article calls for transparency both in the awarding of contracts and in

[4] INDIA CONST. art. 73 and 162.
[5] INDIA CONST. art. 38, 39(b), 41, 47.

choosing private partners. Article 19(1)(g) is in favour of the private sector to take part by granting the right to undertake business activities, albeit with reasonable limitations. Article 21 requires the State to keep it that way as PPP-based service delivery, particularly in sectors like public health and the environment, does not violate the right to life and dignity[6].

The enumerated rights together perform the function of constitutional checks, thus making sure that PPPs serve the public interest and follow the standards of democratic governance.

2. Statutory and Regulatory Basis

The legal basis for Public Private Partnership is spread out over several sector-specific laws that specifically allow for the participation of the private sector in infrastructure. "For example, the National Highways Act, 1956[7] facilitates Public Private Partnership models in the areas of highway development, tolling, and maintenance. In the same vein, the Railways Act[8], allows private sector involvement in the areas of station redevelopment, freight terminals, logistics, and passenger transport. In addition, the Electricity Act[9], establishes a liberalized framework that opens the door for private participation in power generation, transmission, and distribution. Furthermore, the Metro Railways Acts of 2002 and 2009 enable cities to implement PPP-based metro projects, while the Special Economic Zones Act, 2005 invites private developers to participate in the construction of industrial infrastructure. Altogether, these laws signal that there is a firmly established legal framework that facilitates PPP interventions in the sectors listed. Land acquisition is a centrepiece in the majority of PPP projects, and the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 lays down the legal mechanism for undertaking land acquisition for PPPs". This Act is quite comprehensive as it requires social impact assessment, fair concern for compensation, consent stipulation for certain PPP categories and rehabilitation measures with the ultimate aim of providing legal and social legitimacy to land acquisition. Were it not for adherence to this law, the PPP projects would have difficulties in garnering public support and clearing the legal hurdles. Another factor that helps to solidify the legal framework of PPPs is the set of rules that govern government procurements. In particular, "the General Financial Rules (GFR) 2017, the Manual for the Procurement of Works, and the soon-to-be-enacted Public Procurement legislation have elements in common that they are designed to bring about fairness, competitive

[6] Constitution of India, 1950.
[7] National Highways Act, 1956.
[8] Railways Act, No. 24 of 1989.
[9] Electricity Act, No. 36 of 2003.

bidding, and efficient contract management through a uniform framework. Simultaneously, these regulations serve as a guarantee that the rightful bidders are provided with PPP arrangements in a transparent and accountable procedure, therefore, eliminating the threat of arbitrariness, and consequently, causing the improvement of public trust. Conversely, regulators are also critical towards ensuring the sustainability of PPP schemes. As an example, the agencies such as Public Private Partnership Appraisal Committee (PPPAC), NITI Aayog, and sector-specific regulatory authorities through offering oversight, creating standards, problem-solving and offering investors assurance that the rules will be adhered to, control PPPs. Moreover, they put their principles into practice, which leads to the stability of the PPP management and therefore, preconditions the private inflow of capital.

C. *Loopholes & Legal Challenges in PPP Implementation*

Public–Private Partnerships (PPPs) are widely considered as an effective mechanism for increasing infrastructure development in India. However, the success of PPPs depends heavily on a vigorous legal and administrative foundation. Apart from significant progress, Public Private Partnership framework of India continues to face various legal loopholes and structural crisis that hinder "sustainable development and social equity".

One of the prior challenges is the absence of a comprehensive, uniform Public Private Partnership legislation**.** At present, India operates with scattered guidelines, sector-specific rules, and *Model Concession Agreements (MCAs)* that lack statutory authority. This framework creates inconsistencies in risk allocation, contract enforcement, and dispute resolution across sectors and states. In absence of a binding national Public Private Partnership law, accountability mechanisms remain weak, making Public Private Partnership projects vulnerable to arbitrary decision-making and corruption.

Asymmetric and poorly structured risk allocation is another loophole**.** In many Indian "PPP projects, demand risks, land acquisition risks, and cost-escalation risks" are disproportionately shifted onto the public sector. When revenues fall short or delays occur, the government often ends up compensating private concessionaires through renegotiations, viability gap funding, or contract extensions. These improper clauses contradict the utmost Public Private Partnership principle of efficient risk-sharing and lead to significant fiscal burdens, stalled projects, and public discontent.

Currently, transparency and accountability to the populace are other grave issues. Bid evaluation, restructuring and amendments in contract are usually done without much public attention. The law does not consist of any mandatory disclosure standards, independent control institutions, or a community consultation statute. Such transparency weakens the trust, opens questions of favouritism and equitable access to the benefits of the project.

A major area of concern relates to land acquisition and displacement, especially in infrastructure sectors such as highways, mining, and urban development. "Although the Right to Fair Compensation and Transparency in Land Acquisition Act, 2013 provides safeguards, PPPs often bypass rigorous social impact assessments or reduce rehabilitation obligations[10]. This brings about contractual schedule conflicts with statutory protection, which results in litigations, protests, and human rights abuse- especially to the vulnerable groups.

Environmental compliance is another weak link. PPP projects occasionally regard Environmental Impact Assessments (EIAs) as a procedural and not a substantive obligation. The current regulatory system does not have robust enforcement policies that would force the private partners to incorporate climate-resilient, low-carbon or ecologically sustainable practices. As a result, environmental degradation and resource depletion become unintended consequences of infrastructure expansion.[11]

In addition, conflict management systems are ineffective. PPP disputes are normally characterized by some complicated financial, contractual as well as regulatory issues, but India has no specific tribunal to deal with infrastructure disputes. The process of arbitration is often time lengthy and costly and this puts away investors and postpones the delivery of the project. Lack of a quick, expert-driven resolution system contributes to uncertainty as well as loss of faith in the private sector. The second problem is low institutional capacity, particularly in state and local levels. Most government officials are not experienced to negotiate complicated PPP contracts and assess financial feasibility and monitor adherence. This puts an imbalance in the bargaining power between the advanced activities of private players and ill prepared public agencies.

Public- Private Partnership (PPP) projects can be severely hindered by the citizenry because it directly affects the community, land, environment, and government services. This opposition

[10] Tata Motors Ltd. v. State of West Bengal, (2017) 13 SCC 305.
[11] Centre for Public Interest Litigation v. Union of India, (2012) 3 SCC 1.

often manifests itself in Public Interest Litigation (PILs), which may postpone or put on hold projects, increase expenses and bring uncertainty to the law.

- Absence of a comprehensive, uniform PPP legislation.
- Asymmetric and poorly structured risk allocation
- Transparency and public accountability
- Land acquisition and displacement
- Environmental compliance
- Dispute resolution mechanisms

So, these were some legal challenges or loopholes faced by the PPPs in achieving sustainable development or social equity.

D. *PPPs & Social Equity*

PPP is now a critical process through which infrastructure and government services are provided in India. Although the PPPs introduce efficiency, innovation and capital investment, their interaction with social equity which refers to fair and just allocation of opportunities, benefits and burdens to all the sections of the society is a highly disputed issue. Social equity requires that development projects should foster inclusiveness, affordability as well as justice. Nevertheless, the PPPs in India have a reputation of giving mixed results because of the structural, legal, and governance related problems. "Access and affordability is one of the key issues. When the private players engage in the delivery of services to the general population, in the areas of transport, health, learning, or urban development the ultimate goal the players have is the financial sustainability. In the absence of powerful legal protection, this may cause user fees that cost-sharpen economically disadvantaged populations more than others.

As an illustration, the toll road systems or hospitals that are run privately tend to develop borders over the marginal members of the society. There is a lack of binding affordability clauses in the majority of concession agreements that undermines the power of the state to promote fair access. The second issue is land acquisition and displacement which is usually accompanied with large PPP projects. Although the law provides protections in accordance with the Act of Fair Compensation and Transparency in Land Acquisition, 2013, most of the communities, especially the tribal and rural people face loss of livelihood, fair compensation as well as social dislocation.

PPP arrangements seldom incorporate the aspect of long-term rehabilitation and leave the responsibility altogether on the government and disregard the social economic vulnerabilities of affected groups." Social equity also demands significant involvement of the local communities in decision-making. Nevertheless, the PPP system in India is usually top-down oriented. Consultation with stakeholders is usually formal or procedural, particularly in engineering fields such as power, transport and urban regeneration. Environmental and social impact assessment (ESIAs) are often prepared without being done in a sincere manner or transparently thus weakening the confidence between the state and communities. Moreover, PPPs have the capability of strengthening regional disparities. The privatized investors will favour commercially viable geographical areas leaving behind the backward districts with less projects and poor infrastructure. This trend goes against the constitutional obligation of equal regional development. Investments in underdeveloped regions are usually not endowed with adequate government incentives because of the legal and financial risks that are felt by the private partners.

Responsibility and redressal of grievances is another aspect of social equity. With the PPPs, the state and the partners lose their sense of accountability in most projects. The citizens find it difficult to find out who caused the failure of the services, delays, or damage to the environment. The current legal systems lack sufficient measures to address grievances of the community and the private organizations are not obligated to the Constitution directly on the issues of Articles 14 and 21. This loophole brings up issues of transparency and accountability. Nevertheless, it is possible that PPPs can promote social equity in the case they are well-designed. Water supply, affordable housing, renewable energy, and urban services projects have demonstrated that PPPs can be applied to vulnerable populations via viability gap funding (VGF), outcome-based contracts, and through a mandatory service-level obligation. The introduction of protective strategies such as conflicting pricing, social responsibility tracking, involvement of the community and direct stipulations regarding equity can contribute a great deal to successful results.

To sum up, the relationship between PPPs and social equity in India is complicated. Even though the PPPs have significant potential of increasing inclusive development, it has to be made successful through effective legal structures, transparency, and working social protection. India can do nothing but ensure that development benefits are fulfilled by all groups in the

society all the more by imbibing the aspects of equity in the design, implementation and monitoring of PPPs.

E. *Recommendations (Perspectives from Other Jurisdictions)*

An overview of best global practices of PPP can provide significant insights into improving the PPP framework in India especially how to improve on legal certainty, transparency, sustainability and social equity. "Other jurisdictions- the United Kingdom, Australia, Chile, South Africa, and the European Union- have come up with sound legal frameworks that guarantee effective and fair provision of infrastructure services. It is based on these experiences that India will be able to take a more holistic and legally based approach to PPP governance. First of all, such countries as the UK and Australia have signed extensive PPP legislation that provides a clear definition of procurement processes, the role of stakeholders, and mechanisms to share risks, as well as to monitor standards".

India, in its turn, is dependent on guidelines and model concession agreements that do not have any statutory support. A special PPP act would aid in streamlining bidding standards, renegotiations, disclosures and creation of compulsory performance audits. It is also necessary to enhance regulatory structure, as it is done in Chile, where there is an independent Concessions Superintendency, which guarantees compliance with contracts, protection of users, and quality control. A similar independent regulated body with the capability of quasi-judicial powers will have a huge positive impact on India by regulating pricing, service levels, and compliance with the standards of sustainability. The other urgent reform zone is associated with renegotiations of contracts. Some jurisdictions like Colombia and Portugal have written renegotiation rules intended to guard against arbitrary amendments to safeguard the public interest. India needs to embrace a transparent and rule-based renegotiation guidelines and compulsory disclosure of contractual modification and audit by a third-party expert body. In addition, the PPP system of South Africa provides an important perspective on how equity and inclusion can be incorporated in infrastructure projects. Its law system requires the community consultation, the creation of employment locally, and the socio-economic benefits to the disadvantaged groups. India might also incorporate equity-based conditions in PPP contracts such as differentiated pricing mechanisms, community benefit funds and legally enforceable rehabilitation and resettlement commitments.

The Indian procurement can also be a good imitation of the European Union focus on green and sustainable procurement. Incorporation of climate risk analysis, environmental

performance measures and low-carbon technologies incentives can be used to align PPPs with the sustainable development objectives of India. Moreover, the problem of the high-level infrastructure dispute resolution mechanisms in Singapore indicates the necessity of the timely and effective processing of disputes. Having a special National Infrastructure Dispute Resolution Centre in India, where mediation and arbitration procedures are mixed, would make the process of litigation much faster and more encouraging to investors.

Lastly, the experience of Canada highlights the importance of capacity building, especially sub national level. Infrastructure Ontario has designed its projects to enhance delivery and management of projects through investment in training and standard project templates. The same should be done in India whereby national and state level PPP training academies should be established to build institutional capacity. Combined, these foreign models can provide India with a template in which to develop a more transparent, fair, sustainable, and legally sound PPP ecosystem.

V. Conclusion

Public- Private Partnerships (PPP) have arisen as an important tool to the development of infrastructure and service delivery in India which allows the government to utilize the resources of the private sector in terms of capabilities and innovation, as well as funding. But, the analysis demonstrates that even though PPPs hold tremendous prospects to help nations fulfill their national development objectives, the current legal and institutional framework has its structural loopholes that compromise the need to be sustainable, accountable, and socially equitable.

The fragmented regulations, inconsistencies in the level of contracts, and inadequate transparency, as well as the system of enforcement of projects in sectors, are all hindering the performance of the PPP projects. These loopholes may be observed in an explicit acquisition of land, environmental conservation, money affordability, user and community participation which are critical in ensuring that development trickles down to all corners of the society. As practiced in other jurisdictions, an effective PPP ecosystem should have an effective statutory foundation, effective regulatory institutions, transparent renegotiation, and institutionalized means of interacting with the people. One way through which social equity and environmental PPP contracts have been integrated with their underlying design instead of being joined with sustainability. It is also emphasized by the international models as procedural additions. The PPP approach that in the future, India will be using, should have within it, the legally binding

standards of risks. allocations, consultation with the stakeholders, environmental regulations, and affordability to protect the interests of the people. Institutional is another key factor of a successful project planning capacity since it will assist in boosting the institutional capacity of the central, state and local level. Participation in a comprehensive legal, by importing the best practices of other countries (PPP) restructuring, India will be able to turn PPPs into the tools of inclusive growth and equitable growth not only will not the advancement be swift, but also widespread among the Indian people.

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FOREIGN PRIVATE EQUITY IN INDIAN HEALTHCARE: RETHINKING PPP MODELS FOR EQUITY, ACCESS, AND SUSTAINABILITY

By Rashi Vaidya[*] & Tanishka Gora[**]

ABSTRACT

Foreign private equity now in controls around 70 per cent of India's leading private hospital chains, a recent trend enabled by policies permitting 100 per cent FDI under the automatic route, which has triggered significant structural realignment within the hospital sector and raises critical questions for public health governance. The question that this paper will address is whether the current Public Private Partnership (PPP) architecture in India can provide affordability, fair access and long-term sustainability in service delivery where the offshore investors whose interests are largely financial are mediating service delivery. The main conflict is in balancing profit making interests with the sovereign welfare responsibilities of the State, a tussle that the current frameworks might not be in a good position to balance effectively.

Keywords: Foreign Direct Investment, Foreign Private Equity, Indian Healthcare, Public Private Partnership, Right to Health.

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I. Introduction

Over the past decade, India's hospital sector has experienced one of the fastest ownership transformations of any major healthcare system in the world. By the end of fiscal year 2024–25, foreign private equity funds, sovereign wealth funds, and global healthcare operators controlled approximately 68–72 per cent of the country's top twenty private hospital chains when measured by revenue, EBITDA, or licensed beds (CRISIL, 2024). This is no longer a marginal phenomenon: the eight largest listed hospital platforms; Apollo, Fortis, Max, Narayana, Manipal, HCG, Aster DM, and Rainbow Children's, are either majority owned or significantly influenced by offshore institutional capital originating from Singapore, Malaysia, Abu Dhabi, Canada, and the United States.

This consolidation was made possible by a series of deliberate policy choices. The liberalisation of foreign direct investment in Greenfield hospitals began in 2000, but the decisive shift occurred in 2015 (Press Note 4 [2015], DPIIT) when the Department for Promotion of Industry and Internal Trade placed brownfield hospitals under the 100 per cent automatic route. Overnight, global private equity funds were granted the same freedom to acquire controlling stakes in existing Indian hospitals as they enjoyed in consumer goods or information technology.

The consequences have been profound. Average revenue per occupied bed in PE backed chains rose 42 per cent between 2019 and 2024, far outpacing medical inflation (CRISIL,2024; Sengupta,2023). Out of pocket expenditure as a percentage of total health spending, which had begun to decline after the launch of Ayushman Bharat, stabilised and in several states reversed (Sengupta,2023). Most importantly, the very architecture of Public Private Partnerships (PPPs) in healthcare, originally designed for domestic philanthropic trusts or family owned groups, now finds itself mediating service delivery through entities whose primary fiduciary obligation is to deliver 18–22 per cent internal rates of return within a five to seven year horizon.

This paper argues that the existing Indian PPP framework is constitutionally and structurally misaligned with a financialised, private equity dominated hospital ecosystem. The tension is not merely economic; it is constitutional. Beginning with *Paschim Banga Khet Mazdoor Samity v. State of West Bengal,* 1996 and on having reaffirmed repeatedly, the Supreme Court has held that Article 21 imposes positive, non-derogable obligations on the State to protect the right to

life and health. Financial incapacity is no excuse, and the State cannot contract away this duty even when it delegates service provision to private actors.

Yet current PPP concession agreements and FDI approvals contain almost no enforceable mechanisms to prevent value extraction practices, dividend recapitalisations, sale and leaseback transactions, aggressive management fees, or Operation company- Property company (OpCo-PropCo) separations that systematically reduce long term affordability and geographic equity. The result is a growing risk that India's constitutional right to health will be subordinated to the logic of global private capital.

II. Identification of Statement of the Research Problem

This study therefore poses three interrelated questions:

1. How can India's investment laws (FEMA and FDI policy) and PPP concession designs be realigned with health sector regulation to protect public-interest outcomes and uphold the constitutional right to health?
2. What macro, contractual, and oversight reforms are required to recalibrate the balance between private capital and public good in a landscape dominated by private equity owned providers?
3. How can statutory frameworks, concession agreements, and investment conditions be deliberately engineered to hard-wire affordability, quality, geographic access, and long-term sustainability while preserving reasonable capital efficiency and investor returns?

The paper proceeds as follows: Chapter 2 briefs about the research methodology adopted. Chapter 3 reviews the relevant literature and identifies critical gaps. Chapter 4 maps the regulatory ecosystem and demonstrates the current misalignment. Chapter 5 presents empirical evidence from leading Private equity backed hospital chains. Chapters 6 and 7 propose a comprehensive reform architecture. Chapter 8 provides a concluding overview, synthesizing the arguments and insights presented throughout the paper.

III. Research Methodology

The paper takes a policy research approach of doctrinal and analytical approach. It integrates constitutional jurisprudence analysis, statutory interpretation of rules and regulations of the investment and health sector, and qualitative analysis of PPP concession rules with secondary empirical data extrapolated on the basis of financial disclosures, sectoral reports, and published

case studies of large chains of hospitals with private equity support. The methodology is mainly normative and analytical to determine whether the legal and contractual structures are sufficient to meet the needs of the protection of the imperatives of its public interest, and suggests different means of reform in line with the principles of constitutionality and sustainable investment.

IV. Analysis and Findings of the Research

A. *Three Streams and One Missing Link*

In Indian healthcare academic and policy writing on privatisation and foreign investment can be grouped into three broad streams.

1. *Corporatisation and Consolidation*

   The first, largely economic and sociological, documents the rapid corporatisation and consolidation of the hospital sector. These studies demonstrate how private equity has driven scale, introduced advanced clinical protocols, and simultaneously contributed to cost escalation and regional concentration in metropolitan clusters.

2. *Constitutional Right to Health*

   A second stream, predominantly legal-constitutional, has traced the evolution of the right to health jurisprudence from *Bandhua Mukti Morcha v. Union of India*, 1984 through *Paschim Banga*, 1996*, Consumer Education & Research Centre v. Union of India*, 1995. This literature firmly establishes that the State retains primary responsibility for health even when services are delivered through private entities.

3. *Public-Private Partnerships in Healthcare*

   The third stream evaluates India's two-decade experience with healthcare PPPs. Most analyses focus on early diagnostic or district-hospital models under Build Operate Transfer or annuity frameworks and conclude that modest free care obligations (10–20 per cent beds) and viability gap funding have delivered mixed results.

Remarkably, almost no scholarship bridges these three streams. There is no systematic examination of how the financialised ownership structures enabled by post 2015 Foreign Direct Investment policy interact with the constitutional obligations articulated in Paschim Banga and its progeny, nor with the contractual architecture of existing PPP concessions. This paper fills

that gap by treating the modern hospital PPP as an investor State contract in which global private equity is now the dominant counterparty.

B. *The Regulatory Ecosystem and Its Constitutional Misalignment*

India's current regulatory framework for foreign investment in hospitals is remarkably permissive. One hundred percent FDI is allowed under the automatic route for both Greenfield projects and brownfield acquisitions. The Foreign Exchange Management (Non-debt Instruments) Rules, 2019, and RBI Master Direction 17/2016–17 (as amended) impose no sector-specific restrictions on leverage, related party transactions, management fees, or dividend repatriation. Private equity funds may therefore legally push down acquisition debt into Indian operating companies, enter into high cost lease arrangements with sister entities, and extract value through special dividends long before clinical or geographic access obligations are fulfilled. This regulatory permissiveness creates a structural disconnect between investment governance and constitutional obligations.

PPP concession agreements fare little better. The Ministry of Health and family welfare's Model Concession Agreement for hospitals (2014, still in use with minor state level variations) contains only soft obligations: typically, 10 per cent free beds and 20 per cent at CGHS rates, with weak monitoring and no financial conduct covenants. There are no clauses restricting change of control without government consent, no debt service coverage or dividend lock up provisions, and no requirement to ring fence clinical revenue from real estate or related party outflows.

The Clinical Establishments (Registration and Regulation) Act, 2010, mandates 'reasonable' pricing and transparency but has been notified in only 12 states and lacks an effective enforcement mechanism. The National Health Policy 2017 and the Draft National Policy Framework on Healthcare PPPs articulate aspirational goals but remain non-binding.

Most critically, none of these instruments engages with the constitutional jurisprudence on the right to health. In *Paschim Banga Khet Mazdoor Samity v. State of West Bengal*, 1996, the Supreme Court held that 'the right to life includes the right to emergency medical treatment' and that 'financial constraints cannot justify denial of care.' The judgment explicitly imposed positive obligations on the State and, by necessary implication, prevents the State from entering into contracts that systematically undermine access.

Subsequent landmark judgements in *State of Punjab v. Ram Lubhaya Bagga*, 1998, *People's Union for Civil Liberties v. Union of India,* 2001, and the 2023 Common Cause directives, have extended the same rational to non emergency care and to situations where the State delegates functions to private parties. The State remains the ultimate guarantor. A PPP concession or FDI approval that permits systemic tariff escalation or geographic cherry-picking is therefore not merely poor policy; it is arguably unconstitutional.

While these judicial decisions articulate clear and non-derogable constitutional obligations, they operate at a level of legal abstraction. The practical question is how these obligations are mediated when healthcare delivery is channelled through private equity owned hospital systems operating under permissive investment and contractual regimes. The following section therefore examines empirical evidence from leading private hospital chains to assess how financialised ownership structures interact with, and often erode, the constitutional commitments described above.

C. *Empirical Evidence: Financial Engineering Meets Public-Interest Obligations*

Five recent transactions illustrate the real-world consequences:-

1. Manipal Health Enterprises was acquired by Temasek, TPG, and Manipal Education & Medical Group in multiple tranches between 2018 and 2023. Post acquisition, average revenue per occupied bed rose from ₹36,000 to ₹52,000 per day while utilisation of reserved free/subsidised beds in its Karnataka PPP facilities fell from 18 per cent to 8 per cent (CRISIL, 2024; PwC India & FICCI, 2024).
2. Fortis Healthcare, acquired by Malaysia's IHH Berhad in 2018, implemented an aggressive OpCo-PropCo separation. Annual rental outflows to real-estate investment trusts rose to 132 million dollars by FY24, contributing directly to a 28 per cent increase in patient tariffs between 2020 and 2024 well above medical CPI. In Delhi and Haryana PPP blocks, below poverty line patient footfalls declined sharply (CRISIL, 2024; PwC India & FICCI, 2024).
3. Max Healthcare, backed by KKR and later merged with Radiant Life, extracted 162 million dollar in special dividends between 2021 and 2023 while simultaneously receiving viability gap funding for its Uttar Pradesh super specialty projects. Capex to EBITDA ratios in tier 2 PPP locations fell below 12 per cent, threatening long term sustainability (CRISIL, 2024; PwC India & FICCI, 2024).

4. Apollo Hospitals Enterprise, with Temasek Holdings holding a significant stake (~35 per cent), has seen average revenue per occupied bed surge to ₹56,000–77,000 per day in high margin clusters like Karnataka and Hyderabad post expansion investments. In legacy PPP arrangements (e.g., Bilaspur/Chhattisgarh model), premium payer shifts reduced free bed utilisation, mirroring affordability pressures despite government land concessions (CRISIL, 2024; PwC India & FICCI, 2024).
5. CARE Hospitals (Quality Care India Ltd., Blackstone/TPG backed since 2023), now merging with Aster DM, and pursued debt-enabled expansion of approximately 3,500 beds by FY27. Rental escalations and related party synergies in Telangana and Andhra Pradesh PPP linked expansions prioritised EBITDA growth (target 21.7 per cent), side lining subsidized care quotas amid tariff hikes (CRISIL, 2024; PwC India & FICCI, 2024).

All five chains actively engage in PPPs with state governments, leveraging viability gap funding (VGF), land grants, or operational contracts in exchange for 10–25 per cent reserved EWS beds and CGHS rate services. Manipal operates Kasturba, Wenlock District PPP (Karnataka); Fortis manages Uttarakhand cardiac centres and Delhi-NCR blocks; Max secures Uttar Pradesh and Punjab super-specialty VGF; Apollo's Bilaspur partnership provided state land for multispecialty expansion; CARE/Aster leverages Telangana, Andhra Pradesh health missions, yet PE driven financialisation systematically undercuts these public obligations.

These are not isolated aberrations; they are predictable outcomes of an incentive structure that treats hospitals as yield generating real estate intensive assets rather than public goods with constitutional overlays.

These empirical patterns are not the result of isolated managerial failures, but of incentive structures embedded in India's investment policy and PPP design. They underscore the need for targeted reforms at multiple levels investment regulation, contractual architecture, and institutional oversight to realign private capital with public health objectives.

D. *Macro and Contractual Reforms: Recalibrating Incentives*

Successful realignment involves changes that act concurrently in the macro-policy arena, in the context of PPP contract design, and with enhanced institutional control.

The level of the first is macro policy, which is Acquisitions of existing hospitals: foreign ownership (more than 49%) need to be shifted through the automatic channel to a government

approval channel. Such approval should conditional with the addition of the binding commitments of the FDI sanction letter, requirements applying to reserved bed capacity, tariff ceilings and minimum rates of reinvestment.

Second, contractual redesign of PPP concessions:

- Financial-conduct covenants limiting total debt to 2.5× EBITDA
- Mandatory escrow of 15–20 per cent of free cash flow for capex and technology renewal
- Prohibition on sale-and-leaseback transactions during the concession period
- Change-of-control clauses requiring government consent and public interest impact assessment

Financial leverage caps restrict total debt to 2.5× EBITDA, assist blocking the aggressive borrowing often used to fuel acquisitions. Second, a mandatory capex escrow locks 15–20 per cent of free cash flow exclusively for infrastructure and technology upgrades, ensuring profits aren't drained before maintenance needs are met. Third, a prohibition on sale and leaseback transactions prevents operators from selling hospital land to REITs (Real Estate Investment Trust) to generate quick cash at the cost of soaring future rents. Finally, change of control clauses require government consent for ownership transfers, contingent on a rigorous public interest impact assessment.

Third, oversight: creation of an independent Healthcare Investment Regulatory Authority under the Ministry of Health with powers to review related party transactions, impose windfall profit levies when tariff inflation exceeds medical CPI by more than 10 per cent, and enforce geographic coverage obligations.

E. *Designing Resilient Frameworks: Hard Wiring Public Interest*

The following concrete mechanisms can be embedded in every future PPP concession and brownfield FDI approval:

1. Mandatory Equity & Access Schedule
   - 25 per cent beds reserved for EWS/BPL patients at CGHS + 20 per cent rates
   - Minimum one satellite outreach centre per 100 km radius in catchment area
2. Performance linked payments, Viability gap funding and annuity streams tied to a composite index comprising:

- Affordability (real tariff growth ≤ medical CPI + 3 per cent)
- Equity (EWS patient share ≥ 22 per cent)
- Quality (NABH + Kayakalp score)
- Sustainability (capex ≥ 18 per cent of EBITDA)

Performance linked payments make public funding contingent on the hospital's measured performance on core public interest indicators, rather than being guaranteed irrespective of outcomes. In this design, both viability gap funding and annuity payments are released according to a composite index that tracks whether tariffs remain broadly affordable (prices growing no faster than medical inflation plus a small margin), whether a minimum share of care actually reaches economically weaker sections, whether clinical and hygiene standards are maintained as reflected in accreditation and quality scores, and whether a specified proportion of operating surpluses is reinvested into infrastructure and equipment. Together, these conditions convert government support into an outcome based instrument that structurally rewards affordability, equity, quality, and long term stewardship of assets, while correcting purely extractive financial behaviour.

3. State 'Golden Share' in concession holding companies, conferring veto rights over excessive leverage and change of control. This mechanism would grant the government a non-economic but strategic equity stake (a 'Golden Share') in the Special Purpose Vehicle (SPV) or operating company running the PPP hospital. This share does not carry dividend rights therefore avoiding conflicts with profit motives but rather confers specific veto powers over critical decisions that affect public interest at large.
4. The new structure does not allow the foreign investors to exercise a controlling interest on the prevailing PPP have hospital property not less than ten years and imposes gradual penalty in case of non-compliance having access privileged obligations. To deal with the instability of short-run private equity investment horizons, the regime has a ten-year lock in time frame in which the investor behaviour in the utilization and PPP assets can be monitored in terms of their management. By matching the investment time horizons with the long run nature of the healthcare infrastructure, the strategy does not encourage quick deals which focus on valuation multiples continuity and stability of over services. It is also an incentive that compels investors to internalize social objectives as central performance criteria as opposed to them being auxiliary corporate social responsibility commitments.

These are not investor friendly mechanisms that have attractive returns that are risk adjusted. Internal rate of with a network that is well managed, it has been demonstrated through return (IRR) modelling that a IRR of 16-19% can be obtained even on these terms constraint which is much higher than the cost of capital on long term infrastructure funds.

V. Conclusion

India's Unregulated foreign private equity has brought capital, technology, clinical excellence, however, it has revealed the weaknesses of the protection of public interest that was created in a pre financialisation age. Instead of being a hindrance, the constitutional right to health gives the most powerful justification to reform.

Here, strong leadership in the legal field and deliberate regulatory design is of critical relevance. Reformed PPP models based on constitutional responsibility, investment discipline and performance-based public funds can transform private capital into a lasting stakeholder as opposed to a systemic risk. The State can secure that development of healthcare infrastructure results in equal access and sustainable service delivery instead of financial expropriation by aligning the interest of the investors with the long term health outcomes.

The proposals put forward here, brownfield investments reclassification, financial conduct covenants, performance based payments, a Healthcare Investment Regulatory Authority are politically viable, legally sound, financially viable and substantively supportive of the constitutional Article 21 guarantee of right to health. They provide a way to save the merits of private capital and prevent its excess, as in the next decade of healthcare development in India, the growth will be measured not only in the multiples of the EBITDA but in the number of lives that were reasonably served.

To conclude, the transformational change is anchored by resilient leadership in legal affairs based on the invariable interpretation of Article 21 to give in positive, non-derogative obligations on the State in the case of the Supreme Court. Combined with intentionally revamped PPP models that incorporate the notions of affordability, equity, quality, and reinvestment requirement directly into the investment approvals and concession deals, the reforms will spur sustainable development in the healthcare sector in India. India can use the leverage of a privatised incentive to the foreign private equity to achieve long-term results in the public interest in a systematic recalibration of their incentives to make them responsive to increasing access, clinical excellence, and equitable, sustainable health systems in the future.

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AN ANALYSIS OF THE COMPLEX FRAMEWORK OF CORPORATE ACCOUNTABILITY AND SUSTAINABLE DEVELOPMENT FROM THE PERSPECTIVE OF ENVIRONMENTAL DEGRADATION IN THE INDIAN SCENARIO

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ABSTRACT

Corporate environmental accountability is becoming a burning issue of legal and governance concern in India as there is a rapid increase in industrialisation and environmental degradation. Despite the presence of a deep statutory and judicial system, the corporate actions that harm the environment keep disrupting the sustainable development goals. In this paper, the author is going to analyze the relationship between corporate accountability and the environmental degradation and the sustainable development in the Indian legal environment as a complex. The research has a doctrinal legal research approach and examines the provisions of the constitution, environmental laws, court decisions, and international environmental obligations that India has made. It sharply assesses regulatory loopholes, enforcement issues, corporate disclosure processes and the changing role of courts like the National Green Tribunal. The examination indicates that ineffective enforcement systems, disjointed governance, and insufficient transparency, as well as compliance-based corporate conduct, have a major influence on undermining the efficacy of current legal frameworks. This paper suggests that effective corporate responsibility needs an increased regulatory control, improved reporting on the environment, clarity in the doctrine of corporate responsibility, and alignment of domestic adoption with international sustainability requirements.

Keywords: Corporate Accountability, Environmental Degradation, Sustainable Development, Environmental Law, India.

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I. Introduction

The trend of economic direction of the 21st century in India can be defined by resource intensive constantly accelerating pace of industrialization, active urbanization and continuously growing dependence on the developmental paths. Although these processes have contributed hugely to the growth of the national GDP and have enhanced the infrastructural capacities and generated a significant number of jobs, the processes have also contributed to the growth of environmental degradation to an unprecedented rate. Emission by industries, deforestation, water contamination, loss of biodiversity, unsafe dumping of wastes, and the disruption of the ecological rhythms have become a serious threat to the sustainable development agenda of India. The rate at which the world is experiencing environmental degradation is increasing rapidly and there is a great demand to have a holistic approach that brings on board economic growth and the protection of the environment.

In this respect, the concept of Corporate Environmental Responsibility (CER), has been introduced into the governance discourse in India. CER is mandatory to the corporations to recognize their ecological footprint and adopt sustainable modes of functioning and mitigate environmental harms that are inflicted by industrial activity. The Government of India long-term development plan Viksit Bharat 2047 that is built on sustainable growth, green development, and environmental custodianship has improved the applicability of CER (Ganesh and Venugopal, 2024). There will be no possibility of sustainable development, which is premised on the harmonious relationship between economic growth, the environment and the well-being of the society in the absence of corporations that have sound accountability systems, using green technologies and environmental justice.

Although, there are efficient laws on environment such as Environment Protection Act 1986, Air and Water Acts, Forest Conservation Act 1980, Companies Act 2013 (CSR provisions) and introduction of institutions such as National Green Tribunal (NGT), there are major structural gaps in the environmental governance of India. The inefficiency of the enforcement mechanism, bureaucratic dispersion, absence of transparency, political intrusion, ineffective corporate disclosure schemes as well as inadequate adherence have restricted the effectiveness of legal and institutional interventions (Sethi & Sahu, 2025).

This paper has critically evaluated the changing nexus between the issues of corporate accountability, the issue of environmental degradation and the issue of sustainable development

in India. The analysis will look at the problem of regulatory loopholes, the lack of checks and token corporate involvement based on legal structures, the judicial cases, policy initiatives, internationally based initiatives and literature relating to the Indian environmental sustainability goals to discredit them.

II. Identification of Statement of the Research Problem

In India, the environmental degradation caused by corporate activities has persisted in the country despite the existence of elaborate environmental laws and the judiciary intervention. The weaknesses in the regulations, the lapses in enforcement, and the lack of transparency in corporations pose great questions on the effectiveness of the current accountability mechanisms. The paper touches upon the legal and institutional weaknesses that impede sustainable development, discussing the way the corporate environmental responsibility is governed, exercised, and understood in the Indian Legal System.

III. Research Methodology

The approach to legal research used in this study is a doctrinal one. The main sources to be used are the constitutional provisions, the laws, rules and judicial rulings of Supreme Court of India and National Green Tribunal. Academic literature, policy reports, and international environmental instruments are secondary sources. The studies examine the statutory interpretation, judicial reasoning, and regulatory practices to determine the efficiency of corporate environmental accountability in ensuring sustainable development.

IV. Analysis and Findings of the Research

A. *Evolution of Corporate Environmental Responsibility in India*

This evolution of the Corporate Environmental Responsibility in India may be regarded as the shift between the philanthropic practices and the arrangement of the government. In the traditional sense, the concept of CSR in India has been largely associated with the element of charity, philanthropy and social good. Environmental protection was a peripheral issue to corporate policy models until the beginning of the 2000s (Chahoud et al., 2007). However, the growing ecological disasters, urban air pollution, river pollution by industries, the sale and consequent loss of ground water in large quantities, colossal soil deterioration, etc., required higher level of corporate intervention in the ecological preservation.

Another factor that influenced the attitude of India towards CER significantly was the international environmental movement. Rio Earth Summit, Agenda 21, Kyoto Protocol and Paris Climate Agreement and the implementation of the UN Sustainable Development Goals (SDGs) have compelled corporations to take the environmental policies into account as a component of their long-term strategies. Additionally, new regulatory fashions such as mandatory CSR spending in Company Act 135 gave the companies a binding format of corporate responsibility, however, this was just obligatory to the companies that met certain requirements.

Nevertheless, CER has a biased and limited coverage in India. There are also companies that restrict their environmental program to compliance based models or token CSR programs instead of sustainability being the business model. Jha and Rangararajan (2020) also claim that Indian companies apply more reactive than proactive environmental engagement, addressing ecological concerns because it is essential to avoid penalties or meet disclosure requirements.

Other challenges affecting the growth of CER in India include: Voluntary reporting culture, where environmental disclosures lack standardisation and independent verification. Limited corporate awareness, especially in small and medium enterprises, regarding long-term ecological risks.

Insufficient technological capabilities to adopt cleaner production methods. Cost-centric corporate perspectives, where sustainability initiatives are perceived as financial burdens rather than strategic assets.

Nevertheless, within these constraints, CER in India has experienced substantial growth over the last few years because of judicial activism, civil society, investor preference on sustainable portfolios and market demands due to globalization. Nevertheless, there is still a lot to be done to transform CER into a business process and a strategic decision-making tool.

1. Regulatory Framework for Corporate Accountability in Environmental Protection

India has already developed a robust statutory framework aimed at regulating the industrial pollution and enforcing corporate responsibility. Some of the principal legislations include the Environment Protection Act 1986 that has been adopted following the Bhopal Gas Tragedy, and which is an umbrella that includes environmental regulation. This is accompanied by the Water (Prevention and Control of pollution) Act 1974, Air (Prevention and Control of pollution) Act 1981, Hazardous Waste Management Rules that are applicable in some aspects

of the protection of the environment. All these laws put in place allow the central and State Pollution Control Boards to supervise, manage and monitor the industrial operations.

The national green tribunal act 2010 further optimized the whole regulatory ecosystem by establishing an exclusive tribunal, which must adjudicate and punish environment violators besides applying the principle of polluter pays precautionary principle and sustainable development. The judiciary has been interfered with by cases, such as MC Mehta v. Vellore Citizens Welfare Forum v. Union of India. The responsibility of high corporate accountability towards preventing ecological damage has been reinforced by union of India. Regardless of that, despite such a complicated legal order, there are systematic gaps in implementation. Empirical studies suggest that there is a failure to work in environmental enforcement agencies due to: Severe understaffing and budgetary limitations, restricting monitoring capacity. Outdated pollution standards, which fail to align with contemporary industrial technologies or international best practices. Weak inter-agency coordination, leading to fragmented environmental governance. Corruption and political interference often allow non-compliant corporations to evade responsibility. Ineffective penalties, where fines imposed on polluting industries are too nominal to deter violations (Sethi & Sahu, 2025).

The second issue is the lack of mandatory environmental audits of a significant part of the industry. Any self-reported environmental compliance usually leads to under-reporting or distorting information because the regulatory bodies do not have a system of independent verification. Therefore, although the legal structure seems detailed on paper, its implementation is poor, which is a major limitation to its potential to protect sustainability of the environment.

2. Corporate Accountability and Its Link to Sustainable Development Goals (SDGs)

The 2030 Agenda of Sustainable development in India involves the corporates actively in implementing SDGs about the environment. The corporate accountability has direct impacts on several SDGs such as:

SDG 6: Clean Water and Sanitation

SDG 7: Affordable and Clean Energy

SDG 12: Responsible Consumption and Production

SDG 13: Climate Action

SDG 15: Life on Land

The corporations will also have to introduce the low-carbon technologies, reduce the number of emissions, improve the energy-efficiency, follow the waste-management norms, introduce the water-saving programs and promote the introduction of a circular economy. Van Tulder (2018) says that firms should align their strategies with SDGs as a way of remaining competitive in a new global marketplace that has embraced sustainability.

Corporate participation in SDGs in India, however, is, in most cases, symbolic and disclosure-based, rather than transformative in nature. According to Jha and Rangarajan (2020), most of the big Indian firms mention SDGs in their sustainability reports and do not translate their commitments into measurable environmental outcomes. The focus tends to remain on: Providing CSR funds to environmental projects, Sponsoring tree-plantation programmes, publishing sustainability reports with limited third-party verification. These attempts, despite being useful, seldom examine the impacts of the industrial processes on the environment that are structural. Besides, SDG framework requires cross-sectoral collaboration, yet the Indian corporations typically operate in autonomy that is not related to the civil society, academic institutions and government agencies. This discourages the effectiveness of SDGs implementation and limits innovation. However, it is becoming clearer that SDG compatible corporate behavior can create a long-term value due to the reduction of regulatory risks, enhanced investor confidence, enhanced brand reputation, and resilience to climate-related shocks.

B. *Transparency, Environmental Reporting and Corporate Disclosure Mechanisms*

Good corporate accountability has its basis on transparency that is quite fundamental in the environmental sector where the consequences of industrial operation are often in repair. In India, the disclosure of the environment is still not well developed as the reporting standards are still inconsistent with most of the sectors being voluntary and not always revealing the surface disclosures. Although, the Business Responsibility and Sustainability Report (BRSR), a requirement by SEC board of India (SEBI) to the top 1,000 listed companies is an initiative that is taking the form of a formal disclosure of the environment, its performance is low. SMEs that constitute a huge stature of the pollution level in any given country are not subjected to the mandatory disclosure system. This is an exception that assists most of the industries that pollute the environment to operate without standardized reporting and open supervision (Ray, 2013). The Indian practices of environmental reporting are more inclined to demonstrate the absence of connection between the corporate policies and corporate performance in terms of the

environmental aspects. Most of the companies choose to promote the positive efforts in sustainability, such as tree-planting, CSR spending or community ecological projects but avoid advertising the facts about high emissions, hazardous waste disposal, violation of environmental regulations or potential lawsuits. This selective reporting can be facilitated by the fact that they have no standard environmental audit system and that there is no third-party verification mechanism and lead to exaggerated or false sustainability claims. This is because, according to Utting and Clapp (2008), the spread over corporate reporting culture is now struggling with the issues of greenwashing where companies are creating the impression of being environmentally friendly without necessarily undertaking meaningful actions that would alleviate the environmental iniquity.

Besides the process of Environmental Impact Assessment (EIA) in India which was supposed to introduce transparency in the stage of project-approval has been greatly criticized because of the absence of proper participation of the people, bureaucracy and inappropriate evaluation methods. The section of the draft EIA Notification 2020, which suggested post-facto approvals and relaxation of the reporting requirements, in other words, undermined the clarity and control of the populace. These reforms would make environmental governance even weaker as it would offer additional flexibility to corporations at the expense of environmental protection in the event they are put into play (Kunj, 2024).

The other significant drawback is a lack of a robust digital monitoring system. The self-reported data which is normally understated and submitted by the industries is applicable to central pollution control board (CPCB) and state pollution control boards (SPCBs). Studies show that the online continuous emission monitoring systems (CEMS) even when compulsory to certain industries have the issue of calibration, intentional tampering, and uneven data streams (Sethi and Sahu, 2025). Besides, the regulatory bodies are technically unable to verify the legitimacy of the mentioned emissions or inculcate periodic site checks due to the lack of personnel and resources.

Transparency can be enhanced by civil society and media in an influential way. The main drivers of corporate accountability have been investigative journalism, litigations which are usually driven by public interest, and environmental activism. Borah et al. (2024) also note the importance of mass media in highlighting ecological offences and mobilization of the opinion, particularly in ecologically prone areas. The availability of corporate environmental

information is, however, few and far between, and regulatory authorities lack any centralized and publicly available databases that will detail the compliance history of industrial entities.

A comprehensive improvement in transparency therefore requires: mandatory environmental reporting for all medium and high-impact industries; independent third-party environmental audits; strengthened digital monitoring infrastructure; wider public access to environmental data; and

strict penalties for non-disclosure or misrepresentation. Without transparency and verifiable reporting mechanisms, corporate environmental responsibility will remain performative rather than transformative.

C. *Judicial Activism and the Role of the National Green Tribunal (NGT)*

Judicial activism has proved to be of invaluable value in the environmental governance field in India. The experience has seen the courts step into rectifying the administrative malfunction of enforcing environmental rights as well as imposing strict liability to the polluting industries. Court cases- MC Mehta v. Famous court cases of the Supreme Court. Meco Environmental Ltd. vs. the Indian council enviro-legal action. Union of India. Citizens Welfare Forum v. Vellore. Vellore Citizens Welfare Fund Union of India. Union of India--came up with general principles of environmental protection like the principle of polluter-pays, precautionary principle and the doctrine of the public trust. These court values helped a lot to enhance the degree of vigilance on business operation and supported the constitutional need of the state and corporations in protecting the environment according to Articles 21 and 48A and 51A (g).

The institutional development that made the biggest positive step ahead was also the signing of the National Green Tribunal (NGT) as an institution under the NGT Act 2010 as it provided India with a dedicated quasi-judicial institution to deal with environmental matters 24/7. The cases to be processed by the NGT should be related to environmental protection, forests conservation, and compensation of the victims of pollution and ecological degradation. What it has done has been rather strict in its ruling, ordering closure of very polluting industries, issuing massive financial penalties and requiring total environmental reform.

The action it has taken in the case of the Sterlite Copper Plant in Tamil Nadu, the extraction of sand illegally in Uttar Pradesh, the pollution of the Yamuna River and compliance with air-quality standards in Delhi is an example of how it is making corporations responsible to the environmental degradation. This has compelled companies to adopt the best compliance

policies whereby the companies have introduced pollution control and the execution of environmental clean-up.

However, the NGT has grave shortcomings despite the progressive stance. The enforcement power of the Tribunal is extremely weak and even a few of its orders have been sabotaged by non- enforceability of the state governments, bureaucracy or politics. Judicial orders and ground level enforcement apparently have a loose end since even explicit decree to close industries lead to operation of industries. According to Hariram et al. (2023), non-cooperation by the administration, non-coordination between central and state agencies, and delay in compliance monitoring are some of the bottlenecks in the environmental adjudication system.

The other disadvantage is that of the overworking of the NGT that is handling a broad range of cases with a limited number of judicial members. Any appeals to overturn NGT order can be brought before the Supreme Court, and this can result into prolonged litigation that will allow industries to remain unchecked. The statute provisions also limit the jurisdiction of the Tribunal in that the Tribunal would not be able to handle some categories of cases concerning the environment.

D. *International Commitments and India's Global Environmental Obligations*

The participation in the international environmental agreements and global sustainability efforts is influential in the environmental governance system of India. As a signatory to the United Nations Framework Convention on climate change (UNFCCC), the Kyoto protocol and the Paris Agreement, India has had a role to play in terms of ensuring that greenhouse gas emissions are minimized, enhancement of adaptive capacities, and implementation of sustainable technologies and conservation of biodiversity. The new Nationally Determined Contributions (NDCs) of the Paris accord in India present a few ambitious targets including the intensity of future emission, 50 percent cumulative electric power installed capacity of non-fossil fuel-based sources by the year 2030 and introduction of more carbon sinks through extension of forest and tree cover.

These commitments directly but with high obligations on corporate entities which are major contributors to country emissions and drain of resources. To meet the objectives of the global climate, businesses must use low carbon technologies, consume less energy, reduce industrial waste, use renewable sources of energy, and use cleaner production methods. As it is stated by Singh and Debnath (2012), the idea of sustainable development in India is significantly

connected with the ability of industries to adopt the global environmental standards into the local implementation and create a balance between economic modernization and environmental responsibility. India is also a participant in such international initiatives as UN Sustainable Development Goals (SDGs), Sendai Framework on Disaster Risk Reduction, the Convention on Biological Diversity (CBD) and Basel Convention on hazardous waste. Such systems include environmental protection, sustainable reporting, and production. Using the SDG 12 on responsible consumption and production as an example, industries are by direct goals required to ensure ecological footprint is lowered through efficiency in resource consumption, waste minimization, and sustainable chains of supply. Despite these being the commitments, there remains partiality and inconsistency between international commitments and domestic practices of corporations. Many of companies believe that global environmental standards are a dream and not an obligatory action and therefore take the bare minimum in altering their production patterns. The sustainability systems are also voluntary in nature, further limiting the liability of corporations since they lack any enforceable elements that make corporations adhere to it (Jha & Rangarajan, 2020).

Issues of scarce finances and technology are also a problem that deters development. Green revolution is also associated with massive capital outlay, which the companies, particularly, the SMEs cannot afford in India. International arrangements facilitate technology transfer and climate financing, but India continues to be experiencing limited access to the resources. According to Hariram et al. (2023), corporations are unable to implement sustainable alternatives when they are ready to do it unless they have adequate financial support and technological help.

The other significant loophole is the interpretation of international commitments into domestic laws. Even though environmental laws in India are vast, they are not always obligatory in the international agreements that is why they are applied in parts. There is a need to promote coordination to ensure that the world commitments on climate made by India are fully integrated into national regulation systems and corporate governance mechanisms. Regardless of these stumbling blocks, there is an upward pressure on Indian corporations due to the mounting pressure of the global markets, international investors and international sustainability standards which are slowly increasing the responsibility of companies in India. Social, Governance and Environmental (ESG) standards have also become a power determinant of

corporate behavior and worldwide investors are increasingly becoming fond of companies that portray good environmental performance.

The international environmental commitments of India therefore serve as a guiding model and a moral obligation to the corporations and therefore require the corporations to change their modal of operation and adjust to the international standards of sustainability. Nevertheless, the actual development needs a closer domestic regulatory system, more technological innovations, and financial processes that will allow companies to shift to sustainable growth.

E. *Socio-Cultural, Economic and Political Factors Affecting Corporate Behavior*

The corporate environmental behaviour in India is shaped by a complex amalgamation of socio- cultural demands, economics, politics and communication at the community level. Unlike the Western world, in which the trends toward environmental activism and green consumerism require an enormous influence on the consumer decision-making process of a corporation, the socio- cultural setting in India represents an uneven and uneven distribution. The environmental awareness has largely been in the cities, in the schools and civil societies, but the rural and peri urban communities are greatly bothered with their livelihood and financial stability rather than the environment. It is also a significant impact of corporate behavior since in economically underdeveloped regions, industries are rare to face resistance to environmental unfriendly behaviors (Borah et al., 2024).

Social-cultural factors of corporate behaviour also influence the levels of environmental awareness of the various states. Southern and Western Indian states such as Kerala, Tamil Nadu, Karnataka and Maharashtra are more environmental in their activities, their civil society organizations are

more active, and the media are more sensitive. Therefore, firms operating in these states have higher chances to be more responsible regarding environmental conduct or, at least, more eager to comply with the standards to ensure that the legislation is followed by the population due to the control that the population conducts. On the other hand, less-literate states having worse institutional capacity and access to environmental information often possess a pollution-intensive industry that in part is caused by companies that decide that the risks of popular resistance and government intervention are low (Tanwar & Poply, 2024).

The economy of the country also has a direct influence on the corporate environmental behaviour in India. The environmental sustainability remains to be often marginal as the

developmental model of the country is traditionally based on accelerated industrialization, developing the economy, and providing employment. Clusters of the chemical industry, mining industry, thermal power industry, textile industry and fertilizer industry are Gujarat, Uttar Pradesh, Maharashtra and Chhattisgarh where numerous of them are situated with high levels of poverty. The industries tend to be a significant wage earner to the locals and therefore environmental destruction is just being swept under the carpet in support of economic security. Ray (2013) states that the most prevalent reason that renders the voice of the community ineffective is economic vulnerability, which permits corporations to exploit loopholes in regulations and evade responsibility.

The cost of implementation of greener technologies also determines corporate decisions. The conversion to a cleaner production, renewable energy, and waste management technology or emission- control device involves significant capital expenditure. The financial capability of most of the Indian industries, which are small to medium enterprises, cannot adopt such technologies. Even large corporations are not always eager to implement green technologies unless it is an obligatory issue by regulation, or an investor of pressure. The economic reasons to switch to low-carbon policy are yet to be provided, and they only delay the green change in India.

The role of the political environment in shaping the corporate behaviour is also very crucial. The federalist character of the Indian system provides the states with additional freedom to choose the industrial policy options, as well as provide the environmental certification and enforcement of the pollution-related standards. This has caused a great gap in the political priorities among states. Corporations may be treating lax in the implementation of regulation in states where the rhetoric on politics plays a focus on economic growth, ease of doing business and industrialization. Conversely, the states with a robust leadership on the environment or active judicial system may impose more stringent compliance requirements. According to Sethi and Sahu (2025), the India environment governance is highly heterogeneous and politically mediated such that the ruling parties, regional politics and bureaucratic cultures are the ones that mirror the priorities.

Political patronage also offers differential corporate compliance. Industries in some areas are politically affiliated, and therefore pollution control boards cannot formulate strict measures to control their activities such as letting them off the hook by imposing fines or operating in total defiance of the regulations. The judicial activism usually steps in to put a check on such

political economic strains but unless the administration is forced to so, most of the judicial orders remain unimplemented. Political influence/regulatory capture is hence, the significant determinant of corporate environmental behaviour.

Also, the nature of the environmental activism and civil society involvement can be characterized by the cultural diversity in India. In some cases, the native people or tribes residing in forests and depending on the ecological environment fight industrial projects that bring harmful impact on the environment. Their protests are based on socio-cultural and not merely on the effects of

Environmental degradation. However, grass-root movements in most cases find it challenging to circumvent legal procedures, find scientific knowledge, and mobilise the masses. However, the examples of Narmada Bachao Andolan, Save Aarey Campaign and anti-mining campaign in Odisha indicate that the socio-cultural mobilisation can be extremely efficient in forcing the corporations to become more responsible.

Another aspect that determines the behaviour of the corporate world is technological literacy. Areas with more access to digital means, environmental information, and social media would be more likely to oppose corporate environmental abuses. Borah et al. (2024) emphasize that the digital media plays a critical role in increasing the environmental issues by making them more noticeable and attracting a large-scale response. As corporations are aware of the reputational risk of negative media coverage, they may be more inclined to practice environmental responsibility in the areas where the level of digital activity is high.

Thus, the corporate environmental behaviour in India is a confluence of a multifaceted interaction of the cultural norms, the pressure of economic demands, political interests and expectations of the community, and knowledge of technology. Until such changes are made in these socio-cultural and political structures towards greater environmentally conscious orientation, the issue of corporate accountability remains patchy and more responsive than deeply embedded in organizational values.

F. *Strengthening Corporate Environmental Responsibility*

Implementation of Corporate Environmental Responsibility (CER) in India requires structural changes that are grounded on legal, institutional, economic and cultural aspects of environmental regulation. In as much as the nature of such laws is well grounded in the current environmental laws, the application of such laws contributes a lot to the success of CER as

much as its nature. The most necessary and vital one is the enhancing of regulatory enforcement. The Corporation Environmental Performance will require more money, availability of human resources and technological capabilities to equip the Pollution Control Boards in the provision of a continuous monitoring, independent monitoring and real-time assessment of the corporate environmental performance. According to Sethi and Sahu (2025), the enforcement agencies should have new tools and should not rely on the political interests of the political figures and the sophisticated digital devices to ensure that the statistics on the pollution are altered and reporting is manipulated.

Not only the top listed companies, but all the high impact industries should be obliged to carry out the mandatory reporting of the environment.

Business responsibility and Sustainability Reporting (BRSR) framework should be changed to a multi-layer framework in which varying levels of reporting requirements are applied based on the amount of environmental risk of a certain sector. This would ensure that more reporting is imposed on the mining, chemical manufacturing, thermal power, construction, and pharmaceutical industries, which are also polluters. It must also increase transparency by making sure that there is independent third-party audit, establishment of repositories of national environmental data that is accessible to the generals as well as an institute of penalty in case of misrepresentation or non-disclosure. Ray (2013) considers that standardized reporting and checking by third parties is important in ensuring that there is credibility and that superficial or misleading claims pertaining to the environment are discouraged.

The other reform that is highly required is to promote the utilization of cleaner technologies. The industries, particularly the SMEs, are not normally financially able to make the transition to low- carbon technologies. The government should involve more potent financial incentives such as tax incentives, subsidies, low interest green loans and the government to commercial partnerships in the development of the technology. International climate finance should be utilized to help with the transition of corporations using global agreements such as the Paris Agreement. The authors observe that the solution to an effective industrial ecosystem that will enable green change is the correlation of environmental policy and technological development (Hariram et al., 2023).

The organizational culture should also project environmental responsibility by corporations. Recruitment, training, performance appraisal and reward systems can be very instrumental as

introduced by Green Human Resource Management (GHRM) to bring sustainability (Mishra 2017). The practices surrounding sustainability are internalized in the companies when these practices are part of the organizational values and performance indicators of the employees instead of being directed as the external compliance issues. This form of internalization promotes ecological stewardship in the long run as compared to the short run compliance measures.

Community involvement is another significant pillar in the improvement of CER. The environmental degradation effects are largely experienced by the local people and therefore they should be included in the decision-making process of industrial projects. The mechanisms used in environmental governance can democratize the environment's governance, and they include community advisory boards, public hearings and participatory environmental monitoring. Borah et al. (2024) also discuss the significance of community participation, asserting that engaged and informed communities represent unofficial watchdogs, and they can monitor the work of corporations and report about the misconduct.

Judicial checks and balances also must be strengthened. The NGT, despite its transformative nature, requires efficiency enhancement through expansion of the jurisdiction, which entails obtaining more judicial capacity and control of compliance with its decisions and amalgamation with regulatory bodies. Environmental litigation would also be solved in a shorter time through fast- track environmental courts or special benches which would handle the problem of industrial pollution. The intervention of environmental law courses in the corporate training programs can increase awareness of corporate executive, compliance officer and employee and make them proactive to adhere to the environmental norms.

The second strategic need will be to harmonize domestic regulations withe national industrial policies must incorporate the NDCs of India through the Paris Agreement, SDGs commitments and obligations through the Convention on Biological Diversity. It is recommended that companies apply science-based targets, employ ESG (Environmental, Social and Governance) indicators in annual reports, and involve their activities in accordance with the global sustainability standards. Van Tulder (2018) argues that such a global alignment does not only amplify the corporate environmental performance but the competitiveness on the global market, where the sustainability credentials are starting to play a bigger role in the selection of the investors.

Finally, political will cannot be left out. The national development planning should be fixed on the consideration of environmental protection. The interest of long-term ecological stability and the short-term economic gains should be ranked as the second priority by political leaders; the control must be screened strictly, and the influence of the industrial lobby groups must be overcome. The reforms on monitoring, enforcement, and corporate governance cannot be effective unless they are supported with a healthy political commitment.

In conclusion, Corporate Environmental Responsibility should be strengthened in India on the multidimensional basis, which will include legal aspects, technological advancements, financial practices, involvement and cultural transformation of society. Only after the companies put environmental responsibility as the key organizational value, with the assistance of the well- institutionalized institutions and the state vigilance India will be able to achieve the sustainable development path, which will be like the vision Viksit Bharat 2047.

G. *Suggestions*

The analysis reveals that despite the existence of an extensive statutory and institutional framework governing environmental protection in India, corporate accountability for environmental degradation remains largely ineffective in practice. One of the central findings is that environmental laws operate predominantly as compliance-oriented instruments rather than as mechanisms that induce substantive behavioural change among corporate actors. Statutes such as the Environment (Protection) Act, 1986, the Air (Prevention and Control of Pollution) Act, 1981, and the Water (Prevention and Control of Pollution) Act, 1974 provide broad regulatory powers; however, their enforcement suffers from administrative inertia, weak monitoring capacity, and regulatory capture.

It can be seen in the review that despite the properly developed legal and institutional framework that governs the environmental protection in India, the role of the corporate world regarding the environmental degradation is rendered practically insignificant. In the list of key findings, we may observe that environmental laws are a rather compliance-based instrument, and not the instrument, which leads to the substantive behavioral change among the business actors. Statutes such as the Environment (Protection) Act, 1986, the Air (Prevention and Control of Pollution) Act, 1981 and the Water (Prevention and Control of Pollution) Act, 1974 have broad regulatory powers but these powers have been weakened by lack of administrative vigor, poor monitoring capacity and regulatory capture. Among the identified gaps, the separation of enforcement between the state and the central agencies can be pointed out as one

of the critical ones. The Pollution Control Board has been severely understaffed as well as they are not technologically well equipped and therefore, they do not carry out any inspections regularly, and the industries are also left to self-report on their compliance.

This is a weakness of this institution that allows corporations to externalize the affairs of the surrounding environment without being subjected to ratios of legal implication. The penalty imposed in the event of the breach is normally not worth much and is not related to the severity of environmental losses, therefore reducing the effects of environmental law as a deterrent. The judicial intervention has emerged as a compensatory force too in a move to rectify the executive miscarriages. The Supreme Court of India played out article 21 that constitutionalized the protection of the environment, operationalized the rule of the polluter pays, precautionary principle, and sustainable development in the case of Vellore Citizens Welfare Forum v. Union of India and M.C. Mehta v. Union of India. The National Green Tribunal (NGT) was also formed thus improving adjudicatory control by using specialized knowledge and expedited remedies. The outcomes, however, provide confirmation of the fact that judicial orders usually lack their implementation due to non-observance of the bureaucracy and the political interference, which makes them less effective in the long-run impact on corporate actions. The other critical finding is that of absence of good corporate disclosure and transparency systems.

Despite being a positive step such as Business Responsibility and Sustainability Reporting (BRSR), the fact that it only applies to listed companies excludes most of the most polluting industries such as the small and medium businesses. Greenwashing and watering down actual responsibility Environmental reporting is often concerned with rhetorical statements of sustainability, as opposed to factual outcomes. There is also the lack of mandatory third-party environmental audits that contribute to the further increase of information asymmetry between the corporation, regulators, and communities. The study also finds that the company's participation in sustainable development goals (SDGs) is rather symbolic in nature.

The environmental responsibility aspect is not considered by most people as a part of the core business strategy but rather as an appendix of corporate social responsibility. It is a limited definition of sustainability which could not answer structural sources of environmental degradation which are involved in the process of production. All these findings demonstrate that environmental responsibility in India in the corporate world is not hampered by any form of legislative insufficiency but portrays poor implementation, absence of transparency and philosophy of corporate responsibility. Sustainable development cannot be achieved unless the

environmental law is turned into a result-oriented regulation rather than a procedural compliance. To transform the corporate behaviour and bring about environmentally sustainable economic growth, there is a need to enhance regulatory agencies, enhance the tenets of disclosure, and proper execution of judicial directives.

V. Conclusion

An overview of the corporate responsibility and sustainable development in the Indian setting renders a very confounded landscape that is being steered by legislation, judicial, socio-cultural, economic strains and trans-national endeavors. India has erected extensive statutory binding including the Environment Protection Act 1986 to the Companies Act 2013 and the National Green Tribunal Act 2010, but the problem is on the implementation of such similar provisions. The environmental laws have not been working as intended due to inefficiencies in the regulations they possess, disjointed administration, lack of transparency and haphazard implementation. Independent of this, the industrial pollution, ecological degradation, and unsustainable use of resources are expanding larger and larger at the expense of the developmental goals of India.

The evolution of Corporate Environmental Responsibility (CER) is a gradual transition in the philanthropic tradition realm to a more organized governing and assuring the environment. Despite this, CER does not practice uniformity in sectors due to voluntary compliance mechanisms, limited financial resources, standardisation of environmental reporting, and business strategy sustainability. According to Jha and Rangarajan (2020), the interest of corporates on sustainability tends to be formal which is drainage-focused solutions rather than structural change. The absence of co-ordination between policy will and corporate action is the reason why it is so obvious that more fundamental institutional change is necessary and more accountability structures are needed.

The judicial activism in particular the National Green Tribunal has been a highly powerful device in improving environmental governance. The decisions of the courts have enforced the principle of the polluter-pays, the necessity of the ecological harm restitution and imposing penalties on the industries that do not comply with the requirements. However, judicial guidance is not sufficient to counter the administrative weakness, politicization, or bureaucratic capture. Effective environmental governance requires a strong institutional capacity coupled

with judicial oversight which would be supported by transparent reporting and the real-time monitoring.

The need to make a change in the corporate sector is also supported by international obligations of India as outlined by the Paris Agreement, SDGs and multilateral environmental treaties. The international systems also compel India or rather Indian firms to adopt low-carbon technologies, to become resource efficient and transform to sustainable models of production. However, the reconciliation of the domestic industrial practices and the international duty require high scale investments, technological innovation and convergence of policies.

The transformation of corporate behaviour is also concerned with social-cultural and economic issues. Disagreements in environmental awareness between the areas of the country, shortcomings owing to their poverty, society dependency on the pollutants, differences in media attention are all that influence the way in which corporations perceive their obligation to the environment and respond to it. Even political relations, including the laxity of the regime and the patronage system complicate process of the enactment of environmental regulations.

This means the multi-dimensional approach is also instrumental in empowering CER. The mandatory reporting of environmental impacts of all highly impactful industries, audit, real time surveying, community participation, investment in green technologies, and alignment of domestic legislation with international standards are all the required aspects of a comprehensive reform agenda. The transformational change should also happen at the corporate level, and the responsibility towards the environment must be incorporated into the organisational culture through the prism of such processes as Green HRM, sustainability-based leadership, or stakeholder-governance (Mishra, 2017).

Lastly, the Viksit Bharat 2047 vision in India is based on the capability to strike the right balance between the economic growth of the nation and environmental sustainability of the nation. Sustainable development can never be realised in the absence of responsibility on the environmental impact of corporations and the regulatory agencies with the powers to exercise decisive action. The concerted effort should lead to the creation of a stable economic country and a sustainable environment which is supported by state regulation, neighborhoods, and internalised by corporations. Only in such a comprehensive and long-term investment, India is likely to ensure that the present development would not pose a threat to the lives of the future generations.

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PROTECTING HUMAN RIGHTS IN THE DIGITAL ERA THROUGH THE USE OF ARTIFICIAL INTELLIGENCE AND PRIVACY

*By Gurleen Kaur**

ABSTRACT

The intersection of Artificial Intelligence (AI) and privacy in the digital era has significant ramifications for human rights. This article investigates the complex relationship between AI and privacy, analysing ethical factors, legal frameworks, and emergent issues. Developments and the responsibilities of organisations and institutions in protecting individual rights. Beginning with a review of AI technology and its uses, the conversation goes into the definition and significance of privacy in the digital domain. It scrutinises how AI systems utilise personal data, explaining potential privacy dangers and ethical dilemmas. Legal frameworks and international standards governing privacy and AI are addressed, underlining the importance of regulatory compliance and global cooperation. Differential privacy and federated learning are two examples of privacy-preserving AI technologies that are being investigated as ways to protect user privacy in the face of big data proliferation. Transparency, justice, and accountability are among the ethical precepts that underpin AI development and are highlighted as crucial protections against invasions of privacy. In order to preserve privacy as a basic human right in the digital age, this paper promotes an all-encompassing approach to AI governance that is based on moral standards and legal protections.

Keywords: Roles, Awareness, Privacy, Human Rights, and Artificial Intelligence.

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I. Introduction

Artificial intelligence (AI) is at the front of a historic technological revolution, signalling the start of a new era of creativity. However, this revolutionary power also brings with it a maze of privacy issues that go right to the heart of human rights. As AI systems become more and more integrated into everyday life, protecting personal information becomes a crucial concern.

This paper goes extensively into the complicated dance between privacy and artificial intelligence, examining the social, legal, and ethical dimensions that underpin this modern quandary. From the algorithms that predict our next online click to the monitoring systems that follow our locations, the digital era compels us to reconsider the boundaries of privacy. We navigate the challenging area where technology and humans collide by carefully examining the delicate interplay between privacy and artificial intelligence. Join us as we discuss the critical need to find a balance between innovation and the defence of fundamental human rights so that, in the digital age, development does not violate people's right to privacy.

II. Research Methodology

The research employs a qualitative, doctrinal, and comparative approach that draws on academic commentary and source legal texts. In addition to the EU's GDPR and AI Act, it examines international instruments (UDHR, ICCPR), Indian constitutional provisions (Art. 14, 19, 21), significant privacy and surveillance rulings (such as Puttaswamy), and laws like the IT Act 2000 and the Digital Personal Data Protection Act 2023. Books, law-review papers, and policy studies on AI, privacy, and data protection are examples of secondary sources that are utilised to build rights-based suggestions for AI governance and to critically assess current norms.

III. Identification of Statement of the Research Problem

AI-powered biometric, profiling, and surveillance technologies have increased the extent and opacity of personal data usage, threatening autonomy, equality, privacy, and dignity. Significant gaps exist in enforcement and protection due to the present human AI-specific damages aren't protected by Indian constitutional and privacy frameworks, including Puttaswamy and the DPDP Act 2023. This paper proposes doctrinal, legal, and technological modifications to ensure that AI development and implementation remain consistent with a robust right to privacy. It also looks into whether current international and Indian legal frameworks adequately safeguard human rights in the face of AI.

IV. Analysis and Findings of the Research

A. *The Role of Artificial Intelligence in Modern Society*

"The science of giving machines human intelligence is known as artificial intelligence."[1] One of the branch of computer science known as artificial intelligence seeks to replicate human thought and learning. The study of artificial intelligence (AI) aims to build intelligent computers that are capable of all the activities that call for human intellect, including speech and voice recognition, natural language comprehension, and decision-making. To put it simply, artificial intelligence (AI) systems are machines that can perform certain tasks that the human brain can, indicating that they have cognitive capabilities.[2]

A few fundamental and primary approaches that are used to produce intelligent behavior in machines are listed below. Artificial Intelligence (AI) is a collection of several techniques. A branch of computer science called "machine learning" creates algorithms that learn from experience and get better over time.[3] It is an artificial intelligence (AI) subtype that gains knowledge from combined data and gradually becomes better at what it does. Put more simply, it's a technique for giving a machine human-like thought processes. Machine learning algorithms, for instance, are employed to mimic human abilities like driving, playing games, annotating images, and so on.

1. Natural Language Processing (NLP): NLP is a branch of artificial intelligence (AI) and computer science that employs machine learning to assist computers in comprehending and communicating in human language.[4] Prediction and language translation NLP is used by well-known websites like Google to translate and grammatically correct sentences. Natural Language Processing (NLP) is used by virtual assistants like Siri and Alexa to understand, receive, and respond to human commands. Like Gmail, Natural Language Processing (NLP) is used as an email filter to filter spam and accurately categorise emails into main, social, and promotional groups.
2. Robotics: Artificial intelligence for movement is made possible by robotics. These are artificially intelligent devices that can carry out tasks that typically call for human intellect

[1] McCarthy, J. (2007). What is artificial intelligence? Stanford University. http://www-formal.stanford.edu/jmc/visted on 2 November,2025.
[2] Swan EJ, Artificial Intelligence Law (2024).
[3] Fong RC, Scheirer WJ and Cox DD, 'Using Human Brain Activity to Guide Machine Learning' (2018) 8(1) Scientific Reports.
[4] IBM, 'What is NLP (Natural Language Processing)?' (no date) https://www.ibm.com/topics/natural-language processing accessed on 2 November 2025.

both fully and partially on their own. Supporter and caring robots (including humanoid ones), autonomous land, air, and sea vehicles, swarming robots, search and rescue robots, service and manufacturing robots, robotic toys, various military robots, and intelligent prostheses are just a few of the robotic applications that can benefit from the use of AI technologies. The many components of artificial intelligence (AI), such as machine vision, pattern recognition, autonomous navigation, voice recognition, precision manipulation, localisation, and mapping, all play crucial roles. Basic features of sophisticated artificial intelligence, such learning from prior experiences and forecasting the outcome of a certain action, improve these operations.[5] Although artificial intelligence offers crucial opportunities to leverage and apply to create great results in a number of industries, including healthcare, education, and finance, among others, it also poses major risks that should not be disregarded.

B. *Understanding The Right to Privacy*

"The right that determines the nonintervention of secret surveillance and the protection of an individual's information" is the legal definition and definition of privacy.[6]Simply put, the right to privacy prohibits someone from becoming the target of unwelcome exposure. Information privacy, body privacy, communications privacy, and territory privacy are some of the several aspects that make up privacy.[7]

The right to privacy is a fundamental human right enshrined in several international conventions and treaties. Article 12 of the Universal Declaration of Human Rights (UDHR) states that "no one shall be subjected to arbitrary interference with their privacy, family, home, or correspondence, nor to attacks upon their honor and reputation. Everyone has the right to the protection of the law against such interference or attacks". While it is further stated in Article 17 of the International Covenant on Civil and Political Rights (ICCPR) 1966 that, "(1) No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honor and reputation. (2) Everyone has the right to the protection of the law against such interference or attacks".

Examining the UDHR and ICCPR's aforementioned provisions, we can conclude that they are appropriate for the days of telegrams and paper records, when the digital and technological

[5] Bogue R, 'The Role of Artificial Intelligence in Robotics' (2014) 41(2) Industrial Robot 119.
[6] The Law Dictionary, 'Privacy' (2.11.2025) https://thelawdictionary.org/privacy.
[7] Jain SA and Jain SA, 'Artificial Intelligence: A Threat to Privacy?' (2019) 8(2) Nirma University Law Journal.

revolution was unthinkable. However, times have changed and technology has become more prevalent in society. Under these laws, it is challenging to establish the limits and boundaries of the right to privacy.

The provisions outlined in earlier human rights treaties and conventions are no longer seen as appropriate in light of this technological transformation. Individuals and even states are now included in the expanded definition of privacy. The expansion of privacy rights is facilitated by a variety of practices, including surveillance, data gathering, data analysis, profiling, facial recognition technologies, voice and biometric data, and more. Since technology is changing every day in the digital age, there is a need for a more thorough understanding of privacy. To give a thorough understanding of the right to privacy that is applicable to different historical eras, Solove divided privacy into six different categories.

- The right to be left alone and not to be bothered.
- Limited access to the self, protecting the safety of one's personal information, preventing unauthorised access or disclosure.
- Secrecy, the deliberate practice of hiding certain information or concerns from others.
- Control over personal information, the capacity to exercise authority over personal information.
- Personhood, the preservation of ones' personality, individuality and dignity and;
- Intimacy, exercising authority or imposing limits on one's personal relationships or parts of life.[8]

C. *AI Applications And Their Impact On Privacy Rights*

In artificial intelligence, data is gathered to improve the system's effectiveness, accuracy, and efficiency. When there is more and better quality user data accessible, artificial intelligence systems are better at learning from data and achieving better results.[9]However, the use of AI in many facets of contemporary life may have an effect on the basic right to privacy, which in turn may have an effect on the right to dignity.

Artificial intelligence has drastically changed industrial labor, opened up new avenues for innovation, and improved upon existing ones. However, issues related to AI are becoming more and more serious every day, which presents a worrying challenge for the present day. Biases, a

[8] Solve DJ, Understanding Privacy (Harvard University Press 2010).
[9] Bartneck C and others, 'Privacy Issues of AI' in SpringerBriefs in Ethics (Springer 2020) 61–70.

lack of impartiality, unemployment, and privacy concerns are some of the problems that come with integrating AI.

D. *Legal Framework On AI And Privacy*

1. *Human Rights and Constitutional Framework:* International: Article 12 of the UDHR and Article 17 of the ICCPR regarding arbitrary interference with privacy, honour, and reputation.
2. The Indian Constitution: Article 21: The foundation for privacy, informational self-determination, and dignity is the right to life and personal liberty. Article 14: protection against the arbitrary and discriminatory application of AI technologies, particularly in automated decision-making and profiling. Article 19: Consequences of widespread AI surveillance for freedom of speech and association.
3. Technology and Data Protection Laws: Digital Personal Data Protection Act 2023: specific sensitivity of biometric and other personal data utilised in AI systems; consent requirements; purpose limitation; data minimisation; obligations of data fiduciaries; fines for violations. The IT Act of 2000 and its regulations on electronic records, intermediaries, and appropriate security standards; its limitations in addressing problems unique to artificial intelligence, such as algorithmic opacity and profiling. EU GDPR: as a comparable gold standard, legal foundations for processing, data subject rights (access, correction, deletion, objection), and safeguards against purely automated decision-making (Article 22). New AI-specific laws as normative guidelines for India, such as the EU AI Act 2023 (risk-based categorisation, prohibitions on certain AI applications, tighter controls for high-risk systems).

E. *AI Surveillance And Facial Recognition*

The French term “surveillance,” which means “watching over,” is where the phrase originates? Simply put, surveillance is the process of keeping an eye on and observing a person or group of people in order to provide care and control. Thus, AI surveillance is the application of artificial intelligence technology to watch and evaluate human behavior for a variety of purposes, such as marketing, law enforcement, security, and even keeping an eye on people's emotional states in public areas. Big data in analytical applications is now much less expensive thanks to the internet and artificial intelligence. These days, cameras are present in every aspect of our everyday lives. Every action we take while walking the streets is continuously tracked

by AI surveillance, and there is no way for people to avoid the ongoing gathering of personal data.

The strategy involves analysing enormous amounts of data and looking for trends or anomalies in human behavior using complex algorithms and machine learning techniques. Using visual data gathering and analysis techniques, the surveillance footage is examined in real-time to identify items of interest, discover abnormalities, and recognise faces. Artificial Intelligence and reliable information management in government health. Monitoring is effective in the measurement of widespread infectious diseases, in prediction of trends and support of interventions by the public health in managing diseases. It is also training on future medical emergencies. The system assists in crime prevention by observing suspicious movements and enhancing security and safety of the public areas by the use of the artificial intelligence (AI)-assisted technology in the security and safety surveillance.

In the ACLU v. Clearview AI case, Clearview AI, a company, collected around 3 billion faceprints from publicly accessible images, which were then utilised for secret tracking and surveillance. However, the company has been alleged by the ACLU and ACLU of Illinois, among others, of violating privacy rights under the Illinois Biometric Information Privacy Act (BIPA). This act mandates that individuals whose data is being shared with others must be notified and be asked for their consent. Unfortunately, the company failed to comply with these requirements and provided access to the database to private companies, wealthy individuals, and various law enforcement agencies without informing the individuals affected. The court got to a conclusion, resulting in a settlement agreement that prohibited Clear view services throughout the United States. Additionally, the court barred them from providing face print databases to any entity in Illinois, including state and local police, for a period of five years.[10]

As a result, these technologies have the capacity to collect data without authorisation, which poses a serious threat to people's right to privacy because the consequences of disclosing personal information are enormous.[11]There is no assurance that the data collected by such thorough surveillance won't be misplaced, stolen, or used improperly. The authorisation of mass monitoring for a lawful reason raises serious problems since it is evident that it infringes the rights of the general public. As a result, people may steer clear of specific activities or

[10] ACLU v Clearview AI Inc, No 9337839 (Circuit Court of Cook County, Illinois, 28 May 2020) https://www.aclu.org/cases/aclu-v-clearview-ai.
[11] Yang Z and Xu Y, 'Privacy and Data Protection Risks Caused by Artificial Intelligence' (Zhong Lun Law Firm, 29 September 2021) https://www.zhonglun.com/research/articles/8670.html

places out of fear of being watched, which might have an impact on their social and personal freedoms.

F. *Voice Recognition And Speech Recognition Technology*

Biometric technologies, which use unique human traits linked to physical attributes like voice, speech, fingerprints, gait, iris, and retina, include voice and speech recognition systems. These biometric traits cannot be lost, destroyed, or changed, in contrast to other identifiers like IP addresses or passwords. These are thought to be stable enough to be used for extremely reliable identification.[12] Voice recognition is one biometric technique that is frequently used in today's world to identify and authenticate a person's voice. Voice input, voice search, and telephone conversation are its main uses. Conversely, the technology that translates human voice into machine-readable text is known as speech recognition. The method based on natural language processing Speech recognition systems, which are frequently utilised in fields like intelligent control systems and secure authentication, gather, comprehend, translate, and transcribe speech. Although speech recognition has more technical difficulties, voice recognition and speech recognition technologies are closely related.

Voice recognition and speech recognition are often used interchangeably, but they serve different functions. Voice recognition technology evaluates a household member's command in smart home appliances and virtual assistants like Siri and Alexa. If the individual hasthe necessary access, voice recognition can authenticate their identity. The device can then carry out tasks like playing music or changing the temperature thanks to speech recognition, which translates their spoken commands into text. YouTube, a well-known video website, automatically creates subtitles for video recordings using voice recognition. Furthermore, speech recognition is used to guarantee that the captions precisely match the speaker's voice.

According to the research, there are now more security and privacy threats as a result of this technology's broad use, which is alarming. This technology's market is growing quickly, increasing its market share annually. However, ongoing privacy and security issues continue to cause large financial losses and endanger users' sensitive personal data. According to research, voice assistants like Siri and Alexa can be accidentally enabled, leaving them open to abuse by

[12] Roy A, 'Voice Recognition: Risks to Our Privacy' Forbes Opinion (6 October 2016) https://www.forbes.com/sites/realspin/2016/10/06/voice-recognition-every-single-day-every-word-you .

malevolent hackers. Bank transfers, buying virtual products, faking communications to your close friends or family members requesting money, stealing your login credentials, and many more concerns are all potential but serious threats. Unauthorised access to voice assistant programs can cause serious financial and psychological harm.[13]

Similar to other connected devices that have previously been targeted, it was discovered that the virtual assistant is susceptible to malicious assaults.[14] Thus, it should be underlined that the problem is not caused by speech recognition technology per such. The use and protection of this recognised voice data are at dispute. Voice recognition technology is used by many businesses and organisations to collect and examine voice data from people, including phone instructions and voice assistant records. In order to train and use machine learning algorithms, the data is automatically converted into text format in the background. However, it is very likely that this data will be illegally obtained and used, compromising people's privacy, in the lack of sufficient protections.[15]

While facial recognition, speech, and voice recognition technologies, as well as mass monitoring, have numerous advantages in terms of efficiency and setup, they also raise significant privacy rights and other human rights concerns. For example, the artificial intelligence-based monitoring system gathers personal information without considering its privacy. AI technology can make it possible to gather data in a non-discriminatory way and create a range of devices that can do "indiscriminate surveillance" in a certain area. Additionally, Grok, an AI chatbot, is trained by X, the former Twitter, using user contributions, unless users expressly choose not to participate. Users' postings cannot be included unless they specifically opt out; by default, user data is used for AI training. X recently introduced a feature in its privacy settings that allows users to choose not to participate; it's unclear exactly when this feature became accessible and when data collection began.[16]It may be inferred that this technique is ubiquitous in all artificial intelligence technologies as user data is utilised without the users' awareness.

[13] Li J and others, 'Security and Privacy Problems in Voice Assistant Applications: A Survey' (arXiv, 19 April 2023) https://arxiv.org/pdf/2304.09486

[14] Bolton T and others, 'On the Security and Privacy Challenges of Virtual Assistants' (2021) 21(7) Sensors 2312.

[15] Rich2021, 'The Development of Speech Recognition and the Challenge of Privacy Protection' (Baidu Developer, 8 October 2023) https://developer.baidu.com/article/details/1919997

[16] Axon S, 'X is Training Grok AI on Your Data—Here's How to Stop It' Ars Technica (26 July 2024) https://arstechnica.com/ai/2024/07/x-is-training-grok-ai-on-your-data-heres-how-to-stop-it/

Users voluntarily embrace and profit from artificial intelligence technology, but by doing so, they expose their personal data to the swift progress of AI. When driverless vehicles take over as the most common form of transportation, consumers will eventually give up control over their privacy and be forced to provide car services access to personal data like company addresses and travel schedules. suppliers. This is especially true when technology develops and spreads.[17]This also holds true for every other technology. We must give up part of our privacy rights if we give our personal information to improve the effectiveness and quick development of artificial intelligence technologies. Legislators and politicians ought to be concerned about this given the current scenario. The creation of systems that guarantee robust protection of individual data privacy is becoming a top priority for policymakers.

G. *Case Analysis*

1. Justice K.S. Puttaswamy (Retd.) v. Union of India[18]

   In Justice K.S. Puttaswamy (Retd.) v. Union of India, a nine-judge Bench of the Supreme Court unanimously recognised the right to privacy as a fundamental right under Article 21, intrinsically connected with dignity, autonomy, and informational self-determination. The Court laid down that any intrusion into privacy must satisfy a four-fold test of legality, legitimate aim, necessity, and proportionality, alongside procedural safeguards, which now forms the constitutional standard for evaluating AI-enabled surveillance, profiling, and data processing.

2. K.S. Puttaswamy v. Union of India (Aadhaar)[19]

   In the Aadhaar judgment, the Supreme Court upheld the core of the Aadhaar scheme but imposed strict limits on the collection and use of biometric data, emphasising purpose limitation and the dangers of creating an architecture of surveillance. The Court's concerns about function creep and centralised biometric databases are directly relevant to large-scale facial recognition and AI-driven identification systems that rely on continuous data aggregation.

[17] Liu Y, 'The Impact of Artificial Intelligence on Privacy Rights and Legal Responses' People's Forum (September 2020) http://paper.people.com.cn/rmlt/html/2020-09/11/content_2012543.htm
[18] (2017) 10 SCC 1.
[19] (2019) 1 SCC 1.

3. R. Rajagopal v. State of Tamil Nadu.[20]

   In R. Rajagopal v. State of Tamil Nadu, the Supreme Court affirmed that the State cannot publish or authorise publication of details of a person's private life without consent, recognising a right to be let alone as part of Article 21. This early articulation of informational privacy supports the view that indiscriminate AI-based surveillance and profiling without legal backing or consent violates the protected sphere of private life.

H. *A Path Forward: Mitigating AI's Privacy Risks*

AI poses serious privacy issues, but they are manageable. A proactive, multi-stakeholder approach is required to optimise AI's benefits while upholding fundamental human rights. The following pillars create a comprehensive roadmap for a more privacy-conscious digital future.

1. Strengthening the law and regulatory frameworks: The existing system of law is not usually up to date with the technological progress. We suggest the following actions to this: Principle-Based law: Rather than industry-specific rules, governments must enact comprehensive, principle-based AI governance law. Laws like the EU's AI Act, which groups AI systems in accordance to risk and places stringent restrictions on high-risk uses. Lawmakers should mandate "Privacy by Design" and "Data Protection by Default" for AI systems. This suggests that privacy protection is an essential component rather than a consideration, ensuring that systems have the greatest privacy settings by default and collect only the necessary data.

2. Developing Technological Protections: Technology itself may hold the key to this problem. We really need to work on creating and using methods, for Privacy-Preserving AI or PPAI for short and actually put these methods into practice. This is important for Privacy-Preserving AI techniques to be effective. Developing and using Privacy- AI techniques is crucial.

- *Federated Learning*: This method uses local data to train AI models across several decentralised devices (such as smartphones) without ever sending the raw data to a central server. This provides individuals more control and reduces the possibility of significant data breaches.
- *Differential Privacy*: This mathematical framework guarantees that no individual's information will be revealed in the analysis's result while also enabling computers to

[20] (1994) 6 SCC 632.

learn from massive datasets. It operates by deliberately adding a certain quantity of "statistical noise."

3. Promoting Corporate Accountability and Ethical Governance
   - Regulators should be able to access the results of these audits, which should assess systems for bias, fairness, openness, and privacy compliance.
   - Explainability and Transparency (XAI): "Explainable AI" (XAI) has to be promoted. When an AI system makes a decision that impacts a person's rights, such as rejecting a loan or screening a job application, the person has a right to a comprehensible explanation of the reasoning that went into that decision. In doing so, "black box" algorithms are abandoned.

I. *Encouraging People via Literacy and Public Awareness*

Lastly, people cannot defend rights they are unaware of.

1. *Digital Literacy Initiatives*: Data and digital literacy must be included into public education by governments and educational establishments. People must be aware of their rights and how their data is gathered, utilised, and valued.
2. *Accessible Tools and Settings*: It is the duty of IT businesses to give consumers easy-to-use, transparent privacy settings. As X ultimately made available, settings to opt out of data collecting for AI training should be visible and simple to locate by default, rather being hidden under intricate menus. We can build an environment where artificial intelligence benefits mankind without jeopardising the basic right to privacy by combining these four pillars: strong legislation, cutting-edge technology, moral business conduct, and an empowered public.

V. Conclusion

The preceding discussion addressed the vital mechanisms by which artificial intelligence operates, its wide range of applications, and the consequent consequences for the right to privacy. While incorporating artificial intelligence (AI) into a variety of industries has obvious advantages, there are also serious privacy issues. AI surveillance, face recognition, voice recognition, and spatial recognition are examples of technologies that can enhance the effectiveness of their respective roles. AI applications for facial recognition and surveillance.Technology can improve security measures, but it also creates privacy issues and puts consent and personal anonymity at danger. On the other hand, voice and speech

recognition technologies can improve user engagement and make AI products easier to use. But it also presents a risk for data storage and illegal access to personal data. In the digital age, the right to privacy is crucial and extremely vulnerable as it may be readily violated without the user's knowledge.

The right to dignity, which is unconstrained by law and should be upheld everywhere and at all times, may be gravely jeopardised by the disclosure of personal information that is very relevant. Governments, corporations, and individuals must collaborate to establish unambiguous moral guidelines and legal requirements for the development and use of AI systems. This will enable the effective use of cutting-edge technology and ensure the protection of individual liberties.

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LEGAL & ETHICAL SAFEGUARD FOR DATA PROTECTION, CYBERSECURITY AND AI GOVERNANCE

By Utkarsh Mishra[*] & Simran Bundela[**]

ABSTRACT

Technology in this rapid world changing rapidly. It has numerous opportunities for this generation, but those who use it without care and caution and gives the information to any site knowingly or unknowingly. Such negligence gives hackers a chance to acquire information and abuse it against an individual or organisation to rob cash or blackmail users. The matter of privacy and security of personal information and data has now attained a precarious point due to carelessness. The government should address requirements in order to ensure safe and ethical use of data. The governments can protect our action by merely simply change and modification in the laws about fair and ethical use of data. This can be achieved through reformed laws or establishing new laws pegged on the activities of how data may be gathered and utilized by the sites and companies. All these can be implemented with the legislations that governs the ecosystem whereby both extremes can be both legal and ethical. Therefore, in this paper, we will elaborate on how the government must put in place to assure legal and ethical applications of AI, Data Protection and Cybersecurity to make sure that all norms are collaboratively put to guard individual rights and obligations.

Keywords: Cybersecurity, Law, Ethical, Attack, Personal Data, Protection, Government, Privacy.

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I. Introduction

Transformation, in a basic sense, can be a change over time to be useful and meaningful throughout the time. The transformation is necessary to keep things working. Technology also has a significant role in the society, in terms of transformation and has drastically changed various aspects of the society including healthcare, education, finance, governance and etc, and some of the study indicate that 2.5 quintillion bytes of data are generated every day[1]. And the pace of the transfer of data is sufficient to demonstrate colossal possibilities of innovation and sustainable development. And due to such ample usage of data, it turned prone to cyberattack, privacy breach, digital profiling and unethical data usage.[2]

The government in such atmosphere where data use is so much, yet, the means of security are fewer, should do some steps and these must be resilient, adaptive and be ethically the right thing to do. As, Inida earlier govern these practices through Information Technology Act, 2000[3]. Under section 43[4] and section 66[5] imposes the punishment and compensation for the damage caused and for illegal action done by the or to the computer system. And also section 72A[6] provide penalty for breach of confidentiality and privacy. Although the act is not that effective as its basic aim towards technology oriented, but it laid down the foundation for data protection and cybersecurity as legal obligation. Therefore, the government should be more resilient to deal with the risk, continuity, and to assist in developing legal and ethical standards. As the theme of this article was the "Resilient Leadership of Sustainable Growth." This means that the government should consider AI Governance, Data Protection, and Cybersecurity frameworks in its decision-making processes.[7]

Since the abstract is targeted at the user and organisations that tend to act irresponsibly and disclose sensitive data, disregard the cybersecurity rules, and do not adhere to the ethical standards of data use. Such carelessness creates criminals. The government ought to do this so

[1] Marr, B. *How Much Data Do We Create Every Day? The Mind-Blowing Stats Everyone Should Rea*d https://bernardmarr.com/how-much-data-do-we-create-every-day-the-mind-blowing-stats-everyone-should-read/
[2] Aswathy, S.U., and Tyagi, A.K. (2022). Privacy Breach through *Cyber Vulnerabilities: Critical Issues, Open Challenges, and Possible Countermeasures for the Future, in Security and Privacy-Pressing Techniques in Wireless Robotics* (1st ed.). CRC Press 2022.
[3] Information Technology Act, 2000 (India).
[4] Information Technology Act, 2000, Section 43 (India).
[5] Information Technology Act, 2000, Section 66 (India).
[6] Information Technology Act, 2000, Section 77A (India).
[7] Chelvachandran, N., et al. (2020) Considerations for the Governance of AI and Government Legislative Frameworks," in H. Jahankhani, S. Kendzierskyj, et al. (eds.), *Cyber Defence in the Age of AI, Smart Societies and Augmented Humanity* (pp. 57–69). Springer International Publishing, Cham, 2020.

that organisations and users ought to abide by legal frameworks, and the government ought also to ensure that these frameworks are updated frequently.

II. AI Governance and the Need for Ethical Leadership

A. *Growth of AI and Government Responsibilities:*

AI most intelligent tool ever built by humanity, which influences how decisions across the world. Governments increasingly relies on AI systems for efficiency and competitive advantage. According to Stanford's Global AI Vibrancy Ranking 2023[8] research mentions that the United States is a global leader in AI, excelling in research, private investment and advanced AI models. Companies like Google, OpenAI, Microsoft and NVIDIA drive major AI breakthroughs. After USA, China is on 2nd, UK on 3rd and India on 4th as per their ranking. However, if the AI is not properly monitored by the governments, it has risk of becoming biased, opaque and environmentally harmful, etc.[9] Governments in this situation should focus on how to make AI free from these problems as the OECD Principles on Artificial Intelligence (2019)[10] and UNESCO Recommendation on the Ethics of Artificial Intelligence (2021)[11] suggested comprehensive approaches for the countries to fix accountability, make AI deployment fair and transparency and human oversight. Also, According to Pew Research Centre[12], they mentioned three steps the government should take to remove these negative, biased and opaque data's these are:

- Firstly, they emphasize the global cooperation of AI development that requires a common and international understanding and a unified approach to creating cohesive strategies and policy making. It makes states agree on fundamental principles and regulations for AI to ensure it benefits people at large.

[8] Fattorini, L., Maslej, N., Perrault, R., Parli, V., Etchemendy, J., Shoham, Y., & Ligett, K. (2024, November). *The Global AI Vibrancy Tool.* Institute for Human Centered AI, Stanford University. available at: https://hai.stanford.edu/assets/files/global_ai_vibrancy_tool_paper_november2024.pdf

[9] IBM, (2024). *10 AI Dangers and Risks and How to Manage Them*. https://www.ibm.com/think/insights/10-ai-dangers-and-risks-and-how-to-manage-them

[10] Organisation for Economic Co-operation and Development. (2019). *What Are the OECD Principles on AI?* https://www.oecd.org/content/dam/oecd/en/publications/reports/2029/06/what-are-the-oecd-priciples-on-ai_f5a9a903/6ff2a1c4-en.pdf

[11] United Nations Educations, Scientific and Cultural Organization. (2021). *Recommendation on the Ethics of Artificial Intelligence.* https://www.unesco.org/en/articles/recommendation-ethics-artificial-intelligence

[12] Anderson, J., & Rainie, L. (2018, December 10). *Solutions to address AI's anticipated negative impacts.* Pew Research Center. https://www.pewresearch.org/internet/2018/12/10/solutions-to-address-ais-anticipated-negative-impacts/

- Secondly, call for creation of specific policies and regulations that ensure that the AI are designed to enhance and assist humans, and focuses on achieving the common good rather than replacing humans.
- Thirdly, it focuses on systematic societal change that empowers people by reforming the field of economic, political and educational systems.

These are some criteria suggested in the research that the government took to resolve the problems of AI exploitation and injustice.

B. *Ethical Dilemmas in AI Deployment:*

According to the USC Annenberg Centre for Public Relations Report[13], it highlights several key challenges and concerns related to the development and deployment of AI. It was divided in two major categories:

1. Core Ethical Issue in AI Development

- Bias and Fairness: AI system often provide biased results that they inherit from the organisation that they were developed by which leads to unfair and discriminatory results.
- Privacy: The system requires a vast amount of data processing to provide the result, therefore, while providing the result to the user, AI sometimes provide the data that was of a private nature.
- Control: AI day by day becoming more and more self-reliant as technology advances, it raises the potential loss of human control over it. It is very concerning as AI is also used in military, medical, engineering, etc. which sometimes have life and death on the stake.

These ethical concerns are interpreted in the case of **Justice K.S. Puttaswamy v. Union of India (2017)[14]**, where SC recognised the Right to Privacy as a fundamental right under Article 21 of the Constitution[15] and by which it compels government to regulate the AI and frame laws and policies to protect right of the people.

[13] USC Annenberg Center for Public Relations. (n.d.). The Ethical Dilemmas of AI. http://annenberg.usc.edu/research/center-public-relations/usc-annenberg-relevance-report/ethical-dilemmas-ai
[14] K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1.
[15] Constitution of India. (1950). Article 21.

2. Societal and Economic Impacts

- Job Displacement: AI is starting to take various work from humans as they are more economical and provide better and fast results compared to humans, which directly leads to job loss and increasing economic disparity.
- Environmental Impact: As AI consume a large amount of energy to run, it requires large amount of raw material and water to run efficiently and also produces large amount of electronic waste that includes hazardous material such as mercury and lead that damage the environment at its worst.[16]

III. Data Protection a Strategic Imperative

A. *Rise of Data as the New Currency*

Data a highly valuable and influential asset that drive economics. It works as a foundation for the digital economy that powers AI. Like a traditional currency, the value of data also depends on its flow, verification and security. An estimated 25 billion devices are connected by 2020, because of this massive number, it largely impacts the business and society. Such as[17]:

- Because of the large amount of the data, it helps businesses to exactly tell the customer what they want and where they can get it.
- In a survey[18] it was cited that company's revenue is significantly increased when they invest in a system to manage the data efficiently which has the ability to better understand their customers.

We can say now that data is becoming the new source of wealth and value in the digital economy, which has an enormous potential and offers many opportunities to societies and companies to transform and also provide responsibilities to the leaders and policymakers is to est. the necessary frameworks to guard it.

B. *Threats Emerging from Poor Data Practice*

Poor data Practice has created significant threat of a data breach, which can result in financial loss and legal penalties and also cause extensive reputational damage. Such issues arise only

[16] United Nations Environment Programme. (2025). *AI Has an Environmental Problem: Here's What the World Can Do About That.* https://www.unep.org/news-and-stories/story/ai-has-environmental-problem-heres-what-world-can-do-about

[17] World Economic Forum. (2015). *Is data the new currency?* https://www.weforum.org/stories/2015/08/is-data-the-new-currency/

[18] Tata Consultancy Services. (2025). *Internet Of Things: TCS Global Trend Study 2015*. https://www.tcs.com/who-we-are/newsroom/press-release/iot-tcs-global-trend-study-2015

when the security for data protection is not sufficient, the data is of low quality and a poor policy framework. Some of the threats are:

- Cyberattacks: The cybercriminal can actively exploit the weak data protection that is guarding it and it can easily demand the money for it or can easily reveal the sensitive data out.
- Leakage of Personal Information: Data breach can easily access the sensitive information which can include phone no., financial record, health record or even passwords.
- Financial Fraud: Attacker after gaining info about bank details, relevant documents, and passwords can perform various fraudulent exercises such as making fraudulent transactions, opening a new bank account in the victim's name and misuse the credit card, etc.
- National Security Risk: When sensitive details of the country are compromised, and the strategic data falls into foreign hands, it can risk the national security because of the poor data management.

C. *Legal Frameworks Ensuring Data Protection*

The primary legal framework that protects data in India is the Digital Personal Data Protection (DPDP) Act, 2023[19]. In India it establishes a comprehensive law for protecting the digital personal data by defining the right of individuals whether they are users or organisations. It focuses on consent of the users, purpose limitation and accountability of the users and the organisations. This framework is supported by earlier legislation, like the Information Technology (IT) Act, 2000[20] and the Court's rulings it is also similar to European Union's General Data Protection Regulation (GDPR)[21]. The World Bank's Identification for Development Guide[22] has outlined various essential policy frameworks for the protection and privacy of the data. These legal frameworks are:

- Institutional Oversight: There will be a supervisory authority that is independent from influence and regulate the flow of the data. This authority must be purely independent

[19] Digital Personal Data Protection (DPDP) Act, 2023 (India).
[20] Supra 3.
[21] GDPR.eu. (n.d.). *What is GDPR?* https://gdpr.eu/what-is-gdpr/
[22] World Bank. (n.d.). *Data protection and privacy laws.* https://id4d.worldbank.org/guide/data-protection-and-privacy-laws

which means that its appointment, its composition and its power to make decisions are not affected by external interference.

- Data Security: Data should be stored such that it is processed securely and protected against unauthorised and unlawful practices. Data properly encrypted, anonymised, and the system should ensure proper confidentiality and integrity with the system that has the ability to restore data after a physical and technical incident.
- Cross Border Data Transfer: Data transferring from one nation to another should follow major international standards. The countries should limit the extraterritorial transfer of personal data to foreign countries unless the country has an adequate level of protection.
- User Consent and Control: Transparent disclosure of what personal data is being collected and how it will be used. The legal framework must guarantee the right to data to the users and their data must be used for a useful purpose and companies without users' consent cannot transfer or disclose the data to any other person or organisation for the purpose of profit. But, in exceptional cases data can be shown to the government when the topic is of national security and integrity.

IV. Cybersecurity as the Foundation of Digital Resilience

A. *Understanding Cybersecurity within Leadership*

Cybersecurity is most of the time considered as the technical function rather than focusing on its legal aspect to protect the data. Now in a new digital age, where data works as a digital currency it has now become the central pillar for digital economy therefore, the leadership should take responsibility. Leadership should understand that cybersecurity is fundamentally about protecting people rights rather than viewing it as a technical or cost burden. Leadership must also anticipate risks and react to them proactively like identifying emerging cyber threats, allocating resources for prevention and ensuring continuous monitoring. Lastly, government under CERT-In Direction, 2022[23] make organisation and companies to follows its norms and reports cybercrime as early as possible and also make them responsible.

B. *Types of Cybersecurity Threats Leadership Must Address*

There are various cyber threats that leadership must address to resolve the problem. These are:

[23] CERT-In. (2022). *Directions under sub-section (6) of Section 70B of the Information Technology Act, 2000 relating to information security practices, procedure, prevention, response and reporting of cyber incidents.* https://www.cert-in.org.in/PDF/CERT-In_Directions_70B_28.04.2022.pdf

1. Malware: It is also known as Malicious Software it was intentionally made to harm a computer system. Now, modern cyberattacks most of the time use some type of malware software for gaining unauthorised access to the device so to destroy, steal or leak the data stored. These are of various types[24]:
   a. Ransomware: In this type of attack, attacker locks a user data or a device and threatens to leak it unless some amount is paid to them.
   b. Trojan Horse: These malicious programs are appeared to be a useful tool to trick people to download the software and when they successfully install it, the software starts performing its malicious tasks such as stealing sensitive data, installing other malware, etc.
   c. Worms: It is self-replicating programs that automatically spread to application and device without any human interaction.
2. Phishing: It is also known as *"Human Hacking"* which means that it influences the person through a fraudulent message or phone call which leads to exposing the confidential information or compromise the security.
3. Denial of Service (DDoS) Attack: In DDoS attackers make online service unavailable by overwhelming them with excessive traffic from various location and sources. It is often used to shut down large network sites.
4. Corporate Account Takeover (CATO)[25]: It is a business entity theft where attackers impersonate the companies to send unauthorised wire and ACH transactions to account, they control through this the attacker tries to infect the computer to gain access to the banking system and can easily target for high loss crime.

These are the some most known cybersecurity threats. There are still many other types of cyber threat such as Zero Day Exploits, Password Attacks, IoT Attack, and ATM Attack.

C. *Human Behaviour and Ethical Responsibility in Cybersecurity*

Cybersecurity does not solely depend upon technology it is equally and sometimes more depends upon human behaviour. In a Research Paper titled "Human Behaviour and Cyber Security: Bridging the Gap Between Technology and Psychology"[26] they have surveyed 100 people from 18 years to 30 years and gathered the data on their security mindfulness and

[24] IBM. (2024). *Types of Cyberthreats*. https://www.ibm.com/think/topics/cyberthreats-types
[25] Massachusetts Office of Consumer Affairs and Business Regulations. (n.d.). *Know the types of cyber threats.* https://www.mass.gov/info-details/know-the-types-of-cyber-threats
[26] Poojari, D., & Mhatre, G. (2023). *Human Behaviour and Cyber Security: Bridging the Gap Between Technology and Psychology.* Journal of Emerging Technologies and Innovative Research (JETIR), Vol. 10, Issue 12.

behaviour. And, out of which 76% of the people believed that human behaviour plays a significant role in cyber security incidents.[27] 88% also believe that perceived psychology can play an important role to enhance cybersecurity measures.[28] And, in one of the studies shown that 85%[29] of Successful cyber-attacks involve a human element. So, the government must take the matter as an ethical responsibility and start an awareness program, regular training sessions, try to develop accountability mechanisms and do other practices that help people to become aware. Leadership should also demonstrate ethical behaviour themselves by using secure platforms, avoid shortcut methods and setting a standard of the work. It is also the responsibility of the users to that they must check before logging at any site that it's secure or not and they should also avoid downloading from any known site. Through these acts, a strong ethical foundation will be built upon all levels with a shared responsibility

V. The Role of Government in Legal and Ethical Safeguarding

A. *The Need for Timely Legislative Reforms*

Structural and functional reforms are required to account for the changing economic and social environment. Legislative reforms may lead to outdated laws that do not meet the contemporary needs of the modern world. Lack of reforms may lead to decline and weakening of democratic governance, a government undergoes structural and functional reforms in order to stay effective and accountable. Such as[30],

- Need for stronger legislative scrutiny, to ensure better planning and drafting of the laws and by ensuring that the committee reports are debated in the house.
- An enhanced financial oversight that reforms the budget making process so that it aligns with modern economic needs and by including stronger mechanisms for parliamentary control over government borrowing and spending.
- Improving the parliament's image and effectiveness by rebuilding public trust and improving the image of the Parliament, by raising the quality of the performance of the MPs and also by cutting unnecessary expenditures in the parliamentary functioning.

[27] Supra 26
[28] Ibid
[29] Verizon Business. (2021). *2021 Data Breach Investigation Report.* Verizon.
[30] Ministry of Law and Justice, Government of India. (2002). *Working of Parliament and Need for Reforms* (Report of the National Commission to Review the Working of the Constitution, Vol. 3: Consultation Papers).

- Procedural and structural changes are also required such as reforming the ways in which the parliamentary parties' function by adopting different procedural improvements and making the functioning much smoother and efficient.

The three key reforms which are needed to fix the poor functioning due to the delays and weak accountability are[31];

- PM Question Hours: Dedicated sessions where the MPs can directly question the PM regarding national and cross-ministry issues.
- Accountability of Regulators: the regulators exercising major executive powers like the SEBI, TRAI, FSSSAI should all be answerable to the parliament for holding accountability.
- Stronger Committee System: For ensuring proper scrutiny of the policies and decisions by ministers in parliamentary committees.

B. *Balancing Innovation and Regulation*

The evolvement of technology at a fast pace is significantly impacting the economy, society and law in absence of proper governance. The risks such as privacy concerns, inequality, cybersecurity threats and environmental harms are overshadowing its' benefits. The innovation has outpaced the legal framework i.e. the pace of innovations is exceeding the pace at which laws and regulations can be developed and adapted.

Traditional legal systems are rendered unable to identify the unique risks and threats such as algorithm bias, lack of transparency, data and privacy threats and unclear accountability which are posed by the generative A.I. To navigate this complexity, there is a need for a harmonising legal framework to balance innovation and its governance. These can be[32]:

- Leveraging Existing Frameworks: The existing laws on data privacy, consumer protection and intellectual property should be updated and adapted to address the A.I. related challenges without stifling innovation.

[31] Sonu, D. (n.d.). Strengthening the Indian Judiciary: Comprehensive reforms to reduce delays and ensure timely justice.
[32] World Economic Forum. (2024). *How to balance innovation and governance in the age of AI.* https://www.weforum.org/stories/2024/11/balancing-innovation-and-governance-in-the-age-of-ai/

- Multistakeholder collaboration: Multistake-holder approach including the government, civil society, industries, academia to encourage transparent and ethical practices and development of A.I.
- Preparing for Rapid Evolution: Creating an agile and forward-looking governance in order to handle the rapid technological advancement i.e. developing foresight mechanisms to mitigate future risks. It includes conducting impact assessment and collaborating with International Organizations to align regulatory standards globally.

C. *Public Awareness and Digital Literacy*

One may refer to this as Digital Literacy, which is the ability to use online digital devices and services in our day to day activities. It is also aimed at empowering the individuals and laborers with rudimentary ICT skills in showing the livelihoods and accessing state services and participate in democracy. The services that are cheaper and more accessible become more transparent and, in turn, more open, which improves the health, education, employment and enables the social and cultural mobility and can impact the socio-economic development of the country. It is linked with the risk of cyber security which requires the users to save their information and avoid any transfer of sensitive information. India boasts of approximately 38 percent household digitization levels.[33] There is a wide gap in rural-urban gap. The urban salaried workers have the highest 68% of digital literacy[34] while the rural agricultural workers and Scheduled Tribes have the lowest digital literacy of 25%.[35] The fact that the digital literacy levels are generally low makes the threats and cyber-crimes more likely. These problems include phishing, OTP frauds, fake apps, and identity theft frauds, though the former and rural users are the main target.[36] To overcome this difficulty, it may be suggested to integrate cyber security into school and college schedules and create a proper content with assistance of content base training. The digital frauds must be introduced to the general population especially the population in rural areas through adverts and campaigns and made more aware by adverts and awareness programs by the government or the people themselves in partnership with a partner.

[33] Dattopant Thengadi National Board for Workers Education & Development, Ministry of Labour & Employment, Government of India. (n.d.). Digital Literacy https://dtnbwed.cbwe.gov.in/image/upload/Digital-Lieracy_3ZNK.pdf
[34] Supra 30
[35] Ibid
[36] Kumar, S., & Bansal, G. (2025). Cybersecurity awareness and digital literacy in the context of digital India. International Journal of Applied Research, 11, 434–439.

All these various efforts can be integrated to increase cybersecurity awareness, including digital literacy.

VI. Conclusion

The fast change in technologies has rendered AI, Data Protection and Cybersecurity the key to growth and powerful leadership. Along with that, when these technologies introduce novelty, it also introduces certain grave threats that include privacy invasion, cyberattack, discrimination in the AI system that inevitably caused a gap of trust. They need to be managed by AI to provide transparency, accountability and human oversight, which complies with constitutional values of Right to Life and Personal Liberty in Section 21[37].

As, Data over the year emerged as a critical economic asset, requiring strong legal safeguards to prevent misuse of technology. India's Digital Personal Data Protection Act, 2023[38] represents a significant step and also recent enactment of Bharatiya Nyaya Sanhita, 2023[39] and Bhartiya Nagarik Suraksha Sanhita, 2023[40] reflect government steps to modernise the Indian Criminal Laws. Since Digital Personal Data Protection Act, 2023[41] are guaranteed by the right to forgotten, companies must obtain consent prior to the utilization of information as well as fixes accountability. And, cybersecurity should appear as a legal and ethical concern instead of technical elements since most of the cyber crime contains human behaviour as a contributing factor. Finally, the challenge of resilient leadership demands the right based legal framework in facilitating ethical leadership and knowledgeable citizens since this is the only way to attain a secure, inclusive and sustainable digital future.

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[37] Supra 15
[38] Supra 19
[39] Bharatiya Nyaya Sanhita, 2023 (India).
[40] Bharatiya Nagarik Suraksha Sanhita, 2023 (India).
[41] Supra 19

BEYOND 2%: TECHNOLOGY-DRIVEN CSR, BRSR AND ENVIRONMENTAL ACCOUNTABILITY IN CORPORATE INDIA

By Abeer Tiwari[*] & Atreya Deshpande[**]

ABSTRACT

The integration of environmental responsibility into corporate governance has emerged as a cornerstone of sustainable development. In India, the Companies Act, 2013 introduced a paradigm shift by transforming Corporate Social Responsibility (CSR) from a voluntary ethical norm into a statutory obligation under Section 135. This paper critically examines the legal framework governing CSR with a specific focus on its role in promoting environmental sustainability. It investigates whether mandatory CSR compliance has transcended procedural formalities to achieve substantive ecological outcomes. The study adopts doctrinal approach, analysing statutory provisions, judicial pronouncements, and CSR disclosures of select Indian corporations. It explores how corporate environmental initiatives align with the principles of sustainable development, the polluter pays doctrine, and international obligations under the Paris Agreement and the Sustainable Development Goals (SDGs). The research further assesses the efficacy of regulatory mechanisms such as the Companies (CSR Policy) Rules, 2014, and the Business Responsibility and Sustainability Reporting (BRSR) framework in ensuring corporate environmental accountability. Findings suggest that while the legal mandate has enhanced transparency and increased CSR expenditures, environmental projects often lack measurable long-term impact due to weak enforcement, limited monitoring, and absence of uniform sustainability assessment standards. The paper concludes by proposing legal and policy reforms to strengthen impact evaluation, encourage green innovation, and integrate CSR more effectively with India's climate action and environmental governance agenda.

Keywords: Corporate Social Responsibility; Environmental Accountability; Technology-driven CSR; BRSR/ESG Reporting; Sustainable Development.

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I. Introduction

Currently the Corporate Social Responsibility in India shows a shift in how business operate within society. Traditionally, if companies in common law areas follow the principle of putting shareholder first. This translates towards maximisation of profits and increasing investor value where the main goals of corporate components conclude. However, in recent years we have seen several academic theories, hold rulings and global sustainability movements urging companies to adopt a stakeholder focused approach. This view of corporate social responsibility emphasises the need for business to consider not just inventors but also employees communities regulators consumers and the environment as such. (Caroll and Shabana, 2010). Because of this the Corporate Social Responsibility ("CSR") no longer remains a charitable activity. Instead, it has become a very important part of ethical corporate governance and sustainable business practises for several corporate companies.

In India, the legal and constitutional backing for this shift is given through idea of environmental constitutionalism. Indian courts have consistently linked environmental protection with right to Life given under Art. 21 of Constitution. Through several key rulings, court has given principles like precautionary principle, polluter-pays principle, sustainable development within India's environmental governance system. These ideals created an expectation that companies now will actively participate in environmental Protection and welfare (Corporate Environmental Responsibility in India, 2019).

Another important aspect of CSR is internalisation of external costs. The environmental damage caused by whatever process, is imposed on society that polluter does not bear. Several experts opined that through CSR, companies can voluntarily or through proper legal channel, internalise the environmental costs by investing their resources in mitigation, clean technology and conservation (Corporate Environmental Responsibility in India, 2019).

Though section 135 of companies Act, 2013, India introduced unique governance method and also became the first country to require certain companies to spend their 2% of average net profit on CSR. This legal framework combines traditional regulations, like fixed spending requirements and mandatory committees, with "new governance" practices that allow for flexibility, experimentation, and collaboration with various stakeholders. This regulatory model helps companies to create CSR strategies that fit their operational contexts while ensuring public accountability. One of such case study is IRCTC CSR case study, where IRCTC

has shown that how CSR processes become integrated corporate decision making and performance assessment. (IRCTC Case Study, 2018).

II. Identification of Statement of Research Problem

Despite its potential, CSR practice in India faces several issues. In India, it is seen that CSR compliance is seen from the perspective it's monetary spending rather that quality and impact of such activities. Many companies invest CSR in simple and look good activities like tree plantation, education etc but very few shown interests in investing in environmental restoration, climate change and other projects (CSR Environmental Practices in India, 2020). Additionally, despite the presence of a CSR regime in the country, it has shifted towards a philanthropic activity, rather than it being a specified activity which generates meaningful outcome.

III. Research Methodology

Researchers are following both Doctrinal and empirical methods to find answers of these questions. In doctrinal part, researchers will go through relevant laws, rules and regulation that governs CSR. In empirical method, researchers will go through several CSR disclosures, Board reports and BRSR filings of companies, specially dealing in sector of Mining, petrochemicals etc. this methodology aims to explore both CSR and CER legal framework and its practical application (Corporate Social Responsibility, 2017; Corporate Environmental Responsibility in India, 2019).

IV. Analysis & Findings of the Research

A. *Legal Architecture of CSR and Environmental Accountability*

Section 135 of the Companies act, 2013 deals with the concept of Corporate Social Responsibility. Sec. 135 outlines basic requirements: companies exceeding specific financial thresholds must establish a CSR Committee, develop a CSR Policy, and spend a minimum of 2% of their average net profits on CSR activities. Though legal framework, CSR became mandatory provision for all companies which fall under the ambit of it, rather that considering CSR as a voluntary activity. Act makes CSR committee established under it to oversee the implementation of CSR and monitor its progress.

Schedule II of the Act specifies the domain in which CSR activities can be done. Environmental conservation and sustainability are one of main key components of schedule. It includes activities like ecological protection, conservation of natural resources, promotion of clean

energy, water management, and safeguarding flora and fauna. The Companies (CSR Policy) Rules, 2024, further gives wide idea over reporting mechanism, implementation guidelines and monitoring process. The made all companies, comes under ambit of CSR, to report their CSR spending, unspent funds, partners involved and other relevant project specifications in annual report. But unfortunately, all this process more focuses on idea of expenditure than its environmental outputs. This spending focused model came with criticism about its lack of uniform impact indicators or requirements for independent CSR results verification (Corporate Environmental Responsibility in India, 2019). In 2021, some changes has been introduced, requiring impact assessment for Larger CSR projects but still it lacks in providing standard environmental metrics, which limit the capacity to compare the performance of project across companies.

B. *SEBI's Norms and Corporate Environmental Governance*

CSR has always played a vital role in India's environmental legal framework while CSR cannot replace the compliance of laws like Environmental Protection Act, the Air Act, the Water Act, the Waste Management Rule etc. but It can support environmental goals by allowing funding the local projects testing new technologies and supplementing governments initiatives. Though like other legal frameworks, CSR cannon be at forefront of environmental protection, but by channelling monetary flow in that domain, CSR provides indirect support for environmental sustainability.

BRSR (The Business Responsibility and Sustainability Reporting) framework established by SEBI, one of main regulators, is one of best initiatives taken for ensuring sustainability. BRSR applies to top 1000 listed companies, makes them report ESG compliances in qualitative and quantitative way. The environmental disclosures required under BRSR are about Greenhouse emissions, energy consumption, use of renewable energy, water management, waste generation and its management, biodiversity impacts and climate related risks caused by business.

CSR and BRSR intertwined with each other in multiple layers. On one hand, the BRSR report can help to understand whether CSR funded project is going towards measurable advancement or not. On the other hand, CSR and BRSR works separately, where CSR focuses on project funding while BRSR speaks about overall sustainability development (CSr environmental Practices in India, 2020).

It is seen that most of companies though invest in environmental protection but in activities like tree plantation or waste management while avoiding themselves from engaging themselves in more technical projects. Maximum companies go with visible CSR initiatives which will result into great fame.

From a securities-law perspective, BRSR disclosures carry considerable significance. As investors increasingly factor ESG elements into their investment choices, misleading or inaccurate sustainability disclosures could be seen as major misstatements. Such situations might lead to regulatory actions or lawsuits from investors. Furthermore, ESG rating agencies and stock exchanges depend on BRSR data for index creation and industry benchmarks; however, differing rating methods can create inconsistencies.

Despite these challenges, BRSR marks an essential shift toward embedding sustainability in the foundation of corporate governance. The broader goal is to transition sustainability from being a side aspect of charity to being central to strategic business choices. Realizing this goal requires tighter integration between CSR and BRSR, standardizing assurance practices, and stronger enforcement against misleading disclosures.

C. *Interaction of CSR with Science and Technology*

The advent of technology in the day-to-day human life has proved to be a significant contributing factor towards the development of jurisprudence surrounding the CSR. The introduction of CSR into sectors requiring high-technological investment could be a route to strengthen India's position and continuous efforts towards ensuring the fulfilment of their Sustainable Development Goals (SDGs) by the year 2030. [Earth5R. (2025, November 26). For the purposes of this integration, it is necessary to depart the CSR funding from the traditional philanthropic manoeuvres, towards CSR spending which concentrates upon the livelihood of the individuals. This includes (but is not limited to) clean energy access, green hydrogen centric projects, decarbonization efforts, climate resilient infrastructure. This integration, as specified above would serve as a crucial effort towards strengthening of SDG 6 (Clean Water and Sanitation), SDG 7 (Affordable and Clean Energy), and SDG 13 (Climate Action). (International Journal for Multidisciplinary Research. (2024). *A study of environmental initiatives by Indian corporations.* International Journal for Multidisciplinary Research, 6(5), 1–15). The result for an effective integration of technology and CSR related activities would transform the role(s) of a corporation from a mere donor to a contributor for the manufacturer and supplier of technological-environmental goods utilized for the benefit(s)

of the public. Now, it is important to highlight that there lies a fine line of bifurcation between ordinary CSR activities, and the one driven from technology. While the latter (albeit important) enriches the lives of a majority of individuals, the latter serves not merely to enrich the lives of those in need, but also empowers them for the contemporary challenges which could be solved majorly through the integration of technology in their lives both at the individual, and the community level. Additionally, CSR serves as a nexus between private spending and public; it channels private funds through CSR towards driving self-reliance, resilience and innovation as a part of community/public level causes. [Ministry of Corporate Affairs. (2019, October 11). MCA amends Schedule VII to allow CSR contributions to incubators, R&D projects and universities. This supports the stance of CSR as a quasi-regulatory mechanism. Additionally, by connecting BRSR/ESG towards technology-driven CSR spending can improve the verification standards of the outcomes attached to the spending, thereby reducing the chances of greenwashing. This remedies the situation of commitment for over-compliance while approaching/undertaking CSR as an activity. Certain sectors include:

1. *Energy Efficiency and Commitment to Renewable Energy*: Giants like Adani Green Power, Tata Power, and Reliance Industries have enhanced their CSR investments in the field of renewable energy projects in order to provide clean and affordable energy to the areas which are yet to witness the wonders of non-fossil fuel-based energy sources. This investment in the renewable energy sector through CSR serves a dual purpose; it mandates these mammoth corporations to actively participate in the activity, and at the same time contributes to India's goal of 500 GW or renewable energy capacity by the year 2030.
2. *Water Conservation and Sustainable Agriculture*: Corporations like that of ITC and Mahindra & Mahindra have been making a steadfast progress in the area(s) of water conservation by adopting measures for sustainable agriculture. Owing to these projects, 1 million acres of land has been revitalized, coupled with a groundwater recharge of 25%, reduction in soil erosion and a strike improvement in agriculture related productivity.
3. *Waste Management and Circular Economy:* India's battle with waste management is not a novel issue; it has been battling waste management issues with an additional challenge of e-waste management. Approaches adopted by Reliance Industries and Hindustan Unilever by recycling of 2.2 PET bottles annually and commitment towards

making 100% recyclable plastic at its packaging supply chain level respectively addresses a huge issue relating to plastic pollution.

Ideas and thoughts without the backing of the *lex loci* renders the entire efforts futile. Therefore, it is of paramount importance that we also understand the legal feasibility and viability of technology-driven CSR in India. Schedule VII to section 135 enumerates upon the activities which are counted as a part of CSR activity. With the amendment *vide* the notifications issued on 11/10/2019 and 24/08/2020, the Union of India amended item *(ix)* to feature science and technology as an important feature of the CSR spending. Now the important aspects to these include:

- The CSR activities being undertaken by the corporation must mandatorily depart from the "ordinary course of business" being conducted and should strictly align with the provisions as enumerated under Schedule VII;
- Item (iv) of the schedule uses the language: "ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agroforestry, conservation of natural resources and maintaining quality of soil, air and water." This makes the stance of the government clear: utilisation of private funds, to strengthen the SDG goals at the community level, and not merely to suffice an internal upgrade of the corporation' and
- It is notable to highlight that items ix (a) and ix (b) provides for a route to the corporations to now allow fundings to incubators and R&D programmes which are steered by various public-funded universities, national laboratories et cetera engaged in active research pertaining to green hydrogen, decarbonisation efforts, and (including but not limited to) clean energy. [Mehta & Mehta CSR Advisory. (2025, June 1).

The aforementioned provisions seem technology-driven CSR spending as a lucrative avenue for the corporations to activate their philanthropic manoeuvres. However, it can also serve as a breeding ground for the corporations to engage into fraudulent activities. To ensure that this technology-driven CSR spending is appropriately guarded, the government has made a fence around it. Rule 4(1) of The Companies (Corporate Social Responsibility) Rules[1] establish that

[1] Rule 4 of The Companies (Corporate Social Responsibility) Rules 2014:
CSR Implementation. – [(1) The Board shall ensure that the CSR activities are undertaken by the company itself or through, –
(a) a company established under section 8 of the Act, or a registered public trust or a registered society, exempted under sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 or registered under section 12A and approved

the CSR activities need to be mandatorily undertaken either by the corporation itself, or through a company established under section 8 of the Companies Act[2] or a registered trust/society established by the central/state government(s). This ensures that the spending, including the acquisition of assets is done though the aforementioned routes, thereby compelling the corporations to structure the spending models through technological assets which have a community/municipality ownership. [Ministry of Corporate Affairs. (2019, October 11).

D. *Effectiveness of India's CSR Regime and Emerging Global Disclosure Standards*

With the global order walking towards a unified structure with regard to certain standards of disclosure, India too has commenced its evolution with regard to its CSR jurisprudence to align with the global standards. This evolution, particularly if compared through the lenses of India and the European Union ("EU"), it has resulted in the evolution of section 135[3] from a mere corporate governance legal provision to a much broader framework governing sustainability, governance, measurement of impact (through SEBI's BRSR)[4] in lines with the EU's

under 80 G of the Income Tax Act, 1961 (43 of 1961), established by the company, either singly or along with any other company; or
(b) a company established under section 8 of the Act or a registered trust or a registered society, established by the Central Government or State Government; or
(c) any entity established under an Act of Parliament or a State legislature; or
(d) a company established under section 8 of the Act, or a registered public trust or a registered society, exempted under sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 or registered under section 12A and approved under 80 G of the Income Tax Act, 1961, and having an established track record of at least three years in undertaking similar activities.
Explanation.- For the purpose of clause (c), the term "entity" shall mean a statutory body constituted under an Act of Parliament or State legislature to undertake activities covered in Schedule VII of the Act.]

[2] Section 8 of the Companies Act:
(1) Where it is proved to the satisfaction of the Central Government that a person or an association of persons proposed to be registered under this Act as a limited company—
(a) has in its objects the promotion of commerce, art, science, sports, education, research, social welfare, religion, charity, protection of environment or any such other object;
(b) intends to apply its profits, if any, or other income in promoting its objects; and
(c) intends to prohibit the payment of any dividend to its members,
the Central Government may, by license issued in such manner as may be prescribed, and on such conditions as it deems fit, allow that person or association of persons to be registered as a limited company under this section without the addition to its name of the word "Limited", or as the case may be, the words "Private Limited" , and thereupon the Registrar shall, on application, in the prescribed form, register such person or association of persons as a company under this section.

[3] Section 135 of the Companies Act, 2013 ("Act") provides that certain companies must mandatorily contribute a certain amount towards CSR activities. As per the Act, 'Corporate Social Responsibility' means and includes but is not limited to:
(a) Projects or programmes relating to activities specified in Schedule VII to The Act.
(b) Projects or programmes relating to those activities which are undertaken by the Board of Directors of a company in ensuring the recommendation of the CSR Committee of the Board as per declared CSR Policy along with the conditions that such policy will cover subjects specified in Schedule VII of the Act.

[4] The Securities and Exchange Board of India (SEBI) introduced the requirement of
ESG reporting in India in 2012. The Indian Institute of Corporate Affairs (IICA) developed the BRSR based on a study conducted in collaboration with the United Nations Children's Fund (UNICEF) in 2018 (IICA-UNICEF study). The study exposed the gaps in the SEBI-BRR framework– the information provided by the companies was

CSRD/ISSB.[5] However, not all that glitters is gold. There are certain issues surrounding the effectiveness of the Indian CSR Regime:

- The General-Purpose Financial Report of Public Sector Undertakings for the year ended 31/03/2022 by the Comptroller and Auditor General of India reveals certain concerning points. [Comptroller and Auditor General of India. (2024). Corporate social responsibility (Chapter IV in Union Government report). As observed from the figure 1, we can observe that the initial three PSUs have recorded a shortfall of 100%, thereby meaning that they have not spent a single penny with regard to CSR. On the other hand, only two companies, entry number *7 & 8* from the table have spent the CSR amount as which was allocated to them. This indicates a clear diversion of the CSR funds for purposes *internal* to the functioning of the corporation. This is just one of many examples, which shows a rather weak pattern of implementation of the CSR mechanism. Additionally, as observed from figure 02, it is pertinent to note that the focus of various corporations is to achieve targets with short-term durations, with only 45% of the respondents to the study believing that there should be a timeframe for more than three years. Unfortunately, if there needs to be a proper CSR spending on the environmental grounds, then it is of paramount importance that a proper timeframe is granted, in order to execute and chalk out the details pertaining to long-term ecological benefits; should these projects, relating to the revitalisation of the soil or reduction of emissions be run merely for a year or so, and the results are built on narrative report, the entire exercise would be rendered futile. Therefore, it is important not merely for the PSUs but also for the private owned corporations to invest a heavy timeframe for a successful utilisation of their CSR funding. [Comptroller and Auditor General of India. (n.d.). Guidance notes and practice guides on audit of environmental and social sectors.]
- Additionally, there is an issue with the corporations' collecting data for their evaluation. The methodology of these corporations stands on thin wooden sticks, with questionnaires holding negligible relevance to the indicators, non-disclosure of the

not clear and/or accurate. Thus, the BRSR was formulated to improve upon the BRR and make businesses report their non-financial performance with enhanced transparency.

[5] The interoperability between the European Union (EU) Directive 2022/2464, commonly known as "CSRD" (Corporate Sustainability Reporting Directive), and the standards of the International Sustainability Standards Board (ISSB) is a crucial topic in the landscape of sustainable finance. This aspect is particularly relevant as it represents a cornerstone in creating a coherent and effective global sustainability reporting framework. Let's examine how CSRD aligns with ISSB and the implications of this interoperability for businesses and stakeholders under these regulations.

methodology so followed, and adoption of qualitative/anecdotal data for their reference(s). To add salt to the wound, the 'impact assessments' as conducted by these corporations lack statistical backing, are often deprived of control groups or have a questionable sense of independence. There needs to be a shift from a narrative building attitude to a more regulatory-evidence based approach coupled with transparency in the procedure and strict alignment with the indicators.

- As a result of these, there exists a "disclosure deficit" issue, wherein the law has birthed various statutory provisions to provide for CSR related aspects, but has not undertaken a thorough and standardised measures including that of robust impact metrics, baselines, et cetera. [Fulcrum. (2024). Bharat CSR performance report 2018–2023]

The aforementioned issues do not conclude the jurisprudence of CSR as an activity in India. There could be a host of measures which could be undertaken by the government in order to address these issues:

- The framework surrounding SEBI's BRSR has been defined as a watershed movement with regard to fair disclosure and transparency. It is through this framework, that the corporations are obligated to furnish the quantitate aspect of ESG pertaining to energy, emissions, climate-risk management, et cetera. This increase in transparency needs to be strengthened in order to trace the activities of a company with the effectiveness of the CSR project as promised on the paper, with the disclosure as obligated by the law for the stakeholders to assess if the aforementioned CSR activities align with goals aligning with science and technology.
- Building of the first point, it is important to create a strict legal environment around CSR spending for the corporations to play. However, the environment should not be lethal enough; the corporations might as well choke. Here, the issue at hand is to tackle the superfluous claims made by the corporations by employing irregular statistical baselines, disable indicators, et cetera. This could be tackled by integrating disclosure frameworks like that of EU CSRD/SRS and ISSB climate standards to the list of disclosures required. The nexus between SEBI's BRSR and the EU standards would eliminate the superfluous claims issued by the corporations as the corporations would now be mandated to frame regular climate-risk and impact narratives both at the international level, and the international level. [KPMG in India. (2024). State of impact reporting in India. KPMG.

V. Conclusion

India's CSR regime, a rather novel concept for the Indian corporate diaspora has presented itself as the *messiah* for championing ESG goals by the stipulated time by providing with various legal and reporting framework as a response to the climate crisis prevailing in the global order. However, a close analysis of section 135, read with Schedule VII has revealed a troublesome gap with regard to CSR projects in the environmental and sustainable domain; often lacking metrics and opting for a wrong data type. Although the reporting standards in the form of SEBI BRSR coupled with the global standards have opened windows for better enhancement mechanism, these provisions have to now transform their form from not just to include the regulation of corporations, but to designing, monitoring, spending and effective integration of climate science to achieve its obligations at the global level.

VI. FIGURES REFERRED

Sl. No.	Name of PSUs	Period of spending[33]	Two percent of average of 3 years Net Profit Before Tax (₹ in crore)	Actual Spent (₹ in crore)	Shortfall/ (Excess) (₹ in crore)	Shortfall/ (Excess) (in percentage)
1	The Kerala State Backward Classes Development Corporation Limited	2019-20	0.46	0	0.46	100
2	Kerala State Power and Infrastructure Finance Corporation Limited	2020-21	0.15	0	0.15	100
3	Transformers and Electricals Kerala Limited	2019-20	0.13	0	0.13	100
4	Kerala State Industrial Development Corporation Limited	2020-21	0.53	0.09	0.44	83.11
5	The Pharmaceutical Corporation (Indian Medicines) Kerala Limited	2018-19	0.42	0.32	0.10	23.82
6	The Travancore Sugars and Chemicals Limited	2020-21	0.11	0.003	0.11	97.24
7	The Kerala State Financial Enterprises Limited	2018-19	3.74	3.74	No shortfall	0
8	The Kerala Minerals and Metals Limited	2021-22	2.16	2.16	No short fall	0
9	Kerala State Beverages (Manufacturing and Marketing) Corporation Limited	2018-19	2.38	5.51	(3.13)	(131.51)

Figure 01; Source: *The General-Purpose Financial Report of Public Sector Undertakings for the year ended 31/03/2022*

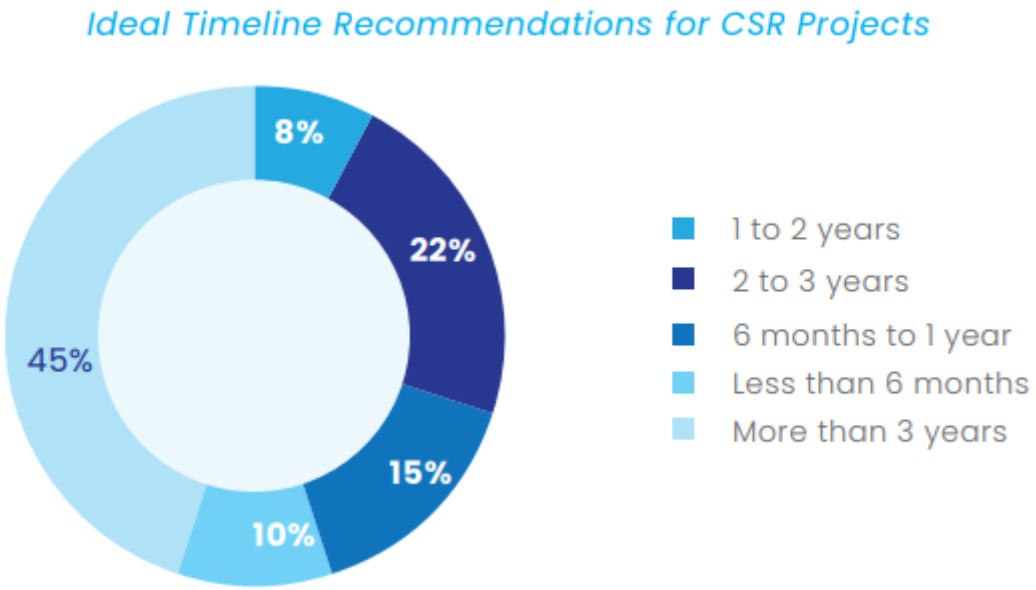

Figure 02; Source: *India CSR Outlook Report 2024*

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OPPRESSION, MISMANAGEMENT, AND THE ROLE OF CLASS ACTIONS IN STRENGTHENING CORPORATE GOVERNANCE IN INDIA

By CS Shraddha Jain[*] & Dr. Rajendra Kumar Meena[**]

ABSTRACT

Corporate Governance is the backbone of a Company's integrity, long-term sustainability and accountability in India. Under Companies Act, 2013, the powers have been divided into two segments to run and regulate the Company: one is the Board of Directors and other is the Shareholders or owners. The Directors exercise their powers through Board Meetings being responsible for day to day operations of the Company, whereas the Shareholders exercises their powers through General Meetings. It is a widely acclaimed fact that in any corporate entity, the shareholders are the owners. But they are rarely able to exercise any ownership rights in the company except for casting votes in General Meeting, therefore they are only the passive investors and not active participants to the governance process. This research paper critically analyses the legal remedies available in Companies Act, 2013 against oppression of minority shareholders and mismanagement by Directors of a company prejudicial to Company's interest. Additionally, it examines the currently explored yet underdeveloped mechanism of class action suits available but infrequently used, provided in Section 245 of the Act, and demonstrates how stakeholders can use class actions suits to harness and strengthen governance frameworks of accountability. It examines procedural challenges, implementing gaps, and the emerging area of law around corporate behaviour in leadership accountability by situating polite conversation within the broader framework of corporate governance and sustainable development.

Keywords: Oppression, Mismanagement, Class Action Suit, Companies Act, 2013, Minority Shareholders.

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I. Introduction

In the last 20 years, India has seen major changes in the way companies are governed due to advances in the economy allowed through liberalization, the growth of global markets and the increase in power held by institutional investors. As a result of this transition to very complicated, multi-layered organizations India has seen an increase in concern regarding transparency, accountability and the protection of minority shareholders (Majumdar, 2016). Nevertheless, even with improvements made to Corporate Governance in India, the corporate environment is still defined by the dominance of Promoters, Concentrated Ownership and Asymmetric Information; all of these create inherent structural weaknesses and expose minority shareholders to exploitation (Pandya, 2016).

The Companies Act, 2013 was enacted to address the governance issues faced by Indian companies and to monitor companies closely, and it also provide for better protection for shareholders. Sections 241 and 242 of the Companies Act, 2013 introduced statutory remedies for shareholders experiencing oppression or mismanagement; therefore, Minority Shareholders may approach the National Company Law Tribunal (NCLT) if the Conduct of the Majority is compromising their interests or the interests of the Corporation as a whole. While this is a good starting point and an improvement to the Corporate Governance of India, there has been extensive academic discussion about the inadequacies of these traditional remedies when it comes to shareholder harm and systemic failures of corporate governance (Majumdar, 2022; Choudhary, 2018).

This paper critically evaluates Section 245's ability to strengthen India's corporate governance via class action lawsuits. Specifically, can class actions bridge the gap between legal standards and enforcement realities where conventional remedies are inadequate. This paper will also evaluate the role of class actions in providing a mechanism to protect the rights of minority shareholders and the future directions for class action lawsuits as a protective mechanism within India's corporate governance frameworks, using doctrinal research, case law, and comparative analyses to the US and UK.

II. Identification of Statement of Research Problem

Despite the many provisions contained within the Companies Act 2013 that are designed to remedy oppression, mismanagement and protect minority shareholders; large gaps continue to exist between the expectations of the legislation and what is observable in practice. The remedy

at common law for oppressive and/or prejudicial conduct under the powers of Section 241-242 of the Companies Act has been severely limited by the high threshold levels necessary for securing judicial relief, discretionary power of the judiciary to determine eligibility for relief, procedural delays that often span several years, and an over-representation of promoters within the ownership structure of companies.

While the introduction of Class Actions through Section 245 was intended to provide a mechanism whereby the enforcement of corporate accountability can occur collectively, the provision continues to be largely underutilized in India due to a number of reasons including ambiguity in the procedures, the imposition of excessive numerical thresholds, little/no access to litigation funding, lack of precedential case law, and low levels of awareness amongst retail investors as to how to invoke the process. As a result, minority shareholders continue to face systemic impediments to accessing justice and affecting corporate governance outcomes.

The principal research question raised in this paper is whether the existing remedies available under Section 241-242 have provided sufficient protection for minority shareholders in India and whether Section 245 has been an effective additional mechanism to assist in overcoming the existing enforcement gaps and enhance the accountability of corporate governance. Additionally, the research considers the reasons why the class action mechanism provided for by the Companies Act has not had a significant operational impact despite its ability to achieve far-reaching change.

III. Research Methodology

This research uses doctrinal analysis for research purposes, relying primarily on qualitative analysis of existing statutory provisions, judicial decisions and academic literature. The focus of this research has been to analyse thoroughly the Companies Act, 2013 in order to evaluate the scope, limitations and practical enforceability of remedies available for minority shareholders with respect to: 1) sections 241-244, and 2) section 245; the case law associated with the National Company Law Tribunal (NCLT) and other similar forums captured for the understanding of emerging trends, procedural challenges, and the approach taken by judiciary with regard to issues of oppression, mismanagement and class action suits. Also, a comparative legal analysis of class action regimes in the US and UK in order to identify best practices, structural differences and procedural safeguards that may assist in reforming India's class action regime. In addition to relying on primary source material (i.e. judicial and legislative), this research utilises secondary source material including academic literature, reports from the

law commission, policy papers, and studies of corporate governance to aid in identifying systemic problems, enforcement shortfalls and theoretical underpinnings of shareholder protection. This research has not employed empirical data collection; however, it has integrated and synthesised doctrinal and comparative insights to develop governance-related conclusions and recommendations on how to reform the existing enforcement regime.

IV. Analysis & Findings of the Research

A. *Literature Review*

The literature of corporate governance has continually stressed the need for accountability and transparency as well as an equitable system of management as part of an efficient structure of the corporation. The earliest literature concerned with remedies available to shareholders under Common Law jurisdictions heavily relies upon Foss v. Harbottle (1843), in which shareholders of a corporation could not sue to enforce their rights against management unless the action fell within specified statutory exceptions (Gower 1969; Majumdar 2016). The reluctance of Common Law courts to permit minority shareholders to sue to enforce their rights against managers resulted in the adoption of Statutory remedies to protect minority interests when the internal democracy of a corporation fails to do so.

A growing number of studies have pointed to the structural concentration of ownership in India as creating agency conflicts, which limit monitoring and reduce the ability of minority shareholders to participate in influencing governance decisions (Pandya 2016; Varottil 2018). The information provided further strengthens the evidence supporting the conclusion that accessibility and enforceability of shareholder remedies address the asymmetrical distribution of power between majority and minority Shareholders in India.

When compared to how class action suits are successful in the USA and UK, the class action model has also enhanced corporate accountability, reduced the disparity of information between the corporation and its investors, and created more confidence in investors (Coffee, 2007). These two jurisdictions also show that class action suits may act as a deterrent against wrongful conduct by management, if there are adequate contingency fee arrangements and a significant level of institutional investor participation.

Nevertheless, the consensus in Indian scholarship appears to be that Section 245 continues to be under-utilised. Factors identified by research as contributing to the under-utilised nature of

Section 245 include, but are not limited to the following: the high eligibility requirement; the lack of clarity around procedural rules; low levels of investor knowledge; the absence of strong associations for minority shareholders; and the reluctance of minority shareholders to litigate (Majumdar, 2016; Arjya, 2017). Scholars have also indicated that without complementary mechanisms, i.e., third-party finances, better access to information and reduced litigation costs, the promise of section 245 might remain for the most part unfulfilled (see Pandya, 2016).

By combining the array of literature found regarding sections 241–242 being the core remedy for oppression and mismanagement, Section 245 is viewed as a promising, yet still relatively, under-developed area of corporate governance in India.

B. *Legal Framework Governing Oppression And Mismanagement (Sections 241–244)*

The statutory framework that addresses oppression and mismanagement in India originated from the Companies Act of 1956, through Sections 397 and 398, which provided equitable remedies for minority shareholders when majority shareholders or management acted in a way that harmed minority shareholders. There has been a significant expansion and retention of similar provisions in the Companies Act of 2013, through Sections 241 and 242, with an emphasis on modernising company governance and protecting minority shareholders. The remedy is still fundamentally an equitable remedy for shareholders to bring matters before the NCLT when corporate affairs are being conducted in an oppressive manner against any member or detrimental to the interests of a corporation.

The words "oppression" and "mismanagement" are not defined in the Act. The meaning of these words shall be interpreted in broad general sense and not in any strict literal sense.

- Oppression: Oppression is any action by the majority shareholders or the management that disproportionately prejudices or damages the rights of minority shareholders. Such acts are classified to be harsh, wrongful and burdensome on the Minority Shareholders. It encompasses acts like unfair dilution of equity, withholding of voting rights, and exclusion from decision-making.

- Mismanagement: Mismanagement takes place when the affairs of a company are handled in a way that is contrary to its overall health, financial stability, or compliance with the law. Instances include financial forgery, fund embezzlement, absence of transparency, and unethical operations.

1. Powers of Tribunal: Section 242

Section 242 of the NCLT provides a wide variety of discretionary powers to the NCLT, which may be used by the NCLT to issue whatever order(s) it believes to be 'just and equitable' for the purpose of finally resolving complaints made about company conduct. These include regulating a company's future conduct of its business affairs; regulating a company's shareholding arrangements; restructuring or terminating management contracts; removing directors; recovering profit obtained contrary to law; and appointing new directors to ensure compliance with any orders issued by the Tribunal.

The wide-ranging powers provided for by section 242 acknowledge that management failure and issues with power imbalance in governance need tailored, future-oriented, prospective remedies, rather than merely correctional or retrospective sanctions limited to those defined as defects based upon an act or omission or an event where the governance framework was not functioning correctly. Therefore, section 242 provides the Tribunal with authority to address issues of imbalance in power structures and restore confidence regarding how companies will govern themselves.

However, the expansive power given to the NCLT by this section has led to variability in the relief obtained by minority shareholders, and due to the lack of predictability associated with how courts interpret the powers given to the NCLT. The nature of these variables creates uncertainty in the minds of minority shareholders regarding the likelihood of the NCLT providing an effective remedy.

2. Section 244: Right to apply under section 241

Section 244 defines the minimum qualification requirements for Members of Companies to be eligible for relief under Section 241 of the Companies Act, 2013. For Companies without share capital, application can be made by not less than one fifth of the total Members of the Company to qualify. In addition, for Companies with share capital, there are two ways in which an applicant may qualify: Either by 100 Members or 10% of total Members or having 10% of the issued share capital of the Company.

While the Tribunal may exercise discretion to relax these requirements in appropriate circumstances, it is rare for them to do so. While these qualification requirements serve to weed out frivolous claims, they also present as a significant barrier to those Companies

which have a broadly distributed shareholding network (for example: Listed Companies). As such, many Minority Shareholders, who are often the victims of Stock Market Abuse will continue to request the Tribunal for Relief but will ultimately be unable to do so.

C. *Class Action Suits*

1. *Evolution and Legislative Intent*

A statutory method that gives shareholders and depositors legal options to collectively seek redress from a company through Section 245 of the Companies Act 2013 has been established in India for the first time, significantly altering the individualised method of shareholder litigation that exists in the country today. Section 245 was passed following the failings of many large corporations that were unable to remedy the lack of adequate redress for their investors through traditional lawsuits. The Satyam Computer Services case exemplifies the inability of investors to pursue a successful civil action against management, auditors, and other professional advisors due to their inability to locate helpful information at home.

There are three primary goals of the legislative intent of Section 245: 1) Aggregate shareholders' claims and eliminate unnecessary costs and the complexity of litigation; 2) Eliminate multiple court action on the same issue; 3) Promote a stronger corporate responsibility by permitting a private party to bring suit against the corporation, directors, auditors and other professionals involved. By providing for a larger pool of shareholders and investors as potential litigants, the purpose of the new law is to bolster ethical leadership and foster improved levels of corporate accountability through increased transparency and responsibility within the corporate governance framework.

2. *Eligibility and Access Barriers*

The sections 245 (1) and 245 (2) both have numerical and percentage requirements which must be satisfied before an application can be filed for a class action suit. For those companies that have share capital, the applicant must have at least one hundred or ten percent of the total number of Members of the Company whichever is lower and the applicant must hold at least ten percent of the total issued share capital of the Company. For depositors and for Companies without any capital shares the same types of requirements must be satisfied.

The intention of establishing the numerical and percentage requirements was designed to discourage the filing of frivolous lawsuits; however, the numerical and percentage requirements as currently established are prohibitive barriers for individuals trying to file suit in the Courts. For Listed Companies that have thousands of shareholders, getting the number of required shareholders is nearly impossible if neither a Shareholder Association nor institutional support exists. Therefore, many of the minority investors who were intended to be protected under the Act will be unable to access the courts under the Act and therefore the Act fails to achieve its remedy purpose.

3. *Scope of Relief and Enforcement Potential*

Section 245 empowers the National Company Law Tribunal (NCLT) to grant a wide range of preventive and compensatory reliefs. These include injunctions restraining ultra vires or unlawful acts, declarations rendering resolutions void where passed by suppression or misrepresentation, and claims for damages or compensation against the company, its directors, auditors, and advisors.

From a governance perspective, the breadth of available relief reflects a shift towards collective accountability and deterrence. By permitting claims against auditors and professional advisors, the provision recognises the systemic role played by gatekeepers in corporate failures. However, the absence of detailed procedural guidance on issues such as class representation, notice requirements, discovery, and settlement approval significantly limits the enforceability of these reliefs.

D. *Case Law Developments*

Section 245 is a relatively new section of the Companies Act 2013 that has been interpreted by very few Courts so far; however, there have been some decisions that have provided insights into how the Courts interprets the provision.

- *Bayer Cropscience Ltd. (2016)* NCLT held that for a class action to be sustainable, the applicants must establish commonality of interest and grievance; moreover, it was made clear that class actions cannot be used as a forum to resolve individual disputes under the guise of class action. This is similar to the "commonality" requirement under Rule 23 of the Federal Rules of Civil Procedure in the USA; however, there is no analogous statutory provision in India.

- *DLF Home Developers Ltd. (2019),* NCLT held that even though the petition was dismissed due to procedural problems, it highlighted several significant procedural issues such as inadequate and unclear rules regarding notices, representation and consolidation of claims. The NCLT's decision made clear to academics that there are several gaps in the statute that exist, and that the NCLT appears to be reluctant to allow class action applications (Majumdar, 2016).

- *Coffee Day Enterprises Ltd.* is another example where many investors reported significant financial irregularities following the death of Coffee Day's founder, but did not commence formal proceedings under Section 245. Rather, this case highlighted how investors are becoming more aware of being able to pursue claims collectively in instances where governance failures result in detriment to many shareholders.

E. *COMPARATIVE ANALYSIS*

Statutory framework(s), incentives for litigation, and judicial capacity influences the effectiveness of shareholder remedies. By comparing the United States and the United Kingdom, thus providing insights into India's new shareholder class action remedy under section 245.

1. *United States of America*

In the US, the established legal system for shareholders to seek redress from companies through litigation is also the most developed. Investors in the US can conduct collective class action lawsuits (as they relate to common questions of law or fact) by using Rule 23 of the Federal Rules of Civil Procedure (FRCP). In addition, prior contingency fee agreements allowed many law firms to shoulder a major portion of the financial risk and expense of litigation on behalf of smaller shareholders, enabling smaller shareholder(s) to litigate without facing excessive barriers to entry. In addition, many states, including Delaware, have enacted various state and federal statutes that govern the conduct of derivative lawsuits against officers and directors for breaches of their respective fiduciary duties. The enormous financial awards obtained from class actions, often numbering into the hundreds of millions and billions of dollars create significant motivation for parties to comply with these procedures. The US approach to shareholder

remedies is primarily determined by the requirements and interests of shareholders, which has a strong connection to procedural rules.

2. *United Kingdom*

The UK system emphasises the power of judges to control the procedure and to allow businesses to have a high degree of independence from the courts. Group Litigations Orders (GLOs) offer a structured way to bring together claims that involve the same legal or factual issues and are available only if the group members 'opt-in' to the process. The long-standing position of derivative claims as previously restricted by Foss v Harbottle has been liberalised through the Companies Act 2006 by allowing minority shareholders to bring derivative actions against their directors for any breach of fiduciary duty, fraud on the minority shareholders or for improper or negligent actions taken as a corporate body.

3. *India*

Section 245 of the Indian Act is based on the global principles of collective redress but lacks the benefit of an established procedural framework. There are three main conclusions which can be drawn from a comparative analysis of the two systems:

- Lower thresholds - The requirement for 100 or 10% of a company's shareholders to obtain permission from a court to bring a collective claim creates an impracticality for those companies that have a dispersed shareholding. To overcome this, the Indian Government must adopt more flexible thresholds similar to those found in the US Rule 23 and UK GLOs.
- Third-party funding - The establishment of a regulatory framework for litigation funding is vital for removing barriers to participation in litigation, such as costs. A framework similar to that found in the UK, would allow more people to access justice.
- Clarity of procedure - In order to have a functioning class action regime, India must clearly define its rules for class certification, class notice, selection of representatives, consolidation of claims and class action settlements.

F. *Role Of Class Actions in Strengthening Corporate Governance*

Litigation through class actions is becoming a popular way to increase the accountability of corporations, promote their transparency, and strengthen the protections for shareholders. In India, the potential for Sections 245 to help develop governance standards where there is a combination of a dispersed minority of shareholders and a concentrated group of promoters could be transformational. Although there is little history of class actions in India, comparative research and theories of corporate governance suggest that collective shareholder remedies can greatly improve market accountability.

1. *Accountability and Deterrence*

In terms of accountability and deterrence, class actions are not only a way for recovery on damages, but they also serve as a prevention mechanism against dishonesty and misconduct. Empirical studies indicate that the potential for class-action lawsuits improves disclosures and reduces opportunities for corporate fraud (Coffee, 2007). If applied appropriately, class actions could enable a similar level of deterrent effect to encourage higher standards of governance within Indian companies.

2. *Enhancing Minority Shareholder Voice*

Minority shareholders in promoter-controlled companies typically have little to no real power over their investments through general voting rights. Class actions help address this issue by allowing minority shareholders to combine their claims, enforce their rights together in court, and reduce their risk of retaliation against them as individual shareholders. Collective litigation allows institutional and retail investors to coordinate their efforts, thereby increasing the extent to which they can participate in corporate decisions.

3. *Improving Information Disclosure and Transparency*

Class actions require an organization to provide detailed information about its corporate practises, financial transactions, and decisions made by its board. By even commencing these types of lawsuits against a company, the company must provide information to the public that would otherwise be hidden from minority shareholders and not able to

be obtained. The increased amount of information to shareholders about their company will:

- Increase internal transparency through the processes of document discovery and inquiry;
- Increase external transparency to the market by exposing corporate misconduct; and,
- Increase regulatory oversight of companies, as regulators will often rely on information obtained through litigation.

4. *Providing Additional Support to Regulatory Bodies*

Regulatory authorities such as SEBI and the MCA have limited resources, class actions provide additional forms of enforcement on behalf of investors and therefore reduces the regulatory burden of these authorities. Private shareholder litigation serve as an additional source of monitoring of companies on behalf of investors. The combination of public regulation and private litigation, as demonstrated in the U.S. and U.K., has proven to be an effective way of enforcing corporate governance.

5. *The Advancement of Shareholder Democracy*

Ultimately, class actions support the creation of a democratized corporate governance framework, as access to resorting to remediation will not be determined by size of ownership. In this regard, Section 245 of the act provides a normative basis for shareholder democracy by legitimizing the exercise of collective enforcement against abuses of power and promoting public confidence in governance systems.

G. *Findings and Critical Discussion*

The review of statutory provisions, academic scholarship, and emerging case law suggests that while there have been substantive developments in the conceptualisation of the minority protections framework, India still faces numerous structural, procedural and cultural obstacles that limit the effectiveness and ultimately the success of the framework. Sections 241-242 and Section 245 define the legislative intent to provide for equal and fair practices in the governance of corporations; however there exists a significant gap between what is legislatively defined and the actual implementation of that definition.

1. *Conceptual Strengths, Limited Functional Impact*

While Sections 241-242 and Section 245 provide a solid legal basis to protect minority interests, they do not currently function effectively. In both empirical and doctrinal research performed by Majumdar (2016) and Pandya (2016), statutory remedies cannot succeed without set processes that provide clarity, certainty, predictability, and that compel active participation by shareholders. Thus, while the framework for the protection of minority interests in India is sound in theory, this framework has not been fully realized in practice.

2. *Discouragement of collective action due to high thresholds and procedural rigidity*

Amongst the most important findings is how disproportionately the high eligibility thresholds under Section 244 and 245 are for companies with widely dispersed retail shareholders. The requirement for 100 members or 10% of total members places companies with retail investors in a position of significant difficulty in practice. This is further exacerbated by:

- low levels of awareness amongst investors regarding their rights;
- the geographic dispersion of shareholders;
- the lack of a robust association or alliances between companies and retail shareholders; and
- the problems inherent in retail shareholders coming together to take collective action.

3. *Promoter-driven dominating behaviour restricts enforcement*

The promoter-driven ownership model is a primary systemic challenge to enforcement in India. Promoters typically maintain an enormous voting advantage, have the ability to disregard minority stakeholders and to influence board decisions, and their concentration of power skews not only governance outcomes but also promotes the perception that litigation is not an option for minority shareholders. As such, minority shareholders are less likely to confront a promoter for fear of retaliation and/or the futility of the action, further eroding the ability to enforce shareholder rights.

4. *No Legal Funding or Cost Assistance for the Prosecution of a Class Action*

India has no formal legal provisions, as do the US and UK, regarding sponsorship (funding) of litigation and sharing of costs by shareholders when pursuing class-action lawsuits against corporations. Without financial sponsorship, retail investors cannot afford to pursue collective actions in India due to the costs incurred to file, engage counsel, and obtain expert opinions. Hence, the lack of financial support undermines the original intent of class actions: to collectively reduce the economic burdens on the individual.

5. *The Retail Investor is not aware about their Rights:*

In India, most retail investors are passive in their engagement in equity markets. Cultural, educational and informational barriers have resulted in low levels of engagement by retail investors as reflected in:

- Limited understanding of legal rights,
- Minimal participation in Annual General Meetings, and
- Limited familiarity with governance norms.

Proxy Advisory Firms and Stewardship Codes together with ESG Frameworks have increased the activism of Institutional Investors to some extent, but they do not have as much impact on the level of engagement of Retail Investors.

6. *Delays from Regulatory and Judicial Processes Are a Hindrance*

Continual delays within both the regulatory and adjudicatory systems, particularly at the NCLT, significantly weaken the effectiveness of the remedies available to shareholders. Delayed adjudication timelines lower the deterrent effect of pursuing legal action, thus allowing the alleged failures of governance to continue unabated. Timely resolution of the remedy is critical to stopping any ongoing harm; therefore, the procedural delays pose a significant structural barrier to shareholder remedies.

The lack of judicial precedents causes a “wait and watch” attitude amongst investors and has discouraged the submission of new applications under Section 245, leading to the limited utilisation of Section 245.

V. Conclusion

The corporate governance framework in India impacted by the Companies Act, 2013 is a deliberate effort to create an environment that includes accountability, transparency and minority shareholder protection. The introduction of statutory remedies for oppression or mismanagement found in Sections 241–242 as well as the introduction of Class Action Suits as per Section 245 shows a legislative commitment to create a culture which is based on fairness and ethical leadership in the decision-making process of Corporates. However, the findings of this Research indicate that the effectiveness of statutory remedies and class action referral mechanisms is still constrained because of their structural, procedural or institutional limitations.

Sections 241–242, provide relief in the form of equitable judicial relief for identifiable instances of abuse of power by Management but this relief is constrained by the very high thresholds required to be eligible for such relief, the discretionary nature of the Court's role in granting relief, and the lengthy time taken to adjudicate such claims under Section 245. Section 245 has been conceptually stated as being a transformative development but has not yet evolved into a practical enforceable mechanism, with the current imposed high thresholds, uncertainty attached to the requirements to pursue a claim under this provision, the relative lack of judicial precedent, the absence of Litigation Funding, and the very low levels of awareness of retail investors about the availability of collective actions through Section 245, the potential benefits of this provision have remained much more aspirational than operational to date.

Insights gained through the comparative analysis of the class action regimes in both the United States and Great Britain show that successful class action mechanisms require more than just recognition by legislation. Both jurisdictions show that class actions can serve as powerful mechanisms for increasing accountability to the markets through the deterrence of misconduct, enhanced rules of disclosure, increased fiduciary responsibilities placed on the board of directors, and increased confidence among investors.

Furthermore, from a governance perspective, effective class action mechanisms create opportunities for effective legal leadership by holding accountable all parties involved in any transaction including promoters, directors, auditors, and advisors. Effective class action mechanisms also enable a complementary function to existing regulatory authorities by providing additional sources of corporate governance through enhanced transparency and

through allowing private enforcement of corporate governance practices when both public regulatory agencies do not have the resources to respond to corporate governance violations.

In order to realise this potential for improved governance practices through increased accountability with the class action mechanism, a variety of specific reforms are needed to improve access to, and thereby the effectiveness of, class actions. Some specific reforms include rationalising and clarifying eligibility thresholds; clarifying and streamlining procedural rules; enabling the use of litigation funding; strengthening institutional capacity at the National Company Law Tribunal; and enhancing investor education.

Therefore, strengthening the existing class action structure is not just about creating a procedural structure; rather, it is about creating an infrastructure that will also contribute to strengthening shareholder democracy, ethical leadership, and sustainable corporate governance practices over the long term. An effective and inclusive Class-Action framework will address this critical need between legislative intent and governance practice and ultimately create a more accountable, transparent, and durable corporate ecosystem.

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WHISTLE BLOWER PROTECTION IN PRIVATE SECTOR: IT'S RELEVANCE IN ENSURING ETHICAL LEADERSHIP

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ABSTRACT

Whistleblower protection in the private sector: its importance in ensuring ethical leadership. Whistleblower protection has always remained a public sector affair in India, with a large gap between intention and reality despite the preponderance of the private sector in the delivery of services since the economic liberalization of 1991. In the current liberalized scenario, the private sector occupies an important place in key sectors such as finance, health infrastructure, and information technology where unethical activity can produce a systemic problem for the public and the governance system. However, the existing whistle blower protection system in the private sector is patchy, voluntary, and poorly enforced-which acts as a deterrent to the employees in blowing the whistle and keeps the unethical activities under the lid. The paper on this particular topic takes the stance that the protection of whistle blowers in the private sector of the economy is an absolute necessity for ethical leadership. The following paper suggests that there is an important balance to be struck between legal protection and internal policies such as safe reporting, non-retaliation policies, and effective ethical leadership structures typical of the private sector. The following paper stresses the importance of legal protection of the whistleblower, far beyond legal formalism.

Keywords: Whistleblowers, Whistle blower Protection Laws, Ethical and Moral Leadership, Private Sectors, Organisational - Ethics, Retaliation, Corporate Governance, Workplace Integrity.

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I. Introduction

Whistle blowing is an act of persons blowing the whistle for unethical or illegal practices in an organizational setup; hence, it is the bedrock of organizational accountability. In addition, this paper seeks to investigate the importance of an ethical fostering environment in empowering persons who blow the whistle, as well as factors that sustain the ethics involved in blowing the whistle. In the private sector, which at some point differentiates between profit maximization and ethics, ethical leadership is instrumental in promoting organizational integrity in whistleblower protection policies.

Unlike in public organizations, which are monitored by the government, private companies are run with much less intervention from the government. This calls for the establishment of internal factors that prevent the prevalence of cases of fraud, embezzlement, and unethical behavior. Whistleblowers play a crucial role in the corporate world in exposing cases of corruption, financial impropriety, and the abuse of power that can have catastrophic consequences on the organization. Ethical leadership changes the scene altogether by creating a workplace where employees are encouraged to speak up about their concerns without the fear of reprisals. Ethical leadership involves setting an example by being ethical in decision-making and distribution of resources and having a zero-tolerance attitude towards unethical behavior.

The relationship between ethical leadership and the protection of whistleblowers is a multifaceted issue full of implications. Ethical leaders enhance the moral identity of their subordinates, increasing their motivation to whistle blow when faced with moral dilemmas. In addition, by protecting those who demonstrate integrity, organizations stay ahead of the changing legal environment while building strong, resilient, and value-based cultures. This paper examines these relationships and provides perspectives for policymakers, managers, and researchers.

II. Research Problem

The growing trend of the private sector's growth in India after the economic reform process has given it much more significance in terms of areas such as finance, healthcare, infrastructure, technology, and service delivery, amongst others. Meanwhile, the overall level of accountability in private sector organisations is, on the other hand, low, although the issue of whistleblower protection has been addressed in the public sector, as opposed to the private sector, whose protection frameworks are limited and less enforceable, therefore deterring staff

from disclosing wrongdoings due to fear of retaliation, dismissal, reputation loss, and social stigmatisation.

Though the pertinent corporate governance structures have underlined the importance of having internal compliance structures in place, the efficacy of these structures largely depends on the organisational culture. Even in private sector firms, the organisational culture revolves around financial gain, making the ethical aspects take a backseat. Another area, which needs more research, is the role of ethical leadership in developing a culture of safe reporting.

Thus, the research question that needs to be addressed in this research revolves around the lack of an effective whistleblower protection system in the private sector and the need to incorporate the principle of ethical leadership as a viable system to deter retaliation and misconduct. This study hopes to find the link between ethical leadership and the protection of whistleblowers.

III. Research Methodology

This research employs a qualitative approach of doctrinal research methodology. The research is based on the principles of the law, legal frameworks, corporate governance, and other scholarly writings related to the topic of whistleblower protection and ethical leadership. The study relies on:

- Review of relevant enactments concerning whistleblower protection and corporate governance practices.
- The review will include existing scholarly writings, journal publications, and other research studies concerning ethical leadership, organisational ethics, and whistleblowing.
- Conceptual Analysis of the Relationship between Ethical Leadership and Internal Reporting Culture within Private Organisations
- Comparative references to international definitions and approaches to whistleblowing for understanding.

The method employed is said to be analytical and interpretive in nature. The method seeks to link legal theory to organisational behaviour. The method does not seek to gather information from the field; instead, it seeks to draw on existing legal knowledge to assess the effectiveness of ethical leadership as a non-legal yet potent tool to build whistleblower protection.

IV. Analysis & Findings

From the analysis of the relationship that exists between whistleblower protection and ethical leadership in the private sector, some implications have been established. Second, it is not just a legal matter but also an organisational behavioural matter that is shaped by leadership and ethical climate. For example, employees are more disposed to speak out if they perceive that their leaders are trustworthy, just, and ethical. Ethical leaders create a psychological climate that minimises employees' fear of retaliation, which is the major deterrent from whistleblowing.

Secondly, it is the case that the internal reporting mechanisms in private organisations are effective provided the organisations have good ethical leadership. 'Organisations may have good written policies, such as no retaliation or reporting procedures, but these are not always effective on paper.'

Thirdly, the study reveals that good corporate governance and risk management benefit from ethical leadership. The whistleblower disclosures help to flag frauds, corruptions, and other irregularities before they build up to major crises. Organisations that have good ethical leadership can weather the challenges more effectively to sustain their growth.

Fourth, the absence of ethical leadership impacts the effectiveness of the protection given to whistleblowers, even in organisations that have legal provisions for this scope. Employees may not use the legal provisions to report the misconduct due to the organisational culture, which might be opposed to the issue. This indicates that the law by itself is not enough to ensure the protection, although it may serve as a complementary mechanism to the ethical leadership governance. Finally, the investigation proves that the integration of ethical leadership within private sector governance structures changes the role of whistleblowers from a purely reactive legal requirement into a proactive business strategy that boosts trust, accountability, reputation management, and performance.

A. *Ethical Leadership*

Research has shown that those who possess a stronger moral identity have greater tendency of acting Ethically/morally.[1] Ethical leaders use their managerial skill and moral Principles in

[1] Patrick, R.B., Bodine, A.., Gibbs, .C., &Basinger, K.S. (2018), What accounts for prosocial behaviour? Roles of moral identity, moral udgment, and self-efficacy beliefs. The Journal of Genetic Psychology, 179(5),231-245.

influencing and directing the behaviours of their employees by guiding them with Ethical actions.[2]Ethical leader shapes the moral identity of their followers Due to their own ethical and moral values.[3] One of the prime factors that can result in positive outcomes at workplace is leadership Such that leaders play a noteworthy role in sculpting, encouraging and promoting pro-social and Constructive/moral voice of employees working under the.[4] The impact of leadership upon followers and the organization cannot be emphasized enough, and the power of moral leaders to inspire their followers rests upon the leader's ability to serve as a role model, to act in accordance with ethical and moral standards. Ethical leaders set clear moral standards and convey them such that employees are motivated to report any wrongdoing which gives rise to whistle Blowing behaviours.[5]

Ethical Leadership is defined as "the demonstration of normatively appropriate Conduct through personal actions and interpersonal relationships, and the promotion of Such conduct to followers through two-way communication, reinforcement and ethical Decision making".[6] People watch their leaders by observing the behaviors that are consistently shown, the behaviors that are rewarded or recognized, and the behaviors that need correction or punishment. An ethical leader does this through 'role modelling' which refers to demonstrating the right conduct by oneself.[7] Ethical leaders are also known as moral persons and moral managers. At the point when a leader shows ethics and morality through his own behaviour and relational influences then he/she is essentially doing ethical leadership.[8]

B. *Whistle Blowing*

The term "whistleblower" is defined as an employee or worker (an insider) who reveals information of public interest (such as corruption, wrongdoing, and health and safety concerns) in foreign countries, such as the United Kingdom[9]. The emphasis of the definitions adopted by

[2] Miceli, M. P., & Near, J. P. (1985). Characteristics of organizational climate and perceived wrongdoing associated with whistle-blowing decisions. Personnel Psychology, 38(3), 525-544.
[3] Mayer, D. M., Aquino, K., Greenbaum, R. L., & Kuenzi, M. (2012). Who displays ethical leadership, and why does it matter? An examination of antecedents and consequences of ethical leadership. Academy of Management Journal, 55(1), 151-171.
[4] Grojean, M. W., Resick, C. J., Dickson, M. W., & Smith, D. B. (2004). Leaders, values, and organizational climate: Examining leadership strategies for establishing an organizational climate regarding ethics. Journal of business ethics, 55(3), 223-241.
[5] Brown, M. E., & Treviño, L. K. (2006). Ethical leadership: A review and future directions. The Leadership Quarterly, 17(6), 595-616.
[6] Ibid
[7] Yukl, G., & Chavez, C. (2002). Influence tactics and leader effectiveness. Leadership, 139-165.
[8] Sharif, M. M., & Scandura, T. A. (2014). Do perceptions of ethical conduct matter during organizational change? Ethical leadership and employee involvement. Journal of Business Ethics, 124(2), 185-196.
[9] Public Interest Disclosure Act (1998).

the Europe Council is the similar: "any person who reports or discloses information on a threat or harm to the public interest in the context of their Work-based relationship, whether public or private."[10] In different parts of the world, like Malaysia, the definition of whistle blower is "any person Who makes a disclosure of improper conduct" in connection with an enforcement agency[11], it does not matter from whom the information comes from (whether it is an employee/ member of the public, for eg) because the legal system is only concerned with the nature of the problem/ complaint which is being brought up. The legal system shields informers, also known as "whistleblowers," from prosecution.[12] Every two years, Price Waterhouse Coopers (PwC) conducts a Global Economic Crime Survey. Based on their first survey in 2005, tips and whistleblowers accounted for 31% of economic fraud. Based on the study, the internal "controls" designed for detecting fraud were "not enough," and tips from whistleblowers must be protected from retaliation and encouraged to report fraud. Based on the 2011 survey of PwC, 11% of economic fraud cases were detected through internal tips, and 7% through external tips. Formal internal whistleblower programs had detected 5% of cases.

Therefore, the total cases that originated from whistleblowing wherther in 1 form or other was 23 percent, which was much lower than the cases in 2005, but still a large number. As per the latest report, which was released in 2014, the above figures remained unchanged. As per the survey conducted Asset misappropriation, procurement frauds, bribery and corruption, cybercrime, and accounting fraud were the top five frauds reported in 2014.[13]

C. *India And Private Sector*

In India's mixed economic framework, the private sector plays a crucial role in accelerating economic growth, employment generation, and innovation. Since the economic reforms of 1991, liberalisation, privatisation, and globalisation have expanded the scope of private enterprise, making it a key driver of GDP growth. The private sector contributes significantly to core industries such as manufacturing, information technology, telecommunications,

[10] Council of Europe Recommendation CM/Rec (2014)7 of the Committee of Ministers to member States on the Protection of whistleblowers. Available from https://wcd.coe.int/ViewDoc.jsp?id=2188855&Site=CM
[11] https://www.bheuu.gov.my/portal/pdf/Akta/Act%20711.pdf
[12] The United Nations Convention against Corruption, Resource Guide on Good Practices In the Protection of Reporting Persons Publishing and Library Section, United Nations Office, Vienna, 2015.
[13] Ibid.

infrastructure, pharmaceuticals, and services, thereby strengthening India's global competitiveness.[14]

The efficiency of the private sector in the allocation of resources can be attributed to the free-market economic system. This will lead to better productivity, technological innovation, and the quality of the products [15] . Moreover, the private sector is the largest employment generator in India, especially in the unorganized sector/service sector. This will ease the burden on the public sector.

With the arrival of start-ups and MSMEs, entrepreneurship and regions have been developing. Government initiatives such as Make in India, Startup India, and PPPs also acknowledge the role of the private sector in country development. Therefore, a robust private sector is imperative for inclusive growth, resilience, and development in India.[16]

D. *Positive And Negative Aspects Of Whistle Blowing In Private Sector*

There are several benefits to the whistleblowing act. The benefits, advantages, relevance, importance, and positive aspects of whistleblowing are included in the positive aspects. The benefits of whistleblowing can be explained by the following factors.

Positive Implications of Anti-Corruption Mechanism: Whistleblowing is an effective mechanism for combating corruption, as it helps to identify and remedy fraud and misconduct. Enhances Internal Controls: It is a preventive as well as a detective mechanism in the internal control structure of an organization, especially when the reporting mechanism for irregularities is formally incorporated. Demonstrates Good Corporate Governance: In this way, it ensures transparency and communication with all levels of employees, thereby protecting the stakeholders of the organization, such as shareholders, directors, managers, employees, suppliers, and consumers, who have a collective and direct interest in the well-being of the organization. Employees, who are best placed to know the realities of the organization, can protect their interests through whistleblowing. Risk Management Mechanism: It enables organizations to take corrective measures in time, preventing escalation and long-term negative consequences. Triggers Public Policy Reforms- Effective whistleblowing can catalyze reforms in public policies. However, there are some demeritorious aspects of whistleblowing, which are listed below. Potential for Personal Use: This is the potential for the system to be abused

[14] Ramesh Singh, Indian Economy, 10thedn. (New Delhi: McGraw Hill, 2022), p. 112.
[15] Dutt&Sundharam, Indian Economy (New Delhi: S. Chand, 2019), p. 256.
[16] Misra&Puri, Indian Economy (Mumbai: Himalaya Publishing House, 2021), p. 401.

by selfish, bent, and discontented employees for their own gain, whether by way of revenge, increased power, job, or money. Lack of Organizational Support System: Without an organizational support system, employees are reluctant to blow the whistle inside the organization; hence, there is a tendency to blow it outside, which is bad for the organization. Causes Stress, Termination, and Lack of Trust: Due to retaliatory action from the employer, termination of employment, intimidation, credible evidence of monitoring, stress, lack of trust, health problems, and what is termed career destruction, relationship problems, health crises such as having a failed marriage, etc., are complained of. Destabilizes Team Building: There is mistrust of fellow workers, which impacts teamwork, team spirit, and overall organizational efficiency, while the whistleblower has to suffer with guilt feelings. In summary, the benefits of whistleblowing far outweigh the disadvantages if the latter are adequately dealt with beforehand.

E. *Ethical Leadership And Whistleblower Protection In Private Sector*

Ethical leadership is an important factor that determines the promotion of whistleblower protective mechanisms. This happens particularly in countries like India where organizational structures and the fear of retaliation are a discouraging factor. Ethical leaders establish moral standards within institutions by demonstrating integrity, accountability, and transparency in decision-making processes. Such leadership fosters an environment in which employees perceive ethical conduct as a shared organizational value rather than an individual risk-bearing choice. Scholars argue that leadership grounded in ethical principles enhances trust and psychological safety, which are essential preconditions for whistleblowing behavior.[17]

Research shows that the presence of an ethical environment in an organization will enhance the intention of whistleblowers.[18] Ethical leaders give them Speaking out against unethical measures in an ethical climate formed by ethical leaders is encouraging and rewarding when there is sufficient psychological safety. [19] Consequently, employees working under an ethical leader will be able to develop strong ties with the organization and other employees. They will

[17] Linda KlebeTreviño, Katherine A. Butterfield & Donald L. McCabe, The Ethical Context in Organizations, 8 Business Ethics Quarterly 447, 452–453 (1998).

[18] [18] Dalton, D., & Radtke, R. R. (2013). The joint effects of Machiavellianism and ethical environment on whistle-blowing. Journal of business ethics, 117(1), 153-172.

[19] Tu, Y., Lu, X., Choi, J. N., & Guo, W. (2019). Ethical leadership and team-level creativity: mediation of psychological safety climate and moderation of supervisor support for creativity. Journal of Business Ethics, 159(2), 551-565.

also be able to identify themselves more strongly[20] with the organization and the key figure, the leader, which will enhance their voice and whistleblowing behaviors in the organization[21].

In India, despite the enactment of the Whistle Blowers Protection Act, 2014, effective implementation remains limited due to weak internal reporting cultures and inadequate assurance against victimization. Ethical leadership can help span this chasm by promoting internal disclosure practices and safe non-retaliatory cultures. Leaders who embrace open communication about ethical practices and report systems will instil among their employees a commitment to legal behaviour, which will motivate them to disclose unethical behaviour. [22]

Also, ethical leadership can help in corporate governance by making whistleblower protection an aspect of compliance. Studies indicate that organizations led by ethically conscious leaders experience higher levels of internal reporting and lower incidences of external exposure, which ultimately protects organizational reputation and public interest.[23] Thus, ethical leadership is not merely a moral obligation but a strategic necessity for effective whistleblower protection. Since an ethical leader is a role model for his subordinates and leads by example, which affects them, he encourages them to come forward with information. Since they are viewed as trustworthy and accountable, they enhance the effectiveness of the organization against inappropriate conduct. Each day, ethical leaders interact with employees for routine duties. They establish social relations with their subordinates due to their frequent interactions with them.[24] Thus, it is accepted that it is the duty of the subordinates to react to an unethical circumstance. Ethical leadership may also promote whistleblowing because it eradicates the fear of Retaliation.[25]

F. *Role Of Strong Private-Sector Whistleblower Protection in Organizational Resilience and Sustainable Growth*

Strong whistleblower protection frameworks in the private sector play a crucial role in reinforcing ethical conduct and regulatory compliance within organizations. Employees are

[20] Supra n5
[21] Walumbwa, F. O., & Schaubroeck, J. (2009). Leader personality traits and employee voice behavior: mediating roles of ethical leadership and work group psychological safety. Journal of Applied Psychology, 94(5), 1275.
[22] OğuzDemirtaş, Ethical Leadership Influence at Organizations, 126 Journal of Business Ethics 273, 278 (2015).
[23] Janet P. &Miceli, Marcia M., Integrating Models of Whistleblowing, in Rebels in Groups 302, 315 (2011).
[24] Alkahtani, A. H. (2015). The influence of leadership styles on organizational commitment: The moderating effect of emotional intelligence. Business and Management Studies, 2(1), 23–34.
[25] Avey, J. B., Palanski, M. E., & Walumbwa, F. O. (2011). When leadership goes unnoticed: The moderating role of follower self-esteem on the relationship between ethical leadership and follower behavior. Journal of Business Ethics, 98(4), 573–582.

often the first to observe instances of fraud, corruption, environmental violations, financial misreporting, or workplace harassment. Whistleblower protection laws that shield whistleblowers from any form of retaliation are effective in promoting early reporting of any irregularities, thus allowing organizations to deal with the irregularities before they develop into major crises. This plays an important role in promoting ethical governance in organizations.[26]

Apart from ethics and compliance, whistleblower protection is another significant topic that brings value to organizational resilience. Organizational resilience is the ability of an organization to predict, absorb, and recover from shocks within and outside the organization. The information revealed by whistleblowers acts as an early warning system in organizations, providing an early chance for management to identify weaknesses and failures in governance and compliance within the organization. Through a constructive approach to information revealed by whistleblowers, organizations can build their resilience to market risks.[27]

Whistleblowing procedures are also closely linked with risk management. Modern risk governance frameworks recognize the importance of whistleblowing in the identification of non-financial risks. Internal reporting channels reduce the reliance on external investigations and enforcement actions, which can be costly and damaging. Empirical studies indicate that organizations with efficient whistleblower procedures experience fewer instances of prolonged fraud and lower monetary losses. By integrating whistleblower reports into enterprise risk management frameworks, organizations can reduce legal risk, investor trust, and regulatory integrity.[28]

In the long run, the protection of whistleblowers plays a significant role in ensuring sustainable growth performance. The protection of whistleblowers is vital in the promotion of ethical business performance. In today's business world, investors, consumers, and business partners care about environmental, social, and governance issues in the process of making business decisions. By supporting the protection of whistleblowers, businesses demonstrate their commitments to ethical governance, which is vital in the recruitment of ethical investors and the retention of the loyalty and cooperation of employees. Sustainable growth performance is

[26] Richard A. Lord, The Role of Whistleblowers in Corporate Governance (Edward Elgar Publishing, 2010) p. 47.
[27] OECD, Committing to Effective Whistleblower Protection (OECD Publishing, 2016) p. 32.
[28] Tom Devine & Tarek F. Maassarani, The Corporate Whistleblower's Survival Guide (Berrett-Koehler, 2011) p. 89.

therefore guaranteed not only through the maximization of profits in the business but through ethical performance.[29]

In conclusion, the importance of whistleblower protection in the private sector goes beyond the conventional function of ensuring compliance. It has become a strategic tool for ensuring ethical purity, enhancing resilience, enhancing risk management, and facilitating sustainable economic growth. A legal system that does not safeguard the rights of whistleblowers is likely to lead to muzzling of information, leading to crises in organizations.[30]

V. Conclusion

Ethical leadership has a great influence on intentions to whistleblower among employees in an organization. If ethical leadership exists in an organization, it is believed that employees will report to leadership immoral practices within the organization because they look up to their leaders as role models. Moreover, it was found that internal whistleblowing is positively related to ethical leadership.

The research has identified a positive correlation between having an ethical climate that reduces fear, boosts moral reasoning, and acts as a mediator of intentions to report, as subordinates commit to values of justice and courage. The positive link between having these institution-based trusts helps build greater institutional trust as those acts of whistleblowing keep institutions away from wrongdoing. Therefore, it is strategic for the private sector to implement these measures because it reduces risk factors such as scandals that create negative public images of an organization that does not have strong ethics to govern itself. Moreover, protecting the whistleblower in the private sector is vital in building a basis for having ethical leadership prioritize sustainability over gains.

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[29] Jill Treanor, Corporate Governance and Accountability (Routledge, 2014) p. 118.
[30] Vandekerckhove, Wim, Whistleblowing and Organizational Social Responsibility (Ashgate, 2006) p. 141.

BRSR AND CORPORATE LIABILITY: A CRITICAL APPRAISAL

By Tanushree Gupta[*] & Dr. Khushboo Natholia[**]

ABSTRACT

SEBI introduced the Business Responsibility and Sustainability Reporting in 2021 and it marked an important milestone for India's corporate when it comes to their governance system. These new rules replaced the erstwhile Business Responsibility Report (BRR). This paper will focus on how far the 2021 rules make the difference and fill the vacuum in comparison to the earlier ones and whether it moves beyond the procedural form and translates it into the real legal responsibility and its effect can be felt per se or not creating any legal liability. The BRSR rules on paper looks to have strengthened transparency in reporting by the corporation of their environmental, social and governance practices but this paper argues that there is over-emphasis on self-reporting and the rules do not talk about taking independent audits nor do they have strong penalties for violations which defeats the purpose of ensuring accountability. The paper would further make an attempt to analyze how the judiciary might interpret the BRSR rules in relation to director's fiduciary duties, interest of the shareholders and corporate social responsibility. The paper would conclude with suggestions for reforms which could ensure disclosure by the corporations and their accountability.

Keywords: BRSR, accountability, sustainability, CSR, SEBI.

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I. Introduction

Corporate governance is no longer just restricted to the financial performance and shareholder profitability. Corporate responsibility has grown in length and breadth with the growing concerns about the working conditions of labour, environmental harm, climate change and ethical business practices. It is not just about profit maximization anymore (OECD, 2020). Much emphasis is being paid by the regulators across the globe on sustainability and ethical business practices. This shift has been adopted and reflected through the Business Responsibility and Sustainability Report (BRSR) in India. The Securities Exchange Board of India (SEBI) introduced these rules in 2021 reflecting the shift and India's support in adopting such sustainable practices for its businesses here.

The new BRSR rules supplanted the previous Business Responsibility Report (BRR) which was majorly voluntary in nature. So, even though the BRR specified the companies to divulge their business practices, the voluntary nature of the rules made such reporting very much erratic and superficial (Ministry of Corporate Affairs [MCA], 2011). Since the reporting lacked any kind of standardization and the enforcement was also to a limited extent, these rules failed in ensuring corporate accountability.

The new framework requires the top 1000 listed companies by market capitalisation in India to disclose and provide comprehensive information on their environmental, social and governance (ESG) activities (Securities Exchange Board of India [SEBI], 2021). The new rules which are based on National Guidelines on Responsible Business Conduct (NGRBC) has made such disclosures mandatory with the aim of providing a structured, comparable and comprehensive sustainability information to all the stakeholders involved. The disclosure requirements are basically grouped into nine categories including environment protection, human rights, integrity, employee well-being, inclusive growth, sustainable goods and services, responsible consumer engagement, stakeholder responsiveness and responsible public policy engagement. SEBI through BRSR wants to align and upgrade the practices in the Indian capital market to be of international standards when it comes to sustainability reporting and responsible investments.

Although introduction of BRSR is a major regulatory development but in spite of that the implementation of these rules raises substantial legal questions. And though the mandatory natures of the rules require compulsory disclosures by the companies but whether such

disclosures are creating any kind of substantive legal obligation or it merely strengthens a reporting culture that is focused on compliance is still unclear. The rules lack any kind of explicit measures like liability of companies, penalties etc. There is a concern that these rules merely work as a transparency mechanism and not as the much-needed accountability mechanism. And with the increasing cases of 'greenwashing' wherein the companies showcase that their practices are sustainable and in compliance with the standards without really making any meaningful changes in their operations, the question of accountability in these rules becomes more pertinent.

With this view in the background, this paper will critically analyse the BRSR framework in the context of corporate liability and enforceability. The study will examine the BRSR in relation to the current corporate laws and principles under the Companies Act 2013 and SEBI regulations and will assess whether these rules generate any real legal accountability by the companies. The paper will also discuss the growing difficulties of misreporting and 'greenwashing' and assess the role of judiciary and regulators in strengthening corporate liability under such circumstances. The paper ultimately seeks to determine whether the BRSR is actually efficient and capable of bringing a shift in India's corporate governance system or is it merely procedural and just a farce.

II. Identification of Statement of Research Problem

In spite of bringing in BRSR as a mandatory ESG disclosure framework, the lack of any clear enforcement and liability mechanism raises concerns regarding the effectiveness of these rules I ensuring corporate liability. The main problem that will be dealt in this paper is whether BRSR, in its current form, can move beyond just procedural formality and to actually address corporate responsibility for environment and social harms.

III. Research Methodology

The paper adopts a doctrinal research methodology. It will rely on the analysis of statues, regulatory frameworks, judicial pronouncements and policies relating to corporate sustainability and ESG reporting in India. Major and primary focus will be placed on SEBI's Business Responsibility and Sustainability Rules (BRSR) framework, and comparisons are drawn from international reporting regimes.

IV. Analysis & Findings

A. *Evolution from BRR to BRSR*

India officially started with the formal sustainability reporting in 2012 with the introduction of Business Responsibility Report (BRR). The reporting mechanism was created by the Securities Exchange Board of India (SEBI) and these rules were based on the National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business provided by the Ministry of Corporate Affairs (Ministry of Corporate Affairs [MCA], 2011). BRR was mainly aimed for the companies to voluntary disclose their practices in context of ethical conduct, environmental responsibility, and social impact. The BRR created moral obligation rather than any kind of legal obligation for the companies at the time.

BRR's effectiveness was greatly affected due to its voluntary nature. As the compliance in BRR was not compulsory, the companies adopted different approaches to disclosure as they deem fit which led to conflicting and varying information in both quality and depth (SEBI, 2021). Since the reporting was voluntary, the companies treated them merely perfunctory and submitted reports which were primarily descriptive in nature. The reports merely gave broad and general statements focusing on the intent and goals of the company rather than disclosing any kind of verifiable quantifiable facts.

The usefulness of BRR was further undermined by its lack of standardised indicators. This inconsistency made it difficult for the regulators, investors and other stakeholders to efficiently assess the sustainability performance of businesses and industries across (OECD, 2020). Since there was no standard indicator, it made any kind of comparative assessment impossible which is the main aim of such sustainability reporting. The BRR failed in facilitating any kind of decision making and creating corporate liability and thus they were heavily criticized for being perfunctory in nature. BRR failed to establish any meaningful form of corporate liability.

In order to overcome these flaws, SEBI came up with Business Responsibility and Sustainability Report (BRSR) in 2021. BRSR brought in significant shift in India's sustainability reporting mechanism by requiring the top 1000 listed companies by market capitalization to mandatorily report their ESG practices (SEBI, 2021). This again marked a shift in India's attitude and showcased how as a country we are committed to correspond with the global ESG standards (European Commission, 2021).

As compared to BRR, BRSR uses more structured, organized and through reporting style. The BRSR tries to encompass the weaknesses of BRR by putting more emphasis on quantitative disclosures and fact based reporting and by making the report more comparable and transparent by bringing in sector-specific indicators.

Whether the BRSR are truly effective will be apparent only if they are able to create actual corporate responsibility. Although on the face of it BRSR rules are more advanced and improves the scope of reporting by the companies but its dependency on self disclosure mechanism and lack of adequate enforcement measures is still worrisome. Thereby, the efficacy of BRSR is still a little unclear.

B. *Regulatory and Legal Context of BRSR*

1. *SEBI's Regulatory Authority*

The Securities and Exchange Board of India gets its authority to make rules on sustainability from the parent act SEBI Act, 1992 which allows the SEBI to regulate and control securities market and to safeguard investor's interests. Section 11 of the SEBI Act states that SEBI has the authority to warrant fair disclosure of important information and to foster transparency and openness in the operations and practices of the listed companies (SEBI Act, 1992). Nowadays, environment, social and governance (ESG) risks have been increasingly recognized as risks which can affect a company's long-term financial efficiency and their market price (Gibson Brandon et al, 2021). Thereby, expectation of sustainable practices by the corporations has been adopted within the regulatory mandate of SEBI.

SEBI through a circular issued in 2021established the BRSR framework which has mandated the top 1000 listed companies by market capitalization to report their ESG practices (Securities Exchange Board of India [SEBI], 2021). The BRSR framework ensures that corporations make disclosures across environmental, social and governance parameters and make the reporting standardized across all sectors and thus help the investors in making an informed choice.

Despite the fact that the BRSR framework is mandatory in nature, the framework is primarily disclosure oriented. The BRSR framework through SEBI's circular lays out the prescribed format, indicators and the structure of the report but fails to lay down any legal penalties or any consequences in case the disclosures are unclear, inaccurate or falsified.

Many scholars believe that when such rules and regulations are not backed by concrete penal provisions then such framework becomes only compliance on paper without having any actual benefit or result in the ground reality (Krawiec & Oh, 2020). Lack of robust penal mechanism in the BRSR framework makes one question the efficacy of these rules to achieve its objective of inculcating corporate liability so that India can meet the ESG quality standards and requirements that exist globally.

There are certain powers in the hands of SEBI wherein under broader anti-fraud and disclosure anomalies, SEBI can initiate action against the perpetrators. But such enforcement is very indirect in nature and depends on the discretion of the Board which again mkes accountability mechanism weak. Thereby, the question on the robustness of BRSR in enforcing corporate liability and accountability and not just be a compliance mechanism for the companies to through.

2. *BRSR and Companies Act 2013*

The Companies Act 2013 brought in a significant shift in the Indian corporate law when it recognized the interest of other stakeholders apart from the shareholders. Section 166 of the Companies Act states that directors of the company are under fiduciary obligation to work in best interest of the company, its workers, its shareholders etc., while also taking steps to protect and safeguard the environment (Companies Act, 2013). Moreover, Companies Act 2013 introduced Section 135 which imposes mandatory corporate social responsibility on eligible corporations which further helped in incorporating social responsibility into India's statutory corporate governance.

In spite of having these progressive provisions in the Act, the Act does not specifically talk about sustainability or ESG reporting. The Act only lays down mandate to disclose certain information including financial statements, board reports and CSR expenditure; it does not require any kind of thorough reporting on environmental or social impacts of the corporations. Thereby, we see that any obligations under BRSR are majorly outside the ambit of the statutory law.

The separation that we see here has significant legal ramifications, since the BRSR are not in the ambit of Companies Act, it becomes quite challenging to directly link corporate or director liability for any kind of false reporting under BRSR. There has been an argument that unless non-financial disclosures are also included under statutory obligations and

company law framework, they are likely to remain secondary to the enforcement and accountability mechanisms (Choudhury, 2021). Only the courts have the potential to bridge this gap.

3. Corporate Liability and Enforceability under BRSR Framework

The BRSR framework has certain major drawbacks including the lack of a robust enforcement mechanism and absence of explicit liability provisions. The rules only mandates that the top 1000 listed companies shall disclose their sustainability practices as prescribes, it never mentions the legal consequences for corporations in case they submit false, incomplete or misleading ESG disclosures (Securities and Exchange Boards of India [SEBI], 2021). This gap makes us question whether BRSR can really be successful in translating sustainability reporting into actual corporate responsibility.

The liability that arises under BRSR framework is primarily indirect from a legal standpoint. As mentioned earlier under certain general provisions of SEBI, misleading or false disclosures may raise action of SEBI's broader anti-fraud and disclosure related provisions, especially those which are meant to stop unfair trade practices and market manipulation (SEBI Act 1992). But again the nature of this enforcement is largely discretionary and not specific to sustainability reporting. Consequently, any kind of false representation under ESG reporting may not face as much scrutiny as financial misrepresentations.

The deterrence effect of BRSR framework is further diluted by the fact that the framework does not provide for any kind of explicit penal provisions. There are no defined penalties or sanctions for wrongdoings under BRSR. This creates a gap wherein the companies may see ESG reporting as symbolic and merely a compliance mechanism with very little risk associated (Choudhury, 2021).

Another issue that we see in BRSR framework is its heavy reliance on self-disclosure by the companies. Companies themselves are charged to evaluate and disclose their companies ESG performance with no need for verification by any independent external source. Self reporting makes the mechanism more flexible but it also gives rise to the risk of selective disclosure and may also exaggerate their sustainability accomplishments. Various scholarly discourse are of the opinion that such data frequently shows that it is rather biased,

inconsistent and suffer from lack of comparability standards especially when then are no third party audits conducted (Gibson Brandon et al., 2021).

It is this dependency which leads to instances of *greenwashing,* wherein the corporations portray a very socially and environmentally conscious image without actually making any significant modifications to their corporate model and their practices. *Greenwashing* has become a significantly common cause of concern in sustainability reporting world over. Absence of any mechanism prescribed for third party audits makes India even more susceptible to the risk of *greenwashing*. Additionally, since there is no external verification, the stakeholders have no way of knowing whether the information reported is accurate or not and thus cannot make informed choices. Countries where ESG enforcement is strong, it is found that third party audits have been introduced in order to address the problem of *greenwashing*.

BRSR Principle	**Disclosure Focus**	**Key Gap Identified**
Ethics & Accountability	Ethical conduct and governance disclosures	No clear penalty for misleading disclosures
Environmental Protection	Emissions, resource use, and environmental impact	Not linked to environmental law enforcement
Employee Well-being	Labour welfare and workplace practices	Reporting not tied to labour law compliance
Human Rights	Human rights policies and due diligence	No mandatory disclosure of violations or remedies
Stakeholder Engagement	Stakeholder identification and consultation	Qualitative and largely unverifiable
Social Impact & CSR	Community development and CSR activities	Focus on activities, not measurable impact

4. Judicial Interpretation and BRSR

It has been noticed that although the judiciary has not yet actively interpreted or evaluated the BRSR framework but the recent trends suggest that the courts are increasingly expanding the scope of corporate liability beyond purely fiscal considerations. Indian courts are gradually acknowledging that the companies and the directors have an obligation not just to their shareholders but also to the society as a whole especially when it comes to environment protection, public health and social welfare (Rajamani, 2016).

Companies Act under Section 166 provides a basis for the broader interpretation of director's duties. It states that the director must act in good faith and in the best interest of

the company, its employees, its shareholders, society and also work for the protection of environment at large (Companies Act, 2013). This provision gives the courts the right to state that directors have fiduciary obligations that go beyond the scope of profit maximization. The judiciary has indirectly made corporate responsible for failing to exercise due care and diligence by reinforcing directors obligations to uphold and engage in sustainable business conduct (*M.C. Mehta v. Union of India, 1987*).

Judiciary has played a proactive role in shaping corporate liability when it comes to the matters of environment protection. There have been numerous public interest litigations where the courts have taken help of international environment principles like sustainable development, precautionary principle and the polluter pays principle to assess the role of corporate in environment damage and their corresponding liabilities (Rajamani, 2016). Judiciary also evolved the principle of strict liability into absolute liability and made the corporation absolutely liable for any damage arising out of their business practices (*M.C. Mehta v. Union of India, 1987*). While we see that these cases are not directly linked with sustainability reporting under BRSR but they do provide a pathway to the courts wherein the corporations can be judged on such parameters as those made under BRSR framework to assess a corporate and director's conduct for their impact on environment and the public interest.

There is a possibility that the disclosures made under BRSR framework may be used as evidence in future lawsuits. The courts may use sustainability reports to assess whether the director and the company acted in good faith and exercised due diligence especially where a ga can be seen in the reported facts and the actual business practices. If courts treated disclosures under BRSR as representations made to the stakeholders then in those cases any kind of falsified or misleading report may give rise to an action under civil liability under general principles of misrepresentation and breach of fiduciary duty (Choudhury, 2021)

Even so, such judicial development faces many challenges currently especially when there is no direct statutory link between ESG reporting under BRSR and director's liability under Companies Act 2013. Courts would need to make active interpretation to link disclosure obligations with substantive fiduciary duties. But the scholars are of the opinion that unless and until there is explicit guidelines in the legislation, judiciary can do only so much, the judiciary reliance on disclosure will remain inconsistent and case-specific (Varottil, 2019).

V. Conclusion

There is no question that the BRSR framework is a landmark shift in India's corporate governance wherein it tries to bring in regulatory initiative which particularly aims at improving transparency in corporate sustainability practices. Although the new BRSR rules have greatly improved the quality and the scope of ESG disclosures in India, this paper argues that the rules lack robust accountability mechanism and thus falls short of creating any substantial corporate liability.

The current BRSR framework as we have seen above places heavy dependency on self-reporting by the companies itself and lacks a steady enforcement mechanism. Consequently, it fails to achieve the very objectives for which it was established as the accountability still remains limites and there is a risk of sustainability reporting becoming a mere compliance exercise. The BRSR framework needs to have better legal integration with statutory laws, comprehensive liability provisions and effective enforcement mechanism in order to be truly effective in developing corporate liability with respect to environment protection in India.

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STATE LAND ALIENATION LAWS AND CUSTOMARY RIGHTS: CONFLICT AND CONVERGENCE IN TRIBAL PANCHAYATS OF WESTERN MADHYA PRADESH

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ABSTRACT

The tribal communities in the west of Madhya Pradesh have for long kept their unique systems of customary land ownership and resource management, which were inherently linked to their social and cultural identities. But, the introduction of modern statutory land laws and state regulatory frameworks has, in many cases, led to conflicts between traditional norms and formal legal provisions. This paper, through the lens of Panchayati Raj Institutions and Gram Sabhas and their roles in mediating tensions, confronts the conflict and convergence between state land alienation laws and tribal customary land rights. Yet, the state, imposed land alienation laws are in contradiction with these traditional practices, leading to legal and administrative issues. The paper blends an analysis of the legislative provisions of the Madhya Pradesh Land Revenue Code, 1959, and the Forest Rights Act, 2006, with first, hand information from the districts of Jhabua, Alirajpur, and Dhar. The findings depict the scenario where, despite the legal frameworks that strictly prohibit the transfer of tribal land to non, tribals, the situation on the ground is quite different due to poor enforcement and the limited recognition of customary tenures, thus making it possible for indirect alienation to occur. Empowerment of the Gram Sabhas leads to more robust protection of the community land. Summing up, the article posits that safeguarding tribal lands is more than a mere exercise of the law it is about harmonizing all the law, formal and customary, as well as ensuring participatory governance and long, term tribal land security.

Keywords: Tribal Communities, Madhya Pradesh, Land Alienation, Forest Rights Act , Customary System, Convergence, Panchayat governance.

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I. Introduction

Alienating tribal lands has been going on even though there are numerous constitutional guarantees and protective laws in place. This shows that there is a big gap between what the law says and what actually happens on the ground. However, tribal communities still have their traditional land ownership systems deeply rooted and they have got strong, community, based dispute resolution mechanisms in their panchayats. These panchayats sometimes get along with, or at other times, they stand in opposition to, the formal state institutions. This dual situation where on one hand there are legal protections that keep the dispossession going and on the other hand there are customary institutions alongside formal governance is basically the main conundrum that this research work seeks to unravel.

Western Madhya Pradesh's tribal belt is a cluster of districts mainly inhabited by Adivasi populations which are hilly and ecologically fragile. Livelihoods there are so dependent on land and forests that the area has been subjected to long history of state policy, market penetration, and migration, which have created deep socio, legal contradictions. If we look at the key districts, tribal communities, land, use patterns, and forest, linked livelihoods, they all point to a situation where formal land and forest laws are in conflict with customary norms and collective survival strategies.

The research aims to understand how the situation of conflict between a tribal panchayat and the state occurs in western Madhya Pradesh tribal panchayats, a district which has the highest Adivasi population, has a history of dispossession, and heavily reliant on land and forests for their living. It seeks to understand the reasons for continued land alienation even when there are constitutional provisions, special land transfer restrictions, and forest rights legislation, and how tribal panchayats, Gram Sabhas, and customary councils still govern land relations, manage commons, and resolve disputes. By considering both state law and local custom, the research also wants to identify the places where these two normative systems might conflict, ignore or silently agree with each other.

Gram Sabhas in western Madhya Pradesh's tribal panchayats embody resilient leadership, adapting customary governance to statutory mandates under PESA and FRA amid alienation pressures. The local institutions, if strengthened, can become a source of sustainable growth by way of secure land/forest rights, thus facilitating livelihood resilience and migration reduction.

Land alienation

Land alienation refers to processes by which tribal communities lose possession or effective control over their lands—individually or collectively—to non tribals, the state, or corporate actors, through formal or informal means.

It includes outright sale, distress sale, mortgage and forfeiture, manipulation of land records, fraudulent benami transfers, and dispossession via classification of land as "forest" or "government" land. In Madhya Pradesh's tribal belt, land alienation captures both historic loss under colonial and early post colonial policies and contemporary loss under development projects, moneylending, and administrative practices that undermine special transfer restrictions meant to protect Scheduled Tribes.

Customary rights

Customary rights are rights that arise from long standing, continuous community practice and acceptance, rather than from formal statutes or written contracts. Among tribal communities, they govern tenurial relations to land, forests, water and other natural resources, as well as inheritance, marriage, dispute resolution, and village governance. In Scheduled Areas of Madhya Pradesh, customary rights typically include lineage based claims to cultivated plots; collective rights over village forests, grazing lands and water bodies; and community regulated access to minor forest produce, often enforced through traditional councils and sanctions rather than state courts.

Scheduled Areas in Madhya Pradesh

Scheduled Areas are territories notified under the Fifth Schedule of the Constitution as predominantly tribal and requiring a special regulatory and governance regime. In Madhya Pradesh, fully or partly notified Scheduled Areas include districts such as Jhabua, Alirajpur, Mandla, Barwani, and parts of Dhar, Khargone (West Nimar), Khandwa (East Nimar), Ratlam (Sailana tehsil), Betul, Seoni, Balaghat, Shahdol, Umaria, Sheopur, Chhindwara, Sidhi, Anuppur and others as listed in central and state notifications.

Within these areas, the Fifth Schedule, Governor's regulation making powers, and PESA together provide for special protections on land transfer, enhanced Gram Sabha authority over community resources, and greater space for customary governance, which form the legal backdrop for this research.

The core western tribal belt comprises Jhabua, Alirajpur, Dhar, Barwani, and Khargone, with significant tribal majorities in Jhabua and Alirajpur (roughly 85–90% of the population) and substantial concentrations in Dhar–Barwani–Khargone. The dominant group is the Bhil (including subgroups such as Bhilala, Barela and Patelia), alongside related Adivasi communities that share similar ecological niches and customary institutions. These districts are predominantly hilly, with the Vindhyan and Satpura hill ranges, low fertility soils, and fragmented smallholdings, which shape both agricultural possibilities and patterns of dependence on forests and migration.

II. Identification of Statement of Research Problem

In tribal hamlets of the Bhil belt, western Madhya PradeshJhabua (87.6% ST), Alirajpur (92.5% ST), Dhar, Barwani, Khargonethe communities have continuously lost their lands against the constitutional safeguards (Fifth Schedule, Art. 244(1), Para 5). Several laws in the State like MP Land Revenue Code ss. 165(6), 6A, 170, B, PESA (1996), and FRA (2006) limit transfer and grant the recognition of rights. However, the ejidos have been deprived of their lands through benami transfers, debt (80%+ households), and forest classifications, with a very weak restoration process.

The land alienation happens through fraudulent benami transfers via manipulated revenue records, distress sales to non, tribal moneylenders, conversion of customary commons into "government" or "reserved" forest under colonial classifications, and state, sanctioned projects like Narmada dams, mining, and wildlife sanctuaries, with over 80% tribal households being indebted and restoration processes failing due to evidentiary and administrative barriers.

Unexpectedly, indigenous customary tenure systems and governance have survived through the times of land dispossession. Bhil communities have lineage, based plot claims, collective rights over village forests, visited sacred groves, used grazing routes, and gathered minor forest produce, all regulated by their traditional councils. These councils settle disputes by referring to the oral histories and gaining community consensus instead of following state procedures. The principal issue of the research is therefore: If the Gram Sabhas confer strong powers under PESA/FRA to be the gatekeepers of forest rights and project consultation, why does land alienation continue to exist in tribal panchayats of western Madhya Pradesh?

III. Research Methodology

The intersection of state land alienation laws and tribal customary rights is a major spot of legal pluralism, institutional friction, and governance innovation in India's scheduled areas. This literature review delves into scholarly, policy, and judicial contributions to the question of how formal statutory regimes run parallel or interact with custom, based tenure systems within tribal panchayats of western Madhya Pradesh. The review is organized around five overlapping themes.

IV. Analysis & Discussion

A. *Constitutional And Statutory Frameworks For Tribal Land Protection*

1. The Fifth Schedule

The legal basis for tribal land protection is in the Fifth Schedule of the Indian Constitution, Articles 244(1) and the corresponding provisions under Paragraph 5(2). The Schedule gives authority to state governors to issue regulations that could prohibit or restrict the transfer of land by or among Scheduled Tribes, regulate the allotment of land, and control money, lending in scheduled areas. Scholars including Ashokvardhan (2025) and the Ministry of Tribal Affairs have pointed out that these powers of the governors are still a very important tool for preventing land alienation, however, the implementation in Madhya Pradesh has been characterized by a lack of use and bureaucratic inertia. Similarly, the Tribal Advisory Council (TAC) which is the Fifth Schedule institutional mechanism, has also been unable to turn its advisory role into concrete policy initiatives aimed at the protection of tribal landholding (Centre for Policy Research, 2022).

2. PESA Act (1996) and Gram Sabha Authority

The Provisions of the Panchayats (Extension to Scheduled Areas) Act, 1996 (PESA), is a radical change in the direction of decentralized tribal self, governance. PESA makes the provisions of the 73rd Constitutional Amendment applicable to scheduled areas with essential changes. It empowers Gram Sabhas (village assemblies) to have control over customary resources, collection of minor forest produce, extraction of minor minerals, deciding the beneficiaries, and most importantly, to have the power to allow or disallow land acquisition and development projects. (Government of India, 1996; NITI Aayog, 2024).

Case studies of scheduled areas of Chhattisgarh, done by researchers at the Journal of Political Science and the National Institute of Rural Development and Panchayati Raj (NIRDPR), indicate that after PESA rules have been notified (Chhattisgarh, 2022), Gram Sabhas have started acting as gatekeepers of land transactions and resource management, however, there are still issues of lack of capacity and bureaucratic resistance (Rao & Desai, 2023). On the other hand, the situation in Madhya Pradesh regarding the implementation of PESA is quite the opposite. Although Madhya Pradesh is a state with a large area under scheduled areas and a large tribal population, it has not formulated PESA rules in the manner of Chhattisgarh, thereby, the state officials and courts have to keep filling the institutional gaps ad hoc (Centre for Policy Research, 2022; Bhattacharya, 2023).

3. Land Alienation and Restoration Laws

Several state, level and central laws try to repair tribal lands that were alienated illegally against the constitutional safeguards. A study by the Ministry of Rural Development (Faraz, 2016) reveals that even after the enactment of the laws for restoration of tribal lands (such as the Maharashtra Restoration of Lands to Scheduled Tribes Act 1974 and the amendments to the land revenue codes), there are still major loopholes in the implementation of the law and in the actual restoration of the lands at the ground level. The Madhya Pradesh Land Revenue Code, particularly Sections 165(6) and 165(6-A), contains provisions prohibiting transfer of tribal land to non-tribals in notified scheduled areas, yet judicial examination (as in W.P. 3730/2021 before the Madhya Pradesh High Court) has revealed inconsistent application and jurisdictional confusion between tribal and non-tribal lands (Madhya Pradesh High Court, 2021; Janardhan Rao, 2022).

4. Forest Rights Act (2006)

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA), represents the most explicit statutory recognition of customary rights to forest land and minor forest produce. Section 3(1)(c) vests the "right of ownership, access to collect, use and dispose of minor forest produce which has been traditionally collected within or outside village boundaries" in forest-dwelling tribal communities. Most importantly, the FRA empowers Gram Sabhas as the main bodies to initiate and confirm claims for both individual and community forest rights, thus making a direct link between customary tenure and statutory recognition (Government of India, 2006; Ministry of Tribal Affairs, 2022).

Ministry of Tribal Affairs and NGO partners' field studies show that through FRA some communities have been able to secure land titles and govern their natural resources successfully (e.g., Budaguda Gram Panchayat in Odisha; selected villages in Bastar, Chhattisgarh). However, there are still issues arising when traditional land use, especially shifting cultivation or pastoral migration, which is at odds with the statute's definitions of forest land and the conservation objectives of forest departments of the state (Government of India, 2024; Hasan & Tripathi, 2023).

B. *Colonial Legacies And Historical Dispossession*

1. The Indian Forest Act 1927

The Indian Forest Act 1927 is the major instrument through which tribal dispossession was carried out and state became the sole owner and controller of forests. Colonial legislation codified and merged all earlier forest laws and laid down the system of reserved, protected, and village forests giving the forest settlement officers the power to determine the existence, nature. Before the tribal land alienation problem was brought up, a piece of work discussed how dispossession is going on even with the help of constitutional and statutory instruments such as the Fifth Schedule, state land transfer restrictions, and special regulations. The works on India's tribal groups and their right on the land have plainly revealed that the legal protections are being worked around through loopholes, red tape, and market forces, thus resulting in the continuous loss of the ancestral lands. Land acquisition in tribal areas studies evidences further (Dasmann et al., 1999; Sharma, 2021).

2. Zamindari Abolition and Land Consolidation

Following independence, zamindari abolition and land consolidation programs in Madhya Pradesh were intended to benefit landless laborers and tribal cultivators. However, research by scholars at the Coady International Institute and documented in case studies of Madhya Pradesh land struggles reveals that while land redistribution occurred in plains areas, tribal populations in forested and remote regions often remained excluded from redistribution. Additionally, the absence of proper land records and the prevalence of land-surveying practices that privileged settled agriculture over customary commons led to de facto loss of access to community forests and pastures (Harris, 2001; Rajagopal, 2018).

3. Contemporary Displacement from Conservation Areas

Recent scholarship documents a new wave of dispossession justified by conservation and eco-tourism development. The Kuno Sanctuary project (1995) and subsequent national parks and tiger sanctuaries have displaced over 450,000 tribal people in Madhya Pradesh alone. Research by Harris (2001) and studies of Sahariya tribals in the Chambal region demonstrate that forced relocation from forest sanctuaries has been catastrophic: traditionally non-agricultural communities have been pushed into farming on marginal land, leading to economic collapse, indebtedness, and bonded labor. These displacements, nominally justified by development and conservation, represent a continuation of colonial-era alienation under new ideological cover (Kumar & Singh, 2023; Centre for Policy Research, 2024).

C. *Customary Law, Panchayat Governance, And Dispute Resolution*

1. Customary Tenure Systems and Land Rights

Tribal communities in western Madhya Pradesh—predominantly Bhils in Jhabua and Alirajpur districts—operate multiple, overlapping systems of land tenure that do not conform to state cadastral norms. Indigenous knowledge studies and ethnographic research by Gene Campaign and NIRDPR document that customary systems encompass individual holding of cultivable land, community rights over forests and water sources, and ritualized seasonal use of commons by pastoral and craft communities. These systems are embedded in oral tradition, kinship obligation, and council consensus rather than written title or state registration (Gene Campaign & ICRAF, 2008; Ashokvardhan, 2025).

Critically, customary tenure does not equate to absolute individual ownership in the Western property-law sense. Rather, it recognizes a bundle of graduated rights: use-rights to particular plots; harvesting rights to specific forest products; grazing rights during particular seasons; and collective veto powers over large-scale alienations. Traditional authorities (clan heads, village councils, hereditary guardians of sacred groves) continue to regulate access and adjudicate disputes over these graduated rights, even as state law treats land as divisible, alienable private property (Ambagudia, 2015; National Commission for Scheduled Castes & Scheduled Tribes, 2010).

2. Gram Sabha and Panchayat Functioning

The Gram Sabha, constituted under the Constitution and further empowered by PESA, is essentially a hybrid institution: simultaneously a statutory body mandated by law and a

continuation of the village council that has, among its functions, adjudicated disputes for centuries. Empirical case studies most notably the NIRDPR study of Budaguda Gram Panchayat in Odisha and the Chhattisgarh studies show that the active Gram Sabhas in scheduled areas do take significant decisions on land matters: recognition of customary land use, recommendation of land restitution from alienation, and taking control of development projects(NIRDPR, 2023; Rao & Desai, 2023).

Nevertheless, the reality of implementation is patchy. Many Gram Sabhas do not have the necessary technical back, up, are not capable of enforcing their decisions, or do not receive continuous support from state officials. The Journal of Political Science researchers note that before PESA rules were notified in Chhattisgarh (2022), the decision, making process was top, down; after the notification, Gram Sabhas have started to play the role of "gatekeepers, " which is dependent on state recognition and resources. Due to the non, availability of state, notified PESA rules in Madhya Pradesh, the situation of the Gram Sabhas is akin to being in a legal limbo where their authority is neither clearly confirmed nor systematically challenged (Rao & Desai, 2023; Bhattacharya, 2023).

3. Customary Justice and Conflict Resolution

Tribal communities have continued to use customary councils to settle their land and property disputes even when there is the issue of the overlapping jurisdiction of state courts. In a study by the Ministry of Panchayati Raj (2025) on the synergy between the tribal and regular justice systems, it was found that the majority of tribal communities opt for customary resolution due to the fact that it is familiar, less procedural, cost, effective, and provides quick disposal(Ministry of Panchayati Raj, 2025).

Law and governance are facing a problem since customary decisions are mainly oral, unwritten, and are not guided by precedent, based reasoning like statute law. Therefore, enforcement becomes inconsistent and extension of outside adjudicators (courts, revenue officials) is possible but complicated. Ambagudia's (2015) study on the judiciary and tribal rights reveals that the Indian courts, when dealing with land disputes from scheduled areas, have to find a middle ground between respecting customary norms and enforcing constitutional norms of equality and property rights, a conflict that hardly gets satisfactorily resolved.

D. *Institutional Conflicts And Pluralism In Land Dispute Resolution*

1. Parallel Forums and Jurisdictional Ambiguity

A major flash point of conflict in tribal areas is the presence of several different adjudicatory forums that have overlapping jurisdiction in land disputes. These include customary councils, Gram Sabhas (PESA), revenue courts (Land Revenue Code), district civil courts, and forest department officers, all have a claim to authority in deciding land disputes, restoration of alienated land, or determining occupancy rights. Literature by Ashokvardhan (2025) shows that often times the same issue is brought up in multiple forums at once, resulting in different, contradictory decisions. On one hand, revenue officials may choose not to implement the decisions of customary councils; on the other hand, Gram Sabhas may not have sufficient power to enforce the orders of the revenue department; likewise, forest officers may disregard both(Ashokvardhan, 2025; Rajagopal, 2018).

2. Criminalization of Customary Use

Colonial forest laws and their post, colonial continuation have resulted in criminalization of customary practices, which form the core of tribal livelihoods, for instance: witholding die minor forest produce without state license; using the forest land for grazing; shifting cultivation; and felling trees for one's household needs usage. The Indian Forest Act 1927 and successive forest policies have given forest staff the power to: (1) remove forest dwellers from the forest; and (2) fine them. This process of criminalizing creates an inherent contradiction: on one hand, state law criminalizes the tribal livelihoods; on the other, customary law considers such practices as rights. Tribes, who are at the crossroads of deciding between legal work and traditional practices, generally do informal or underground work so as not to lose their traditional ways(Government of India, 1927; Sharma, 2021; Rajagopal, 2020).

3. Revenue-Official Discretion

Implementation of laws and restoration of land alienation largely hinges on the actions of revenue officials (Collectors, Tahsildars, Patwaris). However, these officials function in environments where institutions are weak, there is hardly any motivation for protection of tribal interests, and they are vulnerable to elite capture and corruption. A number of scholars such as Ambagudia (2015) and Janardhan Rao (2022) have pointed out that there is an extensive use of manipulative tactics such as tampering with land records, antiquating

documents, and working together with money lenders and non, tribal buyers to enable fraudulent transfers of tribal land(Ambagudia, 2015; Janardhan Rao, 2022; Rajagopal, 2018).

Despite the fact that the courts have continuously recognized the Governor's authority to stop such transfers (e.g., in Samatha v. State of Andhra Pradesh and Orissa Mining Corporation v. Ministry of Environment and Forest), the existence of bureaucratic opposition, the slowness of judicial processes, and the absence of monitoring mechanisms have made the realisation of the implementation be far away from the judgment (Ambagudia, 2015; Janardhan Rao, 2022). Recent socio, legal studies about indigeneity and legal pluralism in India depict tribal areas as places where various normative ordersconstitutional law, protective statutes such as PESA and FRA, and customary lawmeet and occasionally conflict. These study works contend that in order to comprehend the continued alienation and the persistence of customary institutions, one has to delve into an analysis of how these plural legal frameworks are functioning in reality, and how tribal communities are managing their lives within them.

The literature reveals that the conflicts and overlaps between state land laws and customary norms in western Madhya Pradesh can be traced to a long history of legal centralisation imposing itself on complex, community, based tenure systems. Research on tribal land rights in India points out that close, to, community constitutional and statutory safeguardssuch as Fifth Schedule regulations, state land transfer restrictions, PESA, and the Forest Rights Actare aimed at preventing alienation and recognising community rights; however, in practice, through bureaucratic and judicial processes, they have been used in a way that disregards or marginalises customary understandings of land and commons. At the same time, ethnographic work in Bhil areas of Jhabua, Alirajpur and adjoining districts documents resilient customary regimes: lineage-based claims to cultivable plots, collective rights over forests and grazing, and village-level sanctions that regulate transfers and use, all of which continue to structure everyday land relations irrespective of formal titles.

E. *Zones Of Convergence And Hybrid Practices*

1. Recognition of Gram Sabha Authority Over Minor Forest Produce

One area of convergence is the growing recognition by both statute and practice that Gram Sabhas hold legitimate authority over minor forest produce (MFP). The Forest Rights Act 2006 explicitly vests MFP rights in forest-dwelling communities, and PESA grants Gram Sabhas ownership and governance powers over MFP. Minimum Support Price (MSP)

schemes implemented through the Ministry of Tribal Affairs, particularly successful in Madhya Pradesh, Chhattisgarh, Odisha, and Maharashtra, work directly with Gram Sabhas and tribal cooperatives to procure, process, and market MFP, treating the Gram Sabha as the legitimate stakeholder rather than the forest department (Government of India, 2006; TRIFED, 2024).

This convergence is important as it offers a concrete, revenue, generating affirmation of tribal collective rights that do not depend on courts to resolving abstract doctrinal conflicts. Gram Sabhas, through their control of MFP procurement cooperatives and by negotiating with state agencies, obtain operational legitimacy and revenue streams that raise their bargaining power when they assert authority over other land and resource matters (NIRDPR, 2023).

2. Statutory Recognition of Customary Governance Structures

PESA and the FRA are legislative attempts to domesticate customary governance through statutory frameworks. These laws, by appointing Gram Sabhas as the authorities who are to decide on forest rights claims and give their consent to development projects, see customary institutions not as abandoned relics destined to be superseded by state administration but as legitimate holders of knowledge and authority. This is a convergence: customary governance structures receive statutory support, whereas the state gets legitimacy by making decisions through established community institutions (Government of India, 1996; Government of India, 2006). Nevertheless, this convergence is delicate. It relies on state recognition and resources; it can be overturned by judicial or administrative action; and it leaves unresolved the fundamental question of whether customary norms that are in conflict with constitutional principles (i.e., the exclusion of women from inheritance) should be respected (Nayak & Ghadyalpatil, 2025; Supreme Court of India, 2025).

3. Community-Based Land Restoration and Documentation

In certain enclaves of scheduled areas, initiatives for community, based land restoration have surfaced. Village councils and Gram Sabhas, supported by civil society organizations and friendly state officials, have started to record customary land claims, make community land registers, and submit requests to the revenue authorities for the restoration of alienated land. Case studies in Chhattisgarh and Odisha, especially those related to the recognition of Community Forest Resources (CFR) under the Forest Rights Act (FRA), demonstrate that this hybrid approachincorporating customary knowledge, community organization,

statutory procedures, and strategic litigationhas produced physical outcomes: collective land titles awarded, encroachments cleared, and communities getting back control over their disputed lands (Rao & Desai, 2023; Ministry of Tribal Affairs, 2024).

4. Litigation as Tool for Customary Rights Assertion

One unexpected meeting point is the resort to state courts and constitutional litigation by tribal communities and their defenders for the protection of customary rights. Instead of opposing state law, tribal organizations have enlisted constitutional law (Articles 14, 21, and the Fifth Schedule) and statutory provisions (PESA, FRA) to make a case for broadened recognition of customary tenure and panchayat authority. The Supreme Court's decision in Orissa Mining Corporation v. Ministry of Environment and Forestmandating informed Gram Sabha consent for all development projects in scheduled areasis a case in point of how constitutional law can be used to uphold customary communities' collective veto power(Ambagudia, 2015; Supreme Court of India, 2013).

This is a strategic convergence: tribal communities learn to operate within state legal systems while at the same time demanding those systems to acknowledge their customary laws and governance structures. But, it also exposes a basic imbalance; court is a tool that can only be accessed and used effectively by those communities who have legal aid and litigation resources, whereas, the majority of tribal communities do not have such access (Janardhan Rao, 2022; Rajagopal, 2020).

V. Key Findings & Suggestions

A. *Regional Focus: Western Madhya Pradesh*

1. Tribal Demography and Land Structure

Western Madhya Pradesh, which includes the districts of Jhabua, Alirajpur, Dhar, and Khargone, is the home of Bhil tribe (more than 90% of the scheduled tribes of Jhabua as testified by the research of Gene Campaign), along with small numbers of Bhilalas and Patliyas. These areas, richly covered by the forests, which host a dense tribal population, severely lack the tribal forest land because of conservation projects, and also the tribes suffer encroachment of their lands by non, tribal landlords and money, lenders (Gene Campaign & ICRAF, 2008).

Land alienation in these districts has been very severe. There were decreasing trends of tribal cultivators in comparison to the tribal workers as revealed by historical surveys (for instance, in Madhya Pradesh as a whole, ST cultivators dropped from 76.45% to 68.09% of ST workers between 1961 and 1991). Present, day reasons are indebtedness (82% of tribal households in a survey were in debt), severely restricted forest access on account of conservation projects, and regular encroachment by non, tribal landlords and money, lenders (Kumar & Singh, 2023; Census of India, 2001).

2. Implementation Challenges Specific to Madhya Pradesh

The combination of legal provisions such as Fifth Schedule protections, Transfer restrictions under MP Land Revenue Code, PESA Gram Sabha entitlements, and FRA individual/community forest rights offer significant textual protections against alienation and opportunities for the recognition of customary tenure, however, the procedural inflexibility (stringent evidentiary standards, statutory limitation periods), and administrative non, performance have led to a situation where the restoration of dispossessed tribal land has been infrequent and the tribes continue to be deprived of their land in the western part of Madhya Pradesh (Centre for Policy Research, 2022; Madhya Pradesh High Court, 2021).

a. Land alienation despite protective laws

Expertise on tribal land alienation as a phenomenon has revisited dispossession as a reality even if under constitutional and statutory safeguards such as the Fifth Schedule, state land transfer restrictions, and special regulations. Literature on Indias tribal people and their land rights sensitively capture how legal safeguards remain mere paper legislations with loopholes, bureaucratic indifference, and market forces causing continuous loss of tribal land. Examination of land acquisition in tribal areas as a theme has revealed that legislative changes and practices of law enforcement intentionally or unintentionally have led to the erosion of protective measures and hence increased alienation.

b. Survival of customary tenure norms

Knowledge of tribal law and policy is not oblivious to the fact that, in addition to formal laws, tribal communities have customary tenure systems which, although are not codified, still have real force over land, forests, and commons mainly through the transmission of oral tradition and connections of kinship and clan. Fieldwork on

Adivasi governance and livelihoods has revealed that the role of customs in regulating the use of natural resources and social relations is still highly significant even in cases where statutory titles or state records do not acknowledge them.

c. Customary dispute resolution and panchayats

Research on rural dispute resolution in India and on PESA-governed areas describes the continuing importance of community forums and panchayats in settling disputes according to local norms and usages. Analyses of PESA and tribal governance underline that Gram Sabhas and traditional panchayats in Scheduled Areas are envisaged as key institutions for managing resources and resolving conflicts, and that in practice tribal communities still rely heavily on these customary or hybrid forums.

d. Legal pluralism and the state–custom interface

A key strand of scholarship highlights specific points of conflict between these normative orders. Analyses of land-alienation and restoration laws show how requirements of written records, individualised titles, and formal procedures sit uneasily with oral, clan-based claims and flexible, negotiated boundaries typical of Bhil customary tenure. Work on forest governance under the Indian Forest Act and FRA points to clashes where state classifications of "reserved" or "protected" forest criminalise long-standing practices such as shifting cultivation, grazing, or collection of minor forest produce, even though community norms treat these as legitimate rights. Gender-focused studies further reveal tensions between patrilineal customary inheritance rules, which often exclude or limit women's land claims, and constitutional and judicial moves towards gender-equal property rights, creating a normative conflict that plays out within both families and local forums.

e. Gram Sabha authority over minor forest produce

The Forest Rights Act 2006 expressly vests ownership and control over minor forest produce (MFP) in forest-dwelling Scheduled Tribes and other traditional forest dwellers, with the Gram Sabha as the initiating authority for recognising such rights. PESA similarly provides that, in Scheduled Areas, Gram Sabhas and Panchayats at the appropriate level have ownership over MFP, thereby acknowledging pre-existing customary use and control by village communities.

f. Implications for Western MP Tribal Panchayats

In Jhabua-Alirajpur-Dhar belt, Gram Sabhas are hybrid institutions but leaves them vulnerable to override by revenue/forest departments and project authorities, resulting in tenure insecurity despite legal promise and constraining self-governance amid ongoing alienation (Gene Campaign & ICRAF, 2008; Philip & Prakash, 2024; National Institute of Rural Development and Panchayati Raj, 2023).

Metric	**Jhabua**	**MP Tribal Average**	**Source**
% ST Population	87.6%	21.1%	Census 2011
% Households in Debt	>80%	82% (one survey)	Kumar & Singh 2023
Alienation Cases (Restoration Pending)	High (benami prevalent)	50%+ failure rate	MP HC 2021

B. *Suggestions*

1. Codify Customary Tenure Recognition

Amend the MP Land Revenue Code to explicitly recognise customary tenure (lineage-based plots, community commons, sacred groves) as a legal category, accepting Gram Sabha-approved village maps and oral histories as prima facie evidence in restoration and mutation proceedings, shifting the burden of proof to state/non-tribal claimants.

2. Strengthen Gram Sabha Jurisdiction

Revise MP PESA Rules to grant Gram Sabhas original jurisdiction over intra-community land disputes (boundaries, commons access) and binding recommendatory powers in restoration/diversion cases, with mandatory prior consent for all Scheduled Area projects affecting tribal land/forests (Government of India, 1996; Government of Madhya Pradesh, 2022; Supreme Court of India, 2013).

3. Harmonise Forest and Land Statutes

Enact state rules ensuring FRA/PESA precedence over Indian Forest Act classifications in Scheduled Areas, mandating automatic Gram Sabha consultation for CFR-impacting diversions and treating minor forest produce ownership as inalienable community rights operationalised through MSP schemes

4. Institutionalise Capacity-Building

Create block-level support units (legal aid, GIS mapping, paralegal training) under Tribal Welfare Department to assist Gram Sabhas in claim preparation, resolution drafting, and

administrative/judicial navigation, coupled with mandatory training for revenue/forest officers on customary rights and PESA/FRA procedures.

5. Safeguards Against Displacement

Amend state rehabilitation policy to compensate loss of customary commons/CFRs (not just titled land) with equivalent community resource rights at resettlement sites, and establish a Scheduled Areas Oversight Committee with tribal representation to review all major projects for PESA/FRA compliance before approval.

VI. Conclusion

This doctrinal study of state land alienation laws and customary rights in the tribal panchayats of western Madhya Pradesh constructs a theoretically strong framework that not only shelters tribal lands from outside acquisition but also doctrinally brings in the customary tenure elements through Gram Sabha centrality, Community Forest Resource recognition, minor forest produce ownership, and mandatory consultation/consent protocols (Das & Rao, 2019; Xaxa, 2019).

Further positions these tribal panchayats as hybrid institutions that can use the statutory language to protect lineage, based plots, sacred groves, seasonal grazing rights, and collective forest management practices that have been the livelihood of Bhil and allied communities in Jhabua, Alirajpur, Dhar, Barwani, and Khargone for generations (Supreme Court of India, 2013; Nayak & Ghadyalpatil, 2025; Gene Campaign & ICRAF, 2008).

However, as the study points out, the concept has deep structural fissures that lead to insecurity and marginalisation. There are quite a few conflicts: the evidentiary requirements in the revenue restoration cases that give manipulated documents more weight than oral histories of possession; the colonial Indian Forest Act classifications which still have a dominant position and criminalize customary livelihoods even after FRA; the PESA Rules of Madhya Pradesh which are not only delayed but the partial centralizing that dilutes Gram Sabha autonomy through bureaucratic vetoes; and the underutilized gubernatorial powers that are unable to stop displacement from Narmada projects, mining leases, and conservation zones (Government of India, 1996; Government of India, 2006; Centre for Policy Research, 2022). Various state, level as well as central enactments try to recover tribal lands that have been alienated in defiance of constitutional safeguards. Research work of the Ministry of Rural Development (Faraz, 2016) indicates that even after the enactment of restorative legislation (including the Maharashtra Restoration of Lands to Scheduled Tribes Act 1974 and amendments to the land

revenue codes), the major part of the problem still lies in restoration at the grassroots level, apart from the resulting legal provisions (Harris, 2001; Janardhan Rao, 2022; Philip & Prakash, 2024).

Examination of the Ministry of Tribal Affairs and NGO partners' field reports show that FRA has been a key factor in communities and local governments getting land titles and authority over the use of natural resources in some areas (e.g., Budaguda Gram Panchayat in Odisha; selected villages in Bastar, Chhattisgarh). On the other hand, conflict situations are common when the use of customary land, especially shifting cultivation or pastoral migration, clashes with the legal definitions of forest land in the statutes and with the conservation objectives of the state forest departments (Centre for Policy Research, 2022; Ministry of Tribal Affairs, 2022).

When state law are aligned more genuinely with the living customary rights that both sustain Adivasi identity and ecology, the tribal panchayats of western Madhya Pradesh will not be places where people only keep the tradition but they will actually become examples of constitutional self, determination, thus implementing the spirit of the Fifth Schedule of secure, autonomous, and thriving Scheduled Area communities (Supreme Court of India, 2013; Nayak & Ghadyalpatil, 2025; Gene Campaign & ICRAF, 2008).

The combination, therefore, stresses an essential point that conflicts destroy tenure security and resource use, whereas convergences, if they work, can lead to self, governance and the strengthening of the community, but their implementation depends on overcoming the gap between the doctrinal design and administrative reality (NITI Tantra, 2023; Varughese, 2019).

These measures transform Gram Sabhas into strong centres of tribal leadership which can make wise and adaptive decisions, whereas, by the grant of land rights, Bhil will be able to live in harmony and have control over MFPs through secure possession and tenure stability. This work, although doctrinal, sets the framework of its empirical testing through village, level ethnographies of Gram Sabha activities which raise the question of how Madhya Pradesh can make its transition from mere symbolic recognition to real empowerment of its western tribal heartland.

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CYBERCRIME AND CYBER SECURITY: LEGAL CHALLENGES AND POLICY RESPONSES

By Isha Jain & Dr. Jyoti Panchal Mistri***

ABSTRACT

We live in the era of computer and internet. This era known as Digital Era where everything is available on fingertips, whatever we want available online the advance technology including Artificial Intelligence, E commerce and high speed internet like 5th generation connectivity made this environment. But this era raises some serious concern like increasing in cybercrimes we can say that in digital era leads to digital crimes referred as cybercrime. Our data now a days have most valuable assets. By the help of this research paper, I want to throw light on this serious issue by which we can see how this cybercrime increases, reason behind it, how government can deal with and how people can aware about this. Cyber laws are indispensable for creating a secure environment, but it also faces certain legal challenges like new techniques of crime. A comprehensive policy framework is required to ensure security and confidentiality in cyber space. However, India's cyber laws help in addressing cybercrime issues for sustainable growth.

Keywords: Cybercrime, Cyber Security, Data Protection, Cyber Laws, Cyber Attacks, Internet.

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I. Introduction

More dependency on cyber space whether of individual or organisations is harmful, it increases cybercrimes, children are addicted to online game, young people are addicted to social media how it could not them fall easy prey to cybercrimes. Changes in patterns of crime needs changes in law and government policies also.

The rapid digitisation of governance, commerce, education and social interaction has fundamentally transformed modern society, making cyberspace an indispensable part of everyday life. From online banking and e-commerce to digital governance and social networking platforms, individuals and institutions increasingly rely on information and communication technologies. However, this growing dependence has simultaneously widened the scope for cyber vulnerabilities. Cybercrime has emerged as one of the most pressing challenges of the digital era, transcending geographical boundaries and traditional notions of crime. Unlike conventional offences, cyber-crimes are often anonymous, transnational, technologically sophisticated and capable of affecting a large number of victims within a short span of time, thereby posing serious threats to privacy, financial security, public order and national security.

In response to the escalating menace of cybercrime, cyber security has assumed critical importance as a legal, technical and policy concern. While India has enacted several legislative measures, including the Information Technology Act, 2000 and subsequent amendments, the evolving nature of cyber offences—such as phishing, ransomware attacks, identity theft and data breaches—continues to expose gaps in the existing legal framework.

The emergence of advanced technologies like artificial intelligence, cloud computing and high-speed internet connectivity has further complicated the regulatory landscape. These developments necessitate continuous legal reforms, effective enforcement mechanisms and enhanced public awareness to ensure a secure digital ecosystem. This paper, therefore, seeks to examine cybercrime and cyber security from a legal perspective, analyse the challenges faced by the existing laws and policies, and suggest policy responses to strengthen India's cyber security regime in an increasingly digitalised world.

II. Identification of Statement of Research Problem

Despite having cyber laws in India, the rate of cybercrime is increasing continuously government, law enforcement agencies often faced so many challenges in combating it. There is a lacuna in present cyber security laws. It is not effective to counteract with new techniques of cybercrime, also the legal challenges faced required new policy reforms in law and legislation. How badly it impacts the society is to be looked into and awareness should be raised among people regarding new cybercrime.

A. *Research objectives*

The following research objectives are:-

- To analysis various aspects of cybercrime.
- To evaluate the cyber security and its awareness among people.
- To critically examine the legal development of cyber security laws and regulations.
- To recommend the policy measures to combat cybercrimes and increase cyber security in digital ecosystems.
- To assess the impact of cybercrime on society.

B. *Research Hypothesis*

The present laws protecting cyber security is not enough to prevent cybercrimes. India's legal framework and judicial precedents are insufficient to eradicate cybercrimes and ensure cyber security, thus necessitating additional legislative and policy reforms. This approach guarantees a comprehensive and multi-dimensional analysis of cybercrime, cyber security and cyber laws in India, what are the legal challenges of cybercrimes to be dealt with and policy reforms needed to combat cybercrimes.

III. Research Methodology

The methodology of the research titled "Cybercrime and Cyber Security: Legal challenges and policy responses" is of doctrinal nature. It includes a comprehensive, complete, critical and multi-dimensional scenario of cybercrimes, laws and regulations against it, factors influencing cybercrimes and cyber security measures. Primary and secondary sources are used. It includes legal texts, books, articles, reports, case studies, judgments, research papers, newspaper. This paper analysed the National Crime Records Bureau data.

IV. Analysis & Findings of the Research

A. *Cybercrime*

A crime in which computer is the medium of crime or the computer is used as a tool to commit that crime is called cybercrime. Similar to physical crime the intention of cyber criminal to harm the victim physically or mentally or by damage their reputation. Cybercrime is not new erose crime , first cybercrime was reported in year 1820 which is difficult to believe and first hacking was reported in year 1960 and first computer virus was reported in the year 1980. The 1990's marked a shift as cybercrimes became rampant and financially motivated. With the rise of internet and e-commerce, cyber criminals exploited vulnerabilities in online systems for activities like online scams, e-mail spoofing etc. Early 2000's saw a rapid increase in cyber-attacks targeting government data, large business houses and confidential data.

B. *Classification of Cybercrimes*

The classification of Cybercrime helps to understand varied nature of cyber threats in a systematic way.

1. Target Based Cybercrime

- Individuals: - Cybercrimes committed against individuals includes harassment via e-mail (*State of Tamil Nadu v. Suhas katti,* CC No. 4680/2004), cyber-stalking, defamation, cheating fraud exploitation, transmitting virus & discrimination & obscene material, intellectual property crimes and so on.
- Organizations: - It includes cybercrimes such as unauthorised access over data system, corporate espionage, financial frauds, ransomware attacks, forgery, theft of intellectual property.
- Government: - Cybercrimes against government includes cyber terrorism, hacking of system and targeting government entities with the aim of compromising national security, public service and democratic processes.

2. Method Based Cybercrime

- Hacking: unauthorised access to computer system or networks to steal data or disrupt operations or implant malicious software. Hence, it tightly is an attempt to bypass the security mechanisms of information system.

- Malware: the dissemination and deployment of trojans, and ransomware to compromise computer systems, extract data, or extort ransom payments.
- Phishing and Social engineering: Deceptive methods to trick individuals or organisations into divulging sensitive information, such as login details or financial data, via fraud emails, website or message.
- Financial fraud: online scams, phishing schemes, credit card fraud etc.
- Identity theft: unauthorised use of credit card details, and passwords to assume other's identity for fraudulent purpose.

C. *Causes of cybercrimes*

India is developing country, so illiteracy is common problem in India that is the main reason of increasing cybercrime in India. People especially from rural areas and some backward areas are not familiar with such aspects. Cyber-crime is totally different from physical crime in every aspect, some can easily say that it doesn't need any physical equipment to commit this only need mobile phone and good internet but the effect of cybercrime is more broad than physical crime, a physical crime may be difficult to commit but affect to induvial or some organisation rather than cybercrime is easy to commit but affect large populations sometime it beyond physical boundaries of a country.

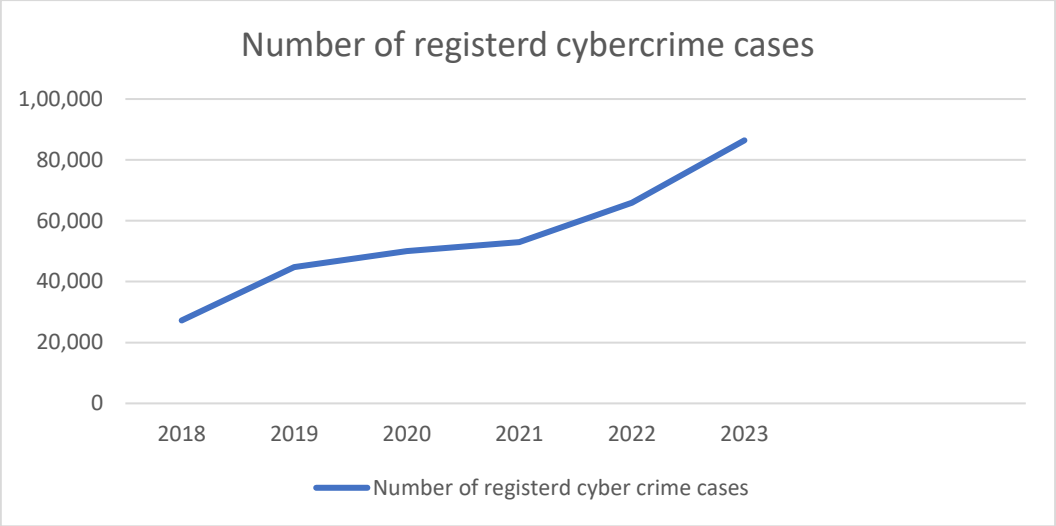
Sometimes cybercriminal have more knowledge of computer and its network, and their soft targets are women, children and old age people who don't aware about cybercrimes.

Sometimes people's own negligence caused cyber-attacks like people never change their passwords for long times, they click on unsafe links, they regularly share their information on social platform (*Shreya Singhal vs Union of India* (2015) 5 SCC 1) this lead them for cybercrime activity.

D. *NCRB Data*

Latest data released by National Crime Records Bureau (NCRB) provides cybercrime in India saw a sharp surge of *31.2%* in 2023 with majority of cases involving fraud, extortion and sexual exploitation. Nearly *69%* of all cybercrime incidents involves financial fraud related offences causing growing concern over digital security and cyber vigilance across the country. The national rate of cybercrime rose to 6.2 cases per lakh population, up from 4.8 the year before. But the spread was not uniform. Just five states – Karnataka, Telangana, Uttar Pradesh, Maharashtra and Bihar have three fourths of all cyber offences.

The cases registered under the cybercrime category from the year 2018 to 2023 are as follows:



The graph shows a steady increase in cybercrime cases in six years, by highest jump between 2022 and 2023.

E. *Impact of Cybercrime*

Cybercrimes leads detrimental Consequence it impacts society by:-

- Financial Loss: It causes financial losses as criminals steal money directly from bank accounts. It is now a days very common by getting otp or just hacked someone's mobile phones.
- Data Leaks: In this digital era this is the most common aspect of cybercrime the Data leaks on internet, and it affect every age group and in the era of Artificial Intelligence it becomes more harmful specially for teenagers' girls to famous celebrities. Some personal data leaks affected to companies that affect their good will and their market caps and caused huge financial loss. Sometimes this data leaks affect deeply to their social lives and affect increasing suicide among peoples.
- DOS: Denial of service attacks are more common now a days, now wars are not limited to boarder areas now some battels are Faught on internet, by this they can harm every aspect of common areas for example now a day dos attacks occurred in Aviation industries, it affect all over country where common people affected.

F. *Cyber Security*

According to Section 2(1)(nb) of Information Technology Act, 2000 the term "cyber security" means protecting information, communication device from unauthorised access, modification or destruction. Data plays important role in today's life, peoples data is more valuable then

themselves so to protect this data in today's digital environment is the key aspects. That's why Indian Ministry of Law and Justice passed an Act on 11th August 2023 for safeguarding related to personal Data of people of India by this the main focus was to protect people's data from unauthorised sources.

G. *Findings of the Research*

The study highlights various loopholes in the legal framework and government policies. Government has to amend this law to conquer cyber-crimes in this generations. Now cybercrime leads to huge financial loss by different criminal activity like phishing or spoofing. They mainly target people who have less knowledge about internet functionality like old age peoples. Now a days people's personal data is most valuable thing so government will take some major steps for safeguarding this data. Cybercrimes have no boundaries, no nation they have only criminal intention so sometimes some international cyber criminals involved init.

H. *Recommendations*

Some key aspects should be taken by government to protect people from cybercrimes. Government have to start awareness campaign on social media platform to aware young generation about cybercrimes. And its duty of citizens to be careful about what they share online, where they share and with whom they share. They have to show some smartness about which website they visit, the link in which they click, what material they downloaded from internet.

V. Conclusion

Main advantage that cyber criminals have is they have vast knowledge about computer and cyber system so they use different techniques to do these criminal activities by which it is so difficult to analysis their pattern. Different independent research shows in recent five years cybercrime activity increasing day by day and government have to take some major steps under Indian cyber law to conquer them.

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