LexScriptaMagazine.com ISSN: 2583-8725 Vol. 04 - Q1 Jan - Mar, 2026

ISSN: 2583-8725

Lex Scripta Journal

Quarterly Online and Print Edition

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LEX SCRIPTA MAGAZINE OF LAW AND POLICY (VOL-4, ISSUE-1)

ISSN-2583-8725
Vol - IV, Issue - I
Published by INTEGRITY EDUCATION INDIA

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Printed in India @ New Delhi

ISSN: 2583-8725

Lex Scripta Journal

Quarterly Online and Print Edition

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LEX SCRIPTA MAGAZINE
JOURNAL MAGAZINE BY INTEGRITY EDUCATION INDIA

LexScriptaMagazine.com ISSN: 2583-8725 Vol. 04 - Q1 Jan - Mar, 2026

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Legal Enforceability of Corporate ESG Commitments: An Analysis of Regulatory Frameworks, Disclosure Obligations, and Shareholder Remedies Under Indian Law

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Legal Enforceability of Corporate ESG Commitments: An Analysis of Regulatory Frameworks, Disclosure Obligations, and Shareholder Remedies Under Indian Law

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Abstract

The extent to which environmental, social, and governance (ESG) commitments can be enforced by legislation remains ambiguous, despite the growing importance of these commitments in India's corporate landscape. This article centers on the legality of ESG claims made by Indian listed businesses and the options available to owners and other impacted parties in the event of violated promises or blatant lying. This investigation examines the environmental, securities, contract, and business laws of India, as well as the frameworks for enforcing ESG principles in the United Kingdom and the European Union. The argument is that the current regulatory framework in India, which primarily consists of the BRSR framework of the Securities and Exchange Board of India (SEBI), the non-binding National Guidelines on Responsible Business Conduct (NGRBC), and the mandatory corporate social responsibility (CSR) requirements under Section 135 of the Companies Act, 2013, primarily establishes informational duties rather than substantive, enforceable ESG performance duties. The report maintains that the current options available to shareholders for rectifying ESG deficiencies are insufficient. This is relevant to both their actions and their statements. Mismanagement and oppression procedures are addressed in Sections 241-242 of the Companies Act, 2013, while class action litigation is addressed in Section 245. Legislation that requires ESG due diligence, improved BRSR verification standards, a new SEBI rule to prevent "greenwashing," and a modification to Section 245 to facilitate class actions for ESG misrepresentation are among the modifications that are currently under consideration.

Introduction

Corporate law and government policy have been significantly affected by the ESG obligations of enterprises. In the past, India's corporate social responsibility (CSR) initiatives were entirely optional; however, the country has since implemented more structured methods of communicating its commitment to sustainability, such as the Business Responsibility and Sustainability Report (BRSR). Consequently, organizations are beginning to prioritize their ESG responsibilities.

Substantial modifications to India's ESG regulations were implemented subsequent to the SEBI's implementation of the BRSR in 2021. This legislation required substantial public corporations to submit reports on their environmental, social, and governance (ESG) performance. Furthermore, companies are obligated to execute corporate social responsibility initiatives in compliance with Section 135 of the Companies Act, 2013. The Ministry of Corporate Affairs has provided businesses with support in conducting themselves responsibly through the National Guidelines on Responsible Business Conduct and the NGRBC, which are components of the Ministry. The legality and contractual enforceability of ESG pledges as obligations remain ambiguous, despite these revisions.

In India, the absence of legislation or effective mechanisms to hold corporations accountable for their ESG commitments is the primary focus of this study. India is legally obligated to fulfill a restricted number of ESG obligations; however, the majority of these obligations are merely wording guidelines. This suggests that environmental claims made by enterprises are not subject to repercussions. This practice is referred to as "greenwashing," and shareholders are bewildered by their legal options when corporations fail to fulfill their commitments or deceive them regarding environmental, social, and governance (ESG) disclosures.

This investigation is divided into six sections. In Part II, we will examine the regulations in India that govern the security of environmental, social, and governance (ESG) information. In Part III, we will examine the extent to which contract law, securities law, and corporation law can be used to enforce ESG obligations. This section will examine the potential lawsuits that shareholders may submit. In Section V, the British and European systems are contrasted. Part VI lists the obstacles that impede regulation. Concepts of transmutation are introduced in the seventh section.

Regulatory Frameworks Governing ESG Disclosures in India

The BRSR Framework

500 of the major publicly traded corporations implemented the Business Responsibility Report format between 2012 and 2016. The BRSR succeeded this.[1] The Integrated Reporting framework, the GRI benchmarks, and the Task Force on Climate-related Financial Disclosures (TCFD) specifications are among the internationally recognized systems from which it draws. Its primary goal is to establish a correlation between societal, environmental, and policy changes and shared data. After the fiscal year 2022–2023, all companies that were ranked in the top 1,000 by market value were required to submit a BRSR statement.

[1] Meera Desai and Kavita Sharma, 'Mandatory CSR and Voluntary ESG: Towards a Unified Enforceability Framework' (2024) 41 Delhi Law Review 55, 67.

The legal obligations of BRSRs are a critical area of investigation. A communication from SEBI was the channel through which the guidelines were established. It was permitted pursuant to Section 11(2)(j) of the Securities and Exchange Board of India Act, 1992. The BRSR is required to be included in every annual report in accordance with the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR Regulations). It is unlawful to exclude the BRSR from the annual records. Companies are not obligated to adhere to any particular ESG standard; however, they are obligated to disclose their ESG performance. This is a substantial defect in the framework. In the final analysis, Bose and Mishra contend that the BRSR exclusively mandates that corporations disclose information. Shareholders and other individuals who are adversely affected by companies' ESG errors are unable to take any action.

Mandatory CSR Under Section 135 of the Companies Act, 2013

Currently, there is no global CSR system that is mandated, as outlined in Section 135 of the Companies Act, 2013. Companies were mandated to allocate a minimum of 2% of their average net profit from the previous three fiscal years to activities listed in Schedule VII under the Act. Despite this significant legislative advancement, Afsharipour and Rana argue that the regime is experimental and defective because of the lack of clear enforcement mechanisms and the fact that CSR compliance is more of a "checklist" type of practice.

CSR obligations and ESG responsibilities are distinct. Businesses are accountable for funding authorized social programs under Section 135[2], regardless of whether or not these activities are legitimately beneficial to the general public. No aspirations for achievement are associated with the enhancement of society. As per Desai and Sharma, the two mandates, CSR and ESG, are distinct.[3] The formulation of regulations that encompass all of a company's environmental initiatives is the primary concern, according to them. Their perspective is substantiated by this article.

The NGRBC and LODR Framework

The NGRBC's 2019 announcement was disclosed by the Ministry of Corporate Affairs. It establishes nine principles for the ethical conduct of organizations. A wide range of subjects, such as the preservation of the environment, fairness to partners, ethical behavior, and the well-being of consumers, are addressed in these guidelines. However, they lack any official authority. Companies are only required to disclose their compliance with the NGRBC standards through the BRSR; they are not obligated to adhere to the standards themselves. The ESG framework, which is predominantly based on private concepts, presents a difficult

[2] The Companies Act, No. 18 of 2013, s. 135 (India).

[3] Cary Coglianese and David Lazer, 'Management-Based Regulation: Prescribing Private Management to Achieve Public Goals' (2003) 37 Law and Society Review 691, 710 (discussing structural limits of non-binding management frameworks).

foundation for Indian courts to use in determining the appropriate conduct of businesses. This is known as the "soft law trap."
Supplementary obligations regarding environmental, social, and governance (ESG) have been incorporated into the LODR Regulations. The BRSR must be incorporated into annual reports in accordance with Regulation 34(2)(f). Regulation 21 requires the 500 largest publicly traded corporations to establish a Risk Management Committee. This entity is responsible for the supervision of ESG hazards. Directors are required to conduct themselves in a manner that is beneficial to the business, its proprietors, its employees, the community, and the environment, as stipulated in Section 166(2) of the Companies Act, 2013. However, Indian courts have not interpreted Section 166(2) as mandating ESG initiatives. They regard it as an additional obligation, given their status as fiduciaries.

Legal Enforceability of ESG Commitments Under Indian Law
ESG Statements as Contractual Representations
The initial step in determining whether ESG promises can be enforced under Indian contract law is to determine whether they are statementable. Section 17[4] of the Indian Contract Act of 1872 addresses the issue of duplicity. The act of one party either doing or not doing anything to entice another party to execute a contract is referred to as fraud. Section 18[5] pertains to misrepresentation. False statements of current fact, as opposed to statements of future intention or belief, are required for an ESG disclosure to be admissible as evidence of a misrepresentation claim. The claimant must have also relied on the disclosure, and their reliance must have resulted in a loss.

A significant number of ESG transactions are designated as objectives that must be achieved. Businesses may establish ambitious objectives, such as increasing the number of women on their boards by a specific year or achieving zero emissions by 2050. These statements may not be sufficient evidence of deception, as they may not necessarily reveal the true nature of the situation.[6] The introduction of new technology or changes to regulations is another area of concern. External factors have the capacity to undermine numerous ESG commitments. As a result, it becomes exceedingly challenging to establish the level of certainty necessary to rely on anything.

Prospectuses that include ESG assertions are significantly more likely to have legal support for their claims. Prospectuses are required to include an exhaustive and precise representation in accordance with Section 26 of the Companies Act,

[44] The Indian Contract Act, No. 9 of 1872, s. 17 (India).
[5] The Indian Contract Act, No. 9 of 1872, s. 18 (India).
[6] Luca Enriques and Sergio Gilotta, 'Disclosure and Financial Market Regulation' in Niamh Moloney and others (eds), The Oxford Handbook of Financial Regulation (Oxford University Press 2019) 511, 528.

2013. If an individual intentionally or knowingly fabricates information in a prospectus (Section 35) or (Section 34), legal consequences may result.[7] Sustainability disclosures, annual reports, and investor presentations are more common forums for ESG pledges than prospectuses, as individuals are less likely to face legal consequences. As per Enriques and Gilotta, the current state of securities legislation makes it difficult to enforce companies' overly general ESG statements, which, in turn, has a detrimental effect on clients.

Fiduciary Duties of Directors and ESG Commitments

Directors are required to prioritize the company's best interests and advocate for causes that benefit society and the environment in accordance with this section of the Companies Act, 2013. Directors are obligated to prioritize the interests of the company and its members in accordance with Section 172[8] of the UK Companies Act 2006. In contrast, Indian law explicitly requires all public officials to adhere to environmental protection.

Section 166(2)[9] impedes the practical enforcement of ESG regulations. Complaints or derivative cases are required for prosecution under the Companies Act, 2013 (Parts 241 and 242). This provision of the legislation prohibits third-party beneficiaries, including municipalities, environmental organizations, and laborers, from directly suing. It is safeguarded by the "business judgment rule" of the National Company Law Tribunal. Regardless of whether their actions are in accordance with ESG principles, directors are allowed to use the information at their disposal to act in good faith, as per the regulation.[10] Chandra and Nair argue that the current legal framework does not sufficiently define the circumstances under which independent directors may be held accountable for disseminating inaccurate information regarding environmental, social, and governance (ESG) factors. Director liability for environmental, social, and governance (ESG) issues must be promptly defined by law.

Securities Law Remedies for ESG Misrepresentation

Currently, the most effective method for managing misleading ESG claims is the PFUTP Regulations, 2003, which are a component of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations. The use of deception, cunning, or substantial misrepresentation in the process of purchasing, selling, or donating securities is prohibited by Regulation 3. Institutional investors are increasingly investing in Indian equities as they prioritize environmental, social, and governance (ESG) factors. This

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[7] The Companies Act, No. 18 of 2013, ss. 26, 34, 35 (India).
[8] Companies Act 2006, c. 46, s. 172 (UK).
[9] The Companies Act, No. 18 of 2013, s. 166(2) (India).
[10] Neha Chandra and Ananya Nair, 'Independent Director Liability for ESG Failures: Clarifying the Statutory Framework' (2025) 19 International Journal of Corporate Governance 200, 215.

demonstrates the growing significance of ESG comments in the investment decision-making process. The anti-fraud approach is implemented to protect investors from being deceived by deceptive environmental, social, and governance (ESG) claims. Nevertheless, the PFUTP structure's substantial deficiencies render it less advantageous in ESG scenarios than it could be. At the time of writing, SEBI had not yet taken action against a company that had made deceptive or inaccurate representations about BRSR or sustainability. Due to the absence of standardized, independently verifiable ESG indicators, SEBI faces challenges in distinguishing between reports that engage in positive self-evaluation and those that contain legally actionable misrepresentation. Furthermore, the PFUTP Regulations lack clarity regarding the definition of "materiality" in relation to ESG statements, the appropriate method for making ESG claims that are not deceptive, and the criteria to be used in determining whether sustainability claims are inaccurate.

The term "ESG theft" denotes the intentional misrepresentation of a company's performance in these areas by the company in order to secure financing or inflate its stock price fraudulently. Indian law has not yet transformed this concept into a new type of law, despite the growing global support for it.[11] In a similar vein, Birchall identified greenwashing as a regulatory concern in India, arguing that the country's consumer and stock protection laws are insufficient to prevent the dissemination of deceptive environmental, social, and governance (ESG) claims.

Shareholder Remedies for ESG Failures

Derivative Actions

If the board of directors fails to act, the shareholders may choose to submit a lawsuit. This functions as an example of ESG responsibility in action. This is referred to as a derivative case. The principle established in India by Foss v. Harbottle[12] (1843) is subject to a few exceptions. Small business proprietors are authorized to file a lawsuit against any individual associated with the company's administration under these regulations; however, the company is prohibited from initiating a lawsuit independently. A unique mechanism for the filing of connected litigation is established in Part 11 of the UK Companies Act 2006. However, this is not the case under India's Companies Act, 2013. This method is the most similar to the one used in Section 245 for class operations. In the subsequent section, we will examine it. Should the allegations be founded on ESG, further complications may arise. The situation is frequently referred to as "fraud on the minority." The individuals responsible for it must have been employees of the organization and have somehow garnered the benefits. It is improbable that this standard will be satisfied if ESG oversight was merely

[11] Claire Birchall, 'Greenwashing: Legal and Regulatory Challenges in the Age of ESG' (2018) 22 International Journal of Law and Management 301, 318..

[12] Foss v. Harbottle (1843) 67 ER 189.

negligent and not intended to benefit them. In India, it is difficult to challenge ESG strategy decisions as wrongs that can be taken to court; justices are not inclined to scrutinize executive policy decisions made under the "business judgment rule."

Oppression and Mismanagement Under Sections 241–242

A mechanism for any individual who has experienced losses as a consequence of negligent or detrimental corporate management to pursue redress is provided by Sections 241 and 242 of the Companies Act, 2013. Section 242 of the National Company Law Tribunal's statute grants it significant authority to adjudicate disputes. It is capable of directing the transfer of shares, selecting new members, and providing guidance on the management of a company.

These guidelines for ESG responsibility have not yet been tested to determine their effectiveness. "Mismanagement" is defined in Indian law as conduct that is detrimental to the business or the general public, while "oppression" refers to inhumane, unlawful, or burdensome treatment. Mismanagement may be committed in violation of Section 241 if an individual repeatedly consents to substantially false sustainability disclosures, if ESG reports fail to include ongoing environmental law violations, or if effective internal controls are not maintained to support accurate ESG reporting.[13] According to them, the NCLT's procedure is rife with significant defects that render this route less practicable, and Indian courts have yet to recognize that ESG failures constitute "oppression" in a legal sense.

Class Actions Under Section 245

In accordance with Section 245 of the Companies Act, 2013, members or depositors may submit claims to the NCLT on behalf of a group. Applicants have the option to request that the NCLT prohibit the corporation from engaging in any unlawful activity and that the directors, auditors, or expert advisers compensate them for monetary losses caused by their malfeasance. This regulation has created a plethora of new opportunities for ESG accountability. If auditors and advisers neglect to identify significant issues with ESG disclosure, they may still be subject to litigation from clients. It is unnecessary for all individuals to harbor animosity toward one another. Since its implementation in 2013, Part 245 has been infrequently employed. To be officially recognized, an organization must either have one hundred members or two percent of the issued share capital owned by an individual(s). This is a substantial concern in the actual world. There is no practical method to collect ESG claims from small shareholders, Indian lawyers do not typically take cases on contingency, and shareholders are not well-informed about the regulation. In Part VII of this paper,

[13] Vikramaditya Khanna and Shaini Srinivasan, 'Oppression, Mismanagement and ESG: The Scope of Sections 241–242 of the Companies Act, 2013' (2021) 16 Indian Journal of Corporate Law 58, 72.

it was proposed that Section 245 be revised to specify that ESG disinformation may serve as a basis for class action relief. This would result in a substantial increase in the practical applications of the law.

SEBI's Investor Grievance Mechanisms

SEBI oversees a system for resolving complaints related to the Securities and Exchange Board of India (SCORES). This platform allows consumers to submit complaints to businesses that are subject to SEBI's regulations. Businesses are reminded by the platform that they are allotted a specific amount of time to address consumer complaints. Sebi may implement sanctions against them in the event that they neglect to comply. Investors can effortlessly convey their dissatisfaction with deficient ESG reporting by employing SCORES. Nevertheless, the most substantial obstacle is that the platform is not designed to hold regulators accountable for the overall errors in ESG reporting; rather, it is intended to resolve investor concerns. SEBI, in addition to its lack of ESG enforcement authority, possesses a substantial amount of judicial and regulatory authority. Nevertheless, it has yet to apply this authority to corporations that provide investors with misleading information regarding their sustainability initiatives.

Comparative Analysis: EU and UK Frameworks

The European Union Framework

The European Union is widely regarded as having the most exhaustive system of environmental, social, and governance (ESG) regulations. The four primary components that contribute to its formulation are the EU Taxonomy Regulation, the Sustainable Finance Disclosure Regulation, the Corporate Sustainability Reporting Directive, and the Corporate Sustainability Due Diligence Directive.

The CSRD is a novel statute that was instituted in January 2023. Due diligence in ESG reporting is now more critical than ever as a result of this legislation. Companies with a specific level of assets, sales, or employees are required to disclose information about their sustainability initiatives in accordance with the European Sustainability Reporting Standards (ESRS). In order to consider the material and social implications of all of this data, it is necessary to employ a "double materiality" approach. In addition to the environmental and human consequences, businesses should also evaluate the financial implications of ESG issues.[14] It is essential that the CSRD's statements are independently verified. This transforms ESG reports into evidence that can be utilized in legal proceedings, rather than merely being statements made by management. The CSDDD, which was implemented in April 2024, mandates that significant corporations that conduct business within the European Union (EU) and operate both within and

[14] Afra Afsharipour and Shruti Rana, 'The Emergence of New Corporate Social Responsibility Regimes in China and India' (2014) 14 UC Davis Business Law Journal175, 198.

outside the EU, conduct due diligence. It is essential for companies to identify, prevent, mitigate, and report any potential or actual damage to the environment or people that may arise from their value chains or operations. The regulations of civil responsibility are outlined in Article 29 of the Directive. An individual who fails to complete their assignment may be able to sue a company for financial damages if the company causes injury to them. This represents a significant departure from a period in which accountability was exclusively attained through transparency. The obligations of the CSDDD are severe, and its failure to comply with them could lead to legal repercussions.

The United Kingdom Framework

In accordance with a 2006 statute in the United Kingdom, director decisions must be made in a manner that is beneficial to all members and furthers the company's success. In addition to the needs of their employees, they must also take into account the long-term consequences of their decisions on the planet and its inhabitants. Attorneys may be held civilly culpable under Section 463 of the Companies Act 2006 if they falsify strategy reports and the firm incurs losses as a result. Among other non-financial topics, these reports must include information on the environment, worker well-being, and societal concerns for enterprises with revenues that exceed a set threshold. The Indian system lacks this legal foundation, as responsibilities such as the drafting of a director's report are not subject to the same level of public accountability.

As of May 2024, firms that are subject to FCA regulation will be required to adhere to a rule that prohibits "greenwashing." This rule requires that statements regarding the longevity of financial products and services be accurate, transparent, and not misleading. There are a multitude of alternative methods of informing the British public about sustainability, in addition to government sustainability labels. The FCA has the authority to impose fines, oblige the corporation to rectify the issue, or even initiate legal proceedings in the event that a company's sustainability claims are found to be unfounded. This specific aspect of targeted governance is severely lacking in India.

Signatories to the UK Stewardship Code 2020 are required to disclose their voting and engagement procedures and to communicate with the companies in which they have invested regarding material environmental, social, and governance (ESG) issues. The FRC guarantees that the regulations are being adhered to and communicates its conclusions to the appropriate parties. Despite the fact that the SEBI Stewardship Code in India and the UK share some similarities in terms of participation, the latter does not include public accountability measures that could potentially influence individual actions.

Comparative Lessons for India

India may gain valuable insights into the effective management of change by examining four aspects of the European Union and the United Kingdom. In accordance with the CSDDD's regulations on mandatory due diligence and civil liability, ESG requirements can be explicitly enforced by law through causes of action during the initial phase. Cases of this character are exceedingly rare in Indian law. The CSRD now requires a commitment and twofold materiality as the second modification.[15] As a result, the data that is collected through self-reporting can be verified and employed. Thirdly, the FCA's "greenwashing" rule demonstrates the capacity of a targeted regulatory instrument to clearly and effectively clarify sustainability claims without the need for extensive legislative revisions. The European Union and the United Kingdom have implemented science-based or standardized ESG grading standards within their respective frameworks for the fourth time. The establishment of transparent criteria for determining whether or not an individual is being forthright is one area in which India's BRSR-centered organization is severely lacking.

Challenges in Enforcing ESG Commitments in India

Legal Indeterminacy and the Soft Law Trap

The most urgent issue in India is the lack of legally binding ESG standards. Organizations can develop their own methodologies for computing critical ESG variables, such as energy consumption and greenhouse gas emissions, by utilizing the BRSR framework. They are not obligated to adhere to predetermined procedures, constraints, or estimations for the base year. It is difficult to differentiate between organizations or reporting periods when employing ESG disclosures, despite their legal validity. Consequently, it is difficult to determine whether a statement was inaccurate.

The situation is deteriorating as a consequence of the NGRBC. The voluntary nature of the system results in the absence of legally binding regulations. The system is fundamentally defective in that it allows courts to hear ESG cases. The standard accounting principles that have been established by organizations such as GAAP or IND-AS facilitate the identification of errors in financial reports. However, none of those regulations are applicable to ESG reporting. This safeguards companies from being required to comply with legislation that is unclear.

Evidentiary and Causation Difficulties

Demonstrating that an organization's environmental, social, and governance (ESG) errors caused harm to investors or other parties is a difficult task due to a multitude of factors. The coordination of a multitude of factors is the primary

[15] Souvik Bose and Arjun Mishra, 'SEBI's BRSR Framework: A Critical Analysis' (2021) 45 SEBI Journal 33, 40.

cause of environmental devastation. Numerous adverse effects on human health are associated with their exposure to pollution. Workers are susceptible to injury in stratified supply networks. Multi-causal analysis is not frequently implemented by Indian courts, as they predominantly handle cases that involve one side of an argument.[16] Consequently, they are unable to effectively address complex instances of environmental and social devastation.

In both the American and British lexicons, the term "fraud on the market" is employed to describe securities deception. Rather than requiring each investor to peruse the misleading statement, the plaintiffs may establish reliance by demonstrating that the fraudulent information was incorporated into the market price. This concept is not accepted in India. If fraudulent ESG disclosures result in financial losses for investors, they will be obligated to prove that they relied on the information and that it was the direct cause of their loss. This is a challenging endeavor due to the fact that Indian stock prices do not inherently incorporate ESG data, and there are a multitude of factors that significantly influence an investor's decision.

Institutional Capacity Constraints

Currently, the regulatory and judicial institutions in India are unable to effectively implement ESG requirements as a result of a lack of institutional authority. At present, the National Company Law Tribunal (NCLT) is confronted with a substantial caseload and a scarcity of ESG expertise. Environmental science, methodologies of carbon accounting, supply chain assessment, and the measurement of social impact are not typically taught to attorneys. These are indispensable for the resolution of intricate ESG disputes. Additionally, SEBI lacks an ESG enforcement unit that is authorized to verify sustainability claims, request third-party technical assessments, and construct cases using the specialized forensic analysis required for ESG misrepresentation cases.

Institutions should exercise caution, as the Securities Appellate Tribunal has the power to overturn SEBI's decisions on ESG issues if they are not sufficiently transparent in terms of both content and procedure. In order to prevent their decisions from being invalidated in court when the boundaries of permissible ESG disclosure are ambiguous, authorities should exercise caution. In this case, they are wholly entitled to maintain their silence, despite the fact that the ESG assertions are demonstrably inaccurate.

[16] Securities and Exchange Board of India, Circular on Business Responsibility and Sustainability Reporting (BRSR) by Listed Entities, SEBI/HO/CFD/CMD-2/P/CIR/2021/562 (10 May 2021).

Conclusion

The most critical structural change that India must implement is the requirement of ESG due diligence regulations. The CSDDD should be used as a paradigm for the updating of these statutes to reflect the current legal and developmental environment of India. All publicly traded companies, beginning with the 500 largest by market value, would be obligated to promptly identify, suspend, reduce, and report any human rights or environmental damages caused by their operations or relationships with their first-tier suppliers. It is essential that victims of research negligence be able to receive direct compensation under civil liability provisions of the law. It is also imperative to incorporate the essential procedures for dividing the burden of proof and to include provisions for civil society organizations to submit claims on behalf of injured individuals. Both businesses and regulators would benefit from a well-organized implementation schedule that begins with the largest publicly traded corporations and progressively expands.

Three substantial modifications should be implemented to the BRSR structure. To commence, SEBI must guarantee that critical metrics adhere to widely recognized standards, including the GHG Protocol and GRI Standards, and that they employ standardized ESG calculation methodologies that have been developed in collaboration with professional body. It is essential that we standardize our procedures in order to make accurate comparisons and legal determinations regarding the veracity of disclosure. In addition, the BRSR Core assurance that is necessary should gradually broaden from its current limited set of KPIs to encompass all significant ESG disclosures in the entire BRSR framework. The development of comprehensive ESG guarantee criteria within a specific time frame should be the responsibility of the Institute of Chartered Accountants of India. Thirdly, SEBI must ensure that businesses are transparent about the environmental, social, and governance (ESG) risks they are taking. This would result in the CSRD paradigm being identical to the disclosure policies of India.

Under the SEBI Act, 1992 and the PFUTP Regulations, SEBI should exercise its authority to establish a specific regulation against greenwashing. This regulation should be mandatory for all listed corporations and enterprises that are under the jurisdiction of SEBI. Indian investors should not be subjected to sustainability claims that are not accurate, ambiguous, or detrimental. The rule must delineate the definition of an unjust or deceptive environmental claim, the method by which SEBI would enforce compliance, and the consequences for rule violations. The rule is already endorsed by SEBI, which eliminates the necessity for new primary legislation. The most severe penalty that could be imposed for significant or frequent instances of greenwashing is the incapacity to access the capital market. Collectively, you are at risk of being prosecuted for providing misleading information in the mandated ESG reports under the Companies Act or the SEBI

LODR Regulations. To underscore this point, it is imperative to amend Section 245 of the Companies Act, 2013. It is only fair that the NCLT provide restitution to investors who have suffered financial losses as a consequence of their reliance on ESG statements that were discovered to be substantially false. In summary, these changes are intended to streamline the process of participating in environmental, social, and governance (ESG) class actions, offer a more comprehensive comprehension of the management of complex ESG claims that involve numerous plaintiffs, and enable prominent public interest organizations to apply as co-applicants in such cases. In order to underscore that directors may be sued by the company if they approve critical ESG disclosures without undertaking a thorough review, subsection (3) of the Companies Act, 2013 should be amended to replace section 166. This approach does not necessitate the application of the business judgment rule to determine the legal liability of directors.

Altering the letter of the law in the real world will not produce substantial results; therefore, it is imperative to establish more resilient institutions. Legal professionals with expertise in sustainable science, environmental evaluation, and supply chain analysis should supervise SEBI's ESG enforcement unit. This section should be implemented to request external technical evaluations of ESG disclosures. In order to resolve business disputes at its most critical periods, the NCLT should establish ESG-specific panels. The courts should receive the requisite assistance from a panel of experts in environmental, social, and governance law. SEBI, India's Ministry of Corporate Affairs, and the Bureau of Energy Efficiency should collaborate to establish regulations for ESG reporting. As demonstrated by the ESRS-creation consultative process, it is imperative that they implement a comparable strategy in India, which should consider the country's development objectives and sectoral composition.

The primary argument of this paper is that the current ESG regulatory framework in India, which encompasses the BRSR, the mandatory CSR under Section 135, the non-binding NGRBC, and associated LODR requirements, is disclosure-based and lacks the necessary legal weight to ensure that corporations genuinely fulfill their ESG obligations. In the event that a company fails to adhere to ESG criteria, shareholders have a variety of options for obtaining restitution. Conversely, these mechanisms are deficient in compensating investors who were misled by the company's sustainability claims, as they are complex, underutilized, and insufficient. It is clear that civil liability, well-funded enforcement agencies, unambiguous regulations against "greenwashing," and verified and standardized statements are essential for robust ESG accountability when comparing the systems in the EU and the UK.

These modifications surpass the conventional recommendations that are put forth in this investigation. They are based on the current legal and regulatory framework in India. A combination of new regulations for the system, financial investments from institutions, and targeted modifications to the legislation is required to address these issues.[17] Ioannou and Serafeim's research indicates that in terms of societal and environmental impact, mandatory ESG disclosure regimes are preferable to voluntary ones. India must promptly replace its current voluntary disclosure model with one that can enforce ESG disclosures in order to guarantee the protection of investors, the integrity of the capital market, and the fulfillment of sustainable development obligations.

[17] Ioannis Ioannou and George Serafeim, 'The Consequences of Mandatory Corporate Sustainability Reporting' (Harvard Business School Working Paper No. 11-100, 2017) 22.

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