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CORPORATE GOVERNANCE AND CORPORATE SOCIAL RESPONSIBILITY: BALANCING FIDUCIARY DUTIES AND SOCIAL OBLIGATIONS

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ABSTRACT

This article examines the relationship between corporate governance and corporate social responsibility, two fields that developed along separate intellectual and regulatory paths but that now intersect at nearly every level of corporate decision making. Drawing on agency theory and stakeholder theory, the article traces how governance, once concerned narrowly with the relationship between shareholders, boards, and management, has expanded to absorb obligations once treated as voluntary social responsibility commitments. It identifies four principal points of intersection: board oversight of sustainability strategy, integrated environmental, social, and governance disclosure, executive remuneration linked to non-financial performance, and the formalisation of stakeholder engagement as an auditable governance process. The article examines the continuing pull of shareholder primacy against stakeholder welfare, the mismatch between short-term governance incentives and the long gestation period of social investment, and the gap between disclosure and independent assurance that allowed governance failures at Volkswagen, Wells Fargo, and Boeing to coexist with elaborate public commitments to responsible conduct. Contrasting examples, including the Tata group's trust-based ownership structure and Patagonia's 2022 transfer of ownership to a purpose trust and an environmental nonprofit, illustrate how governance design can also be used affirmatively to entrench social commitment. The article surveys regulatory responses in India, where Section 135 of the Companies Act, 2013 mandates CSR spending, and the European Union, where the 2026 Omnibus reform narrowed sustainability reporting obligations on competitiveness grounds. It concludes that governance and responsibility cannot be fully reconciled through legal drafting alone, and proposes design choices, including *empowered CSR committees and stronger assurance standards, that manage rather than dissolve the tension between them.*

Keywords: *Corporate Governance; Corporate Social Responsibility; Stakeholder Theory; Shareholder Primacy; ESG Disclosure; Section 135, Companies Act 2013; Sustainability Reporting.*

I. INTRODUCTION

Corporate governance and corporate social responsibility are usually taught in different courses, written about in different journals, and regulated by different sets of rules, yet in practice the boardroom cannot keep them apart. A decision about executive pay is also a decision about fairness to workers. A decision about supply chain sourcing is also a decision about risk to shareholders. The modern company sits at the meeting point of these two logics, and this article is an attempt to map that meeting point honestly, without pretending that the two logics always agree with each other.

Corporate governance, in its classical formulation, is concerned with the relationship between shareholders, the board of directors, and management, and with the mechanisms, such as audit committees, independent directors, and disclosure norms, that keep that relationship honest.[1] Corporate social responsibility, by contrast, concerns the company's obligations to constituencies beyond its shareholders, including employees, consumers, local communities, and the environment. For much of the twentieth century, these two fields developed along separate tracks. Governance scholarship was preoccupied with agency costs and the separation of ownership from control, a concern traceable to Adolf Berle and Gardiner Means.[2] Social responsibility scholarship, meanwhile, drew on a more humanistic tradition concerned with the ethical limits of corporate power.

That separation has narrowed considerably in the last two decades. Institutional investors now treat environmental, social, and governance factors as a single analytical bundle. Stock exchanges require sustainability disclosures within the same annual report that carries financial statements and governance disclosures. Statutes such as Section 135 of the Indian Companies Act, 2013 place a social spending obligation directly inside a company law framework

[1] *See Report of the Committee on the Financial Aspects of Corporate Governance* ¶ 2.5 (Gee & Co. 1992) (defining corporate governance as "the system by which companies are directed and controlled").
[2] *See* Adolf A. Berle & Gardiner C. Means, *The Modern Corporation and Private Property* (1932).

otherwise devoted to governance matters such as board composition and shareholder rights.[3] The convergence is real but not seamless. Beneath the surface of integrated reporting and ESG ratings lies an old and unresolved argument about whom the corporation is actually for, one that resurfaced with force when Milton Friedman asserted in 1970 that a corporate executive's sole responsibility is to make as much money as possible for shareholders, subject only to the basic rules of the game.[4] That argument has never been fully settled, and this article does not claim to settle it either.

This article proceeds in three movements. It first sets out the conceptual architecture of governance and CSR as distinct fields, tracing their theoretical roots. It then identifies the principal points at which the two fields intersect in practice, including board oversight of sustainability, integrated disclosure, and stakeholder engagement structures. It turns next to the tensions that persist beneath this convergence, illustrated through episodes involving Volkswagen, Wells Fargo, and Boeing, set against the more encouraging examples of the Tata group and Patagonia. It closes by examining regulatory responses in India and the European Union, proposing a modest reconciliatory framework rather than a grand unifying theory, since the more honest conclusion is that governance and responsibility will always sit in some tension, and that the task of corporate law is to manage that tension rather than dissolve it.

II. CORPORATE GOVERNANCE: MEANING, THEORIES, AND EVOLUTION

The word governance derives from the Greek *kybernan*, to steer, and the central preoccupation of corporate governance scholarship has always been the question of who steers the company and on whose behalf. The OECD's Principles of Corporate Governance, revised most recently in 2023, describe governance as a set of relationships between a company's management, its board, its shareholders, and other stakeholders, providing the structure through which company objectives are set and performance monitored.[5] Even this definition, issued by a body traditionally associated with shareholder centred market economics, now explicitly acknowledges other stakeholders, a sign of how far the vocabulary of governance has shifted.

Two competing theories dominate the academic literature on corporate governance.

[3] Companies Act, No. 18 of 2013, § 135 (India).
[4] Milton Friedman, *A Friedman Doctrine: The Social Responsibility of Business Is to Increase Its Profits*, N.Y. Times, Sept. 13, 1970, § 6 (Magazine), at 32.
[5] Organisation for Economic Co-operation and Development, *G20/OECD Principles of Corporate Governance* 9 (2023).

1. The first, agency theory, treats the corporation as a nexus of contracts in which shareholders are principals and managers are agents, and in which governance mechanisms exist to reduce the costs that arise when agents pursue their own interests rather than those of the principals.[6] This 1976 article remains the touchstone for the view, and it underlies the shareholder primacy norm that continues to dominate corporate law across much of the common law world, where the board exists principally to monitor management on behalf of shareholders and governance quality is measured by board independence, pay alignment, and the strength of takeover markets.

2. The second theory, stakeholder theory, associated most prominently with R. Edward Freeman, rejects the idea that shareholders are the only constituency to whom the board owes attention.[7] On this account, the corporation is better understood as a web of relationships with employees, customers, suppliers, communities, and financiers, each contributing value to the firm and each bearing some risk from its conduct. Freeman's argument began as management theory rather than legal doctrine, but it has since migrated into company law itself. Section 172 of the UK Companies Act, 2006 requires directors to have regard to the interests of employees, the impact of operations on community and environment, and the desirability of maintaining a reputation for high standards of conduct, while still promoting the company's success for its members.[8] This compromise, often called enlightened shareholder value, keeps shareholders as the ultimate beneficiaries of the duty while widening the factors directors must consider along the way.

India's governance framework borrows from both traditions. The Companies Act, 2013 requires listed companies to appoint independent directors, constitute audit and nomination committees, and observe related party transaction norms that are recognisably agency theory tools.[9] At the same time, Section 166(2) requires a director to act in good faith to promote the objects of the company for the benefit of its members, and in the best interests of the company, its employees, the shareholders, the community, and the environment, language that reads as a direct transplant of stakeholder thinking into statute.[10] The Supreme Court has recently read this provision expansively. In a 2025 judgment on the conservation of the Great Indian Bustard,

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[6] Michael C. Jensen & William H. Meckling, *Theory of the Firm: Managerial Behavior, Agency Costs and Ownership Structure*, 3 J. Fin. Econ. 305, 308 (1976).
[7] R. Edward Freeman, *Strategic Management: A Stakeholder Approach* 46 (1984).
[8] Companies Act 2006, c. 46, § 172 (U.K.).
[9] Companies Act, No. 18 of 2013, §§ 149, 177, 188 (India).).
[10] Companies Act, No. 18 of 2013, § 166(2) (India).

the Court observed that Section 135 codifies the principle that corporate profit is partly owed to the society that enables its generation, and that Section 166(2) requires directors to act in the interests of the community and the environment as much as of members.[11] Governance, on this reading, is not merely a shareholder protection device but also a channel through which the wider social obligations of the company are given legal form.

III. CORPORATE SOCIAL RESPONSIBILITY: MEANING, THEORIES, AND EVOLUTION

Corporate social responsibility has proved harder to define than corporate governance, largely because it operates as much as a moral aspiration as a legal category. Howard Bowen's 1953 book is usually credited as the starting point of the modern discourse, asking what obligations businessmen were expected to assume toward society beyond the pursuit of profit.[12] Archie Carroll's later four part model divided corporate responsibility into economic, legal, ethical, and philanthropic layers, arranged as a pyramid with economic performance at the base and voluntary philanthropy at the apex.[13] The World Business Council for Sustainable Development describes it as the continuing commitment by business to behave ethically and contribute to economic development while improving the quality of life of the workforce, their families, and the local community.[14]

Two broad camps continue to argue about why companies should bear these obligations at all.

1. The instrumental camp, associated with Michael Porter and Mark Kramer, treats social responsibility as a route to competitive advantage, arguing that companies which address social problems connected to their core business create shared value for themselves and society simultaneously.[15]

2. The normative camp, by contrast, treats social responsibility as owed independently of whether it pays, resting the obligation on the ethical proposition that corporate power carries with it a duty to the communities and environments that the exercise of that power

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[11] *M.K. Ranjitsinh v. Union of India*, 2025 SCC OnLine SC 2899.
[12] Howard R. Bowen, *Social Responsibilities of the Businessman* (1953).
[13] Archie B. Carroll, *The Pyramid of Corporate Social Responsibility: Toward the Moral Management of Organizational Stakeholders*, 34 Bus. Horizons 39, 42 (1991).
[14] World Business Council for Sustainable Development, *Corporate Social Responsibility: Meeting Changing Expectations* 3 (2000).
[15] Michael E. Porter & Mark R. Kramer, Creating Shared Value, Harv. Bus. Rev., Jan.-Feb. 2011, at 62, 64.

affects. Friedman's essay remains the sharpest statement of the opposing, purely shareholder centred position, in which he argued that talk of social responsibility is fundamentally subversive because it spends other people's money for purposes the executive has not been authorised by anyone to pursue.[16] Friedman was careful to qualify his argument: the executive must still act within the rules of the game, meaning open and free competition without deception or fraud, a qualification often forgotten by those who invoke his name to justify indifference toward social harm.

India offers perhaps the world's boldest legislative answer to the debate that Friedman started. Section 135 of the Companies Act, 2013 requires every company meeting specified thresholds of net worth, turnover, or net profit to constitute a CSR committee of the board and to spend at least two per cent of its average net profits of the preceding three years on activities listed in Schedule VII, ranging from eradicating hunger and promoting education to protecting national heritage and specified relief funds.[17] India was the first major economy to convert what elsewhere remains voluntary conduct into an enforceable spending obligation, and the sums are not trivial: companies collectively spent more than thirty four thousand crore rupees on CSR in FY 2023-24 alone, according to figures placed before Parliament.[18] A Companies (Amendment) Bill introduced in the Rajya Sabha in December 2025 proposes to lower the applicability thresholds further and require at least one CSR committee member with demonstrated project experience, intended to prevent the committee from becoming a compliance formality rather than a genuine site of deliberation.[19]

Elsewhere the trend has been toward disclosure rather than spending mandates. The European Union's Corporate Sustainability Reporting Directive, as reshaped by the Omnibus I package adopted in February 2026, requires large undertakings above defined thresholds to report their environmental, social, and governance impacts using a double materiality standard capturing both the company's effect on the world and the world's effect on its finances.[20] The reform responded to industry complaints that the original 2022 directive imposed disproportionate burdens, illustrating a recurring theme of this article: the boundary between governance

[16] Friedman, *supra* note 4, at 33.
[17] Companies Act, No. 18 of 2013, § 135(1), (5) & sch. VII (India).
[18] Lok Sabha Unstarred Question No. 2501 (Aug. 4, 2025) (India).
[19] The Companies (Amendment) Bill, 2025, cl. 2 (introduced in Rajya Sabha, Dec. 5, 2025) (India).
[20] Directive (EU) 2026/470 of the European Parliament and of the Council of 24 February 2026 Amending Directives 2006/43/EC, 2013/34/EU, (EU) 2022/2464, and (EU) 2024/1760, 2026 O.J. (L).

obligation and social responsibility commitment is constantly renegotiated by political and economic pressure rather than settled once and for all.

IV. POINTS OF INTERSECTION

Despite their different intellectual histories, governance and social responsibility now intersect at several structural points inside the modern company.

A. Board Oversight of Sustainability

The most visible point of intersection is the board's growing role as the ultimate custodian of sustainability strategy. Where corporate social responsibility was once delegated to a communications or philanthropy department reporting several rungs below the chief executive, most large listed companies now assign a specific board committee, whether a dedicated sustainability committee or an expanded CSR committee, to oversee climate risk, supply chain conduct, and social impact. This shift is, in effect, a governance response to a social responsibility problem, since boards discovered that reputational and regulatory risks arising from environmental or labour failures could not be safely delegated away from the apex of decision making. Tata Consultancy Services and Infosys, India's two largest information technology companies by market capitalisation, both route sustainability oversight through board level committees rather than purely executive ones, an arrangement that treats social performance as a governance matter rather than a public relations exercise.[21]

B. Integrated and ESG Disclosure

The second intersection lies in disclosure regulation. SEBI's Business Responsibility and Sustainability Report, mandatory for the one thousand largest listed companies by market capitalisation from FY 2022-23, requires disclosure not only of environmental and social data but of governance structures, including board composition, related party transactions, and grievance redress mechanisms, within a single unified format.[22] The effect is to fuse governance and CSR reporting into one document read by the same audience of institutional investors, proxy advisors, and analysts, turning what were once two conversations into one, conducted through a shared disclosure architecture.

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[21] *See* Infosys Ltd., *Annual Report 2024–25*, Business Responsibility & Sustainability Report § A(6) (2025).

[22] Securities and Exchange Board of India, Circular No. SEBI/HO/CFD/CFD-SEC-2/P/CIR/2023/122 (July 12, 2023).

C. Executive Remuneration Linked to ESG Performance

A third and increasingly significant intersection is the practice of tying a portion of executive incentive pay to environmental, social, and governance metrics. Once this happens, social responsibility ceases to be an external constraint on managerial behaviour and becomes an internal governance lever, since remuneration committees are now asked to certify performance against emissions targets, diversity benchmarks, or safety records alongside the financial metrics that have traditionally dominated pay design. A growing number of large companies across the automobile, energy, and consumer goods sectors have adopted such structures in recent years, reflecting investor pressure channelled through proxy voting guidance from advisory firms such as ISS and Glass Lewis.

D. Stakeholder Engagement as a Governance Process

Finally, stakeholder engagement itself, historically treated as a CSR function concerned with community relations, has been absorbed into governance through mechanisms such as mandatory consultation in environmental clearance processes, whistle-blower policies overseen by audit committees, and grievance redress systems that report to the board. What began as an ethical commitment to listen to affected communities has become, in many jurisdictions, a documented governance process subject to audit. Implementing agencies under the Indian CSR regime must register with the Ministry of Corporate Affairs and file periodic disclosure returns, converting what used to be informal corporate charity into a governed, auditable process.[23]

Taken together, these intersections show that CSR has not remained an activity performed alongside governance. It has been absorbed into governance's own vocabulary of committees, disclosures, incentives, and audits, a broadly healthy development that subjects social commitments to the same discipline of accountability governance has long applied to financial stewardship. But absorption is not the same as harmony, and the following section turns to the frictions this process has produced.

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[23] Companies (Corporate Social Responsibility Policy) Rules, 2014, r. 4 (India), as amended by the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021 (requiring registration of implementing agencies through Form CSR-1).

V. TENSIONS AND FAULT LINES

A. Shareholder Primacy versus Stakeholder Welfare

The oldest tension is also the most persistent. Corporate law in most common law jurisdictions still directs the board to act in the interests of the company, a phrase courts have generally construed as meaning the interests of shareholders as a body, present and future.[24] Even where statutes such as Section 172 of the UK Companies Act or Section 166(2) of the Indian Companies Act require directors to have regard to employees, communities, and the environment, that regard is instrumental to the ultimate objective of promoting the company's success for its members, not independent of it. Directors who prioritise stakeholder welfare in ways that demonstrably reduce shareholder returns, without any plausible link to long term success, risk exposure to derivative claims in theory, even if such claims remain rare in practice given judicial reluctance to second guess good faith business judgment. This shapes what a board can safely do without inviting litigation, and explains why many CSR initiatives are framed as risk management and long-term value rather than pure altruism.

B. Short Termism and the Investment Horizon Problem

Governance mechanisms built around quarterly reporting cycles, short vesting periods for executive equity, and activist investors seeking near term returns create pressure that cuts against the naturally long gestation period of most social and environmental investments, whether in decarbonisation, workforce retraining, or community development. BP's Deepwater Horizon disaster in April 2010, which killed eleven workers and caused the largest marine oil spill in United States history, is frequently cited as an example of governance incentives tuned to short term cost control and drilling speed colliding with the company's own stated safety commitments.[25] The subsequent costs to BP, estimated at over sixty billion dollars in cleanup, fines, and settlements, show that short termism is not merely an ethical failing but frequently a governance failure with severe long run financial consequences.

C. Disclosure Without Assurance: The Greenwashing Problem

A third tension arises from the gap between disclosure and verification. Sustainability reports are typically prepared by management and reviewed by the board, but the assurance standards

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[24] *See, e.g., Dodge v. Ford Motor Co.*, 170 N.W. 668, 684 (Mich. 1919).

[25] *See* Nat'l Comm'n on the BP Deepwater Horizon Oil Spill & Offshore Drilling, *Deep Water: The Gulf Oil Disaster and the Future of Offshore Drilling* 122–27 (2011).

applied to them remain considerably weaker than those applied to financial statements. Volkswagen's emissions scandal, disclosed in September 2015, is a stark illustration.[26] The company had for years marketed its diesel vehicles as clean and published sustainability reports emphasising environmental responsibility, while installing software designed to cheat regulatory emissions tests in eleven million vehicles worldwide. The scandal ultimately cost the company more than thirty billion dollars in fines, buybacks, and civil settlements, and exposed that the company's own supervisory board had either failed to detect or failed to stop conduct that directly contradicted its public responsibility claims.[27] Wells Fargo's fake accounts scandal follows a similar pattern in a different sector. The bank cultivated an image of community banking values while its internal sales culture pressured employees to open millions of unauthorised accounts, conduct that regulators found bank leadership knew of as early as 2002 and did not stop until 2016, resulting in a three billion dollar settlement with the Department of Justice and the SEC in February 2020.[28] In both cases, elaborate CSR communications coexisted with governance failures that made the underlying misconduct possible, a reminder that such messaging can sometimes camouflage governance weakness rather than evidence its strength.

D. The Cost and Capacity Problem for Smaller Companies

A further and less dramatic tension concerns proportionality. Mandatory CSR spending and disclosure regimes are typically designed with large companies in mind, yet thresholds inevitably capture mid-sized companies that lack the governance infrastructure, compliance staff, or spare capital to meet these obligations without strain. India's proposed 2025 amendment, which would lower the net worth threshold triggering CSR obligations to one hundred crore rupees, has already drawn criticism on this ground, with commentators warning that thousands of mid-sized companies will be brought within the CSR net without a corresponding rise in the administrative support needed to comply meaningfully rather than mechanically.[29] The European Union's Omnibus reform, which raised CSRD thresholds to

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[26] Jack Ewing, *Volkswagen Says 11 Million Cars Worldwide Are Affected in Diesel Deception*, N.Y. Times, Sept. 22, 2015.
[27] *See* Jack Ewing, *Faster, Higher, Farther: The Volkswagen Scandal* 214–19 (2017).
[28] Press Release, U.S. Dep't of Justice, *Wells Fargo Agrees to Pay $3 Billion to Resolve Criminal and Civil Investigations into Sales Practices Involving the Opening of Millions of Accounts Without Customer Authorization* (Feb. 21, 2020).
[29] The Companies (Amendment) Bill, 2025, cl. 2 (introduced in Rajya Sabha, Dec. 5, 2025) (India); Acuity Law, *India's CSR Regime Set to Expand: Key Proposals Under the Companies (Amendment) Bill, 2025* (2025).

relieve smaller reporting entities, reflects that earlier thresholds had been calibrated without sufficient regard to this same problem.[30]

E. Regulatory Fragmentation Across Jurisdictions

Finally, multinational companies face divergent CSR and governance expectations across jurisdictions. A company operating in India, the European Union, and the United States must simultaneously satisfy a mandatory spending obligation, a detailed reporting standard undergoing active simplification, and a lighter, disclosure-based regime shaped more by state than federal rules. Boards overseeing compliance across these regimes face genuine difficulty deciding which standard should set the floor for group wide policy, and the risk of costly over compliance or embarrassing under compliance in any one jurisdiction is real.

VI. ILLUSTRATIONS FROM THE CORPORATE WORLD

The preceding section already drew on Volkswagen and Wells Fargo as illustrations of tension. It is worth pausing on two further examples, one Indian and one American, that illustrate the more constructive side of the relationship, before returning to a case that combines both dimensions.

Tata Group, one of India's oldest and most diversified business houses, has long presented its CSR commitments as inseparable from its governance identity rather than as an addition to it. A substantial proportion of the ordinary shares of Tata Sons, the group's principal holding company, is held by Tata Trusts, philanthropic entities that channel dividend income into education, healthcare, and rural development.[31] This means the group's shareholding pattern is itself the mechanism through which social responsibility is funded, rather than CSR being a separate budget line negotiated each year. The arrangement is not without its own governance controversies, including the protracted dispute between Tata Sons and its former chairman Cyrus Mistry between 2016 and 2021, which raised searching questions about the balance of power between trustee dominated boards and professional management.[32] But the underlying

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[30] Press Release, Council of the European Union, *Council Signs Off Simplification of Sustainability Reporting and Due Diligence Requirements to Boost EU Competitiveness* (Feb. 24, 2026); Directive (EU) 2026/470 of the European Parliament and of the Council of 24 February 2026 Amending Directives 2006/43/EC, 2013/34/EU, (EU) 2022/2464, and (EU) 2024/1760, 2026 O.J. (L).

[31] *See* Tata Sons Private Limited, *Articles of Association* art. 4 (2021 restatement); Tata Trusts, *Annual Report 2023–24*, at 6–8.

[32] *See Tata Sons Ltd. v. Cyrus Investments Pvt. Ltd.*, (2021) 11 SCC 1.

point remains instructive. When responsibility is embedded in ownership itself, it becomes harder to treat as optional or reversible than when it depends on annual board discretion.

Patagonia's ownership restructuring in September 2022 offers an American parallel, achieved through different legal means. Founder Yvon Chouinard and his family transferred all of the company's voting stock, two per cent of total equity, to the newly created Patagonia Purpose Trust, and the remaining ninety eight per cent of non-voting stock to the Holdfast Collective, a nonprofit dedicated to fighting the environmental crisis.[33] Profits not reinvested in the business are now distributed annually, in amounts the company projected at roughly one hundred million dollars, to environmental causes rather than private shareholders. Commentators have noted that the structure also allowed the Chouinard family to avoid several hundred million dollars in taxes a conventional sale would have triggered, a reminder that even celebrated instances of purpose driven governance carry financial calculations alongside ethical ones.[34] Whatever the mixture of motives, the example shows that governance design, here the allocation of voting and economic rights through a trust, can be used affirmatively to entrench social purpose rather than merely regulate it after the fact.

Boeing's conduct surrounding the 737 MAX resists easy classification into either the harmonious or the conflictual camp. The company had long cultivated a public reputation for engineering excellence and safety leadership, values reiterated in its own governance disclosures. Internal governance failures, including a decision making structure that gave commercial production schedules greater weight than engineering concerns raised about a flight control system later implicated in two fatal crashes in 2018 and 2019, revealed a gap between the company's stated values and its internal reality.[35] The episode, like Volkswagen and Wells Fargo before it, illustrates a pattern this article treats as central: the gap between responsibility rhetoric and governance substance tends to widen where growth pressures are most intense and board oversight of operational risk is weakest, regardless of sector.

[33] Patagonia Works, *Patagonia's Next Chapter: Earth Is Now Our Only Shareholder* (Sept. 14, 2022).
[34] *Patagonia Works, supra* note 33; David Gelles, *Billionaire No More: Patagonia Founder Gives Away the Company*, N.Y. Times, Sept. 14, 2022.
[35] H.R. Comm. on Transp. & Infrastructure, 116th Cong., *The Boeing 737 MAX Aircraft: Costs, Consequences, and Lessons from Its Design, Development, and Certification* 6–11 (Comm. Print 2020).

VII. REGULATORY RESPONSES: INDIA, THE EUROPEAN UNION, AND BEYOND

Regulators in different jurisdictions have responded to the governance and CSR intersection with markedly different instruments, and comparing them helps to clarify the underlying policy choices available.

India's approach, anchored in Section 135, is unusual in mandating actual expenditure rather than mere disclosure. It has been supplemented by SEBI's Business Responsibility and Sustainability Report, which since FY 2022-23 has required the top one thousand listed companies by market capitalisation to disclose performance against nine principles of responsible business conduct, covering governance, environmental stewardship, human rights, and consumer protection in a single standardised format.[36] A narrower subset of quantifiable metrics, the BRSR Core, comprising forty nine key performance indicators, is being phased in with mandatory third party assurance, beginning with India's largest companies and expanding progressively.[37] The pending Companies (Amendment) Bill, 2025 would widen the CSR net further while professionalising the CSR committee, a dual move toward broader coverage and better governed implementation.

The European Union has taken the opposite trajectory over the past year, expanding its ambitions in 2022 through the original CSRD, only to retreat substantially through the Omnibus I package finalised in February 2026. The reform raised the CSRD's applicability threshold to companies with more than one thousand employees and turnover above four hundred and fifty million euros, narrowed the parallel Corporate Sustainability Due Diligence Directive to companies above five thousand employees and one and a half billion euros in turnover, and instructed EFRAG to shorten the underlying reporting standards markedly.[38] The retreat was justified on competitiveness grounds, following reports by Enrico Letta and Mario Draghi warning that regulatory burden was undermining European industry relative to international rivals.[39] The European experience corrects any assumption that convergence

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[36] Securities and Exchange Board of India, *Master Circular for Compliance with the Business Responsibility and Sustainability Reporting Requirements* (2023).

[37] Securities and Exchange Board of India, Circular No. SEBI/HO/CFD/CFD-SEC-2/P/CIR/2023/122, annex II (July 12, 2023).

[38] Directive (EU) 2026/470, *supra* note 20; European Commission, *Commission Simplifies Rules on Sustainability and EU Investments, Delivering Over EUR 6 Billion in Administrative Relief* (2026).

[39] Mario Draghi, *The Future of European Competitiveness* (European Commission 2024); Enrico Letta, *Much More Than a Market* (European Council 2024).

between governance and CSR obligations moves only toward integration. It can just as easily move toward disentanglement once the costs of integration are judged too high.

The United States continues to rely primarily on disclosure through federal securities law and on state corporate law's residual business judgment protection for boards that consider stakeholder interests, without any federal equivalent of India's spending mandate or the European Union's harmonised standard. This produces a patchwork in which individual states, California prominent among them, and public pension funds acting through shareholder proposals, drive much of the practical pressure on companies to integrate CSR into governance, in the absence of a comprehensive federal framework.

VIII. TOWARDS A RECONCILIATORY FRAMEWORK

1. The preceding analysis suggests that governance and CSR cannot be fully reconciled through legal drafting alone, because the tension between them ultimately reflects unresolved disagreement about the proper purpose of the corporation itself. Even so, several modest institutional design choices can reduce friction without pretending to eliminate it.

2. First, CSR committees should be given genuine decision-making weight rather than symbolic status. India's proposed requirement of at least one experienced director on the CSR committee is a step in the right direction, but committees also need adequate information flow from operations, a defined escalation path to the full board, and a mandate that extends beyond approving an annual spending plan to actively monitoring outcomes.

3. Second, assurance standards for sustainability disclosures should move closer to the rigour long applied to financial statements. The gap between what a company claims in its sustainability report and what an independent assessor can verify was central to both the Volkswagen and Wells Fargo episodes discussed above, and extending third party assurance requirements, as SEBI has begun to do through the BRSR Core framework, is a direct institutional response to that gap.

4. Third, executive remuneration structures that incorporate ESG metrics should be designed with the same care against manipulation that has historically been applied to financial performance metrics, since a poorly calibrated ESG bonus target is as capable of producing box ticking behaviour as a poorly calibrated financial one.

5. Fourth, regulators should resist the temptation to treat thresholds as permanently fixed. Both the Indian and European experiences over the past year show thresholds being actively recalibrated in response to real world feedback about compliance capacity, and building periodic review into these statutes from the outset, rather than leaving recalibration to ad hoc amendment, would likely produce more stable and credible regimes over time.

6. Finally, and perhaps most importantly, boards should be candid, internally and in public disclosure, about the trade-offs their social responsibility commitments actually involve, rather than presenting every initiative as costlessly aligned with shareholder value. Some social investments genuinely do serve long term shareholder interests. Others are made because the board judges them right despite an uncertain or even negative effect on near term returns. Conflating the two categories, as much corporate communication still does, does a disservice to investors, to the communities that CSR programmes are meant to serve, and ultimately to the credibility of the CSR project itself.

IX. CONCLUSION

Corporate governance and corporate social responsibility began as separate conversations, one about the internal accountability of managers to owners, the other about the external accountability of companies to society. Over the past three decades they have moved into the same room, sharing committees, disclosure formats, and increasingly, executive incentive structures. This convergence has been broadly beneficial. It has subjected social commitments to a discipline of accountability that pure voluntarism never achieved, and it has forced governance structures to reckon with risks, environmental, social, and reputational, that a narrowly financial conception of the board's role would have missed entirely.

But convergence is not the same as agreement, and this article has tried to show that beneath the shared vocabulary of ESG and integrated reporting, an old argument about the purpose of the corporation continues unresolved. Shareholder primacy and stakeholder welfare still pull in different directions when the numbers are tight. Short term governance incentives still collide with the long gestation periods that genuine social and environmental investment requires. Disclosure still outruns assurance, creating room for the kind of gap between claim and conduct that Volkswagen, Wells Fargo, and Boeing each exposed in their own way, while Tata Trusts and Patagonia's purpose trust show that governance structures can, when deliberately designed, entrench rather than merely regulate social commitment.

The honest conclusion is that this tension is unlikely to disappear, and perhaps should not be expected to. A theory of the corporation that treated governance and CSR as always perfectly aligned would struggle to explain why scandals of the Volkswagen kind keep recurring despite decades of sustainability reporting. The more useful ambition, and the one this article has argued for, is a legal and institutional architecture that manages the tension openly: committees with real authority, disclosure backed by assurance, incentive structures resistant to manipulation, and thresholds that are periodically revisited rather than fixed at the moment of enactment. Reconciling governance and responsibility completely may not be possible. Managing the space between them honestly is, and that, in the end, is the more achievable and the more valuable goal.