

## From Environmental Compliance to Health Protection: Corporate Responsibility and ESG Regulation

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### Abstract

The present era, which is characterised by accelerating climate change, rapid industrial expansion, and increasing public health vulnerabilities, has fundamentally altered the relationship between environmental regulation and health protection. In recent times, corporate activities have generated complex risks that affect not only ecological well-being but also human health, societal welfare, and intergenerational equity. In this context, the traditional approach to environmental compliance which primarily focuses on the pollution control and regulatory adherence has proved to be increasingly inadequate. To meet this criteria, it requires a structured integrated approach for corporate responsibility and environmental regulation through Environmental, Social, and Governance (ESG) regulation.

This study seeks to examine the shift from a traditional focus on environmental compliance to a broader approach that integrates environmental governance and health protection within corporate governance. It is being scholarly documented that ESG regulation is now emerging as a source of legal regulation, which includes environmental regulation and health protection.

At the international levels, the paper outlines some of the most relevant instruments, such as the OECD Guidelines for Multinational Enterprises, the UN Guiding Principles on Business and Human Rights, ILO standards, and the European Union's ESG disclosure and due diligence standards. Moreover, the study also compares best practices across different jurisdictions, with particular emphasis on the integration of ESG principles into corporate, securities, and environmental governance, especially in addressing health risks arising from climate change and toxic substances.

The judicial perspectives and the role is also analysed, mainly emphasising on the application of constitutional environmental rights, different doctrines such as polluter pays etc., and health-based adjudication in the expansion of corporate obligations. Lastly, the article ends with a series of recommendations for the greater inclusion of environmental and health considerations in ESG standards, the role of the judiciary, and the harmonization of international standards.

**Keywords-** Compliance, ESG Standards, Corporate Social Responsibility, Accountability, Public Health

### 1. Introduction

Environmental crisis is an issue that is not only discussed at the international conferences or summits but presently, it is being discussed and adjudicated by the courts. This crucial issue is being addressed without any jurisdictional boundaries. This issue is escalating day by day, which has a devastating impact on public health. There is diverse plethora of reasons for environmental degradation such as different types of pollutant discharge, and the actions of corporations, non-implementation of policies etc., has become the main reason for the degradation of public health and the environment. Because of this, an immediate action in the private and public sectors has become the need of the day. The paper aims at outlining this change from a compliance-based approaches to more responsible and sustainable approaches of corporate social responsibility, i.e., self-regulating business models in which companies consider their social, environmental, and ethical concerns for the betterment of society. In India,

Corporate environmental liability is an emerging area of concern, which reflects the increasing awareness of environmental impacts of industrial activities and balancing the development and sustainability. India is facing many challenges in balancing economic growth and environmental sustainability in the wake of fast economic growth and development. This paper aims at discussing the ESG regulations, which aims at reshaping corporate responsibility in the twenty-first century, including environmental concerns and public/occupational health concerns.

Another aspect of this paper is the search for international framework and national practice which includes ESG principles in corporate, securities, and environmental laws. Additionally, the role of the Indian judiciary in expanding corporate responsibility is discussed in great detail. Lastly, the paper suggests strong recommendations for the alignment of environmental and health concerns with ESG principles, the enhancement of the role of the judiciary, and the harmonization of international standards for effective and responsible corporate conduct.

## **2. Literature Review:**

The existing academic discourse on ESG regulation in India highlights a shift from a traditional environmental compliance framework to market-disclosure-based mechanisms. Earlier discourse was mainly focused on statutory compliance, such as the Environment (Protection) Act, 1986, and broadly emphasized command-and-control regulatory mechanisms. However, contemporary literature addresses the growing prominence of ESG regulations in corporate governance and environmental accountability.

A major development in this direction is the introduction of the Business Responsibility and Sustainability Reporting (BRSR) framework<sup>1</sup> by the Securities and Exchange Board of India (SEBI).<sup>2</sup> The current studies present a transition from voluntary disclosure mechanisms to mandatory annual ESG reporting by large corporate entities. The BRSR requires companies to provide principle-based disclosures on sustainability, including measures for environmental protection and restoration. It also aligns domestic reporting with international sustainability commitments, thereby supporting a more transparent and investor-centric market in India.

Despite these advancements, the experts also identifies certain limitations and tries to examine the effectiveness of ESG disclosures. Several scholars recognize the value of standardized reporting for aligning with sustainability standards and supporting informed investment decisions. However, a common criticism is that ESG compliance is increasingly turning into a tick-box exercise, where companies focus on formal disclosures rather than implementing meaningful environmental protection measures. Undoubtedly, the regulatory frameworks have significantly enhanced accountability and transparency in the system, despite these benefits, there are certain practical challenges which has been identified in the process, such as compliance costs, inconsistent rating methodologies, and a lack of uniform benchmarks for genuine environmental outcomes.

## **3. Methodology:**

The paper adopts a multi-dimensional approach by incorporating doctrinal and quantitative research techniques to evaluate the ESG mechanisms in environmental regulation and health protection. The research includes both primary and secondary sources, including statutory provisions, regulatory frameworks, judicial decisions, policy documents, and scholarly literature from journals and specialized articles.

The sample of analysis includes the following:

- Statutory provisions from the Companies Act, 2013, and environment statutes
- Business Responsibility and Sustainability Reporting (BRSR) framework by SEBI
- Data from the reports released by several organisations
- International standards such as UN Guiding Principles, OECD Guidelines, ILO Conventions, and EU directives
- Different corporate case studies to illustrate ESG implementation in India

The study adopts a thematic and comparative analytical method to categorise the data and evaluate the ESG frameworks in India against international practices. Interpretative analysis is employed to assess the current regulations and identify the gaps to measure the effectiveness of ESG mechanisms in addressing the environmental concerns.

#### **4. Results**

The findings of the study demonstrate enhanced corporate transparency by mandating disclosures on environmental indicators in BRSR, such as air emissions, energy consumption, waste management, and EIA compliance.<sup>82</sup>

The “India ESG Outlook Report” identifies three critical findings that the Scope 3 emissions remain a major unaddressed challenge in the heavy industries, while the sectors like Power and Oil & Gas remain completely dependent on fossil fuels for their operations. Further, the IT and Finance sectors show heavy reliance on the groundwater and the issue of waste management in the heavy industries. These sector-specific disparities display long-term sustainability risks.<sup>83</sup>

The corporate case studies highlight the voluntariness of businesses to undertake ESG initiatives such as decarbonization, afforestation drives, community engagement, sanitation facilities, and the use of efficient sources of energy to contribute to improved public health.

Additionally, the judiciary has played a pivotal role in strengthening ESG enforcement by expanding the scope of the fundamental right to a clean and healthy environment under Article 21 of the Indian Constitution, holding corporate entities accountable and preventing greenwashing.

#### **5. Discussion**

##### **The Historical Trajectory of CSR: From Philanthropy to Mandatory Compliance**

As per the United Nations Industrial Organization (UNIDO), Corporate Social Responsibility is a management concept where companies try to integrate social and environmental concerns in their business operations and interactions with other stakeholders. CSR is generally interpreted as the way through which a company achieves a balance of economic, environmental, and social imperatives (“Triple-Bottom-Line-Approach”), while at the same time addresses the expectations of shareholders and stakeholders.<sup>3</sup>

Corporate social responsibility (CSR) is the concept used to describe a company's responsibility towards the community and environment (both ecological and social) in which it operates.<sup>4</sup> This responsibility can be fulfilled by reducing waste and pollution, supporting social and charitable initiatives, and taking steps that contribute positively to society and the environment. The term "social responsibility" describes an organization's selfless efforts for the society's environment. The underlying moral principle is that since businesses use society's resources, they need to return back some of those resources to society, but CSR is not same as charity or donations. According to Peter Drucker, "Corporate Social responsibility needs executives to believe to what extent their deeds are likely to endorse the community excellence, to promote the basic faith of the general public, to add to its stability, potency, and harmony."<sup>6,7</sup>

The concept of CSR has profoundly evolved in India from voluntary stewardship to a fundamental pillar of corporate governance and ethics. Historically, Indian businesses were engaged in social contributions through their philanthropic endeavors rooted in the Gandhian model of Trusteeship, providing charity voluntarily on a moral basis rather than on a statutory obligation. The underlying philosophy was established on the idea that asset holders are the trustees of social wealth and have an obligation to foster sustainable social progress, especially for the upliftment of weaker and vulnerable communities. However, in modern times, the traditional notion of charity has transitioned into mandatory legal compliance under the Companies Act, marking a paradigm shift in which CSR has emerged as one of the key strategies to make corporate stakeholders the catalysts of inclusive societal development in India. After the advent of Liberalization, Privatization, and Globalization (LPG) Reforms, the

Indian economy was exposed to the overseas market, that resulted in boosting our economy, and therefore, the primary aim of the government was to expand the budget for public growth. This led to the dynamic shift where the companies gained huge profits and began to contribute to the social causes, building a relationship between the public and them.

The Indian lawmakers brought a substantial transformation by incorporating Section 135 in the Companies Act, 2013,<sup>8</sup> where it is mandatory for companies that meet specific financial thresholds: a net worth of Rs. 500 crore or more, turnover of Rs. 1,000 crore or more, or net profit of Rs. 5 crore or more in the preceding financial year, to spend at least 2% of their average net profits from the last 3 years to CSR activities in areas such as education, healthcare, eradicating poverty, and environmental sustainability as outlined in schedule VII of the Act.<sup>9</sup> This CSR spending framework was progressively strengthened by amendments that addressed lacunas and introduced a stricter compliance model for the effective implementation of robust governance. Interestingly, India was the first nation to incorporate CSR as a mandatory part of its dynamic corporate governance, aligning it with the goals of our socialist ideals. By adopting a stakeholder-centric approach, companies mitigate regulatory scrutiny by aligning their governing objectives and accountability with the larger societal interests. The components of CSR include the following parameters:

- **Environmental initiatives:** these initiatives are meant to support environmental causes and forming partnerships with conservation organizations to contribute to environmental sustainability programs, such as reducing carbon emissions, etc.<sup>10</sup>
- **Social initiatives:** The social initiatives, the companies try to assess and take responsibility for its impact on the environment at large. For instance, community development schemes, employee volunteer efforts, or charities for local communities, etc.<sup>11</sup>
- **Economic Initiatives:** The major focus of CSR is social and environmental initiatives, but financial initiatives are equally important such as community involvement, ethical business practices, and promoting environmental sustainability, like buying from local suppliers, etc.<sup>12</sup>

➤ **A Governance Paradigm Shift from CSR to ESG**

While CSR is the cornerstone of corporate governance, the narrative is transitioning to a broader compliance of ESG- a more holistic assessment framework to analyze a company's environmental, social, and governance practices through measurable metrics.<sup>13</sup> Environmental, Social, and Governance (ESG) compliance represents a structured framework that guides companies in adopting sustainable practices aimed at creating lasting ethical and environmental impact. Its modern articulation as a unified concept emerged in the United Nations' 2004 report *Who Cares Wins*,<sup>14</sup> which emphasized that ESG considerations are integral to long-term financial performance and risk management rather than mere peripheral concerns. Reinforced by later developments like the Sustainable Development Goals, 2015, and the Paris Agreement, 2016, today, countries worldwide have introduced ESG regulatory frameworks, compliance mechanisms, and reporting standards, each shaped by their unique economic, social, and political contexts.<sup>15</sup>

➤ **Timeline of Evolution of ESG Goals in India**

**Legalizing ESG—Statutory and Quasi-Regulatory Frameworks**



There is a detailed skeleton in India that enshrines various provisions to ensure compliance with ESG regulations. These legislations are-

**[A] Companies Act of 2013:**

[i] It is a keystone legislation which binds the companies with net worth of 500 Crore or more or with turnover of 1000 Crore or more to distribute a certain amount of their profits in the direction of social and environmental concerns. By this, it ensures corporate social responsibility [CSR], the conformity with which is a pivotal component of ESG regulations in India. Section 135 of the Act obliges companies falling within specific financial thresholds to allocate at least 2 per cent of their average previous three-year net profit to socially beneficial causes, including environmental sustainability, gender equality, education, and rural development<sup>8</sup>.

[ii] **Section 134(3)** of the Companies Act, 2013- Mandatory disclosure requisites:

As per Section 134(3)(m) of the Act, companies are bound to incorporate in the Board's report, a detailed description of their measures for energy conservation, the performance of their operations in terms of environment and the strategies they are using in managing risks in the report of the board. This requisite in turn points towards ESG transparency by requiring substantial narrative disclosures on sustainability, energy efficiency, and environmental protection.<sup>22</sup>

[iii] **Section 166** of the Companies Act –

It places a responsibility on the director of the company to ensure that all acts are performed in good faith for promoting the objectives of the company in the direction of benefits for all of its members as a whole, and for the benefit of the company, shareholders, employees, the community, and for protecting the environment.<sup>23</sup>

[iv] **Section 149** of the Companies Act read with Rule 3 of the Companies [Appointment and Qualifications of Directors] Rules, 2014 mandates to have woman directors for certain categories of companies.<sup>24</sup>

**[B] BRSR Structure of SEBI:**

[i] The SEBI is the key driver behind the establishment of ESG disclosure norms. The implementation of Business Responsibility Reports (BRR) in 2012 was the first major step in this direction and then it moved in 2021 to the Business Responsibility and Sustainability Reports (BRSR) framework.<sup>25</sup> The launch of the BRSR Core in 2023

has made ESG data reporting even more firm by mandating the use of quantitative measures in areas like greenhouse gas (GHG) emissions, water consumption, waste handling, equal pay for men and women, and safety in the workplace and all these are required to be supported by third-party verification. This has led to enhancement in revealing of compliance with EGS standards. It makes it necessary for the top 1000 listed companies [by market capitalization] to submit detailed report regarding the key ESG guidelines.<sup>26</sup> It tends to cover fields like-

**Environmental Impact-** It implies disclosure by the companies of their actions on waste management, climate change, energy usage, etc.

**Social Responsibility-** This means reporting on measures like welfare of the employees, engagement of stakeholders and community development

**Standards of Governance-** It analyses corporate governance practices such as transparency, accountability, and business ethics.

BRSR takes into consideration 9 key principles which are GHG footprint, energy footprint, water footprint, embracing circularity- details related to waste management by the entity, enhancing employee well-being and safety, enabling gender diversity in business, enabling inclusive development, fairness in engaging with customers and suppliers and openness of business.<sup>27</sup>

#### **[ii] BRSR CORE [2023 and 2025]**

From FY 2023-24, the top 150 listed entities are required to give "reasonable assurance" (third-party verification) of key performance indicators (KPIs), such as GHG emissions, water consumption, and workforce safety and for FY 2025-26, SEBI has introduced value chain ESG disclosures for the top 250 companies.<sup>28</sup>

#### **[C] Environmental Legislations:**

[i] Environment [Protection] Act, 1986<sup>29</sup> leads to the various regulations and rules in fields such as e-waste management, disposal and handling of bio- medical waste, construction and demolition waste, hazardous chemicals and waste, plastic waste, batteries, and rules regarding environmental impact assessment of industries. Furthermore, the Water (Prevention and Control of Pollution) Act, 1974<sup>30</sup> and Air (Prevention and Control of Pollution) Act, 1981<sup>31</sup>, casts duty on the companies for obtaining consent and to prevent, control, and abate pollution of air and water of Pollution) Act, 1981, imposes obligations on companies for prevention, control, and abatement of water and air pollution. Moreover, the Wildlife (Protection) Act, 1972<sup>32</sup>, the Forest (Conservation) Act, 1980<sup>33</sup> and the Biological Diversity Act, 2002<sup>34</sup> attempt to secure that there is no interference by the companies with the natural ecosystems in the areas of their operations.

#### **[ii] Environmental permits**

India operates an integrated permit system, with a combined application process for a Consent to Establish (CTE) and subsequent Consent to Operate (CTO) under the Water Act and Air Act. Therefore, Companies may need multiple permits based on their activities. Also, The Ministry of Environment, Forests and Climate Change categorizes industries into red, orange, green, or white, each assigned a pollution index score.

#### **[D] Labour Laws:**

[i] Factories Act, 1948<sup>35</sup> and state specific shops and establishment acts synchronize working conditions and terms of employment of certain categories of workmen/employees.

[ii] Payment of Wages Act, 1936<sup>36</sup>, Minimum Wages Act, 1948<sup>37</sup> and Equal Remuneration Act, 1976<sup>38</sup>, entitles fair and equitable pay. Moreover, Contract Labour (Regulation and Abolition) Act, 1970<sup>39</sup> and Child and Adolescent Labour (Prohibition and Regulation) Act, 1986<sup>40</sup> manage employment of contract labor and bans child labour in India, respectively.

[iii] Employees State Insurance Act, 1948<sup>41</sup>, Employees Provident Fund and Miscellaneous Provision Act, 1952<sup>42</sup>, Payment of Gratuity Act, 1972<sup>43</sup> and Maternity Benefit Act, 1961<sup>44</sup>

are other social security legislations commenced for the benefit of workforce and for their overall well-being.

### **Integration of Environment and Health Protection into ESG: Reshaping Corporate Accountability in the Era of Climate Risks in India**

"The **India ESG Outlook Report: Unveiling Environmental, Social, and Governance Frontiers** is the second edition of a comprehensive study that evaluates the ESG performance of leading companies in India. It offers deeper insights into corporate sustainability efforts and transparency, showing how businesses are responding to ESG challenges. The report also seeks to encourage greater accountability and promote stronger ESG practices across different industries in the country.<sup>45</sup> The three key findings from the report that highlight the current scenario in the Indian corporate sector in reference to the environment are:

- **Scope 3 Carbon Emissions as the critical challenge:** The indirect emissions across the value chain, including transportation and supply chain (scope 3), dominate across industries in carbon emissions. While operational emissions from company-owned or controlled sources (scope 1) and indirect emissions from purchased energy like electricity, steam, or heat (scope 2) are declining due to the adoption of renewable sources, scope 3 remains largely unaddressed, especially in heavy industries and financial services.<sup>46</sup>
- **Heavy Fossil Fuel Dependency:** There is persistent fuel dependence in most of the sectors, with Power and Oil & Gas are 100% dependent on them. The Fast-Moving Consumer Goods lead the transition with a balanced 50:50 fossil-renewable energy mix, while sectors such as Automobiles, Healthcare, and Capital Goods show modest renewable energy usage.<sup>47</sup>
- **Water and Waste Sustainability Risks:** The IT and Finance sectors rely heavily on groundwater ( more than 80%), which in turn raises long-term water sustainability concerns. In contrast, the IT and service sectors are achieving near-total recycling, positioning themselves as the sustainability leaders in business governance. The Power and Metals sectors are water-intensive, and waste management remains an unresolved issue in heavy industries, with landfilling still prevalent.<sup>48</sup>

Collectively, the positive shifts in some sectors indicate that while challenges remain, the Indian businesses are ready to align with the global sustainability expectations for accelerating the transition from compliance to environmental commitments.

In 2021, India pledged to achieve the net zero emissions by 2070, signaling a decisive shift in its climate policy. As part of its updated Nationally Determined Contributions<sup>49</sup> in August 2022, India is committed to reducing the emissions intensity of its GDP by 45% from 2005 levels, sourcing 50% of installed power capacity from non-fossil fuels, and creating an additional carbon sink of 2.5-3 billion tonnes of carbon dioxide equivalent through expanding the forest cover by 2030 and by fostering climate-focused budgeting.<sup>50</sup> With an estimated requirement of USD 160 billion annually, Indian businesses are volunteering to embrace the ESG frameworks and increasing CSR investments in sustainability initiatives. As the environmental challenges, such as climate change and pollution, pose serious irreversible threats to the Indian economy, the businesses have transformed their CSR operations into Corporate Environmental Responsibility (CER) to proactively incorporate sustainability as one of the core ethics of their governance.

In the contemporary era, climate change, ESG principles, emission reduction, governance, transparency, corporate responsibility, and nonfinancial disclosures have emerged as prominent discussion topics within the corporate landscape in India. Finding from a recent survey highlighted that 90% of Indian businesses are of the view that ESG reporting will help them improve their brand value and 88% believe that ESG reporting regulations impact their businesses. A total of 150 businesses participated in this survey (Deloitte, 2023). A wide range of stakeholders—including investors, consumers, and government bodies—now expect businesses to go beyond financial disclosures and share information about their performance on Environmental, Social, and Governance (ESG) principles. In this context, the ESG framework serves as a guiding force, encouraging organizations to adopt meaningful and responsible practices that create long-term value. In 2021, the Securities and Exchange Board of India (SEBI) introduced the Business Responsibility and Sustainability Reporting (BRSR) framework to provide much-needed guidance to Indian enterprises in the seamless integration of ESG principles into their operational paradigms.<sup>51,52</sup>

The SEBI BRSR Guidelines are structured into three sections:

Section A: It contains General Disclosures such as details of the listed entity, products/services provided and sold, operations location, market served by the entity, CSR details, etc.

Section B: It deals with the Management and Process Disclosures

Section C: It contains Principle-Wise Performance Disclosures encompassing the 9 principles in relation to the environment, social and ethical responsibilities of the entity.

Principle	Focus	Disclosure Metrics
<b>BRSR 2</b>	Sustainability and Safety	<ul style="list-style-type: none"> <li>• Improvement of social and environmental impacts</li> <li>• Life Cycle Assessment</li> <li>• Social or Environmental concerns/risks</li> <li>• Sustainable Sourcing Practices</li> </ul>
<b>BRSR 6</b>	Protection & Restoration of Environment	<ul style="list-style-type: none"> <li>• Energy consumption</li> <li>• Water withdrawal and discharge</li> <li>• Air Emissions (GHG &amp; Non-GHG)</li> <li>• Waste Management Practices</li> <li>• EIA Projects and Compliances</li> <li>• Compliance with environmental laws/rules/regulations</li> </ul>

Table: Principles showing the relevant disclosures related to the environmental governance under Section C of the BRSR Guidelines.

➤ **Case Studies: ESG Practices and Environment-Health Outcomes in Indian Corporations**

Company/Group	Environmental Initiative	Environment and Health Impact
<b>TATA Steel</b>	<ul style="list-style-type: none"> <li>• Commitment to Net Zero by 2045</li> <li>• Transitioning to low-carbon steelmaking</li> <li>• Decarbonization strategies</li> <li>• Aim for Zero Effluent Discharge</li> <li>• Adoption of 4R framework: reduce, reuse, recycle, recover</li> <li>• Agreement to source 379 MW of renewable energy</li> <li>• Afforestation near the locations of Plants</li> <li>• Public Grievance Mechanisms for environmental concerns</li> <li>• Installation of sound meters, dampers, and emission control systems<sup>53</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Reduce risks of respiratory illness, cardiovascular problems, and noise-related stress in nearby communities</li> <li>• Better overall public health outcomes</li> <li>• Improved mental well-being and quality of life</li> </ul>

<p><b>Hindustan Unilever</b></p>	<ul style="list-style-type: none"> <li>• Establishment of Suvidha (urban water, hygiene, and sanitation centres) for underserved communities</li> <li>• Incorporation of water-saving technologies for the conservation of 200 million litres of water</li> <li>• Project Prabhat for door-to-door waste collection services and conversion of wet waste into biogas for promotion of renewable energy</li> <li>• Swasthya Curriculum in schools for the improvement of awareness of safe water usage and sanitation practices among 9 million school students</li> <li>• Promotion of sustainable practices and community engagement for long-term environmental stewardship<sup>54</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Approximately 50% reduction in illnesses such as diarrhea and urinary tract infections</li> <li>• Reduction of water-borne and hygiene-related illness by behavioural changes among younger populations</li> <li>• Support for community health by reducing disease vectors associated with poor waste management</li> </ul>
<p><b>Larsen &amp; Turbo</b></p>	<ul style="list-style-type: none"> <li>• Launching of the Green Campus initiative to integrate sustainability across its facilities<sup>55</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Improvement in climate resilience, and reduction in water and waste management</li> </ul>
<p><b>Vedanta</b></p>	<ul style="list-style-type: none"> <li>• Launching of VEDAS (Academy of Sustainability) with AXA Climate to train 1 lakh employees in climate mitigation and resource efficiency<sup>56</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Reduction in water scarcity and restoration of biodiversity</li> </ul>
<p><b>RPG Group Companies</b></p>	<ul style="list-style-type: none"> <li>• Production of Sustainmax tyres made from 90% sustainable raw materials by CEAT</li> <li>• Building India's largest digital substation using low-carbon technology by KEC International</li> <li>• Offset of 222 tonnes of carbon dioxide through the certified carbon offset projects by Raychem RPG<sup>57</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Reduction of logistics emissions by 8-10% through fuel-efficient and electric vehicles</li> <li>• Reduction in carbon emissions using sustainable practices and regulatory compliances</li> </ul>
<p><b>Adani Total Gas</b></p>	<ul style="list-style-type: none"> <li>• Initiative of running Greenmosphere for the community-oriented afforestation and climate awareness</li> <li>• Installation of rooftop solar plants at its station and facilities</li> <li>• Transitioning of light commercial vehicles from diesel to CNG</li> </ul>	<ul style="list-style-type: none"> <li>• Better air quality and lower respiratory health risks for local populations</li> <li>• Enhanced community engagement through encouragement of eco-friendly lifestyles</li> <li>• Reduction in dependence on grid electricity and lowering greenhouse gas footprint</li> </ul>

	<ul style="list-style-type: none"> <li>• Methane leak detection and repair programs to minimize greenhouse gas emissions from their facilities<sup>58</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Reduction of hazards associated with the gas infrastructure</li> <li>• Achievement of zero-waste-to-landfill certifications at several locations</li> </ul>
<b>Cummins India</b>	<ul style="list-style-type: none"> <li>• Conversion of degraded non-forest land in Pune into an oxygen-producing green hub by planting 35,000 trees<sup>59</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Enhancement of local air quality and increased carbon sequestration in urban areas</li> </ul>
<b>Rallis India</b>	<ul style="list-style-type: none"> <li>• Greening Project to plant 5,000 new trees and maintenance of an additional 14,000 previously planted trees across various locations in Gujarat and Maharashtra<sup>60</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Expansion of green cover and enhancement of carbon capture</li> <li>• Soil conservation and ecosystem stability</li> </ul>

**Table: ESG initiatives by Indian Companies/Groups demonstrating environment-health outcomes.**

### The Judicial Vanguard- Expanding Corporate Duties

The Indian judiciary has played a commendable role by including right to healthy environment in the scope of Article 21 of Indian Constitution, i.e., Right to Life in the case of M.C. Mehta vs. Union of India<sup>62</sup>. Again, in the case of Ratlam Municipal Council v. Vardhichand<sup>61</sup>, the court by upholding Public Interest Litigation as an obligation on courts ensures the social justice component of rule of law. Moreover, in Narmada Bachao Andolan v. Union of India and Ors.<sup>63</sup>, the Supreme Court of India upheld that “Water is the basic need for the survival of human beings and is part of the right to life and human rights as enshrined in Article 21 of the Constitution of India ... and the right to healthy environment and to sustainable development are fundamental human rights implicit in the right to life.”

The most remarkable work done in this field is the evolution of doctrine of public trust in the case of M.C. Mehta vs. Kamal Nath<sup>64</sup> by observing "Thus, the public trust is more than an affirmation of state power to use public property for public purposes. It is an affirmation of the duty of the state to protect the people's common heritage of streams, lakes, marshlands and tidelands, surrendering that right of protection only in rare cases when the abandonment of that right is consistent with the purposes of the trust." In Another landmark case of Vellore Citizens Welfare Forum vs. Union of India<sup>65</sup>, the Supreme Court has incorporated the Precautionary Principle, the Polluter Pays principle and Sustainable development within the purview of Environmental Jurisprudence.

The Indian judiciary and National Green Tribunal has also increased the Corporate accountability for violations through its various landmark judgments. Like in Sterlite Industries [India] Ltd. vs. Tamil Nadu Pollution Control Board<sup>66</sup>, the NGT ordered the closure of an industrial plant due to its continuous violations of air and water quality standards. The Supreme Court decision in M.K. Ranjitsinh vs. Union of India<sup>67</sup> is a watershed moment in the field of ESG enforcement. The choice was between promotion of solar power generation and protection of an endangered species. On the face of it, both are virtuous causes and the Court was tasked with the responsibility of deciding which one should be given primacy over the other. The court preferred the cause of protection of endangered species at the cost of facilitating solar power generation and held – “the right to a clean environment which comes within the ambit of Article 21 (Right to Life) of the Constitution is threatened by climate change. Additionally, it was noted that Article 14 (Right to Equality) would also be violated as climate change will affect some people more than others.” Therefore, for the first time, the court recognized the right to a healthy environment and the right to be free from the adverse effects of climate change. This is a crucial stance taken by the Supreme Court owing to the recognition of the right to be free from the adverse effects of climate change for the first time in domestic jurisprudence. In Kaushal Kishor v. State of Uttar Pradesh<sup>68</sup>, it was observed by the Supreme Court that fundamental rights, like Articles 19 and 21, can be enforced against private entities as well,

making corporations liable for health, environmental, and safety concerns. This indicates the dynamic nature of ESG factors in India, and it is evident how the judiciary is also enforcing environmental and social laws.

### **Comparative National Practices: Embedding ESG in Domestic Laws**

As per a consultation paper released in 2022 by the Securities and Exchange Board of India (SEBI)<sup>69</sup>, India has taken a pioneering position in regulating the ESG rating in the business sector. However, India is not alone in initiating such efforts. Other nations, such as the United Kingdom, have started considering these entities earlier, back in late 2021.

It can be observed that these ESG issues can be broken down into 3 defining categories, pertaining to Environment, Society, and Governance.

### **Social Dimension: health and human rights**

- **Global Standards:** In the Global Scenario, the Corporate Responsibility under the ESGs is encompassed under the umbrella formed from the interconnection of OECD Guidelines for Multinational Enterprises on Responsible Business Conduct,<sup>70</sup> as well as the UN Guiding Principles on Business and Human Rights.<sup>71</sup> The UNGPs, through their framework of protect, respect, and remedy, required the businesses to conduct a human rights analysis, which includes an assessment by addressing health effects as well as physical safety in reference to the governing laws.<sup>72</sup> These Guiding Principles are complemented by the OECD guidelines, by the mandate of due diligence on Human rights, health, safety, and business relations. Both of the above are voluntary in nature, but they have a significant impact on the formulation of national policies.<sup>73</sup>

These International Standards are also carried forward by the guiding principles of the ILO (International Labour Organisation), particularly, the principles upheld in Convention 155<sup>74</sup>, which deals with occupational safety and health, as well as Convention 187<sup>75</sup>, which deals with the promotional framework for Occupational Safety and Health.

European Union's CSRD (Corporate Sustainability Reporting Directive)<sup>76</sup> which requires a Double Materiality reporting, which gives out the impacts of the ESG factors upon the businesses, whilst simultaneously measuring how the businesses themselves affect the world, and the CSDDD (Corporate Sustainability Due Diligence Directive)<sup>77</sup> which imposes binding due diligence measures in the definitive aspects of human rights, health, as well as civil liabilities for failure.

- **Indian Standards:** In India, these standards are governed under the mandatory BRSR (Business Responsibility and Sustainability Reporting) framework<sup>78</sup> for the top 1000 listed entities according to their market capitalization. These standards are further driven by the 9 Principles under NGRBC (National Guidelines on Responsible Business Conduct). Notably, the Principle 3 of NGRBC states, "Businesses should respect and promote the well-being of all employees, including those in their value chains."<sup>79</sup>

- **Comparative Analysis:** The Global standards provide the conceptual foundation for the establishment of principles on the health and safety needs of employees. For instance, the safety assessment of health and physical safeguard measures as per the UNGP, the due diligence implications from the OECD, the OSH guidelines from the ILO, and the reporting directives from the EU. These standards are binding and non-waivable in nature; the UNGP and the OECD guidelines, even though not binding per se, do provide a moral basis for this and directly influence the national policies that are formulated. On the other hand, India's BRSR mirrors these, albeit not perfectly, but to a certain extent.

When we analyse the implications of the 3<sup>rd</sup> principle of NGRBC, it encompasses dignity, well-being, protection of rights of growth in the skills during employment, support systems to ensure work-life balance, and a safe, hygienic, and accessible workplace. Amongst many other substantial aspects, we can observe that it overlaps most of the global standards set by the UN, EU, and many other international organisations. When viewed holistically, India lags in the mental health aspect and remedy access when compared to the global standards, and at the same time, the Indian guidelines do excel in the granular OHS metrics.

### **Environmental Pillar: Sustainability, and Climatic Resilience**

- **Global Standards:** The Global Standards are holistically dictated by the different International Organisations such as UNGP, OECD, ILO, CSRD, etc. As per the UNGP, the environmental damage and degradation are violative of human rights, hence, requiring active mitigation strategies. In the similar fashion, OCED guidelines impose duties on the enterprises in order to ensure environmental protection, especially in the facets of prevention of pollution, sustainable use of resources and the biodiversity.

Provisions under the European Framework are provided under CSRD, which includes directives under E1-E5 of the ESRS (European Sustainability Reporting Standards). These provisions contain various issues under the different heads, for example: climate change under E1, Pollution under E2, Water and Marine Resources under E3, Biodiversity and ecosystems under E4, and Resource use and Utilisation under E5.<sup>80</sup>

The CSRD itself, directs the mandate of reporting of these directives as per the ESRS framework. Alongside the CSRD, the CSDDD introduces due diligence obligations requiring companies to address the environmental impacts of their operations, including issues such as pollution and deforestation. These considerations are also reflected in broader international frameworks, such as those of the ILO, which adopt a human-centric approach to sustainability. In addition to this, the ILO Conventions 155 and 187 explicitly address health concerns from climate-related risks.

- **Indian Standards:** In India, the standards governed under the BRSR Principles, especially Principle 6 which requires businesses to undertake efforts for environmental protection and the restoration of any harm already caused. This mandate is the core of BRSR directives, This mandate forms the core of the BRSR directives, ensuring that key performance indicators place strong emphasis on emission reduction and the adoption of circular economy practices.

- **Comparative Analysis:** Herein, on comparison of the Indian Guidelines as per the globally laid standards, it is observable that the global standards adopt a multitude of proactive measures, under different frameworks. Under UNGP and OECD, it provides for environmental harm as a grave violation of Human Rights, encompassing the conceptual inclusion of Environmental Protection as a core human right that requires safeguarding. Under the EU directives, It establishes a reporting system under 2 directives, namely, CSRD and CSDDD, which direct the standards set under E1-E5 of ESRS are fulfilled and reported subsequently, aligning the system of guidelines, establishing governance not only over the EU companies but also the companies that provide a significant turnover in the EU.

Whereas, in India, as per the BRSR's Principle 6, "Businesses should respect and make efforts to protect and restore the environment,"<sup>81</sup> revolves around certain core elements, including development of equitable strategies for sustainable use of resources, establishment of measurable key indicators, as well as formulation of policies to assess the impact on the environment, similar to the EU's double materiality report, amongst other major elements which provide for a better practices to conserve the environment keeping the development consistent.

Overall, it can be said that India's guidelines on the environmental aspect oversee the Global Standards, even if it lacks the Binding duties that are encompassed within the other Global Standards. Even though BRSR is robust for emerging markets in India, it lacks the proactive resilience mandates that are contained within the EU guidelines.

#### **Governance Aspect: Accountability and Oversight**

- **Global Standards:** Where UNGPs and OECD provide for board-level responsibility for oversight of the due diligence, grievance mechanism, with OECD National Contact Points, which provide mediation. EU's CSRD includes sustainability in the managerial reports, including the auditing of this report, and the CSDDD gives directorial duties and mandates climate transition plans, including fines for non-compliance.

- **Indian Standards:** BRSR Principle 1 addresses board oversight of sustainability committees, along with anti-bribery policies for ensuring good governance. The human rights grievance redressal also remains mandatory.

- **Comparative Analysis:** Even though a board-level supervision is provided under all of the standards, the variance lies in the enforcement. Where OECD provides for a quasi-judicial redressal of issues through

mediation, the EU provides for administrative liability, but India's stance from the BRSRs remains limited to the SEBI-imposed penalties and market disciplines.

## **6. Conclusion**

The evolving landscape of corporate governance in India is increasingly aligned with environmental sustainability. This paper attempts to provide commendable understanding corporate social responsibility (CSR), sustainability reporting, and the environmental performance of corporate sector. It analyzed the interaction between legal frameworks and corporate duties in achieving the ESG compliance. India has made recommendable legislative steps like provisions of The Companies Act, 2013 and SEBI-BRSR disclosures. However, the paper examines that there is a huge gap between policy and practice. While many corporations embrace ESG in principle, its operationalization often remains fictional, thus lacking institutional robustness and long-term strategy. The lack of enforcement mechanisms for non-compliance is a serious obstacle in achieving the efficacy in ESG regulations. Over the past two decades, the Indian Judiciary has played a commendable role in of environmental law enforcement through citizen-initiated public interest litigation (PIL), grounded the constitutional right a healthy environment.

In this regard, a landmark judgment was given in *M.K. Ranjitsinh v. Union of India*. By incorporating sustainable practices in their operations and activities, companies do not only contribute to a green planet but also ensure their survival and success in an ever-changing world. Companies need to formulate and implement ESG strategies suitable to their businesses and situations. There is a need for a stronger rise in ESG practices and net-zero commitments supported by active policy measures. Improving environmental disclosure in India also requires a multi-faceted approach, including strengthened regulatory frameworks, greater corporate commitment, enhanced stakeholder awareness, and broader participation from all stakeholders.

Future research should try to explore the causal relationship between ESG practices and corporate performance in course of time, while remaining vigilant to regulatory developments. This progression can position India not merely as a leader in ESG disclosure, but as a jurisdiction where ESG principles are genuinely integrated in the process of corporate governance, effectively shaping the behaviour of stakeholders. Realising this vision, it requires a coordinated legislative, regulatory, and institutional efforts which would drive us towards transforming ESG in India from a compliance exercise into a meaningful pillar of sustainable and inclusive economic development.

The study contributes to the developing discussions regarding corporate governance, environmental regulations, and public health as it shows the progress from a compliance-based framework to a more holistic approach based on ESG. It contributes new knowledge to the literature since it illustrates that ESG should not be understood only as a mechanism for reporting or disclosing information but rather as an important normative and regulatory framework that connects environmental sustainability with human health and corporate behaviour. By integrating legal analysis, policy frameworks, and in-depth case studies from different sectors, this research has provided a multi-dimensional perspective for understanding how ESG regulation works in India, and how it has been influenced by international norms. One of the most significant contributions of this research is its conceptual integration of environmental protection and health protection within ESG regulation. Previous research has primarily viewed the two areas as separate entities - they have failed to see that there is an inseparable relationship between environmental degradation and the way that it impacts public health outcomes. This research has contributed to the literature by demonstrating that ESG should be viewed as a tool to preserve ecological systems and protect human health for generations to come. In doing so, researchers have expanded the definition of ESG to include broader societal factors and issues related to the Constitution, beyond just financial materiality.

The study's comparative and interdisciplinary approach is another significant contribution. By analysing Indian regulatory frameworks against global benchmarks such as the UN Guiding Principles, the OECD Guidelines, the ILO's conventions, and the EU's directives, it produces comparative insights into how ESG practices converge and diverge across jurisdictions. This comparative analysis enhances the body of literature by demonstrating the influence that global standards have on developing domestic regulations while also highlighting the distinct challenges that emerging economies (e.g. India) face. The incorporation of judicial perspectives (e.g. the

development of an expanded right to a clean environment through constitutional law) also adds another critical perspective that has received limited examination in ESG literature. The study also contributes to the body of empirical work by identifying sector-associative variations and gaps in implementation of ESG practices. Through examining BRSR disclosures and corporate case studies, it shows that while ESG frameworks have increased transparency, their actual effectiveness is inconsistent. This reinforces and extends previous research critiquing ESG compliance as being overly formalistic or symbolic. By providing empirical evidence in relation to issues such as unmitigated Scope 3 emissions, reliance on fossil fuels, and inconsistency in waste management, it creates a contextualized framework for understanding the difficulties associated with operationalising ESG principles.

Further, this research indicates an important new role for the judiciary as an ESG enforcement mechanism and adds to the body of literature discussing environmental governance. It shows that the judiciary has interpreted fundamental rights in a manner that is increasing corporate accountability and providing a stronger normative basis for ESG legislation which signifies the link between constitutional law and corporate governance. In addition to these contributions, several avenues are still open for future research. A quantitative approach, such as panel data analysis, could help examine whether ESG compliance translates into measurable improvements in sustainability indicators over time. Additionally, greater attention needs to be directed toward the role of SMEs within the ESG framework. The current regulatory structure, including BRSR, is largely designed to include large, publicly listed companies, leaving a significant gap in our understanding of smaller enterprises in India. Exploring the challenges, costs, and incentives that SMEs face in adopting ESG practices would offer a far more complete picture of corporate sustainability in India.

There is an opportunity to conduct cross-country comparisons of the effectiveness of different types of ESG regulations. In addition, such research could explore how cultural, economic, and institutional variables affect the way ESG is implemented in various jurisdictions. An additional area of research would be assessing the reliability and consistency of ESG metrics and ratings. There are many different methodologies for preparing ESG ratings, and therefore further research will provide consistency in ESG metrics, which will assist investors and improve ESG reporting. Lastly, future studies may examine the behavioral and organizational characteristics of ESG adoption, including the reasons why companies participate in sustainability efforts. Determining whether companies comply with ESG by regulatory requirements, competitive pressures, or ethical considerations could provide a better understanding of the sustainability of ESG investment.

New research opportunities exist while integrating technology into Environmental, Social, and Governance (ESG) governance. Digital tools like artificial intelligence or Blockchain, which provide better means for collecting, monitoring, and verifying ESG data, have great potential to create new levels of transparency and accountability for companies listed on stock exchanges. Overall, this research not only provides additional information on the existing theory and empirical research regarding the regulations that govern ESG in India; it establishes a foundation for future research that will increase the effectiveness, accessibility, and impact of using ESG to create sustainable and responsible corporate governance.

### **Policy recommendations**

#### **1). Specific commitments, goals and targets of companies with defined timelines and performance in ESG compliance-**

Making a report on its commitments, goals and targets by the companies is done in a casual manner. There are no timelines or yearly targets for the accomplishment of the goals. Moreover, the flexibility in reporting is open to be misused for evading clarity on yearly performance of the company. Also, sometimes the companies do not provide progress on all target and commitments. None of the companies mention any information on goals not met or no reasons for delays in the achievements of the targets and goals. Therefore, it is recommended to have specific and defined commitments and stricter timelines for performance in ESG compliance.

#### **2). Establishment of a Regulatory Authority:**

A regulatory body such as National ESG Regulatory Authority [NERA] must be established to supervise corporate environmental practices in conjunction with the National Green Tribunal. It should be made compulsory for the

Companies to publicly disclose the data of their Emission practices in order to assess compliance within their jurisdictions.

**3). Strengthening Consequences for Environmental Harm-**

The judiciary should increase the compensation and amount of damages that are to be given for the harm that has been done to the environment because of the activities of the companies. The penalties should be made more stricter in order to act as a deterrence for the companies to avoid the violation of the environmental standards.

**4). Proposed Amendments to Section 166 of the Companies Act, 2013-**

The Parliamentary committee has recommended that the section 166 of the Companies Act, 2013 be amended to specifically address the enforceability of ESG objectives as part of the fiduciary duties of the directors, rather than leaving the same to judicial interpretation of the general language of stakeholder duty.

**5). Strengthening Verification and Assurance Mechanisms**

Regulatory reforms should require third-party assurance for material ESG KPIs from qualified auditors using standardized assurance standards. International auditing and assurance bodies, like the International Auditing and Assurance Standards Board, are developing assurance standards for ESG, which India can adopt for BRSR reporting. Requiring assurance for ESG reports would greatly reduce the risk of green washing, as it would subject auditors who sign off on false ESG reports to legal consequences and increase authentication requirements for reported metrics.

**6). Announcement of Unified ESG law-**

A uniform ESG law must be introduced to define key terms like social governance, compliance, etc. It should also specify the disclosure thresholds and enumerate the penalties in case of non-compliance for the companies. In order to achieve the real outcomes, this law should be applicable to all the listed, private, and MSME sectors.

**7). Expand Applicability Beyond Top 1000 Companies:**

To enhance the inclusivity aspect, the applicability of 'BRSR Lite' for unlisted companies should be expanded to increase the scope beyond the current 1000 companies. This may encourage SMEs and startups to adopt the 'BRSR Core' under a voluntary star rating ESG framework.

**8). Strengthen Capacity of Boards, Auditors & Professionals:**

Corporate boards and professionals dealing with corporate laws often lack ESG literacy. Mandatory training for independent directors, CS professionals, and internal ESG auditors through certified bodies such as IICA or NSE Academy may help institutionalize ESG literacy among professionals.

**9). Foster ESG Financing and Market Integration:**

In order to foster ESG financing and market integration, it is important for RBI and SEBI to ensure financial flows are aligned with sustainability goals. This can be done by increasing green bonds, ESG-linked loans, and credit incentives for companies. The issuance of sovereign green bonds in India in 2023 is a significant step toward ensuring financial flows are aligned with sustainability goals. This is a great step toward ensuring India is committed to using renewable sources of energy. This can be done through instruments like green bonds, which are transparent and can attract global impact investors. This is a great step toward ensuring India is at the forefront of using renewable sources of energy.

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