
KAUTILYA AND CORPORATE DUTY: RETHINKING SHARED RESPONSIBILITY TO ADDRESS SYSTEMIC GENDER-BASED VIOLENCE IN GLOBAL VALUE CHAINS

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ABSTRACT

Current corporate social responsibility (CSR) and environmental social and governance (ESG) frameworks fail to address systemic governance gaps regarding the widespread prevalence of gender-based violence (GBV) in global value chains (GVCs). Self-regulatory and fragmented accountability frameworks fail to address systemic silence and indifference that normalize violence. This paper examines the intersection of contemporary ESG frameworks and Indian Knowledge Systems (IKS) to present the Kautilyan duty-based responsibility, harmonized with contemporary corporate accountability, to tackle systemic GBV. The author employs Kautilya's concept of dharma to advance a model of governance-oriented duties, as opposed to moral absolutes, and proposes a model with respect to the imbalance of responsibility for harm among buyers, suppliers and regulators within the GVCs. This paper operationalizes Kautilyan collective and custodial functions, accountability, and state accountability within the ESG framework concerning due diligence, contract governance, and remedies. Developing a comprehensive understanding of structural GBV requires shifting beyond audit-centric liability frameworks toward an integrated cross-border corporate governance and shared responsibility across global supply chains. The integration of IKS with ESG frameworks represents a governance model that reinforces corporate accountability and promotes gender-responsive practices in GVCs.

Keywords: Corporate Accountability, Shared Responsibility, Global Value Chains, Kautilyan Jurisprudence, ESG Governance, Gender Based Violence.

1. Introduction

The persistence of gender-based violence (GBV) in Global Value Chains (GVCs) is a continuing corporate governance failure of the highest order. Despite the development of Environmental, Social, and Governance (ESG) frameworks and the adoption of Corporate Social Responsibility (CSR) policies, violence against women workers remains an endemic feature of the labour-intensive production process.¹ This highlights a severe disconnect between the frameworks available to corporate actors: although these frameworks result in time-consuming audits and the creation of new corporate policies, there has yet to be a meaningful prevention in the violence that women face, nor has there been a redistribution of the corporate responsibility among the powerful actors in the global production system. The main reason for these failures is the lack of clear accountability in the governance systems that diffuse responsibility across global value chains (GVCs). The way GVCs are structured today allows for the separation of economic power from legal responsibility. This lets leading corporations use contractual distance, to distance themselves from the supplier networks to which they are contractually linked. Within this system, international supply chain governance tends to treat the violence and harassment against women in supply chains as a violation of the law or as the result of an individual's failure to comply, without recognizing that these are systemic problems in the governance of global supply chains. In contrast, it can be anticipated that in these contexts with extreme power differentials and production pressures that violence will occur. Most state regulations in these contexts are predicative and are limited regionally, leaving workers with no recourse.² This research uses Indian Knowledge Systems (IKS) with respect to Kautilya's Arthashastra, not as a work of moral philosophy, but a text on institutional design and statecraft. L.N. Rangarajan (1992)³ state Kautilya's Arthashastra is a text on pragmatism as a science of living, and the art of maintaining order through governance. Kautilya's Arthashastra is relevant to modern management techniques, as cited by Chamola (2007)⁴ and Vittal (2011),⁵ Kautilyan principles provide universal theories of management with respect to coordination and strategic accountability. Boesche (2002) ⁶emphasizes Kautilya's

¹ Gender-Based Violence and Harassment in Garment Supply Chains, BUS. & HUM. RTS. RES. CTR. 9–12 (2022), https://media.business-humanrights.org/media/documents/2022_GBVH_Briefing_final_je2K7Ei.pdf.

² John Gerard Ruggie, *just business: multinational corporations and human rights* 304 (2013).

³ Kautilya, *The Arthashastra* (L.N. Rangarajan trans., Penguin Books 1992).

⁴ S.D. Chamola, *Kautilya Arthashastra and the science of management: relevance for the contemporary society*, 68 Indian J. Pol. Sci. 65, 65–76 (2007).

⁵ Vinay Vittal, *Kautilya's Arthashastra: A Timeless Grand Strategy*, Strategic Analysis, Vol. 35, No. 2, at 265–275 (2011).

⁶ Roger Boesche, *The First Great Political Realist: Kautilya and His Arthashastra*, (2002).

principles on the importance of governance and law as a power of enforcement. This paper focuses on the Kautilyan concept of dharma as a governance principle through which contemporary global value chain structures are critically examined. Dharma, in the context of the Artha shastra, refers to the duties incumbent upon the various actors of a given system, each of which is arranged in a hierarchy of predominance and subordination.⁷ Under this framework, the power holder, especially one who is an economically rent extractor, has a responsibility to promote the welfare of the subsystems that comprise the larger system. Thus, the governance failure of omitting or allowing the infliction of harm on a subsystem is more than a moral failure; it is a failure of governance.⁸ This is a significant critique of the ‘audit-centric model’ that is focused on procedural safeguards rather than tangible outcomes. This paper seeks to establish a model of shared responsibility by combining Kautilyan duty-based governance and contemporary ESG frameworks. This model attempts to rejuvenate contemporary due diligence mechanisms with a governance logic that associates responsibility with the levels of economic power held. From this perspective, the model proposes a gender-responsive accountability framework that seeks to go beyond performative reporting to a transformative redistribution of responsibilities among purchasers, suppliers, and regulators.

2. The Structural Deficits of Global Value Chain Governance in India

The garment hubs of Bengaluru and Tirupur, have disproportionate levels of Gender-Based Violence (GBV) for India’s export-oriented sectors. This should be understood, not as some kind of anomaly, but as a structural consequence of the Global Value Chain (GVC) intersection with local patriarchal systems. The bridging of law and enforcement in India, through the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act) for example, is not bridged in practice due to the ‘decoupling’ logic of GVCs, particularly for the most disadvantaged women.⁹ The principal deficit is the failure of audit-based governance to breach the ‘culture of silence’, which is prevailing in India. Social audits in Indian garment factories, which comprises majorly of women, have become mere ‘rituals of verification’ rather than instruments of justice. Sisters for Change’s 2018 study found that, suppliers did not take action in 95% of reported cases of sexual harassment thought they

⁷ R.P. Kangle, *The Kautilya Arthashastra: a study* 18 (1965).

⁸ Balbir S. Sihag, *Kautilya: the true founder of economics* 220–25 (2014).

⁹ *Eliminating violence against women at work*, Sisters for Change 18–20 (2018), <https://www.wo-men.nl/kb-bestanden/1565254391.pdf>.

claimed that they had Internal Complaints Committees (ICCs).¹⁰ In addition to the unpredictable ordering that compels suppliers to resort to unauthorized subcontracting and excessive overtime forced by global brands, Indian suppliers' inability to consider labor rights, due to extreme competition with Bangladesh and Vietnam, translates to working with very low margins.¹¹ The Garment and Textile Workers Union (GATWU) describe the Bengaluru production environment as one that creates 'target-based harassment,' wherein superiors verbally threaten, and sexually intimidate, workers to achieve overtime.¹² The low costs in the Indian market are to the benefit of the global brand, and the local supplier's inability to prioritize the abused labourer remains the legal liability for the brand. Lastly, contemporary frameworks overlook the interceded vulnerabilities of Indian women workers of marginalized castes like Dalits. The power asymmetries are both economic and caste-based, with supervisors often from the dominant group. Standard ESG audits are 'caste-blind,' so they cannot see that, for a Dalit woman in a Tirupur spinning mill, ¹³the act of reporting harassment to an upper caste manager is a risk that goes beyond the workplace and is a breach of social conduct.¹⁴

2.1. The Limits of Audit-Centric Environmental Social and Governance (ESG)

For the past thirty years, social audits have served the same function in the governance of labor standards in GVCs. They are a form of private regulation set up to assess compliance with a code of conduct¹⁵. While these tools have, to some extent, successfully homogenized reporting on some tangible aspects of safety e.g. safety of the workplace, payment of minimum wage, they still lack a great deal of fundamental justice when it comes to the behavioural and relational dimensions of risk, such as GBV.¹⁶ This phenomenon is referred to as the 'ritual of verification', where the audit becomes an end in itself and not a means to achieving worker

¹⁰ *id*

¹¹ 'Paying for a Bus Ticket and Expecting to Fly': How Apparel Brand Purchasing Practices Drive Labor Abuses, HUM. RTS. WATCH (Apr. 24, 2019), <https://www.hrw.org/report/2019/04/24/paying-bus-ticket-and-expecting-fly/how-apparel-brand-purchasing-practices-drive>.

¹² *Beyond media narrative: for Bengaluru protests, PF policy was only trigger*, The News Minute (Apr. 22, 2016 (Apr. 22, 2016), <https://www.thenewsminute.com/karnataka/beyond-media-narrative-bengaluru-protests-pf-policy-was-only-trigger-42098>).

¹³ *Fabric of slavery: large-scale forced labour in spinning mills in south India*, India Comm. of the Netherlands & SOMO 2, 7 (2016), <http://www.somon.nl/wp-content/uploads/2016/12/FabricOfSlavery.pdf>.

¹⁴ Grace Carswell & Geert De Neve, *Labouring for Global Markets: Conceptualising Labour Agency in Global Production Networks*, 44 GEOFORUM 62, 65–68 (2013).

¹⁵ Richard M. Locke, *The promise and limits of private power: promoting labor standards in a global economy* 15–18 (2013).

¹⁶ Genevieve LeBaron & Jane Lister, *Benchmarking Global Supply Chains: The Power of the 'Ethical' Audit*, 41 Rev. Int'l Stud 905, 918 (2015).

safety.¹⁷ From the perspective of GBV, audit-centric ESG frameworks fail because these frameworks rely on 'snapshot' methodologies.¹⁸ Auditors are often present on-site for only a few days, and lack the necessary depth of time to identify persistent patterns of harassment.¹⁹ Workplace violence is rarely an isolated, visible instance and is more often a continuum of behaviours such as targeted verbal abuse, sexual harassment, and quid pro quo demands that occur in the spaces that are far removed from the auditor's checklist.²⁰ In addition, the principles of auditing are especially poorly designed to obtain sensitive evidence. Worker interviews are seen through the lens of 'compliance illusion.' With management present, the silence of the frightened employees is taken as the absence of violence.²¹ Kautilyan governance, which advocates absence of static compliance, and the 'verifications' of diverse systems, is the opposite of such static verification.²² Kautilya's Gudapurusha i.e., surveillance within the organization and feedback loops, tries to overcome the shortcomings of audit systems that are recurrent and time-bound. This methodology offers constant monitoring and real-time flow of information as opposed to inspections that are performed at predetermined intervals. Such continual oversight improves the system's administrative accountability and efficiency by facilitating the system's corruption and inefficiency detection.²³

2.2. The 'Decoupling' Phenomenon: Severing Power from Liability

A primary example of governance failure in GVCs provides instances of this 'decoupling' of economic power from legal and operational responsibility.²⁴ Decoupling describes the systematic division of the economic governance of production from the legal and operational responsibilities concerning the conditions of employment and the harms of the workplace. In an integrated corporation, there used to be one entity directing the production process, and, as an employer of record, that entity would have to bear the direct vicarious liability for workplace harms. The GVC model breaks this link. Lead corporations (brands) exercise substantial control of production conditions, including price and deadline, while contractually shifting the

¹⁷ Michael Power, *The audit society: rituals of verification* 123 (1997).

¹⁸ *Fig leaf for fashion: how social auditing protects brands and fails workers*, Clean Clothes Campaign 32–35 (Sept. 2019), <https://cleanclothes.org/file-repository/figleaf-for-fashion.pdf/view>.

¹⁹ Mark Anner, *Corporate social responsibility and freedom of association rights: the precarious quest for legitimacy and control in global supply chains*, 40 *Pol. & Soc'y* 609, 621 (2012).

²⁰ Duncan Chappell & Vittorio Di Martino, *Violence at work* 35 (3d ed. 2006).

²¹ *Combating Sexual Harassment in the Garment Industry*, HUM. RTS. WATCH (Feb. 12, 2019), <https://www.hrw.org/news/2019/02/12/combating-sexual-harassment-garment-industry>.

²² Sihag, *supra* note 8.

²³ Roger Boesche, *Kautilya's arthashastra on war and diplomacy in ancient India*, 67 *J. Mil. Hist.* 9, 9–37 (2003).

²⁴ Ruggie, *supra* note 2, at 88–92.

operational responsibility of production to an economically and legally separate supplier.²⁵ This structural gap helps produce and sustain a cycle of conditions that generate harm. The ‘sourcing squeeze’ i.e., inadequate price and unreasonably short deadlines creates an operational imperative to increase production that, in turn, creates the drive to compress labor costs and impose increased production intensity.²⁶ In these high-intensity production environments, the use of verbal and physical abuse as tools to regulate worker discipline may be prevalent; abusive management styles are often corrective management styles.²⁷ Most importantly, corporations benefit from these practices while avoiding responsibility, acknowledging that supply chain violence is the unauthorized, uncontracted misconduct of their independent contractors.²⁸ This severance of advantage from disadvantage is a direct breach of the basic tenet of Kautilyan Raja Dharma (Royal Duty). In Kautilya’s prescriptive theory, the ‘King’ (or Lead Corporation) has an operational obligation to the people. The modern conception of the breadth of duties and responsibilities of a stakeholder has evolved over time. The modern conception of the breadth of duties and responsibilities of a stakeholder has evolved over time. The modern design of decoupling suggests that the stakeholders within the corporation that generates and extracts value also bear the responsibility of providing safety to those who generate and produce that value.²⁹

2.3. Institutional Voids: How Jurisdictional Fragmentation Enables Impunity

The global value chains (GVCs) that anchor India’s export hubs e.g. Tirupur and Bengaluru, exemplify an important structural asymmetry: While globalization of production has occurred, there has also been a localization of law. An ‘institutional void’ occurs when economic integration exists alongside legal fragmentation.³⁰ In practice, this renders India’s robust domestic legal protections, such as the Protection of Women from Sexual Harassment (POSH) Act (2013), largely ineffective for the lowest tiers of the workforce. Efforts to attract Foreign Direct Investment (FDI) often incentivize a disincentivizing aggressive state enforcement,

²⁵ Gary Gereffi, John Humphrey & Timothy Sturgeon, *The governance of global value chains*, 12 Rev. Int’l Pol. Econ. 78, 83–85 (2005).

²⁶ Mark Anner, *Squeezing workers’ rights in global supply chains: purchasing practices in the Bangladesh garment export sector in comparative perspective*, 27 Rev. Int’l Pol. Econ. 320, 320 (2020).

²⁷ *Paying for a Bus Ticket and Expecting to Fly* *supra* note 11, at 2.

²⁸ Genevieve LeBaron, *The role of supply chains in the global business of forced labour*, 57 J. Supply Chain Mgmt. 29, 32–35 (2021).

²⁹ Sihag, *supra* note 8, at 144–46.

³⁰ Tarun Khanna & Krishna Palepu, *Winning in emerging markets: a road map for strategy and execution* 15–20 (2010).

leading to a ‘legal lawlessness’ zone.³¹ It is within this void that the violence perpetrator in the supplier factory goes unpunished because of a poorly resourced local state, and the global brand that most directly benefits from the local supplier’s exploitative employment practices remains unaccountable due to the ‘corporate veil.’ Thus, while capital is able to flow freely across international boundaries, justice for Indian workers is obstructed by the boundaries of the state. India has tried to address this gap with legal instruments.³² Section 166(2) of the Companies Act, 2013, marks a bold departure from Western shareholder primacy, specifying that a director has fiduciary duties to act in ‘the best interests of the company, its employees, the community, and the protection of the environment.’ This legal expansion is in consonance with the Kautilyan principle of Rajadharmā (Royal Duty), in theory, a rejection of the ‘decoupling’ of profit from social welfare.³³ In the same vein, the National Guidelines on Responsible Business Conduct (NGRBC) and the SEBI Business Responsibility and Sustainability Reporting (BRSR) require all top listed companies to respect human rights within their value chains and report on how they did so. Still, these are primarily reporting frameworks.³⁴ In a situation of reporting and no responsibility, a lead corporation may report a supplier’s non-compliance in its BRSR and not be ‘institutionally’ liable for the supplier’s wrongdoing. This paper seeks to close the disclosure-liability gap by operationalizing Kautilyan Samaya (binding compacts). In the Artha shastra, Kautilya contended that order in diverse jurisdictions cannot be based on simply local law enforcement, but rather on actively populated, cross-jurisdictional, and positive agreements. Kautilya used Samaya to govern the Srenis, establishing a model where compliance to the Samaya was inarguable.³⁵ A contemporary Samaya for Kautilya would be to convert the voluntary principles of the NGRBC into a binding contractual covenant. Rather than a ‘soft’ social audit, the Samaya would be a ‘hard’ legal instrument for the Global Brand and the Indian Supplier. The Samaya, unlike a mere guideline, would be legally binding towards the NGRBC. This would transform NGRBC compliance, which was a privilege, into a legally enforceable duty. Because of the inner human rights protections being embedded in the commercial contract, the Samaya shifts the responsibility of enforcement of public norms to the lead contractee, making them responsible for the Yogakshema of the worker, wherever they may be. Moving to Samaya is indispensable, as systemic abuse is proving that the self-

³¹ Layna Mosley, *Labor rights and multinational production* 45–48 (2010).

³² Nancy Fraser, *Scales of justice: reimagining political space in a globalizing world* 22–25 (2009).

³³ The Companies Act, 2013, § 166(2) (India).

³⁴ Securities and Exchange Board of India, Circular No. SEBI/HO/CFD/CMD-2/P/CIR/2021/562, *Business Responsibility and Sustainability Reporting by Listed Entities* (May 10, 2021).

³⁵ L.N. Rangarajan, *Kautilya: the Arthaśāstra* 380–82 (1992).

imposed voluntary CSR has been a failure. There is a Kautilyan rationale that self-regulation suffers from a fundamental defect: 'no governance with the credible threat of Danda' results in Matsyanyaya. This is the predatory state of anarchy where the strong eat the weak. As it stands, the current GVC model, with no lead corporations' constraints, is economic Matsyanyaya. It is necessary to evolve from 'soft law' to 'hard law' in parallels to emerging frameworks such as the EU's Corporate Sustainability Due Diligence Directive (CSDDD). Kautilyan jurisprudence would support Joint and Several Liability³⁶: a brand that earns Labha (benefit) from a particular site, must bear the entire Adharma (evil) of the site. 'Kautilya' also had a bureaucratic penalty system; therefore, current law should make executive inaction a criminal offense in cases where the proposed or actual purchase prices are set deliberately below the safe production cost, making Gender-Based Violence (GBV) an inevitable result of the 'sourcing squeeze'.³⁷ This underscores the need to rethink ESG reporting frameworks, including the Global Reporting Initiative and the Sustainability Accounting Standards Board, which at their current iteration emphasize procedural outputs, such as the number of audits conducted, over substantive outcomes. From a Kautilyan perspective informed by Satya (truth), this must be Input Reporting. Brands should be obligated to report on their purchasing practices, including last-minute order cancellations or prices below the production cost that create supply chain risks. This aligns with the notion that the King has to answer for the actions of his or her delegates. Furthermore, to address 'compliance illusion', frameworks should further integrate the Gudapurusha (intelligence/espionage) construct with the other potential embedding of 'Shadow Reports'.³⁸ i.e., independently produced assessments by civil society or affected stakeholders that run parallel to official disclosures, often exposing unreported abuses, failures to report, or weaknesses in reporting compliance at the formal level. These reports would accompany corporate disclosures, ensuring civil society organizations or trade unions contribute assessments. This way, the 'silence' of countless women workers, who may fear reprisal, will not be misinterpreted as the absence of violence, thereby preserving the reporting process's epistemic integrity.

³⁶ Mark Anner, *Predatory purchasing practices in global supply chains and the employment relations squeeze in the Indian garment export industry*, 158 Int'l Lab. Rev. 417, 417–22 (2019).

³⁷ Directive 2024/1760, of the European Parliament and of the Council of 13 June 2024 on Corporate Sustainability Due Diligence, 2024 O.J. (L 1760) 1, 3.

³⁸ Genevieve LeBaron, *combatting modern slavery: why labour governance is failing and what we can do about it* 142–45 (2020).

3. The Kautilyan Governance Paradigm: A Theoretical Framework

This paper proposes a radical transformation from Western liberal legalism to the Kautilyan Governance Paradigm to address the structural ‘decoupling’ of power and liability within Global Value Chains (GVCs). This attempt aims to reconstruct Kautilya from being perceived merely as a primitive theologian to being acknowledged as a brilliant architect of institutions and a political realist.³⁹ Different from Machiavelli, who dichotomized ethics from the application of power, Kautilya in his philosophy integrated power with systemic responsibility and argued that Varta (the Science of Wealth), can, in fact, not exist without Dandaniti (the Science of Governance/Enforcement). This hierarchy is fundamental to the thinking around GVCs because it posits that, in addition to the legal system, there also needs to be a radically strong governance system to ensure that economic activity continues. This reframes the inability to stop Gender-Based Violence (GBV) as a governance problem, which threatens the economic ‘kingdom’ rather than a moral deficiency.⁴⁰ A critical aspect of the Kautilyan Governance Paradigm is the re-characterisation of the Lead Corporation (Brand) as the ‘King’ of the supply chain, with quasi-sovereign control of the supply chain. Although modern business law uses the doctrine of limited liability to externalize risk, Kautilyan logic uses the concept of Rajadharmā to show that liability cannot be limited. Rajadharmā, in this case, refers to the obligations of an equity holder to perform the duties of a ‘good ruler’ (Rajah).⁴¹ The Arthashastra considers authority to be intertwined with responsibility. Governance is portrayed as a fiduciary relationship. If a ruler takes a tax (profit in today’s parlance), Rajadharmā requires the ruler to provide Raksha (protection).⁴² A brand that controls pricing and delivery schedules in a global value chain bears responsibility for ensuring that these commercial pressures do not lead to abusive labor or production practices.⁴³ The Arthashastra knows no contractual distance. If a King delegates authority of a province to a corrupt governor, the King is still liable, thereby striking down the wilful blindness defence many global companies use today.

Therefore, the fairest possible explanation of the reasonable accumulation of capital is contingent on Yogakshema (Welfare). Yogakshema represents the fusion of two ideas, with

³⁹ Subrata K. Mitra, *Kautilya’s Arthashastra: an intellectual portrait* 25–28 (2016).

⁴⁰ Sarosh Kuruvilla, *Private regulation of labor standards in global supply chains* (2021).

⁴¹ Balakrishnan Muniapan, *Lessons in corporate governance from Kautilya’s Arthashastra in ancient India*, 3 *World J. Mgmt.* 50, 56 (2011).

⁴² Sihag, *supra* note 29.

⁴³ Mark Anner, *supra* note 36.

Yoga (acquisition of wealth) and Kshema (security of that wealth) diverging. In Kautilya's formulation, Matsyanyaya (The Law of the Fish) is brought about when there is Yoga devoid of Kshema, and that is a state of nature where the strong are free to prey upon the weak. This serves as a remote illustration for the garment industry, as well as the legislation of the unlawful sexual harassment and the unlawful exploitation of the female workers, which is a crime to be punished. This indicates that the state and by extension, the Lead Corporation, cannot be 'gender blind' and must, in fact, extend protective measures to the vulnerable.⁴⁴

3.1 Danda (Enforcement): Bridging the Governance Gap

The Kautilyan paradigm demonstrates that the 'enforcement gap' in voluntary CSR is addressed by including Danda (Enforcement). Governance, devoid of Danda, is a futile pursuit. When a lead corporation acts as a guardian, the lack of protection of the vulnerable worker's rights is a severe infringement of the 'Palana' (science of protection). From a Kautilyan perspective, not only is a supply chain characterized by harassment unethical, but it is also a violation of the law, thus justifying the claim that such a supply chain is not entitled to profit.⁴⁵ The persistent criticism aimed at the contemporary Corporate Social Responsibility (CSR) architecture emphasizes the 'Enforcement Gap.'⁴⁶ Global Value Chain (GVC) governance attempts to utilize 'soft law' and voluntary guidelines, a practice that Kautilyan Jurisprudence dismisses as unfit and unstable. In Kautilyan terms, 'soft' law-without Danda (Enforcement) is descriptive of Dharmic principles that lack any substantive grounding. Dharmic principles, based on the Arthashastra, premise that a state without Danda is a state without an enforcement mechanism Danda as articulated in Kautilya's philosophy operates, on the one hand, as a mechanism of punishment and, on the other, a comprehensive governance framework aimed at curtailing Matsyanyaya, the disorder that arises out of unregulated exercise of power.⁴⁷ the disorder arising from unregulated power. In contemporary GVCs, Kautilyan focus on Danda derives the rationale for Mandatory Human Rights Due Diligence (mHRDD). Unlike other frameworks that incorporate "Corrective Action Plans" and simply treat GBV and other serious violations as just gaps to be eliminated, Danda, as retributive enforcement, becomes a civilizational necessity. In this instance, Danda (Economic and Reputational) would imply that

⁴⁴ Arun Bhattacharjee, *Arthasāstra and corporate strategy: from Mauryan governance to modern boardrooms*, 2 Poorna Prajna Int'l J. Mgmt. Educ. & Soc. Sci. 168, 168–200 (2025).

⁴⁵ Directive 2024/1760, *supra* note 37.

⁴⁶ LeBaron *supra* note 16.

⁴⁷ Rangarajan. *supra* note 35 at 109.

brands would suffer an economically punitive (Danda) loss for selling products below the ethical production price. Reputationally, unconformity would result in a denouncement losing a societal license to operate.⁴⁸ With the incorporation of Danda, the framework moves from an unrefined ‘compliance model’ of box-ticking to a refined ‘governance model,’ where economic activity is intrinsically linked to the preservation of social order. To apply this governance model, the corporate imperative must be reframed through the integration of Rajadharma (Royal Duty) and Yogakshema (Welfare). This study proposes an extreme paradigm shift in understanding lead corporations, i.e., moving away from the legal fiction of 'contractual distance' to the ethical reality of 'custodial duty' or 'duty of care'. In supply chain governance of the Palmer Modern, the constructs of separated legal entities operate. Within these frameworks, a lead company engages its suppliers in ostensibly ‘arms-length’ transactions, and, therefore, legally distances itself from the workforce of the suppliers. This line of reasoning within Kautilyan thought will fundamentally reject this fragmentation. Palana is at the very centre of Kautilya’s articulation of the state-citizen relationship;⁴⁹ It is, not an absence of engagement, but rather an active custodial responsibility. The very morality of the tax (or profit) collection is intrinsically tied to the provision of security. To GVCs, this reasserts that a buyer is not merely a customer, but a custodian of the value chain. Therefore, when a Lead Corporation reduces purchasing prices to an extent that endangers an employee’s life, this is a failure of Palana. The GVCs need the Rajadharma to locate the ‘Raja’ in the vertically disaggregated structures. Multinational corporations state that they are just buyers. However, the economic situation involving ‘captive’ suppliers, for which more than 70% of total orders come from one buyer, shows where the centre of power really is.⁵⁰ Lead Corporations possess ‘governance’ of the chain⁵¹ which dictates the standards, the lead time, and the parameters of the specification of the goods. In Kautilyan terms, this is Prabhu Shakti. The Arthashastra points out that whoever has Prabhu Shakti is the King, regardless of what title they possess.⁵² Therefore, a Lead Corporation does not have the option of hiding behind the corporate veil when determining the pace of operations of a given factory. By influencing the Artha (the economy/ wealth) of a supplier, the Lead Corporation takes on the Rajadharma of that

⁴⁸ Neil Gunningham, Robert A. Kagan & Dorothy Thornton, *Social License and Environmental Protection: Why Businesses Go Beyond Compliance*, 29 L. & Soc. Inquiry 307, 307–41 (2004).

⁴⁹ Sihag, *supra* note 29.

⁵⁰ Gary Gereffi, *supra* note 25 at 84-85.

⁵¹ Gary Gereffi, *The organization of buyer-driven global commodity chains: how U.S. retailers shape overseas production networks*, in *Commodity chains and global capitalism* 95, 96–97 (Gary Gereffi & Miguel Korzeniewicz eds., 1994).

⁵² 2 R.P. Kangle, *The Kautiliya Arthasāstra* (1972).

economy, which is to protect women workers, among other things. Current GVC governance's oversight of the so-called 'wilful blindness' defence is the first and most glaring of its oversight. It is the assertion used by brands claiming ignorance of supply chain abuse. The Kautilyan administration is known for its all-seeing governance (Gudapurusha), which renders such defences obsolete.⁵³ Ignorance may be claimed in the Arthashastra, but it cannot be in a just governance system. It is the ruler's dharma to remove the 'vyasana' of the people. 'Vyasana' is affliction of the people, and a king is required to identify and eliminate it. In GVC, that defines the 'Duty to Prevent.' This is about structural violence. By demanding high productivity at low wage levels, corporations create a pressure to increase and intensify harm, which is not only predictable but rather systemic.⁵⁴ The same is true for a Lead Corporation that leaves such conditions unmitigated. From an enforcement standpoint, that shift is the difference between having a Kautilyan audit and one that embraces the imperative of 'Know Your Supplier's Reality.' The Kautilyan concept of *samaya* thus frames collective responsibility. In many cases when the term 'ISRM' is used in the commercial world today it is used inappropriately and treated as synonymous with a simple purchase order. In a contemporary capitalist system, a purchase order is reduced to a document exchanged for the procurement of a good. A Samaya, in a guild context, is a covenant for the adherence to a prescribed set of order and values.⁵⁵ It is an agreement that members will abide by a corporation code of conduct and that collusion to violate it will attract severe sanctions. In Global Value Chains (GVCs), Supplier Agreements can be re-envisioned as Samaya. Besides technical details, it should include protective clauses related to the guild's laws, particularly the law's regarding safe worker conditions. Most importantly, Samaya signifies a two-sided or mutual obligation. Similar to Kautilyan guild leaders, who had responsibilities to their community, a Samaya legally commits a Brand to responsible, safe, and protective production price covering purchasing practices. At the same time, it legally commits the Supplier to safe labor conditions. This changes the agreement from a situation of contract risk into a co-governance agreement.

4. Proposed Framework: The Integrated Shared Responsibility Model (ISRM)

This paper proposes the Integrated Shared Responsibility Model (ISRM), a new process of governance aimed at addressing the voluntary nature of Corporate Social Responsibility (CSR)

⁵³ P.K. Gautam, *One hundred years of Kautilya's Arthashastra*, 20 IDSA Monograph Ser. 47, 47–49 (2013).

⁵⁴ *Paying for a Bus Ticket and Expecting to Fly supra* note 11, at 2.

⁵⁵ Romila Thapar, *The penguin history of early India: from the origins to AD 1300* 174–79 (2002).

and the imposition of legal state regulation..⁵⁶ The ISRM, through the fusion of Kautilyan duty-based rationale and the contemporary Mandatory Human Rights Due Diligence (mHRDD) paradigms such as the EU Corporate Sustainability Due Diligence (CSDDD) Directive, creates a distinct hybrid model of duty and liability responsibility along the Power-Benefit-Harm spectrum. The model states that economic power cannot exist without social responsibility; where there is the capacity to control pricing and production, there is an obligation to safeguard the worker.⁵⁷ The ISRM is based on the fusion of Indigenous Knowledge Systems (IKS) and contemporary legal systems. While ‘hard law’ regulations such as the UN Guiding Principles (UNGPs) are helpful in providing the legal framework modern mandates often have ‘legal positivism’ frameworks which are overly compliance driven guided by a checking of boxes due diligence.⁵⁸ Kautilyan jurisprudence attributes to this skeleton the soul of Dharma (duty). It reconfigures the corporate responsibility to identify risk not as a mere compliance obligation, but as Palana (Custodial Duty). In this frame, failing to identify forced labor or gender-based violence (GBV) is more than a regulatory shortcoming; it is a breach of the fiduciary trust of leadership. This means that mHRDD constrained hyper-positivism is attempting to steer legal frameworks within the parameters of Yogakshema, meaning holistic welfare. To address the issue of ‘fragmented responsibility’ in the Global Value Chains (GVCs), the ISRM offers specific, non-delegable responsibilities in a Kautilyan Samaya (Binding Compact) at three tiers of governance. The Buyer (Lead Corporation) is reframed as the ‘King’ endowed with Prabhu Shakti (economic power). Therefore, the buyer is primarily tasked with ‘Preventive Governance.’ This means a departure from supplier policing to the reformation of purchasing. Under this model, labour costs must be secured as non-negotiable components of purchase orders, preventing commercial price discussions from reducing funds designated for worker safety and living wages. Additionally, in compliance with Raksha (protection), buyers must give stability in forecasting to avert the unpredictable ordering that compels suppliers to resort to unauthorized subcontracting and excessive overtime. The Kautilyan Audit reframes policing with audits, treating supplier ability to address GBV as a needed infrastructure investment. Second, the Supplier acts as the local ‘Governor,’ responsible for ‘Direct Implementation.’ Kautilya stated that suppliers need to build justice systems, so suppliers need to set up Internal Complaints Committees (ICCs) that are independent of the enforcers, often the supervisors of

⁵⁶ Ingrid Landau, *Human rights due diligence and the risk of cosmetic compliance*, 20 Melb. J. Int'l L. 221, 221–47 (2019).

⁵⁷ Robert Phillips & R. Edward Freeman, *Stakeholder theory and organizational ethics* 156–58 (2003).

⁵⁸ Surya Deva, *Business and human rights: alternative approaches to transnational regulation*, 17 Ann. Rev. L. & Soc. Sci. 139, 139–58 (2021).

the system. The proposed model also adds ‘Vak’ or the ‘Duty to Speak.’ According to Kautilya, it was an act of treachery for a minister to conceal the bad news from the King. In the same way, suppliers should have the right to speak about production problems and the extent of the labor crisis to the Buyer and not suffer a loss of the contract because of this. This level of transparency is necessary to avoid the labor exploitation that is often the result of panic. The regulator is said to be in possession of Danda (the rod of enforcement). Where institutional gaps cause a lack of accountability in the sourcing countries, such enforcement power cannot be spatially confined. Hence the ISRM endorses extraterritoriality in enforcement. This situation is in accordance with the Kautilyan conception of the chakravartin, a ruler with no borders to his authority, and justifies the claim that the legal frameworks in the Global North should position the CSDDD in a manner that it allows workers in the Global South affected by the actions of the parent company to sue.⁵⁹ Host countries are to empower labor inspectorates with Gudapurusha, i.e., independent auditors, to undertake the unannounced, corruption-free audits that will be shielded by whistleblower protections. Finally, the ISRM modifies the concept of remediation by incorporating the elements of restorative justice and extending it beyond financial compensation. In most instances, victims’ silencing is achieved through remedial processes that offer monetary compensation, or “Danegeld,” without addressing the actual harm done. Kautilyan justice aspires to the restoration of Dharma (order). Remediation should also be holistic, inclusive of victim advocacy, counselling, job substitution, and societal reconnection, in order to restore the victim’s Yogakshema. Furthermore, the punitive side of justice should be systemic. Kautilya’s analogy of not paying for the water when a dam bursts, but rather, building a stronger dam, applies. In this instance, the governance frameworks of corporations must be radically redesigned to avert the recurrence of this happening.⁶⁰

5. Conclusion and suggestions

The combination of Kautilyan principles and contemporary corporate governance provides a structural critique of the prevailing ‘soft law’ regime in Global Value Chains (GVCs). The evidence of exploitation at the system level indicates the reliance on voluntary Corporate Social Responsibility (CSR) for the last thirty years has provided inadequate protection of the most vulnerable workers.⁶¹ From the views of Kautilyan, the voluntary nature of governance is a

⁵⁹ Dalia Palombo, *The Duty of Care of the Parent Company: A Comparison between French Law, UK Precedents and the Swiss Proposals*, 4 BUS. & HUM. RTS. J. 265, 265–86 (2019).

⁶⁰ John Braithwaite, *Restorative justice and responsive regulation* 45–47 (2002).

⁶¹ Vivek Soundararajan & Jill A. Brown, *Voluntary Governance Mechanisms in Global Supply Chains: Beyond*

contradiction; the Arthashastra argues that in the absence of governance with a credible threat of Danda, it gives way to Matsyanyaya, a predatory state of affairs, where the strong consume the weak. Therefore, the existing lack of enforceable protections for workers is a failure of the market and a failure of governance.⁶² In order to address these issues, policies need to move from aspirational frameworks to ‘Hard Law’ similar to the CSDDD policy emerging frameworks. From the Kautilyan perspective, there are two specific legal changes that need to occur to bring order back to the system. The first one is the advocacy of Joint and Several Liability where the ‘corporate veil’ would be eliminated for a lead corporation and would no longer be able to shield themselves from the economic governance consequences. If a brand is a Labha (profit) maker from a supplier, that brand is Adharma (harm) and is liable. The other one is the need for the Criminalization of Negligence. Just as Kautilya advocated fines for negligent bureaucrats, modern legal frameworks must impose criminal liability on executives who set purchasing prices at levels that invite unsafe production, with knowledge that Gender-Based Violence (GBV) can result from such predatory pricing.⁶³ The adoption of Integrated Shared Responsibility Model (ISRM) has predictable push-back, including the often “Orientalist” claim that an ancient Indian text cannot speak to contemporary formations of capitalism. This claim ignores that Kautilya was not a theologian, but a political economist, and his thinking about power, duty (dharma), and the architecture of governance is particularly pertinent to the Global South, where the majority of the world’s production is located.⁶⁴ Corporations will always resist absorbing the costs related to internal safety mechanisms; however, from Kautilya’s perspective, implementing the principle of Yogakshema (welfare) means that this cost should be viewed as an investment to eliminate, or at least minimize, the safety disruptions. While the lack of an effective transnational litigation regime presents both practical and political challenges, the implementation of frameworks like the French Duty of Vigilance demonstrates that the Kautilyan model is not out of sync with contemporary legal developments. Instead, it provides a conceptual foundation to disconnect ownership from responsibility.⁶⁵ This paper contends that the persistence of Gender Based Violence (GBV) within Global Value Chains (GVC) is not a sign of a dysfunctional system. Rather, it is a consequence of a governance framework that illustrates the decoupling of the system of

CSR to a Stakeholder Utility Perspective, 134 J. Bus. Ethics 83, 83–102 (2016).

⁶² David L. Levy & Rami Kaplan, *Corporate Social Responsibility and Theories of Global Governance*, in *The Oxford Handbook of Corporate Social Responsibility* 432, 434–40 (Andrew Crane et al. eds., 2008).

⁶³ Mark Pieth & Radha Ivory, *Corporate criminal liability: emergence, convergence, and risk* 5, 45 (2011).

⁶⁴ Ajit K. Dasgupta *A history of Indian economic thought* 28–30 (1993).

⁶⁵ Sandra Cossart, Jérôme Chaplier & Tiphaine Beau de Lomenie, *The French Law on Duty of Care: A Historic Step Towards Making Globalization Work for All*, 2 Bus. & Hum. Rts. J. 317, 318–19 (2017).

economic power from the social liability. Existing ESG frameworks, which are dominated by audit-centric compliance, along with voluntary reporting, have proven insufficient to confront the 'institutional voids where violence against women as workers is common.⁶⁶ In placing the Arthashastra from the margins of historical philosophy into the centre as a theory of institutional design, this research makes a unique contribution to the literature of corporate accountability. It illustrates that Indian Knowledge Systems (IKS) provide more than the metaphysical abstraction of soft governance; it offers a hard governance or regulatory framework of Political Realism. This paper proposes three transformative shifts in corporate governance through the lens of the Arthashastra.

- **From Contract to Covenant (Samaya):** Buyer-supplier relationships are reframed as interdependent, not mere transactional relationships, and are, therefore, covenants of shared custody. The concept of Samaya in distancing sourcing agreements suggests that the balancing of responsibility and exercising of economic power is the best way to deal with the 'contractual distance' issue and transform it to relationship distance. Thus, lead corporations could be liable for the conditions of production that they dictate.
- **Moving From Voluntary CSR to Rajadharma:** Within this framework, to address the governance gap, that is, the structural divide between the spheres of corporate economic power and the legal frameworks designed to control such power and hold it accountable, requires an extension of responsibility from an optional moral choice to an ethical and legal bound fiduciary duty. The exercise of economic power (prabhu shakti) is an ethical duty that embodies protective responsibility (Palana). Thus, the so-called regulatory gap is, in fact, an underspecified governance gap, where dominant corporations exercise substantial economic power and evade legal responsibility to their suppliers.
- **Moving From Output to Outcome (Yogakshema):** Within this context, the framework is proposing a change from a focus on procedural 'audit rituals' to real outcomes of safety for the workers. The framework is critiquing compliance checklists. Within this context, it is established that profit (Yoga) is only justified by (Kshema) the safety that accompanies it. Therefore, this redefines legitimate corporate success as the

⁶⁶ Stephanie Barrientos & Sally Smith, *Do Workers Benefit from Ethical Trade? Assessing Codes of Labour Practice in Global Production Systems*, 28 *Third World Q.* 713, 713–29 (2007).

real safety and dignity of workers, particularly of women, and offers a robust measure of accountability.

The Integrated Shared Responsibility Model (ISRM) proposed here operationalizes the concepts of Kautilyan Danda, in this case, enforcement and the modern Mandatory Human Rights Due Diligence (mHRDD) framework. This alignment addresses the governance gap, shifting from the current supply chains' performative silence to a model where power and responsibility are institutionally bound together. Therefore, it can be concluded that Indian Knowledge Systems are more than a philosophical or a cultural relic. They are relevant and offer a framework for the effective design of institutional and corporate accountability. The integration of Danda, Palana, Rajadharmā, Yogakshema, and Kautilyan principles with contemporary supply chain governance demonstrates the importance of the ancient philosophy of power and duty in the context of contemporary supply chain governance gaps. In doing so, it shifts the Arthashastra to a more relevant and contemporary position within the narratives of contemporary traditions that can more substantively and more equitably shape the contemporary global order from the periphery to the more secured and central position.