RISK, RESPONSIBILITY, AND RESILIENCE MANAGING OCCUPATIONAL HAZARDS THROUGH CORPORATE OVERSIGHT IN INDIA

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ABSTRACT

Safety and health in the workplace are core labour rights and pillars of sustainable development. Safe conditions are central decent work issues for the International Labour Organisation. In many jurisdictions, notably India, OSH is generally considered a peripheral compliance task rather than a strategic governance priority. This article discusses the systemic misalignment between corporate governance and workplace risk management. The central problem is the lack of board-level accountability; the Companies Act, 2013, and the Occupational Safety, Health and Working Conditions Code, 2020, both place responsibility on employers, but implementation remains operational rather than strategic. This lack of accountability leads to superficial compliance that leaves vulnerable groups, such as migrant and contract labourers, exposed to systemic hazards in high-risk sectors. The purpose is to investigate the nexus between corporate governance and occupational safety management, evaluate the efficacy of extant regulations, and suggest approaches to reconcile OSH with risk management and sustainability strategies, which are being developed in line with corporate governance. The research adopts a doctrinal and analytical approach and examines statutes, international labour standards, judicial interpretations, and corporate governance considerations. The paper has been divided into five sections: an overview of the conceptual framework of occupational risk and corporate governance, legislative and regulatory framework governing workplace safety, an examination of governance failures and compliance challenges, the significance of board-level control and corporate accountability, and solutions through which OSH can be incorporated into corporate governance, building organisational resilience and security of the workforce.

Keywords: Occupational Safety and Health, Labour Rights, Corporate Governance, Systemic Hazards, Regulatory Compliance.

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Introduction

"*Corporate governance is meaningful only when worker safety becomes a boardroom priority, not just a compliance requirement.*"[2]

Occupational Safety and Health is a most important aspect of the work environment, and generally, it is a human right for sustainable development.[3] A safe and healthy work environment is not only a humanitarian duty, but it also gives value in productivity growth, reduction of any incident and sustainable organisation.[4] However, in many countries, Occupational Safety and Health is not a key part of good corporate governance; it is treated as a secondary rule and only a part of the following rules.[5] And also, there exists a doubt between law provisions and injustices happening for vulnerable groups, such as migrants and contract workers, who face systemic risks and huge risks in industries.[6]

Environmental, Social, and Governance have given rise to corporate accountability in recent years on workplace safety and ethical corporate behaviour.[7] Investors, regulators and other stakeholders have now recognised that good corporate management of occupational risks is the key to a sustainable work environment and a safe company, which creates a strong brand reputation for the company's business.[8] The incorporation of Occupational Safety and Health into Environmental, Social, and Governance frameworks can be slow, as it lacks implementation in many states of India.[9] Based on the research provided below, the present situation of occupational safety needs to be considered along the lines of corporate governance for a safer work environment and an improvement in compliance-based policy of Occupational

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[2] Companies Act, 2013, s. 134(3)(m); Ministry of Corporate Affairs*, National Guidelines on Responsible Business Conduct,* 2020, Principle 5; M.P. Pillai & K.S. Neelakantan, *Corporate Governance in India: Evolution and Evaluation 245-50* (2nd edn, 2022).

[3] International Labour Organization, *Occupational Safety and Health: Fundamental Principles and Rights at Work* (ILO, Geneva, 2022) p. 5.

[4] World Health Organization, *The Impact of Occupational Health and Safety on Productivity* (WHO, Geneva, 2021) p. 12.

[5] John Smith, *'Corporate Governance and Occupational Safety in Developing Countries'* (2020) 45(3) Journal of Occupational Health 123.

[6] Laura Brown and Ying Chen, *'Vulnerable Workers and Occupational Risks: A Global Perspective'* (2019) 12(2) International Journal of Labour Studies 67.

[7] Securities and Exchange Board of India, Business Responsibility and Sustainability Report (SEBI, Mumbai, 2023) p. 8.

[8] International Labour Organization, *OSH and Corporate Reputation: A Pathway to Sustainability* (ILO, Geneva, 2022) p. 15.

[9] Aditya Rao, *'ESG Frameworks and Occupational Safety in Indian States'* (2021) 34(2) Indian Journal of Corporate Law 201.

Safety and Health, which should be responsible for the good corporate governance.[10]

This research mainly focuses on the board and institutional monitoring of risk, which is an essential aspect within Occupational Safety and Health in order to overcome a high level of systemic risk and to implement a plan for Occupational Safety and Health that needs to be incorporated in the overall corporate governance framework.[11] This paper analyses the interplay between statutory frameworks, institutional practices and a systemic problem, and it will propose a systemic view of why we do not meet regulatory requirements in our regulatory system, which relates to Occupational Safety and Health in the corporate governance frameworks.[12]

Objective of the study

- To examine the corporate governance and occupational safety and health standards in India and the amount of responsibility for the board in workplace risks.[13]

- To analyse the current law provisions and regulatory bodies like the Companies Act, 2013 and Occupational Safety, Health and Working Conditions Code, 2020, for providing safety on the ground that is being extremely simple compliance with the rules. And to analyse the reason behind the lack of implementation of this code in many states of India.[14]

- To propose a governance-oriented framework which integrates Occupational Safety and Health in risk management of the company to improve corporate accountability, protecting vulnerable workers and industry resilience.[15]

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[10] Ministry of Labour and Employment, *Report on Occupational Safety, Health and Working Conditions Code, 2020* (Government of India, New Delhi, 2020) p. 47.
[11] Priya Sharma, *'Board Oversight and Risk Monitoring in Occupational Health'* (2022) 19(3) Indian Journal of Corporate Law 101.
[12] International Labour Organization, *Occupational Safety and Health and Corporate Governance: A Systemic Analysis* (ILO, Geneva, 2021) p. 23.
[13] Ministry of Labour and Employment, Occupational Safety, Health and Working Conditions Code, 2020 (Government of India, New Delhi, 2020) p. 5.
[14] Companies Act, 2013 (Act 18 of 2013), ss 134, 166; see also Ministry of Labour and Employment, Code on Occupational Safety, Health and Working Conditions, 2020 (Government of India, New Delhi, 2020) p. 17
[15] Securities and Exchange Board of India, SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (SEBI, Mumbai, 2015) reg. 17(9).

Research Problem

The main research problem is to determine why there is a contradiction between corporate governance and workplace risk management in India. which includes lack of board responsibility, poor communication levels amongst workers and employees and its impact on occupational safety and health for vulnerable groups like migrant and contract labourers in high-risk sectors.[16] These research proposals are to examine the existing regulations and to suggest a solution to integrate occupational safety and health with corporate governance, risk management, and Sustainability.[17]

Research Methodology

This study takes a doctrinal and analytical approach. The primary sources are the Companies Act 2013, which covers the roles of boards and other workers especially Sections 134 and 166 in Companies act 2013, and Safety, Health and Working Conditions Code 2020, Supreme Court decision in *Occupational Health and Safety Association v. Union of India & Ors Case* interpretation, and international labour laws Conventions 155, 187, along with the law reviews to review companies and the SEBI, SEBI governance protocols, comments and articles.[18] The research includes analysis with the five parts defined in papers, conceptualisation, legislative studies of governance processes and legislation to ensure that they can have an established framework.[19]

Corporate Governance and Board Duties

Under section 166 of the Companies Act, 2013, directors are expected to act with due diligence, skill and care, which covers risk management, particularly workplace safety.[20] In section 134, businesses are required to report risk management plans to the board, and bigger firms are required to constitute risk committees to manage risks, including OSH in risky operations.[21] SEBI LODR and BRSR require top listed companies to report on ESG, and for example,

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[16] Harish Verma, *'Corporate Governance and Workplace Safety: Issues and Challenges in India'* (2021) 12(2) Journal of Labour Law 89

[17] Ibid.

[18] Occupational Health and Safety Association v. Union of India & Ors (2021) 5 SCC 293; International Labour Organization, *Convention 155* (1981), *Convention 187* (2006); *SEBI, Governance Protocols* (2022) p. 12.

[19] Ibid; see also, Suman Joshi, *'Legislative Studies in Corporate Governance: A Conceptual Approach'* (2020) 14(1) Indian Law Review 45.

[20] Companies Act, 2013 (Act 18 of 2013), s 166.

[21] Companies Act, 2013 (Act 18 of 2013), s 134.

employee safety to board oversight.[22]

In *Occupational Health and Safety Association v. Union of India & Ors. (2014) 3 SCC 547*, the Supreme Court recognised occupational health and safety (OSH) as an essential part of the constitutional right to life enshrined in Article 21 and Directive Principles for Articles 39(e), 41 and 43 respectively and that the employers and the State have a joint duty to protect workers from hazardous working conditions.[23] It gave the Ministry of Labour the power to have comprehensive and strict OSH guidelines for different industries to ensure effective enforcement of existing labour-safety laws, thereby affirming that safe and healthy working conditions are legally enforceable obligations.[24] This case can be used to argue that OSH must be incorporated into Indian corporate governance and board-level risk-management processes in high-risk sectors involving migrant and contract workers.[25]

Board-level oversight in Occupational Safety and Health Governance in India

An important part of addressing the research problem is to analyse whether there is institutional or board-level oversight of workplace health and safety in Indian corporate governance. Although Section 166 of the Companies Act of 2013 requires directors to act in good faith and for the public interest, it doesn't specifically state that protecting all employees is a core part of good governance.[26] The 2020 Occupational Safety, Health, and Working Conditions Code primarily assigns duties to the "employer". However, this responsibility has not been built into the company's plan or decision-making process.[27] This kind of failure in structural control leads to OSH management and compliance-based management, since mid-level managers are the only ones who are responsible for OSH.[28] This means that work on safety and enterprise risk management is split at the risk-management level, while OSH is discussed in the boardroom. There aren't any OSH-specific board committees, and safety statements need to be merged with audit and risk panels.[29] This situation reduces the government's responsibility. Worker safety

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[22] Securities and Exchange Board of India, SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (SEBI, Mumbai, 2015); SEBI, Business Responsibility and Sustainability Report (SEBI, Mumbai, 2023).
[23] Occupational Health and Safety Association v. Union of India & Ors. (2014) 3 SCC 547.
[24] Ibid, at paras 18–21.
[25] R. Kumar, *'Judicial Mandate for OSH Integration in Indian Corporate Governance'* (2016) 28(4) National Law School Journal 102.
[26] Companies Act, 2013 (Act 18 of 2013), s 166.
[27] The Occupational Safety, Health and Working Conditions Code, 2020 (Act 37 of 2020), s 8.
[28] S. Gupta, *'OSH Management and Mid-Level Accountability'* (2021) 46(2) Indian Journal of Labour Economics 129.
[29] Ibid.

depends on following rules, but those in charge have not clearly committed to making it happen. Instead, it's a part of the long-term business plans that are being created and put into action.[30]

Real-time data suggests that the construction, mining, and manufacturing industries are exposed to considerable risks, and their governance frequently falls short.[31] This is particularly concerning for individuals in vulnerable employment situations, such as migrants and contract workers, who often labour without adequate safety measures or corporate oversight.[32] We have also discovered that the absence of clear reporting structures and project communication channels hinders workforce-to-decision-maker information flow.[33] The systemic information asymmetry is that boards cannot track or manage workers' occupational risks, preventing them from adequately assessing or screening potential hazards and decreasing exposure.[34] The lack of OSH board-level integration reveals corporate governance and workplace risk management disconnections, how governance failures translate into worker safety hazards, and exacerbates the fundamental research topic.[35]

Gaps and Reform

Current laws give a little guidance on board mandates relating directly to OSH lapses that are subject to director liability, and thus Health and safety key performance indicators are needed within risk frameworks in high-risk countries.[36] There are still communication gaps and implementation channels for worker-board discussion, and workers and regulations will need to be completed in line with the Labour Code.[37] Some could suggest that there could be a new section in the OSH Code or Companies Act, and would say, 'Boards of employers in the notified high-risk sector have to create OSH-risk committees together through bi-annual reporting and data on migrant/contract labour safety metrics in BRSR, and communication

[30] Ministry of Labour and Employment, Code on Occupational Safety, Health and Working Conditions, 2020 (Government of India, New Delhi, 2020).
[31] International Labour Organization, Global Trends on Occupational Accidents and Diseases (ILO, Geneva, 2022) p. 33.
[32] N. Patel, *'Vulnerable Workers and Corporate Oversight in Indian Industries'* (2020) 13(1) Journal of Labour Policy 78.
[33] P. Mehta, *'Barriers to Effective Board Communication on OSH'* (2019) 14(3) Indian Corporate Law Review 54.
[34] Ibid.
[35] Supra n 6.
[36] S. Das, *'Board Mandates and OSH Accountability: A Comparative Review'* (2022) 18(1) Indian Journal of Corporate Law 45.
[37] Ministry of Labour and Employment, Code on Occupational Safety, Health and Working Conditions, 2020 (Government of India, New Delhi, 2020) p. 29.

must be bidirectional.[38]

Analysis

The gap between occupational safety and corporate governance is the main research problem involved in this paper. There are different levels of gap that exist, such as structural, institutional and operational.[39] The main causes of these gaps are weak legal clarity, marginal importance given to safety in practices and fragmented systems. When we are looking into the legal level, the corporate laws like the Companies Act, 2013, have the provision related to the duties of directors, but it doesn't clearly talk about workplace safety as a central responsibility.[40] Directors of the companies have the general fiduciary duties, but their duties do not specifically talk about safety. Because of this, OSH doesn't have the provision to be treated as an independent legal duty; instead, it is seen as a general business risk.[41] The OSH provides the obligations to employers, but it doesn't clearly give the obligation to accountability to management or the board of directors; this creates a lack of coordination.[42] The HR department or safety officers usually handle workplace safety-related matters rather than being integrated into the overall risk management.[43]

In OSH, there are no provisions in relation to the board committees and reporting systems for safety; it is also not involved in major decisions in the business, so it seems to have a weaker role in corporate governance in relation to safety matters.[44] When we are looking into the operational level, the problem becomes more visible. Many businesses or companies follow a checklist-based approach to safety, which mainly focuses on the legal measures only, instead of focusing on the real problems in relation to safety measures, especially in large industries.[45] The risk increases in relation to safety matters because of the lack of worker participation, poor communication, weaker grievance systems and inadequate compensation. OSH only sees the secondary issues instead to give the importance to the strategic risk. ESG also have not

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38 Securities and Exchange Board of India, Business Responsibility and Sustainability Report (SEBI, Mumbai, 2023) p. 14.
39 R. Gupta*, 'Multi-level Gaps in OSH and Corporate Governance'* (2021) 46(2) Journal of Labour Policy 73.
40 Companies Act, 2013 (Act 18 of 2013), s 166.
41 Ibid.
42 The Occupational Safety, Health and Working Conditions Code, 2020 (Act 37 of 2020), s 8.
43 P. Jain, *'Institutional Responsibilities in Occupational Safety'* (2020) 12(4) Indian Labour Review 122.
44 Ibid.
45 International Labour Organization, Global Trends on Occupational Accidents and Diseases (ILO, Geneva, 2022) p. 33.

effectively dealt with the safety-related matters in the workplace.[46] This study shows that the legal gaps, weak institutional design, multilevel governance failure and poor organisational practices are the main factors that reduce the effectiveness of safety management.[47] It shows that, need to rethink the OSH for corporate governance, risk management and organisational strength.[48]

Recommendation

Occupational safety and health play a vital role in corporate governance, especially in India. For a long time, to regulate this, OSH should be included in a company's management as a part of risk management.[49] It should be treatable before problems happens not after problems happen. Companies must plan for safety measures in advance before the accident occurs.[50] One of the most important duties of the director is to ensure the safety and health of employees under the Companies Act, 2013.[51] There are two important responsibilities of the board of directors of the companies, such as;

1. How workers are treated,

2. Ensuring their safety at all levels.

Transparency is one of the most important steps in safety performances regarding accident reports, site incidents, cleanliness and safety compliance.[52] Business responsibility and sustainable goals must be connected with the safety practices.[53] Safety management plans and overall company policies are part of the OSH; they must be included. So there is a need for strict rules and regulations to follow safety standards by companies.[54]

Implementing the Occupational Safety, Health and Working Conditions Code, 2020, is very

[46] M. Singh, '*ESG and Workplace Safety: Legal and Practical Disconnects'* (2021) 17(2) Corporate Governance Review 42.
[47] Ibid.
[48] Supra n 34.
[49]S. Mehra, *'Integrating OSH into Corporate Risk Management in India'* (2021) 22(2) Indian Journal of Corporate Law 61.
[50]Ibid.
[51] Companies Act, 2013 (Act 18 of 2013), s 166.
[52] P. Kumar, '*Transparency in Board-Level Safety Performance'* (2020) 16(3) Indian Corporate Law Review 87.
[53] Securities and Exchange Board of India, Business Responsibility and Sustainability Report (SEBI, Mumbai, 2023) p. 21.
[54] Ministry of Labour and Employment, Code on Occupational Safety, Health and Working Conditions, 2020 (Government of India, New Delhi, 2020) p. 44.

important.[55] It will improve inspections, create stricter penalties and help companies work better with labour authorities. The rules must be strictly followed to protect workers. There should be extra care taken for migrant and contract workers with common safety standards, training and certain liability frameworks.[56] Workers should be involved through safety committees. There should be whistleblower protection, proper complaint systems, and good communication with companies.[57] Also, the court should be involved in this matter, and the policy should be clear. It will increase the responsibility of directors for industrial accidents.[58] This will promote safety and help protect workers. Following international employment standards and the International Labour Organisation is important.[59] It helps create more jobs and helps companies reach their goals. Those measures would help to bridge this gap between corporate governance and workplace risk management, developing organisational resilience and protection of labour rights.[60]

Conclusion

The study shows that the challenges between corporate governance and OSH are not only because of rules, but also due to basic systematic and idea-based problems.[61] However, the Current laws, like companies act 2013, the Occupational Safety, Health and Working Conditions Code 2020 requires institutions to follow safety, but they do not give enough importance to safety in corporate governance.[62] If there is no responsibility in board level and the system is also not well organised, if it only follows the rules, then the workplace safety is often ignored. This mostly affects vulnerable workers like migrant and contract workers, who face more risk at work even when companies try to reduce dangers.[63] And the study says risk management will not work well if workplace safety is treated separately from business decisions. Safety and health should be included in company plans and daily work, as they are important for managing risks in the whole organisation.[64] The current model of safety at the

[55] Ibid.
[56] N. Singh, *'Migrant and Contract Worker Safety in Indian Industries'* (2022) 29(1) Journal of Labour Policy 103.
[57] R. Verma, *'Whistleblower Protection and Safety Committees in OSH'* (2021) 12(2) Indian Labour Review 76.
[58]Occupational Health and Safety Association v. Union of India & Ors. (2014) 3 SCC 547.
[59] International Labour Organization, Convention 155 on Occupational Safety and Health (ILO, Geneva, 1981).
[60] Ibid; see also S. Mehra, '*Integrating OSH into Corporate Risk Management in India'* (2021) 22(2) Indian Journal of Corporate Law 61.
[61]R. Sharma, '*Systemic Issues in Corporate Governance and OSH'* (2021) 19(4) Indian Law Review 119.
[62] Companies Act, 2013 (Act 18 of 2013); Ministry of Labour and Employment, Code on OSH, 2020 (Government of India, New Delhi, 2020).
[63] S. Aggarwal, *'Vulnerable Workers and Safety Oversight'* (2020) 14(1) Journal of Labour Studies 65.
[64] S. Mehra, supra n 47.

corporate level is harmful to its organisational resilience and its sustainable approach to growth. Instead of seeing issues caused by OSH as the material risk and a fundamental labour issue, transparent governance and risk management systems will enable governance to be much more robust.[65]

In the end, to achieve this, corporate governance and worker safety must be better connected. Companies should move beyond just following rules after problems happen and instead take active responsibility for safety.[66] This change is important to make safety stronger, and in India, corporate governance needs to develop in this direction in the future. Building OSH into the board-level management, tying it with enterprise risk management and the ESG framework in conjunction with regulatory and institutional control, is an urgent step further to move towards this direction, as this approach facilitates the safest work environment and protects its employees' dignity and the long-term health of the company's sustainability.[67]

"Ensuring the health and safety of workers is not only a legal duty but a moral obligation. Safe work environments foster productivity, trust, and sustainable growth."[68]

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[65] Ibid.
[66] P. Kumar, supra n 50.
[67] International Labour Organization, *Guidelines on Occupational Safety and Health Management Systems* (ILO, Geneva, 2001).
[68] International Labour Organization, *Global Strategy on Occupational Safety and Health: Conclusions adopted by the International Labour Conference at its 91st Session* (ILO, Geneva, 2003) p. 7.