TWO SIDES OF THE SAME COIN: UNIFYING CSR AND ESG FOR A SUSTAINABLE HUMAN FUTURE

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ABSTRACT

In an era of escalating climate crisis and heightened stakeholder expectations, Corporate Social Responsibility (CSR) and Environmental, Social, and Governance (ESG) have emerged as two sides of the same coin, both aiming to align corporate operations with sustainable development. This research paper critically examines the evolving landscape of corporate climate accountability in India, with particular focus on the legal and regulatory gaps in ESG reporting and carbon risk disclosure frameworks.

India's ambitious climate commitments, including net-zero emissions by 2070 and updated Nationally Determined Contributions announced at COP26, have placed significant responsibility on corporations. The introduction of SEBI's Business Responsibility and Sustainability Reporting (BRSR) framework in 2021, followed by BRSR Core, marked a major shift towards mandatory ESG disclosures for the top 1,000 listed companies. However, the paper identifies persistent structural weaknesses, including voluntary Scope 3 emissions reporting, lack of mandatory climate scenario analysis, inadequate assurance mechanisms, weak enforcement, and regulatory fragmentation between SEBI, the Companies Act, 2013, and environmental laws. These gaps facilitate greenwashing, undermine investor confidence, and hinder genuine climate action.

Through doctrinal analysis, the study traces the evolution of CSR under Section 135 and ESG under SEBI regulations, evaluates key judicial contributions (particularly the expansion of Article 21 and principles such as Polluter Pays), and conducts a comparative assessment with global standards such as the EU's CSRD, UK's TCFD-aligned disclosures, and US SEC proposals. The research highlights how the current framework promotes symbolic compliance rather than substantive accountability.

The paper concludes that unifying CSR and ESG into a coherent, enforceable framework is essential for achieving India's sustainable development goals. It proposes targeted reforms including mandatory Scope 3 disclosures, robust assurance standards, stronger penalties, integration of sustainability with financial reporting, and enhanced directors' fiduciary duties under Section 166 of the Companies Act.

Keywords: ESG Reporting, Corporate Social Responsibility, Carbon Risk Disclosure, BRSR Framework, Greenwashing, Corporate Climate Accountability, Sustainable Development

I. INTRODUCTION

"We have not inherited this earth from our forefathers; we have borrowed it from our children."

The corporate sector in India is increasingly coming under pressure to address climate change, given the rising global pressure on corporate environmental performance and India's own climate ambitions.[1] India's pledge to become a Net Zero by 2070 was announced at COP26, Glasgow, November 2021, with an improvement in Nationally Determined Contributions (NDCs).[2] They involve cutting down the emissions intensity of GDP by 45% by 2030 and achieving 50% of the energy demand from the renewable sources by 2030.

In this context, corporations have been key in the struggle to reduce the carbon risks and speed up the transition to sustainable business.[3] But the current structures for holding companies to account for climate change are flawed and the scale of the challenge is not being met.

In May 2021, the Securities and Exchange Board of India (SEBI) has come up with the Business Responsibility and Sustainability Reporting (BRSR) framework, superseding the previous Business Responsibility Report.[4] The BRSR will apply to the top 1,000 companies by market cap from financial year 2022-23, and will require the disclosure of detailed Environmental, Social and Governance (ESG) metrics under the nine principles of the National Guidelines on Responsible Business Conduct. It includes quantitative data on Scope 1 and Scope 2 emissions, water use, waste and board oversight of sustainability issues.[5]

While this is a positive development, a number of implementation issues have emerged, exposing major gaps in data governance, enforcement and regulatory coordination.[6] Recent observations by SEBI have pointed out discrepancies in BRSR with other statutory disclosures

[1] Surya Deva, 'Corporate Human Rights Violations: A Case for Binding International Law' (2023) 12 Business and Human Rights Journal 1.
[2] Government of India, 'Prime Minister's Statement at COP26 Summit in Glasgow' Press Information Bureau (2 November 2021); United Nations Framework Convention on Climate Change, 'India's Updated First Nationally Determined Contribution' (2022).
[3] OECD, *ESG Investing and Climate Transition* (2022); *Business Standard*, 'Indian Companies Face Mounting Climate Disclosure Pressure' (7 September 2023).
[4] Securities and Exchange Board of India, 'Business Responsibility and Sustainability Reporting by Listed Entities' SEBI Circular No SEBI/HO/CFD/CMD-2/P/CIR/2021/562 (10 May 2021).
[5] SEBI BRSR Guidance Note (2022); KPMG, *BRSR Reporting: The New ESG Landscape in India* (2023).
[6] *The Economic Times*, 'SEBI Flags ESG Disclosure Mismatches Among Listed Companies' (11 August 2024); Deloitte, *ESG Reporting and Assurance in India* (2024).

like valuation of employee cost in BRSR versus the Director's Report under the Companies Act, 2013, Section 134 and discrepancies in CSR expenditure data in BRSR.[7] The inconsistencies suggest more fundamental issues with companies' data management and that of the disclosures they are making regarding ESG, and should stir consideration over transparency and trustworthiness. Furthermore, reporting is not as rigorous as it ought to be and penalties are weak, allowing for 'symbolic compliance' rather than substantive accountability.

II. EVOLUTION OF ESG DISCLOSURE REQUIREMENTS IN INDIA

The journey towards implementing mandatory ESG disclosures in India has been an iterative process that has evolved from voluntary guidelines to structured regulatory mandates.[8] The Companies Act, 2013 put a step in the right direction by mandating the disclosure of details of conservation of energy, technology absorption and foreign exchange earnings and outgo in the Board of Directors Report under Section 134(3)(m).[9] This was put in place through Rule 8(3) of the Companies (Accounts) Rules, 2014. These disclosures, however, were mostly qualitative and lacked depth, especially in the quantification of carbon emissions, the assessment and mapping of climate risks and the quantification of financial materiality.[10]

SEBI had launched the Business Responsibility Report (BRR) for listing companies in 2012, and later to the top 500 listed companies.[11] Although a principle-based approach, this BRR was of a largely qualitative nature with limited comparability and depth. In order to overcome these inadequacies and make it compatible with the international standards, SEBI has replaced the BRR with the more robust BRSR framework vide Circular dated 10th May, 2021, from the FY 2022-23.

In July 2023, BRSR Core, which signals a narrowed range of material ESG KPIs like greenhouse gas emissions intensity, water usage intensity, gender diversity, and board

[7] Companies Act 2013, s 134; SEBI Consultation Paper on ESG Disclosures (2023).
[8] Umakanth Varottil, 'The Evolution of Corporate Social Responsibility and ESG in India' (2022) 10 Indian Journal of Corporate Law 45.
[9] Companies Act 2013, s 134(3)(m).
[10] Shankar Venkateswaran, 'ESG Reporting in India: Challenges and Opportunities' (2021) 14 Indian Journal of Corporate Governance 112.
[11] Securities and Exchange Board of India, 'Business Responsibility Reports' Circular No CIR/CFD/DIL/8/2012 (13 August 2012); SEBI, 'Extension of BRR Requirements to Top 500 Listed Entities' Circular No CIR/CFD/CMD/10/2015 (4 November 2015)

oversight of sustainability, was introduced.[12] SEBI first had laid down reasonable assurance for the top 150 listed entities as from FY 2023-24. In December 2024, to make compliance easier, SEBI eased the requirement through a Circular No. SEBI/HO/CFD/CFD-PoD-1/P/CIR/2024/177, allowing companies to choose between "assessment" or "assurance" to ensure that data remains accurate and remains compliant.[13]

Table 1- The evolution of ESG in India

Year	Details of initiatives towards ESG
2007	RBI advises Commercial banks on CSR, sustainability and non-financial disclosure.
2009	The Ministry of Corporate Affairs (MCA), Government of India (GoI), for the first time introduced Corporate Social Responsibility (CSR) voluntary guidelines. They announced to formulate CSR policy together with strategic planning along with the roadmap for CSR initiatives. According to these guidelines, six elements of CSR policy namely, care of stakeholders, ethical functioning, respect for worker's right activities related to social and inc
2011	MCA, GOI refi luntary Guidelines (NVG) on So heir adoption was voluntary fron e business should protect, respe
2012	The Securities ry adoption of BRR practices as p
2014	The Compani n 135 the landmark CSR law cam
2015	The SEBI in 2 ting mandatory for top 500 listed
2017	The SEBI vid porting Disclosure Practices by t
2019	The SEBI exte -20.
2021	As per SEBI circular dated 10th May 2021, top 1000 listed entities are required to prepare Business Responsibility and Sustainability Reporting (BRSR) instead of BRR from FY 2021-22. The SEBI issued new format of BRSR and reporting on the Company performance based on nine principles as suggested in National Guidelines on Responsible Business Conduct (NGRBC).

Table 3 - Top 5 sectors gaining highest CSR contribution

Development Sector	Education	Health Care	Rural Development Projects	Environmental Sustainability	Sanitation
FY 2014-15	2,589.42	1,847.74	1,059.35	773.99	299.54
FY 2015-16	4,057.45	2,569.43	1,376.16	796.69	631.80
FY 2016-17	4,504.91	2,491.52	1,554.78	1,076.46	421.71
FY 2017-18	5,762.68	2,776.93	1,724.07	1,301.96	460.68
FY 2018-19	6,090.64	3,603.73	2,428.45	1,361.92	506.66
FY 2019-20	7,103.54	4,825.70	2,279.20	1,457.26	518.83
FY 2020-21	2,229.23	2,559.30	604.33	445.75	131.06

Source: MCA, SEBI, Companies Act, 2013, and CRISIL ESG report, 2021

Further, SEBI has made value chain disclosures a 'comply-or-explain' basis for the top 250 listed entities making 75% of all purchases and sales based on value for the FY 2024-25, followed by a limited assurance for FY 2025-26.[14] Even with these developments, the BRSR framework still has structural weaknesses that impede the ability of corporations to be held

[12] Securities and Exchange Board of India, 'Consultation Paper on Introduction of BRSR Core' (2023); Deloitte, *BRSR Core Framework and ESG Assurance in India* (2023).
[13] *Mint*, 'SEBI Relaxes ESG Assurance Norms for Listed Companies' (21 December 2024).
[14] SEBI BRSR Core Circular (2023); PwC India, *Value Chain ESG Reporting under BRSR Core* (2024).

accountable for climate change.[15]

III. EXISTING LEGAL GAPS IN ESG REPORTING AND CARBON DISCLOSURE IDENTIFIED

In spite of its progress towards creating the ESG disclosure framework in India, there remain certain loopholes that need to be addressed to make the framework effective in creating real corporate climate accountability and supplying investors and other stakeholders with reliable information.[16] There are four dimensions of these gaps, which can be broadly classified as scope limitations, enforcement deficits, assurance inadequacies, and regulatory fragmentation.

A. Voluntary Nature of Scope 3 Emissions Disclosure

The most glaring flaw in the carbon disclosure system in India is the recognition of Scope 3 emissions as only leadership (voluntary) indicators and not as mandatory disclosures.[17] In most industries, including manufacturing, consumer goods, and technology, Scope 3 emissions (those generated through a company's supply chain, business travel, employee commuting, use of its products, and disposal of its end-of-life operations) make up 70–90% of the company's total carbon footprint.[18] Because these disclosures are voluntary, the information provided may not be comprehensive or accurate, and does not provide a complete picture of the climate impacts that a company may have.

B. Limitations of the 'Comply-or-Explain' Model

Partial progress is seen with the introduction of value chain disclosures on a 'comply-or-explain' basis for the top 250 listed entities, as this does not require entities to fully quantify Scope 3 emissions in the fifteen value chain categories outlined in the Greenhouse Gas Protocol.[19] Furthermore, the comply-or-explain rule provides that companies need very little

[15] Jopsy Elsa George, 'Corporate Climate Accountability in India: Legal Gaps in ESG Reporting and Carbon Risk Disclosure' (2025) Indian Journal of Law and Legal Research; *Business Standard*, 'Why India's ESG Disclosure Framework Still Faces Credibility Challenges' (18 February 2025).
[16] Madhu Sirohi, 'ESG Reporting in India: Emerging Regulatory Concerns' (2024) 16 *Journal of Securities Law and Financial Markets* 73.
[17] Securities and Exchange Board of India, *BRSR Core Framework* (2023); Cyril Shroff and others, 'Climate Governance and ESG Liability in India' (2024) 9 *Indian Corporate Law Review* 118).
[18] World Economic Forum, *Net-Zero Challenge: Scope 3 Emissions* (2022); Carbon Disclosure Project, *Scope 3 Upstream Reporting Guide* (2023).
[19] Greenhouse Gas Protocol, *Corporate Value Chain Accounting Standard* (2011); Grant Thornton India, *BRSR Core and Value Chain Reporting* (2024).

justification for non-disclosure and no sanctions, giving them the potential for unlimited non-disclosure of meaningful reporting.[20]

C. Absence of Mandatory Climate Scenario Analysis

Further, the BRSR framework does not mandate companies to carry out and publish forward-looking climate scenario analysis, which is a crucial element to understand the potential impact of various climate scenarios (such as the 1.5°C or 2°C pathways) on business strategy, financial planning and long-term climate resilience.[21] Other key international frameworks like the Task Force on Climate-related Financial Disclosures (TCFD) strongly recommend this analysis to aid investors in comprehending transition risks, physical climate risks, and stranded asset exposure.[22]

IV. REGULATORY FRAGMENTATION AND DISCLOSURE INCONSISTENCIES

A. Fragmented ESG Reporting Frameworks

ESG disclosure requirements in India are spread across multiple regulatory frameworks, including the BRSR, the Companies Act, 2013 (through Directors' Reports and CSR provisions), and environmental laws administered by pollution control boards.[23] This fragmentation has resulted in duplication, regulatory gaps, and inconsistencies in reporting obligations.

Table 1: Components of ESG Framework

Environment	**Social**	Governance
Energy consumption	Employee well-being	Anti-corruption or Anti-bribery policy
Energy intensity	Health and safety	Conflict managements
Greenhouse gas emissions	training and awareness programmes	Retirement benefits
other than GHG emissions	Gender equality	Retention policy
Water consumption	human rights issues	Remuneration policy
Solid waste management	Social Impact Assessments	Stakeholders Engagements
Environmental Clearances	CSR activities	Affiliations with trade and industry associations
sustainable sourcing		
Extended Producer Responsibility		
Recycled /reused		
Life Cycle Assessments		

[20] Anirudh Rastogi, 'Regulating Green Claims and ESG Disclosures in India' (2024) 5 *NLU Delhi Journal of Regulatory Studies* 54.
[21] Network for Greening the Financial System, *Guide to Climate Scenario Analysis for Corporates* (2023).
[22] Task Force on Climate-related Financial Disclosures, *Final Recommendations Report* (2017).
[23] Central Pollution Control Board, *Environmental Compliance and Reporting Mechanisms* (2023).

B. Inconsistencies Across Corporate Disclosure Documents

In recent years, concerns have emerged regarding inconsistencies between employee-related information disclosed in BRSR reports and Directors' Reports, variations in CSR expenditure disclosures across documents, and inconsistencies between environmental claims in BRSR filings and compliance data submitted to pollution control authorities.[24]

C. Lack of Integration Between Financial and Sustainability Reporting

Furthermore, the absence of a mandatory linkage between sustainability reporting and financial reporting makes it difficult for material ESG and climate-related risks to be reflected in financial statements, Management Discussion and Analysis (MD&A), and risk disclosures under Regulation 34 of the SEBI (LODR) Regulations.[25] This artificial separation reinforces the outdated assumption that ESG issues are "non-financial," despite growing global recognition that climate and sustainability risks are financially material and directly affect long-term corporate performance and investor decision-making.[26]



Source: www.sebi.gov.in

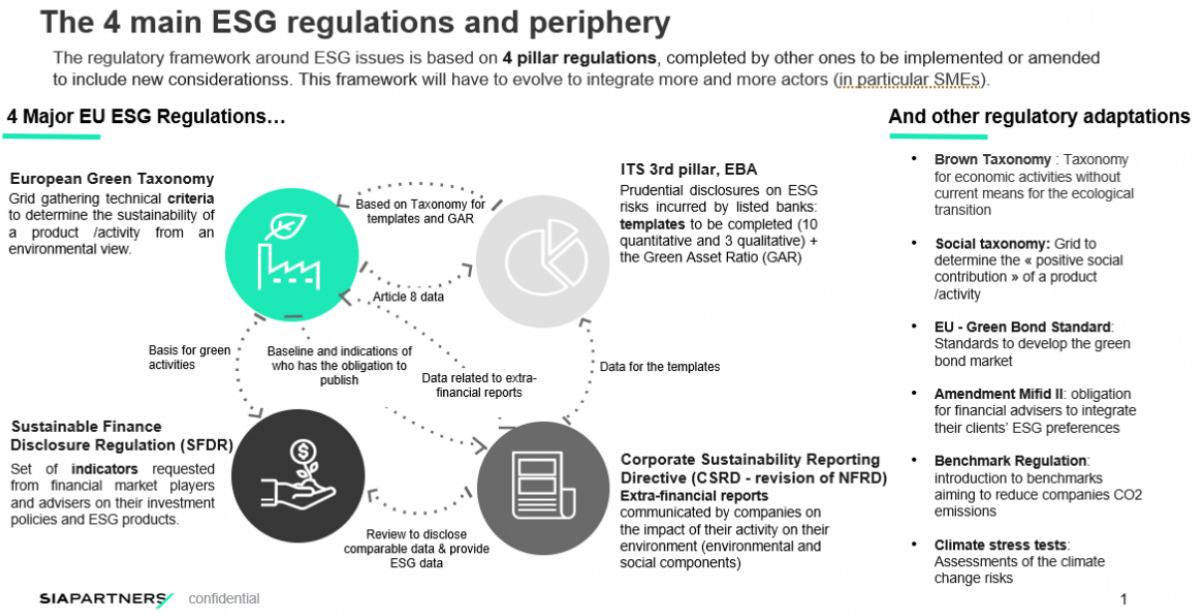
[24] *Mint*, 'SEBI Flags Mismatch in ESG and Corporate Filings' (9 August 2024); PricewaterhouseCoopers India, *Corporate ESG Reporting: Risks of Inconsistent Disclosures* (2024)
[25] International Federation of Accountants, *Connecting ESG and Financial Reporting* (2021).
[26] BlackRock Investment Institute, *Climate Risk and Investment Decisions* (2022) 12–14.

V. GLOBAL COMPARATIVE PERSPECTIVE

The EU has the most extensive environmental, social and governance framework available.

ESG regulation has become global with the introduction of some of the EU's key laws, including the Sustainable Finance Disclosure Regulation (SFDR) and the Corporate Sustainability Reporting Directive (CSRD). These are the requirements that require mandatory disclosure on corporations and financial institutions.[27] One of the hallmark features of the EU approach is the concept of "double materiality," which involves reporting on the impact of sustainability risks on the company's finances, as well as how the company's operations impact society and the environment.[28] It's a model based on a European principle of standardisation, transparency and comparability between jurisdictions and sectors.

Many of the principles in the ESG frameworks of India, including the principles of structured disclosures, sector agnostic nature of ESG ratings and enhanced transparency obligations, are similar.[29] But India's framework is relatively narrower with less enforcement and disclosure obligations.



[27] Regulation (EU) 2019/2088 on sustainability-related disclosures in the financial services sector [2019] OJ L317/1, arts 3–6; Directive (EU) 2022/2464 on corporate sustainability reporting [2022] OJ L322/15, arts 19a and 29a.

[28] European Financial Reporting Advisory Group, *Draft European Sustainability Reporting Standards* (2022) 13–15.

[29] Securities and Exchange Board of India, *Consultation Paper on ESG Rating Providers* (2022) 8–11; CRISIL ESG Research, *India's ESG Framework in Comparative Perspective* (2024) 17.

United States: A Market Oriented ESG Model

The United States has a relatively market-driven and investor-focused ESG regime as opposed to the EU's prescriptive. So far as the U.S. Securities and Exchange Commission ("SEC") has not established an overall ESG framework, but instead have been adhering to the existing securities legislation and the materiality principles.[30] Generally, ESG disclosures are only required if it is believed that they are financially material to investors.

Recent SEC proposals on climate disclosure showed a degree of standardization in reporting on sustainability issues, but this development is still in a political battle.[31] India's structure exhibits higher level of regulatory centralisation compared to this fragmented one. In the case of ERPs, SEBI has laid out all the norms relating to governance, disclosure requirements, rating methodologies, and conflict of interest protection.[32]

A unique contribution – The "Parivartan Score"

One of the innovations in the Indian ESG framework is the concept of "Transition or Parivartan Score," which measures the speed and impact of a company's efforts to transition to more sustainable practices, rather than just its current ESG performance.[33] This method acknowledges the nature of developing economies where industries might be in the process of making the transition to sustainable operations, but at a time when their emissions or ESG performance may be higher.[34]

As opposed to models in the West which tend to emphasize compliance with current requirements, India's model considers incremental progress and transition financing to be essential elements to sustainable development.[35]

The ESG regulatory framework in India is a balanced syncretism of the global best practices and domestic concerns.[36] The Indian framework is inspired by international standards (IOSCO

[30] US Securities and Exchange Commission, *The Enhancement and Standardization of Climate-Related Disclosures for Investors* (2022) 25–29.
[31] US Securities and Exchange Commission, *Climate Disclosure Rule Proposal* (2022) 33–38; *Wall Street Journal*, 'Climate Disclosure Rules Divide Corporate America' (27 March 2024) B2).
[32] Ernst & Young India, *Regulation of ESG Rating Providers in India* (2024) 8–10.
[33] *Economic Times EnergyWorld*, 'Parivartan Score May Redefine ESG Ratings in India' (12 September 2023) 5.
[34] Observer Research Foundation, *Transition Finance and Developing Economies* (2023) 27–29.
[35] *The Hindu*, 'India's ESG Model Focuses on Transition Rather Than Punishment' (3 December 2024) 10.
[36] Centre for Policy Research, *India's Emerging ESG Architecture* (2024) 31–33.

recommendations) but also features contextual mechanisms which address the needs of a developing economy. As a result, India is turning into a jurisdiction that not only embraces global ESG norms but also brings in innovation to the international sustainability discourse.

VI. JURISPRUDENCE

The involvement of the three pillars of Environmental, Social and Governance (ESG) in the accountability of companies has been heavily pushed forward by judicial proceedings. Courts around the world are moving from a "philanthropy" attitude towards CSR's "trust" attitude to a "constitutional" attitude. Courts are shifting from CSR as a voluntary philanthropy to a fiduciary and constitutional duty. In this chapter, 6–7 noteworthy modern examples (mostly 2020–25) are explored that show this change, with a focus on the competing demands of economic growth, climate change and biodiversity.

1. M.K. Ranjitsinh v Union of India[37]

In this landmark judgment, the Supreme Court of India recognized that protection against the adverse effects of climate change forms part of the fundamental rights guaranteed under Articles 14 and 21 of the Constitution. The case arose in the context of balancing renewable energy projects with the protection of the endangered Great Indian Bustard.

The Court emphasized that environmental sustainability, climate governance, and ecological protection are no longer merely policy considerations but constitutional concerns. The judgment is particularly relevant to ESG reporting because it strengthens the idea that corporations and public authorities must act responsibly toward climate risks and environmental impacts. It also reflects the increasing importance of climate-related disclosures and sustainability accountability in India’s legal framework.

2. Centre for Environmental Law, WWF-India v Union of India[38]

In this case, the Supreme Court reaffirmed key environmental principles such as sustainable development, public trust doctrine, and intergenerational equity. The Court stressed that environmental protection must remain central to governance and economic development

[37] M.K. Ranjitsinh v Union of India (2024) SCC OnLine SC 309.
[38] Centre for Environmental Law, WWF-India v Union of India (2013) 8 SCC 234.

policies.

The judgment highlighted the importance of transparency, accountability, and responsible environmental management by both the State and private entities. Its relevance to ESG and carbon disclosure lies in the Court's recognition that environmental harm and sustainability risks cannot be treated as external business concerns. The decision supports the growing expectation that corporations must disclose environmental risks, sustainability practices, and long-term ecological impacts in a transparent manner.

3. Milieudefensie et al v Royal Dutch Shell[39]

This case is regarded as one of the most significant climate litigation decisions against a multinational corporation. Environmental organizations and citizens argued that Shell's operations and fossil fuel investments substantially contributed to climate change and violated human rights obligations.

The Hague District Court ordered Shell to reduce its greenhouse gas emissions by 45% by 2030 compared to 2019 levels. Importantly, the ruling covered not only direct emissions but also Scope 3 emissions generated across Shell's value chain and by consumers using its products.

The case is highly relevant to ESG reporting because it established that corporations may face legal accountability for failing to adequately manage and disclose climate-related risks. It also strengthened international discussions on mandatory carbon disclosure, climate transition planning, and corporate responsibility for value-chain emissions.

4. People of the State of New York v Exxon Mobil Corp[40]

This litigation focused on allegations that Exxon Mobil misled investors regarding the financial risks associated with climate change regulations and carbon pricing policies. The New York Attorney General argued that the company publicly claimed to apply strict internal carbon pricing mechanisms while allegedly using different standards internally.

Although Exxon ultimately succeeded in defending the case, the proceedings became globally

[39] Milieudefensie et al v Royal Dutch Shell plc, Hague District Court, C/09/571932 / HA ZA 19-379, 26 May 2021

[40] People of the State of New York v Exxon Mobil Corp No 452044/2018 (Supreme Court of New York, 2019)

important because they highlighted the growing legal scrutiny surrounding ESG disclosures, climate-risk transparency, and greenwashing practices. The case demonstrated that climate-related risks are increasingly treated as financially material information that must be accurately disclosed to investors.

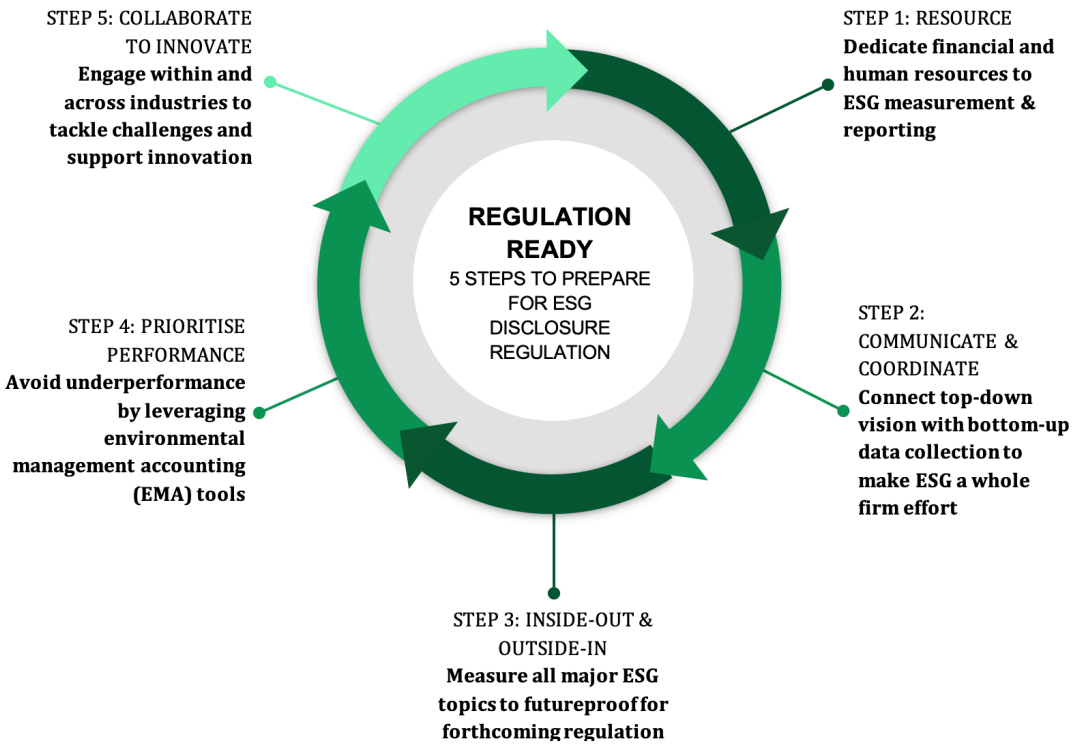
VII. RECOMMENDATIONS

Link CSR with ESG risks (double materiality approach) CSR spending should be aligned with the CSR's own environmental and social risk and impact (double materiality approach) as underlined by the EU Corporate Sustainability Reporting Directive.[41]

Adopt impact-based CSR (measurable outcomes) CSR should be measured by the actual results of the reduction of emissions and the efficiency of the use of resources, following the CSR Standards of the Global Reporting Initiative, emphasizing impact-oriented disclosures (Global Reporting Initiative, GRI Standards (GRI 2021)). [42]

Establish an integrated reporting mechanism CSR and ESG disclosures should be part of a single reporting system as recommended by integrated reporting frameworks by International Integrated Reporting Council.[43] Increase director accountability (board level responsibility) Directors should have a legal duty to take environmental and stakeholder considerations into account, along with the requirement to include this in their strategic reporting under the UK Companies Act 2006.[44]

[41] Directive (EU) 2022/2464 on corporate sustainability reporting [2022] OJ L322/15, arts 19a and 29a; European Commission, *Questions and Answers on the CSRD* (2023) 6–8.
[42] Global Reporting Initiative, *GRI Standards* (2021) 12–15; UN Global Compact, *Measuring Sustainability Impact* (2022) 9–11.
[43] International Integrated Reporting Council, *International <IR> Framework* (2021) 23–26; Institute of Chartered Accountants of India, *Integrated Reporting in India* (2022) 17–19.
[44] Andrew Keay, *The Enlightened Shareholder Value Principle and Corporate Governance* (Routledge 2013) 204–207.



The approach of the US Securities and Exchange Commission (SEC) in its proposals on climate disclosure should be followed in imposing liability on those who make misleading ESG disclosures, akin to financial misstatements. [45]

Increase responsibility for the value chain Scope 3 emissions should be made part of the responsibility of companies, as per the Task Force on Climate-related Financial Disclosures and the Greenhouse Gas Protocol.

CONCLUSION

The Indian model of CSR and ESG brings to light a greater structural imbalance than is usually recognized. Although the regulatory system looks progressive, in reality it is conceptually disjointed and normatively weak. CSR remains a cost, often outside of the business agenda, and ESG is still seen as a disclosure exercise focused on ‘showing the light' to investors, not on ‘accountability'. This segregation has created a 'compliance' culture where 'how' is often more important than 'what', and where 'what' is more often reported than 'how'.

[45] *New York Times*, ‘SEC Climate Disclosure Rules Aim to Curb Greenwashing’ (6 March 2024) A14.

The issue is not just that the rules are not more rigid, but that a regulatory paradigm exists that views CSR and ESG in different ways. This separation enables corporations to offload their responsibilities with expenditure on CSR and to leave risk and harm unexposed or unmanaged under ESG. Consequently, businesses can achieve their CSR goals while remaining invisible to the world.This means that, while companies can reach their CSR goals, they can still be hidden from the world. Currently, the law allows, but does not solve this duality.



The system in India remains based upon a minimalistic understanding of the corporate responsibility. The fact that the regulation allows for voluntary disclosures, like Scope 3 emissions, also means there is a flexible approach to the assurance needed instead of real consequences. This can help relieve compliance pressures, but it erodes the trust in the sustainability regime as a whole, and allows for strategic opacity and selective transparency.

The future problem is less one "step" at a time but one "mind shift. The future difficulty is not one step at a time, but one concept at a time. CSR needs to go beyond prescribed spending and must be legally connected to clearly defined sustainability goals and objectives, whereas ESG reporting should be clearly connected with financial responsibility and fiduciary obligations. Climate risk cannot just be a disclosure story, it is a material financial risk with implications for misstatement that are similar to traditional financial fraud. Such would entail embedding sustainability as a fundamental principle of corporate law, not just being limited to disclosure frameworks.

Finally, CSR and ESG should not be seen as separate instruments but as elements of one accountability framework which regulates the generation and dissemination of value by companies. However, until the law comes to a head-on confrontation with the conflict between

profit and ecological limits, sustainability will be a matter of "managed appearances" and not a change in corporate behaviour.