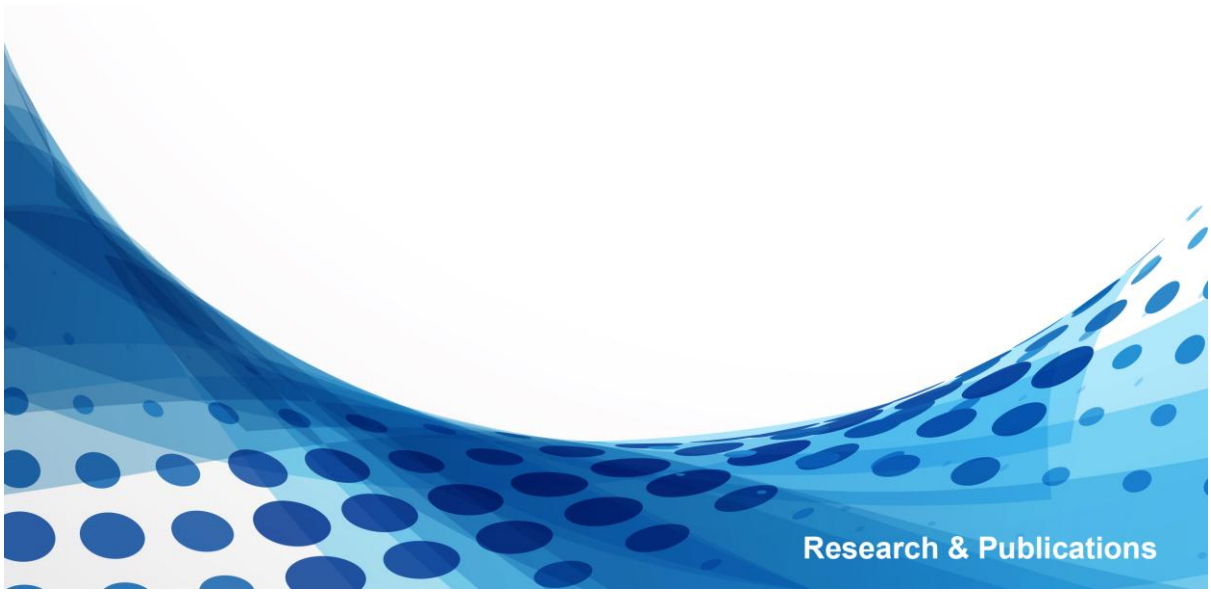
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Reconstructing Corporate Purpose: Distributive Justice and the Limits of Stakeholder Governance in India

Astha Pandey
M P Ram Mohan



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Astha Pandey* and M P Ram Mohan**

Abstract

This article examines the distributive implications of India's stakeholder-oriented corporate purpose framework, situating corporate law within the institutional architecture through which contemporary capitalism allocates economic power. As corporations assume an increasingly central role in financial markets, labour relations, environmental governance and public policy, corporate purpose can no longer be confined to managerial discretion or private ordering. Drawing on John Rawls's account of distributive justice, the article argues that corporate governance forms part of the basic structure through which the benefits and burdens of social cooperation are distributed, and must accordingly be assessed against principles of fairness and justice in the distribution of social and economic advantage. Examining directors' duties, mandatory CSR obligations and ESG disclosure requirements under the Companies Act and the SEBI Listing Regulations, the article interrogates the distributive consequences of India's formally pluralistic framework. It contends that notwithstanding its expansive normative vocabulary, the framework remains structurally constrained by concentrated promoter ownership and the absence of mechanisms capable of redistributing governance authority or constraining controlling shareholder power, such that existing distributions of corporate control remain substantially undisturbed. The article further argues that contemporary stakeholder reforms recalibrate the justificatory language of corporate responsibility without reconstituting underlying concentrations of economic authority. It concludes that a normatively defensible conception of corporate purpose requires institutional arrangements capable of aligning governance with fairness, accountability and participatory inclusion.

Keywords: Corporate Purpose, Distributive Justice, (Indian) Companies Act, Stakeholder Governance, Controlling Shareholder Accountability

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*Senior Research Associate, Indian Institute of Management Ahmedabad

** Professor, Indian Institute of Management Ahmedabad

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INTRODUCTION

The debate over corporate purpose has persisted for nearly a century[1] and yet, it remains mired in a conceptual impasse. Traditionally framed as a contest between shareholder primacy and stakeholder governance,[2] this discourse has yielded limited progress.[3] Despite extensive theorization, contemporary corporate governance debates remain constrained within narrow binaries - shareholders versus stakeholders, boards versus shareholders - unable to move beyond the paradigms that have historically informed corporate law and governance.[4] Meanwhile, the broader landscape in which this debate unfolds has changed profoundly. Contemporary corporate governance operates in a context shaped by global crises and institutional transformations that diverge sharply from the conditions in which the original debate emerged in the early twentieth century.[5]

This shift in the corporate governance environment operates at two interrelated levels. First, corporations today occupy a central position in responding to escalating environmental, social and economic crises, including climate change, widening inequality and persistent poverty.[6] Extraordinary concentrations of wealth, coupled with the erosion of social stability, have made evident the corporation's central role in producing and perpetuating these systemic challenges.[7] As some of the most powerful actors in the global economy, corporations increasingly exercise influence comparable to that of nation-states,[8] rendering their purposes and responsibilities critical

[1] C. A. Harwell Wells, 'Cycles of Corporate Social Responsibility: An Historical Retrospective for the Twenty-first Century' (2002) 51 Kansas Law Review 77.
[2] Tamara Belinfanti and Lynn Stout, 'Contested Visions: The Value of Systems Theory for Corporate Law' (2018) 166 University of Pennsylvania Law Review 579.
[3] Roberto Tallarita, 'Hohfeld in the Boardroom' (2026) 43 Yale Journal of Regulation 1051, 1060; The British Academy, 'Policy & Practice for Purposeful Business: The Final Report of the Future of the Corporation Programme' (2021) noting that the sterile debate of shareholder versus stakeholder has dominated discussion of company law for decades, without much advancement.
[4] Veronica Root Martinez, 'A More Equitable Corporate Purpose' in Elizabeth Pollman and Robert B. Thompson (eds), *Research Handbook on Corporate Purpose and Personhood* (Elgar 2021) 50; Jill Fisch, 'Measuring Efficiency in Corporate Law: The Role of Shareholder Primacy' (2006) 31 Journal of Corporation Law 637, 647; Adolf A. Berle, Jr., 'Corporate Powers as Powers in Trust' (1931) 44 Harvard Law Review 1049; E. Merrick Dodd, Jr., 'For Whom Are Corporate Managers Trustees?' (1932) 45 Harvard Law Review 1145; Adolf A. Berle, Jr., 'For Whom Corporate Managers Are Trustees: A Note' (1932) 45 Harvard Law Review 1365, 1367.
[5] Peer Zumbansen, 'The Corporation in an Age of Divisiveness' (2023) 26 University of Pennsylvania Journal of Business Law 300.
[6] Christopher Bruner, 'Corporate Governance Reform and the Sustainability Imperative' (2022) 131 Yale Law Journal 1222-1224.
[7] Christopher Bruner, *The Corporation as Technology: Recalibrating Corporate Governance for a Sustainable Future* (OUP 2022) 9-13.
[8] Bart Jansen, 'The Politicization of Business Ethics: State, Corporation, and Society, Seen from a Schmittian Perspective' (2025) Business Ethics Quarterly 1-2; see generally Matteo Gatti, 'Corporate Governing: Understanding Corporations as Agents of Socioeconomic Change' (2024) 50 The Journal of Corporation Law 151-208; Milan Babic, Eelke Heemskerk and Jan Fichtner, 'Who Is More Powerful - States or Corporations?' (Conversation, 10 July 2018) <https://theconversation.com/who-is-more-powerful-states-or-corporations-99616> accessed 15 April 2026; Qayyah Moynihan and Fernando Belinchón, '25 Giant

to questions of sustainability and social justice.[9] Second, corporations have become increasingly politicized, fundamentally altering the context in which corporate purpose must be understood.[10] The 'politicization of the corporation' reflects an emerging recognition that business entities can no longer be regarded as purely economic instruments insulated from political contestation.[11] Drawing on Habermasian theory, Professors Scherer and Palazzo have argued that corporations increasingly engage in normatively charged public discourse on issues such as climate change, human rights and social justice, mediate social values and exercise forms of authority that are political in nature.[12] This transformation exposes the inherently political character of corporate activity. Decisions concerning investment, production or employment are not merely technical or economic, but reflect underlying choices about the allocation of resources, power and risk within society. Corporate purpose, therefore, is no longer merely an economic problem but a political one, entailing issues of legitimacy, power, accountability and distributive justice.

The corporate purpose debate, however, has not adequately responded to these developments. It remains confined to a narrow, conventional framing rooted in a static conception of the corporate form, one shaped predominantly by comparative scholarship centered on jurisdictions of the Global North, particularly the United States (US) and the United Kingdom (UK).[13] This conventional approach treats the legal attributes of the corporation as relatively fixed and reflects the modular conception of corporate law that has dominated law-and-economics scholarship and

Companies that Are Bigger than Entire Countries' (Business Insider, 25 July 2018) < https://www.businessinsider.com/25-giant-companies-that-earn-more-than-entire-countries-2018-7> accessed 15 April 2026.

[9] Steve Coll, *Private Empire: ExxonMobil and American Power* (reprint edn, Penguin Books 2013) 3-25; Richard Locke, *The Promise and Limits of Private Power: Promoting Labor Standards in a Global Economy* (CUP 2013) 1-20; Susanne Soederberg, *Beyond Corporate Governance: Power, Activism and Social Responsibility in an Era of Financialization: The Politics of Resistance and Domination* (Routledge 2009) 1115; Stephen Wilks, *The Political Power of the Business Corporation* (Elgar 2013) 1-20; David Jason Karp, *Responsibility for Human Rights: Transnational Corporations in Imperfect States* (CUP 2014) 1-19; Katharina Pistor, *The Code of Capital: How the Law Creates Wealth and Inequality* (Princeton University Press 2019) 1-22.

[10] See generally Chi Kwok, 'A Political Capability Approach to Corporate Power: A "Political" Political Theory of the Corporation' (2026) Philosophy and Social Criticism 1-23 describing a recent 'political turn' in theorising the corporation and conceptualising its political power through four capabilities: law-making, governance, discursive power and democratic will-shaping.

[11] Andreas G. Scherer and Guido Palazzo 'Toward a Political Conception of Corporate Responsibility: Business and Society Seen from a Habermasian Perspective' (2007) 32 Academy of Management Review 1115; Scherer Andreas G. and Guido Palazzo, 'Globalization and Corporate Social Responsibility' in Crane and others (eds), *The Oxford Handbook of Corporate Social Responsibility* (OUP 2008) 413-431; see generally Tom C. W. Lin, 'The New Corporate Political Governance' (2024) 65 Boston College Law Review 835-902.

[12] Gatti (n 8) 151-208 conceptualising 'corporate governing' as the increasing involvement of corporations in public affairs, including political advocacy and quasi-governmental functions, and recognising corporations as emerging agents of socioeconomic change; Scherer and Palazzo (n 11) 1096-1120; Gabriel Rauterberg, 'The Corporation's Place in Society' (2016) 114 Michigan Law Review 913: 'The vast majority of economic activity is now organized through corporations. The public corporation is usurping the state's role as the most important institution of wealthy capitalist societies.'

[13] See eg *The Anatomy of Corporate Law: A Comparative and Functional Approach*, Reiner Kraakman and others (eds) (2nd edn, OUP 2009) the third edition of this book included Brazil as one of the core jurisdictions examined; Mariana Pargendler, 'Corporate Law in the Global South: Heterodox Stakeholderism' 47 Seattle University Law Review 538-539.

neoliberal policymaking since the 1970s.[14] This framework not only separates efficiency from questions of justice and distribution, but also marginalises the institutionally diverse corporate law systems of the Global South whose institutional pluralism challenges these orthodoxies.[15] In doing so, it also obscures the corporation's role in structuring economic power and leaves the relationship between corporate law, political theory and distributive justice insufficiently theorised. Re-examining corporate purpose through this broader lens that is attentive to both, institutional diversity and the political dimensions of corporate power, is therefore essential if the debate is to move beyond the narrow shareholder-stakeholder dichotomy.

Building on the preceding discussion, this article seeks to advance the corporate purpose debate by addressing two interrelated gaps: first, the neglect of Global South jurisdictions and their institutional diversity in comparative corporate governance scholarship; second, the dominance of the modular, fixed-attribute conception of the corporate form that limits the debate's conceptual scope. It addresses these gaps through an examination of India's pluralistic stakeholder-oriented corporate governance framework, using its distinctive combination of stakeholder-oriented directors' duties, mandatory CSR obligations and ESG-related disclosures to interrogate the distributive consequences and normative foundations of corporate purpose. The Indian experience demonstrates that although such pluralism marks a formal departure from shareholder primacy, it remains substantively limited given that corporate governance does not confront deeper distributive and structural inequalities.

Drawing on John Rawls's theory of distributive justice, this article employs justice as fairness as a normative lens through which to assess the distributive implications of India's stakeholder-oriented corporate governance framework and more broadly, to reconceptualise corporate purpose in justice-oriented terms. Since the publication of *A Theory of Justice* in 1971,[16] debates in political

[14] William T. Allen and Reiner Kraakman, *Commentaries and Cases on the Law of Business Organization* (5th edn, Kluwer 2016) 75-77; see eg John Armour and others, 'Beyond the Anatomy' in R. Kraakman and others (eds), *The Anatomy of Corporate Law: A Comparative and Functional Approach* (3rd edn, OUP 2017) 1-2, 5-15; Bruner (n 6) 1240-1241; Mariana Pargendler, 'Controlling Shareholders in the 21st Century: Complicating Corporate Governance Beyond Agency Costs' (2020) 45 Journal of Corporation Law 953-975; L. Kaplow and S. Shavell, 'Why the Legal System Is Less Efficient than the Income Tax in Redistributing Income' (1994) 23 Journal of Legal Studies 667-681 arguing that promoting distribution through the tax-and-transfer systems produces fewer behavioral distortions and thereby increases the size of the pie to be distributed compared to efforts to effectuate distribution through other areas of law.

[15] See eg Mathias Siems, 'The Power of Comparative Law: What Types of Units Can Comparative Law Compare?' (2019) 67 The American Journal of Comparative Law 861-888, 865; Kevin Davis and Mariana Pargendler, 'Legal Heterodoxy in the Global South: Adapting Private Laws to Local Contexts' in Kevin Davis and Mariana Pargendler (eds), *Legal Heterodoxy in the Global South* (CUP 2025) 1-2.

[16] John Rawls, *A Theory of Justice* (HUP 1971) 3-4.

philosophy have increasingly focused on how the basic structure of society, including its economic institutions, distributes the benefits and burdens of social cooperation.[17] Corporate law, as a central component of that institutional architecture, influences access to wealth, opportunities and well-being. To be clear, this article does not evaluate Rawls's theory as a substantive account of justice - rather, it treats his framework as a conceptual tool for interrogating the normative and distributive foundations of India's corporate purpose framework and rethinking the moral architecture of capitalism within which contemporary corporate governance operates.[18]

The remainder of this article proceeds in four sections. Section I articulates the conceptual groundwork for reconnecting corporate law with its political-philosophical underpinnings by advancing a normative framework grounded in Rawlsian principles of justice. Section II examines the implications of Rawls's theory for corporate purpose and explores whether corporate institutions, given their growing political and economic influence, should be treated as part of the 'basic structure' and thus subject to the principles of justice. Section III critically evaluates India's stakeholder-oriented corporate purpose framework through a Rawlsian lens of distributive justice. Section IV situates the foregoing analysis within broader debates on corporate governance, sustainability and political economy, contending that the institutional limitations of contemporary stakeholder governance necessitate reconstructing corporate purpose in accordance with principles of distributive justice that address structural inequalities in corporate power.

I. RE-EMBEDDING CORPORATE LAW WITHIN POLITICAL PHILOSOPHY: BEYOND THE SHAREHOLDER-STAKEHOLDER IMPASSE

This article advances the corporate purpose debate by bringing the distributive consequences of corporate law and governance into more explicit dialogue with distributive justice, particularly its implications for social justice, inequality and welfare. Accordingly, this Section delineates the theoretical basis for re-embedding corporate law within political philosophy, drawing in particular on Rawls's theory of justice.

[17] Serena Olsaretti, 'Introduction: The Idea of Distributive Justice' in Serena Olsaretti (ed), *The Oxford Handbook of Distributive Justice* (OUP 2018) 1-2.

[18] Christopher M Bruner, 'Corporate Personhood, Corporate Rights, and the Contingency of Corporate Law' (2025) 16 Transnational Legal Theory 9, 19-20 emphasising the social and political contingency of corporate law and the need to justify particular configurations of corporate rights and governance by reference to external normative criteria.

1. The Constraints of Contemporary Corporate Purpose Debates

Contemporary debates on corporate governance, and corporate purpose in particular, remain normatively constrained.[19] Dominant analytical frameworks typically situate the corporation within the conceptual architecture of the agency theory, construing governance problems primarily in terms of efficiency, incentive alignment and mitigation of managerial opportunism.[20] However, the agency theory's conception of the corporation as a nexus of contracts ordered around the singular objective of shareholder wealth maximisation is both descriptively incomplete and normatively thin.[21] Its influence, which crystallised during the 'market-friendly' ascendancy of the 1980s, treats the corporation as an entity with fixed and universal attributes - legal personality, limited liability, freely transferable shares and centralized board elected by shareholders.[22] As a result, this framework has produced a corporate governance discourse narrowly confined to shareholder primacy, the minimisation of agency costs and the prioritisation of capital's claims over those of labour, creditors, communities and the environment.[23]

The shareholder primacy paradigm not only limits the corporation's purpose, but also shapes the institutional logic of law and markets such that even environmental, social and governance reforms are recast in shareholder-value terms.[24] The resulting framework has proven ill-equipped to address the systemic harms associated with contemporary capitalism, including widening

[19] Christopher Bruner, *Corporate Governance in the Common-Law World: The Political Foundations of Shareholder Power* (CUP 2013) 53-65 surveying theoretical frameworks.
[20] Andrei Shleifer and Robert W Vishny, 'A Survey of Corporate Governance' (1997) 52 Journal of Finance 737, 773 observing that agency problems arising between owners and managers, and the attendant need to align their incentives, are central to what corporate governance is about.
[21] Paddy Ireland, 'Shareholder Primacy and the Distribution of Wealth' (2005) 68 Modern Law Review 49; Jennifer G. Hill, 'Hidden Fallacies in the Agency Theory of the Corporation' (2024) European Corporate Governance Institute Law Working Paper No 799/2024, 1-43 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4948212> accessed 15 April 2026; Lynn A Stout, 'The Toxic Side Effects of Shareholder Primacy' (2013) 161 University of Pennsylvania Law Review 2003; Beate Sjåfjell and others, 'Shareholder Primacy: The Main Barrier to Sustainable Companies' in Beate Sjåfjell and Benjamin Richardson (eds), *Company Law and Sustainability: Legal Barriers and Opportunities* (CUP 2015) 79, 143-147; Charlotte Villiers, 'Controlling Executive Pay: Institutional Investors and Distributive Justice' (2010) 10 Journal of Corporate Law Studies 309; Jean-Philippe Robé, 'The Legal Structure of the Firm' (2011) 1 Accounting, Law and Economics 1; Simon Deakin, 'Reversing Financialization: Shareholder Value and the Legal Reform of Corporate Governance' in C. Driver and G. Thompson (eds), *Corporate Governance in Contention* (OUP 2018) 23-45; Michael Galanis, 'Growth and the Lost Legitimacy of Business Organizations: Time to Abandon Corporate Law Reform' (2019) 20 Journal of Corporate Law Studies 291; Lorraine Talbot, 'Shareholders and Directors: Entitlement, Duties and the Expansion of Shareholder Wealth' in Andrew Johnston and Lorraine Talbot (eds), *Great Debates in Commercial and Corporate Law* (Bloomsbury 2020) for an established body of scholarship that is critical of the agency-theoretic approach to company law.
[22] Robert Romano, 'After the Revolution in Corporate Law' (2005) 55 Journal of Legal Education 342; Brian Cheffins, 'Trajectories of (Corporate Law) Scholarship' (2004) 64 Cambridge Law Journal 456.
[23] Frank H. Easterbrook & Daniel R. Fischel, *The Economic Structure of Corporate Law* (HUP 1991) 35-39; Bruner (n 6) 1231-1233.
[24] Dorothy S Lund and Elizabeth Pollman, 'The Corporate Governance Machine' (2021) 121 Columbia Law Review 2563, 2612-2615.

inequality, concentration of economic power, environmental harms and the socialization of corporate externalities.[25] Its entrenchment is evident in global debates,[26] including in jurisdictions of the Global South, where heterodox institutions such as India's pluralistic stakeholder-oriented directors' duties, mandatory CSR obligations or ESG initiatives are often absorbed into a modular, efficiency-centered orientation that severs distributive concerns from corporate law's domain.[27] However, the commitment to maximizing shareholder returns does not follow a natural or universal legal logic. Rather, it is a normative construction embedded in a particular political economy which is the product of historically contingent ideological and political choices.[28]

Alternative theoretical frameworks, for instance, the institutional theory of corporate law, underscores the political and normative character of the construct of shareholder wealth maximisation as a legal duty.[29] Further, comparative corporate law scholarship that departs from traditional Global North-centric approaches demonstrates that the distribution of rights, duties and power within the corporation is intrinsically political. Governance initiatives in jurisdictions in the Global South reflect an understanding of corporations as social and legal institutions that routinely embed substantive political and social commitments within the corporate form.[30] Brazil's social-function doctrine and right to health jurisprudence, India's mandatory CSR regime, South Africa's Black economic empowerment framework and Colombia's rights-of-nature and stakeholder-protective constitutional jurisprudence collectively demonstrate that corporate law often operationalises distributive and political values rather than merely mediating private ordering.[31]

Seen in this light, the agency-theoretic conception of the corporation, often conceived as value-neutral, obscures the political, distributive and moral commitments underlying corporate governance arrangements. Recognizing the narrowness of the premises that underpin the predominant understanding of corporations and their purpose requires a more capacious analysis,

[25] Bruner (n 6) 1226-1227.
[26] Marc T. Moore and Martin Petrin, *Corporate Governance: Law, Regulation and Theory* (Palgrave 2017) 46 noting that agency theory is the dominant reference point among company law scholars today.
[27] Companies Act s 166(2); Companies Act s 135; Companies Act Schedule VII; Companies Act Schedule IV, paras II (5) and (6); Companies Act Schedule IV, para III (12); Companies Act s 149(8); SEBI Listing Regulations Reg 34(2)(f).
[28] Kathleen Thelen, 'Historical Institutionalism in Comparative Politics' (1999) 2 Annual Review of Political Science 369; Orfeo Fioretos, Tulia G Falleti and Adam Sheingate, *The Oxford Handbook of Historical Institutionalism* (OUP 2016) 3-30.
[29] Alexander Styhre, *The Making of Shareholder Welfare Society: A Study in Corporate Governance* (Routledge 2018) 1-20; David Gindis and Eva Micheler, 'Institutional Theory for Corporate Law: An Invitation' (2024) 24 Journal of Corporate Law Studies 429.
[30] Davis and Pargendler (n 15) 14.
[31] See generally Pargendler (n 13) 535-579.

primarily through two complementary lenses. First, corporate governance must be understood as concerned not only with mitigating agency costs but also with confronting externalities and distributional consequences.[32] Second, the corporation must be analysed as a political institution whose internal allocation of power and control has consequences for justice, welfare and the distribution of social and economic burdens.[33] These insights substantiate the need for a more sustained engagement with questions of corporate purpose grounded in political-philosophical inquiry.

2. Distributive Justice and the Architecture of Corporate Law

The proposition that Rawls's theory of justice offers a robust conceptual foundation for reconnecting corporate law with normative political theory remains contested.[34] Therefore, the selection of Rawls's framework as the primary analytical instrument warrants explicit methodological justification, given that several alternative traditions of distributive justice might, with equal initial plausibility, claim relevance to a critique of corporate law.[35] The capabilities approach advanced by Professors Sen and Nussbaum, Professor Cohen's luck egalitarianism, Professor Anderson's democratic egalitarianism, and various strands of radical political economy each furnish illuminating accounts of the relationship between economic institutions and the demands of justice, and each has generated scholarship bearing, to varying degrees, upon questions

[32] Kent Greenfield, *The Failure of Corporate Law: Fundamental Flaws and Progressive Possibilities* (The University of Chicago Press 2006) 14-19; David Millon, 'Communitarianism in Corporate Law: Foundations and Law Reform Strategies' in Lawrence E. Mitchell (ed), *Progressive Corporate Law* (Routledge 1995) 1-2, 7-9.

[33] Mariana Pargendler, 'The Corporate Governance Obsession' (2016) 42 The Journal of Corporation Law 367, 389-395 stating that when the promise of corporate governance is extrapolated from mitigating agency costs (however economically significant they might be) to coping with externalities and distributional concerns as well, such as those arising from corruption, systemic risk, environmental harm, human rights, and gender inequity, the relentless emphasis on corporate governance becomes even clearer - discussing various issues (inequality and other social issues) that corporate governance has been applied to; see generally Mark J. Roe and Massimiliano Vatiero, 'Corporate Governance and its Political Economy' in Wolf-Georg Ringe and Jeffrey N. Gordon (eds), *The Oxford Handbook of Corporate Law and Governance* (2nd edn, OUP forthcoming).

[34] Wayne Norman, 'Rawls on Markets and Corporate Governance' (2015) 25 Business Ethics Quarterly 29-31 discussing how Rawls himself was of the view that his theory should organize our judgments about the nature of markets, market regulations and the governance of firms and why Rawls's approach to questions of political economy are worth working through as a model for taking seriously the challenges of justifying market institutions with an egalitarian conception of justice.

[35] The question of which normative framework is most appropriate for the evaluation of corporate governance arrangements is not self-evident and is itself the subject of methodological dispute - see Samuel Scheffler, 'Is the Basic Structure Basic?' in Christine Sypnowich (ed), *The Egalitarian Conscience: Essays in Honour of G A Cohen* (OUP 2006) 103-108; Waheed Hussain, 'Corporations, Profit-Maximization and the Personal Sphere' (2012) 31 Economics and Philosophy 230-235; Abraham A Singer, 'There Is No Rawlsian Theory of Corporate Governance' (2015) 25 Business Ethics Quarterly 66-72 questioning whether Rawls's framework yields determinate conclusions about corporate governance structures, while acknowledging the importance of the broader normative inquiry; Liam Murphy and Thomas Nagel, *The Myth of Ownership: Taxes and Justice* (OUP 2002) 1-27.

of corporate organisation and accountability.[36] The analytical choice is not, therefore, a matter of disciplinary convention. The capabilities approach is principally concerned with evaluating the concrete substantive freedoms available to individuals within a given institutional setting, rather than with specifying the institutional design criteria through which such conditions of freedom are to be secured, which is precisely the structural inquiry undertaken in the present article.[37] Applied to corporate law, it illuminates distributional outcomes without supplying normative criteria for the evaluation of the institutional arrangements through which those outcomes are produced.[38] Luck egalitarianism, for its part, is directed at neutralising the effects of brute luck in the constitution of individual advantage and does not yield institutional criteria for evaluating the allocation of corporate control and governance authority, which are structured by legal rules rather than constituted by contingency alone.[39] Anderson's relational egalitarianism furnishes a powerful critique of private economic authority as a form of domination, one that informs the analysis advanced in Section IV, but is directed principally at securing conditions of social equality and non-domination rather than at prescribing the institutional arrangements through which productive assets are to be distributed.[40]

Rawls's framework recommends itself, by contrast, on grounds of analytical fit. His concept of the basic structure comprising major social institutions through which the benefits and burdens of cooperation are distributed, provides the most direct analytical bridge between political philosophy and corporate law as a body of rules that structures access to economic power, opportunity and

[36] Amartya Sen, *The Idea of Justice* (HUP 2009) 18-24, 229-253; Martha C Nussbaum, *Creating Capabilities: The Human Development Approach* (HUP 2011) 17-45; G A Cohen, 'On the Currency of Egalitarian Justice' (1989) 99 Ethics 906; Elizabeth Anderson, 'What Is the Point of Equality?' (1999) 109 Ethics 287 for the application of these traditions to questions of corporate organisation; Simon Deakin, 'The Capability Approach and the Economics of the Firm' (2012) 3 Journal of Human Development and Capabilities 344; Hussain (n 35) 231-240.

[37] Sen (n 36) 229-253; Nussbaum (n 36) 20-45; Séverine Deneulin, 'Capabilities, Sen and Rawls: Political Philosophy for Human Development' in Séverine Deneulin and Lila Shahani (eds), *An Introduction to the Human Development and Capability Approach* (Earthscan 2009) 33-39 distinguishing the evaluative orientation of the capability approach from the prescriptive orientation of institutional design theory.

[38] Sen (n 36) 229-253; Hussain (n 35) 234-238 observing that capability frameworks illuminate the welfare consequences of institutional arrangements but are not directed at specifying the structural design of those arrangements as a prior normative question.

[39] Cohen (n 36) 906-912; Ronald Dworkin, *Sovereign Virtue: The Theory and Practice of Equality* (HUP 2000) 65-119; Anderson (n 36) 288-302 arguing that luck egalitarianism's concern with the neutralisation of unchosen disadvantage does not capture the relational and institutional dimensions of inequality as it is structured by law and governance.

[40] Elizabeth Anderson, *Private Government: How Employers Rule Our Lives (and Why We Don't Talk about It)* (Princeton University Press 2017) 37-66; Anderson (n 36) 312-323; Hussain (n 35) 238-244; Philip Pettit, *Republicanism: A Theory of Freedom and Government* (OUP 1997) 51-79.

surplus.[41] His explicit distinction between welfare-state capitalism and property-owning democracy supplies a normative benchmark, unavailable in comparable form within alternative frameworks, against which India's CSR mandates and disclosure-based governance can be evaluated and found institutionally deficient.[42] Further, the difference principle furnishes an operational institutional criterion that social and economic inequalities be arranged to the greatest benefit of the least advantaged sufficiently determinate to sustain legal analysis without presupposing a comprehensive moral doctrine.[43] The invocation of Rawls is therefore a matter of analytical precision rather than theoretical affiliation - it is the combination of institutional specificity and evaluative determinacy that renders his framework the most appropriate for a critique of corporate governance architecture of the kind advanced herein.

A further and related consideration reinforces the case for this analytical choice.[44] A recurrent and well-founded objection to abandoning shareholder primacy in favour of stakeholder-oriented alternatives is the indeterminacy endemic to the latter. Absent a coherent criterion for adjudicating among the competing and often incommensurable claims of employees, creditors, communities and other constituencies, stakeholder governance frameworks risk collapsing into unconstrained managerial discretion, affording no determinate guidance for directors and no stable basis for institutional accountability.[45] India's stakeholder-oriented corporate purpose framework illustrates

[41] Rawls (n 16) 6-7; John Rawls, *Justice as Fairness: A Restatement* (HUP 2001) 13; Scheffler (n 35) 102-115 arguing that the basic structure's status as the primary subject of justice is grounded in the pervasiveness and inescapability of the effects of major social institutions on individual life prospects; Murphy and Nagel (n 35) 12-27.

[42] Rawls's explicit distinction between welfare-state capitalism and property-owning democracy supplies a normative benchmark, unavailable in comparable form within alternative frameworks, against which India's CSR mandates and disclosure-based governance can be evaluated and found institutionally deficient- see Rawls (n 50) 242-251; O'Neill and Williamson (n 87) 1-14.

[43] Rawls (n 16) 52-56, 265-266; Rawls (n 41) 42-43; John Rawls, *Political Liberalism* (Columbia University Press 1993) 3-11 on the use of principles of justice as a form of public reason that does not presuppose any single comprehensive moral or metaphysical doctrine.

[44] The relationship between the choice of normative framework and the practical determinacy of the conclusions it generates is itself a significant methodological question in legal and political philosophy - Jeremy Waldron, 'Theoretical Foundations of Liberalism' (1987) 37 Philosophical Quarterly 128-135; Gerald Dworkin, 'Unprincipled Ethics' (1995) 13 Midwest Studies in Philosophy 225-231; Aditi Bagchi, 'Distributive Justice and Contract in Gregory Klass, George Letsas and Prince Saprai (eds), *Philosophical Foundations of Contract Law* (OUP 2014) 194-200.

[45] Stephen M Bainbridge, 'Director Primacy: The Means and Ends of Corporate Governance' (2003) 97 Northwestern University Law Review 574-582; Einer Elhauge, 'Sacrificing Corporate Profits in the Public Interest' (2005) 80 New York University Law Review 738-750; Robert T Miller, 'Interpretations of Stakeholder Theory: Economic, Philosophical and Political' (2026) Journal of Morality and Markets (forthcoming), 3-10 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=6745498> accessed 24 September 2026 identifying the divergent and often irreconcilable strands within stakeholder theory - economic, philosophical and political, that contribute to its indeterminacy as an institutional design criterion; Lynn A Stout, 'Bad and Not-So-Bad Arguments for Shareholder Primacy' (2002) 75 Southern California Law Review 1192-1200; Jennifer Hill and Steve Kourabas, 'Competing Visions of the Corporation and Fiduciary Obligation: Some Comparative Law Perspectives' (2026) European Corporate Governance Institute Law Working Paper No 934/2026, 1-22 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=6849543> accessed 24 September 2026 demonstrating that the coexistence of pluralised fiduciary formulations with shareholder-centered control architectures across jurisdictions reflects the indeterminacy of stakeholder models at the level of institutional design.

this difficulty with particular clarity. Notwithstanding its formally expansive normative vocabulary, the framework provides no hierarchy of stakeholder interests, no mechanism for resolving conflicting constituency claims and no institutional basis for holding corporate decision-makers accountable to any determinate distributive standard.[46] This indeterminacy, to which this article turns to Section IV, is not merely a theoretical deficiency, and has significant practical consequences, enabling the rhetorical embrace of stakeholder commitments without the institutional constraints necessary to render them justiciable or effective.[47] The Rawlsian framework advanced in this article offers a disciplined corrective to precisely this defect.[48] By grounding the evaluation of corporate governance arrangements in the determinate institutional criteria furnished by the difference principle and fair equality of opportunity, it supplies a coherent and publicly justifiable basis for assessing competing governance choices - one that is neither reducible to shareholder wealth maximisation nor vulnerable to the charge of normative arbitrariness that attaches to pluralist stakeholder accounts of the kind India's framework exemplifies.[49]

Justice as fairness, on Rawls's account, concerns the equitable distribution of basic rights, duties and the benefits of social cooperation across a society's basic institutions.[50] Corporate law, as one such institution, performs analogous distributive functions in terms of allocating the benefits and burdens generated by economic cooperation. While conventionally conceived as an internally focused body of rules governing relations among shareholders, directors and the corporate entity, a broader examination reveals that it also allocates rights, duties and economic advantages among

[46] Companies Act s 166(2); Companies Act s 135; Companies Act Schedule VII; Companies Act Schedule IV, paras II (5) and (6); Companies Act Schedule IV, para III (12); Companies Act s 149(8); SEBI Listing Regulations Reg 34(2)(f).

[47] Heikki Marjosola, 'Legitimating Corporate Power: Shareholderism versus Stakeholderism' (2025) 46 Oxford Journal of Legal Studies 142-144; Asif Salahuddin, 'The Legal Limits of ESG in Fiduciary Decision-Making' (The CLS Blue Sky Blog, 13 May 2026) <https://clsbluesky.law.columbia.edu/2026/05/13/the-legal-limits-of-esg-in-fiduciary-decision-making/> accessed 13 July 2026; Michael Delikat, Lauren Goldsmith and Hayden Goudy, 'Evolving Legal and Regulatory Dynamics for DEI Challenges and its Impact on Corporate Disclosures' (Harvard Law School Forum on Corporate Governance, 8 June 2026) <https://corpgov.law.harvard.edu/2026/06/08/evolving-legal-and-regulatory-dynamics-for-dei-challenges-and-its-impact-on corporate-disclosures/> accessed 21 July 2026; Colin Mayer, *Prosperity: Better Business Makes the Greater Good* (OUP 2018) 218-240.

[48] Rawls (n 16) 3-4; Rawls (n 41) 1-5; Samuel Freeman, *Rawls* (Routledge 2007) 97-102 observing that the institutional specificity of Rawls's framework, grounded in the basic structure concept, equips it to supply determinate guidance for the design of major economic institutions in a way that more abstractly egalitarian frameworks do not.

[49] Rawls (n 16) 52-56, 265-266; Rawls (n 41) 42-43, 135-140; Rawls (n 43) 3-11 on the difference principle and fair equality of opportunity as public criteria of institutional justification that operate independently of any comprehensive moral doctrine, and therefore provide a stable basis for reasoned disagreement about governance arrangements; Singer (n 35) 66-72 acknowledging that while the Rawlsian framework is contested in its application to corporate governance, it supplies evaluative criteria of a determinacy and justificatory rigour that stakeholder pluralism cannot match; Theodora Welch and Minh Ly, 'Rawls on the Justice of Corporate Governance' (2017) 5 Business Ethics Journal Review 7, 8-14.

[50] Rawls (n 16) 3-10; Rawls (n 43) 3-11; John Rawls, *A Theory of Justice* (revised ed., HUP 1999) 3-10; Rawls (n 41) 1-5.

constituencies and structures the distribution of the benefits and burdens of social cooperation.[51] It creates legal categories, defines the rights and obligations attached to them and sets the conditions for entry, participation and exit.[52]

While corporate law is often characterized as a set of facilitative rules that are neutral, its rules, including those that are ostensibly merely optional or default rules, have significant distributive consequences.[53] Rules governing fiduciary duties, voting rights, limited liability, managerial discretion and employment protections influence how the gains and losses of corporate activity are allocated, often in ways that systematically privilege shareholders while excluding broader social claims and external constituencies.[54] The allocation and distribution of rights, duties and powers amongst various constituencies within corporate law is therefore neither natural nor inevitable. It is a reflection of political choices about whose interests corporate governance should protect. By internalizing some interests and externalizing others, corporate law influences how economic and environmental costs are apportioned across society.[55] The resulting distributions of wealth, risk, power and vulnerability are not incidental effects but central features of contemporary capitalism.[56] The distributive consequences of corporate law are therefore far from neutral.[57]

[51] Benedict Sheehy, 'Sustainability, Justice and Corporate Law: Redistributing Corporate Rights and Duties to Meet the Challenge of Sustainability' (2022) 23 European Business Organization Law Review 290-292.
[52] ibid 290-292.
[53] Thomas Donaldson and L. E. Preston, 'The Stakeholder Theory of the Corporation: Concepts, Evidence and Implications' (1995) 20 Academy of Management Review 84.
[54] See generally Ian Maitland, 'Distributive Justice in Firms: Do the Rules of Corporate Governance Matter?' (2001) 11 Business Ethics Quarterly 129-143; Easterbrook and Fischel (n 23) 34-39, 63-70, 90-93; Sheehy (n 51) 295.
[55] Benedict Sheehy, 'Defining CSR: Problems and solutions' (2015) 131 Journal of Business Ethics 625-648.
[56] Leo E. Strine, Jr., 'Toward Fair and Sustainable Capitalism' (2020) Roosevelt Institute Working Paper, 1-34 <https://rooseveltinstitute.org/wpcontent/uploads/2020/08/RI_TowardFairandSustainableCapitalism_WorkingPaper_202008.pdf > accessed 16 April 2026.
[57] Millon (n 32) 1-2, 7-9; Maitland (n 54) 129-143 for a dissenting analysis.

3. Toward a Political-Philosophical Framework for Sustainable Corporate Governance

Corporate law functions as a pivotal component of the institutional architecture through which social and economic inequalities are generated and perpetuated. These are, fundamentally, considerations of theories of justice. Rawls's theory offers a compelling framework for reconnecting corporate governance with normative political theory given that it is fundamentally concerned with the distribution of the benefits and burdens generated by social cooperation.[58] Political philosophy has largely neglected the corporation as a constitutive institution of the basic structure, leaving capitalism normatively under-theorised.[59] Rawls himself treated markets and economic structures as conceptually separable from political institutions, thereby abstracting liberal democracy from capitalism's dynamics.[60] Corporate law, on the other hand, has developed in relative isolation from theories of justice.[61] Unlike the mid-twentieth century context in which Rawls articulated his theory, contemporary political economy is characterised by porous boundaries between market and state, the consolidation of unprecedented corporate power and global crises such as climate change and extreme inequality that implicate corporate activity directly.[62] Bridging this gap is indispensable to a coherent account of corporate purpose which must confront the distributive implications of corporate law and engage directly with theories of justice.

This approach is consistent with recent scholarship emphasising the contingent character of the corporate form and the need to evaluate its particular configurations of rights and governance by reference to external normative criteria.[63] Such an account enables a critical interrogation of the ostensibly fixed attributes of the corporate form, directing attention instead to the normative principles that should govern the allocation of rights, duties and power within it. A political-philosophical framework grounded in Rawlsian distributive justice provides a normative benchmark for evaluating and re-imagining corporate governance. It shifts the evaluative criteria away from efficiency and profitability toward considerations of environmental resilience, social

[58] Rawls (n 16) 3-10; Rawls (n 43) 1-5.
[59] Jiwei Ci, 'Thinking Normatively about Global Justice without Systematic Reflection on Global Capitalism: The Paradigmatic Case of Rawls' in Thom Brooks (ed), *The Oxford Handbook of Global Justice* (OUP 2020) 492; David Estlund, 'Introduction,' in David Estlund (ed), *The Oxford Handbook of Political Philosophy* (OUP 2012) 6.
[60] ibid.
[61] Norman (n 34) 32-33.
[62] Ci (n 59) 503-506.
[63] Bruner (n 18) 9, 19-20.

inclusion, economic stability and intergenerational equity, while embedding justice at the core of corporate purpose.[64] In so doing, it offers a foundation for substantive sustainability - ecological, social and economic, rather than merely procedural or instrumental conceptions of corporate responsibility.

Comparative experiences including India's demonstrate that merely incorporating stakeholder-inclusive language into statutory frameworks does not, by itself, secure these ends. India has formally embraced what appears to be a pluralistic stakeholder model by embedding stakeholder-oriented duties in its directors' obligations, mandating CSR spending and requiring extensive ESG-related disclosures.[65] These reforms, however, operate within a broader corporate law architecture that remains deeply rooted in shareholder primacy.[66] The distribution of rights, duties and privileges continues to be tilted decisively in favour of shareholders, which gets exacerbated by India's concentrated ownership environment in which controlling shareholders dominate corporate decision-making in the absence of meaningful accountability mechanisms.[67]

These dynamics reinforce the article's central claim - a meaningful reconfiguration of corporate purpose requires explicit integration of considerations of distributive justice into the design and evaluation of corporate law. The gap between formal stakeholder commitments and governance practice underscores the limitations of stakeholder models that do not engage with underlying questions of justice, fairness and distribution. Re-embedding corporate law within political philosophy therefore requires recognising the corporation as a central institution of the basic structure whose rules and allocations must be justified by reference to principles of justice.[68] It is through such a political-philosophical reframing that corporate governance can transcend the

[64] John Armour and others, 'What Is Corporate Law?' in R. Kraakman and others (eds), *The Anatomy of Corporate Law: A Comparative and Functional Approach* (3rd edn, OUP 2017) for an exposition of the dominant efficiency accounts as determinants of corporate governance which posit that corporate law outcomes reflect basic economic exigencies, notably the reduction of agency costs among managers, shareholders and creditors that plague the corporate form); Henry Hansmann and Reinier Kraakman, 'The End of History for Corporate Law' (2001) 89 The Georgetown Law Journal 440 observing that legal systems around the world tend to converge towards the optimal regime that best mitigates agency costs and increases firm value.

[65] Companies Act s 166(2); Companies Act s 135; Companies Act Schedule VII; Companies Act Schedule IV, paras II (5) and (6); Companies Act Schedule IV, para III (12); Companies Act s 149(8); SEBI Listing Regulations Reg 34(2)(f).

[66] Astha Pandey and MP Ram Mohan, 'Navigating the Indian Corporate Purpose Dilemma: Insights from an Entity-Based Approach' (2026) 26 Journal of Corporate Law Studies 220-223.

[67] ibid 220-223.

[68] David Rönnegard and N. Craig Smith, 'A Rawlsian Rule for Corporate Governance' (2024) 190 Journal of Business Ethics 298-299; Nicolai Abramovich and Alexandru Vasiliu, 'Sustainability as Fairness: A Rawlsian Framework Linking Intergenerational Equity and the Sustainable Development Goals (SDGs) with Business Practices' (2022) Sustainable Development 1334-1337.

narrow shareholder-stakeholder dichotomy and engage with deeper normative questions that contemporary political economy compels it to confront.

II. RAWLS, THE BASIC STRUCTURE AND THE CORPORATION

Comparative and historical scholarship demonstrates that the corporation has never been a conceptually fixed or purely private institution.[69] Rather, corporate law has continuously mediated between public and private understandings of economic power, reflecting changing political and normative commitments rather than any immutable legal logic.[70] These shifts demonstrate that corporate purpose is not a natural or technical given, but a contingent outcome of normative and political choices.[71] Despite this history, mainstream corporate law theory continues to treat the prevailing shareholder-centric model as inevitable, relying on a modular framework that relegates distributive justice to fiscal policy while insulating corporate governance from normative scrutiny.[72] This approach overlooks the distributive consequences embedded in corporate law's structuring of control, accountability and participation. This account is further complicated by the significant public-regulatory dimensions of corporate governance, which cannot be reduced to the outcomes of private ordering or contractual choice.[73] The institutional structure of corporate governance is shaped not only by private ordering but also by mandatory legal rules and regulatory interventions, which establish important parameters for the allocation of authority and accountability within the corporation.[74] Against this backdrop, and building on the preceding Section's argument for a political-philosophical approach to corporate law, this Section engages

[69] Ron Harris, *Industrializing English Law: Entrepreneurship and Business Organization, 1720–1844* (CUP 2000); David Ciepley, 'Beyond Public and Private: Toward a Political Theory of the Corporation' (2013) 107 American Political Science Review 139-158; William W. Bratton Jr., 'The New Economic Theory of the Firm: Critical Perspectives from History' (1989) 41 Stanford Law Review 1471-1527.

[70] Duncan Kennedy, 'The Stages of the Decline of the Public/Private Distinction' (1982) 130 University of Pennsylvania Law Review 1354-1356; Marcel Kahan and Edward Rock, Corporate Governance Welfarism (2023) 15 Journal of Legal Analysis 108-128; David Kershaw and Edmund Schuster, 'The Purposive Transformation of Corporate Law' (2021) 69 The American Journal of Comparative Law 478-538.

[71] Bratton Jr (n 69) 1471-1527 demonstrating corporate purpose as historically contingent rather than technically fixed; Ciepley (n 69) 139-158 explicitly rejecting the idea of corporate purpose as natural or technical; Bruner (n 7) 49.

[72] Pistor (n 9) 47-76; Hansmann and Kraakman (n 64) 439-468; Bruner (n 7) 119, 124-134; Stephanie Hiss, 'The Politics of the Financialization of Sustainability' (2013) 17 Competition and Change 234, 239.

[73] Marc T Moore, *Corporate Governance in the Shadow of the State: Reassessing Corporate Governance in Anglo-American Public Corporations* (Hart Publishing 2013) 179-206, 230-240 examining the significant mandatory and public/regulatory dimensions of corporate governance and challenging the contractarian characterisation of corporate governance as predominantly a product of private ordering.

[74] ibid 179-206, 230-240.

with Rawls's conception of justice to interrogate the corporate form as a component of society's distributive architecture.

1. Justice as Fairness: Principles, Institutions and Distributive Effects

Rawls's theory of justice has conventionally been understood as confining its normative reach to the 'basic structure' of society - the ensemble of major political, social and economic institutions that determine the distribution of rights, duties and advantages of social cooperation.[75] Within this framework, Rawls generally treated private firms as voluntary associations governed by private law, operating against a background of just institutions secured through constitutional arrangements, competitive markets and redistributive state mechanisms.[76] Corporate institutions were therefore not themselves primary objects of justice, but entities whose distributive effects could be corrected ex-post through taxation, regulation and welfare provisions.[77] These assumptions, however, sit uneasily with contemporary capitalism. The concentration of corporate power, financialisation and retrenchment of redistributive state capacity increasingly undermine the premise that background institutions alone can secure distributive justice.[78] In such conditions, the internal organisation and governance of firms is no longer distributionally secondary.[79] Instead, corporate structures themselves shape opportunity, allocate risk and condition access to economic and social goods in ways that Rawls's theory was designed to regulate.[80]

Rawls's account of justice as fairness is articulated through two principles selected in the original position under conditions of fair equality and epistemic constraint: (i) the guarantee of equal basic liberties for all; and (ii) the regulation of social and economic inequalities through fair equality of opportunity and the difference principle. Together, these principles provide a normative benchmark for institutional design.[81] The first accords lexical priority to a fully adequate scheme

[75] Rawls (n 50) 6-10; Vinit Haksar, 'Rawls' Theory of Justice' (1972) 32 Analysis 149-153; Claudine Gartenberg and Todd Zenger, 'The Firm as a Subsociety: Purpose, Justice, and the Theory of the Firm' (2023) 34 Organization Science 1965-1980.
[76] Rawls (n 43) 268-276.
[77] Rawls (n 41) 50-55.
[78] Thomas Piketty, *Capital in the Twenty-First Century* (HUP 2014) 1-5, 430-445; Mayer (n 47) 3-25.
[79] Joseph Heath, 'Business Ethics Without Stakeholders' (2006) 13 Business Ethics Quarterly 533-557.
[80] Marc A. Cohen, 'The Narrow Application of Rawls in Business Ethics: A Political Conception of Both Stakeholder Theory and the Morality of Markets' (2010) 97 Journal of Business Ethics 563-579; Nien-heˆ Hsieh, 'Justice, Management, and Governance' (2006) 6 Corporate Governance: The International Journal of Business in Society 261-267.
[81] Rawls (n 50) 118-123; G. A. Cohen, 'Where the Action Is: On the Site of Distributive Justice' (1997) 26 Philosophy and Public Affairs 3-30.

of equal basic liberties.[82] The second permits inequalities only where they satisfy the requirements of fair equality of opportunity and work to the greatest benefit of the least advantaged.[83] Importantly, these principles regulate institutional frameworks rather than individual conduct or isolated transactions.[84] The central question, therefore, is not whether corporations should behave ethically, but whether corporate law and governance regimes constitute institutional arrangements whose distributive effects fall within the domain of justice.

Although Rawls's canonical formulation of the basic structure encompasses constitutional arrangements, property regimes and labour markets, it does not expressly identify corporations as distinct sites of distributive regulation.[85] Some scholars contend that Rawls implicitly presupposed competitive firms operating within a just background structure, rendering firm-level governance normatively peripheral.[86] Others argue that Rawls's emphasis on taxation and capital dispersion reflects a principled commitment to addressing inequality through macro-institutional design rather than the internal ordering of private associations.[87] According to this view, Rawls's silence regarding corporations is best understood as contingent rather than categorical.[88] Writing against the backdrop of post-war welfare-state capitalism, Rawls assumed the presence of robust fiscal and redistributive mechanisms capable of constraining private economic power.[89] This assumption is reflected in his endorsement of a property-owning democracy aimed at dispersing productive assets and preventing concentrations of economic and political power.[90] Under conditions where capital ownership is widely dispersed and background justice reliably maintained, corporate governance need not function as a primary site of distributive regulation.[91] However, persistent wealth concentration, managerial dominance and the globalisation of production cast doubt on whether these conditions can be assumed to hold in practice.[92]

[82] Rawls (n 50) 53-54.
[83] ibid 65-73.
[84] Rawls (n 41) 47.
[85] Rawls (n 50) 258.
[86] Singer (n 35) 65-92; Welch and Ly (n 49) 7-14; Rawls (n 41) 159.
[87] ibid; Martin O'Neill and Thad Williamson (eds), *Property-Owning Democracy: Rawls and Beyond* (Wiley-Blackwell 2012) 1-14.
[88] O'Neill and Williamson (n 87) 1-14; C.M. Melenovsky, 'The Basic Structure as a System of Social Practices' (2013) 39 Social Theory and Practice 599-624.
[89] Rawls (n 41) 135-140.
[90] ibid 137-139.
[91] Rawls (n 41) 137-138; Rawls (n 50) 6-7, 54, 242-245, 274; Norman (n 34) 29-64; Samuel Freeman, *Property-Owning Democracy and the Difference Principle, Liberalism and Distributive Justice* (OUP 2018) 1-20.
[92] Norman (n 34) 29-64; Welch and Ly (n 49) 7-14.

Arguments against including corporations within the basic structure emphasise Rawls's priority of constitutional and macro-institutional design,[93] treating firms as derivative institutions whose distributive consequences can, in principle, be corrected by background rules, and whose voluntary character militates against direct application of Rawlsian principles.[94] By contrast, proponents of inclusion emphasise the quasi-public power exercised by corporations - their capacity to determine investment patterns, wages, working conditions and access to essential goods produces systematic distributive effects that background institutions increasingly struggle to neutralise.[95] Under non-ideal conditions, corporate governance frameworks influence the allocation of economic rents, distribution of risk and persistence of economic domination - matters central to Rawls's conception of a just basic structure.[96] Treating corporations as insulated from justice-based evaluation reflects not fidelity to Rawls, but an underestimation of the institutional role corporations now play in structuring social co-operation.[97]

2. Corporate Power and the Basic Structure under Contemporary Capitalism

The institutional context in which Rawls developed his theory warrants attention. Mid twentieth century corporate capitalism was characterised by the growing prominence of large corporations as economic and social institutions, accompanied by a managerialist conception of corporate governance in which managers were increasingly understood as having responsibilities extending beyond shareholders to other constituencies and more broadly, to society.[98] This historical configuration is significant because it suggests that Rawls's treatment of economic institutions was formed against a political economy in which the corporation was already understood as possessing substantial social and economic power. The empirical conditions underpinning the Rawlsian framework have been profoundly altered over the following four decades as transformations in

[93] David Phillips and Joshua Margolis, 'Toward an Ethics of Organizations' (1999) 9 Business Ethics Quarterly 619-638.
[94] Singer (n 35) 65-92; Rönnegard and Smith (n 68) 295-308; Magali Fia and Lorenzo Sacconi, 'Justice and Corporate Governance: New Insights from Rawlsian Social Contract and Sen's Capabilities Approach' (2019) 160 Journal of Business Ethics 937-960; Cohen (n 81) 15-20; Hsieh (n 80) 261-267; Welch and Ly (n 49) 7-14.
[95] Fia and Sacconi (n 94) 937-960.
[96] Iris Marion Young and Martha Nussbaum, *Responsibility for Justice* (OUP 2011); Rönnegard and Smith (n 68) 295-308; Pierre-Yves Neron, 'Rethinking the Very Idea of Egalitarian Markets and Corporations: Why Relationships Might Matter More than Distribution' (2015) 25 Business Ethics Quarterly 93-124.
[97] Fia and Sacconi (n 95) 937-960; Rönnegard and Smith (n 68) 298-299; Cohen (n 81) 15-20.
[98] Harwell Wells, '"Corporation Law Is Dead": Heroic Managerialism, Legal Change, and the Puzzle of Corporation Law at the Height of the American Century' (2013) 15 University of Pennsylvania Journal of Business Law 309-312, 316-322 situating mid-century corporate law within a political economy in which large corporations were understood as powerful social institutions and corporate managers were increasingly conceived as having responsibilities extending beyond shareholders to other constituencies and society at large.

corporate governance recast the corporation in more explicitly shareholder-oriented and market-centric terms.[99] Across advanced economies, welfare states have been hollowed out through fiscal austerity, labor market flexibilization, privatization of social services and competitive pressures associated with globalization.[100] As public redistributive capacity diminishes, corporate institutions increasingly mediate access not only to income and wealth, but also to power, status and the social bases of self-respect.[101] Corporate governance structures, hierarchical decision-making, industrial practices and employment relations now exert systemic influence on the opportunities of individuals, particularly the least advantaged, whose labor market options are constrained by necessity rather than preference.[102] The locus of distributive impact has shifted - firms increasingly function as quasi-basic institutions whose governance materially shapes opportunities across social strata.[103]

Rawls's own framework accommodates the possibility of such shifts. The boundaries of the basic structure are neither fixed nor purely conceptual but contingent on whether institutions exert pervasive and inescapable effects on the distribution of primary goods.[104] The relevant criterion, therefore, is systemic influence - any institution, be it public or private, that structures individuals' life chances in ways that are unavoidable, must be treated as a subject of justice.[105] In contemporary economies, corporate institutions satisfy this threshold where governance arrangements,

[99] Duane Swank, 'Globalisation, Domestic Politics, and Welfare State Retrenchment in Capitalist Democracies' (2005) 4 Social Policy and Society 183-195 comparative political economy analysis documents how neoliberal policy regimes reshaped welfare states through marketisation, austerity and diminished redistributive capacity; Frances Fox Piven, 'Neoliberalism and the Welfare State' (2015) 31 Journal of International and Comparative Social Policy 2-9 exploring how neoliberal regimes transformed welfare states via marketisation, austerity and erosion of redistributive capacity.

[100] Lane Kenworthy, 'Inequality and Institutional Employment Regimes: Who Did Better in the "Great Recession"?' (2020) 72 Socio-Economic Review 1457-1480; Martin Höpner and Armin Schäfer, 'Embeddedness and Regional Integration: Waiting for Polanyi in a Hayekian World' (2010) 38 Journal of European Public Policy 383-400.

[101] Daniel Brou and others, 'Corporate Governance and Wealth and Income Inequality' (2021) 29 Corporate Governance: An International Review 612-629.

[102] Rawls (n 41) 58-60; Anderson (n 40) 37-66.

[103] Sarah C. Haan, 'Mandatory Public Reason-Giving in Corporate Governance' (2025) 110 Iowa Law Review 2073-2099; Dustin Gumpinger, 'Corporate Social Responsibility, Social Justice, and the Politics of Difference: Towards a Participatory Model of the Corporation' (2011) 16 Appeal: Review of Current Law and Law Reform 101-120.

[104] Norman (n 34) 29-64.

[105] Rawls (n 41) 10-13, 47-48, 55-58 explicitly characterising the basic structure by reference to pervasive effects on life prospects and allows its boundaries to depend on empirical social facts; Rawls (n 50) 6-10 on the basic structure as the primary subject of justice and on institutions shaping the distribution of primary goods over time; Freeman (n 48) 97-102 clarifying that inclusion within the basic structure turns on systemic and unavoidable effects rather than formal public status; Colin Farrelly, *Justice in Ideal Theory: A Refutation* (OUP 2007) 58-61 on Rawls's openness to revising institutional scope under changing empirical conditions; Hsieh (n 80) 261-267; Welch and Ly (n 49) 7-14.

employment structures and market dominance directly impact the allocation of income, decision-making rights, authority within the firm and professional self-respect.[106]

This reconceptualization carries significant implications for corporate law and prevailing accounts of corporate purpose. While it does not entail the wholesale application of the difference principle to every corporate decision, it directs normative scrutiny toward those aspects of corporate law that systematically shape distributive outcomes such as the allocation of control rights, fiduciary obligations, capital structure and labour governance. Corporate law therefore cannot be understood merely as a neutral framework enabling private ordering in pursuit of shareholder value. Rather, it constitutes a public institutional architecture through which economic power is organised and social cooperation structured.[107] Corporate purpose accordingly becomes a juridical site at which justice as fairness may be realised insofar as legal rules governing corporate objectives, decision-making and stakeholder claims influence the distribution of primary goods over time.

From a Rawlsian perspective, the legitimacy of corporate purpose cannot rest solely on efficiency or consent. It must be assessed in light of whether the corporate form sustains the social bases of self-respect and avoids generating inequalities inconsistent with fair equality of opportunity.[108] This perspective shifts attention from managerial discretion to institutional design. In the absence of a strong welfare state, reliance on private self-regulation, corporate social responsibility or exit-based remedies are insufficient to safeguard distributive justice.[109] Instead, corporate law must directly engage with regulating the governance structures through which economic power is exercised, including participation, accountability and constraints on concentrations of corporate power, such that corporate institutions operate compatibly with the principles of justice. Such regulation, properly calibrated, respects the lexical priority of basic liberties while ensuring that social and economic inequalities benefit the least advantaged.

[106] Norman (n 34) 29-64.
[107] Ciepley (n 69) 139-158 explicitly conceptualising the corporation as a public institutional architecture that organises economic power and collective action; Paddy Ireland, 'Company Law and the Myth of Shareholder Ownership' (1999) 62 Modern Law Review 32-57 demonstrating how corporate law structures power and control rather than merely enabling private contracting; Bratton Jr (n 69) 1471-1527 critiques the neutrality claim and situates corporate law within political and institutional choices.
[108] Ciepley (n 69) 139-158 framing corporate purpose as a juridical site for organising social cooperation; Pistor (n 9) 1-22, 23-46, 47-76 on how legal rules governing firms shape the distribution of economic advantages.
[109] Sandrine Blanc and Ismael Al-Amoudi, 'Corporate Institutions in a Weakened Welfare State: A Rawlsian Perspective' (2013) 23 Business Ethics Quarterly 497-525.

Revisiting Rawls under conditions of contemporary capitalism therefore reveals that corporations can no longer be treated as peripheral to the basic structure of society.[110] Where firms systematically influence the distribution of income, authority, opportunity and self-respect, corporate governance becomes a central site for operationalising distributive justice. The legitimacy of corporate governance arrangements turns on whether they ensure that inequalities in income, control and economic power remain compatible with fair equality of opportunity and are oriented towards the benefit of the least advantaged. This reconceptualisation underscores the necessity of legally enforceable, institution-level constraints on corporate power, including rules governing participation, accountability and the concentration of economic resources, rather than reliance on voluntary norms or ex-post redistribution alone.[111]

While the preceding analysis has been framed primarily with reference to advanced economies characterised by declining welfare-state capacity, it also opens the space for comparative and context-sensitive inquiry. In particular, it invites attention to heterodox approaches to corporate purpose emerging in the Global South, where formal redistributive mechanisms are often weak or uneven, and corporate institutions are increasingly tasked, explicitly or implicitly, with functions traditionally associated with the State.[112] This is particularly salient in India, where persistent inequalities, extensive informality and uneven access to essential public services coexist with significant variation in state capacity and implementation across sectors and regions, constraining the State's ability to address social and distributive concerns comprehensively.[113] In this context, corporate institutions may assume functions traditionally associated with the State, thereby challenging the modular assumptions of neoliberal law-and-economics that confine distributive concerns to fiscal policy and treat corporate law as distributionally neutral.[114] The next Section thus situates our argument within this broader global perspective, examining how heterodox conceptions of corporate purpose in the Global South interrogate, contest and extend the application of Rawlsian distributive justice to corporate governance. India's pluralistic, stakeholder-oriented corporate purpose framework serves as the primary site of this inquiry,

[110] ibid 497-525; Norman (n 34) 29-64.
[111] Rawls (n 50) 265-274, 386-391; Rawls (n 41) 137-140, 159-162.
[112] Pargendler (n 13) 539-540.
[113] Diego Maiorano, 'The Politics of Public Service Delivery in India' in Sumit Ganguly and Eswaran Sridharan (eds), *The Oxford Handbook of Indian Politics* (OUP 2024) 481-494; Sumit Ganguly and William R Thompson, Ascending India and Its State Capacity: Extraction, Violence, and Legitimacy (Yale UP 2017) 182-199.
[114] Pargendler (n 13) 539-540.

exemplifying both the promise and the limits of such departures. Despite its formal departure from shareholder primacy, the framework remains insufficiently anchored in a coherent theory of distributive justice, with the result that stakeholder-oriented reforms risk remaining largely symbolic.[115]

III. INDIA'S STAKEHOLDER-ORIENTED FRAMEWORK: FORMAL PLURALISM, SUBSTANTIVE CONSTRAINT

This Section evaluates India's corporate purpose framework against the analytical apparatus developed in Section II, proceeding in three parts. The first deconstructs the legal and regulatory architecture of India's stakeholder-oriented model, identifying its formal departures from orthodox shareholder primacy. The second interrogates whether these mechanisms advance Rawlsian commitments to fair equality of opportunity and the protection of the least advantaged, or instead operate as largely symbolic accretions upon an unreformed allocation of control. The third synthesises these findings, arguing that the prevailing framework reproduces the distributive logic of shareholder primacy notwithstanding its formally pluralistic vocabulary.

1. An Overview of India's Stakeholder-Oriented Corporate Governance Framework

India's corporate purpose framework formally articulates a stakeholder-oriented conception of corporate purpose that departs markedly, at least at the level of statutory text, from the shareholder-primacy orthodoxy historically associated with Anglo-American corporate law.[116] This departure is not without antecedent. Stakeholder-inclusive obligations have featured intermittently in Indian company law since the late colonial and early post-independence periods, long before the contemporary global vocabulary of ESG and sustainability took hold, reflecting a longer trajectory of engagement with the proper objects of corporate accountability.[117] The current architecture is anchored in the Companies Act, 2013 (Companies Act) and the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (SEBI Listing

[115] Rönnegard and Smith (n 68) 298-299; Norman (n 34) 29-64; Benedict Sheehy, Ying Chen and Juan Diaz-Grandos, 'Rethinking Global Distributive Justice: Legal and Economic Norms Addressing Crises of Global Health, Hunger, And Sustainability' (2024) 52 Georgia Journal of International and Comparative Law 89-156 on Rawls as foundation for future reforms.
[116] Afra Afsharipour, 'Corporate Governance Convergence: Lessons from the Indian Experience' (2009) 29 Northwestern Journal of International Law and Business 335.
[117] Umakanth Varottil, 'The Stakeholder Approach to Corporate Law: A Historical Perspective from India' in Harwell Wells (ed), *Research Handbook on the History of Corporate and Company Law* (Elgar 2018) 381.

Regulations). Three elements of this framework are of particular significance - the multi-constituency formulation of directors' fiduciary duties, the institutionalisation of mandatory CSR obligations and the expansion of ESG disclosure requirements.[118]

First, section 166(2) of the Companies Act adopts a multi-constituency formulation of directors' duties, requiring directors to act in good faith to promote the objects of the company for the benefit of its members as a whole, having regard to the interests of its employees, shareholders, the community and the protection of the environment. The provision's drafting history reflects a deliberate legislative departure from the more shareholder-centric formulation under the Companies Act, 1956, situated within a broader post-liberalisation reassessment of corporate accountability that India's corporate law has periodically undertaken since independence.[119] The Companies Act's Code for Independent Directors reinforces this orientation, requiring independent directors to safeguard stakeholder interests, balance conflicting claims and assist in protecting the legitimate interests of the company, shareholders and employees.[120] The absence of any prescribed hierarchy among stakeholder interests formally places shareholders on an equal footing with other constituencies, a position further reinforced by judicial interpretations extending the duty to encompass ESG-related risks and long-term corporate interests.[121]

Comparative analysis suggests that this pluralistic formulation is, on its face, considerably more expansive than the enlightened shareholder value (ESV) duties found in jurisdictions such as the UK, which retain an ultimate orientation toward shareholder benefit even while requiring regard to other interests.[122] Section 166(2) reflects a legislative attempt to embed corporate decision-making within a wider matrix of social obligations and to recalibrate shareholder wealth maximisation as the exclusive metric of corporate success.[123] The textual contrast with Section

[118] Companies Act s 166(2); Companies Act s 135; Companies Act Schedule VII; SEBI Listing Regulations Reg 34(2)(f); Umakanth Varottil, 'The Legal and Regulatory Impetus Towards ESG in India: Developments and Challenges' in Thilo Kuntz (ed), *Research Handbook on Environmental, Social and Corporate Governance* (Elgar 2024) 463.
[119] Umakanth Varottil, 'The Evolution of Corporate Law in Post-Colonial India: From Transplant to Autochthony' (2015) 31 American University International Law Review 253.
[120] Companies Act Schedule IV, paras II (5) and (6); Companies Act Schedule IV, para III (12); Companies Act s 149(8).
[121] M. K. Ranjitsinh v Union of India (2021) SCC 326; M K Ranjitsinh v Union of India Writ Petition (Civil) No 838 of 2019 (SC 19 December 2025).
[122] Mihir Naniwadekar and Umakanth Varottil, 'The Stakeholder Approach towards Directors' Duties under Indian Company Law: A Comparative Analysis' in Mahendra Pal Singh (ed), *The Indian Yearbook of Comparative Law 2016* (OUP 2018) 104-105.
[123] Afra Afsharipour, 'Redefining Corporate Purpose: An International Perspective' (2017) 40 Seattle University Law Review 465, 466.

172 of the UK Companies Act 2006 is instructive. Section 172 requires directors to act in the way most likely to 'promote the success of the company for the benefit of its members as a whole', with non-shareholder interests ie employees, suppliers, environment, community, entering the calculus instrumentally, as considerations relevant to that primary member-regarding objective.[124] The UK Company Law Review Steering Group expressly rejected a pluralist formulation on the grounds of its indeterminacy while the Indian legislature, through a deliberate process of parliamentary deliberation, specifically adopted a multi-constituency duty placing shareholder and non-shareholder interests on an equal footing without any prescribed hierarchy.[125] Notwithstanding this textual departure, Section 166(2) does not, in practice, displace shareholder primacy as the foundational logic of Indian corporate governance. The coexistence of expansive fiduciary duties with shareholders' exclusive rights to elect and remove directors, initiate derivative actions and approve fundamental transactions ensures that directorial priorities remain structurally aligned with shareholder interests.[126] This shareholder-centric architecture is further entrenched by concentrated promoter ownership, which consolidates effective board control in the hands of controlling shareholders who bear no corresponding fiduciary obligations when exercising their powers.[127] The pluralism underlying Section 166(2) is, in consequence, formally progressive but operationally constrained.

Second, Section 135 of the Companies Act introduces a mandatory CSR regime, requiring qualifying companies to spend at least two per cent of their average net profits on specified social purposes - a design without close parallel among major jurisdictions, most of which continue to treat CSR as a voluntary, market-driven practice rather than a justiciable governance obligation.[128] This provision transforms corporate social expenditure into a legally enforceable obligation, reinforced by the requirement to constitute a CSR committee responsible for formulating and

[124] UK Companies Act s 172.
[125] Bruner (n 19) 34-35 demonstrating that the ESV model enshrined in s 172 does not displace shareholder primacy as the foundational organising principle of UK company law, but rather integrates stakeholder considerations as instrumental inputs into an essentially shareholder-regarding fiduciary obligation; Naniwadekar and Varottil (n 122) 104-105 noting that under s 172, in case of a conflict among various interests, directors must prioritize shareholders' interests, which is the paramount goal.
[126] Devarshi Mukhopadhyay and Rudresh Mandal, 'The End of Shareholder Primacy in Indian Corporate Governance? Says Who?!' (2020) 46 Commonwealth Law Bulletin 603-610 demonstrating that the formally pluralistic statutory framework has not produced correspondingly pluralistic governance outcomes in practice, and that departures from shareholder primacy have remained largely aspirational in their distributive effects; Naniwadekar and Varottil (n 122) 112-113; Pandey and Mohan (n 66) 207-208, 222-223.
[127] Pandey and Mohan (n 66) 207-208, 222-223.
[128] Pargendler (n 13) 553-554; Afra Afsharipour, 'Lessons from India's Struggles with Corporate Purpose' in Elizabeth Pollman and Robert B Thompson (eds), *Research Handbook on Corporate Purpose and Personhood* (Elgar 2021) 377.

recommending CSR policy, monitoring its implementation and ensuring appropriate reporting.[129] Third, ESG considerations have gained regulatory prominence through the Business Responsibility and Sustainability Reporting (BRSR) framework under the SEBI Listing Regulations, which mandates disclosure of corporate environmental, social and governance practices and subjects firms to scrutiny by investors, regulators and civil society.[130] As recent scholarship on India's ESG architecture observes, this disclosure regime has expanded rapidly in scope and granularity even as the substantive board-level and stewardship obligations underpinning it remain comparatively underdeveloped.[131] Together, these mechanisms constitute a formally pluralistic corporate purpose framework that recognises the corporation as a socially embedded institution with distributive consequences extending beyond shareholders.[132]

Notwithstanding this normative expansion, significant structural limitations persist within the framework. The pluralisation of fiduciary duties does not alter the underlying allocation of decision-making authority, which remains anchored in shareholder, and more specifically controlling shareholder power, given shareholders' entrenched rights over board composition and key corporate decisions.[133] Doctrinal and empirical analysis of the legislative and regulatory trajectory corroborates this assessment. Tracing successive law reform committee reports and subsequent amendments to the Companies Act, recent scholarship concludes that the underlying policy orientation has remained substantially shareholder-protective, notwithstanding the formally pluralistic text of Section 166(2), such that stakeholder protection in practice amounts to considerably less than the statute promises.[134] Stakeholder-oriented duties thus operate primarily as constraints on managerial discretion rather than as mechanisms for redistributing governance authority. While the CSR regime appears to institutionalise redistributive commitments, its ex-post design operates on profits already allocated through governance processes shaped by

[129] Companies Act s 135; Ernest Lim, *Sustainability and Corporate Mechanisms in Asia* (CUP 2020) 232; Pargendler (n 13) 535, 556.
[130] SEBI Listing Regulations Reg 34(2)(f).
[131] Varottil (n 118) 476-479.
[132] Bruner (n 7) 10-14; Christopher Bruner, 'The Corporation's Intrinsic Attributes' in Barnali Choudhury and Martin Petrin (eds), *Understanding the Company: Corporate Governance and Theory* (CUP 2017) 60; Lynn Stout, 'The Troubling Question of Corporate Purpose' (2013) 3 Accounting, Economics and Law 61, 65 characterizing the corporation as 'a multifunctional tool' that performs 'something like a Swiss army knife', which 'can be employed by different people to serve different purposes' see 63, 67 arguing that a 'multifunction theory' of corporate purpose could represent a superior alternative to shareholder primacy.
[133] Companies Act Schedule IV; Companies Act ss 149, 152, 169, 13, 14, 100, 180(1), 186 (10), 188, 304, Chapter XV; SEBI Listing Regulations Reg 23.
[134] Mukhopadhyay and Mandal (n 126) 595.

concentrated ownership. The narrow statutory definition of eligible CSR activities further limits its transformative potential, leaving corporations with substantial discretion over the allocation and direction of such expenditure.[135] Similarly, ESG disclosure requirements enhance transparency without altering the institutional distribution of economic power, expanding the informational environment without reallocating control or restructuring incentives.[136] Indeed, the legal architecture of fiduciary decision-making itself constrains the extent to which ESG considerations can be operationalised as genuinely distributive commitments rather than discretionary, risk-management overlays.[137]

These features reveal a deeper structural disjunction between the formal commitments of India's stakeholder-oriented corporate purpose framework and its operative governance dynamics. While the statutory architecture gestures toward a pluralistic conception of the firm, it leaves intact the underlying allocation of economic power and control over productive assets, which continues to be characterised by concentrated ownership and promoter dominance.[138] Corporate purpose, in this configuration, operates as a normative overlay upon an otherwise unchanged structure of private economic authority, modifying the justificatory language of corporate decision-making

[135] Vikramaditya Khanna, 'The Political Economy of India's Corporate Social Responsibility Reforms' in Kevin Davis and Mariana Pargendler (eds), *Legal Heterodoxy in the Global South* (CUP 2025) 279-281; A. Gatignon and C. Bode, 'When Few Give to Many and Many Give to Few: Corporate Social Responsibility Strategies under India's Legal Mandate' (2023) 44 Strategic Management Journal 2099-2127 examining data on CSR spending and CSR projects from 2014 to 2017 (representing 12,086 firms and 86,755 projects) and how it maps out in terms of the social causes it targets, the geographies in which it operates, implementation channels and number of projects.

[136] Maria Eduarda Lessa and Mariana Pargendler, 'Climate Disclosure in the Global South' (2025) European Corporate Governance Institute Law Working Paper No 868/2025, 11-13 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5386636> accessed 14 April 2026; Sugandha Yadav, 'Beyond materiality: Materiality in ESG disclosures under securities regulations in India' (2023) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4793785> accessed 14 April 2026; Elizabeth Pollman, 'The Making and Meaning of ESG' (2024) 14 Harvard Business Law Review 436-440; Swasti Gupta-Mukherjee, 'Clarity, Climate and Principles: Aligning Social and Economy Value Through Finance' (Aspen Institute, 6 July 2022) <https://www.aspeninstitute.org/blog-posts/clarity-climate-and-principles/> accessed 14 April 2026 observing that 'making ESG issues a laundry-list of social and environmental factors…could be counterproductive'; Virginia Harper Ho, 'Sustainable Investment and Asset Management: From Resistance to Retooling' (2022) City University of Hong Kong School of Law Legal Studies Research Paper No 2022-006, 28-29 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4064317> accessed 7 July 2026 noting that relying on private initiatives to standardize ESG investment practices has created costly fragmentation and slowed the development of a level playing field for all investors.

[137] Salahuddin (n 47).

[138] OECD Corporate Governance Factbook 2025, Table 1.2, 32 <https://www.oecd.org/content/dam/oecd/en/publications/reports/2025/10/oecd-corporate-governance-factbook-2025_56febc0d/f4f43735-en.pdf> accessed 14 April 2026; Afsharipour (n 128) 366-367; Afra Afsharipour and Manali Paranjpe, *Handbook on Corporate Governance in India: Legal Standards and Board Practices* (The Conference Board 2021) 27-44; George S Geis, 'Shareholder Power in India' in Jennifer G Hill and Randall S Thomas (eds), *Research Handbook on Shareholder Power* (Elgar 2015) 592, 595; Mukhopadhyay and Mandal (n 126) 595, 603; Naniwadekar and Varottil (n 122) 98, 112-113.

without redistributing residual control.[139] When evaluated through the lens of Rawlsian distributive justice, it raises the question whether a framework that pluralises corporate purpose at the level of doctrine, while leaving the distribution of economic power substantively unaltered, can meaningfully advance commitments to fairness and the protection of the least advantaged, an inquiry that frames the analysis in the following sub-section.

2. A Distributive Justice-Based Assessment of India's Corporate Purpose Framework

Building on the Rawlsian framework of distributive justice and the basic structure developed in Section II, this Section examines the distributive implications of India's corporate purpose framework beyond its formal articulation in Section 166(2), the CSR mandate and ESG disclosure obligations. It investigates whether each mechanism restructures the underlying allocation of corporate power or merely operates within existing governance arrangements, before drawing out the broader normative implications of this assessment.

2.1 *Expansive fiduciary duties and concentrated ownership*

A defining characteristic of India's corporate governance framework is concentrated ownership, wherein controlling shareholders, also known as promoters, exercise decisive influence over board composition, corporate strategy and the allocation of corporate surplus.[140] This ownership structure fundamentally conditions the distributive operation of stakeholder-oriented corporate law. Moreover, the political economy of India's corporate governance reforms is shaped by the significant influence of business groups and promoters over policymaking, including through participation in parliamentary committees addressing important policy decisions.[141] This close relationship between business elites and political institutions raises questions about the extent to which corporate governance reforms have been insulated from the interests of concentrated

[139] Pollman (n 136) 436-439 showing that ESG reframes corporate purpose through disclosure and narrative, without restructuring ownership and control; Sheehy (n 51) 276, 295 arguing that sustainability discourse often expands managerial framing without redistributing rights and duties.

[140] OECD Corporate Governance Factbook (n 138) Table 1.2, 32; Afsharipour and Paranjpe (n 138) 27-44; Vikramaditya Khanna, 'Enforcement of Corporate and Securities Law in India: The Arrival of the Class Action?' in Robin Hui Huang and Nicholas Calcina Howson (eds), *Enforcement of Corporate and Securities Laws: China and the World* (CUP 2017) 348; Geis (n 138) 592, 595.

[141] James Crabtree, 'Business and Politics in India' (2019) 95 International Affairs 956; Aseema Sinha and Andrew Wyatt, 'The Spectral Presence of Business in India's 2019 Election' (2019) 7 Studies in Indian Politics 247; see generally Aseema Sinha, 'India's Porous State: Blurred Boundaries and the Evolving Business-State Relationship' in Christophe Jaffrelot, Atul Kohli and Kanta Murali (eds), *Business and Politics in India* (OUP 2019) chronicling the 'movement of business inside democratic institutions' in India with data on industrialists serving in the Indian Parliament and state representative assemblies.

corporate power.[142] While Section 166(2) of the Companies Act reflects a pluralistic conception of fiduciary obligations, requiring directors to promote the success of the company while having regard to employees, communities and environmental interests, it does not alter the underlying allocation of decision rights, which remains anchored in shareholder, and in practice, controlling shareholder power and authority.[143] This disjunction generates a central normative ambiguity within India's corporate purpose framework. On the one hand, the statutory formulation repudiates the exclusivity of shareholder primacy by placing stakeholder interests on an ostensibly equal footing with shareholder interests.[144] On the other hand, the broader governance architecture retains strongly shareholder-centric features, including exclusive rights to appoint directors, initiate derivative actions and approve fundamental corporate decisions.[145]

This divergence mirrors a broader comparative pattern whereby formally pluralised fiduciary obligations coexist with shareholder-centered control architectures across jurisdictions.[146] In a governance system characterised by concentrated ownership, these rights consolidate effective control in the hands of controlling shareholders, who are not themselves subject to fiduciary duties when exercising their powers.[147] This concentration of corporate control is not merely an internal feature of corporate governance but forms part of a broader distribution of private economic power. Where control over productive assets is concentrated, the resulting asymmetries of economic power may extend beyond the corporation itself, shaping the distribution of economic benefits and burdens and, in turn, the distribution of political power and the conditions of democratic participation.[148] The significance of such institutional arrangements must therefore be assessed not merely by reference to their capacity to facilitate economic activity, but also by whether they distribute the benefits and burdens of economic cooperation in ways consistent with democratic legitimacy and social justice.[149] Recent scholarship on concentrated private power underscores that

[142] ibid.
[143] Afsharipour (n 128) 366-367.
[144] Varottil (n 118) 468.
[145] Companies Act Schedule IV; Companies Act ss 13, 14, 100, 149, 152, 169, 180(1), 186 (10), 188, 241-246, 304, Chapter XV; SEBI Listing Regulations Reg 23.
[146] Hill and Kourabas (n 45) 1-38.
[147] Ernest Lim, *A Case for Shareholders' Fiduciary Duties in Common Law Asia* (CUP 2019) 12-13.
[148] Mordecai Kurz, *Private Power and Democracy's Decline: How to Make Capitalism Support Democracy* (MIT Press 2026) 138-139, 147-148, 154-157, 211 arguing that extreme economic inequality and concentrated private power distort the political balance of power and undermine democratic legitimacy, and advocating policies directed towards a more equitable sharing of the benefits of economic progress.
[149] ibid 138-139.

the accumulation of economic power can entrench inequalities in wealth and influence, thereby strengthening the case for institutional arrangements capable of checking such concentrations of power and ensuring a more equitable distribution of the benefits generated by economic activity.[150] The predominance of controlling shareholders therefore provides a concrete institutional site at which questions of corporate power intersect with the broader distributive concerns that motivate a theory of corporate purpose.

This configuration is normatively significant from a Rawlsian perspective. The difference principle requires that institutional arrangements governing economic production and distribution be structured so that resulting inequalities work to the benefit of the least advantaged.[151] Given that corporate governance arrangements determine the allocation and exercise of authority over productive assets, they fall squarely within the ambit of this requirement. In a governance environment characterised by concentrated ownership, controlling shareholders retain decisive influence over both corporate decision-making and the allocation of surplus, enabling outcomes that reflect, and often entrench, pre-existing asymmetries of economic power.[152] In such a setting, stakeholder-oriented fiduciary duties do not, in any meaningful sense, constrain opportunism, precisely because they do not reconfigure the underlying distribution of control. Directors, whose appointment and removal remain effectively contingent upon controlling shareholders, are structurally disincentivised from enforcing stakeholder-oriented obligations in ways that would materially diverge from controlling shareholders' interests.[153] The result is that fiduciary pluralism operates as a formal constraint devoid of practical efficacy, unable to discipline the exercise of corporate power where that power remains concentrated and substantially unaccountable.

2.2 *Mandatory CSR and the Limits of Ex-Post Redistribution*

India's mandatory CSR regime appears, at least superficially, to embed redistributive considerations within the corporate form in a manner broadly consonant with Rawlsian reasoning.

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[150] ibid.
[151] Rawls (n 50) 65-73.
[152] Pandey and Mohan (n 66) 220-222.
[153] ibid 220-222; Brian R Cheffins, 'The Past, Present and Future of Corporate Purpose' (2023) European Corporate Governance Institute Law Working Paper No 713/2023, 50-51, 62-63 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4420800> accessed 25 February 2026 on the importance of the right to elect directors in the context of corporate purpose; Companies Act s 178; SEBI Listing Regulations Reg 19; Afsharipour (n 123) 494-495; Lim (n 147) 13; Vikramaditya Khanna and Shaun J Matthew, 'The Role of Independent Directors in Controlled Firms in India: Preliminary Interview Evidence' (2010) 22 National Law School of India Review 35, 37-38.

By requiring qualifying companies to expend a fixed proportion of profits on socially beneficial activities, Section 135 of the Companies Act institutionalises a measure of corporate redistribution unusual among comparable jurisdictions, and signals a legislative recognition that economic activity ought to contribute to broader social welfare. In this limited sense, CSR gestures toward the difference principle's concern that inequalities be arranged to benefit the least advantaged. The more pertinent question is whether this gesture translates into genuine institutional redistribution capable of structuring inequalities in accordance with that principle.

Rawls's framework imposes more demanding institutional requirements than episodic or compensatory redistribution.[154] The difference principle is concerned not merely with outcomes, but with the design of the basic structure through which inequalities are generated in the first place.[155] India's CSR regime operates as an ex-post redistributive mechanism, reallocating a marginal fraction of corporate surplus only after it has been produced and distributed through governance processes already shaped by concentrated ownership. It does not alter the underlying allocation of economic power, ownership patterns or decision-making authority that determine how surplus is generated and controlled in the first instance.[156] As such, it mitigates distributive outcomes at the margin without transforming the distributive structure itself.[157] Moreover, the institutional design of the CSR framework preserves significant corporate discretion over both the direction and implementation of such expenditure, subject only to limited procedural constraints around board approval and reporting.[158] This renders CSR a governance-mediated form of constrained corporate philanthropy rather than a mechanism of structural redistribution.[159] From a Rawlsian perspective, such arrangements more closely resemble the compensatory logic of welfare-state capitalism than the ex-ante dispersion of economic power characteristic of a property-owning democracy.[160] Corporate beneficiaries of CSR expenditure remain recipients of surplus rather than participants in its generation, such that the structural conditions that produce inequality are left substantially intact.[161]

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[154] Rawls (n 50) 266-269.
[155] ibid 266-269.
[156] OECD Corporate Governance Factbook (n 138) Table 1.2, 32.
[157] Rawls (n 50) 6-7.
[158] Companies Act s 135; Companies Act Schedule VII.
[159] Khanna (n 135) 289-290; A. J. Goulding, 'Retreating from the Commanding Heights: Privatization in an Indian Context' (1997) 50 Journal of International Affairs 581-612.
[160] Rawls (n 41) 135-140.
[161] Rawls (n 41) 135-140; Rawls (n 50) 242-246.

2.3 *ESG Disclosures and the Limits of Transparency-Based Governance*

ESG disclosure requirements exhibit analogous structural limitations. India's disclosure architecture, particularly the BRSR framework under the SEBI Listing Regulations, enhances transparency regarding corporate ESG practices, thereby expanding the informational environment within which firms operate.[162] As the regulatory architecture has matured, the depth and granularity of mandated disclosures have increased considerably. However, this expansion has not been matched by a corresponding strengthening of the governance and stewardship obligations through which disclosed information might translate into altered corporate conduct.[163] Such measures may facilitate accountability and generate reputational or market-based constraints, but transparency does not itself redistribute economic power or alter the allocation of governance authority.[164]

From a Rawlsian perspective, this limitation is normatively significant. The difference principle is directed at the institutional organisation of inequalities, rather than their mere visibility.[165] Access to information about corporate conduct does not equate to access to the economic power through which distributive outcomes are determined.[166] Disclosure regimes may expose externalities or inefficiencies, but they do not confer decision-making rights upon affected stakeholders or restructure residual control.[167] Their distributive effects remain contingent upon external enforcement or market responses, rather than internal transformation of corporate governance arrangements.[168] Accordingly, ESG disclosure operates as an epistemic corrective rather than a distributive mechanism, rendering corporate conduct visible without altering the underlying

[162] SEBI Listing Regulations Reg 34(2)(f).
[163] Varottil (n 118) 476-479.
[164] Jonathan Hardman, 'Corporate Law as Public Policy' (2025) 21 Journal of Institutional Economics 2-4, 6-8 arguing that corporate law structures economic outcomes through the allocation of decision-making authority and incentives, such that informational or disclosure-based mechanisms alone do not reconfigure underlying distributions of power; Pollman (n 136) 436-439 demonstrating that ESG as an information and disclosure-driven governance regime expands transparency and investor scrutiny without reallocating control or restructuring underlying corporate power.
[165] Rawls (n 50) 386-391.
[166] Zohar Goshen, Assaf Hamdani and Alex Raskolnikov, 'Poor ESG: Regressive Effects of Climate Stewardship' (2025) European Corporate Governance Institute Law Working Paper No 764/2024, 6-9, 18-21 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4771137> accessed 14 April 2026 arguing that ESG operates without redistributive institutional authority, see 20-35 examining the distributive effects of ESG-based climate initiatives; Ann Lipton, 'ESG Investing' in Elizabeth Pollman and Robert Thompson (eds), *Research Handbook on Corporate Purpose* 130-135, 140-145 explaining ESG as investor-driven signaling that does not reallocate corporate control.
[167] Lipton (n 166) 135-145 on the limits of ESG investing as a mechanism for stakeholder governance; Pollman (n 136) 445-448 discussing ESG as disclosure-driven governance, emphasising information, investor signaling and market discipline rather than structural change.
[168] ibid.

asymmetries of control that shape the allocation of benefits and burdens.[169] Indeed, the legal architecture of fiduciary decision-making itself constrains the extent to which ESG considerations can be operationalised as genuinely distributive commitments rather than discretionary, risk-management overlays.[170] In the absence of institutional arrangements capable of translating transparency into redistributive constraint, disclosure-based governance remains normatively insufficient from the standpoint of Rawlsian distributive justice.[171]

3. From Doctrinal Pluralism to Structural Reform: Implications for Corporate Purpose

From a Rawlsian standpoint, the foregoing analysis demonstrates that India's stakeholder-oriented corporate purpose framework, while normatively expansive, remains deficient in its institutional allocation of economic power.[172] The difference principle requires that the basic structure of economic cooperation be arranged so that resulting inequalities systematically benefit the least advantaged.[173] Corporate governance regimes that preserve concentrated control over productive assets, while redistributing limited resources at the margins through mechanisms such as CSR, are unlikely to satisfy this requirement. Although India's framework formally incorporates redistributive considerations within corporate law, its predominantly ex-post orientation leaves intact the governance processes through which surplus is generated and allocated in the first place, thereby constraining its distributive reach.[174] This limitation is further illustrated by Rawls's principle of fair equality of opportunity.[175] Corporate governance structures determine access not only to financial returns but also to positions of economic authority and influence over investment, employment and broader developmental trajectories - access that, under conditions of concentrated ownership, is itself unevenly distributed along lines that track pre-existing economic advantage.[176]

[169] Pollman (n 136) 445-448.
[170] Salahuddin (n 47).

[171] Fabian Corver, 'The Sustainable Corporation?' (2025) Business Ethics Quarterly 7-13, 31-34 emphasising the gap between normative conceptualisations of sustainability and their institutional realisation, and the need for governance structures capable of operationalising normative commitments; see generally Hardman (n 164) 1-16 arguing that corporate law structures incentives and power through its institutional design, and that regulatory interventions are limited in their capacity to constrain entrenched economic power absent deeper structural reconfiguration; Rawls (n 50) 6-7, 138-140.
[172] Rawls (n 50) 6-7.
[173] ibid 266.
[174] Companies Act s 135; Companies Act Schedule VII.
[175] Rawls (n 50) 63-65.
[176] ibid 63-65.

In systems characterised by concentrated ownership, such as India's promoter-dominated corporate landscape, control over productive assets facilitates the cumulative and intergenerational transmission of advantage, and stakeholder-oriented fiduciary duties do little to disrupt these dynamics.[177] While directors are formally required to consider multiple constituencies, they remain embedded within a governance framework dominated by controlling shareholders, who exercise extensive formal powers over board composition, voting outcomes and strategic transactions, as well as considerable informal influence over managerial decision-making.[178] In such conditions, the enforcement of stakeholder-centric obligations is structurally constrained, since directors are neither institutionally independent nor incentivised to act in ways that would materially diverge from controlling shareholder interests.[179] Consequently, stakeholder obligations operate as formal constraints on the exercise of corporate power rather than as mechanisms for redistributing it, leaving underlying asymmetries in economic authority largely undisturbed. CSR and ESG disclosure obligations similarly fail to address these structural concerns in any substantive manner. CSR mandates may channel corporate resources toward socially beneficial ends, but they do not alter the underlying distribution of economic power that shapes opportunity structures.[180] Their governance-mediated and discretionary character risks reinforcing corporate authority by positioning firms as allocators of social benefit rather than as subjects of distributive constraint.[181] ESG disclosure regimes enhance transparency and may generate reputational or market discipline, but they do not democratise corporate governance or reallocate control over productive assets.[182] In Rawlsian terms, such mechanisms function as corrective devices operating within an otherwise unchanged institutional framework.

These structural limitations are further elucidated by contemporary corporate law scholarship. Professor Bruner conceptualises the corporation as a governance technology whose institutional

[177] Maitland (n 54) 130-131.
[178] Companies Act ss 152, 169, 241-244, 180, 13, 14.
[179] Martin Gelter and Geneviève Helleringer, 'Constituency Directors and Corporate Fiduciary Duties' in Andrew S Gold and Paul B Miller (eds), *Philosophical Foundations of Fiduciary Law* (OUP 2014) 303; Justice EW Thomas, 'The Role of Nominee Directors and the Liability of Their Appointers' in Ian Ramsay (ed), *Corporate Governance and the Duties of Company Directors* (Centre for Corporate Law and Securities Regulation, Faculty of Law, University of Melbourne 1997) 148, 150; JAC Hetherington, 'Defining the Scope of Controlling Shareholders' Fiduciary Responsibilities' (1987) 22 Wake Forest Law Review 9, 12; Elizabeth Boros, 'The Duties of Nominee and Multiple Directors' (1989) 11 Company Lawyer 211; Philip P Crutchfield, 'Nominee Directors: The Law and Commercial Reality' (1991) 12 Company Lawyer 136; Pey-Woan Lee, 'Serving Two Masters: The Dual Loyalties of the Nominee Director in Corporate Groups' (2003) 5 Journal of Business Law 449.
[180] Pollman (n 136) 428-433.
[181] Rawls (n 50) 386-391; Sheehy (n 51) 292-295.
[182] Pollman (n 136) 428-433; Sheehy (n 51) 292-295.

design mediates the relationship between capital, control and accountability, thereby shaping both sustainability and distributional outcomes.[183] His analysis demonstrates that corporate governance regimes embed jurisdiction-specific allocations of authority and risk, which in turn condition whose interests are privileged in decision-making processes.[184] From this perspective, normative commitments to stakeholderism remain contingent upon, and often constrained, by the underlying architecture of control, such that meaningful transformation requires reconfiguration of governance structures rather than mere doctrinal expansion. Professor Pollman situates ESG within a hybrid regulatory paradigm characterised by the interaction of private ordering, market discipline and public oversight.[185] She shows that ESG operates primarily through disclosure-based mechanisms and investor stewardship, recalibrating corporate incentives without displacing the foundational logics of shareholder-oriented governance.[186] As a result, ESG frameworks tend to internalise externalities and refine managerial conduct at the margins, while leaving intact the underlying distribution of ownership and control that structures corporate power.[187] Professor Sheehy advances a more explicitly normative critique, arguing that prevailing sustainability discourse overstates the transformative potential of existing corporate law mechanisms.[188] He contends that genuine alignment with sustainability imperatives requires a redistribution of corporate rights and duties across a broader set of stakeholders, rather than an expansion of managerial discretion within existing hierarchies.[189] Absent such reallocation, sustainability remains subordinated to prevailing governance logics that privilege capital interests.[190]

Taken together, these accounts converge on a central insight - corporate purpose reforms that operate at the level of fiduciary obligation, CSR or mandatory disclosure recalibrate corporate conduct without reconstituting the institutional distribution of economic power, and are therefore normatively insufficient from the standpoint of distributive justice.[191] These limitations are most

[183] Bruner (n 7) 13-15.
[184] ibid 13-15.
[185] Pollman (n 136) 429-434.
[186] ibid 429-434, 442- 443.
[187] Madison Condon, 'Externalities and the Common Owner' (2020) 95 Washington Law Review 1, 5; Frederick Alexander, 'An Honorable Harvest: It Is Time for Universal Owners to Take Responsibility for Their Portfolios' (2019) The Shareholder Commons 1-16 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3433845> accessed 14 April 2026; Jeffrey N. Gordon, 'Systematic Stewardship' (2023) 47 Journal of Corporation Law 631-633; see generally John C. Coffee Jr., 'The Future of Disclosure: ESG, Common Ownership, and Systematic Risk' (2021) 2021 Columbia Business Law Review 602-650.
[188] Sheehy (n 51) 273-276, 295-303.
[189] ibid; Bruner (n 7) 16-19.
[190] Sheehy (n 51) 295.
[191] ibid 295.

clearly illuminated through Rawls's conception of property-owning democracy, an institutional ideal that has itself received renewed and sophisticated theoretical elaboration in recent political philosophy.[192] Unlike welfare-state capitalism, which tolerates significant concentrations of productive assets while relying on redistributive transfers, property-owning democracy seeks to prevent such concentrations from arising in the first place through institutional design.[193] Its objective is to secure broad-based access to productive assets and to sustain fair equality of opportunity over time, an ideal some theorists have reframed in terms of pre-distribution rather than ex-post redistribution.[194] Corporate governance law is central to this project, since corporations organise and control vast accumulations of productive capital, and the distribution of control within firms directly shapes the distribution of economic power in society.[195]

Viewed against this benchmark, India's corporate purpose framework aligns more closely with the logic of welfare-state capitalism than with the institutional aspirations of property-owning democracy. While it departs from classical shareholder exclusivity by codifying stakeholder concerns and mandating CSR, it does not seek to disperse corporate ownership or meaningfully democratise governance authority.[196] Instead, it preserves concentrated control without corresponding accountability mechanisms, while introducing redistributive and disclosure-based correctives that operate at the margins of an otherwise unreformed structure.[197] From a Rawlsian perspective, this distinction is normatively decisive - justice requires not merely that corporate power be exercised responsibly, but that it be institutionally structured in a manner consistent with the fair distribution of economic power and opportunity.[198] Accordingly, India's statutory pluralisation of corporate purpose represents a significant doctrinal and symbolic development, but remains normatively aspirational when measured against the demanding standards of Rawlsian distributive justice.[199] Until corporate governance reform engages directly with controlling shareholder accountability and the structural determinants of surplus allocation, it will remain

[192] O'Neill and Williamson (n 87) 1-14.
[193] ibid 1-14.
[194] Alan Thomas, *Republic of Equals: Predistribution and Property-Owning Democracy* (OUP 2016) 1-20.
[195] ibid 1-20.
[196] Companies Act s 166(2); Companies Act s 135; Companies Act Schedule VII; SEBI Listing Regulations Reg 34(2)(f).
[197] See discussion accompanying nn 106-108.
[198] Rawls (n 50) 6-10, 52-56, 72-77, 242-251 emphasising that justice is concerned with the basic structure of institutions, the fair distribution of primary goods including opportunities and powers, and the requirement that inequalities be institutionally arranged to benefit the least advantaged under conditions of fair equality of opportunity.
[199] ibid 6-10, 52-56, 72-77, 242-251.

normatively incomplete, regulating the symptoms of inequality without transforming the institutional conditions that produce it.[200]

IV. RECONSTRUCTING CORPORATE PURPOSE: INSTITUTIONAL PRECONDITIONS FOR DISTRIBUTIVE JUSTICE

The preceding analysis demonstrates that corporate purpose cannot be confined to an internal question of managerial discretion or fiduciary formulation. Instead, it must be understood as a constitutive institutional mechanism through which economic power is organised, exercised and legitimated within contemporary capitalism.[201] Corporate law does not merely regulate pre-existing market relations - rather, it constructs the legal architecture through which productive assets are coordinated, controlled and deployed, thereby shaping the distributive structure of society.[202] Corporate purpose, in this sense, operates as a normative principle embedded within the political economy, mediating the relationship between private accumulation and public justification.[203] This institutional perspective aligns with a growing body of scholarship that rejects contractarian reductions of the corporation to a nexus of private agreements and instead conceptualises the corporation as a legally constituted institution with broader public and distributive dimensions.[204] As Professor Hardman observes, such accounts obscure the corporation's public and distributive functions by framing it as an apolitical site of voluntary exchange.[205] Professors Hodgson and Gindis emphasise the irreducible institutional character of

[200] Afra Afsharipour, 'The Political Economy of Corporate Law: India and Beyond' (forthcoming 2026) Seattle University Law Review 9-11 < https://papers.ssrn.com/sol3/papers.cfm?abstract_id=7329298> accessed 14 September 2026 analysing the political economy of India by highlighting the conflict between investor protection, controlling shareholder power, and social accountability, with implications for current debates in the US. Professor Afra argues that the Indian experience serves as a cautionary tale for American corporate governance by demonstrating how corporate governance reforms can be co- opted to fuel crony capitalism and exacerbate economic inequality in the absence of constraints on corporate power.

[201] Marjosola (n 47) 142-143; Cary Coglianese, 'Legitimacy and Corporate Governance' (2007) 32 Delaware Journal of Corporate Law 159, 161; Stavros Gadinis and Chris Havasy, 'The Quest for Legitimacy: A Public Law Blueprint for Corporate Governance' (2024) 57 UC Davis Law Review 1598-1604; Edwin M Epstein, 'The Historical Enigma of Corporate Legitimacy' (1972) 60 California Law Review 1701, 1709.

[202] Hardman (n 164) 10.

[203] A Wolfe, 'The Modern Corporation: Private Agent or Public Actor?' (1993) 50 Washington and Lee Law Review 1673-1696.

[204] Jonathan Hardman, 'Tensions in Corporate Contractarianism: Rhetoric Rather than Logic' (2025) International Journal for the Semiotics of Law 2-3, https://doi.org/10.1007/s11196-025-10249-0; Thompson, Robert B Thompson, 'Private Ordering and Contracting Out in Twenty First-Century Corporate Law' (2023) 74 Case Western Reserve Law Review 13-46; Gubler, 'The Neoclassical View of Corporate Fiduciary Duty Law' (2024) 91 The University of Chicago Law Review 165-238; Jonathan Hardman, 'The Nexus of Contracts Revisited: Delineating the Business, the Firm, and the Legal Entity' (2022) 34(2) Bond Law Review 3-8; see generally Hill (n 21) 1-43; David Ciepley, 'Can Corporations Be Held to the Public Interest, or Even to the Law?' (2019) 154 Journal of Business Ethics 1003-1018.

[205] Hardman (n 204) 10; Ciepley (n 69) 139-158.

the firm as a legally constituted entity with distinct ontological status,[206] while Professor Singer's more recent normative political theory of the corporation extends this trajectory by arguing that a firm's productive efficiency cannot be evaluated independently of the justice of its internal governance arrangements.[207]

More recent work further underscores the inherently political nature of corporate organisation, conceptualising firms as sites that actively produce institutional order rather than merely operate within it.[208] Recognising the corporation as a juridically constituted social institution carries decisive implications for corporate purpose - if corporate law structures the allocation of economic power, its normative orientation cannot be determined solely by reference to shareholder interests or contractual autonomy.[209] Instead, corporate purpose must be evaluated in light of its distributive consequences within the basic structure of society. From this standpoint, corporate governance becomes a primary site for the application of principles of distributive justice. Although Rawls did not foreground corporations within his account of the basic structure, corporations today form part of the economy's most consequential institutional components.[210] Corporate governance determines the allocation of residual claims, the organisation of labour and the distribution of economic surplus, thereby directly shaping the distribution of primary goods.[211] The Rawlsian framework developed in earlier Sections thus provides a principled basis for assessing corporate purpose - economic institutions must be justified not by aggregate efficiency alone, but by their capacity to structure inequalities so that they benefit the least advantaged under conditions of fair equality of opportunity.[212]

This perspective exposes the normative limits of both shareholder primacy and contemporary stakeholderism. Shareholder primacy explicitly privileges capital providers as residual claimants,

[206] See generally David Gindis and Geoffrey M Hodgson, 'The Legal Personhood of the Firm' (2019) Working Paper, 1-17 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5065456> accessed 18 May 2026.
[207] Abraham A Singer, *The Form of the Firm: A Normative Political Theory of the Corporation* (OUP 2019) 1-20.
[208] Marco Mari, 'The Political Nature of the Firm: When Businesses Produce Institutional Order' (Oxford Business Law Blog, 24 March 2026) <https://blogs.law.ox.ac.uk/oblb/blog-post/2026/03/political-nature-firm-when-businesses-produce-institutional-order> accessed 18 May 2026; Jostein Hauge, 'Economics is Fundamentally Political' (Global Currents, 19 February 2026) <https://www.theglobalcurrents.com/p/economics-is-fundamentally-political> accessed 18 May 2026.
[209] Ciepley (n 204) 1006-1013; Jean-Philippe Robé, 'The Legal Structure of the Firm' (2011) 1 Accounting, Economics and Law 9-11.
[210] Rawls (n 50) 6-10.
[211] ibid 65-73.
[212] ibid 266-273; Rawls (n 41) 42-43.

concentrating economic power in the hands of asset owners.[213] Stakeholderism, while purporting to broaden the justificatory framework of corporate decision-making, often operates at the level of managerial discourse without reconfiguring the institutional distribution of power.[214] This indeterminacy is compounded by stakeholder theory's own conceptual heterogeneity, which spans economic, philosophical and political interpretations that rarely converge on a common institutional prescription.[215] As Professor Marjosola argues, stakeholder rhetoric frequently functions as a legitimating discourse that stabilises corporate authority under conditions of heightened social scrutiny.[216] Recent scholarship reinforces this critique. Professor Roe demonstrates that shareholder-driven CSR initiatives have failed precisely because they rely upon investor preferences rather than institutional redesign, thereby leaving underlying power structures intact.[217] Similarly, analyses of ESG investing in fragmented regulatory environments reveal that market-based sustainability initiatives are constrained by regulatory divergence and competitive pressures, limiting their capacity to produce consistent distributive outcomes.[218]

The Indian corporate purpose framework exemplifies these tensions. As demonstrated in Section III, statutory innovations such as pluralistic directors' duties, mandatory CSR and ESG disclosure requirements, formally reposition the corporation as a socially embedded institution. Judicial developments further reinforce this orientation by articulating an expanded conception of corporate responsibility within broader social and environmental contexts.[219] Despite these doctrinal developments, the framework remains embedded within a governance structure characterised by concentrated ownership and entrenched promoter control, without adequate accountability mechanisms capable of constraining controlling shareholder power.[220] This

[213] Stout (n 21) 2003, 2004.
[214] David G Yosifon, 'Opting Out of Shareholder Primacy: Is the Public Benefit Corporation Trivial?' (2017) 41 Delaware Journal of Corporate 504: 'Among the principal justifications that activists have given in urging legislatures to adopt PBC provisions into their corporate codes has been the uncertainty regarding the permissibility of altering the standard corporate form to achieve deviation from shareholder primacy in corporate governance.'
[215] Miller (n 45) 1-10.
[216] Marjosola (n 47) 144.
[217] Mark J Roe, 'Why Shareholder-Driven Corporate Social Responsibility Failed' (forthcoming 2026) University of Pennsylvania Law Review, European Corporate Governance Institute Law Working Paper No 931/2026, 3-7, <papers.ssrn.com/sol3/papers.cfm?abstract_id=6329838> accessed 18 May 2026.
[218] Elizabeth Golberg, Mana Behbin and Yara Ismael, 'ESG Investing in a Fragmented US Regulatory Landscape' (Harvard Law School Forum on Corporate Governance, 17 March 2026) <https://corpgov.law.harvard.edu/2026/03/17/esg-investing-in-a-fragmented-us-regulatory-landscape/> accessed 18 May 2026.
[219] M. K. Ranjitsinh v Union of India, (2021) SCC 326; M K Ranjitsinh v Union of India Writ Petition (Civil) No 838 of 2019 (SC 19 December 2025).
[220] OECD Corporate Governance Factbook (n 138) Table 1.2, 32.

structural feature is normatively decisive. Control over productive assets confers not only financial returns but also strategic authority over economic decision-making, enabling dominant shareholders to shape investment patterns, labour relations and surplus allocation in ways that reproduce existing hierarchies of economic power.[221] The persistence of such concentrated control undermines Rawls's requirement of fair equality of opportunity by facilitating the cumulative and intergenerational transmission of advantage.[222]

As Professor Corrigan's corporate governance trilemma suggests, attempts to reconcile shareholder control, managerial discretion and stakeholder protection inevitably involve distributive trade-offs that cannot be resolved through fiduciary reform alone.[223] In the Indian context, these tensions are particularly acute - stakeholder-oriented duties operate within governance structures dominated by controlling shareholders, rendering them normatively aspirational rather than institutionally transformative. This structural limitation cannot be remedied through CSR or disclosure-based mechanisms alone. CSR regimes, while formally embedding redistributive obligations within corporate law, operate ex-post on profits already allocated through governance processes shaped by concentrated ownership.[224] As a result, they function as instruments of peripheral redistribution rather than structural transformation.[225] Empirical and theoretical accounts of CSR underscore its role in enhancing corporate legitimacy rather than redistributing economic power.[226] In this sense, CSR functions not as a restructuring of economic power, but as a legitimacy-sustaining mechanism mediating tensions between corporate capitalism and distributive expectations.[227] Professor Khanna's analysis of the political economy underlying India's CSR reforms is illustrative. He argues that the Indian CSR framework operates less as an instrument of structural redistribution than as a mechanism for reconciling

[221] Ronald J Gilson and Jeffrey N Gordon, 'Controlling Controlling Shareholders' (2003) 152 University of Pennsylvania Law Review 785 demonstrating how controlling shareholders exercise strategic authority over corporate decision-making and surplus extraction; Pargendler (n 33) 359-402 examining how concentrated ownership structures shape corporate control and economic hierarchy.
[222] Rawls (n 50) 63-65.
[223] Patrick M Corrigan, 'The Corporate Governance Trilemma' (2025) 17 Journal of Legal Analysis 141-165.
[224] Afsharipour (n 128) 363-386 demonstrating that CSR mechanisms generally operate within, rather than transform, prevailing distributions of corporate power and control; see generally Afsharipour (n 123) 465-496.
[225] ibid.
[226] Khanna (n 135) 282-292; see generally Holger Spamann and Jacob Fisher, 'Corporate Purpose: Theoretical and Empirical Foundations/ Confusions' (2022) European Corporate Governance Institute Law Working Paper No 664/2022, 1-24, <https://www.ecgi.global/sites/default/files/working_papers/documents/purposefinal_2.pdf> accessed 20 May 2026.
[227] Khanna (n 135) 282-292.

market liberalisation with demands for social legitimacy.[228] His account suggests that mandatory CSR enabled the state to channel corporate resources towards welfare-oriented objectives while preserving the political optics of liberalisation and avoiding more direct redistributive interventions through taxation.[229]

Similarly, ESG disclosure regimes expand the informational environment within which corporate actors operate but do not themselves reallocate decision-making authority or alter the distribution of residual control.[230] Recent empirical work confirms that transparency initiatives may increase the visibility of misconduct without necessarily altering underlying behavioural incentives absent complementary institutional constraints.[231] More broadly, disclosure-based governance mechanisms operate as regulatory instruments of visibility rather than redistribution.[232] As Pollman's account of ESG demonstrates, such frameworks recalibrate market behaviour through information flows while leaving ownership structures and control rights largely intact.[233] Contemporary scholarship further emphasises the fragility of stakeholder commitments when unsupported by binding institutional mechanisms, highlighting the ease with which corporate priorities revert under shifting economic and political conditions.[234] The recent retrenchment of corporate diversity, equity and inclusion commitments amid shifting legal and regulatory pressure illustrates precisely this fragility, as disclosure-linked stakeholder commitments are recalibrated or withdrawn once their political and litigation costs rise.[235] The emerging literature on ESG ratings and financial reporting similarly suggests that while social performance metrics may

[228] ibid 282-292.
[229] ibid.
[230] Pollman (n 136) 436-439.
[231] See generally Erdinc Akyildirim and others, 'Transparency and the Visibility of Misconduct: Evidence from ESG Disclosure Mandates' (2026) European Corporate Governance Institute Finance Working Paper No 1127/2026, 1-73, <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=6257819> accessed 20 May 2026.
[232] ibid.
[233] Pollman (n 136) 425-426; Stavros Gadinis and Amelia Miazad, 'Corporate Law and Social Risk' (2020) 73 Vanderbilt Law Review 1401, 1432-1435; Florian Berg, Julian F Kölbel & Roberto Rigobon, 'Aggregate Confusion: The Divergence of ESG Ratings' (2022) 26 Review of Finance 1315; Rajna Gibson, Philipp Krueger and Peter Steffen Schmidt, 'ESG Rating Disagreement and Stock Returns' (2021) European Corporate Governance Institute Finance Working Paper No 651/2020, 1-47 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3433728> accessed 20 May 2026.
[234] Caley Petrucci, 'Corporate Goodwill' (2026) 67 Boston College Law Review 598-618.
[235] Delikat, Goldsmith and Goudy (n 47); see generally Afra Afsharipour and Darren Rosenblum, 'The Inclusion Imperative for Repairing Corporate Governance' (forthcoming 2026) Business Lawyer, European Corporate Governance Institute Law Working Paper No 897/2026, 1-49 < https://papers.ssrn.com/sol3/papers.cfm?abstract_id=6127586> accessed 27 August 2026.

influence disclosure quality, their distributive implications remain contingent upon market reception rather than embedded institutional design.[236]

These insights point to a broader implication - contemporary corporate purpose reforms, whether framed in terms of stakeholder governance, ESG integration or sustainability commitments, operate predominantly within an existing architecture of private economic power. They modify the justificatory language of corporate conduct and expand the informational environment, but they do not fundamentally reconstitute the allocation of control over productive assets.[237] From a distributive justice perspective, this limitation is decisive - justice requires not merely that corporate power be exercised responsibly or transparently, but that it be institutionally structured in a manner consistent with the fair distribution of economic power and opportunity. Rawls's conception of property-owning democracy provides the most illuminating framework for assessing these institutional arrangements.[238] Unlike welfare-state capitalism, which tolerates significant concentrations of productive wealth while mitigating their effects through redistributive transfers, property-owning democracy seeks to prevent excessive accumulations of economic power ex-ante, through the widespread dispersion of productive assets.[239] Its objective is to secure the social bases of self-respect by ensuring that individuals participate in economic life as equals rather than as passive recipients of redistributed surplus.[240] Corporate governance law occupies a central position in this institutional design, since corporations organise and control vast accumulations of productive capital.

Viewed against this benchmark and as noted earlier, the Indian corporate purpose framework aligns more closely with the logic of welfare-state capitalism than with the institutional aspirations of property-owning democracy in that it regulates the externalities of concentrated corporate power without dispersing that power itself. CSR obligations redistribute a fraction of corporate profits but leave ownership structures intact; directors' duties broaden the justificatory frame of corporate decision-making without altering control rights; and ESG disclosure requirements enhance

[236] Rimona Palas and others, 'ESG Ratings and Financial Reporting Quality: Why Social Performance Matters' (2025) Working Paper 1-24, <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5290631> accessed 20 May 2026.
[237] Goshen, Hamdani and Raskolnikov (n 166) 6-9, 18-21; Pollman (n 136) 445-448.
[238] Rawls (n 50) 242-251; Rawls (n 41) 58-59, 135-140.
[239] ibid.
[240] Rawls (n 41) 58-59.

transparency without conferring participatory authority upon affected stakeholders. The result is a framework that addresses distributive outcomes at the margins while leaving the structural determinants of inequality substantially unaltered.[241]

A comparative perspective illuminates the structural accountability deficit at the heart of India's corporate purpose framework. As noted above, controlling shareholders in India bear no fiduciary obligations when exercising their extensive governance rights, including the powers to elect and remove directors, approve fundamental transactions and shape board composition through formal and informal means - a structural asymmetry that renders section 166(2)'s pluralistic fiduciary duties largely unenforceable in practice.[242] Two external frameworks that directly address this deficit merit consideration. Under Delaware corporate law, controlling shareholders are historically subject to fiduciary duties owed to minority shareholders, with self-dealing transactions subject to entire fairness review, requiring proof of both fair dealing and fair price unless structured to satisfy the protective conditions developed through Delaware jurisprudence, in which case business judgment deference may apply.[243] The recent enactment of Delaware Senate Bill 21 in 2025, however, has substantially reconfigured this landscape, codifying and expanding the safe harbour for controlling shareholder transactions, weakening the protective force of minority shareholder voting requirements and narrowing the practical scope of the entire fairness review.[244] Empirical evidence associates the reform with negative stock market responses, suggesting that it has entrenched rather than disciplined controlling shareholder authority.[245] Under English law, the shadow director doctrine partially addresses de facto controller accountability by subjecting those whose instructions directors are accustomed to follow to substantially equivalent

[241] Lisa Hsin, 'The Missing Link: Commercial Incentives for Adopting Corporate Sustainability Contractual Assurances' (Oxford Business Law Blog, 22 April 2026) <https://blogs.law.ox.ac.uk/oblb/blog-post/2026/04/missing-link-commercial-incentives-adopting-corporate-sustainability> accessed 20 May 2026.
[242] Pandey and Mohan (n 66) 220-223; Naniwadekar and Varottil (n 122) 112-113; Mukhopadhyay and Mandal (n 126) 595, 603-605.
[243] Weinberger v UOP Inc 457 A2d 701 (Del 1983); Kahn v M&F Worldwide Corp 88 A3d 635 (Del 2014); Gilson and Gordon (n 221) 787-789; see generally J Travis Laster, 'The Distinctive Fiduciary Duties that Stockholder Controllers Owe' (2024) 20 New York University Journal of Law and Business 461-475.
[244] Stephen Bainbridge, 'Delaware Senate Bill 21: What It Does and What Questions Remain Open' (2025) UCLA School of Law and Economics Research Paper No 25-02, 1-28; Kenneth Khoo and Roberto Tallarita, 'The Price of Delaware Corporate Law Reform' (2025) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5318203 accessed 9 March 2026; Arthur R Bookout, Edward B Micheletti and Joseph O Larkin, 'Delaware Supreme Court Upholds Constitutionality of SB21 Provisions Providing Safe Harbors for Controlling Stockholder Transactions' (Harvard Law School Forum on Corporate Governance, 14 March 2026) https://corpgov.law.harvard.edu/2026/03/14/delaware-supreme-court-upholds-constitutionality-of-sb21-provisions-providing-safe-harbors-for-controlling-stockholder-transactions/ accessed 30 September 2026.
[245] ibid.

fiduciary obligations, thereby reaching dominant shareholders who exercise effective governance control without formal board appointment.[246]

Instructive as the comparators discussed above are, neither satisfies the demands of Rawlsian distributive justice as developed in this article. The Delaware framework, even in its pre-SB 21 form, operates reactively and transaction-specifically, disciplining discrete episodes of controller opportunism rather than reconstituting the structural allocation of governance authority in that it constrains the extraction of private benefits without dispersing the concentration of productive power from which such extraction flows.[247] The shadow director doctrine similarly operates at the margins, attaching accountability in cases of egregious de facto control rather than establishing a systematic ex-ante institutional framework for subjecting the ongoing exercise of controlling shareholder power to distributive constraint.[248] Both frameworks remain embedded within a broader architecture that preserves concentrated ownership as the structural premise of corporate organisation, and both prioritise transactional accountability over the ex-ante dispersal of economic power that the difference principle requires. From the standpoint of justice as fairness, the question is not only whether controllers are held accountable for specific governance abuses, but whether the institutional design of corporate law prevents concentrations of productive power from arising and perpetuating themselves in the first instance.[249]

The structural accountability gap identified above carries particular normative weight in the Indian context, given the distinctive character and multidimensional reach of the private benefits that concentrated ownership enables. The principal agency problem in promoter-dominated governance systems is distinct from the managerial opportunism characteristic of jurisdictions with dispersed ownership.[250] It instead concerns the extraction of private benefits of control, both pecuniary and non-pecuniary, by controlling shareholders at the expense of minority investors and

[246] Companies Act 2006 (UK), ss 250-251; Re Hydrodam (Corby) Ltd [1994] 2 BCLC 180; Vivendi SA v Richards [2013] EWHC 3006 (Ch).
[247] Gilson and Gordon (n 221) 787-800; Laster (n 243) 461-475; Rawls (n 41) 135-140 the difference principle is concerned with the institutional design of basic economic arrangements rather than with correcting the outcomes of transactions within unreformed structures.
[248] Chandler v Cape plc [2012] EWCA Civ 525; Jennifer Payne, 'Shadow Directors and Corporate Governance' in Andrew Keay (ed), *Directors' Duties and Shareholders' Rights* (Jordans 2010).
[249] Rawls (n 16) 242-251; O'Neill and Williamson (n 87) 1-14.
[250] Ronald J Gilson, 'Controlling Shareholders and Corporate Governance: Complicating the Comparative Taxonomy' (2006) 119 Harvard Law Review 1650-1652; Astha Pandey and MP Ram Mohan, 'Re-evaluating Corporate Purpose: A Critical Assessment of the Indian Stakeholder Governance Framework through a Historical and Comparative Analysis' (2025) 49 Delaware Journal of Corporate Law 278-280; Pandey and Mohan (n 66) 231-232; Afsharipour (n 128) 337, 339-340.

other stakeholders.[251] Pecuniary extraction typically operates through self-dealing related-party transactions and tunnelling which is the systematic transfer of corporate resources to controlling shareholders through pyramid and cross-holding structures.[252] Non-pecuniary private benefits extend into the domains of political influence, socio-cultural prestige and institutionally mediated power, the reach of which in India has demonstrably pervaded sectoral regulation, legislative processes and capital market integrity.[253] These asymmetries cannot, however, be addressed by merely subjecting controlling shareholders to the same governance mechanisms designed for dispersed ownership systems such the US and the UK given that the agency problem is structurally distinct.[254] Controlling shareholders are not inherently detrimental to corporate welfare - their long-term investment horizon and monitoring capacity can provide the stability and credible commitment to corporate purpose that dispersed ownership and its attendant short-termism frustrate, and there is a meaningful body of scholarship supporting the governance advantages that concentrated ownership can confer.[255] It is precisely because this stability advantage coexists with the structural capacity for private benefit extraction that corporate governance design in concentrated ownership jurisdictions must embed accountability mechanisms proportionate to the scope of controlling shareholder power - a requirement India's current framework conspicuously fails to satisfy.[256]

This structural critique is reinforced by contemporary scholarship on corporate governance and sustainability. Recent analyses highlight the absence of commercial incentives aligned with

[251] ibid.

[252] Marianne Bertrand, Paras Mehta and Sendhil Mullainathan, 'Ferreting Out Tunneling: An Application to Indian Business Groups' (2002) 117 Quarterly Journal of Economics 121, 126; Curtis J Milhaupt, 'The (Geo)Politics of Controlling Shareholders' (2023) European Corporate Governance Institute Law Working Paper No 696/2023, 14-23 https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4406516 accessed 30 September 2026; Gilson (n 250) 1663-1665 introducing the concept of non-pecuniary private benefits of control, encompassing psychic benefits and socio-political prestige, to explain the prevalence of controlling shareholders across jurisdictions); Pandey and Mohan (n 66) 205, 231-232; see generally Afsharipour (n 128) 363-386 documenting how India's CSR and stakeholder frameworks have been susceptible to co-optation by controlling shareholders, with unspent CSR funds channeled into government-controlled accounts as a vehicle for political influence.

[253] Milhaupt (n 252) 14-23; Gilson (n 250) 1663-1665.

[254] Gilson (n 250) 1650-1652; Pandey and Mohan (n 66) 229-232; Dan W Puchniak, 'Multiple Faces of Shareholder Power in Asia: Complexity Revealed' in Jennifer G Hill and Randall S Thomas (eds), *Research Handbook on Shareholder Power* (Elgar 2015) 527-528.

[255] Zohar Goshen and Assaf Hamdani, 'Corporate Control and Idiosyncratic Vision' (2016) 125 Yale Law Journal 563-565 arguing that concentrated ownership enables controlling shareholders to advance a wealth-enhancing idiosyncratic vision, providing a governance rationale for controller dominance grounded in the productive advantages of long-term, undiversified investment); Afsharipour (n 123) 496 observing that promoter dominance is not necessarily antithetical to stakeholder governance given the long-term orientation and commitment of controlling shareholders to company growth and performance; Kershaw and Schuster (n 70) 507-511; Pandey and Mohan (n 66) 232 noting that controlling shareholders can provide the stability and monitoring capacity required to sustain meaningful pursuit of corporate purpose over time, in contrast to dispersed ownership structures exposed to short-term market pressures.

[256] Pandey and Mohan (n 66) 232-233; Gilson and Gordon (n 221) 785, 787-789; Afsharipour (n 128) 339-340.

sustainability objectives, underscoring the difficulty of achieving substantive change without institutional redesign.[257] Others emphasise the limits of stewardship and shareholder engagement as mechanisms for disciplining corporate behaviour, particularly in the presence of collective action problems and dispersed investor incentives.[258] The persistence of these constraints suggests that market-mediated approaches to corporate purpose are unlikely to achieve distributive transformation absent structural reform. A Rawlsian reconstruction of corporate purpose therefore requires a shift in analytical focus from fiduciary obligation and disclosure to the institutional distribution of economic power, reimagining corporate governance as a mechanism for structuring access to productive assets and decision-making authority. Potential avenues for such reconstruction lie in institutional mechanisms that subject concentrated corporate power to stronger distributive and participatory constraints, including enhanced minority shareholder protections, greater stakeholder participation within governance processes, and more robust accountability obligations for controlling shareholders.[259] Comparative experience suggests that such power-rebalancing mechanisms need not be confined to shareholder-centered legal traditions - signaling-based and market-governance reforms in other Global South and transitional economies illustrate alternative institutional pathways for redistributing governance authority.[260] Equally important are regulatory frameworks capable of translating sustainability and stakeholder commitments into substantive governance constraints rather than merely disclosure-based or aspirational obligations.[261]

A normatively adequate reconstruction of India's corporate purpose framework therefore requires reform operating along several mutually reinforcing axes. The imposition of fiduciary obligations on controlling shareholders when exercising governance rights, structured around a positive duty

[257] ibid.
[258] Brian R Cheffins and Bobby V Reddy, 'The Stewardship Code and Shareholder Engagement: The End of the Road' (forthcoming 2026) Cambridge Law Journal, University of Cambridge Faculty of Law Research Paper No 23/2025 12-13, 30-32, <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5579172> accessed 21 July 2026.
[259] Jill E Fisch, 'Making Sustainability Disclosure Sustainable' (2019) 170 Georgetown Law Journal 923, 947-48; Jill E Fisch and Amelia Miazad, 'Sustainable Finance and Corporate Law: Lessons from the US' (2026) European Corporate Governance Institute Law Working Paper No 917/2026, 4-7 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=6441622> accessed 20 May 2026; Lisa M Fairfax, 'Stakeholderism, Corporate Purpose, and Credible Commitment' (2022) 108 Virginia Law Review 1163, 1199-1204; Ronald J Gilson and Alan Schwartz, 'Corporate Control and Credible Commitment' (2015) 43 International Review of Law and Economics 119, 120.
[260] Chen Wang, 'Market Governance, Power Rebalancing and Signaling: The Political Economy of Legal Institutions in China's Corporate Governance' (forthcoming 2026) 47 Northwestern Journal of International Law and Business, 10-11 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5652871> accessed 13 July 2026.
[261] Pollman (n 136) 437-448.

to act in the interests of the corporate entity rather than a merely reactive constraint on self-dealing, would subject concentrated power to justiciable obligation.[262] The strengthening of related-party transaction regulation beyond its current disclosure-oriented and audit-committee-dependent design, including the introduction of independent shareholder approval requirements with appropriate minority-veto mechanisms, would provide structural constraints on tunnelling and private benefit extraction.[263] Further, the development of a binding stewardship framework applicable to institutional investors in Indian listed companies would introduce countervailing governance pressure capable of partially displacing promoter dominance through market-based mechanisms, though the limitations of stewardship as a redistributive instrument are well-illustrated by the retrenchment of stakeholder commitments under shareholder pressure in other jurisdictions and must be acknowledged.[264] These reforms, taken together, represent the minimum institutional architecture through which the structural accountability deficit identified above might begin to be addressed and through which Section 166(2)'s formally pluralistic commitments might acquire substantive governance traction, moving India's corporate purpose framework from symbolic stakeholderism toward the institutional dispersal of economic power that the property-owning corporate democracy ideal demands.

Such a reconstruction must also engage the broader political economy within which corporations operate. Corporate power extends beyond economic coordination into the political domain, shaping regulatory outcomes and influencing public policy.[265] As recent scholarship emphasises, business ethics and corporate governance are inherently political, implicating questions of democratic legitimacy and institutional authority.[266] Concentrated corporate power therefore raises concerns not only for distributive justice but also for the fair value of political liberties.[267] A Rawlsian account of corporate purpose must address these systemic effects by situating corporate governance within a broader framework of democratic institutional design. Ultimately, corporate purpose cannot be normatively justified unless it is evaluated as part of the basic structure of

[262] Pandey and Mohan (n 66) 205, 232-233; Laster (n 243) 461-475; Iman Anabtawi and Lynn Stout, 'Fiduciary Duties for Activist Shareholders' (2008) 60 Stanford Law Review 1255, 1296.
[263] Pandey and Mohan (n 66) 230-232; SEBI Listing Regulations Reg 23.
[264] Delikat, Goldsmith and Goudy (n 47); Salahuddin (n 47).
[265] Milhaupt (n 252) 14-23.
[266] 'Business Ethics is Inherently Political' (European Corporate Governance Institute Blog, 10 April 2026) <https://www.ecgi.global/publications/blog/business-ethics-is-inherently-political> accessed 21 May 2026 a review of the Kelley-ECGI Lecture 'Why Business Ethics is Political' by Professor Abraham Singer on 5 March 2026; Hauge (n 208).
[267] Rawls (n 50) 198-199.

society - corporate law shapes the distribution of economic power, and economic power in turn shapes life prospects, social standing and political influence. Only by embedding distributive justice within the institutional design of the corporation can stakeholder commitments move beyond symbolic affirmation toward structural transformation.[268]

CONCLUSION

This article contends that corporate purpose cannot be reduced to a question of managerial discretion or fiduciary formulation, but must be situated within the institutional architecture through which economic power is organised and legitimated. Placing contemporary corporate purpose debates in conversation with Rawlsian distributive justice, it reconceives corporate governance as part of the basic structure of society, subject to principles governing the fair distribution of economic power and opportunity. Applying this framework, it critically evaluates India's stakeholder-oriented corporate purpose framework under the Companies Act and the SEBI Listing Regulations. Although the Indian framework formally departs from orthodox shareholder primacy through pluralistic directors' duties, mandatory CSR obligations and ESG disclosure requirements, these mechanisms remain structurally constrained by concentrated promoter ownership, absent meaningful controlling-shareholder accountability mechanisms. Such reforms recalibrate the justificatory language of corporate governance without materially redistributing residual control or reallocating productive assets, reflecting a broader tension within stakeholder governance discourse. While expansive fiduciary formulations, CSR mandates and disclosure-based regulation may enhance visibility and accountability at the margins, they remain normatively insufficient from the standpoint of distributive justice so long as underlying asymmetries of economic power persist unaddressed. Ultimately, the article argues that a genuinely transformative reconstruction of corporate purpose ie moving stakeholderism beyond symbolic affirmation, requires institutional arrangements capable of subjecting concentrated corporate power to substantive distributive and participatory constraints consistent with the demands of justice as fairness.

[268] Corver (n 171) 5; R Steurer and others, 'Corporations, Stakeholders and Sustainable Development I: A Theoretical Exploration of Business-Society Relations' (2005) 61 Journal of Business Ethics 263-281; Ciepley (n 204) 1003-1018; Rawls (n 50) 52-56.