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Corporate Governance Challenges in Protecting Minority Shareholder Rights Under Indian Company Law

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Abstract

Today, Corporate Governance is one of the most significant parts of the corporate law related to transparency, accountability, fairness and protection of the interests of stakeholders. The minority shareholders are weak in the company as they have less voting power when compared with the votes they had earlier. The legal provisions in India for safeguarding the interest of minority shareholders are provided in the Companies Act 2013, the regulatory framework of Securities and Exchange Board of India (SEBI), judicial precedents and corporate governance codes. The introduction of these changes in the law, however, has created a number of issues for minority shareholders, including a high concentration of ownership, lack of independence of the board, related party transactions, asymmetric information, and weak enforcement mechanisms, in the face of the dominance of the promoters. Statutory protection may fail due to the many examples of family-owned businesses and promoter-driven corporations. The paper critically analysed the company law problems which arise in the context of rights of minority shareholders. It looks at the existing legal framework, the interpretation of the law by judges, proposes areas that need improvement in governance and issues and suggests better laws to increase the protection of minority shareholders and enhance corporate accountability and investor confidence.

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INTRODUCTION

Corporate governance is the body of rules and processes that govern the direction, control and management of the business based on legal, ethical and business principles. Good governance promotes investor confidence, reduces agency problems, improves financial outcomes and contributes to sustainable economic development. A fundamental aim of corporate governance is that every shareholder, regardless of his or her stake in the company, is treated fairly.

In general, minority shareholders own a small amount of stock in a company and do not have a large amount of control in the company[1]. Their susceptibility is that controlling shareholders or promoters/dominant management can do what is best for themselves at the cost of the minority. This could involve corporate opportunity, unfair related party transactions, disclosure of information, dilution, insider trading and using corporate assets.

There is significant concentration of ownership of Indian companies, and sometimes the promoters possess majority voting rights. These types of ownership may assist with long-term strategic planning, but may also create a potential problem of expropriation of the minority interests.

Concept of Corporate Governance

Corporate governance is a mechanism through which corporate bodies are managed, supervised and made accountable to the shareholders and other stakeholders. It establishes connections among the members of the Board of Directors, the management, shareholders, regulators, creditors, employees and society. Good corporate governance is important in the process of responsible decision making, transparency, ethical behaviour and accountability.

The Organisation for Economic Co-operation and Development (OECD) has emphasized the values of fairness, transparency, responsibility, accountability and equitable treatment of shareholders as the fundamental values of corporate governance[2]. The principles aim to reduce controlling shareholders' conflicts with minority shareholders and the efficient use of corporate resources.

Meaning and Importance of Minority Shareholder Rights

Minority shareholders are shareholders who do not have control over the company. They do not have a lot of influence on the company's decisions. For these reasons, they need to use statutory protection and governance mechanisms to protect their investments.

The rights of minority shareholders include rights to attend shareholder's meetings, the right to vote on major decisions, timely notification of company's financial affairs, access to the company's books, rights to take legal action against oppressive conduct, rights to take action against mismanagement and to be treated fairly in the event of mergers, acquisitions, restructuring and delisting.

Legal Framework Protecting Minority Shareholders in India

The most important legislation relating to the protection of minority shareholders is the Companies Act, 2013. There are provisions in Sections 241 and 242 for the shareholders to obtain relief from oppression or mismanagement. The provisions enable the National Company Law Tribunal (NCLT) to intervene if corporate affairs are carried out in a manner which is detrimental to the minority shareholders or public interest.

Class action suits were first introduced in section 245, which allows shareholders and depositors to band together in order to seek remedies if the company engages in any form of fraudulent or improper behavior. This is a significant step towards the protection of collective investors in the Indian company law.

Corporate Governance Challenges Affecting Minority Shareholder Protection

Concentrated Ownership Structure

Indian companies are characterized by concentrated ownership by promoters. It is observed that there is concentration of voting power in promoter groups in several sectors of the Indian economy, as family controlled company is found to be dominant in these sectors.

This sense enables the promoters to make critical appointments, judgments, executive compensation, mergers and acquisitions, and financial policies[3]. Minority shareholders may have significantly less power to object to decisions, even if the decisions are to the detriment of the minority shareholders.

Related-Party Transactions

Related Party Transactions is one of the most challenging governance issues in India. Businesses may have business relations with their subsidiary, affiliated company, related company or family company.

The approval, disclosures and independent review provisions of the Companies Act, 2013 and the SEBI Regulations have been provided for with the process of approval, but there are areas where it is not consistently applied. It may be difficult for minor shareholders of companies to identify if transactions are conducted on an arm's length basis.

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[1] Tioluwani, R., Corporate Governance And Shareholder Rights: A Legal Perspective On Minority Protection.

[2] Kumar, R., Majority Might Vs. Minority Right: A Critical Analysis Of Minority Shareholder Protection In Indian Corporate Governance.

[3] Akinsola, K., 2025. Legal compliance in corporate governance frameworks: best practices for ensuring transparency, accountability, and risk mitigation. *Accountability, and Risk Mitigation (January 31, 2025)*.

Weak Independence of Boards

It is very crucial for independent directors to ensure that the interests of minority shareholders are protected and that they have an independent control over decisions made by management. But frequently, questions will arise as to the actual independence of the board members.

This does not mean that many independent directors are appointed by the promoters who, for their part, would not be willing to exercise their control on the controlling shareholders. Social, professional or financial relationships may have a detrimental effect on independent judgement.

Information Asymmetry

One of the factors that make good shareholder participation is to be able to get the corporate information when it's needed – and when it is needed, it must be accurate. There is a heavy information disadvantage in favour of promoters and management in respect of minority shareholders.

Major difficulties in the preparation of annual reports, minority shareholders' lack of disclosure, selective disclosure of material information, inadequate explanations of strategic decision-making and lack of transparency in the financial reporting, render minority shareholders' engagement in investment decisions difficult.

Oppression and Mismanagement

Oppression is when the majority shareholders use their powers in a way which is unfairly prejudicial to the minority shareholders. Mismanagement is when a person acts in a way that may be detrimental to the company because of negligence, abuse of authority or failure to make an appropriate decision[4].

This may be accomplished by liquidating minority shareholders, excluding minority shareholders from management, by denying business opportunities, by manipulation of the financial statements, by the giving away of shares in order to reduce the minority shakeholdings, by using the corporate assets in a manner only advantageous to others.

Ineffective Shareholder Activism

Active involvement in governance by institutional investors and shareholders' associations is a key way in which they enhance corporate accountability.

Shareholder activism has grown of late but is still limited in India. The retail investors usually do not have the power, knowledge of law, and resources to demand a change of the promoter's decision.

Enforcement Challenges

Good corporate governance depends on the regulations' enforcement. The powers of SEBI, Ministry of Corporate Affairs and the National Company Law Tribunal are very wide, however, there are implementation concerns.

Investigations can be lengthy, regulatory actions can be dragged out, and judicial delays can occur in resolving conflicts. Inconsistent governance standards are also impacted by the lack of coordination between the regulatory institutions. The lack of regulation allows for a greater ability to avoid corporate misconduct and reduces investor trust in the market.

Judicial Approach toward Minority Shareholder Protection

Indian courts have always believed that majority cannot exercise the power to oppress the minority. Judicial cases have highlighted a need for fair dealing, fiduciary duty and equal treatment in corporate governance.

The Supreme Court has invariably found that a director's position is of a fiduciary nature and he/she is expected to act in the company's interests rather than in his/her personal or promoter interests[5]. Minority Shareholder protection is also now acknowledged as an integral part of contemporary corporate governance by courts.

The powers of the National Company Tribunal to investigate oppressive conduct, cancel unfair corporate acts, regarding the future management and granting of relief in equity as needed has been put to use increasingly.

Role of SEBI in Strengthening Corporate Governance

SEBI and its contribution in enhancing the corporate governance. Strengthening of corporate governance through role of SEBI.

The Securities and Exchange Board of India (SEBI) has come a long way towards providing a good framework for corporate governance practices by continually amending the regulations. Listed companies' transparency has been enhanced through the introduction of the following disclosure requirements, mandatory independent directors, audit committees, nomination committees, stakeholder relationship committees, related party transaction approvals and risk management frameworks.

Further, SEBI has enhanced the role of shareholders by making the use of electronic voting systems mandatory, tightened disclosure norms, and the tightened norms on insider trading along with other penalties for governance related violations.

The new changes in the reforms brought in as part of the Kotak Committee have further increased the diversity of the boards, disclosure of governance, accountability of independent directors and monitoring of promoter influence.

Comparative Perspective

A few well-established jurisdictions provide stronger rights for minority shareholders through more successful derivative

[4] Aguilera, R.V. and Ruiz Castillo, M., 2025. Toward an updated corporate governance framework: Fundamentals, disruptions, and future research. *BRQ Business Research Quarterly*, *28*(2), pp.336-348.

[5] Yue, S., Bajuri, N.H.B., Khatib, S.F. and Alshareef, M.N., 2026. Ownership with a green twist: the role of top managers in driving environmental innovation. *China Finance Review International*, *16*(1), pp.254-283.

actions, class action litigation, and institutional investor activism and higher fiduciary standards.
In the United Kingdom, Stewardship principles and robust legal mechanisms are important tools in the pursuit of Shareholder engagement. Shareholder litigation in the United States takes the form of three types of suits: (1) derivative suits; (2) securities class actions; and (3) the broad disclosure requirements under federal securities law.
All these jurisdictions have made a great deal of progress in their legal system, but there are still issues in India related to centralization of ownership of the legal system, slow judicial processes, weak law enforcement and relative lack of shareholder activism.

Recommendations for Strengthening Minority Shareholder Protection

Refining legislation and improving institutions are required to enhance minority shareholders' rights[6]. Selection of independent directors should be done in a more open and objective process to minimise influence of promoters. More scrutiny of related party transactions, more disclosure and independent shareholder approval of related party transactions where there are conflicts.
Need to improve the institutional roles, increase judges' in the National Company Law Tribunal and expedite the proceedings of the Tribunal in respect of any dispute arising between shareholders. If there is an improvement in the speed of the resolution of cases of oppression and mismanagement, there will be significant positive impact on investor confidence.
As stewards, institutional investors should be active and engaged in making governance decisions, assessing the performance of the board, and opposing unfair resolutions. Proxy advisory firms should keep highlighting the accountability of governance, based on independent evaluations of corporate proposals.

CONCLUSION

The protection of minority shareholders is an essential principle of good corporate governance, which would positively impact the investor's confidence in the market, encourage investors to invest and ensure sustainable growth of the company. India has enacted a comprehensive regulatory structure under the Companies Act, 2013, the Securities and Exchange Board of India regulations, judicial and governance measures to safeguard the interests of the minority shareholders. But, these legal protections are not always effective because of practical problems.
The concentrated ownership, dominance of the promoters, lack of board independence, related party transactions, information asymmetry, regulatory delays and lack of shareholder activism pose serious governance risk for minority shareholders[7]. While statutory provisions, if there are any, are invaluable as a remedy to oppression and mismanagement they can only be effective if they are applied in time, regulatory oversight is sufficient and the judiciary is efficient.
The need for future reforms is to build up institutional capacity, give boards greater independence, improve corporate transparency, increase the level of shareholders' participation, and improve the coordination and cooperation of regulation. Investing in the Indian capital markets is getting bigger, and there are more and more foreign capital flows coming in, protecting minority shareholders will remain a crucial part in the process of enhancing corporate governance practices, investor trust and the overall economic development.

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