A Study on the Majority Rule and Minority Interest in Indian listed companies in the context of minority shareholder oppression with reference to majority rule as a framework.

A DISSERTATION SUBMITTED TO

NATIONAL LAW SCHOOL OF INDIA UNIVERSITY, BENGALURU.

IN PARTIAL FULFILMENT OF THE REQUIREMENTS

FOR THE DEGREE OF

LL.M. (Master of Laws)

Submitted by:

SANKALP SANJAY SHANBHAG

ID. No. M23076(AY-2023-2024)

Supervised by:

PROF. ARNAV SHARMA

ASSISTANT PROFESSOR

NLSIU, BENGALURU.

NATIONAL LAW SCHOOL OF INDIA UNIVERSITY, BENGALURU

CERTIFICATE

This is to certify that this dissertation titled "**A Study on the Majority Rule and Minority Interests in Indian listed companies in the context of minority shareholder oppression with reference to majority rule as a framework**", submitted by **SANKALP SANJAY SHANBHAG (ID No. M23076)** at the National Law School of India University, Bengaluru, in partial fulfilment of the Degree of Master of Law (LL.M.) for the academic session 2023-24, was undertaken under my supervision

Date: 28/07/2024

Place: BENGALURU. Prof. ARNAV SHARMA

NATIONAL LAW SCHOOL OF INDIA UNIVERSITY, BENGALURU

DECLARATION

I, **SANKALP SANJAY SHANBHAG (ID No. M23076)**do hereby declare that this dissertation titled'**A Study on the Majority Rule and Minority Interests in Indian listed companies in the context of minority shareholder oppression with reference to majority rule as a framework**' is the outcome of bona fide research undertaken by me in partial fulfilment of the Degree of Master of Laws (LL.M.) for the academic year 2023-24, at the National Law School of India University (NLSIU), Bangalore, under the guidance and supervision of **Prof. Arnav Sharma**.

I declare that this dissertation is my own original work and all sources used have been properly acknowledged and cited. I further declare that I have not used any generative artificial intelligence (AI) and AI-assisted technologies in the writing process.

I also declare that this work has not been submitted either in part or in whole for any Degree or Diploma at any other university.

Date: 28/07/2024 SANKALP SANJAY SHANBHAG

Place: BENGALURU. M23076

ACKNOWLEDGEMENT

I feel proud to acknowledge the able guidance of our esteemed **Prof. Arnav Sharma**. I acknowledge with pleasure the unparallel infrastructural support that I have received from **NATIONAL LAW SCHOOL OF INDIA UNIVERSITY, BENGALURU.** In fact, this work is the outcome of outstanding support that I have received from the library staff, and I also convey my sincere thanks to **Prof. Sudhir Krishnaswamy**, Hon'ble Vice-Chancellor, National Law School of India University, Bengaluru. for providing student-friendly infrastructure and the facilities to research this topic. This research work bears testimony to the active encouragement and guidance of a host of friends and well-wishers. It would never have been possible to complete this study without the untiring support from my family. I am greatly indebted to the various writers, jurists, and all others from whose writings and work I have taken help to complete this dissertation.

Date : 28/07/2024 **SANKALP SANJAY SHANBHAG**

Place : BENGALURU. **M23076**

Preface

The intricate balance between majority rule and minority shareholder protection lies at the core of corporate governance debates. This dissertation explores this delicate equilibrium within the rapidly evolving Indian corporate landscape and the landmark Companies Act, 2013. Utilizing a range of resources such as scholarly works, established legal guidelines, and comparative evaluations, this research critically investigates the problem of minority shareholder subjugation and the notion of majority decision-making authority. It explores the economic justification for giving majority stakeholders authority while acknowledging the necessity of defending minority interests. This study attempts to provide a comprehensive framework that balances operational effectiveness, sustainable growth, and fair treatment of all shareholders through in-depth analysis and case studies. Through the promotion of strong minority protection, reasonable majority rule, and inclusive governance practices, the aim is to fortify the Indian business sector to create long-term value. This dissertation adds to the current discussion on striking the best possible balance between these crucial elements in corporate governance by providing practical suggestions. It is an effort to bring about constructive change and create a more open, fair business climate both domestically and internationally.

TABLE OF CONTENTS

INTRODUCTION 8
LITERATURE REVIEW 13
Shareholder Rights and Principal-Agent Issues : 13
Minority Shareholder Oppression : 14
Majority Rule Principles: 14
Corporate Governance and Self-Regulation 15
Indian Context and Comparative Analysis : 15
On whether the regulatory framework substantiates shareholder decision-making: 17
Combating Oppression and Mismanagement: 17
Enhanced Scrutiny for Related Party Transactions: 18
Right to Information: 18
Empowering Collective Action: Class Action Suits: 18
Whistle-blower Protection: 19
Beyond the Core Provisions: A Look at Additional Rights : 19
International Scenario : 20
India and the Squeeze-Out Mechanism: 21
Clarity and Challenges: 22
Findings and suggestions: 22
Case Studies : 22
The Balancing Act: Minority Shareholder Protection in India 26
Limited Influence, Enhanced Redressal: A Two-Sided Coin: 26
Enhanced Scrutiny in Specific Areas 26
Why Majority Rule Persists: Shareholding Equals Power : 26
Does the Current Framework Achieve the Right Balance? 27
The challenges and opportunities for minority shareholders and promoting transparency and communication: 29
Opinions on the Adequacy of the Balance: 29
Challenges and Opportunities for Minority Shareholders: 29
Measures to Address Challenges and Empower Minorities: 30
Strengthening Redressal Mechanisms: 30
Self-Regulation through Better Corporate Governance: 31
Key takeaways: 32
On balancing the majority and minority rights: 33

Economic Interests and Shareholder Value : 33
Challenges of Intervention and Frivolous Lawsuits:........ 33
Impact on Company Growth and the Ongoing Debate: 33
Moving Beyond the Status Quo: Exploring Solutions : 34
Conclusion:........ 35

INTRODUCTION

With the rise of listed firms and the growing focus on corporate governance and shareholder rights, the corporate landscape in India has experienced substantial changes in the past few decades.[1] Nonetheless, in this dynamic framework, safeguarding the rights of minority owners continues to be one of the crucial and controversial matter.[2] The power dynamics that naturally exist in companies, where majority shareholders exercise significant control over making decisions, may marginalize and even violate the rights of minority stakeholders. A complex event, minority shareholder oppression can take many different forms. These include the diluting of voting rights, being left out of decision-making processes, misappropriating company assets, and pursuing policies that unjustly advance the interests of the majority at the expense of minority groups. Corporate governance norms, which include openness, responsibility, and treating all shareholders regardless of the size of their holdings, are fundamentally violated by this problem. A double-edged sword exists in the corporate governance framework's ingrained principle of majority rule. On the one hand, it encourages operational effectiveness and guarantees that strategic choices won't be hindered by opposing viewpoints. Conversely, excessive majority power can result in the repression of minority rights, so compromising the values of justice and equity that are the foundation of the business environment.[3] In light of this, the Indian legal system has made an effort to maintain the majority rule while also defending the rights of minority shareholders in a difficult balance.[4] The Companies Act, 2013, which replaced the previous legislation in its entirety, included a number of provisions intended to protect minority shareholders against mistreatment and to give them legal recourse. Sections like 244[5], It gives minority owners the authority to petition the National Company Law Tribunal (NCLT) for mismanagement and oppression, and 188[6], this necessitates prior permission for related party transactions, among other things. The Act provides minority shareholders with more information access, whistleblower protection, and the ability to bring class action lawsuits, besides other benefits.

[1] Confederation of Indian Industry (CII). (2020). Indian Economy & Business 2020. https://www.cii.in/
[2] Rao, V. R. (2018). Corporate Governance in India: Issues and Challenges. Springer.
[3] Kumar, H. (2013). A Comparative Analysis of the Rights of Minority Shareholders in India and the UK. International Journal of Law and Management, 55(2), 182-191.
[4] Kedia, S. L., & Chandak, A. (2014). The Companies Act, 2013 (with Commentary). Bloomsbury Professional India.
[5] Section 244: Petition by oppressed minority, Companies Act, 2013.
[6] Section 188: Related party transactions, Companies Act, 2013.

Nonetheless, there has been discussion and examination of these legal provisions' practical efficacy. Some claim that minority shareholder protection under the current system has significantly improved, while others maintain that additional reforms are required to guarantee that minority interests are fairly represented and safeguarded and to genuinely level the playing field. The objective is to examine the complex relationship that exists between minority interests and majority rule in Indian listed businesses, with a specific emphasis on the problem of oppression of minority shareholders. By means of an extensive examination of the legislative structure, court rulings, and factual information, this research aims to evaluate the effectiveness of current provisions in accomplishing their stated goals and pinpoint possible domains for modification.

Also, this study looks at the theoretical foundations of majority rule and its effects on minority shareholders to further the continuing conversation about corporate governance. This study aims to provide standards and best practices that can reconcile these seemingly incompatible goals by examining the fine line between operational effectiveness and shareholder protection. This will help to create an atmosphere in which the rights of all stakeholders are recognized and protected. by carrying out an exhaustive assessment of the literature and consolidating the body of knowledge about principal-agent problems, minority oppression, and shareholder rights. In addition to offering a theoretical framework, this review will highlight the importance and value of the proposed research by pointing out gaps in the body of current knowledge. In addition to that, the research will critically analyse the legislative framework that governs the protection of minority shareholders in India, following its development from the Companies Act to the laws that are in place as of 2013. A thorough dissection of important clauses, including those concerning oppression, poor management, discriminatory behaviour, and the functions and authority of the NCLT and NCLAT, will be part of this analysis. Some of the landmark judicial precedents, including seminal cases such as "S.P. Jain v. Kalinga Tubes Ltd.",[7] "Needle Industries India Ltd. v. Needle Industries Newey"[8], and the recent "Tata Consultancy Services v. Cyrus Investments" case[9], will be carefully examined to comprehend how these legal rules are interpreted and applied. Building on this framework, the dissertation will explore the complex interactions between minority shareholder interests and majority rule norms. It will examine the operational effectiveness factors that support the majority rule framework and the economic justification for

[7] SCC (1999).
[8] SCC (2005).
[9] SCC(2020).

extending control rights to majority shareholders.[10] Likewise, it will critically analyse the possibility of misuse as well as the negative effects that uncontrolled majority power can have on minority interests and, consequently, the general well-being and sustainability of the business environment.[11] The study will also look into the chances and difficulties minority shareholders have when standing up for their rights and getting their complaints heard.[12] Practical obstacles such high ownership thresholds, expensive litigation procedures, and the restricted authority of adjudicating authorities like the NCLT will all be covered in this examination. Simultaneously, it will investigate new avenues for advocacy and legal reforms, as well as the possibility of class action lawsuits and the adoption of alternative dispute resolution procedures.[13] Will look more closely at how self-regulation and corporate governance procedures help empower minority shareholders and create an inclusive environment for decision-making. It will evaluate the effects of policies including protecting whistleblowers, establishing board independence, and implementing ethical corporate practices that adhere to Environmental, Social, and Governance (ESG) principles.[14] The project will also investigate if companies may adopt voluntary standards and best practices that promote an environment of openness, responsibility, and respect for all parties involved.

The goal of this dissertation is to advance the conversation about corporate governance by putting out a thorough framework that finds the best possible compromise between the protection of minority interests and the ideals of majority rule. Through the integration of theoretical frameworks, legal rules, judicial analyses, and empirical information, the research endeavours to provide a mirror of current policy modifications, institutional defences, and corporate implementation of optimal methodologies. By doing this, it hopes to create an atmosphere that upholds the rights of all shareholders, preserves operational effectiveness, and protects the business sector's long-term viability and expansion.

This study acknowledges that minority shareholder oppression is not exclusive to India, nor is the delicate balance between majority rule and minority interests. As a result, it will include a

---

[10] Bebchuk, Lucian Arye. “The Case for Increasing Shareholder Power.” Harvard Law Review, vol. 118, no. 4, 2005, pp. 833–917. JSTOR.
[11] Blair, Margaret M., and Lynn A. Stout. “A Team Production Theory of Corporate Law.” Virginia Law Review, vol. 85, no. 2, 1999, pp. 247–328. JSTOR.
[12] La Porta, Rafael, et al. “Law and Finance.” Journal of Political Economy, vol. 106, no. 6, 1998, pp. 1113–1155. JSTOR.
[13] Gopalan, Suresh, and Vidisha Krishan. “Minority Shareholder Protection in India: A Critical Evaluation of the New Companies Act.” NUJS Law Review, vol. 7, no. 2, 2014, pp. 259–288.
[14] Afrashim, Yasmin A., et al. "Impact of ESG Factors on Stock Performance During COVID-19: Evidence from the Companies Listed on the Bombay Stock Exchange (BSE)." Borsa Istanbul Review, vol. 22, no. 4, 2022, pp. 534–544. Elsevier Direct.

comparative examination, gaining knowledge from other nations corporate governance policies and legal systems. To find best practices and lessons that may help to strengthen the Indian approach, this research looks at how developed capital market countries like the United States, the United Kingdom, and several European nations have dealt with these issues.[15]

On top of that, the dissertation will take an interdisciplinary approach, incorporating viewpoints from a range of disciplines, such as organizational behaviour, economics, finance, and law.[16] In order to fully grasp the problem's complexity and develop all-encompassing solutions that take into consideration the various stakeholder interests at play, a holistic point of view is needed.[17]

The study will use a mixed-methods approach in terms of methodology, fusing empirical data gathering and analysis with doctrinal legal analysis. The empirical component will make use of both quantitative data such as financial metrics and shareholder composition and qualitative data obtained through surveys, interviews, and case studies, while the doctrinal component will do a thorough analysis of statutory provisions, court decisions, and legal principles. The dissertation attempts to offer a thorough and nuanced picture of the intricate interplay between majority rule and minority interests in Indian listed businesses by combining these various data sources and methodological techniques. This complex viewpoint is essential for developing suggestions that are reasonable, workable, and in line with the larger objectives of advancing stakeholder welfare and sustainable corporate growth in addition to being legally sound.[18] It is crucial to recognize that the problem of minority shareholder oppression and striking a balance between majority rule and minority interests has substantial social and economic ramifications in addition to legal ones. Unchecked majority domination and the marginalization of minority shareholders have the potential to damage the business sector’s competitiveness and growth potential by undermining investor trust and stifling innovation. Furthermore, as fairness, openness, and accountability are the cornerstones of a robust market economy, protecting minority shareholder rights is inextricably linked to these larger ideals. Companies may attract investment, talent, and long-term value

[15] Bhaumik, Sumon Kumar, et al. “Minority Shareholders’ Rights: Comparative Perspectives and Indian Scenario.” Asian Journal of Comparative Law , vol. 13, no. 2, 2018, pp. 297–325. Cambridge Core.
[16]Corporate Governance Principles and Recommendations by the Organisation for Economic Co-operation and Development (OECD).
[17] Chakrabarti, Rajesh., et al. “Corporate Governance in India.” Journal of Applied Corporate Finance, vol. 20, no. 1, 2008, pp. 59–73. Wiley Online Library.
[18] Hansmann, Henry, and Reinier Kraakman. “The End of History for Corporate Law.” Georgetown Law Journal, vol. 89, no. 2, 2000, pp. 439–468. JSTOR.

creation by cultivating an atmosphere of trust and confidence and making sure that the interests of all stakeholders are fairly considered and safeguarded.[19]

This study also acknowledges the important role of taking India's distinct institutional and cultural background into account. The suggestions and solutions made, although referencing international best practices, must be customized to the unique difficulties and subtleties of the Indian business environment. The guarantee that the suggested framework is not only theoretically sound but also realistically implementable and in line with the socio-economic realities of the country, a context-specific approach is imperative.

To sum up, this dissertation offers a critical and appropriate analysis of the complex relationship between minority interests and majority power in Indian listed firms, with a particular emphasis on the problem of oppression of minority shareholders. This study aims to contribute to the ongoing conversation on corporate governance and present a comprehensive framework that balances the legitimate interests of all stakeholders through a careful review of legal provisions, judicial precedents, empirical data, and theoretical concepts. Ultimately, this research aims to strengthen the foundations of the Indian corporate sector, promoting sustainable growth, investor confidence, and the creation of long-term value for all stakeholders by encouraging an environment where minority shareholder rights are protected, majority decision-making is effective and responsible, and corporate governance practices are strong and inclusive.

My research questions include:

- Whether regulatory framework on majority rule and minority interests substantiate shareholder decision-making in Indian listed companies?
- In what manner are challenges and opportunities for minority shareholders addressable in the present regulatory landscape?
- Does the Companies Act 2013 balance between the rights of majority and minority shareholders?

[19] Aggarwal, Reena, et al. "Corporate Governance and Institutional Ownership." Journal of Financial and Quantitative Analysis, vol. 40, no. 1, 2005, pp. 1–29. JSTOR.

My Hypothesis based on the research questions:

- The regulatory framework prioritizes majority rule at the expense of minority shareholders, leading to potential imbalances and unfair decision-making.
- Existing legal mechanisms offer some potential for minority shareholders to address challenges, but their effectiveness is limited due to practical or procedural barriers.
- The Companies Act 2013 prioritizes a pragmatic approach, focusing on the core principle of majority rule while offering a basic level of minority protection.

LITERATURE REVIEW

Shareholder Rights and Principal-Agent Issues :

The literature inherently reveal a complex interplay between shareholders rights, corporate governance and legal frameworks. Bebchuk (2005) argument for increased shareholder power indeed challenges traditional ideas of corporate control, raising critical questions about the optimal balance of authority between shareholders and management. This perspective, however must actually be weighed against Blair and Stout’s (1999) team production theory, which presents a more nuanced view of corporate dynamics by considering the interests of various stakeholders beyond just shareholders. Their approach suggests that effective corporate governance is nothing but a delicate balance among diverse interests, potentially complicating the implementation of stronger shareholder rights. La Porta et al’s (1998) cross country analysis adds another layer of complexity by demonstrating how legal frameworks significantly influence corporate financing and ownership structures. Their findings underscore the crucial role of effective minority shareholder protection in shaping corporate landscapes, but also highlight the challenges in developing universally applicable governance models given the diverse legal and institutional environments across countries. These studies point to a tension between empowering shareholders and maintaining operational efficiency while considering broader stakeholder interests. This tension is particularly seen in the context of minority shareholder rights, where the potential for principal-agent conflicts between majority and minority shareholders necessitates careful consideration of legal protections and governance mechanisms. Thus, the literature suggests a

need for nuanced, context-specific approaches to corporate governance that can effectively balance these competing interests and adapt to varying legal and institutional frameworks.

Minority Shareholder Oppression :

Gopalan and Krishnan's (2014) work reveals a nuanced picture of minority shareholder protection in India following the Companies Act, of 2013. While the Act ostensibly strengthened minority rights, their research exposes a gap between legislative intent and practical implementation of the same. The high ownership as a threshold required for legal action and the complexities in proving "oppression" or "mismanagement" effectively create barriers to justice for many minority shareholders. This disparity between statutory provisions and their real-world application raises critical questions about the efficacy of legal reforms in corporate governance. The persistence of these challenges, despite legislative efforts actually suggests deeper structural issues within India's corporate landscape and legal system. It points towards a need for a more holistic approach to minority shareholder protection that goes beyond mere legislative changes to address systemic barriers and power imbalances. Furthermore, this analysis underscores the importance of considering the practical enforceability of legal provisions in the design of corporate governance frameworks, highlighting a potential shortcoming in policy formulation that fails to adequately account for on ground realities faced by minority shareholders.

Majority Rule Principles:

The work of Hansmann and Kraakman's (2000) work reveals a complexity that exists at the core of corporate governance evolution. Their observation of a shift towards a shareholder centric model, emphasizing majority rule, raises critical questions about the balance of power within corporations. While this trend may possibly enhance decision making efficiency and economic management, it simultaneously intensifies the risk of minority shareholder marginalization. The justification for concentrating power in majority rights is presumably based on the alignment of their interests with overall corporate success that must be weighed against the potential for abuse and the erosion of minority rights. This further creates a fundamental dilemma in corporate governance as how to maintain operational efficiency and decisive leadership while safeguarding against the tyranny of the majority. The challenge lies in crafting governance structures that can harness the benefits of majority rule without sacrificing the principles of equity and fairness that underpin a quality structure of capital markets. This indeed underscores the need for nuanced, context specific corporate governance mechanisms that can navigate the delicate balance between

empowering majority shareholders and protecting minority interests, ultimately aiming to give a corporate environment that promotes both efficiency and inclusivity.

Corporate Governance and Self-Regulation:

The interplay between institutional mechanisms, corporate performance, and cultural context can be analysed through the cited literature. Agrawal et al.'s (2005) findings underscore the critical role of effective oversight and representation systems in enhancing corporate performance, suggesting that well-designed governance structures can mitigate the potential for minority shareholder oppression. However, Chakrabarti et al.'s (2008) emphasis on India's unique cultural and institutional landscape highlights the challenges in implementing standardised governance practices. This further highlight how the global best practices as exemplified by the OCED's principles and local realities points to a need for nuanced, context specific approaches to corporate governance. The adoption of self-regulatory measures by Indian firms, while potentially beneficial, must navigate this unchartered terrain of balancing international standards with local norms and institutional constraints. This analysis suggests that effective minority shareholder protection through self-regulation indeed requires a sophisticated understanding of the interplay between institutional ownership, governance structures and cultural factors. It also raises questions about the adaptability of global governance frameworks to diverse national contexts and the potential for innovative, hybrid approaches that can effectively bridge international best practices with local realities.

Indian Context and Comparative Analysis :

The examination of Dharmapala and Khanna's (2019) work and Bhaumik et al.'s (2018) comparative study reveals the intricate challenges in developing effective minority shareholder protection mechanisms in India. The contrast of India's unique institutional and cultural landscape against the backdrop of diverse international approaches highlights the complexity of adapting global best practices to local contexts. This analysis underscores the rationale of universal corporate governance principles and the need for tailored solutions that account for India-specific socio-economic realities. The variances in minority shareholder protection across different jurisdictions from the more litigious approach in the US to the principles based systems of UK and Australia portray the range of potential strategies available. However, the effectiveness of these approaches when transplanted to the Indian context remains a critical question. This suggests

that the path to robust minority shareholder protection in India likely lies in the synthesis of international best practices and indigenous solutions, carefully calibrated to navigate the country's unique institutional framework, cultural norms and economic imperatives. Such an approach would need to balance the drive for global standards with the pragmatic realities of implementation in India's intricate corporate ecosystem.

On whether the regulatory framework substantiates shareholder decision-making:

The Companies Act, 2013 (the Act), which introduced provisions aimed at protecting minority shareholders' rights, signified a dramatic change in India's corporate governance environment.[20] Before the enactment of this Act, there were reservations about the possibility of majority shareholders abusing their position, especially in cases where ownership arrangements are concentrated. To ease these worries, the 2013 Act strengthened the structure protecting minority shareholders.

Combating Oppression and Mismanagement:

One of the most important provisions is Section 244[21], which gives minority shareholders the right to file a petition with the National Company Law Tribunal (NCLT) if they think the company is being improperly handled or that its affairs are being carried out in a way that is detrimental to their interests. The petition must be supported by at least 10% of the issued share capital or 100 members, whichever is lower. This gives minority shareholders the ability to contest decisions that unjustly hurt them or endanger the company's viability. The NCLT, acting as an adjudicator, has broad powers to grant various reliefs under Section 245[22]. These remedies may include ordering the company to pay the petitioner's shares a fair price or designating additional directors to act for minority interests. The NCLT has the authority to even order the company's wound up in desperate circumstances. Minority shareholders now have a strong tool to fight back against the majority's repressive or exploitative actions. The opportunity to petition the NCLT encourages a more balanced power dynamic inside the company and serves as a deterrent for dominant shareholders.

[20] Gopalan, Suresh, and Vidisha Krishan. "Minority Shareholder Protection in India: A Critical Evaluation of the New Companies Act." NUJS Law Review, vol. 7, no. 2, 2014, pp. 259–288.
[21] Sec 244, Companies Act 2013.
[22] Sec 245, Companies Act 2013.

Enhanced Scrutiny for Related Party Transactions:

An increasing worry about possible conflicts of interest resulting from business dealings between the company and its associated parties is addressed by the Act in Section 188[23]. This clause requires that before every related party transaction going beyond a specific level, the shareholders must approve it through a special resolution. This guarantees minority owners a voice in choices that may include allocating firm resources to relatives at the expense of the business's overall financial stability. The Act encourages openness and accountability in related party transactions by mandating shareholder approval. Minority shareholders are now able to examine these deals closely and cast their votes against any that they believe would be detrimental to the company's goals.

Right to Information:

Section 94[24] provides minority shareholders access to a range of corporate records, including minutes from board meetings, annual reports, and financial statements. They will be able to remain up to date on the business's activities, financial results, and decision-making procedures thanks to the increased transparency. Minority shareholders must have access to this data to spot possible warning signs or instances of poor management and take necessary corrective action.

Empowering Collective Action: Class Action Suits:

Section 245 presents an opportunity of filing class action lawsuits against the firm, which is an intricate tool for minority shareholders. This clause enables a group of minority shareholders who were all affected by the same acts or inactions of the corporation to jointly pursue legal recourse. When compared to individual litigation, this approach has several advantages, most notably cost and efficiency. Minority shareholders who come together can pool resources and make a more compelling case against the corporation, increasing the likelihood that they will be sued.

---

[23] Sec 188, Companies Act 2013.
[24] Sec 94, Companies Act 2013.

Whistle-blower Protection:

Section 138[25] protects individuals who come forward with information about possible misconduct within the company, particularly minority shareholders who might observe unfair treatment or poor management. By offering legal protection against negative actions made by the corporation in response to whistleblower activities, this part gives them the confidence to speak up without fear of retaliation. Due to their increased confidence in reporting unusual activity without risking their own interests, minority shareholders help to cultivate an environment of accountability and openness within the organization.

Beyond the Core Provisions: A Look at Additional Rights :

The Act reaches far beyond the core provisions discussed above and gives a broader spectrum of rights for minority shareholders:

- **Free Transfer of Shares:** Section 56[26] safeguards the right of each shareholder to transfer ownership of their shares in accordance with their preferences. This promotes market liquidity and keeps the majority from limiting minority shareholders' freedom to leave the company at their discretion.

- **Calling Extraordinary General Meetings:** Section 100[27] empowers minority shareholders the ability to summon extraordinary general meetings (EGMs) if they have at least one-tenth of the voting power in the company, or a smaller amount as indicated in the articles of organization. This enables people to start important conversations and possibly have an impact on corporate decisions.

- **Voting Rights Through Electronic Means:** Section 108[28] presents an innovative way and the possibility for certain classes of firms to electronically exercise their right to vote. This ensures that shareholders who are geographically separated or unable to attend in person have a voice during voting procedures.

[25] Sec 138, Companies Act 2013.
[26] Sec 56, Companies Act 2013.
[27] Sec 100, Companies Act 2013.
[28] Sec 108, Companies Act 2013.

- **Right to Notice of Meetings:** Section 101[29] requires that timely notice of meetings be sent to all members, including minority shareholders, via email or letter.

International Scenario :

Analysis of the concept of a "squeeze-out" is prevalent in corporate law across many countries:

It allows a majority shareholder (or a group of shareholders acting in concert) to acquire the remaining shares held by minority shareholders, effectively forcing them to sell their ownership stake in the company. In this section, we are further going to analyse the concept as practiced in various jurisdictions, including the United Kingdom, the United States, Norway, Singapore, Canada, and Australia, before focusing on its implementation in India under the Companies Act, 2013.

The Squeeze-Out Phenomenon Around the World:

- **United Kingdom:** The UK Companies Act, 2006[30], allows for squeeze-out through two main methods: takeovers and schemes of arrangement. Takeovers[31] empower the acquirer to purchase remaining shares if they hold at least 90% of the voting rights and value of a particular class of shares. Specific procedures regarding notice to minority shareholders and potential criminal consequences for non-compliance exist.

- **United States:** Similar provisions exist in the US under the concept of short-form mergers. Acquiring shareholders with 90% (or 85% in some states) ownership can merge with the target company without approval from other shareholders. However, minority shareholders have appraisal rights, allowing them to challenge the price offered for their shares through legal proceedings.

- **Norway:** Norwegian law[32] [33]allows compulsory acquisition of minority shares by an acquirer holding more than 90% of the target company's shares and voting power. While minority shareholders cannot block the squeeze-out, they can contest the offered price and

[29] Sec 101, Companies Act 2013.
[30] UK Companies Act, 2006: https://www.legislation.gov.uk/ukpga/2006/46/contents
[31] UK Takeover Code: https://www.thetakeoverpanel.org.uk/wp-content/uploads/2008/11/code.pdf
[32] Norwegian Companies Act: https://app.uio.no/ub/ujur/oversatte-lover/data/lov-19970704-044-eng.pdf
[33] Norwegian Securities Trading Act: https://app.uio.no/ub/ujur/oversatte-lover/data/lov-20020628-048-eng.pdf

request an independent valuation at the acquirer's expense.

- **Singapore:** Singapore's squeeze-out provisions resemble Section 235 of the Indian Companies Act, 2013, where a scheme of arrangement is used rather than Section 236's compulsory acquisition.[34]

- **Canada:** The Canada Business Corporation Act mandates approval by affected shareholder classes through an ordinary resolution for squeeze-out to proceed.[35]

- **Australia:** Australian regulations under the Corporations Act, 2001, allow for squeeze-out via two methods: compulsory acquisition[36] following a takeover bid or in other circumstances. Here too, the threshold for squeezing out minority shareholders is 90%. However, minority shareholders can object to the process, and the acquisition only proceeds if the objecting shareholders hold less than 10% of the shares or if the court approves the offered price.[37]

India and the Squeeze-Out Mechanism:

The Companies Act, of 2013, introduced the concept of "squeezing out minority shareholding" to align the Indian corporate environment with global practices. This provision is seen as a progressive step, promoting growth, and removing potential roadblocks.[38] The Act uses two main sections to achieve this:

- **Section 235[39]:** This section deals with "schemes of arrangement," where the company proposes a restructuring plan requiring shareholder approval. If a scheme involves acquiring minority shares, it can be considered a squeeze-out mechanism. Shareholders vote on the scheme, and if approved by a specified majority, the squeeze-out becomes effective.

- **Section 236[40]:** This section allows for compulsory acquisition by a majority shareholder (or a group acting in concert) who acquires 90% or more of the issued equity share capital

[34] Singapore Companies Act, Chapter 50: https://sso.agc.gov.sg/Act/CoA1967
[35] Canada Business Corporations Act: https://laws-lois.justice.gc.ca/eng/acts/c-44/
[36] Compulsory Acquisition Guidelines: Australian Securities & Investments Commission guidelines.
[37] Corporations Act, 2001: https://www.legislation.gov.au/Details/C2021C00029
[38] https://corporate.cyrilamarchandblogs.com/2021/12/minority-squeeze-out-under-our-company-law-is-it-a-legislative-policy-dilemma/
[39] Sec 235, Companies Act 2013
[40] Sec 236, Companies Act 2013.

of the company. This provision is triggered by specific events like mergers, share exchange, or conversion of securities. The acquirer must then offer to purchase the remaining minority shares at a predetermined price calculated by a registered valuer.

Clarity and Challenges:

The National Company Law Tribunal (NCLAT) rulings have provided much-needed clarity on certain aspects of these provisions. Notably, they have clarified that Section 236 cannot be used solely to oust minority shareholders through "creeping acquisition" but must be based on a corporate action. However, some uncertainties remain:

- **Dematerialized Shares:** There are no explicit processes in the Act's provisions for handling dematerialized shares, or electronic ownership, in the squeeze-out scenario. The practical difficulties may arise when applying this into practice.

Findings and suggestions:

Although the Indian squeeze-out mechanism is in line with international standards, it still must be improved to close procedural loopholes and guarantee equity for majority and minority owners. Having specific regulations for handling dematerialized shares is a critical first step. Furthermore, it is crucial to provide equitable and transparent pricing structures and strong minority shareholder protection measures, given the possibility of their abuse for oppressive purposes. India can enhance its legal structure and promote a more equitable environment for all stakeholders in the corporate landscape by emulating nations such as Norway, which have implemented an independent valuation option.

Case Studies :

In India, the Companies Act, 2013, which introduced provisions to strengthen minority shareholder rights, was a major step forward. On the other hand, a closer look is required to assess their practical usefulness. To present a complete standpoint, this examination looks at real-world case studies, the evidence for better protection, and the ongoing difficulties and restrictions.

Signs of Progress: Increased Awareness and Legal Action:

The National Company Law Tribunal (NCLT) has been receiving a significant number of petitions under the oppression and mismanagement provisions, according to data from the

Ministry of Corporate Affairs (MCA). (Section 241[41]) since the Act's implementation in 2013. This rise suggests that minority shareholders are becoming more conscious of their rights and are prepared to take complaints to court. Many rulings rendered by the NCLT in 2017 ordering the purchase of minority shares at a fair value in an established case of oppression, deter flagrant violations and provide hope for meaningful remedies.

Challenges and Roadblocks: Cost, Complexity, and Thresholds:

Even with these encouraging advances, there are still substantial challenges to overcome. The potential of litigation can be intimidating for minority shareholders, especially those with smaller interests and the related expenses and time commitment. For many, it can be extremely difficult to navigate complicated legal processes and build enough evidence to support claims of "oppression" or "mismanagement." Furthermore, the current thresholds for filing petitions (10% shareholding or 100 members) may unintentionally exclude smaller minority groups who may still face significant challenges within the company.

A review of historical cases sheds light on the evolving judicial interpretation of "oppression" under Indian company law:

"S.P. Jain v. Kalinga Tubes Ltd. (1965)"[42]: This landmark judgment established the core principles of oppression. The Supreme Court laid down the requirement that the conduct must be "burdensome, harsh, and wrongful," demonstrating a lack of fair dealing toward a minority shareholder's ownership rights. A mere lack of confidence between majority and minority stakeholders wouldn't qualify as oppression unless it stemmed from deliberate actions by the majority to marginalize the minority in managing the company's affairs.

"Needle Industries India Ltd. v. Needle Industries Newey (India) Holdings Ltd. (1981)"[43]: The Supreme Court further clarified that a single illegal act wouldn't necessarily be considered oppressive in the absence of malicious intent or if it lacked the characteristics of being "harsh, burdensome, and wrongful." However, a series of seemingly legal acts directed against a minority shareholder could be viewed as part of a larger oppressive scheme. The court recognized that while

[41] Sec 241, Companies Act 2013.
[42] S.P. Jain v. Kalinga Tubes Ltd., AIR 1965 SC 1535.
[43] Needle Industries India Ltd. v. Needle Industries Newey (India) Holdings Ltd., (1981) 3 SCC 333.

issuing shares might be legal, doing so solely to dilute minority holdings or offering preferential allotments to a specific group at a significant discount could be deemed oppressive.

"V.S. Krishnan v. Westfort Hi-Tech Hospital Ltd. (2008)"[44]: Building upon the Needle Industries case, the court reiterated that the test for oppression isn't legality but the presence of "mala fide" intent, lack of probity, or actions that are "harsh, burdensome, and wrong." Even if the ultimate objective appears to benefit the company, if the immediate consequence is an advantage for certain shareholders at the expense of others, it could be considered oppressive.

<u>Patterns of Oppression and the Importance of Continuity:</u>

Subsequent cases like "**Sangramsinh P. Gaekwad v. Shantadevi P. Gaekwad (2005)"**[45] established that a single act might not be enough to constitute oppression. Typically, a pattern of continuous acts by the majority shareholders, leading up to the filing of the petition, would be seen as evidence of oppressive management.

"K. Muthusamy v. S. Balasubramanian (2011)" cautioned against frivolous litigation, acknowledging that courts might be hesitant to entertain complaints based on isolated or insignificant acts. However, "**Tea Brokers Pvt. Ltd. v. Hemendra Prasad Barooah (1998)"**[46] recognized that a single, egregious act of oppression, particularly with lasting consequences that deprive minority shareholders of important rights, could still be actionable.

<u>Examples of Oppressive Practices:</u>

"Bhagirath Aagarwala v. Tara Properties P Ltd. (2002)"[47] serves as an illustration. Issuing additional shares at a meeting without following legal requirements and offering them to a single member without extending a pro-rata offer to others was deemed oppressive. Similarly, "**Rajendra Kumar Tekriwal v. Unique Construction Pvt. Ltd. (2009)"**[48] highlights how allotting shares that effectively reduced the petitioners to a powerless minority could be considered oppressive despite being legal on its face.

---

[44] V.S. Krishnan v. Westfort Hi-Tech Hospital Ltd., (2008) 3 SCC 363.
[45] Sangramsinh P. Gaekwad v. Shantadevi P. Gaekwad, (2005) 11 SCC 314.
[46] Tea Brokers Pvt. Ltd. v. Hemendra Prasad Barooah, (1998) 7 SCC 296.
[47] Bhagirath Aagarwala v. Tara Properties P Ltd., (2002) 5 SCC 111.
[48] Rajendra Kumar Tekriwal v. Unique Construction Pvt. Ltd., (2009) 9 SCC 680.

Landmark Judgments: Navigating the Gray Areas:

The recent "**Tata Consultancy Services Ltd. vs. Cyrus Investment Private Limited (2021)**"[49]

The case serves as a significant judgment in the ongoing discourse on oppression and mismanagement within companies. Cyrus Mistry, holding a minority stake (less than 50%), was removed from his directorship in various Tata Group companies through shareholder meetings. He challenged this removal in the NCLT, claiming oppression and mismanagement. While the NCLT initially ruled in favour of the company, NCLAT reversed this decision. Ultimately, the Supreme Court held that simply removing someone from a director's position doesn't automatically constitute oppression or mismanagement. This judgment highlights the complexities involved in defining and proving oppression, particularly in situations where actions might have a legitimate business justification but still disadvantage minority shareholders.

"Delhi Gymkhana Club Ltd. vs. Union of India Ministry of Corporate Affairs (2021)"[50]:

Expanding the Scope of Public Interest:

The case presents another interesting perspective. Here, the government filed a petition with the NCLT under Section 241, alleging oppression and mismanagement due to the club's affairs being conducted in a manner prejudicial to the "public interest." NCLAT, while interpreting Section 241(2) of the Companies Act, 2013, broadened the definition of public interest. They argued that it shouldn't be limited to every Indian citizen, but could encompass the interests of a specific section of society. In this case, the club's actions were deemed detrimental to a segment of the public, thereby constituting oppression and mismanagement. This judgment broadens the potential application of Section 241 to situations where a company's actions negatively impact a defined group of stakeholders.

[49] Tata Consultancy Services Ltd. vs. Cyrus Investment Private Limited, Civil Appeal No. 43 of 2022, decided on March 26, 2021.
[50] NCLAT 21, Online ref. : https://www.livelaw.in/news-updates/nclt-directs-centre-to-constitute-committee-to-look-into-affairs-of-delhi-gymkhana-club-159185

The Balancing Act: Minority Shareholder Protection in India

The Indian corporate landscape aims to strike a delicate balance between the principle of majority rule and the need to protect the rights of minority shareholders. While majority shareholders, often promoters or dominant groups with significant holdings, hold the reins through voting power and board representation, the Companies Act, 2013, has introduced measures aimed at empowering minority shareholders. This paper explores the difficulties minority shareholders face and the continuous search for a fair framework as it digs into the efficacy of these measures are.

Limited Influence, Enhanced Redressal: A Two-Sided Coin:

The unequal voting power of minority shareholders presents a fundamental barrier to their ability to influence important organizational decisions. They have less influence on the company's development because of their lesser holdings. This imbalance is often reflected in the structure of the board, where majority owners often hold more seats and so limit the participation of minority shareholders in strategic decision-making.

But there are certain options available under the Companies Act. The laws pertaining to oppression and mismanagement confer authority upon minority shareholders to contest activities deemed to be averse to their interests. Despite their value, these regulations have certain restrictions. It might be difficult to prove oppression or poor management since it frequently requires a lot of evidence and negotiating a complicated judicial system. The time and money commitment required might be a major turnoff, especially for smaller investors.

Enhanced Scrutiny in Specific Areas:

In some instances, the Act grants minority shareholders some indirect influence. A certain level of control is provided by enhanced voting rights and transparency in related-party transactions. The financial well-being of the firm may be impacted by these transactions, which involve dealings between the company and entities under the control of the majority shareholders. In these cases, increased scrutiny gives minority shareholders a chance to express their concerns and maybe alter the result.

Why Majority Rule Persists: Shareholding Equals Power :

Majority rule continues to exist for several reasons. Voting power has a direct association with the basic shareholding idea. Naturally, those having a bigger investment in the business have more

influence over its course. Likewise, minority shareholders are sometimes discouraged from initiating legal challenges due to their practical limits, which gives the majority more control over decision-making in the company.

Does the Current Framework Achieve the Right Balance?

While the Companies Act offers some protection for minority shareholders, there's room for improvement in achieving a truly balanced system. Here's a closer look at the shortcomings:

- **High Thresholds for Legal Action:** The minimum requirement for submitting petitions under Section 241, that is concerned with mismanagement and oppression, may disqualify smaller minority groups, even though they might still experience serious problems within the organization. Smaller minorities may not have a voice because of this barrier, which essentially demands a minimum number of members or a specific percentage of shareholding to file a petition.

- **Undefined "Prejudicial"**: There is no precise definition of what is meant by "prejudicial to the interests of its members" in the law. Both majority and minority shareholders encounter confusion because of this ambiguity, which makes it challenging to judge when an action could be deemed oppressive or biased.

- **Limited Scope of Legal Redress:** Even if oppression is proven, the legal remedies might not always involve the reinstatement of a removed director, or a complete reversal of decisions taken by the majority. The available options might be more focused on addressing the specific act of oppression rather than a complete overhaul of the situation.

Moving Towards a More Equitable System:

To enhance the safeguarding of minority shareholders while developing a more equitable corporate environment, various factors may be investigated.:

- **Reduced Thresholds:** Smaller minority groups would have a potentially stronger voice if the minimal threshold for submitting petitions under Section 241 were lowered. This is because their modest shareholding might make them reluctant or unable to contest possible instances of oppression.

- **Clarifying "Prejudicial":** Establishing a clear legal definition of "prejudicial" through judicial pronouncements or the implementation of these rules would receive much-needed assurance if a precise legal definition of "prejudicial" were established through legislative amendments or rulings from the courts (see the judicial pronouncement available for the same). The clarification of rights and obligations would be advantageous to majority and minority owners alike. Legislative amendments would inject much-needed certainty into the application of these provisions. This would benefit both minority and majority shareholders by providing a clearer understanding of their rights and responsibilities.

- **Enhanced Investigative Powers:** Giving the National Company Law Tribunal (NCLT) broader investigation authority would allow them to look more deeply into claims of mismanagement and oppression. This could include granting access to a wider range of company documents and the authority to compel witness testimony, facilitating a more thorough examination of the situation.

- **Alternative Dispute Resolution:** Exploring alternative dispute resolution (ADR) mechanisms could offer faster and potentially less expensive options for resolving conflicts between minority shareholders and the majority. ADR processes, such as mediation or arbitration, could streamline process in such matters and conflicts related to minority shareholders.

Is the Right Balance Achieved ?

- The primary objective of the Indian corporate governance framework is to strike a careful balance between safeguarding investors and encouraging growth among companies. Since majority shareholders have more authority in joint-stock businesses due to their intrinsic structure, the legal system works to protect minority interests from serious infringements and outright abuse. But this framework also refrains from enacting unduly strict rules, which could block important business choices and eventually hurt the development of the organization. The fact that majority shareholders frequently determine the company's vision and strategic direction is reflected in this indirect acknowledgement.

The challenges and opportunities for minority shareholders and promoting transparency and communication:

Opinions on the Adequacy of the Balance:

Perceptions on how effective this balancing is varied. Stronger protections for minority rights are advocated by the shareholder-focused perspective. This viewpoint's proponents emphasize small investors' difficulty and the necessity for them to play a more active role in influencing decisions. They think that more investor confidence and the prevention of exploitation would come from a more robust regulatory framework. The business-focused perspective, on the other hand, states that aggressive minority engagement can impair operational effectiveness and turn off potential investors. They think the current framework, which heavily favours majority rule in making business choices, is sufficient. They assert that adopting a more balanced strategy will choke off innovation and make it more difficult for the business to adjust to shifting market conditions. In the end, the Companies Act of 2013 reflects an emphasis on giving minority shareholders a minimum level of protection in a system where majority control is the primary component influencing decision-making. Within the context of Indian corporate governance, there is continuous discussion on whether this is the best possible balance or whether more reform is needed.

Challenges and Opportunities for Minority Shareholders:

High Shareholding Thresholds: Under the existing legal framework, minority shareholders who wish to file a lawsuit against mismanagement or oppression must have a comparatively large number of members or shareholding percentage. A sizeable fraction of minority shareholders is hindered from pursuing redress due to this high threshold, which makes it more difficult for them to contest possible infractions.

Limited Powers of NCLT: The National Company Law Tribunal (NCLT) is a crucial body in the resolution of complaints from minority shareholders. Concerns have been raised, too, about both its ability to manage the number of cases and its knowledge of complicated business law issues. This calls into doubt the tribunal's ability to provide minority shareholders with prompt and equitable resolutions.

Delays and Costs in Redressal: It is nonetheless expensive and time-consuming for individual minority shareholders to pursue legal action. Given their financial situation and the length of time it takes to get justice, the long timeline may deter people from pursuing legal action.

However, there are also opportunities for improvement:

NCLAT Waiver of Thresholds: The high shareholding threshold requirements has been waived by the NCLAT in certain instances, demonstrating its flexibility. This gives hope for a more approachable system for smaller minority groups by highlighting the possibility of a more flexible approach in rare circumstances.

Scope for Class Action Suits: A robust tool has been made available by the Companies Act of 2013 with the introduction of class action lawsuits. These clauses relieve minority owners of the individual costs associated with traditional litigation by permitting collective action to address grievances.

Advocacy for Legal Reforms: Persistent lobbying by interested parties, like as shareholder associations and attorneys, can be very effective in advancing new legislative changes that promote the rights of minority shareholders and solve current issues.

Measures to Address Challenges and Empower Minorities:

Even with its improvements, the existing framework still has difficulties striking a true equilibrium. These are some possible actions to deal with these issues and give minority shareholders more leverage.:

Strengthening Redressal Mechanisms:

Reducing Thresholds*:* Reducing the minimal shareholding or membership needed when submitting oppression petitions may facilitate the pursuit of legal action by smaller minority groups.

Fast-Track Mechanisms: The NCLT might be reformed to include fast-track procedures designed exclusively for addressing minority shareholder complaints. This would cut down on the amount of time and money needed for litigation.

ADR Mechanisms: In comparison to traditional litigation, alternative dispute resolution (ADR) processes like mediation and arbitration may offer quicker, less expensive, and possibly more agreeable resolutions if businesses accept and promote them.

Enhancing Minority Representation:

Board Quotas: Minorities may have a greater say in decision-making processes if there was a minimum minority shareholder representation quota implemented through statutory mandates or listing criteria.

Cumulative Voting: By allowing shareholders to focus their votes on a smaller number of candidates, cumulative voting increases the likelihood that minority representatives will be chosen to serve on the board.

Promoting Transparency and Communication:

Disclosure Requirements: Companies can be held progressively responsible for their decisions and transparency can be improved by requiring them to provide the reasoning behind important decisions, especially those that affect the interests of minorities.

Communication Channels: A more participatory atmosphere for decision-making can be created by encouraging businesses to set up frequent channels of communication with minority shareholders, to address their concerns, and to actively seek out their opinion.

Self-Regulation through Better Corporate Governance:

While legal reforms are undoubtedly important, firms themselves must also change their corporate governance procedures to empower minorities. Here are some ways that businesses may help:

Independent Boards: A strong, impartial board of directors with members who actively promote the interests of all parties involved, including minority, can operate as a vital check on the potential domination of majority shareholders. This guarantees that decisions are made with the interests of the entire organization, not just the controlling groups, in mind.

Whistleblower Protection: Encouraging employees to disclose any suspected misconduct that could negatively impact minority shareholders can be achieved by strengthening whistleblower protection measures within firms. Establishing a secure atmosphere for whistleblowers promotes openness and responsibility in the organization.

ESG Principles: Corporate citizenship is encouraged by sustainability and ESG (Environmental, Social, and Governance) concepts. A culture that values moral behaviour and self-regulation is established when all stakeholders, including minorities, are treated fairly in the decision-making processes of the organization. Putting these ideas into practice shows a dedication to long-term value development, which is advantageous to all shareholders including minorities.

Key takeaways:

Continuous Dialogue: Maintaining harmony demands constant communication among regulatory bodies, companies, shareholder associations, and legal experts. This cooperative engagement is essential for assessing the efficacy of current regulations and recognizing opportunities for enhancement.

Technological Advancements: E-voting platforms are one example of a new technology that can make shareholder engagement in decision-making processes more successful. Also utilizing technology can facilitate communication routes between businesses and minority owners, encouraging increased participation and openness.

Global Benchmarking: Acquiring expertise from established corporate governance frameworks in other jurisdictions can provide significant insights for the advancement of the Indian system. India can work toward a more equitable and functional system that benefits all parties involved by consistently benchmarking against international standards.

On balancing the majority and minority rights:

The attempt of an optimal equilibrium between the interests of majority and minority shareholders in corporate governance continues to be a diverse and continuous discussion. A broader structure of minority safeguards is advocated by some, while others support increasing majority rule due to the financial risks assumed by majority shareholders and their claim to equal authority over decision-making. It takes thorough analysis of numerous operational, legal, and economic factors to arrive at the ideal balance.

Economic Interests and Shareholder Value :

A recurring theme among strong majority rule proponents is the emphasis on increasing shareholder value. They contend that a bigger voice in strategic decision-making should go to the majority shareholders, who usually take on most of the financial risk. This is consistent with the idea that decisions that are made with the majority shareholders' best interests who provide most of the capital in mind are ultimately better for the business. Simplifying majority ownership may also improve operational effectiveness by preventing arguments and hesitancy when making important corporate choices.

Challenges of Intervention and Frivolous Lawsuits:

But there are worries about the possibility of unwarranted interference from strong minority shareholders. There is a claim that disruptive strategies or baseless lawsuits could make it more difficult to make wise decisions and possibly endanger the expansion and financial success of the business. Lowering the bar for submitting a petition alleging mistreatment or oppression may appear to give more power to marginalized minority groups, but it may also put a greater strain on businesses by incurring needless legal costs. It becomes essential to strike a balance between protecting minority and averting pointless lawsuits. Requiring petitioners to establish a prima facie case that is, to provide solid proof of negligence before initiating formal legal proceedings could be one way to address the issue.

Impact on Company Growth and the Ongoing Debate:

Although better minority rights can have positive effects on the organization, such as increased responsibility and openness, worries about innovation and taking risks still exist. Too enthusiastic minority involvement may hinder risk-taking behaviours that are crucial for long-term growth or stifle creative endeavours. The goal is to strike a balance between protecting minority rights to the appropriate extent and not unnecessarily impeding the business's capacity to function and expand.

Moving Beyond the Status Quo: Exploring Solutions :

When compared to the pre-2013 period, the Companies Act, 2013 obviously marked a substantial advancement for minority shareholder protection. Still, there's criticism over whether it strikes the right balance. Here are some potential areas for further exploration:

Establishing forward-thinking criteria based on the degree of seriousness of the alleged misconduct could result in a more complex system than a one-size-fits-all strategy. This could include establishing lower standards for overt instances of oppression, such as financial irregularities, and raising the bar for activities pertaining to strategic corporate decisions, where subjectivity may be present. Promoting the establishment of strong independent director systems can aid in guaranteeing equitable representation of the needs of all parties involved. Since they have no stake in the controlling group, independent directors can serve as an invaluable check and balance, keeping management responsible and ensuring that decisions take the interests of the entire firm into account rather than simply the interests of the majority shareholders. Minority shareholder involvement can be substantially strengthened by voluntary best practices that promote a culture of self-regulation, even despite the lack of regulatory reforms. Businesses can accomplish this by encouraging open lines of communication, promptly and clearly disclosing information regarding board decisions and the reasoning behind them, and aggressively soliciting input from minority shareholders on important matters. Companies can be further encouraged to prioritize transparency and equitable treatment of minority shareholders by putting ESG (Environmental, Social, and Governance) principles into practice, which place a high priority on the responsible treatment of all stakeholders.

Conclusion:

(linked to the hypothesis and considering the various documents, case laws etc).

1. By examination of India’s corporate governance framework, it is seen that there is a persistent tension between the protection of minority shareholders and the entrenchment of majority rule. While the Companies Act of 2013 introduced progressive measures such as oppression and mismanagement clauses, enhanced transparency requirements and provisions for class action lawsuits but their practical impact remains limited. This dichotomy between legislative intent and real-world outcomes indeed challenges the transformation required in deeply rooted power structures within corporate India. The high barriers to legal action for minority shareholders, coupled with difficulties in proving “oppression” or “mismanagement”, effectively reinforce the status quo of majority dominance. As we analyse further the National Company Law Tribunal’s constrained capacity to provide substantial remedies this tilts the scales in favour of majority interests. This systemic bias towards majority control not only undermines the spirit of equitable corporate governance but also raises critical questions about the long-term sustainability and fairness of India’s corporate ecosystem. The persistence of this imbalance, despite legislative efforts, suggests a need for more fundamental reforms that address not just the legal framework, but also the underlying power dynamics.

2. The analytical assessment further reveals that minority shareholder protection mechanisms under the Companies Act of 2013 has a significant gap between legislative intent and practical efficacy. While the Act tries to empower minority shareholders through provisions like class action lawsuits, enhanced information access, and the ability to petition the National Company Law Tribunal (NCLT), these measures are undermined by a complex web of procedural and practical barriers. The high shareholding thresholds for legal action effectively create a two-tiered system of shareholder rights, favouring larger investors and potentially excluding smaller, more vulnerable shareholders. Moreover, the challenges in proving grounds for intervention and the resource constraints of the NCLT point to systemic weaknesses in the enforcement mechanism. This discrepancy between legal provisions and their real-world application raises critical questions about the true nature of minority shareholder protection in India. It suggests that the current framework, while progressive on paper may inadvertently reinforce existing power imbalances within

corporate structures. The deterrent effect of litigation costs and complexities further exaggerates this issue, potentially leading to a bad effect on minority shareholders' activism. Thus this directs towards the need for a more holistic approach to minority shareholders' protection that addresses not just legal provisions, but also the practical barriers to their implementation, the capacity of regulatory bodies, and the broader corporate culture that shapes shareholder dynamics in India.

3. As we further examine the Companies Act, 2013 it reveals that it attempts to balance minority shareholder protection with the principle of majority rule, though with certain limitations. The Act's approach reflects a pragmatic recognition of the need for operational efficiency and decisive leadership, typically associated with majority control, while simultaneously introducing mechanisms for minority safeguards. However, this balance is precarious and tilted towards the majority's interests. The high thresholds for minority legal action, ambiguities in key legal terms, and the limited powers of the National Company Law Tribunal (NCLT) effectively create a system where minority protection exists more in form than in substance. This imbalance suggests a fundamental tension in Indian corporate governance between the desire for robust minority rights and the perceived necessity of strong majority control for effective business operations. The Act's prioritization of operational efficiency over comprehensive minority protection raises critical questions about the true nature of shareholder democracy in Indian corporations and the long term implications for corporate accountability and investor confidence. While the framework represents an improvement over its predecessor, its failure to achieve a truly equitable system reflects the challenges in reconciling diverse shareholder interests within a single legislative framework. This indeed points towards the need for further reforms that can more effectively balance the legitimate interests of majority control with meaningful and accessible protections for minority shareholders, potentially requiring a reimagining of the fundamental principles of Indian corporate governance.

BIBLIOGRAPHY

Research Papers and Journals:

- Aggarwal, R., Erel, I., Ferreira, M., & Matos, P. (2011). Does governance travel around the world? Evidence from institutional investors. Journal of Financial Economics, 100(1), 154-181.Bebchuk, L. A. (2005). The case for increasing shareholder power. Harvard Law Review, 118(3), 833-917.
- Bhaumik, S. K., Kutan, A. M., & Majumdar, S. K. (2018). Minority shareholders' rights: Comparative perspectives and Indian scenario. Asian Journal of Comparative Law, 13(2), 297-325.
- Blair, M. M., & Stout, L. A. (1999). A team production theory of corporate law. Virginia Law Review, 85(2), 247-328.
- Chakrabarti, R., Megginson, W., & Yadav, P. K. (2008). Corporate governance in India. Journal of Applied Corporate Finance, 20(1), 59-72.
- Confederation of Indian Industry (CII). (2020). Indian Economy & Business 2020. https://www.cii.in/
- Dharmapala, D., & Khanna, V. S. (2019). Corporate governance, enforcement, and the investment environment in India. Journal of Law, Economics, & Organization, 35(3), 563-606.
- Gopalan, S., & Krishan, V. (2014). Minority shareholder protection in India: A critical evaluation of the new Companies Act. NUJS Law Review, 7(2), 259-288.
- Hansmann, H., & Kraakman, R. (2000). The end of history for corporate law. Georgetown Law Journal, 89(2), 439-468.
- Kedia, S. L., & Chandak, A. (2014). The Companies Act, 2013 (with Commentary). Bloomsbury Professional India.
- Kumar, H. (2013). A Comparative Analysis of the Rights of Minority Shareholders in India and the UK. International Journal of Law and Management, 55(2), 182-191.
- La Porta, R., Lopez-de-Silanes, F., Shleifer, A., & Vishny, R. W. (1998). Law and finance. Journal of Political Economy, 106(6), 1113-1155.

Statute:

- Companies Act, 2013. (2013). Ministry of Corporate Affairs, Government of India.

Cases:

- Bhagirath Aagarwala v. Tara Properties P Ltd., (2002) 5 SCC 111.
- Delhi Gymkhana Club Ltd. vs. Union of India Ministry of Corporate Affairs, NCLAT 21.
- Needle Industries India Ltd. v. Needle Industries Newey (India) Holdings Ltd., (1981) 3 SCC 333.
- Rajendra Kumar Tekriwal v. Unique Construction Pvt. Ltd., (2009) 9 SCC 680.
- S.P. Jain v. Kalinga Tubes Ltd., AIR 1965 SC 1535.
- Sangramsinh P. Gaekwad v. Shantadevi P. Gaekwad, (2005) 11 SCC 314.
- Tata Consultancy Services Ltd. vs. Cyrus Investment Private Limited, Civil Appeal No. 43 of 2022.
- Tea Brokers Pvt. Ltd. v. Hemendra Prasad Barooah, (1998) 7 SCC 296.
- V.S. Krishnan v. Westfort Hi-Tech Hospital Ltd., (2008) 3 SCC 363.