



THE ETHICAL BANKRUPT: THE SYSTEMATIC CONVERSION OF SOCIAL TRUST INTO FINANCIAL CAPITAL BY THE MODERN CORPORATIONS (WITH FOCUSED REFERENCE TO THE EVADING LEGAL ACCOUNTABILITY)

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ABSTRACT

The contemporary business is learning to view societal trust as a kind of 'capital' which is amassed and misused by the corporation. Companies design methods and ways to establish social capital and mutual trust with the stakeholders and communities; through strategies like corporate social responsibility (CSR); philanthropy; and branding and use them to financial benefit and profit making; nevertheless, their goodwill in society tends to cover some unethical or criminal acts. The trust of people is laundered by business houses, through demonstrating good actions and hiding real intentions, which are usually profit oriented. This is done by manipulating legal and financial structures to escape responsibility. The present paper explores the way the corporations transform social trust into economic capital with references to the CSR decoupling, reputation laundering, and loopholes in the legal regulations that help to exempt the executives; typically being 'hegemonic'. The estimation and social audit of the role play of the existing laws and their implementation mechanisms is a need of the hour to save society and its trust to invest in and depend on the commercial houses and corporations. The analysis undertaken in the present paper aims at identification of the gaps in the present legislation and the recommendations, which are crucial for bringing reforms. There is dire need to save the business hubs and corporations from being entitled as, 'ethical bankrupts' in order to maintain a social and political equilibrium in society; and also, to make commercial concerns work for overall social good along with profit making and economic enhancement.

Keywords: social capital laundering; social trust; corporate trust, Corporate Social Responsibility; hegemony; commercial hubs; reputation laundering, corporate accountability, Global South; social capital; organizational capital; sustainability initiatives.

INTRODUCTION: THE TRUST ECONOMY AND THE RISE OF ETHICAL BANKRUPTCY

In the early 21st century, the economic environment has seen a paradox in the way that corporations have gradually become adept at considering the concept of *societal trust*, no longer as a 'social value' but as a 'measurable asset'. It is taken as a capital that can be built, invested, and cashed in.ⁱ This phenomenon represents a paradigm shift in perspective and approach regarding societal trust; as a consequence of good deeds to thinking about it in terms of a resource for the corporate arsenal.ⁱⁱ This scenario has been coined as ethical bankruptcy, wherein an organization has spent all of its social capital but is still operating within a solvent state.ⁱⁱⁱ The ways by which this is done are very complex- entailing intelligent campaigns of Corporate Social Responsibility (CSR), strategic philanthropy; ethical branding; as well as the carefully calculated exploitation of legal and financial frameworks.^{iv} On the other hand, social capital laundering is done by corporate entities, entailing a means by which they display social integrity to conceal their improper undertakings, allowing for earned social integrity to turn to financial advantage with little accountability.^v Designing such manipulative measures for profit making and surplus addition, the corporations look like presenting a 'holistic deceit' in terms of social audit and social justice. This paper chooses to use a socio-legal lens to analyze this paradox and corporate dynamic discussed therein.

The present paper contends that the conversion of social trust to economic capital goes beyond a purely economic tactic; and instead, is a form of ‘hegemonic transition’ reflected in global corporate governance. This dynamic is made workable through legal loopholes, arbitrage across jurisdictions, and uneven enforceability, which target the Global South primarily.^{vi} This research document majorly covers crucial context like- Modern Corporates Visualizing Social Capital as Corporate Currency; deconstructing the machinery of misrepresentation (CSR decoupling, greenwashing, reputation laundering); analyzing the architecture of legal impunity; examining the disproportionate impact on the Global South; and proposing a blueprint for authentic accountability through structural legal and social reform. Through the integration of sociological theories about ‘trust and capital’ and legal criticism regarding corporate personhood and transnational regulation, this research aims at unearthing weaknesses in the system and finding solutions to make way for an equitable form of trustworthiness in society.

MODERN CORPORATES VISUALIZING SOCIAL CAPITAL AS CORPORATE CURRENCY

SOCIAL VIRTUE TO CORPORATE ASSET: THE TRANSITION

Social capital, which has been conventionally defined as being composed of trust, reciprocal relations, and social norms to produce collective action, has been completely reappropriated under corporate logic.^{vii} Social capital was first instantiated as a key element of functional democracies and a healthy economy by scholars such as Robert Putnam and Francis Fukuyama.^{viii} The agenda of these philosophers creating a legacy in academics and intellect has actually been to create a mindset for general social good of all societies; by the means of substantiating the individual’s rights to participate in the political and economic decision making as the supreme pillar of democracy. In a corporate context, this idea has been advertently or inadvertently reconstructed, restructured and refunctioned as an ‘asset’. Social capital in corporations has been “the store of goodwill, legitimacy, and trust that a firm builds with its stakeholders: consumers, investors, employees, regulators, and communities.”^{ix} It expresses brand reputation, customer loyalty, license to operate, investors’ confidence, and regulatory goodwill as forms of capital.^x The important change is in realizing returns: firms started making "investments" in what amounts to "social capital" in a bid to gain calculable returns in finances.^{xi}

ACCUMULATION STRATEGIES: CSR, PHILANTHROPY, AND ETHICAL BRANDING

Corporations build social capital through a curated portfolio of activities like Corporate Social Responsibility (CSR); Strategic Philanthropy and Ethical Branding and Marketing. From a fringe concept, CSR has now become a mainstream corporate department.^{xii} Modern CSR is often typified by strategic decoupling, in which rhetoric is decoupled from practice.^{xiii} Thus, firms publish sustainability reports, commit to net-zero greenhouse gas emissions, and celebrate diversity initiatives oftentimes out of impression management rather than substantive reform.^{xiv} Strategic philanthropy further adds to the commercial charm of the corporates in a possibly convenient manner, featuring a ‘hegemonic’ scenario. Social faith, here, becomes the biggest instrument of profit making. Substantial financial contributions to charitable organizations (via corporate sponsorships of cultural institutions, sports teams, and universities) and support of disaster-relief initiatives; although directed toward accomplishing altruistic community goals, strongly provide corporations with a means by which they can offset negative perceptions of their primary business operations.^{xv} Halos from such charitable actions are directed at positively associating corporations with highly valued causes within our communities while allowing them to rationalize either less favorable corporate activities or to segregate them from the goodwill created by charitable efforts.^{xvi} Further, campaigns focused on sustainable development; community involvement; and ethical issues create strong emotional connections with consumers, resulting in increased sales of products on the basis of consumers’ goodwill. The accumulation of goodwill creates greater trust with consumers, which translates into price premiums, increased market share, and customer loyalty.^{xvii} The primary goal of establishing goodwill through community-based initiatives is to obtain a Social License to Operate (SLO) - a permission that is recognized by a community, outside of a corporation’s formal legal permits. The SLO concept is recognized as particularly important for companies or industries that produce extractive products and/or for industries that create negative environmental impacts.^{xviii} This part of the paper does not intend to label all goodwill acts as ‘dual’ in purpose, but is trying to related to a logical doubt that all corporations do not use CSR for social aims only; rather have hidden or primary agenda camouflaged in the

secondary ones. If there is legal check made on the patterns of consistency and the audits of achievements of such CSR related investments, the deceit can be efficaciously checked or at least 'curtailed'.

THE SPENDING OF TRUST: CONVERTING GOODWILL INTO PROFIT

Accrued social capital facilitates the organization's attainment of its strategic objectives, to include the ability to successfully enter new markets with lower levels of resistance, lobby for favourable regulation, and mitigate the impact of scandal while pursuing higher-risk/higher-reward opportunities.^{xxix} This conceptual framework allows for the use of trust as an asset that can be spent at will. For example, banks that enjoy high levels of trust can more readily cross-sell related financial products, and energy companies that have cultivated community trust can better withstand opposition when attempting to drill for oil in areas that have yet not been developed.^{xx} The danger, as sociologist Niklas Luhmann warned, is that trust, once broken, is difficult to restore.^{xxi} Corporations that view trust as an asset to spend at their discretion, risk excessive depletion of their moral capital, leading to systemic ethical bankruptcy (i.e., the complete loss of the organisation's moral authority).^{xxii} If not controlled, the scenario is a clear threat to sustainable and human development agendas of the globe and the nations too.

DECONSTRUCTING THE MACHINERY OF MISREPRESENTATION (CSR DECOUPLING; GREENWASHING; AND REPUTATION LAUNDERING)

CSR DECOUPLING

A company's commitment to social and environmental responsibility may sometimes be in conflict with their day-to-day operations.^{xxiii} The company's CSR commitment does not indicate that the company has failed to implement CSR policies, but that the CSR policies may actually be an intentional part of the company's overall strategy. Recent research has shown a correlation between companies that are known for communicating extensively about CSR and their increasing involvement in environmental and financial criminal activity. It appears as though CSR is being used by some companies as a smokescreen for improper business practices.^{xxiv} Mechanisms of Decoupling are (a) Ceremonial Adoption: Adopting CSR policies for isomorphism (to look like peers) without integrating them into core strategy^{xxv}, (b) Symbolic Reporting: Producing lengthy sustainability reports that emphasize minor achievements while omitting major negative impacts^{xxvi} and (c) Selective Disclosure: Highlighting positive CSR projects in one region to distract from destructive practices in another.^{xxvii}

GREENWASHING: THE ECOLOGY OF DECEPTION

As a form of Corporate Social Responsibility (CSR) Decoupling, Greenwashing is the practice of providing incorrect and misleading information to create an image of strong environmental performance. It takes advantage of the increasing demand for sustainability from consumers.^{xxviii} An example of this can be seen with the Volkswagen (VW) Emissions Scandal, where VW actively marketed their diesel vehicles as "clean" and "eco-friendly" thus creating a great deal of faith and trust in their brand with their customers resulting in a large portion of their overall sales being derived from diesel vehicles and the higher prices they commanded as a result.^{xxix} When it was discovered that they had implemented "defeat devices" to circumvent emissions testing this was a tremendous breach of trust that demonstrates that greenwashed trust may be financially beneficial until it is revealed.^{xxx} Numerous executive-level employees received record fines but very few served prison sentences and the company as a legal entity continued to operate as if nothing had happened. This disparity between the legal penalties and the profits received from their deceptive practices demonstrates the failure of regulatory enforcement.^{xxxi}

REPUTATION LAUNDERING: CLEANSING THROUGH ASSOCIATION

Reputation laundering is a method that corporations use to improve their public image by associating their companies with a prestigious, virtuous, or patriotic cause.^{xxxii} It is especially common within industries where the negative consequences of the business are high, such as oil, cigarettes, and mining.

Some of the tactics that these companies use to do this include: (a) Art and Culture Sponsorship ("Artwashing"): Oil companies sponsoring major art exhibitions or museums^{xxxiii}, (b) Academic Funding: Creating endowed chairs or research grants at universities, influencing discourse and gaining legitimacy.^{xxxiv} And (c) Strategic Philanthropy: High-visibility donations during crises, ensuring media coverage frames the company as a savior.^{xxxv} According to Linsey McGoey's research, reputation laundering uses the

moral capital of the institution receiving funding to make the donor's actions seem ungrateful or ideologically motivated.^{xxxvi}

ANALYZING THE ARCHITECTURE OF LEGAL IMPUNITY

Legal organizations have built and/or taken advantage of intentional legal strategies in order to eliminate or reduce their liability when converting trust to capital. Below are some of the primary legal structures that create impunity from a socio-legal perspective.

THE CORPORATE FORM AND THE VEIL OF LIMITED LIABILITY

The legal distinction between the corporation (the artificial entity) and those who manage and/or own it (its shareholders) is the basis for all modern corporate law as well as limited liability.^{xxxvii} While the ability to aggregate capital and take on entrepreneurial risks is a major advancement of corporate law, the separation of the corporation and shareholders creates a significant moral hazard. In effect, corporate executives can make decisions that may cause harm to society or take a risk that could result in their personal bankruptcy without fear that they will suffer financial loss.^{xxxviii} This corporate legal structure creates a formidable dual barrier to accountability by shielding both corporate directors and shareholders from personal liability. Directors are insulated through statutory exculpation clauses, such as those authorized under Delaware General Corporation Law § 102(b)(7), which permit corporations to eliminate or limit a director's personal liability for breaches of the fiduciary duty of care. The legal standards required to overcome these provisions are exceptionally high, rendering successful claims for director negligence, failure of oversight, or socially harmful risk-taking virtually non-existent. This protection for decision-makers operates in tandem with the judicial reluctance to “pierce the corporate veil” and hold shareholders or parent companies liable for a corporation's obligations. Courts impose a stringent standard requiring proof of fraud, injustice, or a complete lack of separateness between entities, a threshold that is notoriously difficult for plaintiffs to meet. Collectively, these principles enable a system where managerial risk-taking is legally safeguarded and liability can be strategically isolated within undercapitalized subsidiaries, externalizing the financial and social costs of corporate conduct.

PRIVATIZED JUSTICE: ARBITRATION AND FORUM SELECTION CLAUSES

Corporations have steadily switched from the courts to the private arbitration system through contractual agreements with consumers, employees, and suppliers that include binding arbitration clauses.^{xxxix} Decreased Public Accountability: Because arbitration is held privately, there are no public records of the arbitration, and very often, no procedural protection like an appeal or published decision. Therefore, it protects corporate misconduct from the public and creates no rulings that can act as precedent for future cases.^{xl}

Causing class actions to be eliminated: The majority of arbitration clauses have a waiver of a right of class action, thereby breaking down all the claimants into many small-dollar claims that do not add up to anything in the eyes of the corporation, giving them the ability to commit egregious acts without being held accountable for them.^{xli} Choice of Jurisdiction and Choice of Law: Corporations insert these clauses to force the resolution of any contract disputes in a jurisdiction that is most likely to be favourable to them (frequently their state of incorporation) and thereby use those laws that limit corporate liability regardless if harm occurs in any way outside of that jurisdiction. There are very high barriers preventing many affected communities, especially in the Global South, from being able to access justice.^{xlii}

JURISDICTIONAL ARBITRAGE AND OFFSHORE INCORPORATION

Corporations that are multinational often engage in “jurisdictional arbitrage,” meaning that they set themselves up in multiple jurisdictions to take advantage of less stringent regulations and lower taxes.^{xliii} “Regulatory Havens” allow corporations to incorporate in jurisdictions like the state of Delaware (in the United States) or the Cayman Islands, which offer a corporate law “menu” that allows for insulating management, favouring shareholder primacy, and allowing minimal oversight of corporate management.^{xliiv} A scholar named Mariana Pargendler has referred to the worldwide adoption of these corporate governance models as the “Caymanization of corporate governance.”^{xliv}

A multinational corporation may also have hundreds of subsidiaries and thousands of shell companies in countries around the world. The use of these structures not only obscures ownership, but also creates a web of confusion for regulators and makes it very difficult for victims of any wrongdoing to find out which corporation

is responsible for their losses. In the example of a community that has been harmed by a mine, there may be a chain of subsidiaries and shell companies across three continents, with all companies claiming that each is responsible.^{xlvi} Corporations use some of their financial capital (which has been increased due to social trust) to lobby for laws that reinforce their business structures. As a result, this creates a cycle of impunity for these corporations, allowing them to violate laws and regulations without concern for the consequences.^{xlvii}

EXAMINING THE DISPROPORTIONATE IMPACT ON THE GLOBAL SOUTH

Social capital laundering and legal impunity are exacerbated due to the much weaker institutions, governance gaps, and power imbalances found in the Global South. There is nowhere for these developments to occur ethically.^{xlviii}

THE EXPLOITATION OF GOVERNANCE GAPS

MNCs (Multinational Corporations) have historically entered into Global South countries with promises of creating jobs, building infrastructure, and transferring technology, thus creating initial social capital.^{xlix} However, environmental, labour, and human rights regulations have typically not been enforced, funded or corrupted by bribery.¹ Here, the Case Study of the 'Niger Delta Experience' can be referred to. For decades, international oil companies have been engaged in activities in the Niger Delta; e.g., some of them have funded localized community development projects (i.e., schools, clinics). While at the same time, they are responsible for catastrophic oil spills, burning gas and destroying the ecosystem.^{li} The trust that develops from their selective philanthropy is used to fragment the community resistance to their presence and maintain operations in spite of the harms that they cause.^{lii} In case of the 'Brazilian Amazon Experience' - Agribusiness and mining companies market a message of sustainable development and partnership in conservation; however, their activities cause deforestation and violates the land rights of Indigenous peoples. The marketing of a "green" image brands these organizations globally, while at the same time, they continue to cause harm locally.^{liii}

THE LIMITATIONS OF PROGRESSIVE LEGISLATION IN THE GLOBAL SOUTH

A selection of countries in the Global South have enacted ambitious legislation aimed at reducing the abuse of corporations, with varying levels of success. In India, the Companies Act of 2013 establishes a mandatory requirement for certain profitable companies to spend a percentage of their average net profits on corporate social responsibility (CSR).^{liv} This is viewed as an innovative step forward in the area of legislation, however the act has met with implementation issues, such as "box-ticking compliance," which results in companies funding superficial projects to enhance their image rather than bringing about changes to the "core" negative impacts of their business practices.^{lv} In addition, the absence of strong links between CSR spending and corporate accountability for harm negates the potential effectiveness of this legislation in addressing corporate misconduct in India. In South Africa, the Broad-Based Black Economic Empowerment (B-BBEE) framework is designed to remedy the economic imbalances that exist within the country, yet critics argue that the framework can be manipulated through the use of "fronting" and the appointment of individuals in a tokenistic manner, which provides the ability for corporations to gain political and social capital without making any substantive changes to their exploitative business models.^{lvi}

ASYMMETRIC ENFORCEMENT AND THE "JUSTICE GAP"

Communities in the Global South deal with a significant lack of access to justice when abuses occur.^{lvii} To sue a multinational corporation, a community from the Global South must not only deal with foreign legal systems, but also pay exorbitant amounts of money and contend with complicated and difficult-to-navigate conflict of law issues.^{lviii} Additionally, home countries of MNCs are usually unwilling to take action through extraterritorial jurisdiction against MNCs that are found liable for abuses. This results in a situation in which a community takes on the risks associated with doing business with an MNC, while that MNC keeps most, if not all, of the profits and legal protections that it would otherwise receive from its home country.^{lix}

PROPOSING A BLUEPRINT FOR AUTHENTIC ACCOUNTABILITY THROUGH STRUCTURAL LEGAL AND SOCIAL REFORM

Combating ethical bankruptcy requires moving beyond naming and shaming to structural reform that reshapes the legal and social incentives for corporations. This blueprint proposes integrated legal, regulatory, and societal interventions.

LEGAL AND REGULATORY REFORMS

Reforming Corporate Personhood and Liability:

Statutory Director Liability: Legislatures should enact laws creating a duty of vigilance for directors and senior officers regarding human rights and environmental impacts across global operations. Breach should lead to disqualification and personal financial penalties.^{lx}

Piercing the Veil for Gross Harm: Legislation should lower the evidentiary standard for piercing the corporate veil in cases of severe environmental damage, human rights abuses, or systematic fraud, making parent companies directly liable.^{lxi}

Deterrent Fines: Financial penalties must be calculated as a multiple of the profit gained or harm caused through misconduct, not as a manageable cost of doing business.^{lxii}

Curbing Privatized Justice:

Legislative Bans: Laws should invalidate mandatory arbitration clauses and class action waivers in contracts involving consumer protection, employment rights, and environmental damage.^{lxiii}

Strengthening Forum Non Conveniens Defenses: Courts should be more receptive to arguments that forcing foreign plaintiffs to litigate in a corporation's home forum denies access to justice.^{lxiv}

Strengthening Transnational Regulation:

Mandatory Human Rights and Environmental Due Diligence (mHREDD): The EU's Corporate Sustainability Due Diligence Directive is a step forward but must be strengthened, broadened in scope, equipped with strong civil liability provisions, and complemented by similar laws in other major economies.^{lxv}

Public Registries of Beneficial Ownership: Global, transparent registries are essential to dismantling the shell company labyrinth that enables impunity.^{lxvi}

SOCIETAL AND MARKET ENFORCEMENT MECHANISMS

Ultimately, countering corporate decoupling and greenwashing requires a multi-faceted approach that moves beyond voluntary disclosure to enforce accountability and cultivate genuine trust. Vigilant civil society and investigative media remain the frontline for exposure, with NGOs and platforms like the Corporate Accountability Portal amplifying marginalized voices.^{lxvii} This advocacy is powerfully complemented by strategic litigation, such as climate lawsuits and claims under emerging Mandatory Human Rights and Environmental Due Diligence (mHREDD) laws, which can force internal corporate reform and set deterrent legal precedents.^{lxviii} Furthermore, technological tools like blockchain for supply chain traceability and satellite monitoring provide verifiable, real-world evidence to challenge corporate narratives.^{lxix} However, these mechanisms must be part of a broader paradigm shift: corporations must move from treating social capital as a static, owned asset to understanding it as credibility that must be continuously earned.

This shift ought to entail concrete measures like linking privilege to performance, where government contracts, tax incentives, and regulatory approvals are contingent on independently verified social and environmental outcomes rather than glossy reports.^{lxx} It also necessitates the development of standardized "trust audits," independent assessments analogous to financial audits, that rigorously evaluate the alignment between a corporation's public trust claims and its operational reality, thereby making corporate social responsibility measurable, comparable, and enforceable.^{lxxi}

CONCLUSION: RECKONING WITH THE TRUST ECONOMY

Corporations, while producing social capital through trust and other social connections within communities and society as a whole, are at a historical point in their development. But, there is a serious problem with the way that 'Global Capitalism' facilitates and enables corporations to exploit the vulnerability of society, using Social Capital as a means of maximizing Profits while minimizing accountability. By using the mechanisms of Corporate Social Responsibility (CSR), corporations are able to launder their reputations in order to continue to operate without being held accountable for their actions. This has occurred because the legal framework within which corporate law, dispute resolution and Transnational Governance are created, lacks both effective

enforcement mechanisms and adequate checks and balances to protect the interests of the vulnerable. Highly literate communities or those, who are in business or entrepreneurship may judge the possibility of social and economic losses being rendered by these activities; but the ignorant and common people are at juncture where there can be irreparable damages to their social and moral faith and belief. There is a need of rigorous 'legal' and 'management related' amendments.

To operationalize the required shift, access to state-conferred privileges such as government contracts, regulatory approvals, and fiscal incentives need to be conditioned upon independently verified social and environmental performance, rather than self-authored CSR disclosures. Further, the institutionalization of mandatory trust audits, uniform, independent, and legally consequential-must parallel financial audits, rigorously assessing the alignment between corporate claims of responsibility and their actual operational practices. Only by embedding accountability into the structures that reward trust can social capital be reclaimed as a mechanism of democratic governance rather than a tool of corporate impunity. In the developing world, commoners rely on corporate world directly or indirectly for products, services and much more; and the corporate sustains on common man via reaching him through their management, administration, governance and other channels. Delinking these two crucial ends inevitable shores of economy can never be even imagined as any aim. To reach sustainable development along with social and human development by ensuring social justice and protection of social trust of societies, it is important to create that legal a well embedded legal system. The legal system, which facilitates corporations for economic growth and development of the nation; and that which also firmly protects the interest and faith of common man in the economic systems of the nation.

REFERENCES

- ⁱ See generally Francis Fukuyama, *Trust: The Social Virtues and the Creation of Prosperity* (1995).
- ⁱⁱ Michael L. Barnett & Robert M. Salomon, *Does It Pay to Be Really Good?*, 53 Acad. Mgmt. J. 1304, 1306 (2010).
- ⁱⁱⁱ See Elizabeth Pollman, *Corporate Law and Theory in the Era of Stakeholder Capitalism*, 111 Geo. L.J. 1, 15–18 (2022).
- ^{iv} Archie B. Carroll, *Corporate Social Responsibility: Evolution of a Definitional Construct*, 38 Bus. & Soc'y 268, 283–84 (1999).
- ^v Andreas G. Scherer & Guido Palazzo, *The New Political Role of Business*, 48 Bus. Ethics Q. 1, 8–10 (2011).
- ^{vi} U.N. Working Grp. on Bus. & Hum. Rts., *Accountability Report*, ¶¶ 22–30, U.N. Doc. A/HRC/47/39 (2021).
- ^{vii} Robert D. Putnam, *Bowling Alone: The Collapse and Revival of American Community* 19–21 (2000).
- ^{viii} See Fukuyama, *supra* note 3, at 26–30.
- ^{ix} James Coleman, *Social Capital in the Creation of Human Capital*, 94 Am. J. Soc. S95, S100–02 (1988).
- ^x Charles Fombrun, *Reputation: Realizing Value from the Corporate Image* 71–75 (1996).
- ^{xi} *Id.* at 1052.
- ^{xii} See Carroll, *supra* note 6.
- ^{xiii} See Olivier Boiral, *Sustainability Reports as Simulacra*, 27 Acct. Auditing & Accountability J. 1036, 1040–43 (2014).
- ^{xiv} Magali A. Delmas & Vanessa C. Burbano, *The Drivers of Greenwashing*, 54 Cal. Mgmt. Rev. 64, 66–68 (2011).
- ^{xv} See Linsey McGoey, *No Such Thing as a Free Gift* 65–70 (2015).
- ^{xvi} *Id.* at 72.
- ^{xvii} Alex Edmans, *The Link Between Job Satisfaction and Firm Value*, 26 Acad. Mgmt. Persp. 1, 4–5 (2012).
- ^{xviii} See John R. Owen & Deanna Kemp, *Social Licence and Mining*, 38 Resources Pol'y 29, 31–33 (2013).
- ^{xix} *Id.* at 34.
- ^{xx} Servaes & Tamayo, *supra* note 14, at 1055.
- ^{xxi} See Niklas Luhmann, *Trust and Power* 24–27 (1979).
- ^{xxii} See Colin Mayer, *Prosperity* 142–47 (2018).
- ^{xxiii} Boiral, *supra* note 17, at 1038.
- ^{xxiv} See Eun-Hee Kim & Thomas P. Lyon, *Greenwash vs. Brownwash*, 35 J. Envtl. Econ. & Mgmt. 248, 250–52 (2015).
- ^{xxv} John W. Meyer & Brian Rowan, *Institutionalized Organizations*, 83 Am. J. Soc. 340, 343–47 (1977).
- ^{xxvi} Boiral, *supra* note 17, at 1045.
- ^{xxvii} *Id.* at 1047.
- ^{xxviii} Delmas & Burbano, *supra* note 18, at 65.

- xxix See Complaint at 2–4, *United States v. Volkswagen AG*, No. 16-cr-20394 (E.D. Mich. Jan. 11, 2017), <https://www.justice.gov/opa/press-release/file/923206/download> (last visited Jan. 17, 2026, 14:30 GMT).
- xxx *Id.*
- xxxi See Plea Agreement at 5–8, *United States v. Volkswagen AG*, No. 16-cr-20394 (E.D. Mich. Mar. 10, 2017).
- xxxii McGoey, *supra* note 19, at 67.
- xxxiii *Id.* at 82–85.
- xxxiv *Id.* at 90–93.
- xxxv *Id.* at 100–03.
- xxxvi *Id.* at 68.
- xxxvii See Frank H. Easterbrook & Daniel R. Fischel, *The Economic Structure of Corporate Law* 40–44 (1991).
- xxxviii *Id.* at 41.
- xxxix See Judith Resnik, *Diffusing Disputes*, 124 *Yale L.J.* 2804, 2822–30 (2015).
- xl *Id.* at 2835.
- xli *Id.* at 2840.
- xlii See Pargendler, *supra* note 8, at 550–55.
- xliiii Christopher M. Bruner, *Corporate Governance in the Common-Law World* 88–92 (2013).
- xliv Pargendler, *supra* note 8, at 540–45.
- xlv *Id.* at 545.
- xlvi See Bruner, *supra* note 52, at 95.
- xlvii See Pollman, *supra* note 45, at 1705–10.
- xlviii U.N. Working Grp., *supra* note 9, at ¶ 25.
- xlix *Id.* at ¶ 27.
- l See Amnesty Int’l, *Nigeria: Oil, Pollution and Poverty in the Niger Delta* 15–20 (2009), <https://www.amnesty.org/en/documents/afr44/017/2009/en/> (last visited Jan. 15, 2026, 14:45 GMT).
- li *Id.* at 25–30.
- lii *Id.* at 32.
- liii See Amnesty Int’l, *Brazil: Cattle, Forests and the Future of the Amazon* 10–15 (2021), <https://www.amnesty.org/en/documents/amr19/4343/2021/en/> (last visited Jan. 14, 2026, 14:50 GMT).
- liv The Companies Act, 2013, § 135, No. 18, Acts of Parliament, 2013 (India).
- lv See Afra Afsharipour, *Rethinking Corporate Social Responsibility in India*, 43 *Hastings Int’l & Comp. L. Rev.* 223, 240–45 (2020).
- lvi See Dinesh Naidoo, *B-BBEE: Fronting and the Illusion of Transformation*, 17 *S. Afr. J. Bus. Mgmt.* 45, 47–50 (2020).
- lvii U.N. Working Grp., *supra* note 9, at ¶ 35.
- lviii Pargendler, *supra* note 8, at 555–60.
- lix *Id.* at 560.
- lx Proposal for a Directive on Corporate Sustainability Due Diligence, at 15–18, COM (2022) 71 final (Feb. 23, 2022).
- lxi See Barnali Choudhury, *Beyond the Alien Tort Claims Act*, 46 *Geo. J. Int’l L.* 541, 570–75 (2015).
- lxii Pollman, *supra* note 45, at 1720–25.
- lxiii Resnik, *supra* note 48, at 2860–65.
- lxiv Donald Earl Childress III, *Forum Non Conveniens*, 45 *Vand. J. Transnat’l L.* 1, 30–35 (2012).
- lxv See Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on Corporate Sustainability Due Diligence, 2024 O.J. (L 1760) 1.
- lxvi See Int’l Consortium of Investigative Journalists, *The Pandora Papers*, <https://www.icij.org/investigations/pandora-papers/> (last visited Jan. 16, 2026, 15:00 GMT).
- lxvii Corp. Accountability Lab, <https://www.corporateaccountabilitylab.org> (last visited Jan. 12, 2026, 15:05 GMT).
- lxviii See Urgenda Foundation v. State of the Netherlands, ECLI:NL:HR:2019:2007 (Supreme Court of the Netherlands, Dec. 20, 2019).
- lxix See Mayer, *supra* note 27, at 155–60.
- lxx *Id.* at 165.
- lxxi *Id.* at 168–70.