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The Evolution of Corporate Governance: A Comparative Study of the Cadbury Committee Report (1992), Sarbanes-Oxley Act (2002), and the Indian Corporate Governance Framework

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ABSTRACT

Corporate governance has emerged as a critical mechanism for ensuring accountability, transparency, and sustainable value creation in modern corporations, particularly in the wake of high-profile corporate failures that exposed weaknesses in board oversight, financial reporting, and internal controls. This study undertakes a comparative analysis of three landmark frameworks: the Cadbury Report (1992) of the United Kingdom, the Sarbanes-Oxley Act (2002) of the United States, and the contemporary Indian corporate governance regime anchored in the Companies Act, 2013 and SEBI regulations. The purpose is to examine the evolution of core governance principles, especially board independence, the role and composition of audit committees, and mechanisms of corporate accountability, across different institutional and regulatory contexts. Major findings indicate that while the Cadbury Report laid foundational voluntary principles centred on board structure and financial integrity, Sarbanes-Oxley introduced rigorous, mandatory internal-control and certification requirements, and the Indian framework has synthesised both approaches into a hybrid model that balances statutory mandates with market-oriented disclosure norms. The study concludes that corporate governance has evolved from principle-based, comply-or-explain systems toward more prescriptive, enforcement-oriented regimes, yet retains a common emphasis on independent oversight and accountability as universal safeguards against managerial opportunism.

Keywords: *Corporate Governance, Cadbury Committee, Sarbanes-Oxley Act, Companies Act 2013, SEBI, Board Independence, Audit Committee, Corporate Accountability*

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I. INTRODUCTION

A. Meaning and concept of corporate governance

Corporate governance refers to the system by which companies are directed and controlled. It encompasses the structures, processes, and relationships through which the objectives of a corporation are set, the means of attaining those objectives are determined, and performance is monitored.[1] At its core, corporate governance defines the framework of rules, practices, and processes that govern the interactions among a company's key participants: shareholders (the owners of the residual interest), the board of directors (the body entrusted with strategic oversight), management (responsible for day-to-day operations), and other stakeholders including employees, creditors, customers, regulators, and the wider community.[2]

The relationship among these actors is fundamentally fiduciary and contractual. Shareholders elect the board, which in turn appoints and supervises management. Management is accountable to the board, while the board remains accountable to the shareholders and, increasingly, to broader stakeholder interests. Effective corporate governance is built upon four interrelated principles: accountability (ensuring that decision-makers are answerable for their actions), transparency (timely and accurate disclosure of material information), fairness (equitable treatment of all shareholders, including minority investors), and responsibility (ethical and sustainable conduct of business).[3] These principles collectively aim to align the interests of management with those of shareholders and other stakeholders, thereby reducing agency costs and promoting long-term value creation.

B. Importance of corporate governance

Strong corporate governance serves multiple critical functions in modern capital markets. First, it protects shareholders and investors by establishing mechanisms that prevent the expropriation of corporate assets and ensure that residual claims are respected.[4] Second, robust governance frameworks act as a primary defence against corporate fraud and mismanagement by imposing independent oversight, internal controls, and rigorous audit requirements. Third, they improve the quality and reliability of financial reporting, thereby enhancing the informational efficiency of markets. Fourth, transparent and accountable governance practices promote investor confidence, lower the cost of capital, and facilitate access to both domestic and international

[1] COMMITTEE ON THE FINANCIAL ASPECTS OF CORPORATE GOVERNANCE, *Report of the Committee on the Financial Aspects of Corporate Governance* ¶ 2.5 (1992) [hereinafter Cadbury Report]; *see also* ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT, *G20/OECD Principles of Corporate Governance* 9 (2015).
[2] *G20/OECD Principles*, *supra* note 1, at 9–11.
[3] *Id.* at 13–15; Cadbury Report, *supra* note 1, ¶¶ 2.5–2.7, 3.2–3.4.
[4] ADOLF A. BERLE & GARDINER C. MEANS, THE MODERN CORPORATION AND PRIVATE PROPERTY 119–25 (1932).

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financing. Finally, effective corporate governance enhances overall corporate accountability by clarifying the respective roles and responsibilities of the board, management, and external auditors, thereby reducing the likelihood of opportunistic behaviour.[5]

C. Need for strong corporate governance

The evolution of modern corporate governance mechanisms is rooted in structural and behavioural problems inherent in the corporate form. The separation of ownership and management, first systematically analysed by Berle and Means, creates a fundamental divergence of interests between residual owners and professional managers.[6] This separation gives rise to the classic agency problem, wherein managers may pursue personal objectives (empire-building, excessive compensation, or risk avoidance) at the expense of shareholder value.[7] Historical experience has repeatedly demonstrated the consequences of weak governance: high-profile corporate frauds, inadequate internal controls, opaque disclosure practices, and pervasive conflicts of interest between controlling shareholders, managers, and minority investors. These deficiencies have precipitated major regulatory responses, including the Cadbury Report in the United Kingdom, the Sarbanes-Oxley Act in the United States, and successive reforms under the Companies Act, 2013 and SEBI regulations in India.[8]

Despite the progressive development of sophisticated corporate governance regulations across jurisdictions, corporate failures and governance scandals continue to occur.[9] This paper therefore compares the Cadbury Report (1992), the Sarbanes-Oxley Act (2002), and the Indian corporate governance framework to assess how far these interventions have addressed the structural vulnerabilities of the modern corporation and to identify the gaps that remain.

II. HISTORICAL EVOLUTION OF CORPORATE GOVERNANCE

A. Traditional concept of corporate governance

The traditional conception of corporate governance was firmly rooted in the doctrine of shareholder primacy. Under this model, the corporation existed primarily to maximise

[5] *See generally* Sarbanes-Oxley Act of 2002, Pub. L. No. 107-204, 116 Stat. 745 (2002); Companies Act, No. 18 of 2013 (India); Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (India).

[6] Berle & Means, *supra* note 4, at 1–9.

[7] Michael C. Jensen & William H. Meckling, *Theory of the Firm: Managerial Behavior, Agency Costs and Ownership Structure*, 3 J. FIN. ECON. 305, 308–10 (1976).

[8] Cadbury Report, *supra* note 1; Sarbanes-Oxley Act of 2002, *supra* note 5; Companies Act, No. 18 of 2013 (India), *supra* note 5; Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (India), *supra* note 5.

[9] John C. Coffee, Jr., *A Theory of Corporate Scandals: Why the USA and Europe Differ*, 21 OXFORD REV. ECON. POL'Y 198 (2005).

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shareholder wealth, and the board of directors was regarded as the agent of the residual owners.[10] Directors were expected to exercise their powers in the best interests of the company, which, in the prevailing orthodoxy, was equated with the collective interest of the shareholders.[11] The legal and economic framework assumed that market mechanisms, particularly the market for corporate control, product-market competition, and the threat of takeover, would sufficiently discipline managerial behaviour.[12]

Central to this traditional understanding was the separation of ownership and control. As corporations grew in scale and shareholding became increasingly dispersed, professional managers assumed day-to-day control while shareholders retained formal ownership through residual claims.[13] Directors occupied an intermediate position: they were elected by shareholders yet delegated substantial operational authority to management. This structural arrangement, while facilitating specialised management and capital accumulation, simultaneously created the conditions for potential misalignment between ownership and control.

B. Agency theory and corporate governance

The theoretical foundation for modern corporate governance analysis is supplied by agency theory. In their seminal work, Berle and Means documented the progressive separation of ownership from control in large American corporations and warned that managers, freed from effective shareholder oversight, might pursue personal rather than proprietary objectives.[14] Building upon this insight, Jensen and Meckling formalised the principal-agent relationship. Shareholders (principals) delegate decision-making authority to managers (agents); because the agents do not bear the full wealth consequences of their decisions, they may engage in residual-loss behaviour such as excessive perquisite consumption, risk aversion, or empire-building.[15]

Agency costs comprise three components: monitoring expenditures by the principal, bonding expenditures by the agent, and the residual loss arising from divergence of interests.[16] Corporate governance mechanisms (independent boards, audit committees, external audit, disclosure

[10] Milton Friedman, *The Social Responsibility of Business Is to Increase Its Profits*, N.Y. TIMES MAG., Sept. 13, 1970, at 32; Henry Hansmann & Reinier Kraakman, *The End of History for Corporate Law*, 89 GEO. L.J. 439, 440–41 (2001).

[11] Companies Act 1985, c. 6, § 309 (U.K.) (requiring directors to have regard to the interests of employees in general as well as those of members); *cf. Automatic Self-Cleansing Filter Syndicate Co. v. Cuninghame*, [1906] 2 Ch. 34 (Eng.) (shareholders' ordinary resolution could not override powers vested in the board by the articles).

[12] Henry G. Manne, *Mergers and the Market for Corporate Control*, 73 J. POL. ECON. 110 (1965).

[13] Berle & Means, *supra* note 4, at 1–9, 119–25.

[14] *Id.*

[15] Jensen & Meckling, *supra* note 7, at 308–10.

[16] *Id.* at 308.

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requirements, and incentive-aligned compensation) function as devices to reduce these agency costs. The theory therefore provides the analytical lens through which subsequent regulatory interventions, including the Cadbury Report, the Sarbanes-Oxley Act, and Indian reforms, must be understood: each seeks to realign managerial incentives with shareholder (and, increasingly, stakeholder) interests.

C. Emergence of modern corporate governance

From the 1970s onward, a series of structural and behavioural concerns catalysed the shift from a largely *laissez-faire*, market-oriented model toward more formalised governance prescriptions. First, questions of director accountability intensified as boards were perceived to have become passive or captured by management. Second, the reliability of financial reporting came under scrutiny amid growing complexity of accounting standards and the potential for earnings management. Third, the independence of external auditors was increasingly doubted in light of long-standing client relationships and the provision of non-audit services. Fourth, escalating executive remuneration packages, often poorly linked to long-term performance, generated public and investor discontent. Fifth, board composition itself, particularly the predominance of executive directors and the absence of genuinely independent non-executive directors, was identified as a structural weakness.[17]

These concerns coalesced into a broader recognition that voluntary norms and market discipline alone were insufficient to safeguard the integrity of capital markets. The result was a progressive movement toward codified principles, statutory mandates, and enhanced regulatory oversight across major jurisdictions.

D. Major corporate scandals and governance reforms

The catalyst for formal regulatory reform was a succession of high-profile corporate collapses that exposed systemic governance failures.

In the United Kingdom, the late 1980s and early 1990s witnessed a cluster of scandals. The collapse of Polly Peck International in 1990 was followed by the conviction of its chairman in 2012 for stealing from the company.[18] The Maxwell empire's demise demonstrated the vulnerability of pension funds to controlling-shareholder predation and the absence of effective board oversight.[19] The Bank of Credit and Commerce International (BCCI) scandal further

[17] *See* Cadbury Report, *supra* note 1, ¶¶ 1.1–1.9; *see also* SIR ADRIAN CADBURY, CORPORATE GOVERNANCE AND CHAIRMANSHIP: A PERSONAL VIEW 11–18 (2002).
[18] *Nadir Jailed for 10 Years for £29m Polly Peck Theft*, IRISH TIMES, Aug. 24, 2012, https://www.irishtimes.com/business/sectors/nadir-jailed-for-10-years-for-29m-polly-peck-theft-1.542208.
[19] HOUSE OF COMMONS, SOCIAL SECURITY COMMITTEE, *Second Report: The Operation of Pension Funds*, H.C. 61-II (1991–92).

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illustrated the dangers of opaque ownership structures and inadequate regulatory supervision, and led to a recommendation that auditors of banks be placed under a statutory duty to report to the regulator.[20] Concern over corporate failures of this kind lay behind the appointment of the Cadbury Committee in 1991, and the BCCI and Maxwell affairs, which broke while it was at work, heightened that concern before the publication of its influential report in 1992.

In the United States, the early 2000s produced an even more dramatic sequence of failures. Enron Corporation's bankruptcy in 2001 exposed extensive use of special-purpose entities, mark-to-market accounting abuses, and the role of its auditors, Arthur Andersen.[21] WorldCom's 2002 collapse revealed the capitalisation of ordinary operating expenses on a massive scale, again facilitated by weak internal controls and inadequate external audits.[22] Tyco International's case highlighted alleged executive self-dealing and the failure of board monitoring.[23] These scandals generated bipartisan political pressure that culminated in the rapid enactment of the Sarbanes-Oxley Act of 2002.

In India, governance failures have likewise driven successive waves of reform. The Satyam Computer Services scandal of 2009, involving the falsification of accounts and a balance-sheet misstatement of more than ₹7,000 crore, of which ₹5,040 crore was non-existent cash and bank balances, exposed profound deficiencies in board independence, audit committee effectiveness, and promoter accountability.[24] The subsequent collapse of Infrastructure Leasing & Financial Services (IL&FS) in 2018 revealed complex group structures and inadequate risk oversight within a systemically important financial institution.[25] Kingfisher Airlines' protracted financial distress and default on its bank loans, which led to recovery proceedings before the Debts Recovery Tribunal and contempt proceedings in the Supreme Court, raised comparable questions about concentrated promoter control and creditor protection.[26] Satyam reinforced the

[20] *Inquiry into the Supervision of the Bank of Credit and Commerce International* (Bingham Report), H.C. 198 (1992–93); *see* Cadbury Report, *supra* note 1, app. 5.
[21] Final Report of Neal Batson, Court-Appointed Examiner, *In re Enron Corp.*, No. 01-16034 (AJG) (Bankr. S.D.N.Y. Nov. 4, 2003).
[22] *Report of Investigation by the Special Investigative Committee of the Board of Directors of WorldCom, Inc.* (Mar. 31, 2003), https://www.sec.gov/Archives/edgar/data/723527/000093176303001862/dex991.htm.
[23] *SEC v. Kozlowski*, No. 02 Civ. 7312 (S.D.N.Y. filed Sept. 12, 2002), Litigation Release No. 17722 (Sept. 12, 2002), https://www.sec.gov/litigation/litreleases/lr-17722.
[24] SECURITIES & EXCHANGE BOARD OF INDIA, *Order in the Matter of Satyam Computer Services Ltd.* (July 15, 2014); *B. Ramalinga Raju v. Securities & Exchange Board of India*, Appeal No. 286 of 2014 (Sec. App. Trib. May 12, 2017) (India) (upholding the findings of violation, setting aside the period of restraint and the disgorgement amounts and remanding; reproducing the letter of 7 January 2009).
[25] *Hari Sankaran v. Union of India*, (2019) 6 SCC 584 (India); *Union of India v. Infrastructure Leasing & Financial Services Ltd.*, Company Appeal (AT) No. 346 of 2018 (NCLAT Mar. 12, 2020) (India).
[26] *State Bank of India v. Kingfisher Airlines Ltd.*, Contempt Petition (C) Nos. 421–424 of 2016, AIRONLINE 2017 SC 750 (India May 9, 2017).

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case for statutory strengthening under the Companies Act, 2013, and the later episodes the case for continuous refinement of SEBI's listing regulations.

Collectively, these scandals demonstrated that traditional reliance on market discipline and voluntary best practice was inadequate. They established the empirical and political foundation for the three regulatory frameworks examined in this study: the principle-based Cadbury Code, the rules-based Sarbanes-Oxley regime, and India's hybrid statutory-regulatory model.

III. The Cadbury Committee Report, 1992

A. Background and establishment of the Cadbury Committee

The Committee on the Financial Aspects of Corporate Governance, universally known as the Cadbury Committee, was established in May 1991 by three principal sponsors: the Financial Reporting Council (FRC), the London Stock Exchange, and the accountancy profession.[27] The initiative arose from a pronounced erosion of confidence in the reliability of financial reporting and in the capacity of external auditors to provide the safeguards expected by users of company accounts.[28] Underlying concerns included the perceived looseness of accounting standards, the absence of a clear framework requiring directors to keep internal controls under regular review, and competitive pressures on both companies and auditors that inhibited robust challenge of management.[29]

These structural weaknesses were dramatically illustrated by a series of high-profile corporate collapses. The sudden failures of Polly Peck International and Coloroll, neither of which had been foreshadowed in their published accounts, were particularly damaging.[30] While the Committee was already at work, two further scandals, the collapse of the Bank of Credit and Commerce International (BCCI) and the posthumous revelation of Robert Maxwell's misappropriation of pension-fund assets, intensified public and regulatory anxiety.[31] The Committee, chaired by Sir Adrian Cadbury, was charged with examining the financial aspects of corporate governance and formulating recommendations to restore confidence.

B. Objectives of the Cadbury Committee

The Committee's terms of reference focused on the control and reporting functions of boards and on the role of auditors. Its principal objectives were to review those aspects of corporate

[27] Cadbury Report, *supra* note 1, ¶ 2.1.
[28] *Id.* ¶ 2.1.
[29] *Id.*
[30] Cadbury Archive, Cambridge Judge Business School, *The Cadbury Report*, https://www.jbs.cam.ac.uk/faculty-research/publications/cadbury-archive/report/; Cadbury Report, *supra* note 1, ¶ 2.2.
[31] Bingham Report, *supra* note 20; House of Commons, Social Security Committee, *supra* note 19; Cadbury Report, *supra* note 1, Preface.

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governance specifically related to financial reporting and accountability, to recommend a Code of Best Practice capable of raising standards of corporate behaviour, and to contribute positively to the broader promotion of good governance.[32] The Committee expressly sought to strengthen the existing unitary board system rather than to replace it, and to do so through a voluntary, disclosure-based approach rather than through detailed statutory prescription.[33]

C. Definition and understanding of corporate governance

The Cadbury Report provided what has become the classic and most widely cited definition of corporate governance:

> Corporate governance is the system by which companies are directed and controlled. Boards of directors are responsible for the governance of their companies. The shareholders' role in governance is to appoint the directors and the auditors and to satisfy themselves that an appropriate governance structure is in place. The responsibilities of the board include setting the company's strategic aims, providing the leadership to put them into effect, supervising the management of the business and reporting to shareholders on their stewardship.[34]

This formulation placed the board at the centre of the governance system, emphasised accountability to shareholders, and underscored the importance of an effective structure of checks and balances.

D. Major recommendations

The Committee's recommendations were crystallised in a Code of Best Practice. The principal provisions relevant to board structure, oversight and financial integrity are as follows.

i. Board of directors

Every public company should be headed by an effective board that can both lead and control the business. Within the unitary board system this requires a combination of executive directors, who possess intimate knowledge of the business, and non-executive directors, who bring a broader external perspective.[35] The board must meet regularly, retain full and effective control over the company, and monitor the executive management.

[32] Cadbury Report, *supra* note 1, ¶¶ 1.2–1.3, 2.1.
[33] *Id.* ¶¶ 1.8, 1.10.
[34] *Id.* ¶ 2.5.
[35] *Id.* ¶ 4.1; Code of Best Practice ¶ 1.1.

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ii. Separation of chairman and chief executive

There should be a clearly accepted division of responsibilities at the head of the company so that no single individual has unfettered powers of decision. Where the roles of chairman and chief executive are combined, it is essential that there be a strong and independent element on the board, with a recognised senior member.[36]

iii. Non-executive directors

Non-executive directors should bring independent judgement to bear on issues of strategy, performance, resources (including key appointments) and standards of conduct. Their calibre and number should be such that their views carry significant weight in the board's decisions. To support the recommended committee structure, boards require a minimum of three non-executive directors.[37]

iv. Audit committee

The board should establish an audit committee of at least three non-executive directors, the majority of whom should be independent, with written terms of reference dealing clearly with its authority and duties. The committee's responsibilities include reviewing the half-year and annual financial statements, discussing the nature and scope of the external audit, reviewing the internal audit programme, and making recommendations on the appointment of external auditors.[38]

v. Financial reporting

It is the board's duty to present a balanced and understandable assessment of the company's position. Directors should explain their responsibility for preparing the accounts, and a statement of the auditors' reporting responsibilities should appear alongside.[39]

vi. Internal control

The directors should report on the effectiveness of the company's system of internal control. The Report observed that directors, being responsible under the Companies Act 1985 for maintaining adequate accounting records, were already under an implicit requirement to ensure that a proper system of internal control was in place, and it recommended that the auditors report on the directors' statement.[40]

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[36] *Id.* ¶ 4.9; Code of Best Practice ¶ 1.2.
[37] *Id.* ¶¶ 4.11–4.12; Code of Best Practice ¶¶ 1.3, 2.1.
[38] *Id.* ¶¶ 4.33–4.35; Code of Best Practice ¶ 4.3.
[39] *Id.* ¶¶ 4.28, 4.47–4.50; Code of Best Practice ¶¶ 4.1, 4.4.
[40] *Id.* ¶¶ 4.31–4.32; Code of Best Practice ¶ 4.5.

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vii. Directors' remuneration

Remuneration committees, composed mainly or wholly of non-executive directors, should be established to make recommendations on the remuneration of executive directors. Full disclosure of directors' total emoluments and those of the chairman and highest-paid director was recommended to enhance transparency and accountability.[41]

viii. Role of auditors

The board should ensure that an objective and professional relationship is maintained with the auditors. The audit committee plays a central role in safeguarding auditor independence, and auditors were expected to review the company's statement of compliance with the Code.[42]

E. The "comply or explain" principle

The most enduring institutional innovation of the Cadbury Report was the "comply or explain" mechanism. The London Stock Exchange made it a continuing obligation of listing that companies state in their annual report and accounts whether they complied with the Code of Best Practice and, where they did not, identify the areas of non-compliance and give reasons. Compliance statements were to be reviewed by the auditors before publication.[43]

This approach deliberately preferred flexibility and pressure from shareholders over rigid statutory rules. Companies were responsible for ensuring that their actions met the spirit of the Code; where a company departed from it, the company had to identify the departure and give its reasons. Shareholders were then left to assess the explanation, with the listing obligation enforced by the Exchange.[44] The "comply or explain" principle has since become the cornerstone of the UK Corporate Governance Code and has been widely adopted internationally.

F. Significance of the Cadbury Report

The Cadbury Report marked a decisive turning point in the modern history of corporate governance. It established board independence, the formal role of non-executive directors, and the audit committee as central institutional safeguards. It elevated transparency in financial reporting and internal-control disclosure, and it reinforced the accountability of boards to shareholders. Most importantly, it demonstrated that a principles-based, disclosure-oriented code, backed by listing-rule enforcement, could raise standards without the rigidity of detailed

[41] *Id.* ¶¶ 4.40–4.46; Code of Best Practice ¶¶ 3.2–3.3.
[42] *Id.* ¶¶ 3.9, 5.1–5.10; Code of Best Practice ¶ 4.2.
[43] *Id.* ¶¶ 3.7, 3.9; LONDON STOCK EXCHANGE, *Listing Rules*.
[44] Cadbury Report, *supra* note 1, ¶¶ 1.3, 1.10, 3.1–3.7, 3.10.

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legislation. Subsequent UK codes (Greenbury, Hampel, Combined Code, and the present UK Corporate Governance Code) and numerous international frameworks have built directly upon the Cadbury foundations.[45]

G. Limitations and criticisms

Despite its seminal influence, the Cadbury Report was subject to several limitations. Its recommendations were directed primarily at listed companies and had limited immediate application to private or smaller public companies. The framework was distinctly UK-centric, reflecting the unitary board tradition and the particular institutional environment of the London market. Its essentially voluntary character, reliant on disclosure and market discipline rather than mandatory enforcement, left open the possibility of formal compliance without substantive change ("box-ticking"). Finally, the Report focused almost exclusively on the financial aspects of governance and the shareholder–board relationship; it gave comparatively little attention to the interests of employees, creditors, or other stakeholders.[46] These limitations did not diminish its historical importance, but they help explain why later reforms in the United Kingdom and elsewhere moved toward greater prescription and a broader stakeholder perspective.

IV. The Sarbanes-Oxley Act, 2002

A. Background

The Sarbanes-Oxley Act of 2002 (SOX) was enacted as a direct legislative response to a wave of high-profile corporate accounting scandals that severely undermined investor confidence in U.S. capital markets.[47] The most prominent of these failures was the collapse of Enron Corporation in December 2001. Enron had employed aggressive mark-to-market accounting, complex special-purpose entities, and off-balance-sheet vehicles to conceal massive debt and inflate reported earnings. When the fraud was exposed, the company's market capitalisation evaporated, resulting in one of the largest bankruptcies in U.S. history at the time and devastating losses for shareholders, employees, and pension funds.[48]

WorldCom followed in 2002. The telecommunications giant had improperly capitalised ordinary operating expenses on a colossal scale; its board's Special Investigative Committee

[45] Financial Reporting Council, *The UK Corporate Governance Code* (various eds.); *G20/OECD Principles*, *supra* note 1.
[46] John Parkinson, Corporate Power and Responsibility 159–65 (1993); Christine A. Mallin, Corporate Governance 28–32 (6th ed. 2019).
[47] Sarbanes-Oxley Act of 2002, Pub. L. No. 107-204, 116 Stat. 745 (2002) (codified in scattered sections of 15 U.S.C. and 18 U.S.C.).
[48] Final Report of Neal Batson, *supra* note 21; Bethany McLean & Peter Elkind, The Smartest Guys in the Room: The Amazing Rise and Scandalous Fall of Enron (2003).

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reported more than $9 billion in false or unsupported accounting entries. Its subsequent bankruptcy surpassed Enron's in size.[49] Tyco International illustrated a different but equally corrosive form of governance failure: the Securities and Exchange Commission alleged self-dealing, undisclosed executive compensation, and the misuse of corporate assets by senior management.[50]

Central to the credibility crisis was the role of Arthur Andersen, then one of the "Big Five" accounting firms. Andersen had served as Enron's auditor while simultaneously providing lucrative consulting services, creating acute conflicts of interest. The firm's destruction of Enron-related documents and its 2002 conviction for obstruction of justice, which the Supreme Court later reversed because of defective jury instructions, led to its collapse, reducing the major audit firms from five to four and highlighting the systemic risks of compromised auditor independence.[51] These scandals collectively demonstrated profound weaknesses in financial reporting, internal controls, board oversight, and the external audit process, prompting swift bipartisan congressional action.

B. Objectives of the Sarbanes-Oxley Act

SOX pursued five interrelated objectives: (1) to restore investor confidence in the integrity of public company financial statements; (2) to improve the quality, accuracy, and transparency of financial reporting; (3) to strengthen internal controls over financial reporting; (4) to increase the personal accountability of senior corporate officers; and (5) to enhance the independence and oversight of external auditors. The Act sought to achieve these goals through a combination of mandatory disclosure requirements, certification obligations, structural reforms of audit committees, creation of a new regulatory body for auditors, and significantly enhanced civil and criminal penalties.

C. Major provisions

The most consequential provisions for corporate governance and financial accountability include the following.

i. Section 301: Public company audit committees

Section 301 requires every listed company to have an audit committee composed entirely of independent directors. The committee is granted direct responsibility for the appointment, compensation, and oversight of the external auditor, and must establish procedures for the

[49] *Report of Investigation*, *supra* note 22.
[50] *Kozlowski*, *supra* note 23.
[51] *United States v. Arthur Andersen LLP*, 374 F.3d 281 (5th Cir. 2004), *rev'd*, 544 U.S. 696 (2005).

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receipt and treatment of complaints regarding accounting or auditing matters, including confidential, anonymous submission by employees.[52]

ii. Section 302: Corporate responsibility for financial reports

The principal executive officer and principal financial officer must personally certify, in each annual and quarterly report, that they have reviewed the report; that it does not contain any untrue statement of a material fact or omit a material fact; that the financial statements fairly present the company's financial condition and results of operations; and that they are responsible for establishing and maintaining internal controls, have evaluated their effectiveness, and have disclosed any significant deficiencies or material weaknesses to the auditors and the audit committee. False certification carries severe penalties.[53]

iii. Section 401: Enhanced financial disclosures

Section 401 requires that financial statements reflect all material correcting adjustments identified by the auditors and that periodic reports disclose all material off-balance-sheet transactions, arrangements, obligations, and other relationships that may have a material current or future effect on financial condition.[54]

iv. Section 404: Management assessment of internal controls

Perhaps the most operationally significant provision, Section 404 requires management to include in the annual report an internal-control report stating management's responsibility for establishing and maintaining an adequate internal-control structure and procedures for financial reporting, together with an assessment of the effectiveness of those controls. The company's external auditor must attest to, and report on, management's assessment.[55] This dual requirement of management assessment and independent attestation substantially elevated the importance of internal-control systems.

v. Section 406: Code of ethics

Issuers must disclose whether they have adopted a code of ethics for senior financial officers (including the principal financial officer and principal accounting officer) and, if not, the reasons for not doing so. Any waivers of the code for such officers must also be disclosed.[56]

[52] Sarbanes-Oxley Act of 2002 § 301, 15 U.S.C. § 78j-1(m).
[53] *Id.* § 302, 15 U.S.C. § 7241; *id.* § 906, 18 U.S.C. § 1350.
[54] *Id.* § 401, 15 U.S.C. § 78m(i)–(j).
[55] *Id.* § 404, 15 U.S.C. § 7262.
[56] *Id.* § 406, 15 U.S.C. § 7264.

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vi. Section 802: Criminal penalties for altering or destroying records

Section 802 makes it a criminal offence, punishable by fine and imprisonment of up to 20 years, knowingly to alter, destroy, mutilate, conceal, or falsify any record or document with the intent to impede, obstruct, or influence a federal investigation or bankruptcy proceeding. It also imposes specific retention requirements for audit workpapers.[57]

vii. Section 806: Whistleblower protection

Section 806 prohibits publicly traded companies and their officers, employees, contractors, subcontractors, and agents from discharging, demoting, suspending, threatening, harassing, or otherwise discriminating against an employee because of any lawful act done by the employee to provide information or assist in an investigation regarding conduct that the employee reasonably believes constitutes a violation of the federal mail, wire, bank or securities fraud statutes, any SEC rule or regulation, or any provision of federal law relating to fraud against shareholders.[58]

D. Public Company Accounting Oversight Board (PCAOB)

Title I of SOX established the Public Company Accounting Oversight Board as a nonprofit corporation to oversee the audits of public companies.[59] The PCAOB is charged with registering public accounting firms that audit issuers, establishing auditing, quality-control, ethics, and independence standards, conducting inspections of registered firms, and investigating and disciplining firms and associated persons for violations. By removing the previous system of self-regulation by the accounting profession and subjecting auditors to independent public oversight, the PCAOB fundamentally altered the regulatory architecture of the audit market and was designed to enhance audit quality and accountability.[60]

E. Auditor independence

SOX imposed far more stringent, rules-based restrictions on auditor independence than the principles-based approach of the Cadbury Report. Title II prohibits registered public accounting firms from providing a detailed list of non-audit services to their audit clients, including bookkeeping, financial-information-systems design and implementation, appraisal or valuation services, actuarial services, internal-audit outsourcing, management functions, human-resources services, broker-dealer or investment-advisory services, and legal services unrelated

[57] *Id.* § 802, 18 U.S.C. §§ 1519–20.
[58] *Id.* § 806, 18 U.S.C. § 1514A.
[59] *Id.* §§ 101–09, 15 U.S.C. §§ 7211–19.
[60] PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD, *Bylaws and Rules* (as amended).

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to the audit.[61] All audit and permissible non-audit services require pre-approval by the audit committee. Lead and concurring audit partners must rotate off an engagement after five consecutive years.[62] These bright-line prohibitions and mandatory rotation requirements stand in sharp contrast to Cadbury's reliance on professional judgement, disclosure, and the "comply or explain" mechanism.

F. Whistleblower protection

Section 806 created a robust federal cause of action for employees of public companies (and later expanded to cover employees of certain private companies and subsidiaries) who suffer retaliation for reporting suspected securities fraud or assisting in related investigations. The provision includes a relatively short statute of limitations, the possibility of reinstatement, back pay, and compensatory damages, and a shift in the burden of proof favourable to the whistleblower. By providing concrete legal protection and remedies, SOX substantially strengthened the internal and external channels through which corporate wrongdoing can be reported and investigated.[63]

G. Significance of the Sarbanes-Oxley Act

SOX represented a decisive shift from the predominantly principles-based, disclosure-oriented model exemplified by Cadbury toward a more prescriptive, rules-based, and enforcement-intensive regime. It personalised accountability at the highest levels of management, institutionalised independent audit committees with real authority, created an independent regulator for the audit profession, and imposed detailed internal-control and certification requirements. The Act restored a significant measure of investor confidence in the aftermath of the early-2000s scandals and has influenced corporate-governance reforms in numerous other jurisdictions.[64]

H. Criticisms and limitations

Despite its achievements, SOX has attracted sustained criticism. The most frequent objection concerns the substantial compliance costs, particularly those associated with Section 404 internal-control assessments and auditor attestations. Empirical studies and Government Accountability Office reports have shown that while absolute costs are higher for larger

[61] Sarbanes-Oxley Act of 2002 § 201, 15 U.S.C. § 78j-1(g)–(h).
[62] *Id.* §§ 202–03, 15 U.S.C. § 78j-1(i)–(j).
[63] *Id.* § 806; *see also* 29 C.F.R. pt. 1980 (Department of Labor implementing regulations); Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, § 929A, 124 Stat. 1376 (2010) (extending Section 806 to subsidiaries and affiliates).
[64] JOHN C. COFFEE, JR., GATEKEEPERS: THE PROFESSIONS AND CORPORATE GOVERNANCE 155–80 (2006).

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companies, the relative burden falls disproportionately on smaller public companies.[65] Critics further argue that the Act has encouraged a formalistic, "check-the-box" approach to compliance that may divert managerial attention from substantive risk management and long-term value creation. Concerns have also been raised that the regulatory burden may discourage smaller companies from remaining public or from going public in the first place, potentially affecting capital-market dynamism. Subsequent legislative and regulatory adjustments (including exemptions from auditor attestation for emerging growth companies and non-accelerated filers) have sought to mitigate some of these effects, but the debate over the cost-benefit balance of SOX continues.[66]

V. Evolution of the Indian Corporate Governance Framework

A. Early corporate governance regulation in India

The Companies Act, 1956 provided the foundational statutory framework for corporate organisation and management in post-independence India. It regulated the incorporation, management, and winding-up of companies, and defined the powers and duties of directors primarily in terms of fiduciary obligations to the company.[67] Directors were expected to act *bona fide* in the interests of the company, but the Act contained limited express provisions on board independence, audit committees, related-party transaction controls, or modern disclosure norms. Governance remained largely internal and promoter-driven, with relatively weak external accountability mechanisms and minimal emphasis on independent oversight or minority shareholder protection.[68]

B. CII Code of Desirable Corporate Governance, 1998

In 1998 the Confederation of Indian Industry (CII) issued the first voluntary Code of Desirable Corporate Governance. Drafted under the chairmanship of Rahul Bajaj, the Code recommended an optimal mix of executive and non-executive directors, the establishment of audit committees, greater transparency in financial reporting, and improved board processes.[69] Although purely voluntary and lacking regulatory force, the CII Code marked an important early recognition by

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[65] U.S. Gov't Accountability Off., GAO-06-361, *Sarbanes-Oxley Act: Consideration of Key Principles Needed in Addressing Implementation for Smaller Public Companies* (2006); U.S. Gov't Accountability Off., GAO-25-107500, *Sarbanes-Oxley Act: Compliance Costs Are Higher for Larger Companies but More Burdensome for Smaller Ones* (2025), https://www.gao.gov/products/gao-25-107500.

[66] Jumpstart Our Business Startups Act, Pub. L. No. 112-106, § 103, 126 Stat. 306 (2012) (exempting emerging growth companies from auditor attestation under Section 404(b)); Dodd-Frank Wall Street Reform and Consumer Protection Act, *supra* note 63, § 989G (exempting non-accelerated filers).

[67] Companies Act, No. 1 of 1956 (India).

[68] Umakanth Varottil, *A Cautionary Tale of the Transplant Effect on Indian Corporate Governance*, 21 Nat'l L. Sch. India Rev. 1, 5–8 (2009).

[69] Confederation of Indian Industry, *Desirable Corporate Governance: A Code* (1998).

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Indian industry that better governance practices were essential for attracting capital and enhancing corporate credibility. It laid conceptual groundwork for the subsequent regulatory interventions by SEBI.

C. Kumar Mangalam Birla Committee, 1999

In May 1999 SEBI constituted a committee under the chairmanship of Kumar Mangalam Birla to elevate standards of corporate governance in listed companies.[70] The Committee's report, released in draft in October 1999 and adopted by the SEBI Board in January 2000, was the first comprehensive official attempt to formulate a code suited to Indian conditions. Its recommendations were divided into mandatory and non-mandatory categories.

On board composition, the Committee recommended an optimum combination of executive and non-executive directors, with independent directors constituting at least one-third of the board where the chairman was non-executive, and at least one-half where the chairman was executive.[71] Independent directors were defined as those who, apart from receiving director's remuneration, had no other material pecuniary relationship or transactions with the company, its promoters, its management, or its subsidiaries. The Committee recommended the mandatory constitution of an audit committee of at least three members, all non-executive, the majority being independent and at least one having financial and accounting knowledge. It also emphasised enhanced disclosures, management discussion and analysis, and the protection of shareholder rights, including the use of postal ballots for certain critical resolutions.[72] These recommendations were accepted by SEBI and formed the basis of the original Clause 49 of the Listing Agreement.

D. Clause 49 of the Listing Agreement

Clause 49, introduced by SEBI in 2000 and substantially revised in 2004, transformed voluntary recommendations into enforceable listing conditions. It required boards to maintain an optimum combination of executive and non-executive directors, with independent directors forming one-third or one-half of the board depending on the status of the chairman.[73] Audit committees were mandated to consist of at least three members, two-thirds independent, all financially literate, and at least one possessing accounting expertise. The Clause imposed detailed disclosure requirements, including related-party transactions, and introduced CEO/CFO certification of

[70] SECURITIES & EXCHANGE BOARD OF INDIA, *Report of the Committee Appointed by the SEBI on Corporate Governance under the Chairmanship of Shri Kumar Mangalam Birla* (2000).
[71] *Id.* ¶¶ 6.5, 6.9.
[72] *Id.* ¶¶ 9.6, 13.4, 14.11.
[73] SECURITIES & EXCHANGE BOARD OF INDIA, Clause 49 of the Listing Agreement (as revised 2004).

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financial statements and internal controls, an early Indian analogue to SOX Section 302.[74] Clause 49 thus served as the critical bridge between voluntary codes and statutory regulation, embedding governance norms directly into the listing framework.

E. Naresh Chandra Committee, 2002

Appointed by the Department of Company Affairs in the aftermath of the Enron and WorldCom scandals, the Naresh Chandra Committee examined auditor–company relationships and the role of independent directors.[75] It recommended stricter disqualifications for auditors, restrictions on non-audit services, mandatory rotation of audit partners, and enhanced independence criteria for directors. The Committee also proposed that audit committees be strengthened and that internal controls and risk-management systems receive greater board attention. Many of its recommendations influenced subsequent amendments to Clause 49 and the drafting of the Companies Act, 2013.

F. Narayana Murthy Committee, 2003

SEBI constituted the Narayana Murthy Committee to review the implementation of Clause 49 and to recommend further improvements.[76] The Committee recommended strengthening the role of audit committees, requiring them to review related-party transactions, risk-management systems, and internal-control weaknesses. It proposed whistleblower mechanisms, formal codes of conduct, and improved disclosures on proceeds from public issues. Its recommendations led to the 2004 revision of Clause 49, which significantly tightened independence criteria, audit-committee responsibilities, and board accountability.

G. Companies Act, 2013

The Companies Act, 2013 marked a decisive shift from a largely disclosure-based regime to a more comprehensive statutory framework of corporate governance.

Section 149 mandates that every listed public company have at least one-third of its total directors as independent directors and requires prescribed classes of companies to have at least one woman director. It codifies detailed eligibility criteria for independent directors and limits their tenure to two consecutive terms of five years, followed by a three-year cooling-off

[74] SECURITIES & EXCHANGE BOARD OF INDIA, Clause 49 of the Listing Agreement (as amended).
[75] DEPARTMENT OF COMPANY AFFAIRS, MINISTRY OF FINANCE & COMPANY AFFAIRS, *Report of the Naresh Chandra Committee on Corporate Audit and Governance* (2002).
[76] SECURITIES & EXCHANGE BOARD OF INDIA, *Report of the SEBI Committee on Corporate Governance under the Chairmanship of Shri N. R. Narayana Murthy* (2003).

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period.[77] By institutionalising independent directors, the provision seeks to introduce objective oversight and reduce promoter dominance.

Section 166, for the first time in Indian company law, expressly codifies the duties of directors. Directors must act in good faith to promote the objects of the company for the benefit of its members as a whole, and in the best interests of the company, its employees, the shareholders, the community, and for the protection of the environment. They are required to exercise due and reasonable care, skill and diligence, and independent judgement, and to avoid conflicts of interest.[78] This provision elevates directors' accountability beyond traditional fiduciary standards.

Section 177 requires every listed public company and prescribed classes of companies to constitute an Audit Committee consisting of a majority of independent directors. The Committee is empowered to monitor the auditor's independence, approve related-party transactions, and oversee the vigil mechanism (whistleblower system).[79] Section 178 mandates a Nomination and Remuneration Committee of three or more non-executive directors, not less than one-half of them independent, responsible for director appointments, performance evaluation, and remuneration policy, thereby separating these critical functions from executive control.[80]

Section 134 requires the Board's report to include a directors' responsibility statement affirming that proper accounting policies have been followed, that adequate accounting records have been maintained, and, in the case of a listed company, that internal financial controls are adequate and operating effectively.[81] Section 135 introduces mandatory Corporate Social Responsibility for companies meeting specified financial thresholds, linking governance to broader social accountability.[82]

Sections 184 and 188 strengthen conflict-of-interest regulation: directors must disclose their interests, and related-party transactions require board or shareholder approval according to materiality thresholds.[83] Section 447 provides a stringent definition of fraud and imposes severe penalties, including imprisonment, thereby reinforcing deterrence.[84] Collectively, these

[77] Companies Act, No. 18 of 2013, § 149 (India).
[78] *Id.* § 166.
[79] *Id.* § 177.
[80] *Id.* § 178.
[81] *Id.* § 134.
[82] *Id.* § 135.
[83] *Id.* §§ 184, 188.
[84] *Id.* § 447.

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provisions embed independent oversight, director accountability, audit integrity, and transparency into the statutory fabric of Indian company law.

H. SEBI's role

SEBI has been the principal driver of corporate-governance reform for listed companies. Beginning with the incorporation of the Birla Committee recommendations into Clause 49, SEBI progressively tightened listing conditions through successive amendments. After the Companies Act, 2013, SEBI aligned and often exceeded statutory requirements through the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR), which replaced Clause 49 and created a comprehensive, continuously evolving governance code for listed entities.[85]

I. SEBI LODR framework

The LODR Regulations, 2015 consolidate and expand governance requirements. Regulation 17 requires an optimum combination of executive and non-executive directors, at least one woman director, and a prescribed proportion of independent directors (one-third or one-half depending on the chairperson's status).[86] Regulation 18 mandates a qualified and independent Audit Committee (minimum three members, two-thirds independent, all financially literate). Regulation 19 requires a Nomination and Remuneration Committee (at least two-thirds independent), while Regulation 20 establishes a Stakeholders Relationship Committee and Regulation 21 a Risk Management Committee for the top listed entities.[87] Related-party transactions are subject to stringent prior approval by the Audit Committee (only independent directors may approve) and, for material transactions, by shareholders, with detailed disclosure obligations.[88] The LODR framework thus operationalises statutory principles through detailed, enforceable listing regulations.

J. Important Indian corporate scandals

The Satyam Computer Services scandal of 2009 remains the defining corporate-governance failure in modern Indian history. On 7 January 2009, Chairman B. Ramalinga Raju confessed that the company's accounts had been falsified over several years, inflating cash and bank balances by approximately ₹5,040 crore and fabricating revenues and profits.[89] The fraud

[85] Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (India).
[86] *Id.* reg. 17.
[87] *Id.* regs. 18–21.
[88] *Id.* reg. 23.
[89] SECURITIES & EXCHANGE BOARD OF INDIA, *Order in the Matter of Satyam Computer Services Ltd.*, *supra* note 24; *B. Ramalinga Raju*, *supra* note 24.

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revealed catastrophic failures of internal controls, the ineffectiveness of the board and audit committee, and serious questions about the work of the statutory auditors. Investor confidence collapsed; the share price plummeted, and the government was compelled to intervene by reconstituting the board and facilitating a sale to Tech Mahindra. The scandal contributed to widespread regulatory reform, including the strengthening of Clause 49, the eventual enactment of the Companies Act, 2013, enhanced auditor oversight, and the later creation of the National Financial Reporting Authority.[90]

The IL&FS crisis of 2018 provided a later illustration of governance and risk-management failure. IL&FS, a systemically important non-banking financial company with 348 group companies, defaulted first on commercial paper and then on short-term borrowings. The Registrar of Companies concluded *prima facie* that there had been mismanagement and a compromise of corporate governance norms and risk management, including a severe mismatch between cash flows and payment obligations.[91] The episode underscored the continuing challenges of group governance and the monitoring of large, opaque financial conglomerates, prompting the Central Government to obtain the suspension and reconstitution of the board and to order an investigation by the Serious Fraud Investigation Office.

Together, these scandals demonstrated that formal compliance with governance norms is insufficient without substantive independence, rigorous internal controls, and effective enforcement. These lessons have shaped the progressive strengthening of India's corporate-governance architecture.

VI. Comparative analysis: Cadbury Report, Sarbanes-Oxley Act and the Indian framework

The Cadbury Report (1992), the Sarbanes-Oxley Act (2002) and the Indian corporate governance regime (principally the Companies Act, 2013 read with the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015) represent three distinct yet interrelated responses to the perennial problems of managerial accountability, financial integrity and investor protection. A structured comparison reveals both convergence on core institutional mechanisms and significant divergence in regulatory philosophy, intensity of prescription and enforcement architecture.

[90] Companies Act, No. 18 of 2013, § 132 (India); *cf.* Ministry of Company Affairs, *Report of the Expert Committee on Company Law* (2005) (pre-Satyam proposals for the new company law).
[91] *Hari Sankaran*, *supra* note 25.

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Aspect	Cadbury Report, 1992	Sarbanes-Oxley Act, 2002	Indian Framework (Companies Act, 2013 + SEBI LODR)
Country	United Kingdom	United States	India
Nature	Principles-based Code of Best Practice	Detailed statutory legislation	Hybrid: statute + detailed regulations
Primary Trigger	Financial reporting failures (Polly Peck, Coloroll), heightened by BCCI and Maxwell	Enron, WorldCom, Tyco, collapse of Arthur Andersen	Governance concerns + Satyam and subsequent scandals
Board Independence	Strong emphasis on non-executive directors	Indirectly strengthened via audit-committee independence	Explicitly and strongly regulated
Audit Committee	Recommended (at least 3 non-executives)	Mandatory, fully independent, with statutory powers	Statutorily and regulatorily mandatory, majority independent (two-thirds under LODR)
Internal Controls	Board responsibility to report on effectiveness	Rigorous statutory assessment + auditor attestation (s. 404)	Board responsibility + internal financial controls under Companies Act and LODR
Auditor Independence	Principles-based recommendations	Strict statutory prohibitions on non-audit services, partner rotation	Statutory and SEBI restrictions, audit-committee oversight
Whistleblowing	Limited; not a central feature	Strong statutory protection (s. 806)	Statutory vigil mechanism (s. 177) + SEBI requirements
Financial Disclosure	Improved balanced and understandable reporting	Extensive, including off-balance-sheet and certification	Extensive continuous and periodic disclosure requirements
Enforcement	Comply-or-explain via listing rules	Strong civil and criminal statutory enforcement	Statutory penalties + SEBI administrative enforcement
Overall Approach	Principles-based, flexible	Rules-based, prescriptive	Hybrid (principles + detailed rules)

Table 1: Comparative overview of corporate governance frameworks: Cadbury Report, Sarbanes-Oxley Act and the Indian regime

A. Principles-based versus rules-based governance

The most fundamental distinction lies in regulatory philosophy. The Cadbury Report deliberately adopted a principles-based, "comply or explain" model. Companies were expected to adhere to the spirit of the Code; departure was permissible provided a reasoned explanation was given to the market.[92] This approach prioritised flexibility, contextual adaptation and market discipline over rigid prescription.

[92] Cadbury Report, *supra* note 1, ¶¶ 3.1–3.7.

In sharp contrast, the Sarbanes-Oxley Act is a classic rules-based statute. It imposes detailed, mandatory requirements backed by civil and criminal sanctions. Certification obligations, internal-control assessments, and prohibitions on non-audit services leave little room for discretionary departure.[93]

India has evolved a hybrid model. The Companies Act, 2013 supplies the statutory foundation (board composition, director duties, audit committees, related-party transactions), while the SEBI LODR Regulations supply detailed, often more stringent, listing conditions. The result is a system that combines the mandatory force of statute with the continuous, disclosure-oriented refinement characteristic of securities regulation.[94] This hybrid character allows Indian regulators to respond relatively swiftly to emerging governance failures while retaining a degree of principles-based flexibility in certain areas.

B. Board independence

Cadbury placed non-executive directors at the heart of board effectiveness. It recommended that boards contain non-executive directors of sufficient calibre and number for their views to carry significant weight, and that the majority of non-executive directors be independent of the company.[95]

SOX does not directly prescribe board composition for the full board, but it indirectly strengthens independence by requiring that audit committees be composed entirely of independent directors and by imposing personal certification obligations on CEOs and CFOs.[96]

India has gone furthest in formalising independence. Section 149 of the Companies Act, 2013 mandates that at least one-third of the directors of listed companies be independent, and SEBI LODR Regulation 17 often requires a higher proportion (one-half) depending on the status of the chairperson. Detailed eligibility criteria, tenure limits, and performance-evaluation requirements further institutionalise independence.[97] Indian law thus treats independent directors as a structural necessity rather than merely a recommended best practice.

C. Audit committees

All three regimes recognise the audit committee as a critical gatekeeper of financial integrity, yet they differ in intensity.

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[93] Sarbanes-Oxley Act of 2002, *supra* note 47.
[94] Companies Act, No. 18 of 2013 (India); Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (India).
[95] Cadbury Report, *supra* note 1, ¶¶ 4.11–4.12.
[96] Sarbanes-Oxley Act of 2002 §§ 301, 302.
[97] Companies Act, No. 18 of 2013, § 149 (India); Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, reg. 17, *supra* note 94.

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Cadbury recommended an audit committee of at least three non-executive directors with written terms of reference dealing with its authority and duties.[98] SOX elevates the committee to a statutory organ directly responsible for the appointment, compensation and oversight of the external auditor, and requires complete independence of its members.[99] Indian law combines both approaches: Section 177 of the Companies Act requires a majority of independent directors, Regulation 18 of the LODR raises that to two-thirds and requires all members to be financially literate, and together they confer extensive powers including approval of related-party transactions and oversight of the vigil mechanism.[100] The Indian committee therefore enjoys both statutory status and detailed regulatory elaboration.

D. Financial reporting and disclosure

Cadbury insisted that boards present a "balanced and understandable" assessment of the company's position and that directors accept responsibility for the accounts.[101] SOX imposes far more extensive obligations: CEO/CFO certification under Section 302, enhanced disclosure of off-balance-sheet arrangements under Section 401, and detailed internal-control reporting under Section 404.[102] India requires comprehensive periodic and continuous disclosure under the LODR, directors' responsibility statements under Section 134 of the Companies Act, and CEO/CFO certification comparable to that under SOX.[103] The trajectory across the three regimes is toward greater personalisation of responsibility and more granular transparency.

E. Internal controls

Internal control constitutes one of the clearest points of divergence. Cadbury treated internal control as a board responsibility and recommended that directors report on its effectiveness.[104] SOX Section 404 transformed this into a rigorous, dual obligation: management must assess and report on the effectiveness of internal control over financial reporting, and the external auditor must attest to that assessment.[105] Indian law occupies an intermediate position. Section 134 requires a directors' responsibility statement affirming the adequacy of internal financial controls, while SEBI LODR and related guidance impose ongoing board and audit-committee

[98] Cadbury Report, *supra* note 1, ¶¶ 4.33–4.35.
[99] Sarbanes-Oxley Act of 2002 § 301, *supra* note 47.
[100] Companies Act, No. 18 of 2013, § 177 (India); Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, reg. 18.
[101] Cadbury Report, *supra* note 1, ¶¶ 4.47–4.50.
[102] Sarbanes-Oxley Act of 2002 §§ 302, 401, 404.
[103] Companies Act, No. 18 of 2013, § 134 (India); Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, reg. 17(8).
[104] Cadbury Report, *supra* note 1, ¶¶ 4.31–4.32.
[105] Sarbanes-Oxley Act of 2002 § 404.

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oversight.[106] The Indian approach is therefore more demanding than Cadbury but less formalistically burdensome than full SOX 404 attestation for most companies.

F. Auditor independence

Cadbury relied primarily on professional standards and the oversight role of the audit committee.[107] SOX introduced bright-line statutory prohibitions on a wide range of non-audit services, mandatory audit-partner rotation, and audit-committee pre-approval of all services.[108] India has adopted a similar restrictive stance through the Companies Act (auditor rotation, restrictions on non-audit services) and SEBI regulations, reinforced by the oversight of the National Financial Reporting Authority.[109] The movement from Cadbury's principles to the more prescriptive regimes of SOX and India reflects a loss of confidence in purely professional self-regulation.

G. Whistleblower and vigil mechanisms

Whistleblower protection was not a central concern of the Cadbury Report. SOX Section 806 created a robust federal cause of action with strong anti-retaliation protections, reinstatement rights and compensatory remedies.[110] India has institutionalised a "vigil mechanism" under Section 177 of the Companies Act and corresponding LODR requirements, obliging listed companies to establish channels for reporting genuine concerns and to protect whistleblowers from victimisation. While the Indian mechanism is more structured than Cadbury's silence, it remains less litigant-friendly and less elaborately remedial than the U.S. statutory scheme.

H. Director accountability

Cadbury reinforced the collective responsibility of the unitary board and the particular contribution of non-executive directors. SOX personalised accountability through certification requirements and expanded liability exposure. Indian law has gone further still by codifying an extensive catalogue of directors' duties in Section 166, including obligations to act in the best interests of the company, its employees, the shareholders and the community and for the protection of the environment, and by imposing personal liability for fraud under Section 447. The evolution reflects a progressive juridification of directorial responsibility.

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[106] Companies Act, No. 18 of 2013, § 134(5) (India); Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015.
[107] Cadbury Report, *supra* note 1, ¶¶ 5.1–5.10.
[108] Sarbanes-Oxley Act of 2002 §§ 201–03, 15 U.S.C. § 78j-1(g)–(j).
[109] Companies Act, No. 18 of 2013, §§ 132, 139–48 (India); Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015.
[110] Sarbanes-Oxley Act of 2002 § 806, 18 U.S.C. § 1514A.

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I. Shareholder protection

All three frameworks seek to enhance shareholder protection, but through different instruments. Cadbury emphasised improved information and the market's ability to react to explanations of non-compliance. SOX focused on the integrity of the information on which shareholders rely and on deterring fraud through severe penalties. India combines extensive disclosure obligations, mandatory shareholder approval for material related-party transactions, stronger minority-protection provisions, and SEBI's active enforcement powers.[111] The Indian regime is particularly attentive to the risks posed by concentrated promoter ownership, a structural feature less central to the dispersed-ownership assumptions underlying both Cadbury and SOX.

In sum, the comparative analysis demonstrates a clear evolutionary arc: from Cadbury's flexible, principles-based model, through SOX's intensive rules-based reaction to catastrophic failure, to India's hybrid system that seeks to combine statutory compulsion with regulatory adaptability. While institutional mechanisms (independent directors, audit committees, internal controls, disclosure) have converged, the underlying regulatory philosophies and enforcement intensities remain distinct, shaped by each jurisdiction's ownership structures, legal traditions and historical experience of scandal.

VII. Influence of international governance models on Indian law

Indian corporate governance reflects selective adaptation of international models rather than direct transplantation.[112]

The Cadbury Report's core principles (independent and non-executive directors, strengthened board oversight, audit committees, clearer separation of management and supervision, improved disclosure, and board accountability) were influential. These ideas shaped the Birla Committee recommendations, Clause 49, and later statutory provisions.[113] India, however, modified them to suit its promoter-dominated ownership structure by imposing mandatory independent-director thresholds, stricter related-party controls, and stronger minority protections.[114]

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[111] Companies Act, No. 18 of 2013, §§ 188, 241–45 (India); Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, reg. 23.
[112] Varottil, *supra* note 68.
[113] Securities & Exchange Board of India, *Report of the Committee Appointed by the SEBI on Corporate Governance under the Chairmanship of Shri Kumar Mangalam Birla*, *supra* note 70; Securities & Exchange Board of India, Clause 49 of the Listing Agreement, *supra* note 73.
[114] Companies Act, No. 18 of 2013, §§ 149, 177, 188 (India); Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, regs. 17, 18, 23.

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The Sarbanes-Oxley Act shows convergent rather than identical influence. Indian law displays comparable regulatory concerns in CEO/CFO and board responsibility for financial reporting, internal financial controls, the statutory Audit Committee under Section 177, the vigil mechanism as a form of whistleblower protection, enhanced auditor accountability, and extensive disclosure requirements under the Companies Act and SEBI LODR.[115] These features demonstrate regulatory learning and alignment with global standards, adapted to India's institutional context and enforcement realities.[116]

VIII. CONTEMPORARY RELEVANCE OF CORPORATE GOVERNANCE

The core principles of the Cadbury Report and Sarbanes-Oxley Act remain relevant, yet contemporary challenges reveal persistent gaps between formal rules and substantive outcomes.

Despite stronger laws, corporate fraud continues. Promoter dominance in India still enables controlling shareholders to influence boards and extract private benefits.[117] Formal independence of directors frequently fails to produce substantive independence, as information asymmetry and nomination processes often limit effective oversight.[118] Auditor independence remains vulnerable to commercial pressures, while related-party transactions continue to pose significant risks in promoter-led companies.[119] Whistleblower (vigil) mechanisms exist in law but face practical hurdles of retaliation fears and weak enforcement.

Governance has expanded beyond financial reporting to encompass ESG and sustainability, requiring boards to address environmental, social, and stakeholder responsibilities. Boards now confront cybersecurity, data breaches, AI-related risks, and digital fraud. Emerging questions of artificial intelligence and board governance further test traditional oversight models. These developments affirm that Cadbury's emphasis on independent judgement and SOX's focus on accountability retain enduring value, but require continuous adaptation to new ownership, technological, and societal realities.[120]

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[115] Companies Act, No. 18 of 2013, §§ 134, 177 (India); Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015; *cf.* Sarbanes-Oxley Act of 2002 §§ 301, 302, 404, 806.

[116] Afra Afsharipour, *Corporate Governance Convergence: Lessons from the Indian Experience*, 29 NW. J. INT'L L. & BUS. 335 (2009).

[117] Kaushiki Brahma, *Impact of Corporate Governance on Abusive Related Party Transactions in India: A Qualitative Content Analysis*, 24 IUP J. CORP. GOVERNANCE 67 (2025), https://doi.org/10.71329/iupjcg/2025.24.1.67-88.

[118] Varottil, *supra* note 68.

[119] *Cf.* Narendra Nath Kushwaha & Bipin Kumar Dixit, *The Satyam Effect on Related Party Loans in India*, 39 J. ACCT. AUDITING & FIN. 84 (2024), https://doi.org/10.1177/0148558X211048146 (finding that related party loans fell after Satyam, more markedly in firms with weaker external monitoring).

[120] Afsharipour, *supra* note 116.

IX. CRITICAL REFLECTIONS: THE LIMITS OF FORMAL GOVERNANCE FRAMEWORKS

The evolution of corporate governance from the Cadbury Report through the Sarbanes-Oxley Act to the contemporary Indian framework reveals a clear trajectory of progressive refinement. Cadbury established the foundational principles of independent oversight, board accountability, audit committees, and transparent disclosure through a flexible, principles-based "comply or explain" model. SOX responded to catastrophic failures by converting these concerns into detailed statutory obligations, personal certifications, rigorous internal-control assessments, and enhanced auditor independence. India has synthesised both approaches into a hybrid regime that combines statutory mandates under the Companies Act, 2013 with continuous regulatory refinement under the SEBI LODR framework.

The central finding of this study is that the primary challenge of corporate governance has shifted. The problem is no longer the absence of sophisticated rules. Comprehensive frameworks now exist across jurisdictions. The enduring difficulty lies in effective implementation and enforcement. Formal independence of directors does not always translate into substantive independence; statutory audit committees do not automatically ensure rigorous oversight; and disclosure obligations do not guarantee transparent decision-making when ownership concentration, weak market discipline, or limited regulatory capacity intervene. Future progress depends less on adding new rules and more on strengthening the practical operation, monitoring, and enforcement of the governance architecture already in place.

X. RECOMMENDATIONS

Drawing from the comparative analysis and the central finding that the principal challenge now lies in implementation rather than the absence of rules, the following recommendations are offered:

1. **Strengthen substantive independence.** Regulatory focus should move beyond formal eligibility criteria. Nomination processes, information access, and performance evaluation of independent directors must be redesigned to ensure genuine independence from promoter and management influence.
2. **Strengthen audit oversight.** Audit committees should be required to demonstrate active and documented engagement with internal controls, related-party transactions, and auditor independence, rather than merely fulfilling compositional and meeting requirements.

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3. **Improve whistleblower protection.** The vigil mechanism should be reinforced through stronger anti-retaliation safeguards, independent investigation channels, and clearer remedies for whistleblowers who face adverse action.
4. **Strengthen enforcement.** Regulators should prioritise timely investigation and proportionate, credible sanctions for governance breaches to enhance deterrence and market confidence.
5. **Improve board expertise.** Boards should be required to maintain collective competence in finance, risk management, cybersecurity, technology, and ESG matters, supported by regular independent evaluation and structured induction.
6. **Address promoter dominance.** Greater practical protection for minority shareholders is needed through stricter scrutiny of related-party transactions, enhanced disclosure of controlling-shareholder influence, and more effective remedies against oppression and mismanagement.
7. **Integrate emerging risks.** Corporate governance codes and regulations should expressly incorporate oversight responsibilities for artificial intelligence, cybersecurity, digital fraud, and sustainability risks, reflecting the expanded scope of modern board accountability.

XI. Conclusion

The evolution of corporate governance demonstrates a clear movement from voluntary and principles-based mechanisms towards increasingly formalised statutory and regulatory accountability. The Cadbury Report of 1992 established foundational principles of board accountability, independence, audit oversight and financial transparency through a flexible "comply or explain" model. The Sarbanes-Oxley Act of 2002 responded to major corporate scandals by converting these concerns into detailed statutory requirements concerning managerial certification, internal controls, auditor independence and whistleblower protection.

India subsequently developed a hybrid framework that incorporates comparable international governance principles through the Companies Act, 2013 and the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. These instruments adapted Cadbury-type principles of independent directors and audit committees, and reflected SOX-inspired concerns regarding financial responsibility and controls, while modifying them to address the realities of promoter-dominated ownership structures.

Despite this progressive refinement and regulatory convergence, corporate governance failures continue to occur. The central contemporary challenge is therefore no longer the absence of

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sophisticated rules. It lies in ensuring substantive independence of directors, meaningful audit oversight, effective enforcement, stronger protection of minority shareholders, and the capacity of boards to address emerging risks relating to ESG, cybersecurity, digital governance and artificial intelligence. Future progress will depend less on further rule-making and more on the practical implementation and enforcement of the governance architecture already in place.

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