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Beyond Compliance: A Jurisprudential Exploration of Corporate Accountability

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ABSTRACT

Corporate accountability is more than just following the rules; it's about balancing legal obligations with ethical responsibilities. This paper examines the question of what true accountability looks like in corporate governance by analysing key jurisprudential theories, including natural law, Fuller's inner morality of law, command theory, Kelsen's pure theory, and Hart's system theory. Using real-world examples like the Enron scandal, it highlights how simply meeting legal requirements often falls short of ensuring ethical corporate behaviour. The paper argues for a more nuanced approach—one that integrates the clarity of legal rules with the adaptability to reflect shifting societal expectations. By embracing this balance, corporations can move beyond box-ticking compliance and embed genuine accountability as a core value, building trust and fostering sustainable governance.

Keywords: *Corporate Accountability, Jurisprudence, Ethical responsibility, Legal frameworks, Governance ethics.*

I. INTRODUCTION

Logan Roy's remark in *Succession*, "The Law? The law is people. And people is politics," points to a corporate world where law can appear as flexible as those interpreting it. Both *Succession* and *The Big Short* portray corporate leaders manoeuvring within legal gray areas, prioritizing profit over ethics and seeing accountability as a hindrance rather than a legal responsibility. These portrayals underscore the paper's guiding question: *What does accountability look like in the corporate world, and what do jurisprudential theories reveal about it?*

This paper investigates corporate accountability from a jurisprudential perspective, analysing natural law, Fuller's inner morality, command theory, Kelsen's pure theory, and Hart's system theory. Each of these theories provides a lens to examine the tension between legal and ethical responsibility within corporate governance, clarifying the boundaries of accountability and the necessity of ethical commitments alongside legal mandates. Through this analysis, the paper addresses whether existing legal frameworks are sufficient for holding corporate leaders

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genuinely accountable or if new paradigms are required to meet evolving societal demands.

Jurisprudential theories illuminate the complexities of corporate accountability, highlighting both the strengths and limitations of existing structures in enforcing ethical conducts among corporate leaders. By applying these theories, the papers seeks to outline a framework that promotes genuinely accountability, balancing legal obligations with ethical responsibilities.

This paper adopts a theoretical approach, analysing corporate accountability through jurisprudential frameworks. Each theory offers distinct insights into the power dynamics, obligations, and ethical considerations surrounding corporate governance. The perspectives explored range from natural law's ethical imperatives to Fuller's principles of fairness, command theories of focus on compliance, Kelsen's structured legality, and Hart's adaptive system. Together, these frameworks enable a deeper understanding of the role of law in shaping ethical corporate conduct.

How can Jurisprudential theories help clarify the relationship between corporate accountability, legal obligations, and ethical responsibility?

II. THE JURISPRUDENTIAL QUESTION OF CORPORATE ACCOUNTABILITY

Corporate accountability transcends mere legal compliance; it intertwines legal and ethical responsibilities that corporate leaders must navigate within complex social, economic, and political systems.² Accountability involves both personal responsibility for leaders' actions and systemic accountability, which recognises that companies operate within a framework that shapes their behaviour.³ Striking the right balance between individual responsibility and systemic influence presents a critical challenge.⁴

Jurisprudential theories provide a nuanced view of corporate accountability, questioning whether legal rules alone can guarantee ethical behaviour in corporate governance.⁵ Legal regulations often set boundaries for acceptable conduct, yet they frequently overlook the ethical dilemmas that arise in business decisions.⁶ For instance, adhering to minimum legal requirements might allow corporations to meet compliance standards without embracing true ethical responsibility.⁷ Jurisprudential perspectives, therefore, prompt us to consider whether law can or should encompass ethical accountability potentially reshaping corporate law to hold

² Thomas Aquinas, *Summa Theologica* (2d ed. 1947); John Finnis, *Natural Law and Natural Rights* (2d ed. 2011).

³ Thomas Aquinas, *Summa Theologica*; Lon L. Fuller, *The Morality of Law* (rev. ed. 1969).

⁴ John Finnis, *Natural Law and Natural Rights*.

⁵ H.L.A. Hart, *The Concept of Law* (3d ed. 2012).

⁶ Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation* (1789); John Austin, *The Province of Jurisprudence Determined* (1995).

⁷ Hans Kelsen, *Pure Theory of Law* (2d ed. 1967).

leaders accountable to both legal and ethical standards.⁸

III. NATURAL LAW THEORIES AND FULLER'S INNER MORALITY OF LAW

Natural law is a philosophical perspective which holds that legal systems should be grounded in universal moral principles, principles that are inherently discernible through human reason and intended to be applicable across all societies. Figures like Thomas Aquinas argued that for laws to be legitimate, they must align with an intrinsic moral foundation.⁹ For corporate leaders, this view suggests that genuine accountability involves adherence not only to the law but also to moral principles such as fairness, respect, and societal welfare.¹⁰ Natural law implies that certain actions might be legally permissible yet morally indefensible if they contravene fundamental ethical standards.¹¹

John Finnis expands on Aquinas' principles, advocating for corporate decisions that respect human dignity and contribute to the common good.¹² In this context, corporate accountability transcends mere compliance; it requires corporate leaders to uphold universal moral principles, even where the law remains silent. This perspective has profound implications, particularly in instances of corporate malfeasance, where actions that technically adhere to the law may nonetheless violate ethical obligations.

Lon Fuller's inner morality of law emphasizes transparency, consistency, and congruence between a corporation's public commitments and its practices.¹³ Fuller's principles resonate in corporate governance, where leaders are accountable not only for adhering to regulations but also for embodying ethical values that inspire public trust. By upholding transparency and aligning corporate actions with declared values, corporations can cultivate a culture of accountability that goes beyond the minimum standards of legality.¹⁴

The Enron scandal, one of the most infamous corporate collapses in recent history, is a powerful example of what happens when profit is prioritized over ethical responsibility. Enron's executives used complex accounting techniques, like mark-to-market accounting, to inflate profits and hide debt, misleading investors, employees, and the public. While these practices exploited legal loopholes, they starkly violated moral principles like honesty and fairness. In natural law theory, figures like Aquinas would argue that actions cannot be justified simply

⁸ H.L.A. Hart, *The Concept of Law*; Lon L. Fuller, *The Morality of Law*; Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation*.

⁹ Thomas Aquinas, *Summa Theologica* (2d ed. 1947).

¹⁰ John Finnis, *Natural Law and Natural Rights* 276–80 (2d ed. 2011).

¹¹ John Finnis, *Natural Law and Natural Rights*.

¹² *Id.* at 220–25.

¹³ Lon L. Fuller, *The Morality of Law* 33–41 (rev. ed. 1969).

¹⁴ *Id.* at 51–60.

because they fall within legal boundaries—ethical considerations such as respect and societal welfare are essential.¹⁵ John Finnis further emphasizes that corporate leaders should act in ways that contribute to the common good, not just personal or organizational gain.¹⁶ This perspective shows the limitations of a purely legalistic approach to corporate governance, where actions might be technically lawful but still morally unacceptable. Enron's actions demonstrate that legality without ethics can lead to significant harm, as seen in the financial ruin of investors and the loss of employee pensions.¹⁷

From the perspective of Lon Fuller's inner morality of law, Enron's failure in transparency and consistency highlights a broader issue of corporate accountability. Fuller argued that for governance to be morally sound, there should be alignment between a corporation's public image and its internal practices. Enron's public image as a successful, innovative company was fundamentally at odds with its deceptive practices, leading to an erosion of public trust.¹⁸ The scandal is a reminder that following legal standards alone is not enough; true accountability requires a commitment to ethical principles that inspire public trust. Integrating natural law principles and Fuller's moral framework into corporate governance can help leaders build a culture of responsibility that goes beyond mere compliance, fostering integrity and trust in the business world.

IV. COMMAND THEORY AND CORPORATE LAW AS AUTHORITY-BASED COMPLIANCE

Command theory, advanced by Jeremy Bentham and John Austin, argues that laws derive authority not from morality but from the commands of a sovereign authority.¹⁹ Under this framework, law functions as a command that enforces compliance without regard to ethical considerations.²⁰ In corporate governance, this theory implies that accountability is synonymous with strict adherence to regulatory requirements, with ethical considerations secondary, if considered at all.²¹

The emphasis on obedience has both strengths and limitations. Command theory clarifies

¹⁵ Thomas Aquinas, *Summa Theologica* (1274), <https://www.sacred-texts.com/chr/aquinas/summa/index.htm> (last visited Nov. 3, 2024).

¹⁶ John Finnis, *Natural Law and Natural Rights* (2d ed. 2011).

¹⁷ Simon Bowers, *Enron Scandal at 20: The Enduring Legacy of Wall Street's "Gold Dust Machine,"* *The Guardian* (Nov. 14, 2021), <https://www.theguardian.com/business/2021/nov/14/enron-scandal-20-anniversary-wall-street-corporate-governance> (last visited Nov. 3, 2024).

¹⁸ Lon L. Fuller, *The Morality of Law* (1964).

¹⁹ Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation* (1789); John Austin, *The Province of Jurisprudence Determined* 13–15 (1995).

²⁰ John Austin, *The Province of Jurisprudence Determined* 20–23 (1995).

²¹ *Id.* at 23–25.

expectations by outlining strict rules that corporations must follow, often leading to enforceable standards that prevent misconduct.²² However, this model risks encouraging a culture where minimal compliance becomes the norm. For instance, during the 2008 financial crisis, financial institutions exploited legal loopholes, issuing risky loans while complying with the letter of the law.²³ This narrow focus on adherence without ethical commitment underscores the limitations of command theory when applied to corporate ethics, as it can inadvertently promote profit-seeking at the expense of broader societal responsibilities.²⁴

In contexts like India's Prevention of Corruption Act, command theory highlights how legal compliance does not necessarily equate to ethical responsibility.²⁵ Instances of companies using intermediaries to bypass anti-bribery regulations illustrate how strict adherence to legal requirements might foster superficial compliance rather than genuine accountability.²⁶ While command theory provides a structured framework for corporate law, it lacks mechanisms to encourage ethical responsibility, leaving a gap that other jurisprudential theories might address.²⁷

V. Kelsen's PURE THEORY OF LAW AND THE SYSTEMATIZATION OF CORPORATE NORMS

Hans Kelsen's Pure Theory of Law presents a model in which law operates as an autonomous system of norms, detached from ethical considerations.²⁸ Kelsen's theory centres on a foundational "Grundnorm" or basic norm, from which all subsequent legal rules derive validity.²⁹ This perspective implies that legal obligations are legitimate as long as they conform to established legal structures, regardless of moral implications.³⁰

Kelsen's theory has significant implications for corporate accountability, particularly in areas where legality and ethics do not align. For example, multinational corporations employing aggressive tax strategies might legally minimize tax obligations while disregarding ethical concerns about societal impact.³¹ Kelsen's approach, with its emphasis on structure over morality, permits corporations to act within legal boundaries even when their actions conflict

²² Id.

²³ Bethany McLean & Joe Nocera, *All the Devils Are Here: The Hidden History of the Financial Crisis* (2011).

²⁴ Id. at 51–53.

²⁵ Prevention of Corruption Act, 1988 (India).

²⁶ K. Anwer, Corporate Corruption in India: Ethical and Compliance Challenges, 45 J. Bus. Ethics 317, 325 (2019).

²⁷ Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation* (1789); John Austin, *The Province of Jurisprudence Determined*.

²⁸ Hans Kelsen, *Pure Theory of Law* 4–6 (2d ed. 1967).

²⁹ Id. at 7–8.

³⁰ Id. at 9–11.

³¹ Samuel L. Bray, Tax Avoidance and the Ethics of Pure Theory, 73 Law & Contemp. Probs. 91, 95 (2010).

with public expectations for fair corporate conduct.³²

However, Kelsen's model reveals its limitations when legal structures enable behaviour that violates ethical standards. For instance, companies like Apple and Amazon have faced criticism for leveraging tax havens and complex corporate structures to minimize their tax obligations, an approach that aligns with legal norms yet disregards broader ethical considerations regarding societal welfare.³³ Similarly, in India's telecom sector, companies exploited legal loopholes to avoid licensing fees, technically operating within the law but challenging public expectations of fairness and social responsibility.³⁴ These practices reveal a core limitation in Kelsen's theory: while it ensures legal consistency, it allows for corporate behaviours that, although legally sound, fall short of moral standards.³⁵ This underscores the need for frameworks that integrate ethical accountability into corporate governance, ensuring that companies do not merely adhere to legal norms but also fulfil broader societal responsibilities.³⁶ While Kelsen's theory upholds consistency in law, it often leaves space for corporate practices that, though legally sound, may lack moral integrity, emphasizing the need for complementary frameworks that incorporate ethical accountability.³⁷

VI. H.L.A. HART'S LAW AS A SYSTEM AND CORPORATE EVOLUTION

H.L.A. Hart's system theory advances a view of law as a system of primary and secondary rules.³⁸ Primary rules outline basic behavioural expectations, while secondary rules enable the legal system to adapt by establishing processes for creating, modifying, and enforcing primary rules.³⁹ Hart's theory is particularly relevant in corporate governance, where adaptability is essential to address emerging ethical and regulatory challenges.⁴⁰

Secondary rules allow corporate law to evolve in response to shifts in societal values, as seen in corporate social responsibility (CSR) initiatives. India's Companies Act 2013, which mandates CSR spending, exemplifies how secondary rules facilitate the integration of ethical

³² Hans Kelsen, *Pure Theory of Law* 14–15 (2d ed. 1967).

³³ Jennifer Rankin, *Amazon Facing EU Investigation Over Luxembourg Tax Deal*, *The Guardian* (Oct. 7, 2014), <https://www.theguardian.com/technology/2014/oct/07/amazon-eu-investigation-luxembourg-tax-deal> (last visited Nov. 3, 2024); Michael Forsythe & Walt Bogdanich, *How Apple Sidesteps Billions in Global Taxes*, *N.Y. Times* (Apr. 28, 2012), <https://www.nytimes.com/2012/04/29/business/apples-tax-strategy-aims-at-low-tax-states-and-nations.html> (last visited Nov. 3, 2024).

³⁴ Danish Khan & Aditi Shrivastava, *India's Telecom Giants Exploit Loopholes to Avoid Fees*, *Econ. Times* (June 5, 2019), <https://economictimes.indiatimes.com/industry/telecom/telecom-news/indias-telecom-giants-exploit-loopholes-to-avoid-fees/articleshow/69675924.cms> (last visited Nov. 3, 2024).

³⁵ Hans Kelsen, *Pure Theory of Law* (1967).

³⁶ John M. Darley, *How Organizations Socialize Individuals into Evildoing*, 95 *Harv. Bus. Rev.* 55 (2001).

³⁷ Samuel L. Bray, *Tax Avoidance and the Ethics of Pure Theory*, 73 *Law & Contemp. Probs.* 91, 98 (2010).

³⁸ H.L.A. Hart, *The Concept of Law* 79–88 (3d ed. 2012).

³⁹ *Id.* at 88–91.

⁴⁰ *Id.* at 94–97.

standards into corporate governance.⁴¹ This adaptability enables corporate law to remain responsive to societal demands, promoting accountability beyond simple legal compliance.⁴²

Hart's theory also illuminates the role of regulation in responding to ethical failings exposed by corporate scandals. The Sarbanes-Oxley Act in the U.S. arose from major corporate malfeasance cases, introducing stringent requirements for financial transparency and accountability.⁴³ Hart's framework suggests that secondary rules allow the law to adapt to such crises, aligning corporate governance with evolving public expectations and reinforcing ethical standards within legal boundaries.⁴⁴

VII. COMPARATIVE ANALYSIS OF THEORIES IN CORPORATE GOVERNANCE

The idea of a balanced approach recognizes that no single theory can fully address the ethical and legal complexities in corporate accountability today. Each theory offers a unique lens, but the reality is that corporations operate in a world where legal compliance and ethical responsibility are both crucial yet often at odds. A more integrated system, drawing on each theory's strengths, could better align corporate behaviour with both societal expectations and legal obligations.

Natural law emphasizes the importance of corporations adhering to universal moral standards such as honesty, justice, and respect for stakeholders, fostering ethical integrity beyond mere legal compliance.⁴⁵ While the application of these standards can be complicated by cultural and legal differences, natural law encourages corporations to recognize the intrinsic value of acting responsibly, particularly in global contexts where legal loopholes may exist. By embracing these principles, corporations can enhance their moral compass and make decisions that prioritize ethical considerations over what is legally permissible.

Command theory offers corporations a clear set of rules to follow, which can promote transparency and accountability in their operations. Yet, simply meeting the minimum legal requirements isn't enough; regulatory bodies can use this approach to create boundaries that help prevent companies from taking advantage of legal loopholes that could lead to harmful practices.⁴⁶ By establishing a strong baseline of expected behaviour, command theory helps

⁴¹ **Companies Act, 2013, § 135 (India).**

⁴² A. Chettri, Corporate Social Responsibility and Legal Adaptability: A Hartian Perspective, 40 *Bus. L. Rev.* 112, 115 (2019).

⁴³ **Sarbanes-Oxley Act of 2002, Pub. L. No. 107-204, 116 Stat. 745.**

⁴⁴ A. Chettri, Corporate Social Responsibility and Legal Adaptability: A Hartian Perspective, 40 *Bus. L. Rev.* 112, 118 (2019).

⁴⁵ John Finnis, *Natural Law and Natural Rights* 276–280 (2d ed. 2011).

⁴⁶ Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation* (1789); John Austin, *The Province of Jurisprudence Determined* 13–15 (1995).

ensure that corporations act responsibly and are held accountable for their actions.

Kelsen's pure theory brings predictability and stability to the regulatory environment, which is essential for corporations as they plan and ensure accountability. However, relying solely on this approach could lead to actions that ignore ethical considerations.⁴⁷ Therefore, it's crucial to establish laws that are clear, rational, and consistently applied, helping companies understand their responsibilities while also allowing room for ethical values, ensuring that following the law aligns with acting responsibly.

Hart's theory emphasizes the importance of adapting legal frameworks to reflect changing societal values, which is crucial as corporate practices and public expectations evolve.⁴⁸ By embracing this approach, laws governing corporations can be regularly updated to align with new ethical and economic realities, ensuring they remain relevant. This adaptability also allows society's values to shape corporate regulation, giving lawmakers the ability to respond to shifts toward sustainability, transparency, and social responsibility.

A well-balanced regulatory system should set clear laws that are consistently enforced while also being flexible enough to adapt to changing societal expectations. This way, corporate accountability moves beyond just checking boxes and encourages companies to truly invest in the well-being of society. By blending legal requirements with ethical considerations, we can create a culture where businesses not only follow the law but also take their social responsibilities to heart.

VIII. CONCLUSION

The study of Jurisprudential theories in corporate governance shows that no single approach captures the full complexity of holding corporations truly accountable. Natural Law and Fuller's inner morality emphasize the importance of ethical values, urging companies to consider social responsibility as equally important as profit. On the other hand, Command theory and Kelsen's Pure Theory highlight the necessity of clear and enforceable rules, focusing on regulatory consistency but often leaving ethical concerns aside. Hart's system theory offers a middle ground, providing flexibility to adjust society's changing needs while keeping the legal system intact.

Blending these perspectives could shape a more effective framework for corporate accountability- one that does not just enforce compliance but also encourages genuine ethical responsibility. This combined approach would allow policymakers to develop regulations that

⁴⁷ Hans Kelsen, *Pure Theory of Law* 9–11 (2d ed. 1967).

⁴⁸ H.L.A. Hart, *The Concept of Law* 94–97 (3d ed. 2012).

incorporate moral values where they are needed, uphold structured rules, and adapt to evolving social expectations. By aligning legal requirements with ethical principles, this framework could inspire corporations to go beyond merely “ticking the box” and embed accountability as a core part of their identity.

As corporations play an increasingly influential role in society, adopting an approach rooted in both legal and ethical accountability could help them contribute more meaningfully to society. Such a framework would balance the drive for profit with a commitment to the public good, creating a foundation for governance that is not only lawful but also trusted and sustainable.
