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UNDERSTANDING ESG AND ITS LEGAL LANDSCAPE IN INDIA

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I. ABSTRACT

This research explores the evolving legal landscape of Environmental, Social, and Governance (ESG) compliance in India, with a specific focus on its integration into the luxury fashion industry and mergers & acquisitions (M&A). ESG, once a peripheral concern, has now become central to corporate strategy, investment decisions, and brand reputation. The study traces ESG's global evolution anchored in frameworks such as the United Nations' *Who Cares Wins* report, the Global Reporting Initiative (GRI), and the Principles for Responsible Investment (PRI) and contextualizes its Indian adaptation through the Securities and Exchange Board of India's (SEBI) Business Responsibility and Sustainability Report (BRSR) mandate.

Through sector-specific analysis, the paper highlights the critical ESG risks within India's luxury fashion industry, including environmental pollution from textile production, labor exploitation in informal artisanal clusters, and governance gaps in family-run businesses. The lack of ESG compliance exposes Indian brands to reputational and investment risks, especially as global scrutiny intensifies following incidents like the Birkin-style bag scandal in China.

The research underscores the growing importance of ESG in M&A due diligence, where non-financial metrics such as ethical sourcing, carbon footprint, and board governance now influence deal valuations and post-acquisition performance. It also addresses jurisdictional overlaps between the National Green Tribunal (NGT) and National Company Law Tribunal (NCLT), posing challenges in ESG enforcement. Furthermore, the study reveals gaps in ESG reporting, standardization, data credibility, and the lack of independent assurance, particularly among mid-tier companies and Micro, Small and Medium Enterprises (MSMEs).

The paper concludes by advocating for culturally contextualized ESG frameworks, improved digital traceability, third-party certifications, and stronger regulatory coordination. For Indian companies to remain competitive in global markets, embedding ESG into core business models is not just advisable it is imperative.

Keywords: Environmental, Social, and Governance (ESG); India; luxury fashion; mergers & acquisitions (M&A); Securities and Exchange Board of India (SEBI); Business Responsibility and Sustainability Report (BRSR); Global Reporting Initiative (GRI); Principles for Responsible Investment (PRI); corporate governance; sustainability; due diligence

II. INTRODUCTION

Environmental, Social, and Governance (ESG) has transitioned from a voluntary ethical choice to a strategic and legal imperative in corporate management and investment. Globally

recognized frameworks such as the Global Reporting Initiative (GRI), the United Nations Principles for Responsible Investment (UN PRI), and the Task Force on Climate-related Financial Disclosures (TCFD) have standardized the

evaluation of sustainability risks and performance metrics. ESG compliance now plays a crucial role in investor decision-making, risk assessment, and corporate valuation.

In India, the regulatory emphasis on ESG has strengthened in recent years. The Securities and Exchange Board of India (SEBI) introduced the Business Responsibility and Sustainability Report (BRSR) to enhance transparency in non-financial disclosures. Applicable to the top 1,000 listed companies, the BRSR is structured around the National Guidelines for Responsible Business Conduct (NGRBCs) and includes essential and leadership indicators across environmental, social, and governance dimensions. This reflects a shift from narrative CSR-style disclosures to more structured, metric-driven ESG reporting.

However, the depth and quality of implementation vary significantly across sectors. While large listed entities have begun institutionalizing ESG policies, privately held firms—especially in the luxury fashion sector—often operate without formal ESG oversight. Many such businesses rely on informal labor systems, outsource production to unregulated vendors, and lack internal sustainability metrics, exposing them to risks such as regulatory non-compliance, reputational damage, and investment exclusion.

ESG considerations are also reshaping corporate transactions. Globally, due diligence in mergers and acquisitions (M&A) now routinely includes ESG evaluations to uncover liabilities and assess long-term value alignment. In India, though still nascent, this practice is gaining momentum as foreign investors increasingly expect Indian companies to align with international sustainability norms.

Compounding the issue are jurisdictional complexities. Environmental infractions may be governed by the National Green Tribunal (NGT), while governance breaches fall under the National Company Law Tribunal (NCLT). The absence of integrated oversight mechanisms and standardized ESG enforcement guidelines

creates regulatory uncertainty, especially in cases involving overlapping domains.

This study explores the intersection of ESG regulation, reporting, and risk in India. Focusing on its impact on luxury fashion and M&A activity, it evaluates existing frameworks, identifies implementation gaps, and proposes strategies to strengthen India's ESG ecosystem in a globally competitive environment.

III. UNDERSTANDING ESG: EVOLUTION AND IMPORTANCE

The concept of Environmental, Social, and Governance (ESG) has evolved from a peripheral concern to a central pillar in corporate strategy and investment decisions. Initially rooted in the principles of Corporate Social Responsibility (CSR), ESG has expanded to encompass a broader framework that assesses a company's ethical impact and sustainability practices.

A. Evolution of ESG

The term "ESG" gained prominence following the 2004 United Nations report titled *Who Cares Wins*, which emphasized the importance of integrating environmental, social, and governance factors into capital markets to enhance long-term investment performance and societal outcomes⁸². This marked a shift from traditional CSR, which often focused on philanthropic efforts, to a more comprehensive approach that considers the systemic impact of corporate activities.

Over time, ESG has been shaped by several global frameworks. The Global Reporting Initiative (GRI), launched in 1997, created detailed sustainability reporting guidelines that helped companies standardize the way they disclose ESG metrics⁸³. The Principles for Responsible Investment (PRI), introduced in 2006, encouraged investors to integrate ESG into decision-making.⁸⁴

⁸² UN Global Compact, *Who Cares Wins: Connecting Financial Markets to a Changing World* (2004) (last visited on April 22, 2025).

⁸³ Global Reporting Initiative (GRI), *About GRI*, <https://www.globalreporting.org>

⁸⁴ Principles for Responsible Investment (PRI), *What is the PRI?*, <https://www.unpri.org>

B. Importance of ESG

The integration of ESG into business operations and financial evaluations is no longer optional it's a strategic necessity. Multiple studies have shown that companies with strong ESG practices tend to experience better long-term financial performance, lower operational risks, and increased investor confidence⁸⁵. ESG is also critical from a reputational standpoint; today's consumers and stakeholders increasingly reward brands that reflect ethical, sustainable, and inclusive values.

Few judicial precedents made a mark as to why ESG is to be taken seriously. The Supreme Court of India recognized the "precautionary principle" and "polluter pays principle" as essential features of sustainable development, influencing environmental governance in India.⁸⁶ In response to the Oleum gas leak, the Supreme Court established the principle of absolute liability for industries engaged in hazardous activities, reinforcing corporate accountability.⁸⁷ The Supreme Court of India applied the Public Trust Doctrine, holding that the government has a duty to protect natural resources. The case involved the leasing of forest land to a private company, leading to environmental degradation.⁸⁸

In M&A transactions, ESG has become an indispensable part of risk assessment. Potential acquirers look closely at the ESG posture of target companies, understanding that undisclosed issues such as pollution, worker exploitation, or weak governance can lead to serious post-deal fallout⁸⁹. ESG due diligence helps mitigate those risks and improves the chances of sustainable integration.

C. ESG in India's Context

In India, ESG awareness has risen steadily. The Securities and Exchange Board of India (SEBI)

mandated top 1000 listed companies to file the Business Responsibility and Sustainability Report (BRSR), covering disclosures on nine core principles ranging from energy consumption to employee well-being⁹⁰. While this step has brought structure to ESG reporting, the implementation is still evolving, especially outside the listed space.

There was a modest beginning in 2007 when the Reserve Bank of India advised commercial banks to disclose information pertain to CSR and sustainability. In March 2019, a Committee constituted by the Ministry of Corporate Affairs released 'National Guidelines for Responsible Business Conduct' (NGRBCs)', the updated National Voluntary Guidelines.⁹¹

Luxury fashion in India stands at a unique crossroads. Many homegrown designer labels operate through privately held or family-run firms. These structures often lack robust ESG policies or board-level oversight. At the same time, the pressure to conform to global standards is mounting, particularly in light of recent international controversies.

One such case is the exposé on Birkin-style handbag production in China. Reports revealed that high-end handbags resembling the iconic Hermès Birkin were being manufactured under exploitative labour conditions, far removed from the artisanal image the brand projects⁹². This incident sparked global debate over what luxury really means and whether the industry is living up to its ethical claims.⁸ The scandal also serves as a warning to Indian brands with global ambitions: without ESG compliance, even legacy names can suffer credibility loss.

In addition to compliance challenges, another dimension that deserves attention is the **disparity in ESG literacy** across different layers of the Indian fashion ecosystem. While major players and export-oriented brands may have

⁸⁵ G. Friede, T. Busch, A. Bassen, "ESG and Financial Performance: Aggregated Evidence from More Than 2000 Empirical Studies," 5 Journal of Sustainable Finance & Investment 210 (2015).

⁸⁶ Vellore Citizens' Welfare Forum v. Union of India, (1996) 5 SCC 647

⁸⁷ M.C. Mehta v. Union of India, (1987) 1 SCC 395.

⁸⁸ M.C. Mehta v. Kamal Nath and Others, (1997) 1 SCC 388

⁸⁹ S. Kotsantonis, C. Pinney, G. Serafeim, "ESG Integration in Investment Management: Myths and Realities," 28 Journal of Applied Corporate Finance 10 (2016).

⁹⁰ SEBI, *Business Responsibility and Sustainability Report (BRSR) Framework Guidelines*, 2021.

⁹¹ Hema gwalani, ESG reporting – genesis and significance Vol. 48 No. 1 April 2022 (ISSN 2230 9241)

⁹² "The Truth About Birkin Bag Production and China's Role in Luxury Manufacturing," *Business of Fashion*, 2024

access to consultants and policy guidance, many mid-tier designers, boutique firms, and supply chain vendors are unaware of evolving ESG standards or how they apply in real-world operations. This information asymmetry widens the implementation gap.

Moreover, **consumer expectations within the Indian market are also beginning to evolve.** Urban, upper-middle-class consumers particularly in metros are increasingly aligning their purchasing decisions with values like sustainability, cruelty-free production, and social equity. A study in *F1000Research* found that incorporating ESG practices is becoming a decisive factor for fashion companies seeking long-term customer trust and market differentiation⁹³.

A critical element that has also emerged is the role of **institutional investors and private equity firms**, many of whom now incorporate ESG scoring models into their portfolio screening processes. A working paper published by the National Stock Exchange of India revealed that 62% of institutional investors are integrating ESG factors into investment decisions, citing improved long-term returns and enhanced brand image as motivating factors. ⁹⁴This indicates that companies lacking robust ESG practices may soon find themselves overlooked by both foreign and domestic investment channels.

In light of the Birkin bag controversy and similar international exposés, a stronger case is being made for **third-party verification mechanisms.** Independent sustainability audits and certification bodies such as the Global Organic Textile Standard (GOTS) or the Fair Trade mark are now becoming crucial differentiators in brand credibility. According to a 2023 review on LinkedIn, these certifications not only support

export eligibility but also enhance customer trust in a crowded marketplace.⁹⁵

Furthermore, **supply chain digitization** has begun to emerge as a key enabler of ESG transparency. Technologies like blockchain offer traceability from yarn to retail, ensuring tamper-proof documentation of sourcing and labor practices. Welspun India's launch of its Wel-Trak 2.0 platform, for example, represents one of the largest ESG-aligned traceability initiatives in the Indian textile sector. ⁹⁶This step toward digital accountability offers Indian luxury brands a competitive advantage in international retail partnerships.

Finally, the future of ESG in India's luxury fashion industry may well rest on **collaborative models.** Designers, NGOs, artisan groups, tech platforms, and investors need to co-create ESG frameworks that are culturally contextual, commercially viable, and globally competitive. The path ahead requires not only legal reforms and investor pressure but also storytelling, education, and grassroots mobilization.

IV. ESG in Mergers & Acquisitions

In today's business landscape, mergers and acquisitions (M&A) are no longer just financial or operational moves. They are deeply tied to questions of ethics, sustainability, and long-term value creation. As companies face increasing scrutiny from investors, regulators, and consumers, ESG considerations have become integral to how potential targets are evaluated and deals are executed.

A. ESG as a Value and Risk Factor

Traditionally, M&A due diligence focused on assets, liabilities, profitability, and legal compliance. However, recent shifts in global investment behaviour show a rising emphasis on non-financial risks particularly ESG factors. Investors and acquiring companies now assess targets based on how environmentally responsible they are, how they treat their

⁹³ Nirupama et al., "The Effectiveness of ESG and Sustainability on Luxury Brand Perception," *F1000Research*, 2023, <https://f1000research.com/articles/14-97/v1/pdf>

⁹⁴ National Stock Exchange of India, "Do ESG Scores Influence Institutional Ownership?" Working Paper, 2023

⁹⁵ Dev, F., "Beyond Fashion: Sustainability Certification in Indian Apparel," LinkedIn, 2023

⁹⁶ Apparel Resources, "Welspun India Launches Wel-Trak 2.0," 2023,

workforce, and how ethical and transparent their governance is⁹⁷.

According to a global survey by KPMG, nearly **70% of dealmakers** now consider ESG performance to be a key factor in determining the attractiveness and valuation of a target company⁹⁸. This is not just theoretical companies with strong ESG records often secure **higher valuation multiples** and investor confidence. Conversely, companies with poor ESG profiles might face discounted valuations or be excluded from consideration altogether.⁹⁹ The collapse of the Rana Plaza building, housing garment factories, led to over 1,100 deaths, prompting global scrutiny of labor practices in the fashion industry and the establishment of the Accord on Fire and Building Safety.¹⁰⁰

In fact, multiple academic studies have shown that ESG risks such as unresolved environmental liabilities or supply chain labour violations can reduce post-acquisition performance and cause reputational damage.¹⁰¹ In M&A, where integration is already complex, unresolved ESG issues can surface after a deal and destabilize the value of the transaction itself.

B. ESG Due Diligence: From Optional to Essential

Due diligence practices are evolving accordingly. A study in the *Journal of Applied Corporate Finance* notes that ESG due diligence is increasingly considered as essential as legal and financial checks¹⁰². It is no longer enough to simply assume compliance companies now want evidence of ethical sourcing, climate risk mitigation, workplace safety, and board independence.

⁹⁷ G. Serafeim, “The Role of the Corporation in Society: Implications for Mergers and Acquisitions,” 28 *Journal of Applied Corporate Finance* 8 (2016).

⁹⁸ KPMG, *ESG Due Diligence in M&A Transactions: Bridging the Gap*, 2022 (last visited on April 22, 2025).

⁹⁹ A. Kayser & H. Zülch, “Understanding the Relevance of Sustainability in Mergers and Acquisitions—A Systematic Literature Review,” 16 *Sustainability* 613 (2024).

¹⁰⁰ Bangladesh Accord Foundation v. Rana Plaza Building Owners, Dhaka District Court, 2013.

¹⁰¹ L. Wetsch, “Navigating the Effect of ESG in M&A,” *Journal of Corporation Law*, University of Iowa, 2024 (last visited on April 22, 2025).

¹⁰² S. Kotsantonis, C. Pinney, G. Serafeim, “ESG Integration in Investment Management: Myths and Realities,” 28 *Journal of Applied Corporate Finance* 10 (2016).

The due diligence checklist now often includes:

1. Review of sustainability reports and energy usage
2. Supply chain audits (especially for child labour or unsafe working conditions)
3. Assessment of carbon footprint and environmental permits
4. Examination of diversity, inclusion, and governance policies
5. Legal compliance with labour, environmental, and corporate law

This shift in practice signals a deeper change: **ESG is now part of risk management**, not a separate social responsibility item.

C. The Indian Scenario: Lagging but Catching Up

In India, however, ESG due diligence in M&A is still in its early stages. While the **Business Responsibility and Sustainability Report (BRSR)** introduced by SEBI marks an important step forward for listed companies, there is no mandatory framework that requires ESG-specific due diligence during acquisitions¹⁰³. This gap becomes critical in industries such as **luxury fashion**, where much of the sourcing and labour remains informal, undocumented, and potentially non-compliant.

The **Indian luxury fashion industry** is especially vulnerable to ESG-related risks, ranging from poor labour conditions in embroidery and textile workshops to unsustainable raw material sourcing. Many Indian designer brands still privately owned or part of loosely held partnerships do not have ESG oversight mechanisms in place. This makes them high-risk targets for larger corporates or international investors who prioritize sustainable acquisitions.

D. Global Examples and the Road Ahead

Globally, regulators are moving faster. The **European Union’s Corporate Sustainability Due**

¹⁰³ SEBI, *Business Responsibility and Sustainability Report (BRSR) Framework Guidelines*, 2021.

Diligence Directive (CSDDD), set to take effect across member states, will make ESG due diligence **mandatory** for large companies during acquisitions.¹⁰⁴ The **UK Modern Slavery Act** also requires companies to verify ethical labour practices across supply chains. These frameworks are pushing companies to treat ESG as a legal obligation during deal-making not just a reputational safeguard.

India, by contrast, is yet to impose similar regulatory burdens. However, Indian businesses particularly those entering into cross-border acquisitions or receiving foreign investment may find themselves contractually bound to meet these ESG expectations even in the absence of domestic mandates. ESG thus becomes both a legal blind spot and a strategic necessity.

As ESG becomes deeply embedded in M&A processes globally, Indian companies must catch up. This is especially true for the luxury fashion sector, where brand reputation is tightly tied to social and environmental credibility. In this context, ESG due diligence is not a box to tick it is a business imperative that determines whether an acquisition is viable, valuable, and ethically sound.

V. ESG Reporting Practices and Challenges in Indian Companies

As ESG becomes an essential framework for evaluating corporate sustainability and accountability, the reporting practices of Indian companies have come under increasing scrutiny. In 2021, the Securities and Exchange Board of India (SEBI) made it mandatory for the top 1,000 listed companies by market capitalization to file the Business Responsibility and Sustainability Report (BRSR) beginning FY2022-23. This shift from the earlier Business Responsibility Report (BRR) to BRSR represents a significant leap towards standardising ESG disclosures in India.¹⁰⁵

However, while this regulatory push marks an important milestone, the ground-level implementation reveals a number of structural, technical, and strategic challenges, particularly in sectors like fashion and among mid-sized and privately held enterprises. This section evaluates ESG reporting trends, common obstacles faced by Indian corporates, and the emerging need for data reliability, standardisation, and independent assurance.

A. The Evolution of ESG Reporting in India

The introduction of BRSR is rooted in India's National Guidelines for Responsible Business Conduct (NGRBCs), which outline nine core principles ranging from environmental stewardship to inclusive growth. The BRSR format builds upon these principles and provides a structured framework for disclosures across three ESG pillars environment, social, and governance.¹⁰⁶

Reports filed under BRSR include both qualitative disclosures and quantitative key performance indicators (KPIs). These are further divided into 'Essential Indicators' (mandatory) and 'Leadership Indicators' (voluntary but encouraged). This approach offers flexibility while driving companies toward higher transparency standards.

Leading companies like Infosys and Wipro have begun to submit comprehensive BRSRs, detailing their carbon emission goals, renewable energy usage, diversity ratios, and governance structures.¹⁰⁷ However, the consistency, clarity, and depth of these disclosures vary significantly across the broader market.

B. Sectoral Challenges: The Case of Luxury Fashion and MSMEs

While large tech and manufacturing companies have the capacity to adapt to these evolving standards, the Indian fashion sector, especially

¹⁰⁴ European Commission, *Corporate Sustainability Due Diligence Directive*, COM/2022/71 final.

¹⁰⁵ SEBI, *BRSR Format and Implementation Guidance*, 2021, https://www.sebi.gov.in/legal/circulars/jul-2021/business-responsibility-and-sustainability-reporting-brsr_50972.html

¹⁰⁶ Ministry of Corporate Affairs, *National Guidelines on Responsible Business Conduct*, 2019, <https://www.mca.gov.in/>

¹⁰⁷ Infosys Limited, *Business Responsibility and Sustainability Report FY2022-23*, <https://www.infosys.com>

luxury and artisanal segments, struggles with ESG reporting. Many designer-led fashion labels operate through closely held or family-run firms that lack robust ESG frameworks, internal audit systems, or a board-level compliance committee.

These businesses often outsource production to micro and small enterprises (MSMEs), which are typically informal, unregistered, and unfamiliar with structured documentation practices. This fragmentation of responsibility makes it difficult to gather ESG-relevant data across the supply chain.

Moreover, while ESG narratives are becoming popular in brand marketing, they are often not backed by verifiable or auditable data. This gap has given rise to accusations of greenwashing a phenomenon increasingly scrutinised by global and domestic investors alike.¹⁰⁸

C. Data Quality and Standardisation Gaps

One of the most critical challenges in ESG reporting in India is the lack of standardisation. Companies interpret BRSR indicators in varying ways, making it difficult to compare data across firms or sectors.¹⁰⁹

For instance, in the case of environmental disclosures, companies may report carbon emissions using different units or may not break down Scope 1, Scope 2, and Scope 3 emissions consistently. Likewise, the social metrics on employee well-being or community engagement are often narrated rather than quantified.

The lack of digital infrastructure, especially among MSMEs, further complicates reliable data collection. According to a 2023 study by the NSE Centre for Excellence in Corporate Governance, over 40% of BRSR-compliant companies admitted to facing difficulties in

collecting accurate ESG data due to lack of systemisation.¹¹⁰

D. Independent Assurance: The Next Step Forward

As ESG reports begin to influence investor decisions, there is a growing demand for third-party verification. Yet, unlike financial statements audited under statutory obligations, ESG disclosures remain largely unaudited.

The absence of ESG assurance creates a credibility gap. SEBI, in its 2023 consultation paper, recognised the need for assurance mechanisms and proposed that assurance for ESG disclosures should become mandatory in a phased manner¹¹¹. Leading audit firms like KPMG and Deloitte have also begun offering ESG assurance services, especially to large-cap firms aiming for global listings or sustainability-linked financing.

E. Case References: Infosys, Wipro, and Raymond

Infosys, in its FY2022-23 BRSR, disclosed its target of achieving carbon neutrality by 2040. It reported specific milestones achieved in reducing Scope 1 and Scope 2 emissions and outlined internal governance mechanisms such as the ESG Committee chaired by an independent director.¹¹²

Wipro, similarly, disclosed initiatives such as reducing freshwater use per employee, achieving 100% renewable energy sourcing at key facilities, and integrating ESG KPIs into management performance reviews.¹¹³

Raymond, one of India's oldest fashion and textile brands, presents a contrasting picture. While the company has committed to sustainable sourcing and reducing waste, its ESG reporting remains limited in scope.¹¹⁴ This

¹⁰⁸ Khaitan & Co., "Fashion Industry's Greenwashing Crisis and ESG Push," *Khaitan Legal Insights*, 20

¹⁰⁹ PwC India, *Decoding ESG Reporting in India*, 2023, <https://www.pwc.in/assets/pdfs/consulting/esg-reporting.pdf>

¹¹⁰ NSE Centre for Excellence in Corporate Governance, *Survey on ESG Reporting Challenges in India*, 2023, <https://nseindia.com/research>

¹¹¹ SEBI, *Consultation Paper on ESG Assurance*, 2023, <https://www.sebi.gov.in/reports-and-statistics/reports/jun-2023/consultation-paper-on-assurance-on-sustainability-reporting-71954.html>

¹¹² Infosys Limited, *BRSR FY2022-23*, <https://www.infosys.com>

¹¹³ Wipro Ltd., *Sustainability and BRSR Report FY2022-23*, <https://www.wipro.com>

¹¹⁴ Raymond Ltd., *Annual Report and ESG Highlights*, 2023, <https://www.raymond.in>

reflects a wider trend in the fashion industry, where consumer-facing claims are not always matched by robust internal tracking systems.

F. Conclusion

ESG reporting in India is at a pivotal moment. With regulatory frameworks like BRSR laying the groundwork, the focus must now shift toward improving data quality, achieving standardisation, and implementing independent assurance. This is particularly important for industries like fashion, where value chains are long, informal, and opaque.

India's future in ESG-aligned global trade, sustainable investment, and cross-border M&A will depend significantly on how companies improve the credibility and integrity of their ESG disclosures. There is a clear opportunity here to lead not just in compliance, but in building a resilient, transparent, and ethically grounded business environment.

VI. ESG Risks in the Indian Luxury Fashion Industry

India's luxury fashion sector is often celebrated for its craftsmanship, handwoven textiles, and traditional techniques. However, beneath the opulence lies a complex network of environmental, social, and governance (ESG) risks that threaten its sustainability and long-term legitimacy. As ESG emerges as a decisive factor in global mergers and acquisitions, Indian fashion brands especially those seeking investment or expansion must confront these issues head-on.

A. Environmental Risks

The environmental footprint of fashion in India is considerable. Textile dyeing is among the most polluting segments of the industry, with high levels of chemical discharge into water bodies and significant carbon emissions from production processes.¹¹⁵ The industry also consumes large volumes of water especially in cotton-based textiles and contributes to waste accumulation due to fast-fashion practices and

synthetic materials that resist biodegradation.¹¹⁶ Despite global efforts toward circular fashion, India's luxury segment has not consistently adopted sustainable alternatives like organic dyes or zero-waste designs.¹¹⁷

B. Social Risks

The "social" component of ESG is particularly critical in the Indian context, where a large portion of the fashion supply chain is informal, unregulated, and often hidden. Many luxury labels rely on artisan clusters or subcontracted karigars (skilled craftspersons), who frequently operate without formal employment contracts, fair wages, or social security.¹¹⁸ Studies have highlighted cases of gender-based wage discrimination, lack of safe working conditions, and exploitation in embroidery and zari work core components of Indian haute couture.¹¹⁹ While these artisans contribute to the global appeal of Indian fashion, their vulnerability reflects poorly on ESG compliance and invites reputational risks during acquisitions or brand partnerships.

C. Governance Gaps

Many luxury fashion houses in India are privately owned, family-led, or structured as small partnerships. These firms often lack formal governance policies, internal ESG oversight, or independent audit systems.¹²⁰ Unlike large listed companies that are required to file sustainability reports under SEBI's BRSR framework, these brands operate in regulatory blind spots, making it difficult for acquirers to assess ESG alignment. The absence of clear board structures, whistle-blower mechanisms, or ethical sourcing policies poses a major governance risk, particularly when such companies become acquisition targets.

D. A Global Reputation Risk

¹¹⁶ Ellen MacArthur Foundation, *A New Textiles Economy: Redesigning Fashion's Future* (2017).

¹¹⁷ C. Niinimäki et al., "The Environmental Price of Fast Fashion," 8 *Nature Reviews Earth & Environment* 189 (2020).

¹¹⁸ Fair Wear Foundation, *India Country Study 2021*

¹¹⁹ *India's garment worker abuse worsens, report says*, Vogue Business (2022)

¹²⁰ A.P.S. Sachan & A. Chugani, "A Strategic Overview of the Indian Fashion Industry with Apropos to Logistics and Sustainable Supply Chain Management," 7 *Int'l J. of Multidisciplinary Research and Analysis* 4558 (2024).

¹¹⁵ S. Thinakaran et al., "Analyzing the Challenges to Circular Economy in Indian Fashion Industry," *IEEE Access* (2022)

The recent Birkin-style handbag controversy in China which revealed the outsourcing of high-end leather production to exploitative, low-transparency factories shows how luxury brands are not immune to ESG failures. Indian labels, if not compliant, could face similar scrutiny on a global stage. With increasing international focus on sustainable fashion, the reputational damage from such exposures can undo decades of brand equity.

The ESG challenges facing Indian luxury fashion are systemic but not insurmountable. By formalizing artisan contracts, adopting sustainable production techniques, and building transparent governance systems, Indian brands can meet global ESG expectations. As the industry becomes increasingly intertwined with international markets and investors, ignoring these risks is no longer an option it's a liability.

VII. The Issue of Jurisdiction

A significant jurisdictional issue is brought up by India's growing acceptance and application of ESG standards, particularly when business choices have a negative impact on the environment. When an environmental issue and a corporate governance issue overlap, there is a jurisdictional grey area on where the ESG matters will be decided. Which tribunal the NCLT or the NGT will have primary jurisdiction? Could proceedings be held concurrently by both tribunals? If yes, how would disagreements over choices be resolved? Let us first examine the extent and jurisdiction of these two entities before delving into the matter of overlapping jurisdiction.¹²¹

While India's regulatory push for ESG compliance is gaining momentum, several nuanced and often overlooked challenges continue to undermine its effectiveness. These hurdles are not just procedural, but systemic ranging from data limitations to institutional overlap.

One of the most significant practical limitations lies in **data fragmentation and the lack of standardised metrics**. ESG data is often reported using varied formats, with companies relying on multiple internal systems, third-party consultants, or inconsistent disclosure frameworks. This not only makes cross-comparison difficult but also hinders accurate assessments by regulators and investors alike¹²². For luxury fashion brands, where ESG data might include supply chain emissions or artisan labor conditions, such inconsistency is a major barrier to credibility.

A related challenge is the **disproportionate burden faced by MSMEs and private firms**, especially prevalent in the Indian fashion sector. The cost of implementing ESG tools, hiring consultants, and obtaining certifications is often prohibitive for smaller firms. Furthermore, there is a clear shortage of professionals trained to collect, interpret, and report ESG data in a regulatory-compliant manner.¹²³

The **recognition of ESG rating agencies by SEBI** marks an important milestone in India's policy landscape. However, the absence of a central authority to accredit ESG evaluators creates confusion and undermines the reliability of published ratings.¹²⁴ This is particularly concerning in sectors like fashion, where greenwashing can easily mask exploitative practices.

Adding to the complexity is the **ambiguity in jurisdiction over ESG-related disputes and enforcement**. For instance, environmental breaches may fall under the National Green Tribunal (NGT), while governance failures or shareholder grievances may lie with the National Company Law Tribunal (NCLT). Such overlap can delay proceedings and dilute accountability, particularly when ESG violations span multiple dimensions of law.¹²⁵ A lack of coordination between agencies like SEBI, the

¹²¹ Kavya Agrawal, "Integration in India: Challenges, Progress, and Future Directions," *Indian Journal for Law and Legal Research*, October 1, 2024

¹²² Kavya Agrawal, "Integration in India: Challenges, Progress, and Future Directions," *Indian Journal for Law and Legal Research*, October 1, 2024, available at SSRN: <https://ssrn.com/abstract=5046202>

¹²³ *ibid*

¹²⁴ *ibid*

¹²⁵ *ibid*

MCA, and state pollution control boards further compounds the enforcement challenge.

India's ESG regime is also under **increased international scrutiny**. With institutional investors adhering to frameworks such as the UN Principles for Responsible Investment (UN PRI), SASB, and the GRI, Indian companies face mounting pressure to harmonise their disclosures and governance practices with global standards. This pressure is particularly intense for export-oriented luxury brands, where non-alignment could lead to divestment or exclusion from global retail platforms.

In conclusion, while regulatory intent is strong, the **execution of ESG enforcement in India remains mired in operational and jurisdictional inefficiencies**. Addressing these systemic gaps is essential not only for compliance but for ensuring that ESG becomes embedded in corporate DNA rather than treated as a one-time disclosure obligation.

VIII. Conclusion

The path to embedding ESG principles into India's corporate culture is not simply regulatory it is transformational. ESG, at its core, demands a shift in how businesses define success: moving beyond profit to include long-term resilience, stakeholder equity, and ethical responsibility. In the Indian context, this transformation must be multi-layered. It requires not just better laws, but a change in mindset from compliance out of obligation to integration by conviction.

The challenge lies in navigating structural and cultural barriers. ESG cannot be treated as a one-size-fits-all framework in a country as diverse as India. Tailoring ESG strategies to the realities of informal economies, decentralized supply chains, and varied corporate maturity levels is essential. For instance, empowering grassroots artisans with tools to self-report ethical practices or digitizing sustainability records in local languages can foster inclusivity within ESG ecosystems.

Furthermore, the role of education and awareness cannot be understated. ESG must be introduced into academic curricula, business leadership programs, and entrepreneurial training to cultivate a generation of decision-makers who view sustainability not as a trend but as a business imperative. Similarly, the media, civil society, and consumers must act as catalysts demanding accountability, amplifying transparent practices, and celebrating those who innovate ethically.

As India aspires to become a global economic leader, its businesses must align growth with integrity. ESG, if pursued with sincerity and contextual nuance, offers not just a compliance framework but a competitive edge. It is a vehicle to attract responsible capital, forge trustworthy global partnerships, and future-proof industries against socio-environmental shocks. The question is no longer *why* ESG, but *how well* and *how soon*. The future of Indian business depends on the answer.

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