

## MAJORITY MIGHT VS. MINORITY RIGHT: A CRITICAL ANALYSIS OF MINORITY SHAREHOLDER PROTECTION IN INDIAN CORPORATE GOVERNANCE

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### Abstract

The doctrine of majority rule forms the cornerstone of corporate governance; however, its rigid application often results in the subjugation of minority shareholders. The *Cyrus Mistry v. Tata Sons Ltd.* (2021) judgment rekindled the debate on whether Indian company law effectively safeguards minority interests against oppression by dominant shareholders. This paper examines the legal, judicial, and policy framework governing minority shareholder protection in India. It analyzes the statutory provisions under the Companies Act, 2013—particularly Sections 241–246—alongside judicial interpretation from landmark cases. The research also compares the Indian regime with that of the United Kingdom to identify structural and procedural gaps. The findings reveal that despite progressive legislation, minority shareholders remain vulnerable due to procedural thresholds, limited access to remedies, and discretionary judicial approaches. The paper concludes by proposing reforms aimed at fostering equitable corporate governance through transparency, accountability, and participatory inclusivity.

### Keywords

Minority Shareholders – Corporate Governance – Oppression and Mismanagement – Companies Act, 2013 – Shareholder Rights – Judicial Remedies – Comparative Analysis

### I. Introduction

The Indian corporate landscape was dramatically reshaped by the *Cyrus Mistry v. Tata Sons Ltd.*<sup>985</sup> judgment delivered by the Supreme Court in 2021. The case arose from a power struggle within one of India's most prestigious conglomerates, Tata Sons, following the ouster of Cyrus Mistry as Executive Chairman. Mistry alleged oppression and mismanagement under Sections 241–242 of the Companies Act, 2013, claiming that the majority shareholders—the Tata Trusts—had acted in a manner prejudicial to his interests and those of minority shareholders. The Court ultimately reinstated the authority of the majority, dismissing Mistry's plea. Yet, beyond the

corporate drama, the decision sparked profound discourse on the efficacy of minority protection in India, questioning whether legal safeguards truly ensure fairness in corporate governance.

Corporate law has long grappled with the tension between majority rule and minority rights. The principle of majority rule, traceable to *Foss v. Harbottle*,<sup>986</sup> upholds that the will of the majority shall prevail in the internal affairs of a company. While essential for operational efficiency, this principle may lead to abuse when the majority acts oppressively or contrary to the company's interest. The challenge, therefore, lies in balancing democratic decision-making with equitable protection—a

<sup>985</sup> . *Cyrus Investments Pvt. Ltd. v. Tata Sons Ltd.*, (2021) 6 SCC 1.

<sup>986</sup> *Foss v. Harbottle*, (1843) 67 Eng. Rep. 189 (Ch.).

task that India's evolving corporate jurisprudence continues to address.

The Companies Act, 2013, which replaced the 1956 Act, embodies this balance by incorporating enhanced remedies for minority shareholders.<sup>987</sup> Provisions such as Sections 241–246 address oppression and mismanagement, while Section 245 introduces class action—a collective mechanism enabling shareholders to challenge wrongful conduct by management or auditors.<sup>988</sup> Despite these measures, practical challenges remain: high eligibility thresholds under Section 244 restrict access to remedies, litigation costs deter small investors, and inconsistent tribunal interpretations dilute predictability.

This paper examines the evolution, scope, and effectiveness of India's minority shareholder protection regime. Beginning with historical developments, it explores the statutory safeguards under the Companies Act, 2013, judicial trends, comparative insights from the United Kingdom, and the structural challenges impeding effective enforcement.

## II. Evolution of Minority Shareholder Protection under Indian Company Law

### A. Common Law Foundations

The roots of minority shareholder protection lie in English common law, particularly the rule in *Foss v. Harbottle*,<sup>989</sup> which held that a company is a distinct legal entity, and wrongs done to it must be remedied by the company itself. Consequently, individual shareholders could not sue for corporate wrongs unless they fell within specific exceptions—such as acts that were ultra vires, fraudulent, or oppressive toward the minority.<sup>990</sup> The underlying rationale was to prevent multiplicity of litigation and uphold the principle of internal corporate democracy.

Indian company law, being modeled on the English system, adopted these principles but

gradually incorporated statutory safeguards recognizing India's distinct socio-economic context.<sup>991</sup> The early Companies Acts (1913 and 1956) provided limited recourse for minority shareholders, primarily under provisions relating to oppression and mismanagement. Over time, judicial interpretation expanded these remedies, integrating equitable doctrines to mitigate harshness arising from rigid adherence to the majority rule.

### B. Indian Judicial Development

The Indian judiciary has played a pivotal role in shaping minority protection. In *Shanti Prasad Jain v. Kalinga Tubes Ltd.*,<sup>992</sup> the Supreme Court articulated that oppression does not necessarily require illegality; even conduct that is burdensome, harsh, or wrongful could qualify. Similarly, in *Needle Industries (India) Ltd. v. Needle Industries Newey (India) Holding Ltd.*,<sup>993</sup> the Court emphasized equity, holding that relief under oppression provisions should restore fairness rather than merely penalize the majority.

Later cases such as *V.S. Krishnan v. Westfort Hi-Tech Hospital Ltd.*<sup>994</sup> reaffirmed that tribunals must look beyond procedural technicalities to determine whether majority conduct is prejudicial to the minority or the company's interest. These decisions collectively underscore India's shift from a strict legalistic to a substantive equitable approach, recognizing that the corporate entity must function within the bounds of fairness and good faith.

### III. Statutory Safeguards under the Companies Act, 2013

The Companies Act, 2013 modernized India's corporate legal framework, drawing inspiration from global best practices while retaining domestic peculiarities. It strengthened minority protection through procedural and substantive reforms aimed at curbing managerial abuse.

<sup>987</sup> Companies Act, 2013, No. 18 of 2013, § 241 (India).

<sup>988</sup> Companies Act, 2013, § 245.

<sup>989</sup> *Foss v. Harbottle*, (1843) 67 Eng. Rep. 189 (Ch.).

<sup>990</sup> A. Ramaiya, *Guide to the Companies Act 2632* (19th ed., LexisNexis 2022).

<sup>991</sup> Umakanth Varottil, *Minority Shareholder Protection in India: Evolution and Reform*, 4 *Indian J. Corp. L.* 27, 31 (2017).

<sup>992</sup> *Shanti Prasad Jain v. Kalinga Tubes Ltd.*, AIR 1965 SC 1535.

<sup>993</sup> *Needle Indus. (India) Ltd. v. Needle Indus. Newey (India) Holding Ltd.*, (1981) 3 SCC 333.

<sup>994</sup> *V.S. Krishnan v. Westfort Hi-Tech Hosp. Ltd.*, (2008) 3 SCC 363.

### A. Sections 241–246: Oppression and Mismanagement

Sections 241 to 246 of the Act constitute the core statutory protection for minority shareholders. Section 241 allows any member to apply to the National Company Law Tribunal (NCLT) if the company's affairs are conducted in a manner oppressive or prejudicial to the interests of members or the public.<sup>995</sup> Section 242 empowers the Tribunal to pass appropriate orders, including the regulation of company affairs, purchase of shares by other members, or termination of managerial appointments.<sup>996</sup>

Crucially, Section 244 prescribes eligibility thresholds: applicants must hold at least one-tenth of the issued share capital or represent not less than 100 members.<sup>997</sup> While intended to prevent frivolous claims, this requirement inadvertently excludes genuine grievances of small shareholders—undermining accessibility. The provision does, however, empower the Tribunal to waive these requirements in appropriate cases, affording flexibility.<sup>998</sup>

Section 245, introducing class action, represents a significant reform. It enables a group of shareholders or depositors to collectively sue the company, its directors, or auditors for fraudulent or oppressive acts.<sup>999</sup> This mechanism aligns with international practices—particularly the U.K. and U.S. derivative action frameworks—facilitating cost-effective, collective redress. However, procedural complexities and the absence of a robust representative litigation culture have limited its practical impact.

### B. Complementary Provisions and Remedies

Beyond the oppression and mismanagement regime, the Act also includes indirect safeguards:

- Section 188 restricts related-party transactions, minimizing conflicts of interest.<sup>1000</sup>
- Section 210 empowers the Central Government to order investigations into company affairs upon evidence of misconduct.<sup>1001</sup>
- Section 447 prescribes stringent penalties for fraud, protecting investor confidence.<sup>1002</sup>

Moreover, Securities and Exchange Board of India (SEBI) regulations, such as the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, enhance transparency by mandating disclosure norms and governance standards.<sup>1003</sup> These measures collectively reflect India's hybrid approach—blending company law remedies with securities regulation to ensure multi-layered protection.

### C. Judicial Interpretation Post-2013

The post-2013 jurisprudence illustrates a cautious judicial stance balancing corporate autonomy with minority rights. In *Cyrus Investments Pvt. Ltd. v. Tata Sons Ltd.*,<sup>1004</sup> the Supreme Court underscored that not every act unfavorable to a shareholder constitutes oppression; rather, the conduct must be burdensome, harsh, and wrongful, reflecting lack of probity.<sup>1005</sup> The Court emphasized deference to internal management unless statutory thresholds of oppression are clearly met. Critics argue that this approach reinforces majority dominance, diluting the remedial potential of Sections 241–242.

Conversely, in *Tata Consultancy Services Ltd. v. Cyrus Investments Pvt. Ltd.*,<sup>1006</sup> the National Company Law Appellate Tribunal (NCLAT) adopted a more interventionist view, reinstating

<sup>995</sup> Companies Act, 2013 sec 241

<sup>996</sup> Companies Act, 2013 sec 242

<sup>997</sup> Companies Act, 2013 sec 244(1)

<sup>998</sup> Companies Act, 2013 proviso 244(1)

<sup>999</sup> Companies Act, 2013 sec 245

<sup>1000</sup> Companies Act, 2013 sec 188

<sup>1001</sup> Companies Act, 2013 sec 210

<sup>1002</sup> Companies Act, 2013 sec 447

<sup>1003</sup> SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, Reg. 17–27.

<sup>1004</sup> *Cyrus Investments Pvt. Ltd. v. Tata Sons Ltd.*, (2021) 6 SCC 1.

<sup>1005</sup> *Cyrus Investments Pvt. Ltd. v. Tata Sons Ltd.*, (2021) 6 SCC 1. At 142–143.

<sup>1006</sup> *Tata Consultancy Servs. Ltd. v. Cyrus Investments Pvt. Ltd.*, (2019) SCC OnLine NCLAT 927.

Mistry as Executive Chairman before being overruled by the Supreme Court. The divergence highlights the interpretive uncertainty surrounding “oppression” and “prejudice,” leading to inconsistent outcomes.

The judiciary has nonetheless reaffirmed equitable principles. In *Darius Rutton Kavasmaneck v. Gharda Chemicals Ltd.*,<sup>1007</sup> the Supreme Court recognized that minority shareholders’ interests must be safeguarded against exclusionary conduct by the majority. Similarly, the NCLAT in *Vijay Kumar v. Frick India Ltd.*<sup>1008</sup> reiterated that the Tribunal’s duty is not merely to punish but to ensure corporate fairness and continuity.

#### IV. Comparative Perspective: United Kingdom and India

##### A. The U.K. Framework

The United Kingdom has been the cradle of modern company law and the primary influence on India’s corporate jurisprudence. The Companies Act, 2006 (U.K.) codifies minority protection through mechanisms such as unfair prejudice petitions under Section 994, derivative actions under Part 11, and just and equitable winding-up under Section 122(1)(g) of the Insolvency Act, 1986.<sup>1009</sup>

The unfair prejudice remedy is broader and more flexible than the Indian equivalent. It allows a shareholder to petition the court if the company’s affairs are conducted in a manner that is unfairly prejudicial to their interests. The remedy is accessible to any member without quantitative thresholds. The U.K. courts, particularly in *O’Neill v. Phillips*,<sup>1010</sup> have interpreted “unfair prejudice” expansively to encompass both legal wrongs and breaches of legitimate expectations arising from informal understandings. This adaptability enables equitable intervention in closely held companies, where relationships are built on

mutual confidence rather than rigid corporate formality.

The derivative action under the U.K. Act permits a shareholder to bring proceedings on behalf of the company for wrongs done to it.<sup>1011</sup> Judicial oversight ensures that such actions serve genuine corporate interests, filtering frivolous claims. Additionally, U.K. courts recognize informal shareholder agreements, allowing minority participants to claim equitable relief when majority conduct violates good faith principles.<sup>1012</sup>

Overall, the U.K. system emphasizes accessibility, judicial flexibility, and equitable protection, striking a fine balance between managerial autonomy and minority justice.

##### B. The Indian Position in Contrast

While India’s Companies Act, 2013, mirrors the U.K. model in many respects, it introduces procedural rigidity and statutory thresholds absent in the U.K. For instance, Section 244(1) requires a minimum of one-tenth of share capital or 100 members to initiate an oppression or mismanagement claim.<sup>1013</sup> In contrast, the U.K. Act allows any aggrieved shareholder to petition independently.

Moreover, the term “oppression” in Indian law carries a narrower connotation than “unfair prejudice.” Indian tribunals demand proof of conduct that is burdensome, harsh, and wrongful, often excluding cases where actions are merely unfair or inequitable.<sup>1014</sup> The Cyrus Mistry judgment exemplifies this conservative interpretation—upholding the supremacy of majority decision-making even when minority voices allege exclusion from governance.<sup>1015</sup>

Procedural delays and high litigation costs further dilute protection in India. Unlike the specialized Companies Court in the U.K., the National Company Law Tribunal (NCLT) is

<sup>1007</sup> *Darius Rutton Kavasmaneck v. Gharda Chems. Ltd.*, (2015) 7 SCC 291.

<sup>1008</sup> *Vijay Kumar v. Frick India Ltd.*, (2022) SCC OnLine NCLAT 72.

<sup>1009</sup> Companies Act 2006 (U.K.) § 994.

<sup>1010</sup> *O’Neill v. Phillips* [1999] 1 W.L.R. 1092 (H.L.).

<sup>1011</sup> Companies Act 2006 (U.K.) pt. 11.

<sup>1012</sup> *Needle Indus. (India) Ltd. v. Needle Indus. Newey (India) Holding Ltd.*, (1981) 3 S.C.C. 333.

<sup>1013</sup> *Cyrus Investments Pvt. Ltd. v. Tata Sons Ltd.*, (2021) 6 S.C.C. 1.

<sup>1014</sup> Umakanth Varottil, *The Evolution of Corporate Tribunals in India*, 10 *Indian J. L. & Pol’y* 121 (2022).

<sup>1015</sup> *Cyrus Investments Pvt. Ltd. v. Tata Sons Ltd.*, (2021) 6 S.C.C. 1.

burdened with a broad caseload including insolvency matters, resulting in inconsistent timelines and quality of adjudication.<sup>1016</sup> Additionally, while the U.K. has cultivated a robust culture of shareholder activism and institutional investor oversight, Indian corporate governance continues to be dominated by promoter families, making minority dissent culturally and structurally fragile.

### C. Lessons from the U.K. for India

A comparative evaluation reveals three crucial lessons:

1. Lowering procedural barriers – Removing or relaxing Section 244 thresholds would democratize access to remedies.
2. Broadening interpretive standards – Incorporating “unfair prejudice” as a statutory ground, akin to Section 994 of the U.K. Act, would empower courts to intervene where conduct is inequitable, even if not overtly oppressive.
3. Strengthening judicial specialization – Establishing dedicated benches within NCLT for shareholder disputes could enhance consistency and efficiency.

By internalizing these principles, India can move toward a more participatory and accountable model of corporate governance.

## V. Critical Evaluation of the Indian Regime

### A. Theoretical Balance between Democracy and Equity

At its core, corporate governance embodies a democratic paradox: efficiency demands majority control, yet justice requires minority protection. Indian law has historically leaned toward the former. The Cyrus Mistry decision reaffirmed that corporate decisions, once made by a competent majority, cannot be easily interfered with unless oppression is egregious and persistent.<sup>1017</sup> While this preserves

managerial freedom, it risks normalizing exclusionary practices in promoter-controlled entities.

In theory, Sections 241–246 seek to operationalize equity by allowing tribunal oversight; in practice, however, relief often hinges on proving both prejudice and lack of probity, a dual burden seldom met.<sup>1018</sup> Consequently, minority protection remains reactive rather than preventive—intervening post-injury rather than fostering continuous accountability.

### B. The Institutional Bottleneck

The NCLT and NCLAT, though conceptually progressive, face structural limitations. Case backlogs, procedural formalism, and uneven interpretive standards erode the timeliness and predictability of outcomes.<sup>1019</sup> Moreover, tribunal members often comprise individuals with insolvency or accounting backgrounds, lacking deep exposure to corporate equity jurisprudence.<sup>1020</sup> The resulting inconsistency dissuades investors from pursuing genuine grievances, reinforcing a perception of futility.

### C. Cultural and Structural Constraints

Indian corporate culture is dominated by family-owned businesses and promoter-driven enterprises, where decision-making authority is centralized. Minority shareholders often lack collective bargaining power or access to critical information.<sup>1021</sup> Although SEBI mandates periodic disclosures, informational asymmetry persists—particularly in unlisted or closely held companies. The absence of institutional activism further compounds this weakness.

Additionally, the social context of shareholder relations in India—where personal loyalty and family networks outweigh formal contractual safeguards—renders minority dissent socially undesirable. As a result, legal protections

<sup>1016</sup> Shanti Prasad Jain v. Kalanga Tubes Ltd., A.I.R. 1965 S.C. 1535.

<sup>1017</sup> Ministry of Corporate Affairs, Report of the Committee on Corporate Governance (2020).

<sup>1018</sup> Arun Duggal, Reimagining the NCLT: Structural Challenges and the Way Forward, *Econ. Times* (Mar. 2023).

<sup>1019</sup> World Bank, *Doing Business Report: Protecting Minority Investors in India* (2022).

<sup>1020</sup> *Swiss Ribbons Pvt. Ltd. v. Union of India*, (2019) 4 S.C.C. 17.

<sup>1021</sup> Companies Act, 2013, § 465 (India).

remain underutilized despite being statutorily available.

#### D. Fragmented Enforcement Mechanism

The overlap between the Companies Act, SEBI regulations, and Insolvency and Bankruptcy Code (IBC) leads to jurisdictional confusion. For instance, once insolvency proceedings are initiated under the IBC, shareholder oppression petitions are typically suspended, leaving minority members without recourse.<sup>1022</sup> The absence of harmonized jurisprudence among NCLT, SEBI, and the Supreme Court exacerbates uncertainty.

Thus, despite legislative sophistication, India's minority protection regime remains hindered by procedural, institutional, and cultural impediments that collectively dilute its remedial potential.

#### VI. Challenges to Effective Minority Protection in India

1. Procedural Thresholds under Section 244: The quantitative eligibility requirement limits access for small shareholders, contradicting the egalitarian spirit of corporate democracy.
2. Interpretive Ambiguity: The undefined contours of "oppression," "prejudice," and "mismanagement" lead to inconsistent adjudication.
3. Judicial Delay and Tribunal Overload: Prolonged litigation deters investor confidence and undermines the deterrent effect of remedies.
4. Promoter Dominance: Concentrated shareholding and insider control enable manipulation of company affairs without adequate accountability.
5. Weak Enforcement of SEBI Norms: Disclosure violations and related-party

abuses often go unpunished due to limited investigative capacity.

6. Lack of Investor Education and Collective Action: Minority shareholders rarely organize collectively to challenge managerial abuse, making Section 245 class actions largely dormant.
7. Overlapping Regulatory Jurisdictions: Conflicts between NCLT, SEBI, and IBC authorities create procedural deadlocks.

#### VII. Suggested Reforms

##### A. Legislative Reforms

1. Amend Section 244 to lower eligibility thresholds and explicitly empower the NCLT to waive requirements in all bona fide cases of minority harm.
2. Incorporate "Unfair Prejudice" Standard modeled on the U.K. Companies Act, 2006, expanding judicial discretion to address inequitable conduct.
3. Codify Fiduciary Duties of Majority Shareholders, recognizing that controlling members owe duties of good faith to the company and minority.
4. Mandate Independent Board Representation for minority interests in listed and large unlisted entities, ensuring transparency in key decisions.

##### B. Institutional and Judicial Reforms

1. Specialized Shareholder Benches within NCLT and NCLAT should be established with members trained in corporate equity jurisprudence.
2. Statutory Time Limits for disposal of oppression and mismanagement petitions should be enforced to ensure prompt relief.
3. Creation of a Minority Shareholder Ombudsman under the Ministry of Corporate Affairs to handle pre-litigation grievances through mediation.

<sup>1022</sup> National Company Law Tribunal Rules, 2016, r. 84 (India).

4. Integration of SEBI and MCA Databases to ensure real-time sharing of corporate compliance and investigation data.

### C. Cultural and Policy Reforms

1. Investor Awareness Programs by SEBI and professional institutes (ICSI, ICAI) to educate shareholders on their legal rights.
2. Encouragement of Institutional Activism by mutual funds and pension funds to monitor corporate conduct.
3. Corporate Governance Rating Systems, incorporating minority protection parameters as a criterion for credit and listing benefits.
4. Digital Platforms for Collective Action, enabling dispersed shareholders to organize petitions and communications through verified online systems.

Through these reforms, India can transition from a reactive, litigation-based model to a proactive, participatory governance culture.

### VIII. Conclusion

The *Cyrus Mistry v. Tata Sons Ltd.* judgment served as a stark reminder that legal recognition of minority rights is meaningless without practical enforceability. While India's Companies Act, 2013, aspires to create an equitable corporate order, its success depends on the accessibility and effectiveness of its remedies. The enduring tension between majority control and minority protection remains unresolved not for want of law, but for want of consistent interpretation and institutional vigor.

A robust minority protection framework is indispensable for corporate legitimacy, investor confidence, and economic growth. The convergence of statutory reform, judicial activism, and corporate ethics can recalibrate this balance. Drawing inspiration from global best practices, India must strengthen procedural inclusivity, enhance transparency,

and cultivate a governance ethos where fairness is not an exception but a norm.

In conclusion, the protection of minority shareholders is not merely a matter of legal compliance; it is a measure of corporate civilization. For India's corporate governance regime to mature into a truly just and sustainable system, it must ensure that the voice of the few is neither silenced by the power of the many nor lost in the machinery of law.

### References

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2. O'Neill v. Phillips [1999] 1 WLR 1092 (HL).
3. Companies Act, 2006 (U.K.), Part II.
4. Eillis Ferran, Principles of Corporate Finance Law 527 (3d ed., OUP 2020).
5. Companies Act, 2013 (India), sec 244(1).
6. Needle Indus. (India) Ltd. v. Needle Indus. Newey (India) Holding Ltd., (1981) 3 SCC 333.
7. Cyrus Investments Pvt. Ltd. v. Tata Sons Ltd., (2021) 6 SCC 1.
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