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The Silent Gatekeepers: The Impact of Absent In-House Legal Teams on Minority Shareholder Rights and the Business Judgment Rule in Indian Corporate Governance

Sneha Patidar^a Abhishek Rana^b

^aNational Law Institute University, Bhopal, India ^bNational Law Institute University, Bhopal, India

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In-house legal teams serve as critical gatekeepers in corporate governance, ensuring regulatory compliance, facilitating ethical decision-making, and protecting shareholder interests. In India, however, the role of general counsel and internal legal departments remains largely invisible and structurally weak, with no statutory mandate or formal recognition under the Companies Act, 2013, or the Advocates Act, 1961. This absence significantly undermines the protection of minority shareholders, leaving them reliant on costly and protracted external litigation to challenge potentially prejudicial board actions. Promoter-driven companies often exploit this gap, using the Business Judgment Rule to shield decisions that might otherwise be subject to scrutiny. This research examines the systemic deficits in Indian corporate law regarding internal legal oversight, analyses the consequences for minority shareholder rights, and highlights comparative insights from the United States, United Kingdom, and Australia. The study proposes actionable reforms, including statutory recognition of in-house legal teams, independent reporting channels, structured escalation protocols, and targeted training for independent directors, to empower general counsel as proactive guardians of corporate integrity. By institutionalising internal legal oversight, Indian companies can strengthen procedural fairness, mitigate governance failures, and ensure that minority shareholder rights are preserved as integral to the decision-making process.

Keywords: *in-house counsel, minority shareholder rights, business judgment rule, corporate governance, India.*

INTRODUCTION

In the intricate world of corporate governance, in-house legal teams are often described as the gatekeepers of compliance, ethics, and shareholder protection.¹ Globally, their presence within organisations is considered vital not only for navigating complex regulatory landscapes but also for safeguarding the interests of all stakeholders, including minority shareholders. In advanced economies, in-house counsel is empowered with statutory recognition, professional privileges, and a seat at the decision-making table, enabling them to pre-empt conflicts, ensure transparency, and mediate disputes before they escalate.

Yet, in India, the in-house legal function remains a silent, often invisible, gatekeeper. Unlike chief financial officers or company secretaries, general counsel and in-house legal teams are neither mandated by law nor formally recognised under the Companies Act 2013, or the Advocates Act 1961. Indian lawyers who join corporations as full-time employees are required to surrender their bar licenses, stripping them of the right to appear in court and denying them the professional privileges enjoyed by their counterparts in other jurisdictions.² This lack of statutory status and professional independence has far-reaching consequences for Indian corporate governance.

Most critically, the absence or weakness of in-house legal teams creates a significant barrier to the effective protection of minority shareholder rights. Without empowered legal counsel embedded within the company, minority shareholders are left with few internal avenues to raise concerns, challenge potentially prejudicial board decisions, or access timely information.³ Instead, they are forced to rely on costly, protracted external litigation, a process that is often inaccessible or impractical for smaller investors.

Moreover, in promoter-driven companies, this vacuum allows boards to invoke the business judgment rule (BJR) as a shield for decisions that may not withstand rigorous legal scrutiny,

¹ Sarah Helene Duggin, 'The Pivotal Role of the General Counsel in Promoting Corporate Integrity and Professional Responsibility' (2007) 51(4) Saint Louis University Law Journal

<<https://scholarship.law.slu.edu/cgi/viewcontent.cgi?article=1831&context=lj>> accessed 16 August 2025

² Sanjeev Gemawat, 'Recognising General Counsel under the Advocates Act and Bar Council Regulations' *Bar & Bench* (23 January 2025) <<https://www.barandbench.com/columns/recognising-general-counsel-under-the-advocates-act-and-bar-council-regulations>> accessed 16 August 2025

³ Solicitors Regulation Authority Code of Conduct 2011

further eroding the already fragile protections for minority shareholders. The result is a structural weakness in Indian corporate governance: the silent absence of in-house legal counsel not only diminishes corporate accountability but also undermines the meaningful exercise of minority shareholder activism and the fair application of the BJR.

THE LEGAL DEFICIT IN INDIAN COMPANIES

While India's largest conglomerates and multinationals have begun investing in robust in-house legal departments, the majority of Indian companies, especially non-IT, non-multinational, and promoter-driven firms, continue to operate with minimal or no in-house legal counsel.⁴

According to industry research, the in-house counsel movement in India is largely concentrated in major listed companies and MNCs. In contrast, a vast majority of Indian businesses, particularly SMEs and promoter-driven companies, either lack any in-house legal team or have only skeletal legal support. According to estimates reported, citing data from the Association of Corporate Counsel, India had approximately 12,000 in-house counsels as of 2023.⁵ In the same year, the Ministry of Corporate Affairs recorded over 1.64 million active companies across the country. This indicates that less than 0.75 per cent of active Indian companies maintain dedicated internal legal expertise, underscoring the systemic absence of in-house legal teams in the broader corporate landscape. This structural gap disproportionately affects minority shareholders, who are left without internal legal channels to monitor board decisions or challenge the misuse of mechanisms like the Business Judgment Rule.

Despite the critical importance of legal oversight, landmark Indian cases involving minority shareholder rights violations, such as the *Ramalinga Raju v State of Andhra Pradesh*, 2009 (*Satyam Computer Services Ltd. Scam*),⁶ the *Tata Sons Ltd. v Cyrus Investments Pvt. Ltd. &*

⁴ David B Wilkins and Vikramaditya S Khanna, 'Globalization and the Rise of the In-House Counsel Movement in India' in David B Wilkins et al. (eds), *The Indian Legal Profession in the Age of Globalization* (Cambridge University Press 2017)

⁵ Adv Priyanka, 'Career Opportunities as an in-house counsel in India' (*iPleaders*, 07 May 2024) <<https://blog.ipleaders.in/career-opportunities-as-an-in-house-counsel-in-india/>> accessed 16 August 2025

⁶ *M/S Satyam Computer Services Limited v Directorate of Enforcement, Government of India* (2018) SCC OnLine Hyd 787

Ors. (2021) dispute,⁷ and Yes Bank Ltd. Reconstruction (2020),⁸ cases do not discuss the role or actions of in-house legal counsel. Judicial records and regulatory findings in these cases focus on the conduct of boards, promoters, and external auditors but remain silent on whether in-house legal teams were present, consulted, or effective in addressing the underlying governance failures.

For instance, while the Yes Bank legal risk management team was awarded the Best In-House Legal Team of the Year 2023-24 by the India Business Law Journal for its active role in compliance and risk mitigation,⁹ the 2020 crisis involving minority shareholder losses and governance failures did not reflect any proactive intervention by the in-house legal team to protect minority interests.¹⁰ This highlights a critical gap: even where legal teams are active in regulatory risk management, their role in minority shareholder protection remains marginal or unacknowledged.

The evolving landscape of corporate law further expands the responsibilities of in-house legal teams. At the BW Legal World Annual Legal Leaders Conclave 2024, Justice Dipak Misra, Former Chief Justice of India, emphasised that in-house counsel must not only align corporate strategies with dynamic regulatory frameworks but also proactively engage in strategic risk management.¹¹ ESG initiatives and emerging legal domains such as AI ethics and data privacy. Justice Misra's observations underscore the argument that, in the absence of empowered in-house legal teams, Indian companies are ill-equipped to anticipate and prevent governance failures, especially those affecting minority shareholders, thereby reinforcing the urgent need for stronger internal legal oversight.

⁷ *Tata Consultancy Services Ltd v Cyrus Investments (P) Ltd* (2021) SCC OnLine SC 272

⁸ *Yes Bank Ltd v Dewan Housing Finance Corporate Ltd and Ors* (2021) 9 SCC 449

⁹ Katherine Abraham, 'In-House Counsel Award 2023-2024' (*India Business Law Journal*, 05 March 2024) <<https://law.asia/india-in-house-counsel-awards/>> accessed 11 July 2025

¹⁰ *Tata Consultancy Services Ltd v Cyrus Investments (P) Ltd* (2021) SCC OnLine SC 272

¹¹ 'Justice Dipak Misra Highlights Critical Role of In-House Counsel in Regulatory Compliance' (*BW Legal World*, 16 December 2024) <<https://www.bwlegalworld.com/article/justice-dipak-misra-highlights-critical-role-of-in-house-counsel-in-regulatory-compliance-542232>> accessed 11 July 2025

CONSEQUENCES FOR MINORITY SHAREHOLDERS IN THE ABSENCE OF IN-HOUSE LEGAL TEAMS

In-house legal teams, embedded presence, ensure that legal, ethical, and fiduciary duties are not merely symbolic but actively translated into company-wide practice.¹² In India, particularly in promoter-led and mid-sized enterprises, the absence of such teams has created a structural vacuum. For minority shareholders already limited in power¹³ and often excluded from corporate control, this absence removes their only internal line of defence.¹⁴ The result is a corporate environment in which procedural fairness collapses, legal breaches go undetected, and accountability must be chased through external litigation long after the harm is done.

Gatekeeping and the Collapse of Internal Justice: General counsel today performs far more than a liaison role with external lawyers. Their duties are now tri-fold: representation, counselling, and compliance. They represent companies in litigation and regulatory proceedings. They advise on legal risks and recommend preventative action through policies and training, and they serve a compliance function, ensuring that laws are followed and investigating violations before they escalate. This compliance function, known as gatekeeping, has grown in significance post-scandals like Enron and Tyco in the USA.¹⁵, which exposed how corporate lawyers' silence or complicity can enable fraud.¹⁶

In India, the absence of this gatekeeping function leads to a breakdown in internal justice. Allegations of boardroom impropriety, misuse of assets, or violations of fiduciary duty have no internal resolution mechanism.¹⁷ As seen in the Deccan Chronicle case, shareholder grievances had to be escalated to the National Company Law Tribunal (NCLT) because there

¹² Duggin (n 1)

¹³ Reeba Zachariah, 'Litigation-hit India Inc raises legal bar' *Times of India* (27 October 2013) <<https://timesofindia.indiatimes.com/business/india-business/litigation-hit-india-inc-raises-legal-bar/articleshow/24770214.cms>> accessed 11 July 2025

¹⁴ Pam Jenoff, 'Going Native: Incentive, Identity, and the Inherent Ethical Problem of In-House Counsel' (2012) 114(2) *West Virginia Law Review* <<https://researchrepository.wvu.edu/wvlr/vol114/iss2/10/>> accessed 11 July 2025

¹⁵ Roger C Cramton, 'Enron and the Corporate Lawyer: A Primer on Legal and Ethical Issues' (2002) 58(1) *The Business Lawyer* 143 <<https://www.jstor.org/stable/40688120>> accessed 08 October 2025

¹⁶ Z Jill Barclift, 'Corporate Responsibility: Ensuring Independent Judgment of the General Counsel - A Look at Stock Options' (2005) 81(1) *North Dakota Law Review* <<https://commons.und.edu/ndlr/vol81/iss1/1/>> accessed 11 July 2025

¹⁷ Companies Act 2013, ss 241 and 242

was no institutional mechanism within the company to intervene or investigate. For minority shareholders, this absence converts every internal concern into an external legal battle.

Absence of Ethical and Independent Legal Judgment: The defining virtue of a general counsel is not legal expertise alone but independence. The American Bar Association's Model Rule 2.1 requires lawyers to provide candid, independent advice even when it is unwelcome.¹⁸ In India, this principle is reflected in Section 166 of the Companies Act, 2013, which requires directors to act honestly, prioritise the interests of all stakeholders, and refrain from pursuing personal gain.¹⁹ However, Section 203, which prescribes key managerial personnel for certain companies, omits any mandatory appointment of a legal officer, leaving a critical oversight role vacant in many firms.²⁰

Without an independent legal conscience embedded in the company, directors are free to make decisions without real-time legal scrutiny. In-house lawyers often fear being perceived as obstructionist.²¹ This fear is amplified when legal teams report to the CEO or promoter rather than the board, weakening their autonomy.²² Consequently, lawyers are incentivised to support management's goals, even at the expense of the law. For minority shareholders, this means there is no one within the system to question or resist actions that may harm them.

Deepening Information Asymmetry and Governance Imbalance: Legal counsel is instrumental in fostering a culture of disclosure. They ensure that information is shared with all shareholders, not just a privileged few. Under Regulation 30 of SEBI's Listing Obligations and Disclosure Requirements (LODR), listed companies are required to disclose any material information that may influence investors' decisions.²³ However, when legal counsel is absent, such disclosures often occur selectively or not at all.

¹⁸ 'Rule 2.1: Advisor' (*American Bar Association*)

<https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_2_1_advisor/> accessed 11 July 2025

¹⁹ Companies Act 2013, s 166

²⁰ Companies Act 2013, s 203

²¹ E Norman Veasey and Christine T Di Guglielmo, 'The Tensions, Stresses, and Professional Responsibilities of the Lawyer for the Corporation' (2006) 62(1) *The Business Lawyer* 1

<https://www.researchgate.net/publication/254137519_The_Tensions_Stresses_and_Professional_Responsibilities_of_the_Lawyer_for_the_Corporation> accessed 11 July 2025

²² Cassandra Burke Robertson, 'Judgment, Identity, and Independence' (2009) 42(1) *Connecticut Law Review* 1 <https://digitalcommons.lib.uconn.edu/cgi/viewcontent.cgi?article=1041&context=law_review> accessed 11 July 2025

²³ SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015, reg 30

Professor Deborah DeMott argues that general counsel is uniquely placed to influence the company's internal attitude toward law and regulation. They help convert rules into culture. Without them, decisions such as related-party transactions or board appointments can be executed without informing minority shareholders.²⁴ In the Jindal Poly Films class action, shareholders alleged that board decisions affecting shareholder rights were passed without proper disclosure or explanation; had a general counsel been present to oversee this process, such gaps might have been identified and prevented.

Loss of Internal Investigative and Advisory Capacity: General counsel also plays a crucial role in internal investigations. They decide when concerns should be addressed internally, escalated to regulators, or disclosed to shareholders. They supervise due diligence, assess legal risks, and determine if shareholder approval is necessary under the Companies Act. In the absence of in-house counsel, particularly in companies exempt from Secretarial Audit under Section 204,²⁵ these questions are not raised at all. According to a 2024 study by Mimi and Shrivastava, over 70% of Indian mid-cap listed companies had no internal legal department. These companies reported higher compliance delays and repeated regulatory scrutiny.²⁶ For minority shareholders, the lack of internal review means that governance violations are often discovered only after damage is done.

Disempowerment of Independent Directors and Regulatory Oversight: Independent directors are tasked with protecting shareholder interests and ensuring accountability. However, their ability to challenge the board depends significantly on access to impartial legal advice. In a functioning governance system, general counsel briefs the audit committee, helps interpret legal documents, and warns against decisions that may violate law or policy.²⁷

In firms without legal teams, independent directors must rely on the very executives whose actions they are supposed to monitor. Your source notes that this blurring of lines results in

²⁴ Deborah A DeMott, 'The Discrete Roles of General Counsel' (2006) 74(3) Fordham Law Review 955 <<https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=4120&context=flr>> accessed 11 July 2025

²⁵ Companies Act 2013, s 204

²⁶ Kaustubh Goswami and Dr. Richa Shrivastava, 'The Legal Deficit: Absence of In-House Legal Teams in Indian Companies' (2025) 7(1) Indian Journal of Law & Legal Research <<https://www.ijllr.com/post/the-legal-deficit-absence-of-in-house-legal-teams-in-indian-companies>> accessed 11 July 2025

²⁷ Sr Carl D Liggio, 'A Look at the Role of Corporate Counsel: Back to the Future – Or Is It the Past?' (2002) 44 Arizona Law Review 621 <<https://journals.librarypublishing.arizona.edu/arizlrev/article/7771/galley/7149/download/>> accessed 11 July 2025

distorted incentives and poor oversight. Regulators like SEBI assume that internal governance actors, especially legal officers, will raise early red flags. Without them, regulatory intervention occurs only post-harm, by which time investor confidence is already compromised.²⁸

The combined result of all these gaps is a system where minority shareholders are forced into external litigation as a default. While Sections 241 and 242 of the Companies Act provide for remedies against oppression and mismanagement, pursuing these remedies is costly, lengthy, and often inefficient. *Tata Sons v Cyrus Mistry* case offers a telling example. The absence of effective internal legal resistance allowed procedural manipulations and marginalisation of minority voices to escalate into a corporate crisis that reached the Supreme Court.²⁹ In a company with a strong, independent legal function, many of these disputes could have been addressed internally, through dialogue or formal legal objections. Instead, shareholders and executives found themselves locked in public legal conflict symptomatic of governance failure at the structural level.

COMPARATIVE INSIGHTS: THE POSITION OF IN-HOUSE LEGAL COUNSEL IN THE US, AUSTRALIAN AND UK LEGAL FRAMEWORKS

United States: Statutory Mandates and Model Ethical Rules: In the United States, the regulation of in-house legal counsel is strongly influenced by federal laws and professional ethical standards. A key milestone in defining the gatekeeping role of corporate counsel was the Sarbanes-Oxley Act, 2002 (SOX), enacted in response to major corporate scandals like Enron and WorldCom. Section 307 of SOX places specific duties on attorneys, including in-house counsel, to report any evidence of material violations of securities laws or fiduciary duties up the ladder within the organisation, meaning to the Chief Legal Counsel, CEO, or Board of Directors. This formalises a lawyer's role in corporate compliance and ethics.

Furthermore, the ABA Model Rules of Professional Conduct, particularly Rule 1.13, explicitly articulate the duties of in-house counsel who represent the organisational entity rather than its individual constituents.³⁰ It mandates that if a lawyer knows of wrongdoing by an officer or employee that could harm the corporation, they must act in the best interest of the entity,

²⁸ SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015, reg 4(2)(f)(ii)

²⁹ *Tata Consultancy Services Ltd v Cyrus Investments (P) Ltd* (2021) SCC OnLine SC 272

³⁰ Model Rules of Pro Conduct 2003, r 1.13(a)

including reporting internally and, in some cases, even externally if permitted by law.³¹ These rules are not mere guidance; they are adopted, with modifications, by most US state bars and are enforced by state disciplinary bodies.

In practical terms, these legal standards elevate in-house counsel to a quasi-regulatory role. Their responsibility extends beyond internal legal advice to active prevention of corporate misconduct. The Enron scandal highlighted the consequences of corporate lawyers failing in this gatekeeping function, a point reinforced in the ABA Task Force's 2003 report recommending internal reporting protocols and legal autonomy within corporations.

United Kingdom: Ethical Regulation and Judicial Recognition: The Solicitors Regulation Authority's (SRA) Code of Conduct 2011, along with later regulations, sets out the ethical duties of solicitors, including in-house lawyers.³² The SRA Handbook requires all solicitors to uphold the rule of law, maintain independence, and act in the best interests of their client, which, for in-house lawyers, refers to the corporate organisation.³³ Rule 4 of the SRA Practice Framework Rules 2011 acknowledges the distinct role of in-house counsel, recognising their dual capacity as both employees and legal advisers.³⁴ This rule specifically requires solicitors to avoid compromising their independence and ensure legal compliance even in hierarchical corporate structures.

A significant judicial examination of the role of in-house counsel occurred in the UK Court of Appeal's decision in *Generics (UK) Ltd v Yeda Research & Development Co Ltd* [2012] EWCA Civ 726.³⁵ Sir Robin Jacob emphasised the lawyer-client relationship of in-house counsel, affirming their duty to uphold client confidentiality and legal integrity regardless of internal corporate pressure. By contrast, other justices treated in-house counsel more as employees than as independent legal actors, highlighting ongoing ambiguities in the understanding of their role. Nonetheless, UK courts and regulatory frameworks largely acknowledge the ethical autonomy of in-house counsel and the need for legal independence as a bulwark against corporate misconduct.

³¹ Model Rules of Pro Conduct 2003, r 1.13(b)–(c)

³² Solicitors Regulation Authority Code of Conduct 2011

³³ Solicitors Regulation Authority Code of Conduct 2011, s 1.2

³⁴ Solicitors Regulation Authority Code of Conduct 2011, r. 4

³⁵ *Generics (UK) Ltd v Yeda Research & Dev Co Ltd* [2012] EWCA (Civ) 726

Australia: Weak In-House Regulation and Its Consequences for Minority Shareholders:

Australia's regulatory framework for in-house counsel remains underdeveloped, with serious implications for minority shareholders. While in-house lawyers are formally governed by the Australian Solicitors' Conduct Rules, there is no dedicated guidance addressing the unique ethical challenges they face as employee-legal advisors. Unlike the US or UK, Australia lacks statutory provisions requiring in-house counsel to report wrongdoing to the board or regulators. This absence weakens internal legal oversight and limits the ability of general counsel to challenge boardroom decisions that may prejudice minority shareholders.

This gap is particularly significant in the context of the Business Judgment Rule under Section 180(2) of the Corporations Act 2001 (Cth), which protects directors from liability when decisions are made in good faith.³⁶ Without empowered legal gatekeepers, there is little internal resistance to board actions that may technically comply with formalities but harm shareholder equity. As Hindmarch and Meredith argue, Australian in-house lawyers are often left structurally conflicted and unsupported, preventing them from functioning as meaningful checks on managerial overreach.

Judicial decisions, such as *Waterford v Commonwealth* (1987), confirm that in-house lawyers enjoy legal privilege only if they demonstrate actual independence, something difficult without institutional backing.³⁷ In this environment, the BJR risks becoming a shield for majority abuse rather than a tool for accountable risk-taking, leaving minority shareholders exposed and without an effective internal ally.

POLICY AND LEGAL SOLUTIONS: EMPOWERING GENERAL COUNSEL TO PROTECT MINORITY SHAREHOLDERS AND REBALANCE THE BUSINESS JUDGMENT RULE

A governance structure that excludes or sidelines in-house legal counsel invites opacity and legal arbitrage, particularly at the expense of minority shareholders. Below are six integrated, actionable policy recommendations tailored to Indian corporate realities and inspired by international best practices and academic research.

³⁶ Corporations Act 2001, s 180(2)

³⁷ *Waterford v Commonwealth* [1987] HCA 25

Mandate Statutory In-House Legal Infrastructure in Key Companies: Currently, neither the Companies Act nor the SEBI (LODR) Regulations requires companies to have internal legal teams.³⁸ This must be changed. All listed companies and large unlisted public companies should be required by law to maintain a full-time General Counsel (GC) with an independent reporting structure. The GC should be involved in material decisions like board resolutions, shareholder communication, and risk assessments. Without this, the BJR may be invoked to shield director decisions that lack legal oversight, decisions that disproportionately harm minorities. This reform draws inspiration from Section 307, the US Sarbanes-Oxley Act, which mandates legal reporting of misconduct and ensures that general counsel is integrated into risk governance at the structural level.

Institutionalise Escalation Protocols and Independent GC–Board Communication: Boards, especially their independent members, often lack access to unfiltered legal insights. Drawing from ABA Task Force recommendations, Indian regulation should require that GCs routinely meet in executive session with independent directors or the audit committee. These sessions should focus on red-flag issues: non-compliance with SEBI norms, suppression of minority interests, or opaque related-party transactions, areas where the BJR is frequently misused.³⁹

Additionally, hiring, compensation, and removal of the GC should be overseen by a board-level committee to ensure that legal independence is preserved and not compromised by management influence.

Enhance Whistle-blower Channels with General Counsel as a Formal Node: While India has whistle-blower protections under Section 177(9) and Regulation 22 of LODR, these frameworks do not clearly empower GCs to act as protected channels. The Bio-Rad case in the US highlighted how general counsel can face retaliation when reporting misconduct internally, a risk that deters many from speaking up.⁴⁰ To fix this, SEBI should formally designate general counsel as a protected whistle-blower recipient, with guaranteed anonymity, non-retaliation provisions, and direct access to compliance committees. The messaging should be clear: reporting misconduct is a fiduciary act, not a breach of loyalty.

³⁸ SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015, reg 4

³⁹ SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015, reg 4(2)(f)(ii)

⁴⁰ *Wadler v Bio Rad Laboratories Inc* [2019] 916 F3d 1176 (9th Cir)

Pilot Secondment or Rotational Models to Preserve GC Independence: One of the boldest proposals, drawn from diplomatic service structures, is to rotate GCs through secondment models, e.g., seconding lawyers from law firms or pooled governance bodies for fixed terms. This prevents over-identification with management (going native) and reinforces the GC's loyalty to law and governance, not career preservation within one company. Although controversial, this model can be piloted in PSUs or systemically important listed entities, especially those with a history of governance failures. It would prevent lawyers from internalising the biases of promoters or executive culture over time.

Train Independent Directors to Recognise Legal Red Flags: Most directors are ill-equipped to assess whether board decisions are legally defensible or if the BJR is being used to mask unethical conduct. SEBI must mandate structured legal literacy training for all independent directors, including modules on:

1. Duties under Sections 149(6) and 166 of the Companies Act.⁴¹
2. When is shareholder consent mandatory?
3. How should in-house legal advice be escalated?

This would enable independent directors to better support the GC, challenge promoter-driven decisions, and ask legally relevant questions instead of relying solely on financial disclosures.

Reframe Legal Teams as Value Creators, Not Cost Centres: Companies often sideline legal teams due to cost concerns, outsourcing, or underestimation of their strategic utility. But as Laurent Geelhand, former GC of Michelin, has argued, modern legal teams should also be value generators, identifying regulatory arbitrage, mitigating long-term risks, and advising on sustainable structuring. SEBI and MCA can incentivise this by offering governance index benefits, reduced compliance load, or public recognition for companies that maintain active, well-integrated legal departments that report directly to the board.

CONCLUSION

The findings of this research reveal a structural imbalance in India's corporate governance architecture: while statutory frameworks emphasise board independence and shareholder

⁴¹ Companies Act 2013, ss 149(6) and 166

remedies, they neglect the foundational role of in-house legal counsel as an internal check on managerial discretion. This omission has practical consequences; it shifts the burden of accountability from preventive internal oversight to reactive external litigation, a process that is disproportionately costly and inaccessible for minority shareholders. The comparative analysis demonstrates that jurisdictions with statutory recognition of general counsel, coupled with clear ethical mandates, have been able to internalise legal risk management and minimise shareholder vulnerability. In India, by contrast, the optional and often subordinate positioning of legal teams within corporate hierarchies weakens their ability to challenge decisions shielded by the business judgment rule or to ensure procedural fairness at the decision-making stage.

Therefore, addressing minority shareholder protection is not solely about enhancing external remedies or stricter regulatory enforcement. It also requires a structural shift in corporate governance itself, one that empowers in-house counsel to act as independent gatekeepers, supported by statutory recognition, protected reporting lines, and clear professional autonomy. Such a reform would reposition minority shareholder rights from being reactive entitlements to proactive safeguards embedded within the corporate decision-making process, strengthening both investor confidence and the integrity of Indian capital markets.