Page: 264-286 URL: www.lijdlr.com

LAWFOYER INTERNATIONAL JOURNAL OF DOCTRINAL LEGAL RESEARCH

ISSN: 2583-7753

LawFoyer International Journal of Doctrinal Legal Research

[ISSN: 2583-7753]

Volume 3 | Issue 4

2025

DOI: https://doi.org/10.70183/lijdlr.2025.v03.129

INDEPENDENT DIRECTORS AND THE GREEN AGENDA: ALIGNING PHILIPPINE CORPORATE GOVERNANCE WITH GLOBAL ENVIRONMENTAL GOALS

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I. ABSTRACT

Corporate governance is undergoing a profound transformation as environmental, social, and governance (ESG) principles redefine how corporations are expected to operate within global markets. Traditional notions of governance, once centered primarily on shareholder value and profit maximization, are now being reimagined to include broader responsibilities toward society and the environment. This global shift recognizes that sustainable business practices are no longer optional moral aspirations but essential conditions for long-term corporate viability. The Philippines, while progressive in enacting the Revised Corporation Code of 2019 and the Securities and Exchange Commission (SEC) Code of Corporate Governance, continues to emphasize financial performance and shareholder protection over sustainability and stakeholder accountability. Although these frameworks mandate transparency, ethical conduct, and board independence, they remain largely silent on the environmental dimension of corporate responsibility. Independent directors appointed to safeguard fairness, integrity, and objectivity in board decision represent an untapped opportunity to advance the corporate "green agenda" by ensuring that environmental considerations form part of strategic governance. This research explores how independent directors can serve as catalysts for aligning Philippine corporate governance practices with global environmental goals. It employs doctrinal and comparative legal analysis to examine whether the fiduciary duties of independent directors under Philippine law can be interpreted to include environmental stewardship. By comparing the Philippine framework with international models such as the UK Corporate Governance Code, the U.S. Sarbanes-Oxley Act, and ASEAN sustainability frameworks, the study identifies best practices that could inform legal and policy reform. Ultimately, the research argues that empowering independent directors

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 (ISSN: 2583-7753)

with an explicit sustainability mandate would strengthen corporate accountability, enhance investor confidence, and contribute to the realization of the United Nations Sustainable Development Goals (UN SDGs). In doing so, it reimagines corporate governance not merely as a tool for market regulation but as an essential instrument for environmental protection and national development.

II. KEYWORDS

Corporate Governance, Environmental Sustainability, ESG Principles, Independent Directors, Sustainability Reporting

III. INTRODUCTION AND RESEARCH PROBLEM

Corporate governance in the twenty-first century has evolved beyond the narrow confines of profit maximization and shareholder primacy. Around the world, the traditional model of corporate oversight has shifted toward a more inclusive framework that considers social, ethical, and environmental impacts as essential dimensions of corporate accountability. The Organization for Economic Co-operation and Development (OECD) Principles of Corporate Governance, adopted globally, emphasize transparency, responsibility, and fairness not only to shareholders but also to broader stakeholder communities. This paradigm shift has introduced environmental sustainability as a critical consideration in boardroom decision-making.

In the Philippines, corporate governance reforms have followed a similar trajectory. The Revised Corporation Code of the Philippines (Republic Act No. 11232) strengthened the framework of accountability and transparency, while the Securities and Exchange Commission (SEC) issued a series of Memorandum Circulars, including the Code of Corporate Governance for Publicly Listed Companies (2016) and the Sustainability Reporting Guidelines (2019). These legal instruments introduced mechanisms for board independence, disclosure, and compliance. However, while these reforms improved financial governance, they remain largely silent on environmental accountability and sustainability integration.

Independent directors, defined as members of the board who have no material relationship with the corporation apart from their directorship, were introduced to Philippine corporate law as neutral overseers of management. Their presence ensures objectivity in corporate decision-making, mitigates conflicts of interest, and enhances investor confidence. Yet the question remains whether independent directors can extend their role beyond traditional oversight toward proactive advocacy for sustainability and environmental governance.

Globally, corporations have begun aligning their business strategies with the United Nations Sustainable Development Goals (UN SDGs) and the Paris Agreement on Climate Change, both of which urge private entities to contribute to climate resilience and environmental protection. In developed economies, independent directors are now expected to understand and evaluate environmental risks as part of their fiduciary obligations. However, in the Philippine setting, environmental concerns are often treated as compliance matters under the Clean Air Act of 1999, the Clean Water Act of 2004, or the Ecological Solid Waste Management Act of 2000, rather than as integral elements of governance strategy.

This disconnects between corporate governance and environmental stewardship poses a fundamental challenge. While corporations wield significant influence over environmental outcomes through their operations, investments, and policies, Philippine corporate boards rarely treat sustainability as a core governance concern. Instead, it remains peripheral, often delegated to environmental or compliance officers with limited board-level engagement.

Moreover, jurisprudence reflects the state's attempt to balance economic progress with environmental protection. In *Oposa v. Factoran*, the Supreme Court recognized the doctrine of intergenerational responsibility, affirming that the right to a balanced and healthful ecology transcends present interests.[2] Yet, despite such progressive environmental jurisprudence, corporate law has not yet caught up with this moral and

[2] *Oposa v. Factoran*, G.R. No. 101083, 224 SCRA 792 (1993).

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constitutional commitment. The disconnect suggests a legal and policy gap that independent directors—if properly empowered—could bridge.

Therefore, this study seeks to investigate the potential role of independent directors as key instruments for embedding environmental sustainability within Philippine corporate governance. It asks whether they can and should serve as guardians of environmental responsibility within the boardroom, much like they currently safeguard transparency and minority shareholder rights.

A. Research Problem

Corporate governance in the Philippines continues to prioritize shareholder value and financial metrics, while environmental sustainability remains marginal. Although independent directors have the statutory authority to oversee compliance and ensure ethical management, they lack a defined environmental oversight function. As a result, Philippine corporations are slow to adapt to global ESG standards.

This research addresses the central question:

"How can independent directors contribute to aligning corporate governance practices with environmental sustainability in the Philippines?"

It explores whether legislative, regulatory, or policy reforms are necessary to redefine their role in advancing the corporate green agenda.

B. RESEARCH OBJECTIVES

This research aims to analyze, interpret, and evaluate how independent directors can serve as catalysts in aligning Philippine corporate governance with the global environmental agenda. In particular, the study pursues the following objectives:

1. To analyze the legal and regulatory framework governing independent directors in the Philippines, with emphasis on their duties and responsibilities under the Revised Corporation Code of 2019, the Securities Regulation Code, and relevant SEC Memorandum Circulars;

2. To assess the degree to which environmental sustainability and ESG (Environmental, Social, and Governance) principles are incorporated within existing Philippine corporate governance practices;
3. To evaluate comparative international models—particularly those in the United States, United Kingdom, and ASEAN—where independent directors are empowered to promote ESG compliance and environmental accountability; and
4. To propose legal and policy reforms that will strengthen the capacity, authority, and accountability of independent directors in promoting environmental sustainability in the Philippine corporate sector.

These objectives collectively address the research problem by mapping the current legal terrain, identifying gaps, and recommending solutions consistent with the country's constitutional and international commitments to environmental protection.

C. RESEARCH QUESTIONS

The study seeks to answer the following questions:

1. What is the current legal and regulatory framework governing independent directors in the Philippines, and how does it define their fiduciary duties with respect to sustainability?
2. How do Philippine corporations presently incorporate (or fail to incorporate) environmental and sustainability objectives into their governance structures?
3. What can be learned from international best practices regarding the role of independent directors in ESG governance?
4. What legal or policy reforms are necessary to institutionalize the role of independent directors in advancing environmental sustainability within Philippine corporate governance?

These questions are designed to guide the analysis from doctrinal inquiry toward policy evaluation and reform.

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D. RESEARCH HYPOTHESES

In light of the preceding objectives and questions, the following hypotheses are proposed:

1. Independent directors in the Philippines are primarily tasked with financial and compliance oversight and lack an explicit environmental governance mandate under existing laws.
2. The absence of statutory or regulatory provisions integrating ESG and environmental objectives into corporate governance frameworks limits independent directors' effectiveness in promoting sustainability.
3. Incorporating sustainability and environmental accountability into the fiduciary duties of independent directors through legislative amendment and regulatory reform can significantly enhance corporate environmental performance and governance integrity.

These hypotheses operate as propositions to be evaluated through doctrinal interpretation, comparative analysis, and legal reasoning.

E. RESEARCH METHODOLOGY

1. Nature of the Study

This study employs a doctrinal legal research method, analyzing statutory texts, administrative issuances, and relevant jurisprudence to determine the extent of legal recognition afforded to independent directors in promoting sustainability. The doctrinal approach is complemented by comparative legal analysis, which examines the ESG-related roles of independent directors in jurisdictions with more mature sustainability frameworks.

2. Sources of Data

The study utilizes both primary and secondary legal sources:

- Primary sources include statutes, administrative regulations, and case law, such as the Revised Corporation Code (R.A. No. 11232), Securities Regulation Code, SEC Memorandum Circulars, and relevant Supreme Court decisions (*e.g., SEC v. Interport Resources Corp., G.R. No. 135808*).

- Secondary sources consist of law review articles, policy papers, and commentaries on corporate governance, ESG regulation, and sustainability law.

F. Method of Analysis

The analytical framework is structured around three components:

1. **Descriptive analysis** – identifying the current provisions and principles governing independent directors in the Philippines;
2. **Comparative analysis** – contrasting Philippine law with international and regional ESG governance frameworks; and
3. **Prescriptive analysis** – formulating normative recommendations for law and policy reform.

Each stage of analysis is grounded in the theoretical foundations of Agency Theory, Stakeholder Theory, and Corporate Social Responsibility (CSR) Theory, which collectively frame the evolving function of independent directors in balancing profit and public interest.

G. Scope and Limitations

The research focuses exclusively on publicly listed corporations in the Philippines where independent directors are mandatory under SEC regulations. Private and closely held corporations are excluded, as they operate under different governance dynamics. The study does not conduct quantitative surveys but relies on qualitative doctrinal review and case-based analysis.

International comparisons are used illustratively rather than exhaustively, and while they inform the recommendations, the proposed reforms are tailored to the Philippine socio-legal context.

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H. LITERATURE REVIEW

1. Theoretical Foundations of Corporate Governance and Sustainability

Corporate governance is traditionally defined as the system by which corporations are directed and controlled.[3] The separation of ownership and control identified by Berle and Means in *The Modern Corporation and Private Property* created the foundational problem of accountability between shareholders and managers.[4] This led to the development of Agency Theory, which explains corporate governance as a mechanism to mitigate conflicts of interest between principals (shareholders) and agents (directors and officers). Under this model, independent directors are viewed as external monitors who safeguard shareholder interests and ensure managerial accountability.[5]

However, scholars such as Freeman expanded the analysis through Stakeholder Theory, arguing that corporations have ethical duties not only to shareholders but also to employees, consumers, communities, and the environment.[6] This broader conception shifts the purpose of corporate governance from profit maximization to sustainable value creation. In the same vein, Corporate Social Responsibility (CSR) Theory emphasizes that corporations, as social institutions, must contribute to public welfare beyond compliance and profitability.[7] These theories collectively frame the rationale for integrating environmental sustainability into corporate governance systems.

In recent years, the global discourse on Environmental, Social, and Governance (ESG) criteria has redefined corporate responsibility, linking environmental performance with long-term financial resilience. Academic studies demonstrate that corporations integrating ESG principles tend to outperform their peers financially, attract socially

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[3] OECD Principles of Corporate Governance (2015)

[4] A.A. Berle & G.C. Means, *The Modern Corporation and Private Property* (1932)

[5] Michael C. Jensen & William H. Meckling, *Theory of the Firm: Managerial Behavior, Agency Costs and Ownership Structure*, 3 J. Fin. Econ. 305 (1976)

[6] R. Edward Freeman, *Strategic Management: A Stakeholder Approach* (1984)

[7] Archie B. Carroll, *The Pyramid of Corporate Social Responsibility: Toward the Moral Management of Organizational Stakeholders*, 34 Bus. Horizons 39 (1991)

responsible investors, and maintain stronger reputations.[8] As a result, ESG oversight has become a critical function of modern boards, with independent directors expected to exercise judgment on sustainability risks and opportunities.

2. Evolution of Corporate Governance in the Philippines

Corporate governance reform in the Philippines accelerated after the 1997 Asian financial crisis, which exposed systemic weaknesses in transparency and accountability. The Securities and Exchange Commission (SEC) responded by issuing the Code of Corporate Governance in 2002, subsequently updated to align with global standards. The most recent iteration the Code of Corporate Governance for Publicly Listed Companies (SEC Memorandum Circular No. 19, Series of 2016)—mandates at least two independent directors or 20 percent of the board, whichever is lesser.[9]

Independent directors are defined under Section 22 of the Revised Corporation Code of 2019 as individuals who are not officers, employees, or substantial shareholders of the corporation or any of its related entities. Their statutory role includes ensuring the integrity of financial statements, risk management, and compliance with applicable laws.[10] However, the Code remains silent on environmental governance responsibilities, reflecting a gap between emerging sustainability norms and statutory mandates.

In *SEC v. Interport Resources Corp.*,[11] the Supreme Court underscored the SEC's authority to enforce good corporate governance practices to protect investors and the public interest. Although the case primarily addressed disclosure irregularities, its reasoning supports the principle that directors must act not only with loyalty and diligence but also with fairness and accountability. Similarly, in *Gamboa v. Teves*,[12] the Court highlighted the importance of adhering to constitutional and statutory ownership structures to ensure that corporate conduct aligns with national policy objectives. These cases illustrate

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[8] Friede, Busch, & Bassen, *ESG and Financial Performance: Aggregated Evidence from More than 2000 Empirical Studies*, 5 J. Sustainable Fin. & Inv. 210 (2015)

[9] SEC Memorandum Circular No. 19, Series of 2016 (Phil.)

[10] Revised Corporation Code of the Philippines, Rep. Act No. 11232, §22 (2019)

[11] *SEC v. Interport Resources Corp., G.R. No. 135808, 567 SCRA 354 (October 6, 2008)*

[12] *Gamboa v. Teves*, G.R. No. 176579, 682 SCRA 397 (2012)

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how governance, legality, and public accountability intersect within Philippine corporate law, yet they fall short of articulating environmental duties within that framework.

3. Global Developments in Sustainability Governance

Internationally, corporate governance regimes have evolved to include sustainability as a core fiduciary concern. In the United States, the Sarbanes-Oxley Act of 2002 and the Dodd-Frank Act of 2010 strengthened director accountability and board independence. The U.S. Securities and Exchange Commission (SEC) has since advanced climate-related disclosure requirements, prompting independent directors to oversee corporate responses to environmental risk.[13]

The United Kingdom's Corporate Governance Code (2024) explicitly requires boards to promote the company's long-term sustainable success and to consider environmental and social factors in strategic decisions.[14] Independent non-executive directors are expected to challenge management and ensure that sustainability risks are appropriately managed. Within the ASEAN region, sustainability governance has gained traction. Malaysia's Corporate Governance Blueprint (2021) emphasizes ESG integration at the board level, while Singapore's Sustainability Reporting Guide (2016) requires listed companies to disclose environmental and social impacts.[15] Both jurisdictions provide comparative models for how Philippine law might evolve to formalize the sustainability role of independent directors.

4. Academic Discourse on ESG and the Role of Independent Directors

Legal scholarship increasingly recognizes the convergence of corporate governance and environmental law. For instance, Sjåfjell and Taylor argue that sustainability should be embedded within corporate purpose, rather than treated as peripheral compliance.[16] In

[13] U.S. SEC, *The Enhancement and Standardization of Climate-Related Disclosures for Investors*, 87 Fed. Reg. 21334 (Apr. 2022)
[14] UK Corporate Governance Code (Financial Reporting Council, 2024)
[15] Malaysia Securities Commission, *Corporate Governance Blueprint* (2021); Singapore Exchange, *Sustainability Reporting Guide* (2016)
[16] Beate Sjåfjell & Benjamin J. Richardson, *Company Law and Sustainability: Legal Barriers and Opportunities* (Cambridge Univ. Press 2015)

Asia, Han and Hong note that independent directors serve as institutional gatekeepers who can legitimize sustainability efforts by ensuring transparency and stakeholder engagement.[17]

Empirical research from the Harvard Law School Forum on Corporate Governance further indicates that companies with active ESG committees often chaired or overseen by independent directors demonstrate superior environmental performance and reduced litigation risk.[18] Thus, the role of independent directors has evolved from mere financial oversight to active participation in ethical, environmental, and social governance.

Despite this global trend, Philippine scholarship remains limited. Most local studies focus on board independence and minority shareholder protection, overlooking the intersection of environmental law and corporate governance. This research seeks to fill that gap by positioning independent directors as potential catalysts for environmental accountability within the Philippine corporate system.

I. RESEARCH & ANALYSIS

1. The Legal Framework for Independent Directors in the Philippines

The Revised Corporation Code of 2019 (RCC) modernized corporate governance in the Philippines by codifying principles of transparency and accountability. Section 22 defines an *independent director* as a board member who is not an officer, employee, or substantial shareholder of the corporation or any of its related entities. The purpose of this provision is to ensure that certain members of the board remain detached from management and therefore capable of exercising objective judgment.[19]

The Securities and Exchange Commission (SEC) expanded this statutory baseline through Memorandum Circular No. 19, Series of 2016, which requires every publicly listed company to maintain at least two independent directors or twenty percent of the board, whichever is lesser. The Circular enumerates the independent director's duties of

[17] Seung-Ho Han & Kyung-Sun Hong, *Independent Directors and Corporate Sustainability in Asia*, 12 Asian J. L. & Econ. 43 (2020)

[18] Harvard Law School Forum on Corporate Governance, *Board Oversight of ESG Issues* (2022)

[19] Revised Corporation Code, Rep. Act No. 11232 § 22 (2019)

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care, loyalty, and diligence, emphasizing oversight of audit, risk, and nomination committees.[20]

Despite these developments, the current framework does not expressly require independent directors to address environmental sustainability. Neither the RCC nor any SEC circular imposes a positive obligation to integrate environmental or ESG factors into corporate strategy. Consequently, independent directors' engagement with sustainability often depends on voluntary corporate policy rather than statutory compulsion.[21]

Still, recent administrative issuance demonstrates a gradual shift. The Securities and Exchange Commission (SEC) Memorandum Circular No 4, Series of 2019, adopting the *Sustainability Reporting Guidelines for Publicly Listed Companies*, mandates disclosure of material environmental and social issues.[22] This rule situates independent directors as potential overseers of ESG disclosures, because the board collectively is responsible for the integrity of reports submitted to the SEC. The Circular effectively provides a foothold for assigning environmental oversight duties to independent directors.[23]

In subsequent issuances, the SEC continued to expand sustainability-related governance obligations—through MC No 11, Series of 2022, on *Sustainable and Responsible Investment Funds*; MC No 3, Series of 2023, on *Sustainability-Linked Bonds*; MC No 4, Series of 2023, on *ASEAN Sustainable and Responsible Fund Standards*; and MC No 15, Series of 2023, on *Guidelines for Blue Bonds*.[24]

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[20] SEC Memorandum Circular No. 19, s. 2016 (Phil.)

[21] Id.

[22] Securities and Exchange Commission (Philippines), *SEC Memorandum Circular No 4, Series of 2019: Sustainability Reporting Guidelines for Publicly Listed Companies* (20 February 2019)

[23] SEC Memorandum Circular No. 4, s. 2019 (Phil.)

[24] Securities and Exchange Commission (Philippines), *SEC Memorandum Circular No 11, Series of 2022: Rules on Sustainable and Responsible Investment Funds* (15 August 2022); Securities and Exchange Commission (Philippines), *SEC Memorandum Circular No 3, Series of 2023: Guidelines on the Issuance of Sustainability-Linked Bonds under the ASEAN Sustainability-Linked Bond Standards* (10 March 2023); Securities and Exchange Commission (Philippines), *SEC Memorandum Circular No 4, Series of 2023: Adoption of the ASEAN Sustainable and Responsible Fund Standards (ASEAN SRFS)* (20 April 2023); Securities and Exchange Commission (Philippines), *SEC Memorandum Circular No 15, Series of 2023: Guidelines on Eligible Blue Projects and Activities for the Issuance of Blue Bonds in the Philippines* (15 November 2023).

2. Fiduciary Duties and the Green Mandate

The fiduciary duties of directors in Philippine law *obedience, loyalty,* and *diligence* are broad enough to encompass environmental accountability when interpreted purposively. The duty of obedience obliges directors to ensure corporate compliance with all applicable laws, including environmental statutes such as the Clean Air Act (R.A. 8749) and the Clean Water Act (R.A. 9275).[25] The duty of loyalty requires directors to act in the best interests of the corporation, which modern jurisprudence increasingly interprets as encompassing long-term sustainability rather than short-term profit.[26] Finally, the duty of diligence compels directors to act with the care of a prudent businessperson, which in the twenty-first century necessarily involves understanding environmental risk exposure.

In *SEC v. Interport Resources Corp.*, the Supreme Court held that corporate directors must exercise a "high degree of diligence" in protecting both investors and the public interest.[27] Corporate governance frameworks should be adaptable to changing circumstances and new risks," which underpins the concept of evolving fiduciary standards[28]. Hence, when climate-related financial risk becomes material to corporate survival, failure to consider such risk could constitute a breach of fiduciary duty.

Similarly, the Court in *Gamboa v. Teves* stressed that corporate acts must align with constitutional policy and national interest.[29] By analogy, the constitutional right to "a balanced and healthful ecology" under Article II, Section 16 provides a normative basis for interpreting corporate duties in favor of environmental protection. Thus, independent directors tasked with ensuring legal compliance and ethical management should be viewed as stewards of this constitutional value within the corporate sphere.

3. Comparative International Practice

[25] Clean Air Act, Rep. Act No. 8749 (1999); Clean Water Act, Rep. Act No. 9275 (2004)
[26] OECD Principles of Corporate Governance (2015)
[27] *SEC v. Interport Resources Corp., G.R. No. 135808, 567 SCRA 354 (October 6, 2008)*
[28] Organisation for Economic Co-operation & Development, *G20/OECD Principles of Corporate Governance* 11 (2015)
[29] *Gamboa v. Teves*, G.R. No. 176579, 682 SCRA 397 (2012)

- **United States**

In the United States, independent directors play an increasingly proactive role in sustainability governance. Following the *Sarbanes–Oxley Act 2002*, most listed corporations have established audit and risk committees composed entirely of independent directors to strengthen internal control and oversight.[30] Many companies, such as Apple Inc. and Microsoft Corporation, have gone further by creating dedicated sustainability or ESG committees responsible for integrating climate-related risk into enterprise management and board strategy.[31]

The *Securities and Exchange Commission (SEC)*'s proposed 2022 climate-related disclosure rules require directors to certify the accuracy of ESG and climate-risk data,[32] effectively aligning sustainability oversight with fiduciary obligations. Failure to ensure reliable disclosure may result in enforcement actions for material misstatements or omissions. Boards of leading companies now link key performance indicators (KPIs) such as carbon reduction and diversity metrics to executive compensation,[33] with firms like Alphabet Inc. and Johnson & Johnson disclosing ESG-linked pay structures in their proxy statements.[34]

- **United Kingdom**

In the United Kingdom, the *UK Corporate Governance Code (2024)* directs boards to ensure the "long-term sustainable success of the company." [35] Independent non-executive directors are required to scrutinize ESG risks and ensure responsible stewardship. The *Financial Reporting Council (FRC)* integrates sustainability into risk management frameworks, board evaluation, and remuneration policy.[36]

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[30] *Sarbanes–Oxley Act 2002* (Public Law 107–204, 116 Stat 745)
[31] Microsoft Corporation, *2024 Environmental Sustainability Report* (2024)
[32] US Securities and Exchange Commission, 'The Enhancement and Standardization of Climate-Related Disclosures for Investors' (Proposed Rule, 2022)
[33] Apple Inc, *Proxy Statement 2024* (Form DEF 14A, filed 10 May 2024)
[34] Johnson & Johnson, *Proxy Statement 2024* (Form DEF 14A, filed 12 April 2024)
[35] Financial Reporting Council, *The UK Corporate Governance Code* (FRC 2024)
[36] ibid, s 1.2.

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Many UK-listed firms have created sustainability committees chaired by independent directors such as Unilever plc and BP plc to oversee environmental performance indicators and progress toward net-zero goals.[37] The *London Stock Exchange* further requires ESG disclosure in annual reports, enhancing investor transparency and accountability.[38]

- **ASEAN Jurisdictions**

In ASEAN, Malaysia and Singapore have implemented frameworks assigning explicit ESG oversight roles to independent directors. The *Malaysian Code on Corporate Governance 2021* requires boards to integrate sustainability into strategy and mandates independent directors to review sustainability reports.[39] *Petronas* and *Maybank* have sustainability committees that track carbon-transition risks and gender diversity metrics.[40]

Singapore's *Sustainability Reporting Guide (2016)* and SGX Listing Rules mandate annual ESG reporting, requiring independent directors to ensure credibility and reliability of data.[41] *DBS Bank* and *Singapore Airlines* tie executive remuneration to ESG performance, embedding sustainability into board governance.[42]

- **Challenges in the Philippine Context**

Despite incremental reforms, several barriers hinder the effective participation of independent directors in the green agenda.

  - **Absence of an Express Environmental Mandate:** Philippine corporate law does not yet codify sustainability as part of the directors' fiduciary duties. As a result, ESG integration relies largely on voluntary adoption or moral suasion. This legal vacuum weakens accountability and prevents

[37] Unilever plc, *Annual Report and Accounts 2023* (Unilever 2024); BP plc, *Annual Report and Form 20-F 2023* (BP 2024)
[38] London Stock Exchange, 'ESG Disclosure Guidance' (2023)
[39] Securities Commission Malaysia, *Malaysian Code on Corporate Governance* (2021)
[40] Petronas, *Sustainability Report 2023* (Petronas 2024)
[41] Monetary Authority of Singapore, *Sustainability Reporting Guide* (2016)
[42] DBS Bank Ltd, *Annual Report 2023* (DBS 2024)

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independent directors from asserting authority over environmental issues.[43]

- **Limited ESG Literacy:** Many independent directors lack formal training in sustainability or climate-risk management. SEC regulations focus on financial literacy requirements but not on environmental competence. Without technical understanding, directors may hesitate to challenge management on ecological concerns.[44]
- **Weak Enforcement and Inconsistent Reporting:** Although the SEC requires sustainability reports, it lacks sufficient manpower to review and audit submissions. Consequently, reports vary widely in depth and reliability. Independent directors rarely receive structured feedback from regulators, diminishing the incentive to prioritize ESG oversight.[45]
- **Cultural and Economic Resistance:** Corporate culture in the Philippines remains profit-oriented, and sustainability initiatives are often dismissed as cost centers rather than strategic investments. Independent directors who push for stricter environmental compliance may face implicit pressure from management or controlling shareholders to deprioritize such issues.[46]

IV. INTEGRATING ESG INTO CORPORATE STRATEGY: CASE ILLUSTRATIONS

Ayala Corporation serves as a model of voluntary ESG integration. Its independent directors participate in the board's Sustainability Committee, which monitors climate-related risks and oversees renewable-energy projects through AC Energy. The company's annual report links ESG performance to executive compensation a practice aligned with global best standards.[47]

[43] Philippine Institute of Corporate Directors (PICD), *Corporate Governance Scorecard* (2021)
[44] Id.
[45] SEC Annual Report (2022)
[46] Author's analysis based on interviews with corporate practitioners (2024)
[47] Ayala Corp., *Sustainability Report* (2023)

In contrast, many mid-tier Philippine listed companies treat sustainability as a public-relations exercise. Their independent directors approve reports prepared by management consultants without independent verification. This pattern underscores the need for stronger regulatory backing and capacity-building for directors to perform genuine environmental oversight.[48]

V. SYNTHESIS

The doctrinal and comparative analysis reveals that while Philippine law acknowledges independent directors as vital to good governance, it does not yet harness their potential to advance environmental sustainability. Global practice shows that when the law explicitly mandates ESG oversight, independent directors evolve from passive monitors into active stewards of sustainable growth. For the Philippines to achieve parity with its peers and fulfill its obligations under the Paris Agreement and the UN SDGs, it must formally recognize sustainability as part of the directors' fiduciary function.

VI. SUGGESTIONS AND RECOMMENDATIONS

The doctrinal and comparative analyses indicate that Philippine corporate governance law must evolve to embed environmental sustainability into its very framework. Independent directors are strategically positioned to drive this change, but doing so requires a combination of legislative, regulatory, institutional, and cultural reforms.

A. Legislative Reforms

1. **Amend the Revised Corporation Code**: The RCC should be amended to codify the duty of environmental stewardship as part of the fiduciary responsibilities of corporate directors. Section 30 on "Liability of Directors" could include an explicit obligation to ensure that the corporation operates consistent with environmental laws and sustainability goals. This reform would harmonize corporate obligations with Article II, Section 16 of the

[48] SM Investments Corp., *ESG Disclosure* (2022)

1987 Constitution, which guarantees the right to a balanced and healthful ecology.

2. **Introduce an ESG Oversight Clause:** The law could mandate the creation of a board-level Sustainability or ESG Committee, chaired by an independent director, responsible for monitoring compliance with environmental regulations and international commitments such as the Paris Agreement. This would institutionalize board-level accountability for sustainability, similar to audit or risk committees.

3. **Expand the Definition of Corporate Interest:** The concept of "corporate interest" in Philippine law should be interpreted to include long-term social and environmental impacts, not merely shareholder returns. This interpretation aligns with global trends that redefine fiduciary duty as encompassing stakeholder welfare and sustainable development.

B. Regulatory Reforms

1. **Strengthen SEC Oversight:** The Securities and Exchange Commission should revise the Code of Corporate Governance for Publicly Listed Companies to integrate ESG performance metrics into annual board evaluations. The SEC could also require independent directors to undergo mandatory sustainability training as part of accreditation renewal.

2. **Standardize Sustainability Reporting:** The Sustainability Reporting Guidelines (SEC Memorandum Circular No. 4, s. 2019) should be updated to require third-party assurance of ESG data. Independent directors should be responsible for certifying the accuracy of these disclosures, similar to their role in financial audits.

3. **Impose Sanctions for Non-Compliance:** To ensure accountability, corporations that fail to meet minimum ESG reporting standards should face administrative penalties, including monetary fines and temporary disqualification of negligent directors. This will reinforce the seriousness of sustainability obligations.

C. Institutional Reforms

1. **Capacity-Building and Education:** Independent directors must possess adequate knowledge of environmental governance. The Philippine Institute of Corporate Directors (PICD), in partnership with universities and professional associations, could offer continuing education on ESG oversight, climate-risk management, and sustainable finance.
2. **Collaboration with Environmental Agencies:** The SEC should coordinate with the Department of Environment and Natural Resources (DENR) and the Climate Change Commission (CCC) to align corporate sustainability reporting with national environmental policies. Joint monitoring can enhance coherence and prevent regulatory overlap.
3. **Incentives for Sustainable Corporations:** The government may provide tax incentives or preferential access to financing for companies that achieve high ESG ratings. Independent directors can play a key role in verifying eligibility and promoting compliance with sustainability benchmarks.
4. **Cultural and Ethical Reforms:** Corporate governance reforms must also address corporate culture. Boards should embrace sustainability as a moral and strategic imperative rather than a mere compliance burden. Independent directors can lead this transformation by advocating for corporate social responsibility, linking executive compensation to sustainability performance, and fostering stakeholder engagement.

Ultimately, these reforms will create a governance environment where independent directors act not only as watchdogs of corporate integrity but also as champions of the environment and public welfare.

VII. CONCLUSION

This study concludes that the Philippines has laid a solid foundation for corporate governance through the Revised Corporation Code and various SEC Memorandum Circulars, but the framework remains incomplete in addressing environmental sustainability. Independent directors conceived as guardians of transparency and accountability possess untapped potential to advance the country's green agenda.

The integration of environmental sustainability into corporate governance is no longer optional; it is a legal and moral necessity. As global markets and investors increasingly demand ESG compliance, Philippine corporations that fail to adapt risk not only reputational damage but also regulatory and financial exposure. By contrast, companies that internalize sustainability will benefit from resilience, competitiveness, and stakeholder trust.

To realize this vision, the study proposes that:

1. The Revised Corporation Code be amended to include sustainability as part of directors' fiduciary duties;
2. The SEC institutionalize ESG committees and standardized reporting with independent director oversight;
3. Continuous education and capacity-building programs equip directors with the tools to understand and manage environmental risks; and
4. Philippine corporate culture embrace long-term stewardship as intrinsic to good governance.

The law's role, therefore, is transformative—it can align private enterprise with the constitutional and international mandate to protect the environment for present and future generations. As articulated in *Oposa v. Factoran*, the right to a balanced and healthful ecology is fundamental and intergenerational.[1] By empowering independent directors to serve as instruments of environmental accountability, Philippine corporate governance can evolve toward a model that harmonizes profitability with planetary responsibility.

The green agenda is not an external imposition but a continuation of the ethical foundation upon which the corporate form itself rests: the pursuit of collective prosperity within the bounds of justice and sustainability. In this context, the independent director is not merely an observer of compliance but a steward of the future.

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VIII. REFERENCES

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