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ESTABLISHING A MECHANISM TO PROTECT STAKEHOLDER RIGHTS IN CORPORATE GOVERNANCE: LESSONS FROM THE UK'S ENLIGHTENED SHAREHOLDER VALUE MODEL AND IMPLICATIONS FOR VIETNAM

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Abstract

This article analyzes the theoretical foundations and practical aspects of protecting the rights of non-shareholder stakeholders in corporate governance, based on the Stakeholder Value Theory and the “Enlightened Shareholder Value” (ESV) model institutionalized in the corporate law of the United Kingdom. The ESV model has expanded the scope of managerial responsibility by requiring business leaders to take into account social, environmental, community, and other stakeholder considerations, alongside the goal of maximizing shareholder value. ESV reflects a balance between traditional and modern corporate governance theories, serving as a foundation for a sustainable, ethical, and accountable governance model. In contrast, Vietnam’s current corporate legal framework continues to prioritize shareholder primacy, lacking binding provisions concerning directors’ responsibilities toward stakeholders. Through comparison with the ESV model, this article proposes several recommendations for reforming Vietnam’s corporate legal system. These include: incorporating legal obligations for corporate directors to consider stakeholder interests; establishing mandatory ESG (Environmental, Social, Governance) reporting mechanisms; strengthening the supervisory role of stakeholders; and codifying the principle of inclusive and multi-dimensional governance. These proposals not only aim to enhance transparency and ethical standards in corporate governance but also contribute to improving the competitiveness and global reputation of Vietnamese enterprises within international value chains.

Keywords: Stakeholders, ESV, Corporate Governance, Stakeholder Rights, Sustainable Development.

1. INTRODUCTION

Under the impact of globalization and the imperative of sustainable development, the protection of non-shareholding stakeholders’ rights has increasingly become a focal point in the reform of modern corporate law. While many countries have made significant strides in institutionalizing this principle, Vietnam’s corporate legal framework still largely adheres to a shareholder-centric model, lacking binding provisions to ensure the participation, supervision, and dialogue rights of workers, communities, consumers, creditors, and the environment. This article adopts the approach of the “Enlightened Shareholder Value” (ESV) model from the United Kingdom a representative legal framework that harmoniously integrates shareholder interests with those of stakeholders to analyze mechanisms for

protecting stakeholder rights in international legislative practice. On this basis, the article proposes appropriate policy recommendations to incorporate stakeholder principles into Vietnam’s corporate law, thereby contributing to the development of a multi-dimensional and sustainable governance mechanism.

2. THEORETICAL FOUNDATIONS FOR THE PROTECTION OF STAKEHOLDER INTERESTS IN CORPORATE GOVERNANCE

In the context of globalization and the shift toward a sustainable development model, the protection of the rights and interests of non-shareholder stakeholders, such as employees, suppliers, customers, communities, and the



environment has increasingly been recognized as a core element of modern corporate governance. The theoretical foundation for this trend derives from the Stakeholder Value Theory, first proposed by R. Edward Freeman (1984). Freeman argues that the corporation is an ecosystem of interdependent relationships, in which success depends on the ability to balance and create value for all stakeholders, rather than solely maximizing shareholder value in the traditional sense. This perspective laid the groundwork for a more inclusive model of corporate governance, emphasizing business ethics, corporate social responsibility (CSR), and sustainable development [1]. Building on this foundation, numerous scholars and legislators have advocated for the development of the Enlightened Shareholder Value (ESV) model, which seeks to bridge the gap between the classical shareholder primacy theory and the modern stakeholder approach. The ESV model has been codified most prominently in the United Kingdom, where company directors are required to consider a range of stakeholder-related factors, such as employee interests, environmental protection, community engagement, and business relationships provided that these considerations serve the long-term interests of shareholders. At the same time, directors must give “due regard” to other dimensions, including long-term consequences, employee welfare, supplier and customer relations, environmental and community impact, and corporate reputation [2].

However, while ESV is expected to deliver “win-win” outcomes for both shareholders and stakeholders, in practice, trade-offs between these interests are frequent and often profound. Therefore, stakeholder protection should not remain merely an instrumental tool for maximizing shareholder value, but should instead be recognized as an independent legal value, firmly established through binding legal mechanisms [3]. From this theoretical perspective, the construction of legal frameworks to safeguard stakeholder interests reflects not only ethical and social imperatives but also contributes to improved governance efficiency and long-term risk mitigation in an increasingly complex and accountability-driven world.

Integrating stakeholder interests into directors’ fiduciary duties marks a transition from “one-dimensional” to “multi-dimensional” governance and from short-termism to long-term development. Nevertheless, several scholars argue that ESV, despite its progressive orientation, remains a “halfway house” model, in which stakeholder interests are only taken into account insofar as they align with shareholder value. As Keay (2007) notes, “*ESV continues to uphold the supremacy of shareholders; stakeholders have no independent legal standing to enforce their interests and exist merely as strategic instruments*” [4].

Empirical evidence further illustrates severe conflicts between shareholder and stakeholder interests particularly in decisions involving cost-cutting, plant closures, or environmental harm where prioritizing short-term shareholder gains can lead to significant social costs and reputational damage. Consequently, scholars such as Laplume, Sonpar, and Litz have advocated for the legal recognition of stakeholders as

independent right-holders, supported by enforceable regulatory mechanisms, rather than treating them as ethical concerns or managerial tools [5].

In this context, the establishment of stakeholder protection mechanisms is not merely a matter of ethical or social obligation but has become a strategic imperative for risk management, long-term sustainability, and corporate reputation. This approach also aligns with international standards such as the UN Guiding Principles on Business and Human Rights (UNGPs, 2011) and the OECD Guidelines for Multinational Enterprises, both of which emphasize that businesses must uphold their responsibilities toward employees, communities, and the environment as an essential component of governance structures. From both a theoretical and practical standpoint, it is evident that the protection of stakeholder interests is no longer a matter of moral discretion but is becoming an essential legal duty of modern corporations. The domestication (internalization) of these mechanisms into national corporate law is a necessary step toward promoting a transparent, equitable, and sustainable business environment in the era of global accountability.

3. AN OVERVIEW OF THE ENLIGHTENED SHAREHOLDER VALUE (ESV) MODEL IN THE UK CORPORATE LAW SYSTEM AND ITS APPLICATION IN VIETNAMESE CORPORATE LAW

In recent years, the model of Enlightened Shareholder Value (ESV) has emerged as a prominent approach in the reform of modern corporate law, aiming to reconcile the objective of maximizing shareholder value with the imperative of ensuring corporate social responsibility. ESV is founded on the recognition that long-term corporate success cannot be achieved through short-term profit maximization for shareholders alone, but instead requires consideration of the interests of a broader range of stakeholders, including employees, customers, suppliers, communities, and the environment. This model has been prominently institutionalized in the corporate legal framework of the United Kingdom through Section 172(1) of the Companies Act 2006, which lays the foundation for a more progressive and sustainable corporate governance mindset. While the ultimate aim of the company remains the promotion of the success of the company for the benefit of its shareholders, directors are legally required to consider a range of factors, including the long-term consequences of their decisions, the interests of employees, relationships with customers and suppliers, the impact of operations on the environment and the community, and the company’s reputation.

However, these considerations are not treated as independent objectives but rather as means to promote the long-term interests of shareholders. This distinguishes ESV from the pure stakeholder theory of governance, which places

stakeholders at the center on an equal footing with shareholders. In this sense, ESV retains a shareholder-oriented core but broadens the scope of consideration to include social, environmental, and sustainability concerns.

To ensure the effective implementation of the ESV model, the UK legal and corporate governance systems have established several complementary mechanisms. In particular, companies are required to comply with non-financial reporting obligations, ESG (Environmental - Social - Governance) disclosures, and stakeholder transparency commitments in their annual reports. The UK corporate governance framework also encourages boards of directors to demonstrate accountability by formulating clear policies on stakeholder engagement and reporting on compliance based on the "comply or explain" principle. These requirements elevate ESV from an ethical aspiration to a legal standard subject to regulatory monitoring and evaluation.

In contrast, Vietnamese corporate law remains heavily influenced by the traditional shareholder primacy model. The Law on Enterprises 2020 focuses primarily on the rights and obligations of shareholders, while the interests of non-shareholder stakeholders are not systematically incorporated into the fiduciary duties of company managers. Although certain social responsibilities are referenced in other legal instruments, such as the Labour Code, the Law on Environmental Protection, and the Law on Protection of Consumer Rights these provisions are fragmented, lack coherence, and have not been integrated into the corporate governance structure in a manner comparable to the ESV framework in the UK.

Therefore, researching and applying the ESV model in the reform of Vietnamese corporate law is both timely and necessary to enhance corporate accountability, transparency, and sustainable business practices. In particular, amendments to the Law on Enterprises could include explicit obligations for directors to consider stakeholder interests; mandatory ESG reporting requirements could be introduced for large and listed companies; stakeholder consultation and dialogue mechanisms could be developed; and the role of employees and the community in corporate oversight could be strengthened. These reforms would also help Vietnam meet international standards in the context of global economic integration and fulfill its commitments to sustainable development, especially under new-generation free trade agreements such as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and the EU-Vietnam Free Trade Agreement (EVFTA).

Ultimately, the ESV model not only represents a balanced approach between economic interests and social values but also provides a theoretical and legal basis for redefining the role of the corporation in modern society. Vietnam's adoption and domestication of the ESV principle into its legal system would contribute to improving the institutional framework of the socialist-oriented market economy, ensuring the rights and roles of relevant stakeholders in corporate governance, and

enhancing the global competitiveness and reputation of Vietnamese enterprises across value chains.

4. LESSONS FROM THE ESV MODEL FOR THE REFORM OF VIETNAMESE CORPORATE LAW

Firstly, a key lesson lies in the establishment of legal duties for corporate managers toward stakeholders. The Enlightened Shareholder Value (ESV) model, codified in the United Kingdom's Companies Act 2006, explicitly institutionalizes the duty of company directors not only to serve the interests of shareholders but also to give due consideration to stakeholders such as employees, customers, suppliers, communities, and the environment. This represents a shift from a shareholder-centric approach to a more balanced and sustainable model of corporate governance. In contrast, current Vietnamese corporate law lacks equivalent provisions and continues to focus primarily on shareholder interests, while ethical and social responsibilities toward stakeholders remain non-binding and merely aspirational. Drawing from the UK's experience, Vietnam may consider introducing a multidimensional management duty that requires corporate leaders to account for non-financial factors in decision-making processes, thereby fostering the long-term development of enterprises.

Secondly, the ESV model highlights the importance of establishing transparency and accountability mechanisms with respect to stakeholders. A distinctive feature of ESV is the requirement that companies particularly large enterprises implement robust reporting and disclosure mechanisms concerning how stakeholder interests are addressed. Such mechanisms enhance transparency in governance, allowing both shareholders and stakeholders to effectively monitor management conduct. The Law on Enterprises 2020 of Vietnam does not impose any obligation on corporate managers to report on their consideration or implementation of stakeholder-related responsibilities. This constitutes a significant regulatory gap. The UK's experience suggests that Vietnam should develop appropriate non-financial disclosure frameworks, including mandatory ESG reports, sustainability reports, and social impact assessments, in order to promote ethical and responsible corporate conduct.

Thirdly, the ESV model offers an important lesson in integrating stakeholder interests into the corporate purpose. ESV does not negate the importance of profit or shareholder value; rather, it emphasizes that sustainable shareholder value can only be achieved when stakeholder interests are incorporated into governance practices. This approach aligns with global trends, especially as companies face increasing pressure from communities, environmental movements, and international standards on human rights, carbon emissions, and corporate transparency. For Vietnam, this implies a need for legislative reorientation: the goal of profit maximization should no longer be treated as the sole legal objective, but must be complemented by social responsibility as a parallel

legal mandate. Accordingly, Vietnamese corporate law should transition from a “shareholder primacy” model toward a “stakeholder-inclusive governance” approach.

Fourthly, based on the above lessons, several concrete recommendations can be made for applying the ESV model within Vietnamese corporate law. These include: (i) Amending the Law on Enterprises to impose a legal obligation on directors to consider stakeholder interests in their decisions; (ii) Establishing mandatory ESG or sustainability reporting regimes for large enterprises or publicly listed companies; (iii) Enhancing stakeholder oversight through mechanisms such as employee representation, local community advisory bodies, or independent supervisory entities; (iv) Incorporating stakeholder principles into corporate governance codes, modeled after best practices from the UK, Japan, or Germany.

5. CONCLUSION

The protection of stakeholder rights and roles in corporate governance is no longer merely an ethical obligation; it is increasingly becoming a legal responsibility in the context of globalization and the pursuit of sustainable development. This article has demonstrated that the Enlightened Shareholder Value (ESV) model of the United Kingdom represents a compelling example of modern legal evolution striking a balance between shareholder interests and the broader responsibilities of corporations toward society, the environment, and other relevant stakeholders. In contrast, Vietnamese corporate law remains heavily shareholder-centric, lacking specific and binding legal mechanisms to safeguard stakeholder interests. These limitations hinder

Vietnamese enterprises from meeting international standards, particularly with respect to ESG compliance, sustainable business practices, and human rights obligations in global trade. Therefore, drawing lessons from the ESV model is both necessary and urgent. Legal reform should focus on introducing explicit legal duties toward stakeholders, establishing transparent reporting and accountability mechanisms, including mandatory ESG disclosures and ensuring participatory oversight rights for stakeholder groups. These reforms would not only strengthen Vietnam’s corporate legal framework but also serve as a prerequisite for the sustainable development of Vietnamese enterprises in an era defined by global accountability.

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