

## Not the Cure: Corporate Governing as the Symptom of Rule of Law Decay

Reviewed by Ayesha Safdar<sup>1</sup>

Matteo Gatti, *Corporate Power and the Politics of Change* (Cambridge: Cambridge University Press, 2025).

### I. Introduction

Following Donald Trump's second inauguration as President of the United States in 2025, his new administration established the Department of Government Efficiency (DOGE).<sup>2</sup> With Elon Musk at the helm, this advisory body was tasked with reducing government spending and increasing efficiency. Though the department was short-lived, ultimately ending its operations within months, its brief existence raised questions that extend well beyond government efficiency itself.<sup>3</sup> Most notably, it highlighted the increasingly blurred line between private wealth and public authority. This raises the question: why are corporate actors occupying spaces traditionally associated with public governing, and what does their growing presence mean for democracy, accountability, and rule of law?<sup>4</sup>

Matteo Gatti grapples with these questions in *Corporate Power and the Politics of Change*. In this book, Gatti deftly traces how corporations play a progressively prominent role in policymaking and governing, analyzing the legal and normative implications of that role. Gatti does not simply ask whether corporations *should* engage in public affairs, but rather how their involvement reshapes markets, institutions, and democracy.<sup>5</sup> The book's greatest strength is its

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<sup>2</sup> Gatti, *Corporate Power and the Politics of Change*, 211.

<sup>3</sup> Miranda Nazzaro, "DOGE Shuts Down Operations," *The Hill*, November 23, 2025, <https://thehill.com/homenews/administration/5955468-doge-shuts-down-operations/>.

<sup>4</sup> Gatti, *Corporate Power and the Politics of Change*, 211.

<sup>5</sup> Gatti, *Corporate Power and the Politics of Change*, 211.

careful mapping of why corporate governing exists, while concluding that it is no substitute for the stability and accountability of traditional policymaking.

However, while Gatti establishes that corporations govern, he stops short of asking whether that governing can even meet rule of law standards. Measured against Lon Fuller's principles of legality, the features Gatti identifies are not necessarily just characteristics of corporate governing.<sup>6</sup> Instead, in some ways they invalidate the form of governing altogether. This explains why Gatti's own recommendations reach as little as they do. Corporations may temporarily fill gaps left by institutional dysfunction, but they cannot replace traditional rule of law governing.<sup>7</sup>

## II. Corporate Governing as an Institutional and Strategic Practice

In *Corporate Power and the Politics of Change*, Gatti defines corporate governing as an institutional practice rather than an ideological one. Cultural discourse often leans on political polarity as the throughline of corporate governing. While it is true that social issues such as racial and gender equality can be used as tools for corporate governing, especially across political divides, Gatti primarily acknowledges corporate governing as a structural rather than ideological phenomenon. By making this emphasis, Gatti shifts the focus from whether corporate action is normatively desirable, towards how it practically functions within broader systems of governing. This reframing is critical because it allows corporate governing to be understood not just as a reaction to external behavior, but as a part of a larger ecosystem in governing, politics, and the gaps that may exist in each.<sup>8</sup>

Gatti defines corporate governing as the exercise of corporate power to drive socioeconomic change. He identifies two main forms of corporate governing—corporate

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<sup>6</sup> Lon L. Fuller, *The Morality of Law*, rev. ed. (New Haven: Yale University Press, 1969)

<sup>7</sup> Gatti, *Corporate Power and the Politics of Change*, 10.

<sup>8</sup> Gatti, *Corporate Power and the Politics of Change*, 12.

socioeconomic advocacy and government substitution.<sup>9</sup> Corporate socioeconomic advocacy refers to when businesses take public stands on political and social issues. For example, following the murders of George Floyd and Breonna Taylor in 2020, 66% of Fortune 500 companies issued public statements condemning racism and supporting the Black Lives Matter movement. Gatti notes that at the corporate level, this advocacy exists beyond what some would consider to be “traditional lobbying.” It is more substantive and is often capable of meaningfully shaping public sentiment and policy outcomes. Unlike conventional lobbying, which typically operates through formal political channels, corporate socioeconomic advocacy functions in the public sphere—shaping discourse, signaling norms, and influencing expectations in ways that influence, but can also extend beyond, legislative outcomes.<sup>10</sup>

Moreover, government substitution refers to when corporations actively provide resources, services, or protections to the public—essentially performing quasi-governmental roles when the actual government cannot or does not perform such functions. When *Roe v. Wade*<sup>11</sup> was overturned, companies such as Starbucks, JPMorgan Chase, and Netflix implemented policies to cover travel expenses for any employees seeking to terminate pregnancies in states that allowed abortions. In this case, corporations essentially stepped up to fill a void left by gaps in policy. These actions are particularly significant because they move beyond symbolic engagement and into the realm of material intervention, directly affecting access to resources, rights, and protections that would otherwise be mediated through public institutions. In this sense, government substitution does not merely respond to governing gaps, it actively reshapes the landscape of who provides governing.<sup>12</sup>

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<sup>9</sup> Gatti, *Corporate Power and the Politics of Change*, 5.

<sup>10</sup> Gatti, *Corporate Power and the Politics of Change*, 7.

<sup>11</sup> *Roe v. Wade*, 410 U.S. 113 (1973).

<sup>12</sup> Gatti, *Corporate Power and the Politics of Change*, 12.

Ultimately, Gatti describes these forms of governing as complementary, not siloed. They create a feedback loop in which corporate speech reinforces corporate action, and corporate action legitimizes corporate speech in turn. Essentially, advocacy can help normalize corporate involvement in public issues, and corporate substitution can demonstrate the capacity of corporations to act where governments do not. Together, advocacy and substitution position corporations as actors that do not simply influence governing from the outside, but increasingly participate in governing processes themselves. Gatti highlights that this dual function is what gives corporate governing its institutional character. It cannot be reduced simply to public relations or isolated policy interventions. It represents a mode of authority that operates alongside, and at times in place of, traditional governing structures.<sup>13</sup>

Gatti also identifies numerous drivers of corporate governing, in both corporate and societal contexts.<sup>14</sup> At the corporate level, employees play a large role in driving change within organizations. For example, following the mishandling of sexual misconduct cases at Google in 2018, over 20,000 employees staged a walk-out, ultimately leading to policy changes of increased human resources transparency. These internal pressures reveal that corporate governing is not simply top-down decision-making by executives, but is often shaped by bottom-up demands within the firm itself. Employees, investors, and stakeholders collectively create incentives that push corporations towards social engagement, essentially embedding governing pressures within corporate structures.<sup>15</sup>

Other institutional constraints have also driven the expansion of corporate governing. With the rise of social media, public corporate activism has significantly gained momentum in recent years. From the Me Too movement, to Black Lives Matter, to climate change, Gatti notes

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<sup>13</sup> Gatti, *Corporate Power and the Politics of Change*, 14.

<sup>14</sup> Gatti, *Corporate Power and the Politics of Change*, 70.

<sup>15</sup> Gatti, *Corporate Power and the Politics of Change*, 70.

that businesses are expected to stay on top of the social pulse in visible ways. Social media, in particular, accelerates this dynamic by amplifying both praise and backlash, making corporate silence itself a visible and consequential choice. In this environment, corporations are not merely reacting to social movements, they are increasingly expected to participate in them.<sup>16</sup>

Perhaps the most potent driver of corporate governing that Gatti identifies is politics itself, or the failures of politics. In the United States, factors including the wide political divide, gerrymandered voting districts, the Senate's representation imbalance, and the filibuster rule, all contribute to a very complicated and oftentimes dysfunctional political system. This creates room for corporate governing to take root. With legislative gridlock on issues such as climate change, both domestically and internationally, the book notes that in some ways, it is natural for investors to expect corporations to step in. Here, Gatti makes it clear that corporate governing does not emerge in a vacuum. Instead, it is a response to institutional constraint, alongside other internal corporate pressures. Where public systems are unable to produce timely or effective policy outcomes, corporations are positioned, and often pressured, to fill that space.<sup>17</sup>

Corporate governing generally makes strategic sense at the firm level. However, whether it is good for governing is the contested question. Gatti largely describes corporate governing as a strategic choice for corporations. However, the question of the risk it poses is more complex, and more politically divisive. This tension is central to the book's argument. Corporate governing may be rational and even beneficial at the firm level, yet still produce uncertain or contested outcomes at the societal level. What appears strategic from a corporate perspective may not translate into stable, equitable, or legitimate governing outcomes.<sup>18</sup>

### III. Governing Without the Conditions of Governance

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<sup>16</sup> Gatti, *Corporate Power and the Politics of Change*, 34.

<sup>17</sup> Gatti, *Corporate Power and the Politics of Change*, 82.

<sup>18</sup> Gatti, *Corporate Power and the Politics of Change*, 97.

Throughout the book, Gatti clearly establishes that corporations govern. However, it is worth raising the question: is governing something that corporations can do? Governing done by corporations happens, but whether it meets the criteria for rule of law governing is another matter. Legal philosopher expert Lon Fuller argues that legality is a matter of form rather than of content. He establishes eight principles of legality, or the “internal morality of law.”<sup>19</sup> He constructs these eight principles through a parable of a king who fails in eight different ways, constructing the framework as failure conditions rather than ideal ones. Judging corporations against this framework, it seems that there are four criteria they would meet. Non-retroactivity, clarity, non-contradiction, and possibility of compliance are all largely satisfied by corporate commitments. However, the remaining principles call corporate governing as a practice into question.<sup>20</sup>

Fuller’s principle of generality requires that governance operates through rules rather than case-by-case decisions.<sup>21</sup> In the context of corporate governing, it typically involves discrete decisions responsive to respective firms’ individual incentives. It varies based on time, circumstance, and company interests. Gatti himself illustrates corporate decision-making in his analysis. Factors such as employee pressure, reputational exposure, and legislative gridlock reveal that corporate governing is contingent, and that contingency puts it at odds with rule of law principles.<sup>22</sup> The issue here is not that corporate governing is unfair, but that it typically cannot be generalized.

Furthermore, another of Fuller’s principles stipulates that the law must remain relatively stable over time, not changing so rapidly that citizens cannot reasonably structure their actions

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<sup>19</sup> Lon L. Fuller, *The Morality of Law*, rev. ed. (New Haven: Yale University Press, 1969)

<sup>20</sup> Lon L. Fuller, *The Morality of Law*, rev. ed. (New Haven: Yale University Press, 1969)

<sup>21</sup> Fuller, *Morality of Law*, 46.

<sup>22</sup> Gatti, *Corporate Power and the Politics of Change*, 70.

around it.<sup>23</sup> In Gatti's examination of corporate governing, he describes an example with the Meta corporation. Meta had at one point been a vocal critic of President Trump's comments regarding immigration, including the Muslim ban. Later, the company rolled back DEI initiatives, and generally became less outspoken regarding the current administration's political actions.<sup>24</sup> Gatti reveals that corporate governing can sway with the times, creating instability. Though Gatti names this instability, he stops short of measuring it against rule of law principles.

In his additional two principles, Fuller highlights the necessity of making laws publicly available to citizens, and creating alignment between written rules and enforcement.<sup>25</sup> Though Fuller identifies these as separate themes, they often fall together in corporations. Namely, once promulgation fails, congruence becomes unmeasurable. For example, after twenty companies publicly committed to abortion travel benefit policies in 2022, only five confirmed that they still offered the benefits in 2025.<sup>26</sup> Most, it appears, were not actually withdrawn. Either way, from a rule of law perspective, it is challenging to assess conformity to a rule that is not publicly stated. This asymmetry is a feature of private governing power, and a significant impediment to rule of law.

Gatti's analysis ultimately points to a structural constraint: corporate governing can fill gaps, but it cannot resolve them. It operates within the space created by institutional dysfunction, but it does not recreate the conditions of durable governing. The more it is relied upon, the more visible this limitation becomes.<sup>27</sup> Gatti illustrates the shortcomings of corporate governing, but treats these features as characteristics of corporate governing. However, measured against Fuller,

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<sup>23</sup> Fuller, *Morality of Law*, 79.

<sup>24</sup> Gatti, *Corporate Power and the Politics of Change*, 157.

<sup>25</sup> Fuller, *Morality of Law*, 51, 81.

<sup>26</sup> Fortune, "Abortion travel benefits: companies keep them, but quietly," July 30, 2025.

<sup>27</sup> Gatti, *Corporate Power and the Politics of Change*, 192.

they are not characteristics of governing but rather disqualifications. They do not meet rule of law standards, and that is why they cannot be corrected from inside the firm.

#### IV. From Diagnosis to Recommendations

This rule of law framing becomes important in the book's final recommendations. Gatti ultimately explores potential corporate governing safeguards to manage the previously identified risks. Gatti notes that market forces, such as shareholder activism, litigation risks, and consumer sentiment, already naturally place certain guardrails on corporate governing. Beyond these elements, he emphasizes improving corporate disclosure as the central mechanism by which firms can address corporate governing risks. Specifically, the book recommends having mandatory disclosure of material corporate socioeconomic advocacy and government substitution initiatives. Still, Gatti underscores that corporate law is, in many ways, ill-equipped to effectively address the broader risks of corporate governing, and that the path ahead lies in political shifts rather than corporate guardrails.<sup>28</sup>

Although Gatti acknowledges disclosure's limitations, it is worth further unpacking those obstacles. Disclosure only addresses one of the four rule of law failures. It simply speaks to the publicity of a law. It does not address generality. When a firm discloses a discretionary decision, it is not necessarily adopting a general rule. It also does not address stability or congruence. Decisions are often swayed by external and internal pressures, and those decisions are free to remain private. If corporate governing operates through discretionary and incentive-driven decisions, the extent to which transparency alone can meaningfully influence those decisions remains uncertain. Gatti's own empirical observations suggest that disclosure may illuminate corporate governing without fully shaping or constraining it.<sup>29</sup>

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<sup>28</sup> Gatti, *Corporate Power and the Politics of Change*, 79.

<sup>29</sup> Gatti, *Corporate Power and the Politics of Change*, 190.

Gatti is explicit that corporate law is not well equipped to address the broader societal implications of corporate governing and that meaningful change may depend on shifts in the political environment. This recognition is one of the book's strengths. It reflects a clear understanding of the limits of existing frameworks. At the same time, it leaves some questions open. If corporate governing is understood as operating at the intersection of corporate law, public governing, and political constraint, the path forward becomes less a matter of refining existing legal tools than of confronting their limits.<sup>30</sup>

Read against Fuller, the modesty of the recommendations is not caution but accuracy. The defects of corporate governing are structural, and a firm-level mechanism cannot solve a structural defect. Gatti shows that corporate governing is shaped by structural forces that extend beyond the firm. It is therefore unsurprising that firm-level mechanisms provide only partial responses. The book stops short of developing alternative institutional pathways, but it does not ignore their absence. Instead, it leaves the reader with a more difficult, and perhaps more important, conclusion: that corporate governing can be analyzed, and even managed, but not fully resolved within the frameworks that currently exist.<sup>31</sup>

## V. Conclusion

The brief DOGE era illustrates the central tension that animates *Corporate Power and the Politics of Change*: the growing entanglement of private power and public governing.<sup>32</sup> In this book, Gatti confronts these questions, moving beyond polarized debates and offering a structured account of corporate governing. The book provides a clear and compelling framework for understanding a rapidly evolving phenomenon. At the same time, it does not ask whether corporate governing can meet the conditions the rule of law places on governing power.

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<sup>30</sup> Gatti, *Corporate Power and the Politics of Change*, 197.

<sup>31</sup> Gatti, *Corporate Power and the Politics of Change*, 211.

<sup>32</sup> Gatti, *Corporate Power and the Politics of Change*, 200.

Measured against Fuller, it cannot. While corporate actors may respond to institutional gaps, they do not meet the necessary conditions of generality, stability, publicity or congruence of rule of law systems. These are not failings that, as the book at times suggests, better corporate conduct could repair. Instead, they are inherent to the system that exists. That is why Gatti's recommendations are at times thin, and why corporate governing cannot become the institutional rule of law governing it substitutes for. *Corporate Power and the Politics of Change* succeeds not because it resolves that tension, but because it clarifies it.