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CORPORATE SOCIAL RESPONSIBILITY IN INDIA: GENUINE SOCIAL COMMITMENT OR STATUTORY COMPLIANCE?

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Abstract

Corporate Social Responsibility that is CSR has become an important or vital element and unit of contemporary corporate governance which is reflecting the expectation that businesses should consider the social and environmental consequences of their activities. India had adopted a very distinctive statutory approach through the Section 135 of the Companies Act 2013, read with Schedule VII and the Companies (Corporate Social Responsibility Policy) Rules 2014. The framework needs and requires the qualifying companies to allocate their prescribed resources to eligible social responsibility activities and place related duties on corporate boards. Although the mandatory and necessary CSR can mobilise private resources for public welfare, it also raises a fundamental question: does legal compulsion foster genuine social commitment, or can it reduce responsibility to a matter of statutory compliance? Adopting a doctrinal and analytical methodology, this article therefore, examines the historical and legal foundations of CSR in India, the role of corporate governance, and the challenges that are associated with impact assessment, transparency, profitability and community participation. It argues that compliance with expenditure requirements is necessary but cannot, by itself, establish that a CSR project has produced meaningful social change. A more effective or useful structure and framework should combine legal compliance with credible outcome assessment, transparent reporting, independent evaluation and participation by intended beneficiaries.

Keywords: Corporate Social Responsibility; Companies Act 2013; Section 135; Corporate Governance; Social Accountability; Sustainable Development; CSR Compliance.

I. INTRODUCTION

Corporate Social Responsibility (CSR) has become an important and vital subject when one is studying corporate governance and business ethics. The corporations influence employment, economic development, environmental conditions and the welfare of the communities in which they operate and their responsibilities are therefore increasingly understood as extending beyond the pursuit of profit to include consideration of the social consequences of corporate decisions.

Therefore, various alternative and substituting approaches to business responsibility have developed in response to growing concern about inequality, environmental degradation and the limits of relying exclusively on voluntary philanthropy. In India, charitable activity by business enterprises did have a long history,[1] but the Companies Act 2013 introduced a more structured well formatted legal framework by requiring qualifying companies to undertake CSR activities. When Section 135, is read with Schedule VII and the Companies (Corporate Social Responsibility Policy) Rules 2014 (CSR Rules), it shows and displays how it places CSR within the formal governance and reporting framework of eligible companies.[2]

Section 135 applies and is applicable to a company where it meets the prescribed thresholds relating to net worth, turnover or net profit in the immediately preceding financial year and here the Board is required to ensure that the company spends at least two per cent of its average net profits during the three immediately preceding financial years on CSR activities, subject to the statutory provisions.[3] The framework itself seeks to connect corporate resources with areas such as education, healthcare, gender equality, environmental sustainability, rural development and disaster management, etc.

The existence of a statutory obligation however, does not necessarily answer whether CSR initiatives are effective or not. A company may report the required expenditure while the long-term consequences of its projects remain uncertain thereby making: whether CSR is understood as a substantive responsibility towards society or merely as a legal obligation to be discharged, the central question in hand.

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[1] See generally Jayati Sarkar and Subrata Sarkar, 'Corporate Social Responsibility in India—An Effort to Bridge the Welfare Gap' (2015) 7 Review of Market Integration 1.

[2] Companies Act 2013 (India) s 135 and sch VII; Companies (Corporate Social Responsibility Policy) Rules 2014, GSR 129(E) (27 February 2014) (CSR Rules).

[3] Companies Act 2013 (India) (n 2) s 135(1), (5).

This particular article explores that question through a doctrinal and analytical examination of the Indian CSR framework and Part II traces the historical and legal development of CSR. Part III of this article will examine the relationship between statutory compliance and corporate motivation keeping the Part IV of the same to consider the policy objectives of the framework and the regulatory guidance issued under it. Part V will analyse the contemporary challenges that affect the delivery of meaningful social outcomes keeping Part VI to offer recommendations before Part VII concludes the entire thing.

II. HISTORICAL AND LEGAL FOUNDATIONS OF CSR IN INDIA

A. Evolution of Corporate Social Responsibility

The idea that businesses have obligations towards society predates the statutory CSR regime since Indian business houses have historically supported charitable institutions, education, healthcare and community development, such initiatives were often grounded in philanthropy, ethical commitments or the belief that businesses should contribute to the welfare of the communities that sustain them.

Modern CSR, however, is broader and much more complex in structure than traditional charity as it includes and involves a structured approach to social and environmental responsibilities, stakeholder interests and sustainable development, it asks corporations to consider not only the amount donated, but also the purposes, methods and consequences of their activities.

The Companies Act 2013 did mark and provide a significant shift by placing CSR within a statutory framework, as instead of leaving all social expenditure to voluntary choice, Section 135 establishes eligibility thresholds, board responsibilities and expenditure-related obligations for qualifying companies. The CSR Rules do provide further detail on policy formulation, implementation and reporting.[4]

B. The Statutory Framework

Section 135 of the Companies Act 2013 applies to a company that, in the immediately preceding financial year, had a net worth of ₹500 crore or more, turnover of ₹1,000 crore or

[4] CSR Rules (n 2) rr 4–8.

more, or net profit of ₹5 crore or more,[5] and any company falling within the provision must comply with the applicable CSR obligations.

The Board of Directors has a central role for approving and overseeing CSR policy and ensuring that the company comply and go by the rules of the law. The CSR Committee, where required, assists with recommendations concerning the CSR policy, expenditure and monitoring. Schedule VII identifies recognised areas of activity, including poverty alleviation, education, healthcare, gender equality, environmental sustainability and rural development.[6]

The framework has also developed and adapted over time and through various Amendments like- the amendments of Section 135 in 2019 and 2020, together with the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021, strengthened the treatment of unspent CSR amounts and implementation and, in specified circumstances, introduced impact assessment.[7] These changes do indicate and signal towards a regulatory effort to improve accountability and move beyond a system based solely on voluntary corporate declarations, with the precise application of the Rules depending on the provisions in force at the relevant time.

C. Statutory Recognition: Responsibility Through Legal Obligation

The mandatory CSR framework reflects or displays the view: that corporations can play a role in addressing social needs and that a statutory requirement may encourage a more consistent contribution from the private sector, by establishing a spending benchmark and formal governance duties, Section 135 seeks to make CSR a regular component of corporate decision-making rather than an occasional act of charity.

This approach has potential advantages to it as it can mobilise resources for public welfare, encourage companies to develop structured programmes and increase the visibility of social responsibility at board level. Companies may also contribute to expertise, organisational capacity and partnerships that complement public and community initiatives.

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[5] Companies Act 2013 (India) (n 2) s 135(1).

[6] Companies Act 2013 (India) (n 2) s 135(1), (3)–(4) and sch VII.

[7] Companies (Amendment) Act 2019 (India); Companies (Amendment) Act 2020 (India); Companies (Corporate Social Responsibility Policy) Amendment Rules 2021, GSR 40(E) (22 January 2021) (2021 Amendment Rules); see also Companies Act 2013 (India) (n 2) s 135(5)–(7).

The law however, does not guarantee that every eligible project will produce the same degree of benefit, as legal eligibility and social effectiveness are two distinct matters where an activity may fall within a recognised category under Schedule VII[8] while still being poorly designed, insufficiently monitored or disconnected from the actual needs of its intended beneficiaries.

Accordingly, statutory recognition should be understood as establishing a framework for responsible action, not as conclusive proof that social responsibility has been achieved. The success of the framework is highly dependent on how companies select their projects, implement them and assess their outcomes.

III. THE CONCEPTUAL DIVIDE: GENUINE COMMITMENT VS. STATUTORY COMPLIANCE

A. Compliance as a Minimum Legal Standard

Statutory compliance is concerned with whether a company has fulfilled the obligations imposed by law which includes applicable spending, governance and reporting requirements and such compliance is indispensable: without a clear legal standard, corporate contributions may depend entirely on shifting priorities or voluntary discretion.

Nevertheless, formal compliance represents a minimum standard rather than the full meaning of social responsibility, because if a company's CSR performance is judged principally by the amount spent, it may be easier to demonstrate that funds were allocated than to establish that the project generated lasting benefits.

This is not to suggest that companies generally lack genuine concern for social welfare, but it identifies a structural risk: where compliance indicators are easier to measure than social outcomes, organisations may focus on what is easiest to report; therefore, expenditure should be treated as evidence of participation, but not as conclusive evidence of impact.

B. Corporate Motivation and Profitability

Corporate CSR initiatives may arise and grow out from different motivations, including ethical commitment, concern for local communities, long-term business strategy, reputation management and compliance with legal requirements. These motivations can all coexist; a

[8] Companies Act 2013 (India) (n 2) sch VII.

company may begin a project to meet its statutory obligations and later develop a sustained relationship with the community it serves.

Empirical research by Dhammika Dharmapala and Vikramaditya Khanna examined the impact of India's mandatory CSR regime and reported increased CSR activity among companies affected by Section 135.[9] Their findings support the view that legal intervention can influence corporate conduct, while also showing that corporate responses may vary.

The important distinction or difference is therefore not simply between voluntary and mandatory CSR but between a narrow approach that treats the law as a box to be ticked and a substantive approach that uses the legal framework as a foundation for long-term social contribution.

C. Accountability and the Purpose of CSR

CSR differs and distinct itself from ordinary commercial expenditure because its intended value is not exhausted by a direct financial return to the company and its justification rests partly on the recognition that corporate activity has social consequences and that companies can contribute to addressing public needs.

At the same time, CSR is not a substitute or alternative for the State's responsibility to protect rights and provide public services and neither should corporate funding allow companies to determine community priorities without consultation. Responsible CSR requires and needs the companies to respect the purposes of the statutory framework and the interests of those affected by their projects.

A meaningful CSR approach therefore combines and mixes accountability to the law with accountability to beneficiaries. The first asks whether the company has complied with the applicable provisions; the second asks whether the project was relevant, fair, transparent and effective.

IV. POLICY OBJECTIVES AND REGULATORY GUIDANCE

The statutory framework is established primarily and most fundamentally through legislation and delegated rules, with corporate boards responsible for implementing CSR policy. The

[9] Dhammika Dharmapala and Vikramaditya Khanna, 'The Impact of Mandated Corporate Social Responsibility: Evidence from India's Companies Act of 2013' (2018) 56 International Review of Law and Economics 92.

Ministry of Corporate Affairs has issued guidance explaining and clarifying the operation of the framework and clarifying that CSR is a board-driven process conducted within the requirements of the Companies Act and the CSR Rules.[10]

The objective of the policy is not merely to increase the volume of corporate spending but to encourage contributions to recognised social priorities while preserving accountability for the way funds are used. The Board-level responsibility is important and very vital because it connects CSR decisions with corporate governance and places the responsibility for compliance and oversight within the company.

The effectiveness of policy, however, depends on the quality of monitoring and reporting framework can promote transparency only if the information disclosed enables stakeholders to understand the purpose, implementation and consequences of a project. For this particular reason, outcome-oriented assessment and meaningful disclosure should complement the existing legal requirements.

V. CONTEMPORARY CHALLENGES

A. Measuring Social Impact

Financial expenditure is relatively or comparatively straightforward to record, whereas social impact may be difficult and hard to measure. The number of beneficiaries reached or the amount spent does not necessarily show whether educational outcomes improved, health needs were met or environmental conditions became more sustainable.

The CSR Rules do provide for impact assessment in specified circumstances[11] and such assessment is valuable and very vital only where it uses reliable evidence, appropriate indicators and sufficiently independent evaluation. Companies should distinguish or differentiate between the inputs, outputs and outcomes: funds spent are inputs, activities completed are outputs, and improvements in the circumstances of beneficiaries are outcomes.

B. Transparency and Reporting

Public reporting can help shareholders, regulators and communities to understand CSR decisions but general descriptions of charitable activity may not reveal whether projects

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[10] Ministry of Corporate Affairs (India), 'General Circular No 14/2021: Frequently Asked Questions (FAQs) on Corporate Social Responsibility (CSR)' (25 August 2021).

[11] CSR Rules (n 2) r 8(3)(a), as amended by the 2021 Amendment Rules (n 7).

achieved their objectives. CSR reports should, where appropriate, identify the objectives, expenditure, implementation challenges, measurable results and lessons learned and a clear disclosure would allow stakeholders to assess the quality of the programme rather than relying on expenditure figures alone.

C. Institutional Capacity and Implementation

Effective CSR often requires collaboration with non-profit organisations, local institutions and subject-matter experts, in a Weak project design, limited monitoring capacity or insufficient coordination may reduce the value of expenditure. Companies should therefore assess the capacity of implementing partners and ensure that monitoring continues throughout the life of a project.

D. Community Participation and Local Needs

A CSR project is more likely to be effective and useful when it responds or interacts towards the needs of its intended beneficiaries, Section 135 directs companies to give preference to the local area and areas around their operations when undertaking CSR activities.[12] Geographic proximity alone, however, does not ensure or guarantee that a project reflects local priorities.

Consultation with communities and implementing organisations can help to identify genuine needs, avoid duplication and improve sustainability, accessible feedback mechanisms can also help beneficiaries report difficulties and suggest changes. Community participation should therefore be treated as an essential and important element of responsible project design.

E. Long-Term Sustainability

Some social problems cannot be addressed through one-time donations or short-term activities like - Education, healthcare, environmental protection and livelihood development may require sustained support and cooperation among multiple institutions. CSR projects should be designed in a way with realistic objectives and a plan for maintaining benefits beyond the initial funding period.

[12] Companies Act 2013 (India) (n 2) s 135(5).

F. The Risk of Treating CSR as Public Relations

Corporate reputation may be one consideration in CSR decisions, but publicity should not replace the evidence of effectiveness, as where projects are selected mainly for visibility, there is a risk that less visible but more pressing community needs may receive inadequate attention. Companies should ensure that public communications accurately reflect or display the scale and results of their work and are supported by verifiable information.

VI. RECOMMENDATIONS

Firstly, the CSR evaluation should place greater emphasis or focus on outcomes along with the expenditure and procedural compliance, as companies should identify the objectives at the planning stage and assess whether those objectives have been achieved.

Secondly, the reporting should be clear and meaningful in nature and the information about project selection, beneficiaries, results and implementation challenges can help stakeholders assess whether CSR initiatives are effective.

Thirdly, the impact assessment should be credible and appropriately independent in nature where required and the assessment findings should inform future decisions instead of serving only as an additional document for compliance.

Fourthly, companies should engage and interact communities and implementing partners in identifying needs, monitoring progress and evaluating results, as Participation can make projects more relevant and improve accountability to intended beneficiaries.

Fifthly, companies should favour sustainable initiatives where long-term engagement is necessary, because a project should be assessed not only by its immediate outputs but also by whether its benefits can continue after the initial funding period.

Finally, the regulators and corporate boards should preserve the distinction between legal compliance and substantive responsibility. The law should remain as the minimum standard, while governance practices should encourage companies to consider the broader social consequences of their decisions.

VII. CONCLUSION

The Indian CSR framework represents a significant effort to connect corporate governance with social development and in the Section 135 of the Companies Act 2013, together with Schedule VII and the CSR Rules, establishes statutory responsibilities for qualifying

companies and provides a structure through which corporate resources can support recognised social objectives.

Mandatory CSR has the potential to increase corporate participation, formalise board-level responsibility and mobilise resources for public welfare but yet expenditure and reporting alone cannot establish whether a project has generated meaningful or lasting social change. The central challenge is to ensure that compliance does not become the endpoint of corporate responsibility. A robust framework must combine adherence to statutory requirements with transparent reporting, credible impact assessment, community participation and long-term planning.

Ultimately, genuine social commitment and statutory compliance should not be treated as mutually exclusive. Law can establish the baseline and create incentives for action, while corporate governance and ethical decision-making determine how responsibly that framework is implemented. The effectiveness of CSR in India should therefore be measured not only by the resources allocated, but by the integrity of the process and the improvements achieved for the communities it is intended to serve.

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