

Concept and Development of CSR in India: A Legal Analysis

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Abstract—Business plays an important role in the overall development of society. The concept of business and its operation has transitioned from profit-making centric to problem-solving centric. In the present market economy system, each business house involves itself in community service to create goodwill. The business entity voluntarily undertakes these generous activities, but the complexity of modern business operations and its governance results in the formulation a policy for the generous activities. Presently, the Companies Act, 2013 regulates those generous activities of the business entity under the nomenclature ‘corporate social responsibility’ provisions

Index Terms—Business entity, Companies Act 2013, Corporate Social Responsibility, and Development

I. INTRODUCTION

Corporate Social Responsibility (CSR) is more than just a buzzword; it's a crucial part of modern businesses' operations. At its core, CSR is about companies taking responsibility for their impact on society and the environment. This isn't just about following laws—it's about doing what's right and building trust with everyone involved, from customers to employees to the broader community. When companies commit to CSR, they contribute to sustainable development. This means they're actively working to reduce their environmental footprint, combat climate change, and conserve resources. These efforts help protect our planet and ensure that businesses can thrive in the long run. CSR is a vital component of a successful and sustainable business strategy, reflecting a genuine commitment to positively impacting society and the environment. By integrating CSR into their core operations, companies can achieve long-term success while contributing to the greater good.

Meaning and definition of Corporate Social Responsibility:

Corporate Social Responsibility (CSR) refers to a social movement and a set of specific management practices and initiatives. It is a global concept where organizations assume responsibility for the impact of their activities on the well-being of society, including customers, employees, shareholders, communities, and the environment in all areas of their operations.

The European Union's Commission on Economic and Social Committee defined Corporate Social Responsibility as “the responsibility of enterprises for their impacts on society.” Harvard Business School defines Corporate Social Responsibility as the “idea that a business has a responsibility to the society that exists around it”. Section 135 of the Companies Act, 2013, mentions corporate social responsibility; however, it remains undefined in the Act.

II. CONCEPTUAL DEVELOPMENT OF CORPORATE SOCIAL RESPONSIBILITY

The concept of Corporate Social Responsibility (CSR) has undergone a significant evolution from the 1950s to the present day. It began with Howard Bowen in the 1950s, who introduced the idea that businessmen have a social responsibility to make decisions and take actions aligned with societal values and objectives. Around the same period, Davis (1960) emphasized that socially responsible business decisions could yield long-term economic benefits, thereby justifying the pursuit of CSR. Frederick (1960) contributed by highlighting the importance of private contributions to society's economic and human resources, stressing that businesses should ensure these resources serve broader social purposes.

During the 1960s and 1970s, the focus of CSR expanded with the emergence of the stakeholder approach. Johnson (1971) argued that companies

should not only aim to increase shareholder returns but also consider the interests of employees, suppliers, dealers, local communities, and the nation as a whole. This period also saw the development of the Three-Dimensional Model, again discussed by Johnson, emphasizing a similar inclusive approach to corporate responsibility.

The 1980s and 1990s witnessed further refinement of CSR concepts. Wartick and Cochran (1985) introduced a Three three-dimensional model that integrated corporate responsibility principles, policies for social issue management, and processes of action into a coherent and evolving system. Wood (1991) expanded this framework by connecting four types of corporate responsibilities—economic, legal, ethical, and philanthropic—to three institutional levels: legal, organizational, and individual. She also extended the scope of corporate actions to include assessment, stakeholder management, and implementation strategies.

In the 2000s, Schwartz and Carroll (2003) proposed the Three Domains Approach, which categorized corporate responsibilities into economic, legal, and ethical domains. This approach provided a more structured understanding of CSR. In 2011, the European Commission introduced a modern and comprehensive perspective on CSR. It defined CSR as a process of integrating social, environmental, ethical, human rights, and consumer concerns into business operations and core strategies through close cooperation with stakeholders. This marked a significant shift towards embedding CSR into the strategic fabric of business organizations, reflecting its growing importance in global corporate governance.

III. DEVELOPMENT OF CORPORATE SOCIAL RESPONSIBILITY IN INDIA

CSR has progressed through social integration. In business organizations, socially conscious production aims to reduce poverty by education and healthcare, as well as creating jobs for needy people. As a result, India's corporate social responsibility history may be classified into four stages:

a. The First Phase of CSR Initially, CSR was propelled by philanthropic and charitable acts. It was shaped by a value system, culture, and religion, as well as industrialization. Until 1850, prosperous businessmen distributed their wealth

to society by establishing temples or religious institutions. They opened their warehouses to the needy during disasters. With the establishment of the colonial administration in 1850, the attitude about CSR shifted. CSR was also promoted by the trendsetters or promoters of industrialization before independence. In the early 1900s, entrepreneurial groups such as the Tata, Birla, Modi, Godrej, Bajaj, and Singhanian, etc., propagated their philosophy by establishing philanthropic foundations, academic institutions, care units, and neighbourhood trusts. It's also worth noting that their efforts were not in vain.

- b. The Second Phase of CSR This was the era of the independence movement, when industrialists were pressed to demonstrate their commitment to the betterment of society. Mahatma Gandhi challenged wealthy entrepreneurs to share their wealth for the sake of the poor. He introduced the notion of stewardship, which aided India's socio-economic development. He urged business leaders and industrialists to establish trusts in research and training organizations. These trusts also supported social changes like rural development, women's empowerment, healthcare, and education.
- c. The Third phase of CSR from 1960 to 1980, CSR was affected by the needs of public sector enterprises to assure the distribution of income in the third phase. Industrial licensing policies, as well as other policies and constraints on the private sector, have resulted in corporate malfeasance. Even though there were several laws on corporate governance, labour, and environmental-related issues but they could not boost the public sector companies in terms of their productivity. As a result, there was a natural shift in expectations from the public to the private sector, with the latter's active participation in socio-economic growth. Academicians, legislators, and businesspeople convened a national workshop on CSR in 1965, with an emphasis on social ethics and integrity.
- d. The Fourth phase of CSR With globalization, economic liberalization, and privatisation in the 1990s, as well as the partial removal of constraints and licensing systems, Indian enterprises incorporated CSR into a sustainable business plan. The growth of the economy accelerated, and

as a result, the industrial production improved, allowing businesses to devote as much to social responsibility. In 2009, the Ministry of Corporate Affairs issued guidelines to regulate the voluntary corporate social responsibility of Indian companies. After that, the Companies Act 2013 made corporate social responsibility a legal obligation that has to be fulfilled without fail by companies operating their business in India. This CSR provision is developed under the guidance of Dr. M. Veerappa Moily, the then chairperson of the Parliamentary Standing Committee on Finance. The committee conducted extensive consultations with various stakeholders, including industry representatives, non-governmental organizations (NGOs), and legal experts, to develop an effective CSR legal framework. Currently, the Companies Act, 2013 makes provision for companies to spend 2% of their average net profit over the previous three financial years on CSR. This applies to businesses with a revenue of Rs. 1000 crores, or a profit of five crore rupees, or a net worth of Rs. 500 Crores. Since 2014, the central government, for the first time in the world, enforced that big private and public sector companies spend at least 2% of their net

profit on specific developmental projects under CSR activities.

Legal Framework on Corporate Social Responsibility in India:

A range of codes and standards is being adopted globally and domestically. These codes and standards provide a framework for target companies to demonstrate socially responsible action. The company must follow both the global code and the domestic code.

- (a) The United Nations Global Compact (UNGC) is one of the global codes that guides companies in their corporate social responsibility policies and actions for a sustainable society. Broadly, the United Nations Global Compact (UNGC) evolved ten principles that companies have to follow. The Global Compact is the world's largest corporate citizenship initiative with two objectives: (1) To promote the ten principles in business activities around the world and (2) To Catalyse actions in support of broader UN goals, such as the Millennium Development Goals (MDGs). The Compact was announced by the then UN Secretary-General Kofi Annan in an address to the World Economic Forum on January 31, 1999, and was officially launched at UN Headquarters in New York on July 26, 2000.

TEN PRINCIPLES OF UNITED GLOBAL COMPACT

Types of Right	Principles	Details
Human Rights	<i>Principle 1</i>	Support and respect the protection of internationally proclaimed human rights
	<i>Principle 2</i>	Make sure that they are not complicit in human rights abuses
Labour Standards	<i>Principle 3</i>	The freedom of association and the effective recognition of the right to collective bargaining
	<i>Principle 4</i>	The elimination of all forms of forced and compulsory labour
	<i>Principle 5</i>	The effective abolition of child labour
	<i>Principle 6</i>	The elimination of discrimination in employment and occupation
Environment	<i>Principle 7</i>	Support a precautionary approach to environmental challenges
	<i>Principle 8</i>	Undertake initiatives to promote environmental responsibility; and
	<i>Principle 9</i>	Encourage the development and diffusion of environmentally friendly technologies
Anti-Corruption	<i>Principle 10</i>	Businesses should work against corruption in all its forms, including extortion and bribery

(b) Domestic legal framework: The Companies Act, 2013, and its CSR Rules 2014 are the two primary legal documents that govern corporate social responsibility (CSR) in India. Before the enactment of the Companies Act, 2013, corporate social responsibility (CSR) in India was largely voluntary, with companies engaging in CSR activities at their discretion. However, the increasing recognition of the role of businesses in contributing to societal well-being and sustainable development led to calls for a more structured approach to CSR. The Companies Act, 2013, was introduced to replace the Companies Act, 1956, to modernize corporate governance and align it with global standards. The Ministry of Corporate Affairs (MCA) played a pivotal role in drafting the new legislation, incorporating inputs from various stakeholders, including industry bodies, legal experts, and civil society organizations. The Companies Bill, 2012, was introduced in the Lok Sabha (the lower house of India's Parliament) and was passed on December 18, 2012. It was subsequently passed by the Rajya Sabha (the upper house) on August 8, 2013, and received the President's assent on August 29, 2013, becoming the Companies Act, 2013. Section 135 of the Companies Act, 2013, introduced a mandatory CSR requirement for certain companies, making India one of the first countries to mandate CSR spending through legislation. The provision mandates that companies meeting specific financial criteria must spend at least 2% of their average net profits over the last three years on CSR activities. To operationalize Section 135, the MCA notified the Companies (Corporate Social Responsibility Policy) Rules, 2014, which came into effect on April 1, 2014. These rules provided detailed guidelines on the implementation of CSR activities, including the formation of a CSR committee, the development of a CSR policy, and reporting requirements. Apart from this, section 134 (3) puts an obligation on the company to constitute a Corporate Social Responsibility Committee. This committee formulates and recommends to the Board a Corporate Social Responsibility Policy, which shall indicate the activities to be undertaken by the company in areas or subjects specified in Schedule VII. Non-compliance with the CSR provision attracts a

penalty to both companies and their functionaries. Schedule VII outlines the following activities that come under the ambit of CSR activities.

- i. Eradicating hunger, poverty, and malnutrition, promoting health care, including preventive health care, and sanitation, including contribution to the Swachh Bharat Kosh set-up by the Central Government for the promotion of sanitation and making available safe drinking water;
- ii. Promoting education, including special education and employment-enhancing vocational skills, especially among children, women, the elderly, and the differently abled, and livelihood enhancement projects;
- iii. Promoting gender equality, empowering women, setting up homes and hostels for women and orphans, setting up old age homes, day care centres and such other facilities for senior citizens, and measures for reducing inequalities faced by socially and economically backward groups;
- iv. Ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agroforestry, conservation of natural resources, and maintaining quality of soil, air, and water, including contribution to the Clean Ganga Fund set up by the Central Government for rejuvenation of the river Ganga;
- v. Protection of National Heritage, art and culture, including restoration of buildings and sites of historical importance and works of art; setting up public libraries; promotion and development of traditional arts and handicrafts.
- vi. Measure for the benefit of armed force veterans, war widows and their dependents, Central Armed Police Forces (CAPF) and Central Para Military Forces (CPMF) veterans, and their dependents, including widows.
- vii. Training to promote rural sports, nationally recognized sports, Paralympic sports, and Olympic sports;

- viii. Contribution to the Prime Minister's National Relief Fund or Prime Minister's Central Assistance and Relief in Emergency Situations Fund (PM CARES Fund) or any other fund set up by the Central Government for socio-economic development and relief and welfare of the Scheduled Castes, the Schedule Tribes, other backward classes, minorities and women;
- ix. (a) Contribution to incubators or research and development projects in the field of science, technology, engineering, and medicine, funded by the Central Government or State Government or Public Sector Undertaking or any agency of the Central Government or State Government; and (b) Contributions to public funded Universities; Indian Institute of Technology (IITs); National Laboratories and autonomous bodies established under Department of Atomic Energy (DAE); Department of Biotechnology (DBT); Department of Science and Technology (DST); Department of Pharmaceuticals; Ministry of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy (AYUSH); Ministry of Electronics and Information Technology and other bodies, namely Defense Research and Development Organization (DRDO); Indian Council of Agricultural Research (ICAR); Indian Council of Medical Research (ICMR) and Council of Scientific and Industrial Research (CSIR), engaged in conducting research in science, technology, engineering and medicine aimed at promoting Sustainable Development Goals (SDGs).
- x. Rural development projects;
- xi. Slum area development;
- xii. Disaster management, including relief, rehabilitation, and reconstruction activities.

IV. CONCLUSION

India has a robust legal framework for governing the CSR activities of companies. Citizens' duties are enshrined in the Indian Constitution, in a similar way to the Companies Act, 2013, which puts corporate entities under legal obligation to do some activities apart from profit-making. Those activities are known

as corporate social responsibility. The CSR guideline provided under Schedule VII of the Companies Act, 2013, is wholesome of ideas and activities that are prominently highlighted in the directive principle of state policy chapter of the Indian Constitution.

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