A CRITICAL ANALYSIS OF CORPORATE SOCIAL RESPONSIBILITY IN CONTEXT TO THE PROVISIONS OF 'THE COMPANIES ACT, 2013' OF INDIA

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ABSTRACT

The practise of conducting business in which companies make a visible contribution to the entire ecosystem in which they operate is known as corporate social responsibility, or CSR. Companies that practice social responsibility don't just focus on actions that increase their profits; they also consider inclusive growth and sustainable development. Organizations use CSR to match their business operations and expansion with their social, environmental, and economic goals. CSR is thought to create a company's goodwill and brand equity among customers and the general public. The Hallmark of business is to not only concentrate on the bottom line like profit but should focus on three bottom people, the planet, and profit. When they say "society," they refer to the global concern for ecology, the environment, or sustainable business. Government regulations (Section 135 of "The Companies Act, 2013", under rules of 2014, Schedule VII) stipulate that companies with net worth, turnover, or profit after tax (PAT) above a certain threshold must contribute 2% of their net earnings over the previous three years to social development, report on their annual report, or provide an explanation. This paper focuses on "The Companies Act, 2013" requirement for mandated spending and disclosure of CSR initiatives. The study also addresses the main flaws in the provision that may prevent it from being used in practice. This paper is both exploratory and descriptive as it analyses the CSR phenomenon in the context of "The Companies Act, 2013" and at the same time collects data through a survey method that tries to deliver information and explicit knowledge in the public domain.

Keywords: Corporate Social Responsibility, Section 135, the Companies Act 2013, Schedule VII, Sustainable Development.

INTRODUCTION

Corporate social responsibility (CSR) is the term used to describe a company's sense of duty to the community and environment (both ecological and social) in which it operates. Companies can achieve this obligation by minimizing waste and pollution, supporting charitable, social, and environmental causes, and doing similar actions. The term "social responsibility" describes an organization's selfless efforts to improve society. The underlying moral principle is that since businesses use society's resources, they need to return some of those resources to society. CSR is not the same as charity or donations. As per Peter Ducker, "Corporate Social responsibility needs executives to believe to what extent their deeds are likely to endorse the

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community excellence, to promote the basic faith of the general public, to add to its stability, potency, and harmony."

India's economy has experienced economic liberalisation, privatisation, and globalisation over the last three decades, and it is currently one of the fastest-growing in the world. Over the years, the industrial sector has been able to generate a lot of wealth. However, the general public has not yet reaped the benefits of economic growth and development, leaving a sizable percentage of the population with poor access to necessities like sanitary toilets, education facilities, clean water, medical services, etc. According to the most recent Human Development Report, India is placed 135th out of 187 nations. Despite being referred to be an emerging global player, the nation continues to have the highest concentration of underprivileged, malnourished children who have little access to healthcare and educational resources.

The main cause of social unrest may be the unequal distribution of income. The government tried its best to include the corporate sector as a significant contributor to social development initiatives as the wealthy continue to get richer and poverty statistics show no signs of improvement. The Indian government has also taken courageous action in directing the economic gains of business toward people who most need it. Corporate social responsibility (CSR) regulations were established under “The Companies Act, 2013” making it the first country to have CSR legislation. Specific CSR requirements as per law must be met by specific companies on an obligatory basis. Businesses are subject to net of mandatory CSR provisions if they have a net worth of at least Rs. 5 billion, a turnover of at least Rs. 10 billion, or a net profit of at least Rs. 50 million more than in the previous fiscal year. The same holds true for international businesses that fit the above requirements and have project offices or branches in India. A corporation is released from CSR Provisions until it satisfies the requirements if it does not meet the previously mentioned standards for three consecutive fiscal years. According to government regulations, companies whose net worth, turnover, or profit exceeds the aforementioned threshold must either report on their annual report, or give an explanation if they did not, donate 2% of their net earnings from the preceding three years to social development. Failure to explain a short investment or non-investment carries a fine of at least Rs. 50,000 and up to Rs. 2.5 million under the terms of the "Comply or Explain" policy.

The CSR provision in “The Companies Act, 2013” appears to be a sincere effort to enhance the objectives of equitable development while also encouraging greater transparency and disclosure. The Chairman of the CSR Committee described corporate social responsibility (CSR) as the process by which a company considers and develops its relationships with stakeholders for the benefit of all, and it shows commitment by implementing the proper business practices and strategies, in his draft proposal for the Corporate Social Responsibility Rules under Section 135 of the Companies Act of 2013. CSR is therefore not charity or straightforward gifts. CSR is a way of conducting business that enables companies to directly help the community. Companies that engage in social responsibility don't just employ resources for projects that increase their profits; they also incorporate environmental and social objectives into daily operations and company growth.

Some rules and regulations deal with things like the minimum wage, health and safety, and investor disclosure. However, none deals with environmental impact disclosure in its books of account, nothing that deals with supplier relationships, and none that deals with community effect. In the dominion of CSR, opinions are just as varied, with some favouring a legal structure and others believing it would devastate everything. The justification that is frequently used as a rationale for why new legislation will harm CSR. This implies that if there were regulations governing CSR, businesses would only do what the law demands. Voluntary CSR is currently having the advantage of delivering out of the box.

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The argument, however, is that legislation would destroy ethical motivation. According to a report by CIIs, “The Companies Act of 2013” is likely to increase the number of SMEs to participate in CSR because it mandates those businesses with a minimum net profit of Rs. 50 million spend money on such initiatives. This will provide a brand-new set of problems to this sector as products are being sold to (business to business) B2B at competitive prices or low margins of profit, making business unviable with additional expenses in CSR. Only six out of the top 100 Indian businesses (ranked based on net sales statistics) gave more than 2% of their income after taxes to CSR activities, according to a Forbes India poll.

LITERATURE REVIEW

According to Oliver Sheldon (1923), during the beginning of the 20th century, social performance and market performance were intertwined for businesses to create a rich and healthy society. He urged management to take the lead in enhancing justice and morality in society by upholding the ethics of the economy. By doing this, business increases the level of living in society and adds to its wealth while making an appropriate profit. According to Bowen (2013), the concept of business executives having social duties that go beyond pure profit-seeking defines CSR as decisions, activities, and policies that support societal objectives and ideals. The shareholder model proponents, including Milton Friedman (1970), argued that corporations are not responsible for society at large. They said that companies solely consider the interests of their shareholders and that the government, non-profit organizations, other charitable institutions, and trusts should take care of social responsibility. A corporation has only one obligation—to utilise its resources and act in a way that will maximize its profits or shareholder’s wealth —as long as it adheres law of the land and competes honestly and openly without lying or cheating.

Based on the results of a study of international experts on corporate social responsibility and sustainable development, John Elkington (1994) invented the jargon "triple bottom line." In 1995, he also developed the 3Ps formulation, sometimes known as "profit”, “people”, and “planet" or "the three pillars". According to WBCSD (1999), the World Business Council for Sustainable Development (1999), “corporate social responsibility as the commitment of businesses to support sustainable and economic development by collaborating with employees, their families, the local community, and society at large to enhance people's quality of life”. As per the World Economic Forum, business must strike a balance between the demands of a variety of stakeholders, including clients, suppliers, the communities in which it operates, as well as governments and non-business entities. CSR entails businesses incorporating social and environmental goals into their daily operations and interactions with relevant parties.

According to Khoury et.al (1999), "corporate social responsibility is the corporation's overall connection with all of its stakeholders," like customers, employees, communities, owners/investors, the government, suppliers, and rivals are a few of these and organizations will establish a balance between economic, environmental, and social imperatives through successful CSR practices; they will also meet stakeholders' expectations, demands, and influences; and they will maintain shareholder value”. CSR must be regarded as a company’s core value, and business must take into account the needs of all the firm's major stakeholders. It also calls for a mindset that is in tune with the culture and neighbourhood in which a firm operates. According to Hemingway (2002), corporate social responsibility (CSR) can mean different things to different people. CSR is typically thought of as a multi-disciplinary topic and different definitions exist because it is based on how much responsibility is thought to fall within the purview of a firm. CSR

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can be seen as a contemporary manifestation of philanthropy or charity. A lot of scholars have investigated and offered a variety of arguments for why companies engage in CSR projects, according to MigleSontaite-Petkevicience (2012). Some of these factors include improvements in financial performance, contributions to market share, product quality, staff turnover, employee dedication, and company reputation. All of these have advantages, but increased corporate reputation is the one that firms seek out the most. It illustrates how CSR has developed into one of the most important factors influencing corporate reputation. This is due to the fact that CSR eventually has an impact on a company's reputation when it is divided into subcategories like product responsibility, environmental responsibility, and human responsibility.

According to the Commission of the European Communities (2002), “Corporate social responsibility (CSR) is an idea where businesses voluntarily integrate social and environmental issues into their daily operations, interactions with stakeholders, and activities by businesses over and above legal obligations voluntarily embraced”. According to Elkington (1999), an organization's acceptance into society can be gained through enhancing its environmental and social performance in addition to satisfying stakeholders with higher revenues. According to Garriga et al., (2004), People-Planet-Profit, often known as the triple bottom line, is a concept that is widely accepted today as one that should be adopted and put into effect in every firm. Following this three-pillar strategy, CSR can focus on issues related to the economy (to make a profit), the social world (sensitivity and respect for various and shifting social and cultural norms and values), the environment (respect for the natural world, and continual improvement of its condition), or a combination of these three pillars.

As per Garriga et al. (2004), each CSR theory in use identifies four elements related to financial success, political performance, social expectations, and moral standards, The findings indicate the need for a new paradigm on how business and society interact that includes these four components. According to Slob & Oonk, (2007), "Social responsibility is the responsibility of an organization for its decisions and activities on society and the environment through transparent and ethical behaviour that is consistent with sustainable development and the welfare of society; takes into account the expectations of stakeholders; complies with applicable law and consistent with international norms of behaviour”. A case study conducted by V. Ahuja has demonstrated how a carpet weaving business like "Jaipur Rugs" had risen to success, not because of its financial criteria but rather because of the way it has given back to the community. The corporation has created a business strategy that is based on social responsibility. Their company model's primary goal is to foster entrepreneurship in the artisan community and make it self-sufficient. The business has looked into what it means to support those who add value. The "triple bottom line" of the three Ps—"People, Planet, and Profits”—is the goal of proactive businesses. In other words, they emphasize contributions to the economy, society, and environment. Singh (2017) examined the CSR initiatives made by Bharti Airtel in “The Companies Act 2013”. A corporate house utilizes societal resources, and societal support is necessary for its operation. As a result, these companies ought to contribute to the general welfare of society and its associates. Bharti Airtel engages in CSR initiatives in a variety of fields, including education, combating hunger and poverty, advancing women's rights and gender equality, protecting the environment, responding to natural disasters, and waste management. According to Secchi (2007), "New efforts are needed to understand new developments due to the growing meaning of CSR and the enormous number of experts who have begun to analyze the subject in recent years. As per Lee (2008), the endeavor continues to be exceedingly challenging due to the significant heterogeneity of ideas and

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techniques, particularly when heterogeneity results from multi-disciplinary diversity, and also noted that the meaning and application of the term "CSR" have been evolving.

The concepts and theories of corporate social responsibility have been researched and classed by these academicians over time. Different people have different ideas about corporate social responsibility (CSR), which has led to a variety of misconceptions and obstacles for businesses when it comes to how they handle CSR opportunities and challenges. Corporate social responsibility (CSR) has been actively debated for more than 50 years, but no single, broadly recognised definition has been established.

Unfortunately, the CSR definitions only describe a phenomenon and offer no advice on how to handle the problems that arise from it. Instead of defining CSR, business is more concerned with how it is socially constructed in a particular context and how to take this into account when developing business strategy.

Point of View in Opposition to Mandatory CSR

The majority of the arguments against social responsibility are based on classical economics theories. Following are the arguments against CSR making responsibility mandatory for companies:

1. Non-congruence to the basic nature of business- A business's main purpose is to meet societal needs by providing goods and services at a cost that is comparable to or less than the degree of satisfaction that comes from utilising them. If this level of satisfaction is lower while costing more or in other words, if there is less value for the money, the product or service loses its relevance. In general, a product's or service's pricing is significantly influenced by the cost of manufacturing. Engaging in social responsibility increases expenses, which in turn boosts product pricing. If the above equation is reversed, the business house may eventually fail.

2. Variance with profit maximization or wealth maximization ideology- This statement asserts that companies exist solely to maximize profits and that firms may best fulfil their social obligation by enhancing efficiency and lowering expenses. They are not required to take on any new responsibilities. The profit Maximisation ideology of business clashes with social obligations. Taking on business entails taking risks. Profit is the benefit of taking this risk. When social responsibility is included as a goal of the company, profit margins are reduced, which is contrary to the notion of profit optimization. As a result, business motivation and social duty do not go in the same direction.

3. Twist in resource allocation- Social obligations distort the distribution of resources. An economic system bases its resource allocation on the idea that each resource is utilized to its fullest extent. Without social responsibility, rather than with it, this use is more effective. As a result, if social responsibility is included in business operations, resource allocation will be distorted.

4. Compelling society to instill business ideology- Discharging social responsibility entails a significant amount of commercial influence in society. As a result, by taking on social responsibility, a company is more likely to impose its principles on society, thereby substituting social values with commercial ones. This has happened in many instances. From a social standpoint, this is quite undesirable.

5. Incompetence in the domain- The system becomes inefficient as a result of social responsibility. Self-interest has no equal when it comes to motivating individuals to act. As a result, any substitution of self-interest will be deadly to the system's efficiency. To a large extent, social responsibility tends to supplant economic self-interest defined in terms of profit motive, rendering the business system inefficient.

6. **Service deliverance issue-** The implementation of social responsibility has several operational issues. Social responsibility is a perplexing notion, both conceptually and operationally. As a result, managers in charge of company affairs are unsure of what they are required to accomplish in terms of social responsibility. As a result,

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social responsibility encompasses anything from merely expressing sympathy to implementing multi-billion-dollar programmes.

7. **Negative impact on consumers**- Customers suffer as there is price escalation due to corporate handling social problems as providing social care necessitates a significant financial expenditure. As money from the business is spent on social assistance, the cost of the company's products and services escalates.

8. Lack of required skills by corporate- It is frequently said that business people lack a thorough understanding of social issues and so are unable to tackle them effectively.

9. Opposition by community- Community or society sometimes resent firms interfering with their social or economic issues and sometimes instead of creating goodwill, it creates a bad name for the company.

10. Welfare work is the exclusive duty of government- This statement asserts that business pays different types of taxes to various authorities. Now the government has to work for the needy and unprivileged section of society.

11. W**hen corporate is in distress nobody takes care** - It is said that on good days companies should take care of society, but when the demand for goods and services of a company declines it loses its market share, and its top-line and bottom-line declines then nobody comes for its rescue and all the stakeholder including society just watch its natural death.

RESEARCH OBJECTIVES

1) To examine the level of awareness among the respondents regarding CSR provisions under "The Companies Act, 2013".
2) To explore the extent to which respondents back compulsory CSR provisions under “The Companies Act, 2013".
3) To examiner the extent to which respondents back compulsory CSR provisions for corporate India.
4) To measure the extent to which respondents support penalty provisions of CSR under “The Companies Act, 2013".
5) To measure to what extent, respondents agree an expenditure amount of at least 2 % of the three-year average profit per annum on CSR programs is sufficient to have an impact on society.
6) To measure to extent to which respondents agree with mandatory CSR provisions is just like another tax on companies.
7) To measure the extent to which respondents are satisfied with CSR provisions undertaken by corporate India.

Research Hypothesis (H0- Null hypothesis)

A1) H0- The mean value of CSR awareness and test show no discernible differences.
A2) H0- The test mean value and the required CSR provisions' mean support level do not differ significantly.
A3) H0- The test mean value and the mean support level of voluntary CSR provisions do not differ significantly.
A4) H0- The test mean value and the mean support level of CSR provisions related to penalties do not differ significantly.
A5) H0- The test mean value and the 2% expenditure on CSR provisions do not significantly differ.
A6) H0- No significant difference in mean support level related to mandatory CSR provisions “just like another tax on companies” and tests mean value.
A7) H0- There is no significant difference in the mean satisfaction level of CSR activities performed by corporate India and test mean value.

Data Collection

As the primary research tool for testing hypotheses and conducting investigations about the study, a structured closed-ended questionnaire was used. Potential respondents included HR

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professionals, business executives/ managers, Professors of Business Schools, Chartered Accountant, Cost Accountants, and corporate legal advisors of business organizations. The preferences of respondents about the selected criteria have been compiled using a Likert scale with intensity ratings of 1 to 5. Some questionnaires were distributed by postal mail, while others were sent online using a link provided in Google Docs. A total of 64 responses were received and out of that 4 response was rejected as there was a discrepancy in response i.e., the total size of the study is 60. SPSS software has been used for statistical analysis. One sample T-test has been used as a tool for analysis and hypothesis testing,

Hypothesis Testing

The hypothesis has been tested using one sample t-test with assumed test value of four. (There is no difference in the present mean value of different CSR attributes and test value), under the assumption that a mean value of four will do so Table 1.

Table 1
ONE-SAMPLE T-TEST OF CSR IN CONTEXT TO PROVISIONS OF 'THE COMPANIES ACT-2013'

Attributes	Test Value = 4 Degree of freedom = 59 Significance level- 5%)		
	Mean	**t**	**Sig. (2-tailed)**
Are you acquainted with corporate social responsibility provisions under "The Companies Act 2013"?	4.12	13.64	.000*
To what extent do you agree with CSR provisions made mandatory to companies fulfilling the stipulated criteria under "The Companies Act-2013"?	2.85	12.76	0.00*
To what extent do you agree that CSR provisions should be made voluntary?	4.21	5.98	0.00*
To what extent do you agree that If companies do not abide by the CSR provisions be penalized?	2.34	-5.48	0.00*
To what extent do you agree an expenditure of an amount of at least 2 % of three-year mean return per annum on CSR programs is sufficient to have an impact on society?	2.62	2.09	0.152
To what extent do you agree that mandatory CSR provisions are just like another tax on companies?	4.17	-13.0	0.00*
To what extent you are satisfied with the present level of CSR initiatives and programmes undertaken by corporate India?	2.887	6.4	0.145

SL with*, Rejection or Acceptance of the null hypothesis.

In the case of "Are you acquainted with corporate social responsibility provisions under The Companies Act, 2013"? A low significance value of 0.00 indicates that there is a significant difference between the test value and the observed mean value, so the null hypothesis is rejected. The observed mean value (4.12) is more than the test value (4) hence it can be concluded that respondents are well aware of CSR provisions under "The Companies Act 2013".

In the case of "To what extent you agree with CSR provisions made mandatory to companies fulfilling the stipulated criteria under "The Companies Act-2013", low significance values of 0.00 indicates that there is a significant difference between the test value and the observed mean value, and so null hypothesis is rejected. The observed mean value (2.85) is less

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than the test value (4) hence it can be concluded that respondents don’t support mandatory CSR provisions for Indian corporates.

In the case of “To what extent do you agree that CSR provisions should be voluntary in nature"? A low significance value of 0.00 indicates that there is a significant difference between the test value and the observed mean value, so the null hypothesis is rejected. The observed mean value (4.21) is more than the test value (4.0) hence it can be concluded that respondents are in favour of voluntary CSR provisions.

In the case of "To what extent do you agree with If companies do not abide by the CSR provisions be penalized"? Low significance values of 0.00 indicate that there is a significant difference between the test value and the observed mean value, so the null hypothesis is rejected. The observed mean value (2.34) is less than the test value (4.0), hence it can be concluded that respondents are not in favor of penal provisions.

In the case of "To what extent do you agree an expenditure of an amount of at least 2 % of three-year average profit per annum on CSR programs is sufficient to have an impact on society”? A significance value of 0.152 indicates that there is no significant difference between the test value and the observed mean value, so the null hypothesis is accepted. Based on this result it can be concluded that respondents are indifferent to an expenditure of at least 2 % of the three-year average profit per annum on CSR programs is sufficient to have an impact on society.

In the case of "To what extent do you agree that mandatory CSR provisions are just like another tax on companies?", low significance values of 0.00 indicate that there is a significant difference between the test value and the observed mean value, and so the null hypothesis is rejected. The observed mean value (4.17) is more than the test value (4.0) hence it can be concluded that respondents perceive that it is just like another tax on companies**.**

In the case of "To what extent you are satisfied with the present level of CSR initiatives and programme undertaken by corporate India?", a low significance value of 0.145 indicates that there is a not significant difference between the test value and the observed mean value, and so null hypothesis is accepted. Based on this result it can be concluded that respondents are indifferent to the CSR initiatives of Indian corporates.

Only CSR initiatives, programmes, and activities carried out in India will count as CSR expenditure. The idea of mandatory CSR has been introduced in the new Companies Act 2013, which will replace the antiquated, nearly 60-year-old Companies Act, 1956.

CONCLUSION

Empirical studies demonstrate that most of the respondents are well aware of the latest CSR provisions under "The Companies Act, 2013" and are inclined toward voluntary CSR provisions rather than mandatory provisions. The respondents oppose the "Comply or Explain" policy's penalty clause, which stipulates that a shortfall or non-investment will result in a fine of at least Rs. 50,000 and up to Rs. 2.5 million.

Based on this result of empirical study it is evident that the respondents indifferent with an expenditure of at least 2 % of the three-year average profit per annum on CSR programs is sufficient to have an impact on society and will be a game changer and steer society towards sustainable development and inclusive growth.

Respondents are taking an expenditure of an amount of at least 2 % of the three-year average profit per annum on CSR programs as another tax on corporate India as respondents are in favor of voluntary CSR not compulsory.

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The study reveals that the sample under study is not very enthusiastic about Indian corporate house contribution towards the upliftment of society and ecology and they perceive still many things still have to be done to

Suggestions and Managerial Implications

For societies to be affluent and inclusive, the business-society nexus must be restructured in the direction of sustainability. The consequences on society and the environment must therefore be taken into account in all business choices that are motivated by economic factors, as well as in all social and environmental efforts. With "The Companies Act 2013", the Indian government chose a legal strategy to reorganize the relationship between business and society. Mandating something that was previously thought to be optional prompted a contentious scholarly debate.

While Indian businesses have implemented several CSR programs for the benefit of their various stakeholders, it is clear that they focus more on CCR (corporate compulsory responsibility) than CSR. To follow the so-called "legal compulsion" approach, in which they merely want to fulfil mandatory CSR obligations, companies participate in the bare minimum of CSR activities. Along with a growing understanding of sustainable development, the public's opinion of firms has also changed. Business ethics have substantially advanced over time, and the need for corporate accountability has become increasingly apparent. Over the past three decades and expansion of civil society, NGOs, and government-related programmes businesses have been forced to respond to growing demands for corporate disclosure. Furthermore, businesses are becoming more and more aware of the benefits that come from such social efforts.

Although the idea behind the CSR legislation is admirable and has been made mandatory under the compliance or explain policy there is no penalty for no expenditure or short expenditure but the penalty only for not explaining dilutes the mandatory clause and makes the provisions ambiguous. Other shortcomings of the mandatory clause are that it will compel the companies to fulfil their obligation and will not motivate expenditure of more than 2%. Govt must introduce some incentive schemes like tax holidays, preference in license, and quotas for companies excelling in CSR activities. A separate entity must be established to oversee the obligations related to CSR under Article 135;

Due to failures to fulfil social commitments to society as a whole, businesses need to take their social responsibilities to society as a whole very seriously. There is an urgent need for more inclusive CSR management, and companies should cease viewing CSR as a barrier to doing business in India. Instead, it should be seen as an opportunity to positively impact the social and corporate spheres. India has the opportunity to achieve a balance between social, environmental, and economic needs while also preserving the interests of many.

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