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ASSESSING THE IMPACT OF CSR INITIATIVES IN INDIA - AN IN-DEPTH ANALYSIS UNDER THE COMPANIES ACT, 2013

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Abstract

Corporate Social Responsibility (CSR) represents a vital concept that underscores the obligations of corporations towards the communities and environments in which they function. In India, the roots of CSR extend to ancient periods, and over time, this practice has transitioned from a voluntary initiative to a compulsory obligation with the enactment of the Companies Act in 2013. This paper undertakes a comprehensive examination of the legal structure surrounding CSR, leveraging the Companies Act, 2013, particularly Schedule VII, and the Companies (CSR Policy) Rules, 2014. It aims to critically assess the legal requirements that compel corporations to engage in social endeavours, along with the subsequent effects on Indian businesses.

Furthermore, this analysis identifies and discusses the challenges and discrepancies associated with these requirements, advocating for additional governmental support to address these issues. The paper begins with a delineation of CSR, followed by an exploration of its historical development and legislative support. It then evaluates the outcomes of these mandates and delves into the complexities and hurdles within the legislative provisions, culminating in a set of conclusions and recommendations.

By doing so, this paper seeks not only to illuminate the current landscape of CSR in India but also to contribute to the ongoing dialogue regarding its future direction and the role of legislative frameworks in fostering corporate contributions to societal and environmental well-being.

Introduction

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CSR is a multifaceted concept that embodies a company's commitment to operate in an ESG sustainable manner. Unlike traditional business models that prioritize profit maximization, CSR emphasizes a holistic approach towards societal welfare and environmental stewardship, embodying a philosophy that leans more towards altruism than profit-making.³ Although the term CSR does not have a formal definition within the statutes of the Companies Act, its essence is widely recognized and understood. It is crucial to distinguish CSR from mere acts of charity or marketing strategies aimed at enhancing a company's public image. In essence, CSR represents a company's endeavours to contribute positively to societal advancement, extending beyond its legal obligations and the immediate interests of its stakeholders.⁴

In the context of India, the trajectory of CSR has been remarkable, transitioning from ancient traditions of philanthropy influenced by royal patronage and Gandhian ethics, to its contemporary mandatory incarnation under legal frameworks. Historically, Indian society has been ingrained with the ethos of giving back, a principle that has seamlessly integrated into the modern corporate ethos. The landmark moment for CSR in India came with the enactment of the Companies Act of 2013. Although the Act stopped short of providing a precise definition of CSR, it significantly outlined the applicability criteria and made CSR a mandatory obligation for certain categories of companies, thereby institutionalizing the concept within the corporate sector.

The legal mandate for CSR under the Act of 2013, has fundamentally transformed the approach of Indian companies towards societal and environmental issues. By specifying the criteria for CSR engagement, the legislation has not only clarified the expectations from corporate entities but also expanded the scope of CSR activities through its obligatory nature. This paradigm shift has led to a substantial increase in CSR expenditures among Indian corporations, fostering a culture of accountability and sustainability. The impact of this legislative framework has been profound, not only in terms of enhancing corporate contributions to social and environmental causes but also in elevating the societal image and brand value of companies engaging in meaningful CSR initiatives.

³"Corporate Social Responsibility: An Analysis of Impact and Challenges in India" (2019) 3 International Journal of Social Sciences Management and Entrepreneurship 53.

⁴ Mitra N, Mukherjee D and Gaur A, "Mandated Corporate Social Responsibility in India: Opportunities, Constraints, and the Road Ahead" (*Social Science Research Network*, December 19, 2018) <<https://doi.org/10.2139/ssrn.3294352>> accessed February 17, 2024.

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Conceptual Landscape

India's engagement with CSR traces its roots back to ancient traditions, where societal well-being was considered a collective responsibility. Historical records illustrate that affluent members of society would often finance the construction of temples and offer assistance during crises such as famines or epidemics. This ethos of giving and community support seamlessly transitioned into the colonial era, albeit influenced by an amalgam of political, cultural, and religious motivations.

During India's struggle for independence, the concept of CSR evolved to embody more structured and ideological forms. Influential leaders like Mahatma Gandhi introduced the principle of trusteeship, which advocated for the wealthy to manage their wealth with the welfare of the public in mind, rather than for personal gain. This period also witnessed businesses actively engaging in efforts aimed at women's empowerment, rural development, and the eradication of untouchability. Such initiatives were not just acts of charity but were intertwined with the broader nationalistic movement aiming for societal reform and upliftment.

Post-independence, the baton for driving socio-economic development and equitable wealth distribution was passed to the Public Sector Undertakings (PSUs) during the 1960s to 1980s. During this era, India's economic landscape was characterized by a tightly regulated private sector, which limited its involvement in broader societal development. However, the PSUs played a pivotal role in laying the foundations for a more inclusive economic progress model. The legislative framework governing CSR in India experienced a significant shift with the introduction of the Act of 2013. Unlike the initial Companies Act of 1956, which lacked explicit mandates on CSR, the 2013 iteration brought about a groundbreaking change by introducing compulsory CSR contributions for certain categories of companies. Specifically, the Act stipulated that firms with a net worth of at least ₹500 crore, or an annual turnover of ₹1,000 crore, or a net profit of ₹5 crore, are mandated to allocate a minimum of 2% of their average net profit over the preceding three financial years towards CSR activities within India.⁵ This legislative move marked a decisive step towards institutionalizing CSR, ensuring that corporate contributions to societal welfare became a standardized practice rather than voluntary benevolence.

⁵"CSR Stipulations of Companies Act, 2013 and Actual CSR Expenditure by Top Indian Companies Prior to Its Implementation: A Comparative Study" (*Social Science Research Network*, September 24, 2019) <<https://doi.org/10.2139/ssrn.3453686>> accessed February 17, 2024.

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Legislative Framework: The CSR Provisions under the Companies Act, 2013

The enactment of the Companies Act, 2013 marked a significant milestone in the landscape of corporate governance and social responsibility in India. This legislation introduced a formal framework for CSR, underscoring the inherent principle of reciprocity between corporations and society. The essence of CSR is rooted in the acknowledgment that businesses, irrespective of their sector of operation, draw upon societal resources during their operational lifecycle. This relationship entails a moral obligation for companies to contribute positively to the communities and environments in which they operate. The CSR paradigm, as established under the Act of 2013, aims to institutionalize the practice of businesses playing a constructive role in societal development and environmental sustainability.

The legal foundation for CSR in India is detailed within Section 135 of the Act of 2013, alongside Schedule VII, and is further elaborated upon in the Companies (CSR Policy) Rules, 2014, including subsequent amendments. These statutory provisions collectively lay down the criteria, governance, and implementation mechanisms for CSR activities by companies operating in India.⁶

Section 135 sets forth specific financial thresholds to identify companies obligated to undertake CSR initiatives. These criteria are designed to encompass companies with significant operations that have a broader impact on the economy and society. According to the stipulated thresholds, any company falling under one or more of the following categories is required to actively engage in CSR activities:

- A net worth of ₹500 crore or more,
- A turnover of ₹1,000 crore or more,
- A net profit of ₹5 crore or more during any financial year.

Companies meeting these criteria are mandated to establish a CSR Committee within their board structure. This committee is charged with the responsibility of formulating and overseeing the company's CSR policy, ensuring that the initiatives align with the specified areas outlined in Schedule VII of the Act of 2013. Furthermore, these companies are required to allocate at least 2% of their average net profits from the three immediately preceding financial years to fund CSR activities. This provision is aimed at ensuring that businesses

⁶Aditi Agarwal, 'CSR: Where Are the Companies Spending?' (2021) 4 International Journal of Law, Management & Humanities, 2115.

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contribute a portion of their earnings towards the welfare and development of society, thereby fostering a sustainable and equitable growth environment.

CSR Compliance Enhancement

Corporate entities meeting specific criteria are mandated to establish a dedicated CSR Committee within their Board of Directors. This committee must comprise at least three directors, with the inclusion of at least one independent director to ensure unbiased oversight. The primary function of this committee is to develop, recommend, and oversee a comprehensive CSR Policy. This encompasses identifying and recommending CSR initiatives, outlining the financial budget allocated for these endeavours, and establishing mechanisms for their ongoing monitoring and assessment.

Once the CSR Committee has formulated the CSR Policy, it is incumbent upon the Board of Directors to meticulously review and subsequently endorse the policy. This ratified policy must then be transparently disclosed within the company's annual report, signifying the company's commitment to social responsibility. Moreover, it is the Board's responsibility to guarantee that the company allocates a minimum of two percent of its average net profits from the preceding three financial years to CSR activities, as delineated in the approved CSR Policy.⁷

The scope of CSR activities that companies are encouraged to undertake is articulated within Schedule VII of the Companies Act. This encompasses a broad spectrum of initiatives aimed at addressing critical societal and environmental challenges. These include efforts to combat hunger, poverty, and malnutrition, initiatives to promote education, gender equality, and women's empowerment, measures to reduce child mortality and enhance maternal health, and projects focused on environmental sustainability. Companies are also urged to contribute to government-established funds designed for socio-economic development, disaster management, and the conservation of natural resources, among other priorities.

In alignment with the Companies (CSR Policy) Rules, 2014, additional stipulations are set forth to ensure the effective formulation, implementation, and transparency of CSR policies. These rules specify the criteria determining a company's obligation to adhere to CSR provisions, based on its net worth, turnover, or net profit. Companies are required to publicly

⁷Nishant Kumar & Akanksha Singh-Jumde, 'Compliance and Enforcement Challenges under India's CSR Law' (2022) 23 Australian Journal of Asian Law, 41.

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disclose their CSR Policy, outlining their strategic approach to CSR, selected focus areas for CSR initiatives, and the planned trajectory for implementing these activities.⁸

A CSR Committee, as mandated, must consist of a minimum of three directors, including at least one independent director. This committee is entrusted with the task of fostering a transparent monitoring mechanism and supervising the execution of CSR projects. The framework for implementing CSR activities emphasizes the importance of conducting these initiatives within the local geographical areas where the companies operate, ensuring a direct positive impact on the communities most closely associated with them.

Finally, in terms of reporting and monitoring, the Board of Directors, upon considering the CSR Committee's recommendations, is required to comprehensively disclose the company's CSR activities within its annual report and on its website. This includes outlining the CSR Committee's role in monitoring the effectiveness of CSR activities and providing updates to the Board. This structured approach aims to bolster accountability, transparency, and the overall impact of CSR initiatives on society and the environment.

Analyzing the Ripple Effects on Corporate Entities

Since its inception, the Tata Group has consistently demonstrated a profound commitment to societal welfare and development, marking its journey with the establishment of the Tata Steel Rural Development Society in 1979. This initiative was aimed at fostering socio-economic growth in rural areas, laying the groundwork for a tradition of community engagement that the conglomerate would continue to build upon. With the advent of the Companies Act, 2013, the Tata Group intensified its efforts in CSR, launching a myriad of projects that have significantly influenced the lives of millions across India.

One of the hallmark campaigns in this endeavour was 'Hamara Toilet Hamari Shaan,' introduced in 2014 as part of the Tata Group's support for the Swachh Bharat Abhiyan.⁹ This initiative focused on constructing toilets in rural regions, thereby elevating community awareness about the critical importance of sanitation and hygiene. This movement not only contributed to improving public health standards but also played a pivotal role in enhancing the dignity of countless individuals.

⁸*Ibid.*

⁹“CSR” (*Tata Sustainability Group*) <<https://www.tatasustainability.com/SocialAndHumanCapital/CSR>> accessed February 18, 2024.

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In 2015, the establishment of Tata Trusts marked another milestone in the group's journey towards social betterment. Dedicated to enriching the quality of life for the Indian populace, Tata Trusts have embarked on a wide array of initiatives. These range from bolstering nutrition and healthcare to promoting sustainable livelihoods and educational opportunities, thereby addressing some of the most pressing challenges faced by communities across the country.

Such relentless commitment to CSR has significantly bolstered the Tata Group's reputation, enabling it to attract and retain top talent while strengthening its stakeholder relationships. Reflective of this dedication is the substantial increase in Tata Steel's CSR investments, which surged from ₹61 crores in 2013 to ₹190 crores in 2019.¹⁰

Parallely, Hindustan Unilever Limited (HUL) has also been a frontrunner in championing sustainability and community development. Since the launch of Project Shakti in 2001, HUL has been instrumental in empowering rural women by training them as entrepreneurs, thus creating livelihood opportunities and expanding the company's reach into untapped rural markets. The growth in HUL's CSR expenditure from Rs. 75 crores in 2013 to Rs. 132 crores in 2019 underscores its commitment to expanding its CSR initiatives and engaging with a broader stakeholder base. The 'Swachh Aadat Swachh Bharat' campaign, introduced in 2018, exemplifies HUL's efforts in promoting hygiene practices among children, further cementing its position as a socially responsible corporate entity.¹¹

Similarly, Infosys, well before the CSR mandates of the Act, 2013, had been deeply involved in CSR activities through the Infosys Foundation, established in 1996. The foundation's focus on healthcare, education, and rural development has led to significant contributions in building schools, providing healthcare facilities, and promoting sustainable agricultural practices. The formalization of CSR mandates has facilitated Infosys in structuring its CSR policies more effectively, with the company's CSR spending witnessing a significant increase from ₹89 crores in 2013-14 to ₹249 crores in 2018-19.¹²

¹⁰"Tata Trusts - The Journey of a Million Smiles" (*Tata Trusts*) <<https://www.tatatrusters.org/>> accessed February 18, 2024.

¹¹"Corporate Social Responsibility (CSR) Policy" (*Unilever*) <<https://www.hul.co.in/investor-relations/corporate-governance/hul-policies/corporate-social-responsibility-policy/>> accessed February 18, 2024.

¹² Thacker H, "The Ultimate Report on CSR of Infosys Limited" (*The CSR Journal*, June 8, 2023) <<https://thecsrjournal.in/corporate-social-responsibility-csr-report-infosys-limited/>> accessed February 18, 2024.

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The Mahindra Group, with initiatives ranging from Nanhi Kali to Project Haryali, has been another exemplary performer in the CSR domain since 1996. Its efforts in sustainable agriculture, afforestation, and water conservation have not only contributed to environmental preservation but have also enhanced Mahindra's brand value as a socially responsible company. This is evidenced by the near tripling of its CSR expenditure in FY 2023 compared to 2013-14.¹³

Other corporate giants like Wipro, Larsen and Toubro, Reliance Industries, and the Adani Group have also made significant contributions to CSR in India, setting benchmarks for corporate social responsibility. While some may initially perceive CSR as a peripheral activity, the qualitative impact of these initiatives is reshaping perceptions, highlighting CSR's integral role in fostering a more equitable and sustainable future.

Insights and Reflections: A Critical Appraisal

The introduction of the Companies Act, 2013, alongside the CSR Rules, 2014, marked a significant step toward embedding social responsibility within the corporate ethos of India. These regulatory frameworks have undeniably heightened awareness and fostered a deeper comprehension among corporations regarding their societal obligations. However, despite these advances, the journey towards the full-fledged and effective execution of CSR initiatives encounters several roadblocks. Among these are the ambiguous delineation of activities deemed as CSR, the challenges in identifying suitable partners for executing these initiatives, and the persistent issue of resource scarcity, especially for expansive projects.

A critical examination reveals that both the Companies Act, 2013, and the CSR Rules, 2014, stop short of offering an exhaustive catalogue of activities that unequivocally qualify as CSR.¹⁴ Instead, they provide broad outlines and general guidance, leaving considerable room for interpretation. This ambiguity serves as a stumbling block, muddling the process of determining which activities can be legitimately classified under a company's CSR portfolio. For example, the CSR Rules, 2014, enumerate objectives like the eradication of hunger, poverty, malnutrition, promotion of education, gender equality, and women's empowerment, yet they fail to delve into the specifics of how these noble goals should be pursued and the

¹³“ESG: Mahindra ‘Hariyali’ Project Plants 22 Lakh Trees in FY23” (*India CSR*, July 6, 2023) <<https://indiacsr.in/esg-mahindra-hariyali-project-trees/>> accessed February 18, 2024.

¹⁴Jai Mishra, ‘CSR and Indian Corporate: Legal Provisions on CSR’ (2021) 4 *International Journal of Law, Management & Humanities* 2520.

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metrics for gauging their success. This vagueness allows companies considerable leeway to tailor CSR provisions to their advantage, potentially watering down the essence and impact of sincere CSR endeavours.

Moreover, the implementation of CSR initiatives, particularly in rural or remote locations, is frequently hamstrung by financial and logistical hurdles. The resource-intensive nature of such projects often surpasses the capacities of companies, especially smaller enterprises, thereby limiting their reach and effectiveness.

To navigate these challenges, a more structured approach is imperative. The government ought to formulate and disseminate detailed, precise guidelines that delineate the spectrum of activities qualifying as CSR. This should be a collaborative effort, incorporating insights from a diverse array of stakeholders including corporate bodies, civil society organizations, and relevant government agencies. This collective wisdom can pave the way for a more inclusive and comprehensive understanding of CSR. Additionally, establishing a mechanism for identifying and partnering with organizations that possess the requisite expertise, especially for specialized projects in areas like healthcare or sanitation, is crucial. Such partnerships can enhance the quality and scale of CSR initiatives, making them more impactful.

The path towards refining the effectiveness of CSR practices in India is marked by the potential for significant improvement. By embracing a more detailed, inclusive, and collaborative approach, and by overcoming the obstacles of ambiguity and resource constraints, the synergy between the government, corporations, and stakeholders can markedly advance the nation's social responsibility agenda. This collective effort has the power to transform the corporate sector into a more robust force for social good, fostering sustainable development and equitable progress across the country.

Conclusion

The Companies Act of 2013 has markedly transformed the landscape of CSR within India's corporate sector. This legislation, through its introduction of mandatory social policies and enhanced financial commitments, has significantly propelled India forward in its CSR endeavours. Despite the journey towards comprehensive improvement still being underway, with a primary focus on refining the understanding of CSR concepts, it is essential to recognize the notable advancements in the CSR initiatives of Indian corporations. Leading

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enterprises, ranging from Tata to Adani and Infosys to Wipro, have embraced their roles in this collective journey of CSR, moving beyond a competitive approach to a shared mission. This transition from theoretical understanding to practical application signifies a pivotal evolution within the realm of CSR in India. Although the full potential of CSR's progress remains to be realized, the influence of the Companies Act of 2013 on the actualization of CSR commitments is undeniably profound, demonstrating its impact beyond mere theoretical discourse.



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