

# CORPORATE SOCIAL RESPONSIBILITY UNDER COMPANIES ACT, 2013

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## ABSTRACT

Social values form an important part of the culture of society. Values account for the stability of social order. They provide the general guidelines for social conduct. Values such as fundamental rights, patriotism, respect for human dignity, rationality, sacrifice, individuality, equality, democracy, etc. guide our behavior in many ways. Values are the criteria people use in assessing their daily lives; arranging their priorities and choosing between an alternative course of action. That Corporate Business has a very valuable role to play in society is not always realized by socialistically inclined governments, intellectuals, or the public. Economic growth and eradication of poverty depend as much, or more, upon the energy and drive of business and commerce as on government policies and programs. Business kick-starts growth and creates wealth. When new enterprises are formed, new jobs are created, new skills are gained and incomes begin to rise. Further growth and productivity follow, spurring more innovation and efficiency, and generating the products and services that people want and need. Simultaneously people gain opportunity, empowerment, and dignity.

**Keywords:** *India Companies Act 2013, corporate social responsibility, Policy and Legislations on CSR.*

## 1. INTRODUCTION

"Corporate Social Responsibility" first gained popularity in the 1960s and has since been widely used to include moral and legal obligation with a more constrained definition. There are numerous names for corporate social responsibility (CSR). CSR is a type of corporate self-regulation incorporated into a company model. It is also known as corporate conscience, corporate citizenship, social performance, or sustainable responsible business/Responsible Business.

Regarding CSR, there are two primary schools of thought. The primary concept is that business entities have a responsibility to society and must "take action to address the challenges that affect society." The second principle is that businesses must be accountable for how their actions influence society. These concepts might be considered as a broad and restricted definition of CSR, however they are not mutually incompatible.

Governments, non-governmental organisations (NGOs), and corporations have specifically developed both sorts of CSR through rules and standards.

### **Evolution of CSR in India**

"Evolution of CSR in India" refers to changes over time in the cultural norms surrounding corporate social responsibility. Hence, corporate social responsibility (CSR) refers to how businesses are run to have a beneficial overall influence on the people, cultures, societies, and surroundings in which they operate. In India, CSR is not a brand-new idea. Corporations like the Tata Group, the Aditya Birla Group, and Indian Oil Corporation, to name a few, have been engaged in community service since their establishment.

Although much has been done in recent years to educate Indian business owners about social responsibility as a crucial component of their operations, CSR in India has not yet gained general acceptance. If this objective is to be achieved, corporate CSR practises must reflect corporate attitudes about traditional business enterprises by setting clear targets, making prospective investments, assessing progress, and disclosing results to the public. The four stages of CSR's development in India parallel the country's historical progression and have led to various CSR strategies. The phases are not fixed, though, and each phase's characteristics could also be found in another phase.

CSR's initial phase was propelled by charitable and philanthropic endeavours. Up until 1850, affluent businesspeople gave back to society by founding temples or other religious institutions. They let the hungry and impoverished inside their granaries during famines. As colonial control began in 1850, the approach to CSR altered. The promoters of industrialization in the pre-independence era also backed the idea of CSR.

The industrialist families of the early 1900s, such as the Tatas, Birlas, Modis, Godrej, Bajajs, and Singhanias, supported this idea by establishing trusts for local development, charitable organisations, and institutions for education and healthcare. The second phase was the time of the struggle for independence, during which industrialists were under pressure to demonstrate their commitment to the well of society. The third phase of CSR, from 1960 to 1980, was impacted by the establishment of public sector initiatives to guarantee equitable wealth distribution.

The Companies Act, 2013, corporate organisations in the public or private sectors are required to set aside 2% of their income for the implementation of CSR beginning with the fifth phase in 2013. In order to further the Millennium Development Goals, the CSR has been established into a legislation. Beginning in 2014, both the law and the regulations went into effect. As a result, India became a nation where CSR initiatives would be legally enforced, ensuring inclusive and equitable growth while also helping the poor and those in need nationwide.

### **The companies act, 2013 and the CSR**

According to Section 135 of the Companies Act of 2013, the Corporate Social Responsibility Committee of the Board shall consist of each firm having certain net worth, turnover, or net profit for any financial year. The

Board's Report must include information on the committee's makeup. This committee will develop the policies, which will cover the things listed in schedule VII. The part further assures that at least 2% of the company's average net income from the three financial years prior to the current fiscal year must be allocated to such policies each year.

Certain businesses, including Hindustan Unilever Limited, Maruti Suzuki India Ltd, and Bharat Petroleum Corporation Limited, have embraced a comprehensive approach to development. These businesses concentrate on providing better medical and sanitary facilities, constructing schools and homes, and empowering the people by giving them access to vocational training and business operations skills in order to increase their level of independence. Several businesses support others by giving them a high level of living. On the other hand, the community's health is a key component of the CSR initiatives of businesses like Glaxo Smith Kline Pharmaceuticals.

In tribal villages, they establish health clinics that provide medical examinations, treatment, and run health education campaigns. Some non-profit organisations that run health and education initiatives in underdeveloped regions receive some funding from these businesses.

In order to create initiatives that address larger societal issues, corporate organisations are increasingly collaborating with non-governmental organisations (NGOs) and utilising their experience.

In India, CSR has gone through several stages. The power of corporations to significantly impact society and raise people's quality of life has been amply demonstrated. To find an effective and long-lasting solution to the social problems, not just one but all corporations should work to transform the current social climate in India. Collaborations between businesses, non-profit organisations, and the government should be encouraged so that India's socioeconomic growth can move forward quickly thanks to the combination of their skills, including knowledge, money, personnel, and strategic thinking.

The system of corporate governance and CSR is supported by 8 principles:

1. Transparency
2. Rule of law
3. Involvement
4. Responsiveness
5. Equality
6. Efficiency and Effectiveness
7. Sustainability
8. Accountability

### **Statement of the problem**

When it comes to their execution, the 2013 Companies Act's provisions on corporate social responsibility are still viewed as policies rather than laws. The judiciary is enforcing any matter relating to the CSR components

granted by the Companies Act while purposefully interpreting the Corporate Social Responsibility as implied under Part-III of the Constitution. Unfortunately, the CSR's effectiveness is diminished by the presence of numerous components.

### **Objectives of the study**

The goals of the current investigation are as follows:

1. To learn about the social climate in India today
2. To learn more about how corporations can affect societal change.
3. To investigate how NGO's affect India's corporate social responsibility

## **2. RESEARCH METHODOLOGY**

Doctrinal technique produced the current research study. A thorough analysis of the constitution's clauses was conducted, and references to additional clauses regarding environmental-related special legislation were made. The research method relies mostly on library resources and uses primary data sources such statutes, committee reports, international agreements, journal articles, and pertinent case laws. Since reading has made it possible to thoroughly analyse international reports, documents, and briefing papers. Academic monographs, journal articles, other published works, and other sources of information that are referred from the internet, news items, and websites are some other examples of secondary sources.

Primary, Secondary, and Tertiary Sources are all covered. The original texts of pertinent laws, articles, and policy documents have been looked over as part of an information analysis. Secondary source materials have included books, journals, periodicals, reports, and the like. News articles from different newspapers and news magazines have also been utilised. Websites that serve as secondary sources have been carefully browsed to gather information and literature on the study's subject at the national and international levels.

The research initially focused on the CSR idea in order to comprehend and identify its benefits and consequences. For the purpose of comprehending the legal framework and observing the function of the Indian judiciary in instances involving the CSR duties of firms, the law relating to CSR in the Indian Constitution, Company Law, 2013, and other laws were reviewed.

## **3. CONCEPT OF SOCIAL RESPONSIBILITY**

A social network is typically used for business. Customers seek satisfaction and fair prices from their purchases, while minorities insist that a fair share of the profits should go to them. Women demand equal opportunities at work, while employees demand fair wages, certain security after retirement, a healthy workplace, and even the expectation that they will be treated with dignity. So, there cannot be a completely watertight barrier separating business from society. Both are interconnected with one another and also dependent on one another.

### **Concept of corporate social responsibility**

The term "corporate social responsibility" does not have a definition that applies to all business concerns at all

times. This is due to the fact that commercial obligations are linked to shifting social expectations, which in turn depend on other dynamic environmental elements like politics and society. Yet, it would be helpful to review a few reliable definitions in order to comprehend the idea of corporate social responsibility.

#### **4. POLICY AND LEGISLATIONS ON CSR**

##### **Directive Principles of State Policy**

The Directive Principles of State Policy of the Constitution include a variety of topics, including the country's socioeconomic development and justice. The Directive Principles, a key component of our Constitution, contain these concepts. Despite being enforceable on their own, the Directive Principles have now been raised to the status of unalienable Fundamental Rights. Stable political democracy is based on social and economic democracy.

The Basic Rights and Directive Principles were intelligently incorporated into Parts III and IV of the Constitution by its framers, who were aware of the realities of life and society and desired to provide everyone in the Bharath Republic with a democratic way of life. The State is required by Article 38 to promote the welfare of the people by securing and protecting the social order as effectively as it can. Further, Clause (d) of Article 39 (a) guarantees equal pay for equal work for men and women, and Clause (e) ensures the health and strength of workers. Article 39 (a) further states that the State shall direct its policies towards securing the citizens' right to an adequate means of subsistence, which applies to men and women equally.

A review of the pertinent Directive Principles in Article 44 of the Constitution makes it abundantly clear that the commitment to the Constitution set forth in Part III and Part IV is the foundation for the newly emerging trend of corporate social responsibility.

##### **Corporate responsibility under the relevant Legislations**

The idea of corporate social responsibility is undoubtedly a relatively new phenomena, yet it has roots that date back to the beginning of existence. It is accurate to say that the idea has been included in the 2013 Companies Act. But, prior to the implementation of this Act, other pieces of law under various titles and forms had already incorporated the idea of corporate social responsibility. An industry has a strong connection to the populace and society. The development of individuals and industry are closely related. People can only advance when industries are operating correctly. There are specific laws and rules that govern how industries must run and function in order to be properly governed. As a result, all of these industrial regulations are closely related to the idea of corporate social responsibility because industrial development provides the foundation for societal advancement. Industry supports manufacturing and gives members of society jobs.

To define the obligations of the employer towards its employees, the Government of India has passed a number of laws, including the Employees Compensation Act of 1923, Payment of Wages Act of 1936, Factories Act of 1948, Employees' State Insurance Act of 1948, Employees Provident Funds and (Miscellaneous Provisions) Act of 1952, Payment of Bonus Act of 1965, Payment of Gratuity Act of 1972, and Equal Remuneration Act

of 1976, among others.

### **Corporate responsibility under other Legislations**

With the provision of enough resources, labour, and working conditions, among other things, society plays a significant influence in their development. Profits are always desired by corporate sectors. Industrial development undoubtedly has a significant impact on our nation's economy, yet many industries disregard social concerns in the pursuit of profit. One of the biggest negative effects of industrialization is pollution. Business entities should not escape taxes because doing so will harm society, but they frequently engage in the worst types of tax evasion. Businesses shouldn't engage in the sale of illegal substances and dangerous goods because doing so will seriously impede society's progress. The Water (Prevention and Control of Pollution) Act of 1974 and the Air (Prevention and Control of Pollution) Act of 1981 are only a couple of the laws that the Indian government has passed. The Essential Commodities Act of 1955, the Income Tax Act of 1961, the Industrial Development Regulation Act of 1951, the Environment (Protection) Act of 1986, and the Drug and Cosmetic Act of 1940, among others, all set forth corporate social responsibility.

## **5. CONCLUSION**

The act properly specifies the requirements to be met for setting up a CSR committee, how many directors should be therein the board of directors, what are the duties of the directors, what is the role of the committee, etc. The activities which fall under CSR are given inside the Schedule 7 of the act, and the list contained in that schedule is an exhaustive list which means companies can also perform activities of the similar kind. But the list covers major areas in which a company can contribute in for CSR, so in one way or the other the similar activities performed by the companies shall fall under one of the categories mentioned in the Schedule.

The Act clearly states the provisions about what should be done of the unspent amount for CSR whether related to ongoing CSR activities or not. It also describes the punishment for non-compliance of the CSR rules by the company, there was no particular punishment for the non-compliance before the act of 2013, but strict punishment is now there for the company as well as for the officer in default in case of non-compliance of the CSR rules and policies framed by the committee.

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