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CORPORATE SOCIAL RESPONSIBILITY: COMPLIANCE OR PHILANTHROPY?

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Abstract

Corporate Social Responsibility (CSR) has emerged as a cornerstone of contemporary corporate governance, balancing profit motives with societal welfare. In India, the enactment of Section 135 of the Companies Act, 2013, marked a paradigm shift from voluntary philanthropy to a statutory mandate. The question arises: is CSR a genuine expression of corporate conscience or a mere compliance exercise to satisfy legal requirements? This paper critically examines CSR's evolution, legal framework, judicial interpretation, and practical implications under Section 135. It compares global CSR models, analyses compliance mechanisms, and evaluates whether India's legal framework fosters authentic social responsibility or encourages tokenistic philanthropy. The article concludes by advocating a shift from compliance-based CSR to an integrated model of sustainable and accountable corporate citizenship.

Keywords: CSR, Section 135, Companies Act, Corporate Governance, Philanthropy, Sustainability.

I. Introduction

The modern corporation is no longer viewed as a purely profit-driven entity; rather, it is expected to shoulder responsibilities toward the society in which it operates. The concept of Corporate Social Responsibility (CSR) embodies this ethical dimension of business. It mandates that corporate growth must coexist with social development, environmental stewardship, and human welfare. The Companies Act, 2013, for the first time, codified CSR obligations in Indian corporate law through Section 135, making India the first country in the world to legally mandate CSR spending.

However, this legislative innovation has given rise to a crucial debate: does the statutory imposition of CSR transform it into a compliance burden rather than an instrument of social change? While the statutory framework reflects the legislature's intent to institutionalize social responsibility, critics argue that it risks reducing CSR to a perfunctory checklist of expenditures devoid of genuine commitment.

II. Evolution of CSR in India

CSR in India has deep historical roots. Long before the enactment of statutory provisions, Indian enterprises practiced philanthropy inspired by religious and cultural traditions. During the pre-independence period, industrialists such as J.R.D. Tata, G.D. Birla, and Jamnalal Bajaj contributed extensively to educational and social welfare initiatives, embodying the spirit of trusteeship advocated by Mahatma Gandhi.

The post-independence era witnessed a transformation in the role of business within society. The 1950s–1980s were dominated by state-led industrialization, where corporate social initiatives were guided largely by government direction. By the 1990s, with liberalization and globalization, Indian corporations began adopting international standards of governance and sustainability, integrating CSR into business strategy.

The Companies Act, 2013, through Section 135, signified the culmination of this evolutionary

process – converting moral expectations into statutory obligations. The Act prescribes that qualifying companies must allocate 2% of their average net profits from the preceding three years toward CSR activities. This provision institutionalizes the social conscience of business but simultaneously raises questions about voluntarism and compulsion.

III. Section 135 of the Companies Act, 2013: Legal Framework

Section 135 represents a statutory milestone. It applies to companies that meet any of the following criteria:

- (a) a net worth of ₹500 crore or more,
- (b) turnover of ₹1,000 crore or more, or
- (c) net profit of ₹5 crore or more during a financial year.

Such companies are required to:

1. Constitute a CSR Committee of the Board comprising at least three directors;
2. Formulate and recommend a CSR Policy indicating the activities to be undertaken;
3. Ensure that the company spends, in every financial year, at least 2% of average net profits on CSR initiatives.

The Schedule VII of the Act enumerates permissible CSR activities, including poverty eradication, education, gender equality, environmental sustainability, and rural development.

However, non-compliance triggers penalties under Section 135(7), where failure to spend or transfer the required amount may result in fines up to twice the unspent amount. Moreover, company officers in default may also be personally liable.

This statutory framework signals a shift from voluntary philanthropy to mandatory compliance, transforming the moral obligation of corporations into a legal duty. Yet, whether this compulsion engenders genuine social

accountability or bureaucratic formalism remains contested.

IV. Judicial Interpretation and Policy Clarifications

Judicial and administrative interpretations have refined the contours of CSR compliance. The Ministry of Corporate Affairs (MCA) issued several notifications and FAQs clarifying that CSR should not be viewed as charity but as an integral part of corporate strategy.

In *Technicolor India Pvt. Ltd., In re*, the National Company Law Tribunal (NCLT) held that CSR expenditure must align with the company's policy and the objectives specified under Schedule VII. Similarly, the MCA's General Circular No. 21/2014 emphasized that CSR should have a measurable impact on society and not merely serve as image-building exercises.

Judicial discourse, however, remains limited. The courts have generally refrained from adjudicating on the adequacy or quality of CSR efforts, focusing instead on procedural compliance. This judicial restraint, while maintaining corporate autonomy, has arguably enabled companies to treat CSR as a regulatory obligation rather than a transformative social instrument.

V. Comparative Perspective: Global CSR Models

Globally, CSR remains largely voluntary, grounded in principles of ethical self-regulation.

In the United Kingdom, CSR is governed through the Companies Act 2006, which requires directors to consider the interests of stakeholders but does not mandate a specific expenditure.

In the United States, CSR is integrated into corporate governance codes and environmental, social, and governance (ESG) frameworks, emphasizing transparency and accountability rather than statutory compulsion.

By contrast, India's mandatory CSR model represents a unique experiment – legislating

corporate morality. While it ensures measurable contributions, critics argue that it undermines the spirit of voluntarism essential for authentic social engagement.

The European Union's Directive 2014/95/EU on non-financial reporting further underscores the global trend toward disclosure-based CSR models, focusing on sustainability reporting rather than mandatory spending.

VI. CSR in Practice: Compliance vs. Philanthropy

Empirical data from the MCA and CSR portal reveal that CSR spending in India has crossed ₹25,000 crore annually since 2019. However, a significant proportion of this expenditure is concentrated among top corporate houses, with many small and medium enterprises struggling to meet procedural obligations.

The implementation pattern suggests that most companies adopt a compliance-driven approach – allocating funds primarily to education, health, and rural development projects that are easy to quantify and report. CSR committees often outsource program execution to non-governmental organizations (NGOs), thereby fulfilling statutory obligations without deep corporate involvement.

This “checklist culture” raises the fundamental question: has CSR become an instrument of regulatory compliance rather than a vehicle of corporate conscience?

Corporate reports frequently emphasize monetary contributions rather than long-term social impact. For instance, companies may invest in short-term donation drives or branding-linked projects, satisfying the 2% mandate without establishing sustainable community engagement. This tendency dilutes the transformative potential of CSR.

VII. Compliance Mechanisms and Governance Gaps

The Companies (CSR Policy) Amendment Rules, 2021, strengthened the compliance regime by mandating detailed reporting through Form

CSR-2 and the establishment of CSR impact assessments for large projects. Despite these reforms, governance gaps persist:

- Lack of standardized metrics to evaluate social outcomes;
- Dependence on third-party implementing agencies;
- Absence of independent audits; and
- Minimal stakeholder participation in project design.

Moreover, the penal provisions of Section 135 have been criticized for prioritizing procedural accountability over substantive outcomes. Companies may comply with the letter of the law while neglecting its spirit – focusing on how much is spent, not what is achieved.

VIII. The Philosophical Dilemma: Duty or Choice?

CSR, at its core, raises a philosophical tension between duty and choice. Traditional philanthropy, rooted in voluntarism, reflects moral agency and corporate empathy. Legal compulsion, by contrast, risks transforming CSR into a bureaucratic exercise.

However, in a developing nation like India, where socio-economic inequalities remain stark, state intervention through legislation can be justified as a means of mobilizing corporate resources for public welfare. Thus, the debate is not binary – it is about striking a balance between regulated responsibility and voluntary ethics.

The challenge lies in cultivating a culture of strategic CSR – where social responsibility becomes integral to business models rather than an afterthought.

IX. Challenges in Implementation

Despite significant progress, several challenges undermine CSR's efficacy:

1. Lack of clarity on eligible activities under Schedule VII;

2. Regional imbalance, with most CSR projects concentrated in urban or industrial zones;
3. Underutilization of funds, as some companies fail to identify viable projects;
4. Deficient monitoring, as CSR reports often rely on self-declaration;
5. Tokenism, where CSR initiatives serve primarily as corporate branding tools.

These challenges reflect an underlying disconnection between corporate strategy and social purpose. Unless companies internalize CSR within their governance philosophy, statutory mandates will continue to produce limited impact.

X. Toward a Genuine CSR Regime: Policy Recommendations

To bridge the gap between compliance and philanthropy, the following reforms are imperative:

1. Outcome-based reporting: CSR performance should be evaluated on measurable social outcomes, not merely financial input.
2. Incentivization: Tax credits or recognition mechanisms could reward companies demonstrating sustained social impact.
3. Stakeholder inclusion: Beneficiary communities should participate in project design and monitoring.
4. Transparency: Third-party audits and mandatory impact assessments must be standardized.
5. Integration with ESG frameworks: CSR should be harmonized with Environmental, Social, and Governance standards to align with global sustainability goals.
6. Capacity-building for SMEs: Simplified compliance norms for smaller firms would ensure inclusivity.

XI. Conclusion

CSR under Section 135 embodies a transformative vision – one that redefines the role of business in nation-building. Yet, its implementation often oscillates between genuine social commitment and mechanical compliance. The future of CSR in India depends on whether corporations view social responsibility as a moral compass or a statutory burden.

True CSR transcends expenditure; it reflects values, ethics, and accountability. The law can compel spending but not compassion. Therefore, the success of Section 135 will ultimately be measured not by rupees spent but by lives transformed – when compliance evolves into conscience, and philanthropy becomes purpose.

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