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Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society

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Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

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CORPORATE RESPONSIBILITY IN INDIA: **ACADEMIC PERSPECTIVES ON THE** **COMPANIES ACT 2013**

AUTHORED BY - PRITAYA PANI

ABSTRACT:

Developing thriving and inclusive societies necessitates a restructuring of the relationship between businesses and society towards sustainability. This entails that all business activities driven by economic motives must also take into account their social and environmental consequences, just as social and environmental policies must consider their impact on businesses and the overall economy. The enactment of the Companies Act 2013 by the Indian government signifies a legislative effort to reshape this business-society connection. Making mandatory what was previously seen as optional sparked a comprehensive academic discourse.

This analysis aimed to create a framework delineating the pros and cons associated with the Companies Act 2013. Amidst numerous arguments both in favour of and against the Act, we observed a paradox where aspects praised as advantages in some texts were simultaneously criticized as disadvantages in others. This paradox sheds light on the challenges of meeting diverse stakeholder expectations and navigating the complexities faced by corporate responsibility initiatives in India.

Nevertheless, CSR, as a policy instrument, provides the Indian government with the means to leverage the burgeoning success of the business sector in addressing local and national needs and aspirations. Our systematic examination of the opportunities and obstacles linked to the Companies Act 2013 demonstrates how, akin to experiences in China, India's socioeconomic progress is deeply influenced by its unique context and culture, extending beyond conventional market economy frameworks. Our analysis also illustrates the interconnected nature of advantages and disadvantages, involving multiple stakeholders such as the government, businesses, and society.

INTRODUCTION

Most countries have oriented their policies towards leveraging businesses as the driving force behind socioeconomic progress, resulting in unprecedented growth, wealth, and profits in the private sector. This shift has elevated businesses to the focal point of national interests, with corporate headquarters now symbolizing urban skylines and, in developed nations, supplanting religious institutions as centres of reverence. Despite fostering policies and infrastructural support for the burgeoning private sector, many governments are hindered by debt, revenue shortages, increasing civic duties, and a rise in public discontent and scepticism.

The traditional role of the state in addressing societal needs is being challenged and eroded by corporate influence. This realignment of responsibilities among the state, citizens, and businesses raises fundamental questions about accountability and obligations. Whether driven by altruism, creating shared value, self-interest, market dominance, brand building, or a blend of motives, the sustained success and viability of firms are closely intertwined with the well-being and prosperity of the societies they operate in. Conversely, societal success is intricately linked to economic achievements over time.

As corporate power has grown and become more mobile, the reciprocal relationship between businesses and society has weakened. Defining clear responsibilities between financially strained governments and increasingly influential corporations has become a significant challenge. Political CSR seeks to explore the evolving connections between politics, business, and society, encompassing both bottom-up approaches that validate corporate actions and top-down regulatory mechanisms.

The majority of literature on political CSR focuses on bottom-up strategies where businesses take on societal roles typically handled by governments, such as poverty reduction, infrastructure development, and service provision. This approach is seen as voluntary and strategic, aiming to gain political favour and regulatory leniency. Governments, constrained by fiscal limitations, are increasingly reliant on the business sector to fulfil societal needs in contexts where governance structures are weak or unstable.

Recent trends indicate governments adopting top-down political CSR measures to address societal and environmental challenges, signalling a shift in expectations for businesses to expand

their engagement beyond purely economic realms. Examples include CSR regulations in various countries and initiatives like the Business Roundtable's Statement of Purpose. While the debate over mandatory versus voluntary responsibilities remains central to political CSR, there is a growing consensus that CSR can complement corporate governance rather than replace it.

This approach is seen as a way to standardize CSR practices, promote sustainability, and enhance transparency and accountability across sectors. Particularly in emerging markets where regulatory frameworks are lacking, top-down approaches offer a means to steer corporate attention towards social and environmental issues. Furthermore, it allows governments to align sustainability goals with local context and needs.

Despite the global trend towards political CSR, there is a lack of systematic studies examining its impact in emerging economies. This study aims to contribute to this area by analysing political CSR in India, specifically evaluating the Companies Act 2013 from an academic perspective.

BACKGROUND:

Despite significant global uncertainties in recent years due to geopolitical shifts, India's economy has remained strong, consistently achieving GDP growth rates above 6%. The International Monetary Fund's prediction that India would experience the highest growth globally is proving accurate. The top ten Indian Fortune 500 companies collectively saw their revenues rise from over Rs. 21 trillion in 2016 to Rs. 27 trillion in 2018, indicating a steady increase. Additionally, India's Foreign Direct Investment surpassed USD 10 billion in December 2018, a significant rise from USD 7.0 billion in June 1991. This economic growth has contributed to upward socioeconomic mobility, particularly for the upper-middle and expanding middle classes. However, access to essential infrastructure and services remains a considerable challenge, as evidenced by data showing a majority of the rural population earning less than Rs. 5,000 per month and a significant portion of the urban population living in slums.

Historically, India has relied on corporate philanthropy to address societal disparities to some extent. However, philanthropic efforts have not adequately addressed extreme poverty or provided essential services for the majority. Given India's large population, growing geopolitical influence, and potential for socioeconomic development, a government with popular support could steer the country towards a more sustainable developmental path. Prime Minister Narendra

Modi has championed economic growth as a means to drive social development, leading to initiatives such as the Companies Act 2013, which redefined the relationship between business and society legislatively. Modi's recent reelection reflects broad support for this approach.

Section 135 of the Act outlines CSR expectations for qualifying companies, including the establishment of an independent CSR committee and the allocation of at least 2% of average net profits for CSR activities. The committee is responsible for formulating CSR policies, ensuring their implementation, and prioritizing local areas for CSR initiatives. Amendments to the Act in 2019 introduced penalties for companies failing to meet CSR spending requirements, with unspent funds allocated to a special account for CSR activities.

Table 1 displays the revised Schedule VII of Corporate Social Responsibility (CSR) activities as proposed by the government and amended on 30 May 2019.

The activities listed in Schedule VII include:

1. Wiping out hunger, poverty, and malnutrition, promoting healthcare, sanitation, and safe drinking water.
2. Encouraging education, vocational skills, and livelihood enhancement, especially for children, women, elderly, and differently-abled individuals.
3. Promoting gender equality, empowering women, and providing homes for female section of the society and unparented children.
4. Developing and constructing old age homes, day-care centres, and facilities for senior citizens, and eliminating inequalities in the society for the socially and economically backward classes.
5. Affirming the environmental sustainability, conservation of natural resources, protection of flora and fauna, and contribution to Clean Ganga Fund for river rejuvenation.
6. Protecting national heritage, promoting art and culture, restoring historical buildings, setting up public libraries, and developing traditional arts and handicrafts.
7. Supporting armed forces veterans, war widows, and their dependents.
8. Ensuring and implementing training programs for rural sports, national and Paralympic sports, and contributing to socio-economic development funds.
9. Supporting technology incubators in academic institutions approved by the Central Government.
10. Handling rural development projects, slum area development, and disaster management

activities.²

The Companies Act introduced a significant shift by mandating CSR activities that were previously voluntary, thereby redefining the role of businesses in society. To analyze this transformation of CSR within India's specific context and culture, we explore the responses of academia, particularly in economics, business, management studies, and related fields, to the Act.

MATERIALS AND METHODS

The methodology section of this qualitative study outlines how data was collected and analysed regarding academic papers on the Companies Act 2013. The study used four criteria to select academic texts:

- Publication type,
- Focus,
- Timeframe, and
- Language.

Relevant literature was gathered through online search engines, library catalogues, and journal websites across various disciplines such as business, management, economics, finance, commerce, accounting, law, business ethics, sociology, social work, and sustainability studies. All selected texts focused explicitly on the Companies Act 2013 and were published between January 2013 and August 2019. The final sample included 70 English-language publications comprising book chapters, research articles, reports, reviews, and expert commentaries from regional, national, and international sources.

To create a typology of the benefits and drawbacks associated with the Companies Act 2013, the study utilized Content Configuration Analysis, a qualitative method commonly used in fields like business, management, ethics, economics, education, psychology, sociology, sustainability, and mobility studies. The typology development process involved a two-step analysis approach. Initially, a random subset of 20 articles was thoroughly analysed to identify all statements regarding the Act's advantages and disadvantages, leading to an initial typology. This typology was then refined through a quasi-deductive analysis of the remaining texts, resulting in the final taxonomy presented in Table 2. Additionally, the study identified, categorized, and analysed authors' recommendations for improving the Companies Act 2013.

HOW CSR AND COMPANIES ACT 2013 RELATED TO EACH OTHER

The Companies Act of 2013, represents a significant legislative step towards implementing CSR as a mandatory requirement on a global scale. This new Act imposes a legal responsibility on corporations to actively engage in initiatives related to social, environmental, and economic responsibilities. These initiatives must be documented and disclosed to the company and relevant stakeholders in a timely and accurate manner.

Definition of Corporate Social Responsibility (CSR)

The Companies Act does not explicitly define CSR. According to Rule 2(c) of the CSR Rules, CSR encompasses activities outlined in Schedule VII of the Act or projects undertaken by the company's board of directors based on the recommendations of the CSR Committee, following the company's declared CSR Policy that covers the subjects listed in Schedule VII of the Act.

Applicability

Section 135 of the Act outlines the applicability of CSR provisions to corporations. Sub-section (1) of this section states that companies meeting certain financial thresholds

- net worth of Rs. 500 Crore or more,
- turnover of Rs. 1000 Crore or more, or
- net profit of Rs. 5 Crore or more during any financial year must establish a CSR Committee consisting of three or more directors, with at least one being an independent director.³

Rule 3 of the CSR Rules specifies that companies no longer meeting these financial thresholds for three consecutive financial years are not required to constitute a CSR Committee or comply with Section 135 provisions until they meet the criteria again. The Ministry of Corporate Affairs (MCA) clarified that "any financial year" refers to the three preceding financial years.

Applicability to Holding and Subsidiary Companies

Rule 3(1) extends CSR applicability to every company, including its holding or subsidiary, provided they meet the criteria specified in Sub-section (1) of Section 135. The financial metrics of foreign companies are calculated in accordance with the Act's requirements.

Applicability to Foreign Companies

Foreign companies defined under clause (42) of Section 2 of the Act, with branch offices or project offices in India meeting the specified criteria, must comply with Section 135 provisions and rules. The financial metrics of foreign companies are calculated based on their Indian business operations as per the Act's provisions.

ACADEMIC PERSPECTIVES ON THE COMPANIES ACT 2013

Academic viewpoints regarding the Companies Act 2013 in India provide a detailed analysis of how the legislation has impacted corporate social responsibility (CSR) practices. This Act has redefined the interaction between businesses and society, leading scholars to examine its effects from various angles, highlighting both positive and negative aspects:

Advantages:

1. **Encouraging CSR Expenditure:** The Act's introduction of a minimum spending requirement on CSR endeavors has the potential to increase the involvement of companies in social causes, fostering a culture of corporate giving.
2. **Acknowledging Corporate Philanthropy:** By including activities like poverty eradication as acceptable CSR initiatives, the Act acknowledges the role of corporate philanthropy in addressing societal challenges.
3. **Addressing Public Concerns:** The Companies Act 2013 reflects public concerns regarding corporate social irresponsibility by mandating CSR activities for eligible companies.
4. **Promoting Inclusive Growth:** Scholars perceive the Act as a step towards inclusive growth, highlighting the significance of socially responsible business practices for overall societal progress.

Challenges:

1. **Decline in CSR Spending:** Some companies that previously allocated more than 2% of their budget to CSR activities have reduced their spending after the Act's implementation, indicating unintended consequences and challenges in maintaining consistent CSR investments.
2. **Distinction between CSR and Charity:** The Act's differentiation between CSR and charity limits companies' engagement in charitable activities, positioning CSR as a business obligation rather than a moral duty.

3. **Enforcement and Accountability:** Challenges exist in enforcing CSR regulations and ensuring accountability, particularly regarding companies making CSR reports accessible to the broader society beyond just shareholders.
4. **Diverse Legislative Approaches:** Implementing a regulatory framework that suits all jurisdictions is complex, necessitating unique strategies tailored to specific business environments and governance structures, which can be challenging in achieving effective CSR implementation.

In summary, academic evaluations of the Companies Act 2013 emphasize the importance of balancing the benefits of encouraging CSR investments with challenges such as enforcement, accountability, and the need for customized approaches to ensure successful CSR practices in India.

CONCLUSION

The Companies Act 2013 brought a specific and culturally sensitive interpretation of Corporate Social Responsibility (CSR) to India, sparking significant debate and analysis within academia. This paper discusses the advantages and disadvantages identified by scholars, showcasing the considerable disagreement regarding the Act's conceptualization and impacts. Our research reveals two key characteristics:

Firstly, there is a notable disparity where what is viewed as advantageous in some articles is perceived as a disadvantage in others, highlighting the challenges in formulating, appropriating, and implementing CSR in India effectively. These tensions reflect the complexities of CSR and the challenges in defining and operationalizing business responsibilities within diverse contexts and cultures.

Secondly, the literature tends to disproportionately represent disadvantages, indicating a level of resistance to the Act. However, despite extensive criticisms, few concrete recommendations are proposed to address these shortcomings. Surprisingly, scholars generally do not advocate for major adjustments or rescinding the Act, despite objections to mandated CSR. Instead, recommendations mainly focus on improving the Act's implementation strategies to enhance its effectiveness.

In conclusion, this study contributes to understanding political CSR by highlighting the Act's potential to standardize CSR involvement, promote sustainable practices, and address social and

environmental challenges. Future research should empirically examine the Act's impact while considering the interplay between voluntary and mandatory business responsibilities within the broader context of political, cultural, and economic realities.

