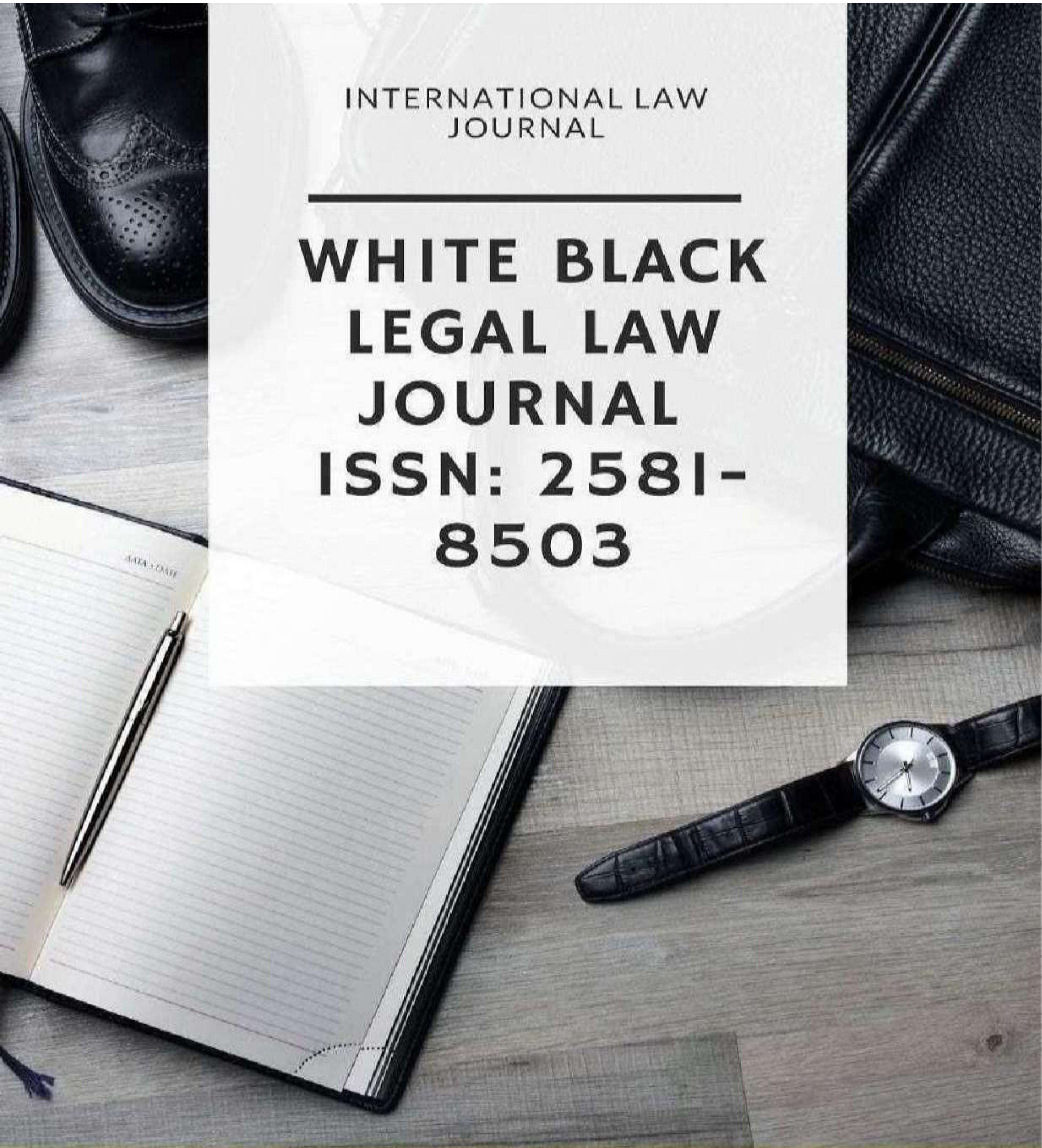

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With this thought, we hereby present to you

CSR AND ESG FRAMEWORKS IN INDIA: COMPARING TWIN APPROACHES TO CORPORATE RESPONSIBILITY

AUTHORED BY - DIKSHA VOHRA

Abstract

As the corporate world increasingly focuses on sustainability and ethical business practices, the integration of ethical, social and environmental considerations has become increasingly critical. Two concepts of Corporate Social Responsibility (CSR) and Environmental, Social, and Governance (ESG) have gained substantial traction globally, particularly in emerging economies like India. While both frameworks aim to integrate ethical, environmental and social considerations into corporate practices, they represent distinct approaches to sustainable business and differ in their scope, implementation, and impact. This paper explores the distinctions and intersections between CSR and ESG criteria within the Indian corporate landscape, shedding light on their evolution, scopes, objectives and the implications for Indian businesses. By analysing global trends and emerging regulations, this paper illuminates the growing transition of businesses from standalone CSR initiatives to more integrated ESG strategies, marking a shift toward sustainability and ethical responsibility in corporate practices. The study highlights the rising significance of ESG in attracting investments and managing risks, while also acknowledging the continued significance of CSR in meeting societal obligations.

Introduction

In the dynamic realm of corporate responsibility, global enterprises are progressively navigating the intricate balance between conventional philanthropic obligations and contemporary sustainability demands. Central to this endeavour are two pivotal frameworks: Corporate Social Responsibility and ESG criteria. As Indian businesses navigate an evolving regulatory environment and increasing global investor scrutiny, the shift from traditional CSR initiatives to comprehensive ESG strategies highlights a critical transition in corporate responsibility. This transition indicates a growing recognition that sustainable business practices must extend beyond philanthropy and voluntary efforts, integrating sustainability into the very core of a company's operations and governance. While CSR has long been embedded in the Indian corporate ethos, particularly since the enactment of mandatory requirements under the Companies Act, 2013. In contrast, ESG has gained prominence as a holistic and internationally recognized standard for evaluating a company's impact on society and the environment. In India, CSR typically entails direct contributions to societal welfare, focusing on areas such as community development, education, and healthcare. These efforts are driven by legal mandates and cultural expectations, with companies allocating a portion of their profits to these initiatives. Conversely, ESG encompasses a more expansive approach that transcends philanthropy, integrating environmental stewardship, social responsibility and governance principles into the core operations and strategic planning of a company. ESG criteria evaluate a company's impact on the environment, its management of relationships with employees, customers and communities, and the transparency and ethical standards of its governance practices. As global investors and consumers increasingly prioritize sustainability, the significance of ESG in India is swiftly gaining momentum. This evolution prompts critical questions about the interplay between CSR and ESG: Are they complementary or contradictory frameworks? And crucially what are the implications for the future of corporate responsibility in India?

Unravelling CSR in India

Corporate Social Responsibility (CSR) in India is both a legal obligation and a commitment for companies to foster societal welfare and sustainable development. In 2014, India distinguished itself as the first nation worldwide to mandate CSR through an amendment to the Companies Act, 2013. Under Section 135 of this Act, companies that meet specified financial criteria must allocate at least 2% of their average net profits from the previous three years to CSR initiatives. This mandate applies to companies with a net worth of ₹500 crore or more, an annual turnover exceeding ₹1000 crore, or a net profit of ₹5 crore or more.

Before the Companies Act, 2013, CSR in India was predominantly voluntary, driven by corporate philanthropy and ethical values. Historically, the concept of CSR in India can be traced back to the Mauryan period, where philosophers like Kautilya advocated for ethical business practices.

Indian businesses have long been engaged in social causes, influenced by cultural norms of generosity and community support. The transition to mandatory CSR represents a pivotal change, embedding social responsibility into the legal framework of corporate governance. This regulatory requirement sets India apart from many other countries, reflecting the Indian government's dedication to integrating corporate contributions into the broader goal of social and economic advancement. The Act outlines specific domains for CSR activities, including education, healthcare, environmental sustainability, and rural development. It mandates companies to establish CSR committees to manage their initiatives and ensure adherence to regulatory requirements. Although the Act imposes a CSR spending obligation, it also advocates for the formulation of long-term, strategic CSR policies that harmonize with the company's business objectives and enhance societal impact.

Previously, companies that did not fully utilize their CSR funds within a fiscal year could carry forward the unspent amount to the next fiscal year, in addition to the new year's allocation. Under recent 2019 Amendments to the Companies Act, companies are now required to deposit any unspent CSR funds into a designated fund listed in Schedule VII by the end of the fiscal year. These funds must be utilized within three years from the date of transfer; otherwise, they must be deposited into one of the prescribed funds. The new regulations also impose monetary penalties and potential imprisonment for failure to comply.

Emergence of ESG in India: from CSR to ESG

The evolution of Environmental, Social, and Governance (ESG) criteria in India signifies a significant shift in the way businesses are redefining corporate responsibility. While Corporate Social Responsibility (CSR) in India has been primarily about social responsibility and philanthropic endeavours, Environmental, Social, and Governance (ESG) criteria offer a more expansive and integrated approach to sustainability. ESG metrics are utilized by investors to evaluate a company's long-term viability and ethical influence, encompassing three key dimensions:

- Environmental: This dimension assesses a company's impact on the natural world, including its carbon emissions, waste management practices, and overall resource utilization.

- Social: The social aspect examines how a company manages its relationships with employees, suppliers, customers, and the broader community, with a focus on labor conditions, diversity, and community involvement.
- Governance: Governance refers to the internal frameworks of a company, covering aspects like transparency, executive compensation, shareholder rights, and ethical conduct.

The ESG framework has achieved global recognition as investors and other stakeholders increasingly require companies to demonstrate not only robust financial performance but also a commitment to sustainable and responsible business operations. In India, the importance of ESG is steadily gaining traction as a vital component for enduring success, significantly shaping investment decisions and corporate strategies.

The 1990s marked the global emergence of Environmental, Social, and Governance (ESG) principles, introducing a more comprehensive approach for assessing corporate performance. In India, the formalization of corporate responsibility began in earnest in the early 2000s, when the Ministry of Corporate Affairs' released the National Voluntary Guidelines (NVGs) in 2011, which provided directives on businesses' social, environmental, and economic responsibilities. The 2010s witnessed a pivotal shift as mandatory Corporate Social Responsibility (CSR) was introduced, and ESG started to gain traction as a more encompassing framework for corporate accountability. In 2015, the Securities and Exchange Board of India (SEBI) introduced the Listing Obligations and Disclosure Requirements (LODR) Regulations, mandating the top 500 listed companies to report on Business Responsibility Reporting (BRR), which encompassed social, environmental, and governance dimensions of their operations. As global sustainability awareness grew, ESG reporting began to gain momentum in India, propelled by both regulatory mandates and market dynamics. SEBI's 2017 guidelines for issuing green bonds marked a key moment, encouraging companies to finance environmentally beneficial projects, thus integrating environmental considerations into corporate finance. In 2019, the NVGs were updated and rebranded as the National Guidelines on Responsible Business Conduct (NGRBC), aligning India's corporate responsibility framework with global standards and emphasizing the deep integration of ESG principles. The evolution continued in 2020 when SEBI introduced the Business Responsibility and Sustainability Reporting (BRSR) framework, which replaced the earlier BRR framework, demanding more comprehensive ESG disclosures from companies. The latest phase in India's ESG evolution has seen a stronger emphasis on sustainability, with SEBI in 2021 mandating the top 1000 listed companies to transition from BRR to BRSR, thus aligning India's corporate reporting with global ESG practices and enhancing transparency. This regulatory shift, coupled with SEBI's stringent oversight, has spurred a surge in ESG-focused investments within the Indian financial sector, reflecting a growing investor preference for sustainable finance.

Confluence and Contrast: CSR vs. ESG

Sustainability serves as an umbrella concept that encompasses both ESG and CSR, with each playing a vital role in promoting sustainable business practices. While CSR embodies the broad, idealistic vision of sustainability, ESG represents the practical, detail-oriented execution of this vision. CSR is often seen as a precursor to ESG. Companies initially self-regulate and engage in sustainable practices with the goal of benefiting society. These CSR efforts are then refined and measured through ESG metrics, which can be publicly reported to demonstrate the company's commitment to sustainability. By quantifying the outcomes of CSR initiatives, ESG lends credibility to the broader management philosophy. Both CSR and ESG are essential for a business to achieve true sustainability.

CSR and ESG are often used interchangeably, yet they represent distinct approaches to sustainable business practices. Although both concepts are interrelated and aim to enhance corporate responsibility, they each have unique characteristics. The overarching objective remains consistent: businesses must integrate social concerns, environmental stewardship, and stakeholder relationships into their strategic frameworks. While CSR focuses on social contributions and philanthropic activities, ESG encompasses a broader range of criteria, including environmental impact, social equity, and governance standards. Both frameworks strive to implement policies and practices that benefit society and the environment, reinforcing the commitment to positive global impact. When comparing CSR and ESG, it is important to recognize their distinct roles and benefits in promoting corporate responsibility. Here are key differences between the two:

- Scope and Focus: Corporate Social Responsibility (CSR) in India generally entails making direct contributions to societal welfare, often through philanthropic initiatives like community development, education, and healthcare. It is frequently driven by legal requirements, such as India's mandate for companies to allocate 2% of their profits to CSR activities. Conversely, Environmental, Social, and Governance (ESG) criteria represent a broader framework, encompassing environmental management, social responsibility, and corporate governance. ESG focuses on the overall impact of a company's operations on the environment, stakeholders, and its governance practices.

- Approach: CSR is typically viewed as an external obligation, where companies commit resources to address social issues. This often involves standalone projects that may not necessarily align with the core business activities. ESG, however, is embedded within the company's business strategy, influencing decisions at all levels of operation. This approach requires companies to integrate sustainability and ethical considerations into their governance, making ESG a more comprehensive and holistic framework.
- Regulatory vs. Voluntary: In India, CSR is a legally mandated obligation for certain companies, requiring them to spend a specified percentage of their profits on approved social activities. On the other hand, while ESG is increasingly subject to regulatory scrutiny through disclosure requirements, it remains largely driven by market dynamics and investor expectations. Companies adopt ESG practices to align with global standards, attract investment, and mitigate risks.
- Measurement and Impact: One of the primary distinctions lies in how each framework is measured. CSR efforts are often evaluated based on the amount spent on social projects, with success typically measured by the immediate social impact. In contrast, ESG performance is assessed through a variety of metrics that evaluate environmental impact, social contributions, and governance quality. ESG emphasizes long-term evaluation, focusing on sustainable growth and risk management. Essentially, CSR emphasizes qualitative improvements, while ESG focuses on measurable outcomes.
- Purpose and Use: CSR is primarily utilized by companies to achieve internal objectives, such as fostering a culture of social responsibility and creating a sustainable work environment. It is inward-looking, aimed at enhancing internal practices and stakeholder relations. ESG, on the other hand, serves external purposes by offering investors and other external entities quantifiable proof of a company's commitment to environmental, social, and governance criteria. It is outward-facing, used to demonstrate a company's adherence to specific, measurable standards.

- Communication: CSR and ESG provide different avenues for communication. CSR frameworks enable companies to effectively convey their values and commitments to employees and other internal stakeholders, contributing to a positive workplace culture and community engagement. ESG frameworks, however, are geared towards showcasing the effectiveness of a company's sustainability and governance efforts to current and prospective investors, thus serving as a tool for validating the company's performance against established standards.

Ultimately, while CSR and ESG both aim to advance corporate social responsibility, they differ in their scope and focus, regulations, approach to measurement, application, and communication, each offering distinct benefits depending on the audience and objectives.

Conclusion

In the final analysis, CSR and ESG frameworks are indeed complementary when advancing sustainable development goals. CSR focuses on instilling responsibility within a business, while ESG criteria provide a means to quantify and evaluate these efforts. Corporate Social Responsibility (CSR) is a self-regulated approach that allows organizations to positively impact society. It helps companies to communicate their sustainability commitments, build a responsible reputation, enhance brand credibility, boost customer loyalty, attract and retain talent etc. Environmental, Social, and Governance (ESG) criteria, however, offer a more rigorous and precise assessment of these efforts, often required by investors. ESG enables companies to set measurable goals and transparently report their progress, including areas needing improvement. Today's stakeholders seek genuine insights rather than lofty promises, valuing transparency and ongoing progress. ESG supports companies by complying with regulations and emerging standards, addressing climate change and societal risks, providing insights into risks and opportunities, enhancing appeal to investors, creating competitive advantages building stakeholder trust, preventing greenwashing etc. Ultimately, while CSR focuses on establishing a responsible business framework, ESG provides a detailed and transparent measure of performance and progress. Accordingly it can be stated that CSR is typically regarded as a means to ensure business accountability, whereas ESG criteria serve as a framework for assessing and measuring these efforts. However, adopting ESG principles is generally more challenging than implementing CSR activities, as it involves setting measurable objectives, gathering data, and detailed reporting.

References

- Magdalena KAZMIERCZAK, A Literature Review On The Difference Between CSR And ESG, Scientific Papers of Silesian University of Technology Organization and Management Series N0.162,(2022), file:///Users/macbookair/Downloads/A_literature_review_on_the_differen.pdf.
- Dr. Abhishek Kumar Singh & Nisha Kapoor, CSR and ESG-Journey towards Sustainable development Goals, TJIIBF, 5 (2022), file:///Users/macbookair/Downloads/1%20CSR%20and%20ESG%20-
- %20Journey%20towards%20Sustainable%20Devel_240823_235220.pdf.
- Bruno Gerard, ESG and Socially Responsible Investment: A Critical Review, Scandinavian Journal of Business Research(2019), https://scholar.google.co.in/scholar_url?url=https://biopen.bi.no/bi-xmlui/bitstream/handle/11250/2602369/Gerard.Beta.2019.pdf%3Fsequence%3D4&hl
- =en&sa=X&ei=UDPKZsaoObK06rQPloKE4Qg&scisig=AFWwaeYXU_JqhVdooIV6KkYBCiKx&oi=scholarr.
- Jamil Khatri, Emergence of ESG: Making India a formidable force in the world economy, ET GOVERNMENT(Aug 16, 2024, 11:15 PM),
- https://government.economictimes.indiatimes.com/blog/emergence-of-esg-making- india-a-formidable-force-in-the-world-economy/109642306.
- Ben Lutkevich, ESG vs. CSR vs. sustainability: What's the difference?, TECHTARGET(Aug 10,2024, 5:00 PM),
- https://www.techtarget.com/whatis/feature/ESG-vs-CSR-vs-sustainability-Whats-the-difference.

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