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A Comprehensive Analysis of Legal Framework on Corporate Social Responsibility: A Study in SAARC Countries

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Abstract

CSR is an evolving issue in the 21st century, underscoring ethical business practices and accountability, sustainable development, and inclusive growth. This paper tries to explore a comprehensive analysis of the legal framework of Corporate Social Responsibility (CSR) among SAARC countries, including India, Bangladesh, Pakistan, Sri Lanka, Nepal, Afghanistan, the Maldives, and Bhutan. The study also tries to identify the key challenges to harmonise the CSR best practices across the SAARC nations, along with certain policy recommendations for better CSR coordination within this region. The study reveals a diverse CSR framework among the SAARC nations, mostly a voluntary CSR approach, lacking a statutory CSR spending limit. India is the only country in this region that has a mandatory CSR framework with a statutory threshold limit for CSR spending. The study emphasised harmonising and promoting a uniform CSR framework with a coordinated approach for achieving the Sustainable Development Goals (SDGs).

Keywords: CSR, Sustainable Development, Legal framework, SAARC Countries.

1. Introduction

Corporate Social Responsibility (CSR) is an emerging issue in the 21st Century across the globe. It is a concept of management through which companies align the social and environmental issues with their business practices and interactions with their stakeholders. There are seven pillars on which CSR is based that are reorganised as core subjects by ISO 26000, namely organisational governance, human rights, environment, consumer issues, community environment or inclusiveness, fair operating practices, and development.

According to Archie B. Carroll (1999), "Corporate Social Responsibility encompasses the economic, legal, ethical and philanthropic expectations that society has from organisations at a given point of time"

Focusing on developing quality of life of the workers and the society as a whole, World Business Council for Sustainable Development (WBCSD 2000), observed "Corporate Social Responsibility is the continuing commitment by business to behave ethically and contribute to economic development while improving the quality of life of the workforce and their families as well as the local community and society at large".

Emphasising sustainable development, OECD (2011) stated, "Enterprises should contribute to economic, environmental and social progress with a view to achieving sustainable development".

It is the obligation of enterprises whereby their transparent decisions and ethical practices that influence society, the environment, and people.

The industrial globalisation accomplished with increasing social and environmental awareness calls for the implementation of adequate policy in different regions of the globe. The South Asian Association for Regional Cooperation (SAARC), consisting of India, Pakistan, Bangladesh, Bhutan, Maldives, Nepal, Sri Lanka, and Afghanistan, represents a unique landscape in South Asia in terms of socio-economic development. Although these nations are of different sizes and economic capacity, even all possess some similar challenges, such as poverty, unemployment, increased population, etc. Under this context, the CSR activities play a significant role in promoting social justice, accelerating economic growth, and protecting the environment (Jamali & Mireshak, 2007).

The CSR practices in SAARC countries are evolving drastically due to the globalisation of industry, increasing pressure of international trade, and growing expectations of society as a whole. India and Bangladesh, among the SAARC countries, incorporate CSR activities under the ambit of the legal framework. In India, the Companies Act 2013, under section 135, makes it compulsory for some specific companies to spend on CSR activities. On the other hand, countries like Nepal, Bhutan, and Sri Lanka have adopted a voluntary approach rather than a compulsory approach. These countries follow policy policy-driven approach in order to integrate CSR activities into the sustainable development goal (VISSAR 2008). Further, this region of South Asia is also influenced by the international CSR norms. The United Nations Global Compact (UNGC) and ISO 26000 call for the inclusiveness of stakeholders and responsible corporate practices.

Despite the huge positivity, CSR adoptions in SAARC countries faced a number of bottlenecks, such as a lack of strong institutional mechanisms, inadequate transparency in corporate practices, and the lack of integration of business goals with social goals (Aguins and Glavas 2012) . Moreover, uneven socio-economic development and a weak corporate governance framework contribute to unequal progress in this region.

The CSR in SAARC countries demonstrates an ethical imperative and development potential. In order to achieve inclusive growth, social justice, equity, and environmental sustainability, the South Asian Countries need to have a coherent CSR policy, compulsory disclosure norms, and regional cooperation.

This paper tries to examine the different legal aspects, voluntary approaches, and integration with international CSR norms and sustainable development goals. Further, it also tries to provide some pragmatic recommendations to strengthen the CSR in this region.

2. Literature Review

Aguinis and Glavas (2012), in their comprehensive analysis on 'Corporate Social Responsibility', summarised organisational and individual levels research direction in terms of present gaps and future aspects. Their multilevel structure of analysis is particularly helpful for regulatory research, as this study aligned law and regulations to an institutional CSR perspective and its outcomes, focusing on how the legal framework may shape institutional-level CSR activities in different ways across South Asian countries.

Dahlsrud (2008)in his study analyzes 37 CSR definitions and found five common consistent dimensions, i.e., society, economy, environment, voluntariness, and stakeholders. It emphasised that these five components are very significant for any comparative legal study as they provide an operational tool for clustering statutory provisions and policy guidance among the SAARC countries.

Frynas and Yamahaki (2016) analysed the theoretical dimensions of CSR, i.e., institutional, stakeholders, legitimacy, and economic and political aspects, in order to explain why some countries of SAARC implement a voluntary vs. mandatory approach. The outcome of the study helps scholars to align legal dimensions, i.e., mandatory provisions of states and voluntary guidelines, to identify the underlying intentions of the member countries of SAARC.

Dharmapala et al. (2018) undertook an empirical study evaluation of the mandatory provision of section I35 of the Companies Act 2013. It appeared in their study that the legal obligation has dramatically changed the CSR spending pattern and companies' behaviour. As such mandatory nature of CSR spending made a significant benchmark for South Asian countries.

Rahman et al. (2019) in their study, CSR in SAARC countries observed that only India has a legally mandatory provision on CSR, and the rest of the SAARC countries operate CSR on a voluntary basis. Bangladesh operates on bank-led guidance, Sri Lanka and the Maldives operate on a voluntary basis, and Afghanistan and Bhutan have an emerging framework of CSR. This comparative analysis provides some researchable evidence in terms of an empirical perspective and identifies the significant variation of regulatory mechanisms and enforceable capacities among the countries.

Ndiwenti et al. (2018) in their paper on CSR practices on banks in Bangladesh observed that CSR activities are guided by the social fabric of the country rather than the Global Reporting Initiative (GRI). Further, it also observed that Islamic belief plays a great role in influencing the bank authorities to eradicate poverty through CSR activities.

Fernanda Khan et al. (2007) in their study found that an active CSR practice under a largely voluntary structure in Sri Lanka accompanied a better sustainability reporting with NGO collaboration. The study also advocates a positive and strong initiative from the part of accounting bodies and business organisations to promote CSR activities in the absence of a legal framework. As such, Sri Lanka represents market cum society model in comparison to other SAARC nations.

Akhtar, N. (2022) observed that Pakistan has a weak enforcement authority and depends on voluntary disclosure in CSR initiatives. It also observed that the stakeholders have no alternative options when the entities have not met the CSR commitment.

Azizi (2017) has analysed Corporate Social Responsibility in Afghanistan, which is basically donor-driven, and in the case of the Maldives, it was a tourism-focused environmental CSR initiative. He has noted that both countries have a weak regulatory framework, leading the global companies and the donors to be as primary drivers of CSR. As such, it is difficult to find out the difference between the law and the practice of these SAARC countries.

Abdul Khader et al. (2024) in their study on 'CSR SAARC nations: Comparative Sectoral and Longitudinal Analysis' observed that SAARC countries reflect varied CSR practices such as positive initiatives in Afghanistan, emphasising disclosure in environmental issues in Bangladesh and a mix of ethical and legal initiatives in Bhutan. The study also noted a positive impact on the telecom and hospitality sectors. It further observed that a number of environmental disclosure practices were prevailing in India on CSR. Finally, it has suggested improving the regulatory and monitoring mechanisms on CSR issues in South Asian countries.

2.1. Objective of the Study

The present study is based on the following objectives.

1. To evaluate the legal framework on CSR in SAARC countries.
2. To compare the nature, scope, and enforcement of laws relating to CSR among the member countries of SAARC.
3. To identify the problems and best practices to harmonise regulation within SAARC countries.
4. To suggest policy recommendations for better regional CSR initiatives.

2.2. Methodology

The present study is a descriptive one based on secondary information collected from government publications, company reports, policy documents, and academic literature.

The study uses a qualitative comparative approach based on

1. Evaluation of statutory provisions, policy documents relating to CSR in every SAARC country.
2. Verification of Corporate disclosures concerning CSR in SAARC countries.
3. Observing the similarities and differences in CSR legislations among SAARC countries.
4. Finally, examining CSR approaches with UNO's SDGs and regional development goals.

2.3. Evaluations of Legal Corporate Social Responsibility in SAARC Countries

Corporate Social Responsibility (CSR) is instrumental in ensuring corporate accountability, sustainable growth, and promoting stakeholder governance. In SAARC countries, the legal framework governing CSR notably varies across different nations. The following discussion examined the regulatory framework of CSR in each SAARC nation, focusing on their impact, enforcement, highlighting regional units and limitations, and relative preferences.

India: India is the country where CSR prospective are mostly dominated by the legal framework. Under Section 135 of the Companies Act 2013, including Schedule VII and the underlying rules governing the CSR activities of the companies with a certain financial threshold. According to the mandate of this act, companies must constitute CSR committees along with a CSR policy. The act also prescribes that companies make CSR reports and set aside 2% of the average net profit of the last three years. It has also specified the activities such as health, education, and environment under CSR. The Ministry of Corporate Affairs is monitoring the CSR initiatives and regulatory compliance of CSR filing. The design of the legal framework makes CSR a measurable and enforceable obligation, and most of the CSR funding is directed towards the attainment of SDG-integrated activities.

Merits:

(1) The legal mandate ensures minimum investment in specified CSR activities of the eligible companies. Further, it also provides clarity and certainty for both the companies and society.

(2) The compulsory disclosure in the Annual Report relating to CSR activities and MCA compliance of filing enhanced transparency.

Demerit:

(1) Statutory compliance on CSR activities sometimes creates only compliance-oriented rather than impactful, because effectiveness depends on the quality of the program and monitoring the priorities of the society.

(2) Sometimes the companies may spend the CSR fund through intermediaries or non-specified activities, taking advantage of the report-based enforcement because of a lesser penalty. As such, India provides a clear and legally enforceable CSR region in South Asia.

Nepal: Nepal has a legal framework for CSR, which is directed through some industrial laws. Nepal's Industrial Enterprise Act and its associated rules mandate sector-wise obligations. The Act mandates that companies, through its provision that they must set aside a minimum percentage profit, normally 1% for CSR commitment, such as Community Welfare. In some cases, the Act confers responsibility to a sectoral regulator enforcing CSR initiatives. Presently, the modification of the Industrial Enterprise Act, including the Companies Act, provides certain provisions to encourage and enhance accountability of the companies towards CSR.

Merits:

(1) The mandate to earmark 1% of profit for CSR activities develops a statutory obligation rather than being voluntary.

Demerits:

1. The legal mandate for CSR under the Industrial Enterprises Act provides only sectoral exercise to some class of companies rather than being mandated through the Companies Act, which allows to escape some class of companies to escape the legal framework.
2. Regulatory monitoring and reporting obligations are not adequately developed.

Bangladesh: The CSR framework is mainly voluntary and sector-based with regulatory direction. The CSR initiative in this country is mainly carried out through the banking sector. The regulatory nudges are basically guided by the Bangladesh Bank's Guidance 2008. These guidelines encouraged banks and financial companies to implement CSR practices and make CSR reports. Presently, large banks and financial institutions are required to provide extensive disclosure through modification of this guidance. However, in this country, no such specific statutory CSR percentage is mandated. But recently, some explicit funds are to be allocated by banks and non-banking financial institutions for CSR activities.

Merits:

(1) The flexible and voluntary structure has enabled the entities to integrate the CSR initiatives with corporate policy and regional expectations.

(2) The banking sector becomes the sole sectoral leader to adopt a CSR programme focusing on CSR disclosure.

Demerits:

(1) Since there is no uniform legal compulsion, as such CSR initiatives basically move towards the sector and size of the enterprise.

(2) Guidance-based CSR framework based on voluntariness and reputation creates a weak disclosure.

Pakistan: Voluntary guidelines for CSR (2013), notified by the Pakistan Security Exchange Commission, persuade the listed and public companies to implement CSR policy, constitute the CSR committee, and disclose

CSR programmes. Further, the Pakistan Corporate Law 2017 and the concerned disclosure rules encourage corporate accountability extensively. However, it lacks compulsory CSR spending. The Securities Exchange Commission of Pakistan prescribes the system and reporting, but lacks strong enforcement.

Merit:

(1) The voluntary guidelines provide templates and a structure for better practices.

Demerits:

(1) Because of a lack of compulsory mandate and specific spending, CSR may be unequal and donor-based practice.

(2) Unaudited disclosure and soft monitoring mechanisms reduce corporate accountability.

Sri Lanka:

Sri Lanka adopts voluntary CSR initiatives. However, it has sound organizational support from Chambers of Industry, national accounting bodies, and the community of the Global Reporting Initiative (GRI). Sri Lanka demonstrated a well-developed Sustainability Reporting, where some large companies publish GRI-integrated reports. Further, the national business upholds best practices. The soft regulatory mechanism and stock exchange directives promote nonfinancial disclosure.

Merits:

(1) Voluntary approach of CSR practices penetrating sustainability reporting enhances the transparency of large companies.

(2) Engagement of NGOs and Chambers of Industry provides support for CSR practices.

Demerits:

(1) Sometimes, small and medium enterprises face an acute resource crisis in implementing the CSR programme.

(2) Lack of legal compulsion leads to CSR being uneven and relying on corporate desire.

Bhutan:

CSR enforcement in Bhutan is not governed by a Statutory framework. In this country, Corporate Social Responsibility is aligned with the national concept of Gross National Happiness (GNH). Through this structure of GNH, Bhutan tries to integrate social and environmental issues with cultural preservation and well-being. Further, local business establishments and Chambers of Industry promote CSR activities in tune with GNH guidelines. Recently, Bhutan amended the regulation for CSR and corporate governance 2024, enforced by the Corporate Regulatory Authority. The corporate entities require board-level monitoring on CSR and sustainability reporting. Moreover, the Companies Act of Bhutan 2016 and the Royal Monetary Authority Directives lay the foundation for corporate governance, complementing CSR aspects.

Merits:

(1) The CSR in Bhutan is linked with the Gross National Happiness (GNH), which promotes holistic welfare, ethical business activities, and environmental sustainability.

(2) The Chambers of Commerce and the Ministry of Bhutan and Gross National Happiness Commission take a prominent role in upholding CSR awareness and creating a sustainable business environment.

Demerits:

Bhutan does not have a mandatory legal CSR-enforcing framework; as such, CSR in this region is mainly a voluntary practice.

Afghanistan:

At present, this state has no statutory regulatory structure for CSR activities. Here, the CSR initiatives are driven by MNCs, NGOs, and donor-centric activities. Mainly telecom sector and private sector institutions operate CSR initiatives in Afghanistan. Political instability creates problems for enacting legislation to govern CSR initiatives. CSR initiatives mainly focus on community development, education, and infrastructure upliftment. The reporting on CSR is voluntary, where the Afghan state machinery has no active role.

Merits

CSR initiatives are voluntary, and no statutory bindings are imposed by state agencies.

Demerits:

(1) There is no national CSR policy and legal enforcement framework.

(2) The reporting system in CSR is voluntarily guided by donor partner organizations.

Maldives:

There is no statutory legislation governing CSR initiatives in the Maldives. The CSR initiatives are embodied with corporate governance policies, voluntary sustainability practices, and sectoral guidance. The tourism and financial sectors normally practice CSR activities in this region.

The Capital Market Development Authority of the Maldives notified the corporate governance code (2019) for all listed and public companies. The corporate governance code promotes ethical and sustainable business practices in this island. Further, it also advocates sustainable environmental initiatives and reporting.

Merits:

(1) The corporate governance code (2019) integrates CSR initiatives to include environmental, social, and governance issues in the corporate reporting system.

(2) The corporate governance code upholds ethical business practices and accountability.

Demerits:

(1) In the absence of CSR legislation, CSR initiatives and reporting are voluntary, hence there is no legal monitoring.

(2) Lack of enforcement leads to weak reporting on CSR activities.

2.4. Comparison of the CSR framework in the SAARC countries

The following table shows the comparative evaluation of the CSR framework ----

Table 1. Comparative Evaluation of Legal Framework on Corporate Social Responsibility (CSR) in SAARC Countries

Country	Primary CSR Law / Policy	Nature of CSR	Regulatory / Supervisory Authority	CSR Requirement or Threshold	Monitoring & Reporting Mechanism	Major CSR Focus Areas	Key Challenges / Observations
India	Companies Act, 2013 (Section 135, Schedule VII); CSR Rules 2014	Mandatory	Ministry of Corporate Affairs (MCA)	2% of average net profit for the last 3 years	Board-level CSR Committee; Annual CSR Report	Education, health, environment, rural development	Compliance-oriented approach; lack of outcome evaluation
Bangladesh	Bangladesh Bank CSR Guidelines (2008); Companies Act, 1994	Voluntary (Regulatory Guidance)	Bangladesh Bank; Ministry of Commerce	No fixed percentage: banks encouraged to allocate CSR funds	Annual CSR disclosure by financial institutions; Central bank monitoring	Poverty alleviation, environment, education, financial inclusion	Limited coverage beyond banking sector; weak reporting culture
Pakistan	CSR Voluntary Guidelines (2013); Companies Act, 2017	Voluntary / Disclosure-based	Securities and Exchange Commission of Pakistan (SECP)	No fixed threshold	Voluntary CSR reporting and inclusion in annual reports	Education, women empowerment, health, community development	Inconsistent adoption; weak enforcement mechanisms
Nepal	Industrial Enterprises Act, 2016; Companies Act, 2006	Mandatory (Sector-based)	Ministry of Industry, Commerce and Supplies	1% of annual profit for CSR and social welfare	CSR fund reporting to government; sector regulatory oversight	Local community welfare, health, environment conservation	Fragmented laws; limited enforcement capacity
Sri Lanka	Voluntary CSR Reporting Framework; Ceylon Chamber of Commerce Guidelines	Voluntary	Ceylon Chamber of Commerce; Institute of Chartered Accountants	No statutory percentage	Encouraged sustainability and GRI-aligned reporting	Education, health, disaster management, environment	No binding law; uneven adoption by SMEs
Bhutan	Gross National Happiness (GNH) Policy; BCCI CSR Guidelines	Voluntary / Value-based	Bhutan Chamber of Commerce and Industry (BCCI)	Not specified	Voluntary CSR reporting; aligned with GNH principles	Environment, cultural preservation, wellbeing, ethics	No legal compulsion: CSR integrated into national philosophy
Maldives	Corporate Governance Code (2019); Tourism Regulation Guidelines	Voluntary (Sectoral Regulation)	Capital Market Development Authority (CMDA); Ministry of Tourism	No statutory percentage	Governance Code requires sustainability reporting for listed firms	Tourism sustainability, marine ecology, community engagement	CSR confined to large sectors; weak enforcement
Afghanistan	CSR driven by donor and private initiatives	Voluntary / Donor-driven	Ministry of Economy; International NGOs	Not specified	Project-based CSR through public–private partnerships	Post-conflict rehabilitation, education, health, employment	Absence of formal framework; instability limits CSR practice

Source: Authors' compilation based on CSR Acts, guidelines, and regulatory documents of SAARC countries.

2.5. Interpretation

1. The above table shows that only India and Nepal have a mandatory CSR policy based on corporate laws. Other countries, such as Pakistan, Bangladesh, Bhutan, Sri Lanka, the Maldives, and Afghanistan, have followed voluntary CSR initiatives driven by guidelines or policy.
2. The nature of CSR in India and Nepal (sector-wise) is mandatory. The rest of the nations followed the voluntary approach of CSR activities.
3. Regulatory mechanism of CSR in India is governed by MCA, Nepal by the Ministry of Commerce and Industry, Sri Lanka and Bhutan by the Chamber of Commerce and Industry, Pakistan by the Securities Exchange Commission, Maldives by the Capital Market Development Authority, and Bangladesh by the Bangladesh Bank.
4. Regarding the CSR threshold limit, India mandates the companies to spend a minimum of 2% of the average net profits of the last three years, Nepal requires enterprises to allocate 1% of net profit, whereas for the rest of the countries, there is no specific mandatory percentage for CSR expenditure.
5. With respect to the monitoring and reporting aspects of CSR, India followed a Board-level CSR committee, and companies are required to submit an Annual CSR report to the MCA. In Nepal, the oversight of CSR reporting is directly done by the Government of Nepal along with its designated regulatory bodies. In Pakistan, CSR reporting remains voluntary with no mandatory statutory requirement, and the monitoring of CSR activities in Bangladesh is done by the Bangladesh Bank.
6. Most of the SAARC countries prioritize CSR activities in areas like education, health care, environment, poverty, community welfare, etc.
7. The SAARC nation mainly suffers lack of mandatory compulsion, except India and Nepal. However, India demonstrated a strong formal structure, but it lacks outcome evaluation.

2.6. Recommendation and Policy Limitations

1. Convergence of Reporting Norms: It is necessary for the SAARC nations to converge their non-financial disclosure formats to align with GRI and SDG to develop comparability and reduce the inconsistent reporting burden of the MNC. Further, the regulators may notify stage-wise (based on size and nature) threshold disclosure for large firms and banks.
2. Strengthening Monitoring Mechanism- Statutory mandate is of paramount importance for better compliance with CSR mandate, complemented by mandatory audit requirements. Further, an outcome evaluation structure may be adopted for evaluating the CSR activities. It is essential to assess the impact rather than merely compliance.
3. Build a better ecosystem for SMEs and regulations – In order to enhance the capacity building process for upholding a better ecosystem for CSR initiatives, the thrust should be directed towards SMEs to include them in CSR initiatives. The Government may promote different incentive schemes such as tax incentives, private-public partnership, etc. Further, the regulations may formulate guidelines that align with SMEs' capacity.
4. Operation Knowledge Transfer: It is essential for the SAARC nations to build a knowledge hub for promoting best practices for CSR issues. Since India has plenty of legislative experience, a better reporting culture of Sri Lanka, and exemplary efforts of the Banks in Bangladesh may lead to developing a better knowledge-sharing hub fostering harmonized efforts for cross-border projects.
5. Prioritizing local stakeholders and outcomes: It is essential to make statutory provision for initiating participatory projects involving local stakeholders and assessable SDG outcomes. Further, enforcing agencies and regulatory provisions should discourage only spending the threshold and merely compliance orientation, rather than emphasizing outcome evaluation may be for multiple years.

3. Conclusion

The SAARC nations demonstrate a mixture of CSR frameworks. In this region, India is the only pioneering country to develop a mandatory legal framework for CSR initiatives. Bangladesh followed a sector-based voluntary approach, whereas Bhutan followed a normative model. Moreover, Pakistan, Sri Lanka, the Maldives, and Afghanistan followed a voluntary CSR approach with a lack of a threshold limit for CSR spending. A compulsory mandate on CSR definitely ensures better disclosure and transparency, but it may lead only to compliance if it is not complemented with an outcome evaluation mechanism. No doubt, a voluntary approach leads to flexibility, but it suffers from accountability gaps. What we need is a comprehensive guideline or template that may incorporate distinct disclosure norms, a system of enforceable accountability for the big entity, and capacity building for SMEs. Moreover, a converged, harmonized framework is essential for better comparability among SAARC nations relating to CSR activities. We look forward to the South Asian region being a strong and powerful driver of sustainable development, fostering stringent enforcement, and accessible social outcomes of CSR initiatives.

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