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Pratishtha Sharma

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# The Rise of ESG (Environmental, Social and Governance) in Indian Corporate Law: Legal Implications and Compliance Challenges

Pratishtha Sharma

*Law Student, 5<sup>th</sup> Year, BBA.LL.B. (Hons.), University of Mumbai*

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## ABSTRACT

*It is today hard to avoid being sensitive to Environmental, Social, and Governance (ESG) issues as an important part of the Indian corporate law. The paper goes deep into how attorneys can best understand the complex field of ESG within an Indian legal context. As pressures grow on companies to consider environmental, social and corporate governance factors in making decisions the report looks at how managers are coping with this. The report looks at several key legal problems here such as how ESG is likely to impact corporate governance, where directors' duties may conflict with each other and reporting obligations. It also points out the difficulties which lawyers are likely to have in advising clients on ESG-related exposure risks to any compliance measures and finding ways of limiting any consequent liabilities. Legal practitioners must keep abreast of new developments, to guide their clients effectively. Given the changing landscape, in India there is a pressing need for legal experts to stay informed about these recent changes and provide valuable guidance to their clients. This document provides suggestions for attorneys on addressing environmental, social and governance (ESG) compliance issues as supporting the sustainable growth of their clients' businesses. The findings highlight the role of lawyers in reactions, to ESG demands and aligning both local laws and global standards accordingly.*

## KEYWORDS

*ESG, Legal Implication, Corporate Governance, Corporate Law, Regulations, SEBI, BRSR*

## 1. INTRODUCTION

### ***Background***

Blending of ESG (Environmental, Social and Governance) with Indian Corporate law signified a critical development in the corporate governance view. Traditionally, companies' performance success is measured by their financial condition of the company in that year. Then CSR (Corporate Social Responsibility) came into action, which focused more on environmental and social concerns. It is an action that is taken by the corporation to be more responsible to the stakeholders and public. CSR contribution was introduced by the Companies Act, 2013. CSR main goal was to impact environment and society positively by working according to sustainable and ethical practices. However, ESG covers broader criteria that includes impact on environment, social equity and governance standard.

Global trends have partially influenced Indian corporate governance to adopt ESG. The investors and consumers demand transparency and responsibility in operation. Over the past few years, India has seen a significant increase in recognizing the importance of ESG in corporate governance. The Securities and Exchange Board of India (SEBI) has emphasis importance on ESG by issuing guidelines that require listed companies to report risk and opportunities related to ESG. SEBI introduced Business Responsibility and Sustainability Reporting (BSBR) which has 9 principles that aims in guiding company or corporation to adopt sustainable business practice and reporting them in transparent manner.

In recent years, many companies have recognized the importance of ESG and started integrating it with their company's policies to attract investors, strengthen their reputation and manage risks.

With the increased in integration of ESG in companies, it also increased legal and compliance challenges. Making new regulations, living up to the stakeholders' expectations and executing ESG initiatives effectively are few of the legal and compliance challenges.

With the rise of ESG in Indian Corporate law, companies establish such policies that their operations are aligned with environmental regulations, society responsibilities and strong governance. If company fails to abide, they have to face legal penalties. Moreover, the company can also face damage on reputation and loss of investor confidence.

With the dynamic nature of ESG, it has become a necessity for companies to continuously monitor and modify their policies to maintain in a market.

## **2. RESEARCH QUESTION**

How ESG (Environmental, Social and Governance) is influencing corporate law in India and what are the legal implication and compliance challenges face by the companies in integrating ESG into their operation?

## **3. LITERATURE REVIEW**

The India has seen increasing number of companies emphasising in sustainability and strong corporate governance. (Singla,2023) highlights the importance of ethical practices and legal compliance as per the SEBI guidelines and requirements. These regulations cover board composition, shareholder rights and transparency which are important in corporate governance and legal compliance in the Indian business sector (Sharma et. al, 2020). (Debnath et. al, 2024) mention about the global trend towards integration ESG into corporate operations and identifies

hurdles in integrating ESG such as weak regulatory framework.

(Shetty and Suraj, 2024) provides a case study of how integrating ESG has improved business image and risk management, whereas in (Debnath et. al, 2024) address the challenges in integrating ESG including regulatory framework and data availability. The historical background given by (Singh, 2022) indicates that Indian corporate law has evolved independently of its colonial past, with recent improvements influenced by global trends rather than English law, which may have implications for the integration of ESG factors.

(Mandas et. al, 2023) points out about ESG metrics and rating system stating companies with transparent openness and strong governance procedure are linked to outstanding ESG performance of that companies, whereas poor performance generally exhibits deficiencies in ethical conduct and transparent openness. A structured approach to ESG reporting is also given by the GRI framework and Clause 49 of the listing agreement which organize the ESG reporting (Sharma et. al, 2020).

Due to legal requirement, strategic value and market trends of sustainability in corporate operations, companies are facing enormous pressure to comply with ESG standards (Ratnasingam et. al, 2023; Siddhartha, 2024). Lack of awareness, perception of direct benefits and the cost involved in implementing ESG policies into effect are often the reason of compliance challenges (Ratnasingam et. al, 2023).

(Dedunu & Sedara, 2023; Xiongyaun, 2023) mentions that companies are focusing more on Social and environmental factors gaining attention from stakeholders, investors and consumers and seems to less prioritize governance factor due to lack of awareness of governance issue. This discrepancy emphasizes the

necessity of better education and communication about the value of governance in ESG practice.

Although the enforcement and mandatory nature may vary, the Indian business sector is increasing realizing the significance of compliance with ESG standards for long term sustainability and growth (Ayudin, 2023; Singh, 2023).

#### **4. METHODOLOGY**

The research methodology method used is secondary data method.

Secondary data method means the information and data has already been collected by someone else and the same is used in research methodology. The information or data can be found in published research papers, articles, books, journals, guidelines, website, etc. The information used in the research already exist.

This study uses the existing literatures and data to give understanding about the rise of ESG in Indian corporate law. This study will also review the existing literature on ESG, ESG integration in Indian corporate, rise of ESG in corporate and, legal implication and challenges faced by the Indian companies in integration ESG standard in their operations.

**ESG (Environmental, Social and Governance)** – ESG is a structure that is used in evaluating a company’s business performance regarding sustainability and ethical issues. ESG covers three factors

- **Environmental factor** – Environmental factor focuses on how a company does business in relation to the environment. This includes resource conservation, water,

air and noise pollution generated, energy consumption, and adherence to environmental regulations.

- **Social factor** – Social factor focuses on how a company maintain relationships between stakeholders, employees, suppliers, customers, government, and compliance with fair labour practices. Companies score is high for the ones who are actively contributing to community and promote diversity.
- **Governance factor** – Governance factor focuses on the leadership of the company, operational transparency and management practices. Board's diversity, right of the stakeholders, executive compensation, and regulatory compliance and ethical business practices are included in governance factor.

**Corporate Social Responsibility (CSR)** – Corporate Social Responsibility (CSR) is a management concept where companies are encouraged to address socio – environmental issues in their operations and sustain positive relations with their stakeholders. The companies Act, 1956 was repealed and The Companies Act, 2013 was enacted which mandate the CSR under Section 135. It resulted in significant change in the creation, management and corporate of corporations.

## 5. SIMILARITIES AND DIFFERENCES

- **Similarities** – The goals of CSR and ESG are to improve corporate sustainability and accountability within organization. They encourage moral conduct and responsible business practice by focusing on impact of an operation of company affects the environment and society. Additionally, even while ESG includes CSR initiatives in its larger

framework, both concepts reflect a shared dedication and positive social and environmental results.

- **Differences** – The main difference is how each framework functions. ESG is built on specified, measurable standards and measurements that assess a company's sustainability performance, providing critical data for investors. On the other hand, CSR emphasizes more on voluntary corporate initiatives intended at improving the company's reputation and contributing to company welfare, which lacks established metrics.

**Sustainability Development Goals (SDG)** – The 2030 Agenda for Sustainable Development offers a common strategy for peace and prosperity for people and the planet, both now and in the future. United Nation Members States in 2015, endorsed the strategy. At its heart are 17 Sustainable Development Goals, an urgent call to action for developed and developing countries worldwide in a global partnership. They address that ending poverty and other form of deprivation requires collaborated efforts to deal with climate change, protect forest and seas, improve health and education, and reduce inequality in addition to encourage economic growth.

The 17 goals of SDG are –

1. Eradicate Extreme Poverty and Hunger
2. Achieve Universal Primary Education
3. Promote Gender Equality and Empower Women
4. Reduce Child Mortality
5. Improve Maternal Health
6. Combat HIV/AIDS, Malaria and TB
7. Ensure Environmental Sustainability
8. Develop Global Partnership for Development

9. Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation
10. Reduce inequality within and among countries
11. Make cities and human settlements inclusive, safe, resilient and sustainable
12. Ensure sustainable consumption and production patterns
13. Take urgent action to combat climate change and its impacts
14. Conserve and sustainably use the oceans, seas and marine resources for sustainable development
15. Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss
16. Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels
17. Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development

## **6. ALIGNMENT OF SDG GOALS WITH ESG GOALS**

- **Environmental Goal –**
  - **Ensure Environmental Sustainability (SDG 7)** – Access to affordable, sustainable, and reliable energy is one of the goals of ESG which are aligned with the promoting the use of clean energy solution and reducing the consumption of fossil fuels.
  - **Climate Action (SDG 13)** – ESG emphasizes on reduction of carbon footprints, improving energy

efficiency, and shifting to renewable energy sources. These objectives align with goal 13 of SDG which demand for an urgent climate action.

- **Life Below Water (SDG 14) and Life on Land (SDG 15)** – SDG 14 and SDG 15 emphasizes on maintenance of oceans, seas, and terrestrial’s ecosystems, which aligns with ESG objectives that are reducing of pollution, sustainable resources use and protection of habitats.
- **Social Goal –**
  - **Good Health and Wellbeing (SDG 3)** – Health of employees and safety, access to healthcare support and health program for community are the areas where SDG 3 focuses on to ensure healthy lives and promote well-being.
  - **Economic Growth and Decent Work (SDG 8)** – SDG 8 emphasize on employment opportunities and sustainable growth of economics which aligns with ESG framework which focuses on diversity, fair labour practices, opportunities for employments, etc.
  - **Reducing Inequalities (SDG 10)** – ESG framework aims to reduce inequalities in the workplace and in the communities which supports SDG 10 of reducing inequality within and between countries.
- **Governance Goal –**
  - **Peace, Justice, and Strong Institution (SDG 16)** – Governance goal values anti – curroption measures, transparency and strong institutional framework that are in line of SDG 10 which focuses on promotion of inclusive and peaceful societies, allow access to justice and establish strong and accountable institution.
  - **Partnerships for the Goals (SDG 17)** – SDG 17, which focuses on strengthening the means of implementation

and revitalizing global partnerships for SDGs in all countries through enhancing strong governance structures that facilitate multi-stakeholder alliances.

**According to Credit Rating Information Service of India Limited (CRISIL) aligning the goals of SDG with ESG**

- 1. SDG 5 – Gender equality**
  - End all forms of discrimination
  - Ensure women’s full and effective participation, and equal leadership opportunities
  - Adopt sound policies for promotion of gender equality
- 2. SDG 7 – Affordable and clean energy**
  - Increase the share of renewable energy
  - Improve energy efficiency
- 3. SDG 8 – Decent Work and economic growth**
  - Ensure decent work for all, including persons with disabilities, and equal pay
  - Eradicate forced labour and end modern slavery and child labour
  - Strengthen capacity and access to banking, insurance and financial services for all
  - Promote and support MSMEs, including through access to financial services
- 4. SDG 9 – Industry, innovation, and infrastructure**
  - Increase integration of small-scale industrial and other enterprises into value chains

## 5. **SDG 10** – Reduce inequalities

- Empower and promote social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status
- Ensure equal opportunity and reduce inequalities by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard

## 6. **SDG 13** – Climate action

- Integrate climate change measures into policies, strategies and planning

## 7. **SDG 15** – Life on Land

- Halt deforestation, restore degraded forests, and substantially increase afforestation
- Restore degraded land and soil, including land affected by desertification, drought and floods

## 7. **THE ESG REPORTING FRAMEWORK**

- **Background** – BRSR is an inaugural reporting framework by the Indian Security Exchange Board of India (SEBI) for companies in this country. It is structured to give a holistic account of the non-financial performance and sustainable practices geared towards corporate responsibility for an organization.
- **Description** – The BRSR comprises various elements of a company — the environment, social justice and governance frameworks. It requires companies to report based on the principles of sustainability, responsible business conduct and their social contribution.

- **Purpose** – The BRSR seeks to bring a standardization and improvement in the quality of non-financial disclosures made by companies for stakeholders' easier interpretation about sustainability performance along with responsible business practices commitments.
- **Who** – It states that the BRSR is applicable to companies with a market capitalization in top 1,000 at Indian stock exchange starting from FY2022-23 by SEBI.

BRSR framework in India and its convergence with global ESG standards ESG is typically ESG, with most investors applying it to companies as an additional lens; BRSR presents the "structured reporting channel through which a company can communicate all of its activities in this field." Put differently, BRSR can be looked upon as a tool for communicating ESG performance of companies in India.

## 8. INVESTOR APPEAL

- **Increased Transparency** – Companies that follow BRSR detail their ESG practices, thereby appearing more appealing to investors with a focused interest in ESG. The standardized disclosures of BRSR offer investors transparency to make responsible investment decisions. It is a forum that focusses on the growing importance of ESG parameters and its increasing impact in investment decisions by institutional investors around the globe.
- **Global Comparability** – Although BRSR has been curated for Indian companies, it is developed keeping global Environmental Social Governance (ESG) standards as guideline statements This allows for easy comparison of companies falling under BRSR, with global peers thereby

attracting more prevalence and robust interest from international investors that are focused on ESG criteria.

## 9. MARKET BENEFITS ABS REGULATORY

- **Regulatory Compliance** – BRSR compliance means companies are not only in place to comply with SEBI regulations but can easily further prepare for more upcoming regulatory changes regarding ESG.
- **Market Positioning** – Companies that are leading in the BRSR reporting can differentiate themselves and capture market share by positioning as sustainability leaders, which is of importance to ESG oriented markets.

## 10. CASE STUDY

- **Infosys Foundation** – Infosys is a big IT foundation who supports education and social development projects actively. It shows their string corporate governance practices.
- **Mahindra and Mahindra** – The leader of Indian conglomerate is a leader of electric vehicle technology which aligns with environmental sustainability goal.

## 11. ARGUMENTS

In fact, while Indian CG has had a decent track record over the years (within an emerging markets context), global influence and investor demand have played vital roles here. Citing the growing prioritization of ESG factors in investment decisions, companies have been adopting such practices to show they meet these standards and are using this as a way to secure capital and improve their image.

The SEBI has laid out a framework for adoption of ESG practices

in the Indian market by making it mandatory, to an extent that firms must disclose risks associated with their ESG related matters starting April 2022. This is a substantial step towards ensuring companies are moving from only focussing on profit to integrating sustainability into their day-to-day business.

## **12. LEGAL IMPLICATIONS AND COMPLIANCE CHALLENGES**

- **No Standardization:** A significant challenge in India Limitation to incorporate ESG into corporate practices relates to lack of uniformity around the framework for ESG reporting. This inconsistency prohibits investors from evaluating the ESG performance of companies which is, ultimately also preventing well informed investment decision making.
- **Insufficient disclosure:** Numerous companies, especially small and mid-sized enterprises face major challenges in terms of proper ESG disclosures. As a result, assessing the ESG performance of such companies can be challenging and these entities may not have resources to allocate towards comprehensive ESG reporting.

The biggest issue is still regulatory, despite the fact that Indian government has put in effort. Current legal and regulatory requirements for ESG reporting are still far from clear, hence the difficulty of determining what companies should do to be compliant with international standards.

It would be expensive for smaller companies to implement ESG policies with limited resources.

## **13. DISCUSSION**

Incorporation of Environmental, Social and Governance (ESG)

factors into Indian Corporate Law is a pertinent progression within the realm of corporate governance in India. Over the years, corporate success in India has largely been measured by financial performance of organizations. But the burgeoning concern in ESG reveals a more expansive view, acknowledging that corporations should care about more than just profits — from protecting the earth to social justice and good governance.

Similarly, ESG is reforming corporate law by requiring further disclosure and oversight -as a major outcome The Business Responsibility and Sustainability Reporting (BRSR) framework by the Securities and Exchange Board of India, requires listed companies to disclose ESG related risks & opportunities. The ruling, in effect requiring companies to put ESG factors at the centre of their operations, has therefore had a dramatic impact on corporate policy and practice.

Yet, this evolution comes with serious legal ramifications. Challenges: Companies need to determine how best to report on their performance for ESG and there is a lack of standardized frameworks in this area. Furthermore, impaired or limited disclosure of ESG activities and compliance especially among small & mid-sized enterprises does not ease the process evaluating their efforts due to resource constraints.

Furthermore, implementing ESG initiatives may come with a cost that can make compliance difficult to manage for smaller firms. Total ESG adoption costs are often prohibitive, causing potential non-compliance or tokenism instead of thoroughgoing implementation.

## **14. INTERPRETATIONS**

- **ESG Integration:** This study demonstrates that the significance of environmental, social and governance (ESG) elements is increasing in India's regime with several essentials like BRSR by SEBI forcing companies to incorporate ESG along regulatory boards.
- **Corporate Strategy:** ESG is now a part of the policy language for companies and helps in meeting investor demand, risk management & strengthening brand perception.
- **Challenges:** The paper identifies major challenges related to Legal and compliance issues, high costs of implementation, nonexistence transferable ESG reporting frameworks.

### ***Comparison***

- **Consistent with Global Trends:** These results are in line with global literature that highlights the positive effect of ESG on corporate reputation and risk management.
- **Investor Influence:** The study is in alignment with global trends whereby investor pressure has been identified as a key driver for ESG adoption, India notwithstanding.
- **Implementation Challenges:** Concerns about difficulties in data collection, high compliance costs and the lack of uniformity in regulations are issues that this study raises contributing to the already existing body of literature.
- **Regional Specificity:** Difficulties encountered which are unique to the regulatory setup in India are emphasized by focusing on a regional dimension of environmental, social and governance (ESG) aspects within Indian corporate law.

### ***Limitations***

- **Secondary Data:** such investigation that could have been extensive and many-sided cannot be based on this research as

all its information originates from secondary sources instead of the primary ones like interviews or questionnaires.

- **Analysis by Sector:** The absence of standardized ESG framework for the different sectors in India means they are not clearly understood or analysed; hence there is no comprehensive analysis on how different sectors are affected.
- **SME Focus:** When studying large companies, attention is usually diverted from some challenges that small and medium-sized enterprises encounter.
- **Geographical Scope:** For example, these findings are not applicable to other areas with different regulatory regimes apart from India.
- **The Changing Face of ESG:** This creates an urgent need for more research because changes in ESG regulations occur regularly; hence one may find your results are out dated about why we need additional studies.

## 15. RESULTS/CONCLUSION

- **Increasing significance of ESG:** ESG policies have become important in sustainability for corporate in India. The need is recognised of integration of ESG in the world of corporates for a long-term run.
- **Embracing ESG:** Financial performance is enhanced; risks are reduced and companies' reputation is strengthened by integration ESG policies in their operations. Invest receive better returns and dilute the risk by focusing in businesses that are sustainable. It benefits the society which improve their reputation and increase the brand loyalty.
- **Integration challenges:** Several companies face challenges in integrating ESG policies in their operations which includes insufficient data and reports, lack of ESG expertise and

absence of regulatory framework. It is challenging for companies to embrace ESG policies due to these reasons.

- **Overcoming challenges:** In order to address the challenges, companies can educate employees making them ESG experts, leverage technology to improve data and reports and increase investor awareness and robust for strong regulatory framework.
- **Call to Action:** Companies, regulators, investors and policymaker have to work together to improve the improve ESG in India. By working together, India can create a strong and sustainable economy for the future.

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