

FROM COMPLIANCE TO IMPACT: THE ROLE OF SECTION 8 COMPANIES IN ADVANCING THE SUSTAINABLE DEVELOPMENT GOALS

by

ANJU MATHEW

CHRIST (Deemed to be) University

ABSTRACT

The section 8 companies are legal entities with a regulatory structure that is unique to the nonprofit sector in India, and that is both legally accountable and has a social welfare mandate.¹ The paper will discuss how they are changing their role in supporting Sustainable Development Goals (SDGs) by becoming increasingly impact oriented in their approach to development rather than a compliance-oriented model of development. It examines how the mechanisms of statutory governance, CSR-linked funding, and regulatory mechanisms permit such entities to design and put in place interventions that are measurable in areas like education, healthcare, livelihood generation, environmental sustainability, and financial inclusion. Section 8 companies play a crucial role in mediating between the corporate resources, state priorities and needs of grassroots by aligning organizational goals with SDG targets. The research also notes that successful input to SDGs is not only relative to adherence to regulations but also strong governance, visionary decision-making, cooperation among stakeholders, and standardized evaluation of impact. The problem of insufficient funding, inchoate regulations, and poor institutional capacity remains, but the policy reforms, digital governance, the organization of the partnerships between the government and businesses, and the measurement of the impact have a prospect. The paper finds that, through enhanced accountability and innovation-driven strategies, the Section 8 companies can become potent vehicles of inclusive and sustainable development, balancing between legal compliance and real social impact.

Key words: Section 8 companies, Sustainable development goals, Legal impact, Development

¹ Companies Act, No. 18 of 2013, § 8 (India).

Introduction

Section 8 companies which are established under the Companies Act, 2013 have become a central legal instrument with the help of which the nonprofit sector in India can negotiate between statutory compliance and substantive social impact, especially in the framework of the Sustainable Development Goals (SDGs).² Although initially intended as a transparency, accountability, and regulatory discipline tool to not for profit entities, the unique governance and reporting structure of Section 8 companies has been more and more used to organize and scale SDG aligned interventions in poverty reduction, quality education, livelihood enhancement, financial inclusion, and environmental sustainability. In this paper, we will question the changing role of Section 8 companies as tools of sustainable development, as instruments of compliance driven corporate actors to the mission-oriented tools of sustainable development, and explore the way in which their statutory requirements interrelate with and in most cases facilitate measurable impact on a variety of SDG targets. Through examining the shifting interface between corporate law requiring, CSR-related finance, and local level development practice, the study aims to shed light on the legal and institutional ways in which Section 8 companies can play a more active (and intentional) role in the SDG agenda in India.

Conceptual Framework

Section 8 companies are non-profit organizations which are established to encourage commerce, art, science, sports, education, research, social welfare, religion, charity, environmental protection or other similar purposes and no dividend may be paid to its members³. They were formerly governed under Section 25 of the Companies Act 1956⁴, but now in Section 8 under the Companies Act 2013, to reflect both current trends in corporate governance such as mandatory CSR under Section 135, and to place Section 8 as a step towards sustainable non-profits⁵. Section 8 companies in India- play a central role in supporting sustainable development since they operate as non-profit, voluntary and self-governing organizations working towards social welfare and community development. They work in key areas of life, including education, healthcare, environmental protection, and social justice, which directly relate to the Sustainable Development Goals (SDGs). Notably, such

² *Id.*

³ Companies Act, No. 1 of 1956, § 25 (India).

⁴ Companies Act, No. 18 of 2013, § 135, sched. VII (India).

⁵ *Id.* § 8(1).

organisations are not only involved in service delivery but also in encouraging community involvement, capacity building and empowerment, thus empowering individuals to transform their socio-economic lives. This is an indication of moving away with compliance-based framework where organizations simply meet the regulatory needs to an impact-based approach where the focus is more on the actual developmental results and sustainability.⁶ Moreover, the study notes that more than formal existence is needed to have meaningful impact and that is so through proper governance, stakeholder collaboration and constant monitoring and evaluation of programmes. NGOs provide an interface between communities and governments, advocacy of policies, and interventions at the grassroots level, which makes them necessary mediators in sustainable development processes. Nevertheless, threats like ineffective governance, funding, and poor networking may impede their success, supporting the disconnect between compliance and real impact. Thus, to ensure successful promotion of SDGs by Section 8 companies, they should embrace strategic, participatory, and responsible governance frameworks that focus more on innovation, partnerships, and quantifiable outcomes, thus turning into major drivers of inclusive and sustainable development.

The principle in UK of Weleminsky

In the UK, the principle of Weleminsky was devised, which focuses on the fact that the established non-profit and charitable groups should make sure that their resources are used exclusively to further their mentioned purposes but not to make a profit. The principle supports the notion that non-profit making organizations are subject to fiduciary duty towards the society and should maintain transparency, accountability and strict compliance to their charitable objective. It is closely linked to the larger principle of the common good of the people, which is at the heart of charity law in the United Kingdom, such that such organisations can defend their special consideration of the law by showing their social benefit. Practically, the principle by Weleminsky has affected the standards of governance by obligating non-profit organizations to ensure that there are no clear boundaries between organizational resources and individual interests of trustees or members. It helps regulate a body like the Charity Commission in England and Wales who ensure that charities are performing within their aims and providing real public benefit. The principle is vital, as it introduces accountability and purposeful operation, which will help avoid funds misuse and increase trust in the non-profit sector.

⁶ *Supra* note 3.

Legal and Regulatory Framework

The legal and regulatory environment under which non-profit organisations in India operate is based on a multi-layer structure based on constitutional, statutory and compliance-oriented provisions. The Indian Constitution is silent on the regulation of NGOs, but promotes their establishment by the right to freedom of association (Article 19(c))⁷ and the Directive Principles of State Policy, which promote social welfare and cooperation between states with non state actors⁸. Major ones are the Societies Registration Act, 1860⁹, which permits the formation of societies with literary, scientific, or charitable goals to obtain a separate legal personality, own property, and transparency by means of Memorandum of Association and rules, the Indian Trusts Act, 1882, which regulates both private and public charitable trusts but contributes to a disjointed regulatory environment by relying on state NGOs are also required to abide by the Foreign Contribution (Regulation) Act (FCRA), which closely regulates foreign donations, and tax provisions in the Income Tax Act, 1961 (Sections 12A, 80G and 35AC)¹⁰, which provide tax exemptions and deductions on condition of strict documentation and reporting, and sector specific regulations in the areas of education, healthcare and environment which further Registration and continuing compliance vary by form of law: societies are registered by the Societies Registration Act, or by state law, either by filing a Memorandum of Association and rules, or by registration of trusts by a trust deed before the Sub Registrar or Charity Commissioner; and Section 8 companies are registered by the Registrar of Companies on the Companies Act, 2013¹¹, through a formal registration involving name approval, Mem After registration, NGOs are obliged to prepare annual reports and audited financial statements to the appropriate authorities (Registrar of Societies, Charity Commissioner or Registrar of Companies) and remain tax exempt by proper record keeping and filing. The governance is based on a Board of Directors or Trustees who has a policy making, budget approval, programme oversight and legal fiduciary duties and responsibilities that are supported with clear responsibilities and risk management practices and conflict of interest policies requiring disclosure and recusal. Dissolution is a complex, form specific process that needs special resolutions, statutory notice and compliance with winding up rules, the most important thing being that the remaining assets go to another non profit with similar objectives but not to

⁷ INDIA CONST. art. 19, cl. (c).

⁸ *Supra* note 7.

⁹ Societies Registration Act, No. 21 of 1860 (India).

¹⁰ Income Tax Act, No. 43 of 1961, §§ 12A, 80G (India).

¹¹ *Supra* note 1.

members or directors, a principle explicitly enforced by the Companies Act, 2013 on Section 8 companies, to ensure that even after the closure, the resources are used to benefit the rest of the community.

Role of Section 8 Companies in SDG Advancement

Section 8 companies incorporated under the Companies Act, 2013 make a structured, cross cutting contribution to the sustainable development goals (SDGs) in India by institutionalising non profit activity in to a transparent and accountable legal framework with core objectives of promoting education, social welfare, environment, scientific research, health and livelihoods directly aligned with SDG related areas such as poverty reduction (SDG 1), good Section 8 companies turn broad SDG targets into place based interventions at scale, through the design of community centred development, skill building, financial inclusion linked micro finance, and environmental protection, and their statutory compliance with corporate law requirements (annual filings, audited accounts, and disclosures) and access to CSR funds under Schedule VII, government schemes, grants and tax benefit linked instruments (Sections 12A and 80G) This is further complemented by their eligibility to engage in more recent mechanisms such as the Social Stock Exchange (SSE) which allows impact oriented, transparent fundraising in SDG-aligned projects in the area of education, livelihoods, financial inclusion and green infrastructure making Section 8 companies a very important institutional bridge between SDG framework, corporate CSR and local level development practice in India. Section 8 companies, it is important to note that procedural compliance with the Companies Act has to be replaced with substantive governance leading to results in accordance with the Sustainable Development Goals (SDGs). The findings underline that such structural factors like the size of the board, the frequency of meetings or formal documentation are not influential in the effectiveness, but such functional aspects as strategic decision-making, financial supervision, and mission-setting have a decisive impact. More importantly, board contributions such as having the right combination of skills, expertise and time dedication are critical contributors to the organizational performance. Also, role and responsibility articulation and a common vision between the board and management become key drivers that can help organizations to translate intent to quantifiable social impact. Moreover, the research indicates that governance processes, especially the successful communication, the regular performance reviews, and the positive interaction between the board and the management play a significant role in the narrowing of the compliance-impact gap. This means that in respect of Section 8 companies, the institution of accountability through the implementation of impact assessment, SDG monitoring, and

internal governance audit procedures is required. The study also notes that there has been an endemic mismatch between the ideal governance structures and the real practice implying that most organizations are compliance based and yet they have not made any significant developmental gains. Thus, to operate as efficient means of promoting SDGs, Section 8 companies should implement a type of governance that will emphasize on strategic alignment, ongoing review, and stakeholder involvement. Essentially, strong governance turns them into law-abiding organisations into impactful organisations able to provide sustainable and scalable social change. Livelihood Enhancement and Poverty Reduction (SDG 1 and 8): Section 8 companies in the Companies Act, 2013 contribute to poverty reduction (SDG 1) and livelihood improvement (SDG 8) by developing and executing welfare programs that attract vulnerable populations to welfare through poverty alleviation and livelihood creation schemes, and by increasing access to basic amenities like healthcare, shelter, food and counseling. These not for profit organisations operate under an effective company law framework and have greater credibility with funding bodies (donors and government agencies) allowing them to scale the interventions on poverty based on CSR, grants and social impact finance. Section 8 companies in the context of SDG 8 on decent work and economic growth, usually operate skill development and vocational training to enhance the employability of youth, women, and migrants, and enable self employment and entrepreneurship by means of SHGs, cooperatives, and micro enterprise support, and increase incomes without exploitation. This makes them a trusted partner to corporate CSR funds and schemes run by the public sector to pursue structured, measurable livelihood enhancement projects, and their eligibility as CSR funded entities under the Companies Act of 2006 ensures that they can direct corporate social responsibility outlays, particularly those in line with Schedule VII priorities, into SDG 1 and SDG 8 focused projects. They are further enhanced by integration with newer mechanisms like the Social Stock Exchange (SSE) which make transparent, impact measured fundraising a specific SDG aligned livelihood and poverty reduction program possible.

Localized SDG Initiatives (SDG 17): Section 8 companies under the Companies Act, 2013 have a major role in promoting localized SDG initiatives (especially SDG 17) as structured and accountable civil society actors that link SDG frameworks at the national level with SDG implementation at grassroots. Section 8 companies usually target local levels (districts or communities), and their interventions, including education, health, livelihoods, and environmental action, are designed to meet local vulnerabilities and priorities, which is consistent with the SDGs focus on localizing SDGs by states, local institutions, and civil

society organizations in India. They are professional governance, financially transparent and audit disciplined by virtue of their corporate law status, thus making them credible partners of the multi stakeholder partnerships, which include government departments, local self government (Panchayats/Urban Local Bodies), corporate CSR programs, and philanthropic funders, enhancing the SDG 17 emphasis on cooperation, coordination, and mobilizing resources at the local level. The fact that they are eligible to access CSR funds in Schedule VII of the Companies Act also helps them to undertake geographically focused, impact quantified projects that can tie international SDG 17 principles to place based development results.

Promoting Quality Education and Skill Development (SDG 4 & SDG 8): Under the Companies Act, 2013, Section 8 companies are key players in promoting quality education and skills development (SDG 4 and SDG 8) by being able to provide a structured, non-profit making legal mechanism to plan, scale, and monitor education and skilling focused initiatives.. Education, training and skill development can be adopted as core objects of section 8 companies, which can thus create and run schools, vocational training centres, digital literacy hubs, and research oriented educational foundations that can bring in quality learning, particularly to marginalised and economically disadvantaged groups in the society. Their company law structure provides professional governance, financial reporting transparency and audit discipline that creates trust in them with government education departments, CSR funded corporates and other development partners, which makes them the implementing agencies of choice to centrally sponsored schemes, teacher training programs, and skilling mission related projects. Partnerships with national skilling missions and SDG 8 oriented livelihood enhancement targets make the Section 8 companies, at the same time, enhance the employability and decent work opportunities, thus, incorporating SDG 4 (quality education) and SDG 8 (decent work and economic growth) into a single, locally responsive organizational framework.

Driving Innovation to Social Impact (SDG 9): Viewing the Companies Act, 2013, Section 8 based upon the implementation of a technology driven and process innovative solution, Section 8 companies drive innovation to social impact (SDG 9) by providing a legally recognised, not for profit platform through which such solutions can be developed and scaled to the welfare of the populace, and not purely on commercial gain. They may be technology business incubators, innovation centred foundations, or research oriented non-profit (such as TBIs being hosted in IITs being structured as Section 8 companies) and thus promote techno entrepreneurship, social enterprise development and market ready solutions to inclusive infrastructure and services. They provide corporate grade governance, transparency and audit discipline with a mission driven mandate which makes them credible partners to government

innovation mission funds, CSR linked technology incubator grants and public-private innovation partnerships, which the Companies Act first enabled through amendments to permit CSR flows into approved incubators. In doing so, in some sense, Section 8 companies serve as institutional bridges between SDG 9 goals of resilient infrastructure, inclusive industrialisation, and innovation and ground level social impact projects, to facilitate scalable, evidence based innovations in energy, mobility, healthcare, and digital access infrastructure projects with underserved communities. Financial Inclusion and Empowerment (SDG 8 & 10): Financial Inclusion and empowerment (SDG 8 and 10) are key to the activities of the companies under the Companies Act 2013, Section 8 in that the companies are mission driven vehicles in a legal form that extend financial services, financial literacy and income generating opportunities to marginalised and low income individuals. Numerous Section 8 organizations particularly microfinance oriented or development focused funds are directly established to further financial inclusion, SHG support, rural finance outreach, and women centred credit access schemes in order to enable poor households and small scale entrepreneurs to get out of exclusion and become more fairly involved in the formal economy. Their company law position guarantees governance, transparency, and audit discipline, creating confidence with banks, regulators, CSR funded corporates and government welfare schemes so that they can formulate and scale digital finance, micro credit, and savings linked programs that decrease the income inequality and encourage inclusive economic development. Combining these activities with employment creation and skilling tied initiatives, Section 8 companies facilitate the connection between SDG 8 (decent work and economic growth) and SDG 10 (reduced inequalities) through financial inclusion measures as a gateway to more extensive social and economic empowerment.

From Compliance to Impact: Challenges and Opportunities

India has a unique situation of section 8 companies under the Companies Act, 2013, which are governed between legal compliance and social impact. Since their formation was driven by the main aim of facilitating charitable activities like education, environment conservation and social services, these organizations go hand in hand with the global vision of the United Nations Sustainable Development Goals. In reality, though, most Section 8 companies are trapped in a compliant model, which puts a strong emphasis on regulatory requirements, such as reporting, governance, and financial disclosures, instead of addressing their potential to achieve quantifiable social benefits. Their operation is often hampered by structural issues like reduced funding opportunities, excessive reliance on grants, poor management by professionals and

inflexibility of regulations, which limit the scale of their operations and innovativeness. Also, there is a lack of standardized impact evaluation systems, which inhibits measuring their actual contribution to SDGs and hence transparency and accountability.

Irrespective of these limitations, it is clear that Section 8 companies have a huge potential to move beyond compliance to meaningful contribution within the realm of development in India. They can transform the world towards sustainable development by strategically aligning their goals with certain SDGs, including poverty alleviation, quality education, gender equality, and climate action. To improve effectiveness and reach, more partnership with corporate entities via Corporate Social Responsibility (CSR) activities, incorporation of impact-oriented models, and the use of technology to monitor and evaluate may be incorporated to increase efficiency and outreach. Moreover, policy changes that streamline the regulatory processes and encourages innovation can give such organizations the strength to work more efficiently. In this regard, Section 8 companies can become pivotal agents of change, not only by meeting the statutory requirements, but also by participating in the effort of India to meet the SDGs by 2030.

Recommendations and Policy Reforms

Enhancing Regulatory Incentives to SDG Alignment: Regulatory incentives should be strengthened in order to transform a compliance-based approach of Section 8 companies into an impact-driven model. Although the legal framework of their operation is established in the Companies Act, 2013, it lacks the incentive to recognize quantifiable contributions to the Sustainable Development Goals (SDGs). Policymakers ought to implement performance-based rewards like increased tax credits, access to grants on a preferential basis, and performance-based recognition of those organizations that have achieved observable social performance. An SDG impact certification system, which is tiered, may also encourage firms to develop programs that create measurable and replicable impact.

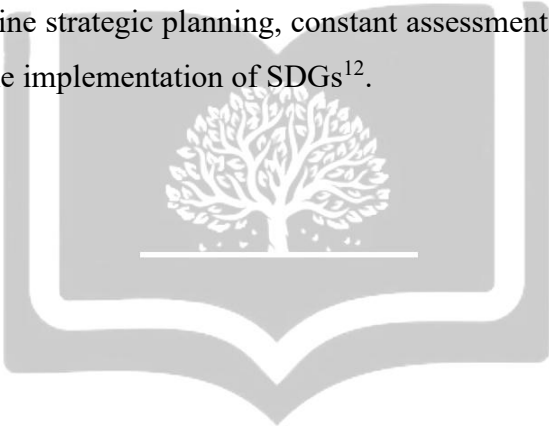
Standardized Impact Measurement and Reporting Framework: A lack of a standardized impact measurement and reporting framework is still a major constraint to the effectiveness of Section 8 companies. To mitigate this, the Ministry of Corporate Affairs should come up with a standard national framework whereby organizations are expected to align their operations with certain SDG targets and indicators. This type of structure would require periodic reporting, reporting in terms of outcomes, and verification of third parties to make it transparent and accountable. Standardization would not only increase credibility but it would also allow impact investments and global funding

opportunities to be accessed. Capacity Building and Institutional Support: Capacity building and institutional support will be important in facilitating the functionality of the Section 8 companies as impact-driven organizations. Most organizations, especially small ones, do not have the expertise to conduct a strategic planning, governance and impact evaluation. This can be bridged by setting up government endorsed training programs, incubation centres and advisory platforms. Partnerships with educational centers and policy-making organizations may also enhance organizational potential, guaranteeing a shift to the conventional charity-focused models of development towards the model of data use and outcome-based development. Improved Public–Private Partnerships (PPPs): It is possible to improve Public-Private Partnerships (PPPs) and therefore increase the scope and efficacy of Section 8 companies in attaining the SDGs. These institutions are in a good position to be intermediaries between the government, corporates, and the local communities. This should be done by policy reforms to provide orderly platforms that would be used in collaborating with corporates that will be able to direct their Corporate social Responsibility (CSR) funds effectively through Section 8 companies without interfering with the national development priorities. An online hub of project matchmaking with SDG-oriented projects would also simplify the process of partnerships and allow multi-stakeholder interventions of a large scale. Streamlining of Compliance and Digital Governance: Streamlining of compliance practices and implementation of digital governance tools are essential towards enhancing efficiency in operations. Even though Section 8 companies are not-for-profit organizations, they are frequently subjected to complicated and overlapping regulations that distract the resources of their central mission. A single-window compliance system, balancing of legal requirements, and proportionate regulation standards depending on the size of the organization are some of the interventions that can greatly lessen this load. By using digital tools to file, monitor, and report, these organizations would be able to dedicate more resources to innovation and delivering impact, thus improving their role in sustainable development.

Conclusion

The resources capture an evident shift towards an impact-driven framework rather than a compliance-based model of nonprofit organizations, which is at the core of the operation of Section 8 companies to promote Sustainable Development Goals (SDGs). The above foundation focuses on sustainable and inclusive development, achieved via healthcare, education, community development and humanitarian services, showing how organizations can align mission with global development goals. Instead of concentrating on the regulatory

requirements, the attention is given to the establishment of the measurable social value by specific interventions like increasing health awareness in the community, arranging blood donation campaigns, access to education, and development of skills. This is an indication of how Section 8 companies can implement SDGs through the operationalization of the latter into their core operations and mission-oriented approaches. Moreover, the framework followed, which includes identifying needs, designing solutions, implementing programmes and the measurement of impact, demonstrates a results-focused approach to governance that is no longer procedural-focused on compliance. The emphasis on values, like inclusivity, dignity, and compassion, and the stakeholder involvement in the form of volunteering, partnerships, and donations show that participatory and responsible governance is of significant importance in attaining sustainable results. In this regard, Section 8 companies can be considered as key institutional processes that can close the gap between legal and real-world implementation, assuming that they combine strategic planning, constant assessment, and community-oriented solutions to succeed in the implementation of SDGs¹².



Journal of Multi-Disciplinary
Legal Research

¹² *Id.* § 8(2) (dissolution assets rule).