



# A Comparison of Corporate Social Responsibility Arrangements in Indonesia and South Korea

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**Abstract.** This study compares and contrasts the corporate social responsibility (CSR) policies of South Korea with the corporate social and environmental responsibility (CSER) policies of Indonesia. Examining how the South Korean voluntary CSR concept relates to the Code of Business Ethics is very interesting. CSR in South Korea resembles charity more. This contrasts with the mandatory CSR model that is prevalent in Indonesia. In general, South Korea's CSR goals, which emphasize a company's social, ethical, and environmental responsibilities beyond those required by law and economics, are in line with the nation's objectives for Chaebol reform. The Ministry of Trade, Industry, and Energy is responsible for enacting CSR legislation in South Korea. The ministry also works to promote CSR initiatives by creating a CSR reporting system for organizations and pension plans that use pension investments as CSR. This is unquestionably different from the way the CSER idea was first spread in Indonesia, where people were aware of it because CSER was made a legal requirement in Article 74 of Law No. 40 of 2007 concerning Limited Liability Companies. Information about the mandatory CSER arrangements in Indonesia and the voluntary CSER arrangements in South Korea is gathered using legal research techniques. The information is then prescriptively analyzed using a statutory and comparative approach. While there are undoubtedly similarities and differences between the CSR arrangements in South Korea and Indonesia, they are fundamentally different.

**Keywords:** CSR, Arrangements, South Korea-Indonesia

## 1 Introduction

The concept of corporate social responsibility (CSR), which was initially voluntary in Western countries, is now seen as mandatory in some nations, including Indonesia and other Asian countries like South Korea. South Korea is the country with the seventh-highest number of investments in Indonesia, making it an interesting country to study and compare CSR agreements with [1]. Of course, when investing in Indonesia, South Korea must adhere to the applicable CSR provisions as a requirement. According to Article 15(b) of Law No. 25 of 2007 Concerning Investment, every investor must engage in CSR. This shows that the Investment Law and Chapter have established CSR requirements in Indonesia.

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The social and environmental responsibilities of limited liability companies are also governed by Government Regulation No. 47 of 2012, so if an investment company is a limited liability company and its business activities are in the field of or related to natural resources, it is required to uphold these responsibilities. Investors must have fulfilled their corporate social responsibility where getting a business license is one of the requirements for investing. According to the most recent World Bank annual rankings for 2019, South Korea is one of the nations that is ranked fifth out of 190 economies in terms of how simple it is to do business there. Consequently, discussing CSR laws and regulations is fascinating.

## **2 Methodology**

This research pertains to the law. According to Terry Hutchinson and Anwarul Yaqin, doctrinal research is another name for legal research. Legal analysis was done to resolve 2 (two) legal problems relating to how CSR is regulated in South Korea and how that compares to CSER in Indonesia. The South Korea Commercial Act of 1962 and its amendments, along with the Company Law and GR-CSER, are the main legal documents used by statute and comparative approach. These legal resources include official records or treatises used in the creation of laws and regulations. Additionally, secondary legal materials like references and articles that present both traditional and contemporary viewpoints of academics related to CSR are used in addition to textbooks that outline the fundamental concepts of legal science.

## **3 Result and Discussion**

### **3.1 CSER Arrangement in Indonesia**

The Social and Environmental Responsibility of Limited Liability Companies (hereinafter referred to as CSER) arrangements for limited liability companies in Indonesia are governed by Article 74 of Company Law No. 40 of 2007 concerning Limited Liability Companies (hereinafter referred to as Company Law 2007). Article 15 letter (b) of Law No. 25 of 2007 Concerning Investment (hereinafter referred to as Law Investment 2007) contains provisions that govern CSR obligations. All investment companies, both domestic and foreign, are required by law to engage in corporate social responsibility, both domestically and internationally, according to the clarification of Article 15 letter (b) of Law Investment 2007.

Because of the advantages and disadvantages that this article brought up regarding the CSER arrangements in Chapter V, Article 74 of the Company Law 2007, the disadvantages banded together and filed a class action lawsuit to formally challenge the validity of the material in Article 74 of the Company Law against the Constitution of The Republic of Indonesia in 1945 to the Constitutional Court. The Constitutional Court dismissed the class action lawsuit in its decision issued on April 15, 2009, by Decision Number 53/PUU-VI/2008 on the grounds that, formally, Chapter V, Article 74 of the Company Law 2007 does not violate the Constitution of The Republic of Indonesia, 1945. Given that CSER is an abbreviation for.

The Government also asserts that the terms CSER and CSR as they have been applied thus far in the West differ in some very fundamental ways, specifically the following: To begin with, CSER is only legally required for limited liability companies that conduct business activities involving or connected to natural resources. CSR, however, is generally expected of all business types. Second, the company's operating expenses, the amount of which is determined in accordance with reasonableness and fairness, are used to cover the cost of implementing CSER. While the business's net profit covers the cost of CSR implementation. Third, penalties for CSER violations are determined by the relevant laws.

The 2007 Elucidation of Article 74 of the Company Law further states that the provisions pertaining to CSER in the Company Law aim to maintain the creation of a setting that is tranquil, balanced, and in line with the values, norms, and culture of the local community. The definition of "Companies that carry out their business activities in the field of natural resources" includes organizations that manage and use natural resources. Businesses that do not manage or use natural resources but whose operations have an impact on how well those resources function are referred to as "companies that carry out business activities related to natural resources". In light of this, if a company.

Therefore, even though Article 74 of the Company Law is implemented by Government Regulation No. 47 of 2012 concerning Social and Environmental Responsibilities of Limited Liability Companies (hereinafter referred to as GR-CSER), the sanctions provisions in GR-CSER's Article 7 do not explicitly regulate because they still make reference to relevant sectoral laws. Therefore, formal legal provisions that are specified in laws and regulations that specifically regulate and relate to the management, utilization, and impact on the function of natural resources may apply sanctions to a company that does not implement CSER.

Sanctions are imposed on businesses that breach their CSER obligations in accordance with Article 74(3) of the Company Law of 2007 and Article 7 GR-CSER. Businesses that manage and utilize natural resources as well as those that do not, but whose operations have an impact on the ability of natural resources to function, are subject to these penalties. As stated in the applicable sector-specific laws and regulations (Sectoral Laws), fines may also be used to impose the aforementioned sanctions. The information above describes government sanctions if companies implement CSER because there are five (five) Sectoral Laws that do not regulate them.

Additionally, the five sectoral laws are ambiguous regarding the standards for sanctions against businesses that do not actually implement CSER.. As a result, the implementation of CSER in Indonesia, which is seen as a necessity, still creates legal uncertainty because there are still sanctions that are not regulated in the five sectoral laws. If CSER is indeed a requirement by law, the Limited Liability Company should ostensibly include strict penalties if a company fails to comply with it as a result of the requirement's legal status. Furthermore, when referring to the sanctions contained in the seventeen Sectoral Laws referred to, an overview of the forms of sanctions can be obtained if individuals and business entities are both legal and non-legal entities. Those who fail to implement CSER may face administrative penalties, such as the cancellation of permits and compensation, as well as fundamentally criminal penalties, such as jail time and fines.

### 3.2 SCR Arrangements in South Korea

It's very interesting to research how Korea views voluntary corporate social responsibility in relation to the Code of Business Ethics. CSR in South Korea is more of a charity nature, as is the case in Western countries. This is different from the concept of CSER in Indonesia, which is mandatory. Pragmatically, the adoption of CSR practices in South Korean businesses increased after the 1990s Korean society's protracted financial crisis, which encouraged businesses in South Korea to adopt more CSR practices. The government can also use CSR to speed up the restructuring of "chaebols," which are family-owned conglomerates in the South Korean fashion. Chaebols have used CSR initiatives to rebuild their credibility and damaged reputation.

Undoubtedly different from this is the way the CSER idea was presented in Indonesia, where understanding of the concept is based more on the existence of CSER legal obligations in Article 74 of Law No. 40 of 2007 concerning Limited Liability Companies. Along with their legal and financial obligations, CSR in Korea emphasizes corporate social, ethical, and environmental responsibilities. These objectives are in line with the nation's plans for Chaebol reform. The Korean government intends to enact CSR legislation through the Ministry of Commerce, Industry, and Energy, promote CSR efforts by developing a CSR reporting system for businesses, and utilize retirement funds as Socially Responsive Investments. Clearly, the objectives of CSER in Indonesia are very different from these. Furthermore, the formation

A normative corporate social responsibility framework must be developed in South Korean company law that is tailored to the unique requirements of Korea's social and legal environment. However, CSR can be normatively expressed in Korean law. This goes against the dominant viewpoint, which disapproves of CSR. Various laws that support the practical application of CSR are already present in Korean laws and regulations, though South Korea does not strictly enforce CSR as a requirement. The debate over CSR in South Korea is theoretically governed by a number of different laws to satisfy various CSR requirements. However, few experts in company law have yet to explain how this pertinent law can offer a legislative pathway for CSR implementation in Korea.

A common global strategy is made possible by the various institutions where corporate social responsibility (CSR) is practiced by businesses. The institutional theory is used in a number of reference studies on CSR in South Korea to examine the particular pressures and factors that cause CSR practices to vary between nations and what causes these differences. Modern CSR was born in South Korea, a nation with values and governance structures very dissimilar from those of Western nations like the US and UK, according to a thorough qualitative analysis [15]. Nevertheless, South Korea's CSR, which sits at the nexus of implicit and explicit CSR behavior and exhibits concern for "shorttermism" as a normative rather than a strategic orientation and more than sustainability, runs counter to this modest hope.

Businesspeople and academics in South Korea have become more enthusiastic about CSR in recent years, which is a business practice that is mandated by law and aims to advance social good beyond the immediate interests of the company [17]. [18] However, a significant portion of the literature on CSR theory and application still heavily relies on the context of western countries like the US and Europe. [19] How-

ever, given the globalization of business, it is critical to understand how CSR differs in various nations. In the democratic nation of South Korea, located in East Asia, CSR initiatives are particularly significant. Although the approaches to implementing CSR in South Korea and Japan are fundamentally different.

Through extensive laws and regulations that are based on the Constitution of the Republic of Korea, it ensures that the government's duty to protect human rights in relation to environmental and social problems brought on by businesses receives the attention it deserves. Furthermore, it offers protection in relation to ESG (environmental, social, and governance) issues. Based on the Constitution, laws and regulations that apply ESG principles to companies are adopted as follows:

1. 1. For environmental matters, a Decree on the Allocation and Trading of Greenhouse Gas Emission Rights, the Environmental Policy Framework Act, the Law on Environmental Impact Analysis, the Law on Integrated Control of Pollutant Disposal Facilities, the Law on Control and Aggravation of Punishments for Environmental Violations, the Law on Environmental Dispute Mediation, and the Law on Liability for Environmental Damage and Assistance are regulated.
2. 2. For social problems: the Serious Accident Punishment Act (SAPA); the Labor Standard Law; the Anti-discrimination and Recovery Law for Persons with Disabilities; the Laws on Protection, etc., towards Permanent and Part-Time Employees; And the Law on Protection, etc., of Dispatched Workers.
3. 3. The Commercial Act, the Fair Trade Law, the Financial Investment Services and Capital Markets Act, the Financial Corporate Governance Law, the Improper Solicitation and Corruption Act, and the Law on the Management of Public Institutions apply to governance issues. The Fair Trade Law, which defines business interference as illegal activity while also including programs for the cooperative development of large companies and Small Medium Enterprises (SMEs) in supply chains.

According to the discussion, it is known that South Korea offers protection in relation to environmental, social, and governmental issues and ensures that the government places a focus on its duty to protect human rights in relation to environmental and social problems brought on by businesses. Areas where the Commercial Act No. 1000, January 20, 1962, and Amended, does not specifically address CSR arrangements. Broadly speaking, the substance of the Commercial Act 1962 and Amendments, which consists of 31 chapters, 49 sections, and 895 articles, only regulates General Provisions, Commercial Activities, Companies, Insurance, and marine commerce.

In addition, because of the institutional pressure on CSR in South Korea, the regulation comes from three sources which can be identified as coming from other regulations, prevailing norms, and the corporate community. Some existing research claims that institutional pressure comes from various sources and promotes organizational change. Institutional pressure is used in South Korea to encourage the use of a code of business ethics in the workplace. As a result, the foundation for CSR implementation is more heavily based on the Code of Business Ethics developed by the relevant business communities in South Korea. Because it is based on the Code of Business Ethics, it can therefore be said that the concept of CSR implementation in South Korea is voluntary. However, in order to encourage the implementation of CSR

in the business sector, the government implicitly includes CSR arrangements in other regulations and laws. This is a sign of the government's commitment to supporting the implementation of CSR. Whereas in South Korea, the regulation of CSR activities places more of an emphasis on 3 (three) specific areas: gender equality in the workplace, environmental protection, and corporate transparency.

Employers are required to treat men and women equally under the Republic of Korea Equal Employment Act No. 3989, Dec. 4, 1987, as amended by Act No. 4976, Aug. 4, 1995 (hereinafter referred to as EEA 1987). Employment discrimination is prohibited in South Korea by the 1987 Equal Employment Act (EEA), which forbids it based on demographic factors like gender. Additionally, the law mandates benefits like maternity and paternity leave in order to support a gender-neutral workplace culture. This maternity benefit was progressively increased over time. In order to strengthen equal opportunity and treatment in the workplace and advance a gender-neutral workplace, the Korean government revised the EEA 1987 20 times.

In order to address environmental issues, the Korean government also established "The Promotion Act for Con-version to Environmental-Friendly Industry Structure 1995" (hereinafter referred to as the PACEFIS Act 1995). The General Agreement on Tariffs and Trade (GATT), the Ministerial Decree on Commerce and the Environment of the Uruguay Round in 1994, the United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro in 1992, and other international agreements all called for a global improvement in environmental quality. Both the public and private sectors are expected to commit to environmental protection and promote their actions in accordance with applicable laws, according to the PACEFIS Act of 1995. [27] Broadly speaking, the PACEFIS Act of 1995 aims to contribute to environmental preservation and sustainable national economic development by positively encouraging industrial activities to save energy and resources and reduce environmental pollution through increased development of environmentally friendly industrial structures in South Korea.

In "The Promotion Act for Conversion to Environmental-Friendly Industry Structure 1995" (hereinafter referred to as "PACEFIS ACT 1995"), the Korean government also established provisions for environmental issues. The General Agreement on Tariffs and Trade (GATT), the Ministerial Decree on Commerce and the Environment of the Uruguay Round, and the United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro in 1992 and 1994 all called for an improvement in the quality of the world's environment. The PACEFIS ACT of 1995 requires compliance with the law and support for environmental protection from both the public and private sectors. The 1995 PACEFIS ACT was passed with the intention of promoting national sustainability and environmental protection.

A number of laws encouraging businesses to be open and truthful about their operations have also been passed by the Korean government. To prevent corruption among public employees, for instance, the Anti-Corruption Law was passed in 2001. The government also amended the "Securities and Exchange Act (hereinafter referred to as SEA 2001)" in 2001 to create a strong corporate governance framework in Korean business, which was subsequently strengthened on a regular basis. Furthermore, public and private research institutions in Korea urged businesses to incorporate CSR into their business strategies and warned them about rising legal risks. These institutions also reinterpreted legal compliance to increase awareness by using financial

terms. [28] For instance, the Samsung Economic Research Institute, the Korea Institute for Industrial Economics.

## 4 Conclusion

While CSR in Korea is implemented using a cultural or attitude approach and business people's practices, CSER arrangements in Indonesia take a more statutory approach. This results from internal interactions between relevant stakeholders. Comparing CSR policies in nations with comparable cultural and social structures is made especially useful by this method. In Korea, companies frequently use CSR as a management tool. However, when local actors, such as the government and labor unions, are very interested in CSR, it can lead to internal social pressures, as was the case with the Toyo-Korean company. CSR Korea concentrates on particular facets of CSR, particularly social contributions and donations, and determines Korea's overall CSR performance by looking at the

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