

**CORPORATE SOCIAL RESPONSIBILITY IN INDIA: A CONSTITUTIONAL AND
JURISPRUDENTIAL CRITIQUE OF ITS MANDATORY NATURE
UNDER THE COMPANIES ACT, 2013**

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ABSTRACT

This paper examines the transformation of corporate social responsibility from a voluntary ethical practice into a statutory obligation and its implications on our fundamental rights. Historically, corporate contributions to the society were viewed as moral duties arising from the relationship between corporations and society that provides with labour and resources, however, the companies act 2013, particularly the schedule seven mandates certain Corporation to undertake corporate social responsibility activities, thereby converting a moral obligation to a legal requirement. The jurisprudential perspective, including the theories of Austin, Salmond and Allen, this paper analyses whether such mandatory obligations represent a legitimate correlative duty or an excessive regulatory requirement. This paper seeks to argue that while the corporate social responsibility legislation seeks to promote social welfare and sustainable development, but it's compulsory nature, can you restrict corporate autonomy and raise concern regarding economic freedom and individual liberty. This paper examines whether the mandatory corporate social responsibility framework under section 135 of the companies act 2013 is constitutionally valid in light of the fundamental rights guaranteed involving critical evaluation of the violation of article 14 by imposing obligations exclusively on companies while excluding other economically capable business entities such as partnerships and also examine whether the requirement restrict corporate autonomy and freedom of trait under article 19(1)(g). The provision requires companies meeting the prescribed financial threshold, including specified levels of net worth or turnover or profitability to allocate at least 2% of the average net profits of the preceding three financial years towards socially beneficial activities and enumerated in the schedule. At the same time, It also investigates how the directive principles of state policy influence the government, to involve corporate social responsibility strategies, indirectly,

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encouraging businesses to be responsible towards society and environmental concerns and considering arguments, which support constitutional validity of CSR by situating the provision with India's broad constitutional framework of social economic Justice. Judicial observations in cases such as the national textile workers union versus PR Ramakrishnan and Consumer education and research Centre versus the union of India are examined to illustrate the constitutional expectations that economic activities must align with social welfare and environmental responsibility. At the end, it examines the constitutional aspects of CSR focusing on the tension between corporate independence and the Government's role in fostering social justice through mandatory corporate donations.

Keywords- corporate social responsibility, constitution, tax, jurisprudence, social vs legal duty



INTRODUCTION

Corporate Social responsibility refers to the responsibility of organisations for their impact on society, making companies socially accountable to themselves, the stakeholders and the public. It involves practices and policies intended to have a positive influence beyond legal obligations and profit maximization. Some countries have implemented mandatory CSR regulations. India requires qualifying companies to spend 2% of average net profits on CSR activity. It comprises four dimensions, economic responsibility, legal responsibility, ethical responsibility and discretionary responsibility. It involves environmental sustainability efforts, ethical labour practices, responsible sourcing, transparency, and workplace diversity.

In India with effect from April 2014, it is a mandatory requirement for certain companies under the section 135 of companies act which compels them to engage in activities that contribute to the social and environmental and economic development of the country. Companies with net worth more than 5 million turnover more than 10 billion and net profit more than 50 million must spend a minimum of 2% of the net profit over the last three years on CSR activities. For newly incorporated companies with less than three years of operation, the average net profit of available year is considered. The statutory mandatory duty of CSR raises fundamental questions at one level. It reflects the vision of India as a welfare state committed to social and economic justice at another level. Its critical inquiry into the limits of state regulation over private enterprises by compelling companies to divert a portion of the profits towards prescribed activities, the law enters a conflict with constitutional freedom and corporate autonomy. Constitutional analysis of the mandatory CSR can be examined under article 14 and article 19, along with the directive principles of state policy. The interplay between fundamental rights and director principles become central to assessing the Leisy of mandatory CSR. This paper seeks to critically examine the constitutional and jurisprudential foundations of mandatory CSR under section 135 of the companies act by situating the CSR framework within India's constitutional structure.

MEANING AND EVOLUTION OF CORPORATE SOCIAL RESPONSIBILITY IN INDIA

Corporate social responsibility is a business model where companies integrate social and environmental concerns into their operations. India became the first country in the world to make CSR legal mandate through the companies act 2013, which is governed by section 135. The eligibility criteria is Company, which meets any one of the following thresholds during the immediately preceding financial year that is net worth of ₹500 crore or more, turnover of ₹1000

crore or more and net profit of ₹500 crore or more are required to spend at least 2% of their average net profit made during three immediately preceding financial years on CSR activity, which must fall under the schedule seven of the act, which includes eradication of hunger and poverty, promotion of education and vocational skills, gender, equality and empowerment of women, environmental sustainability, protection, and promotion of national heritage and welfare of armed forces and supporting research, innovation and other government welfare funds. India shifted from a comply or explain model to a comply or be penalized model in 2021. If the amount is not being used for these activities, it must be transferred to a special and spent CSR account within 30 days of the financial year and or it must be transferred to a government specified fund within six months and the penalty is twice the spent amount of ₹1,00,00,000, which is less and defaulting officers are also fined 1/10 of the unpaid amount of ₹2,00,000 whichever is less.

EVOLUTION OF CORPORATE SOCIAL RESPONSIBILITY IN INDIA

The history of corporate social responsibility has been divided into four phases-²

First phase- it includes charity and philanthropy as the main drivers of CSR culture, religion and family values and industrialization had an influential effect on CSR in the pre-industrialization period which lasted till about 1850. Well, the merchants share a part of their wealth with the public by setting up temples for religious causes or providing food and shelter to them, and also help them in the epidemic. With the arrival of the colonial role in India, the approach towards CSR changed the industrial family such as Tata, Godrej, Bajaj, Modi and Birla were inclined towards economic as well as social consideration.

The second phase- during the independence movement involved, increased emphasis on Indian industrial list to demonstrate their dedication towards the progress of the society, and this was when Mahatma Gandhi introduced the concept of trusteeship according to which industry leaders had to manage their level so as to benefit the common man. “ I desire to end capitalism is not quiet, as much as the most advanced socialist but methods differ, My theory of trusteeship is no make shift, no camouflage. I am confident that it will survive all other theories.” this was Gandhi’s words which highlight the argument towards his concept of trusteeship. He put pressure on various industries to act towards binding the nation and its social economic development and under this influence businesses established trust for schools and colleges and also help in the training and scientific institutions.

² Pooja Srivastava, The jurisprudence of CSR, European economic letters, <https://www.eeet.org.uk/index.php/journal/article/download/566/480/580>

Third phase from- 1960 to 1980 had its relation to the element of mixed economy, which is the emergence of public sector undertaking and various laws relating to labour rights. During this period, the private sector was forced to take a backseat and the public sector was seen as the prime mover of development because of the strict legal roles and regulations surrounding the activities of the private sector. The period was described as an era of command and control the policy of industrial licensing, high taxes and restrictions on the private sector led to corporate malpractices. This led to the development of the legislation is regarding corporate governance and labour rights issue. Public sector undertaking set up by the state to ensure suitable distribution of resources to the needy people. however, the public sector was effective only to a total limit this shift of expectation from the public private sector and their active involved with the social economic development of the country, in 1965, Indian scholars and businessman set up a national workshop on CSR aimed at transparency and social accountability.

The fourth phase- 1980 until the present involved Indian companies abandon that traditional engagement with CSR and integrating it into a sustainable business strategy in the 1990s. The first initiation towards globalization and economic liberalization were undertaken by the help of LPG reforms, controlling and licensing system were partly done away with which gave a very good boost to the economy.

CURRENT STATUS OF CSR IN INDIA

CSR is not a new concept in India because ever since its inception corporate groups like the Tata and the Aditya Birla group have been involved in serving the community through donations and charity events, and many other organisations have been doing their part for the society. The basic objective of CSR now is to maximize the company's overall impact on the society. These practices have been integrated by a number of companies in their business operations. Because now they feel that it is not just another form of indirect expense but is also important for protecting the goodwill and reputation and increasing the business competitiveness. Companies have specialized CSR teams which formulate policies and strategies for their programs and set aides budget to fun time. These programs are determined by social philosophy which have now very clear objectives and well defined. For example, a more comprehensive model of development is adopted by corporations like Maruti Suzuki India Limited and Hindustan Unilever Limited, where they have incorporated provisions of improved, medical and sanitation facilities and empowering the villages in the process making them more self-reliant by providing vocational training and knowledge of business operations. On the other hand, the CSR Programmes of corporations like

GlaxoSmithKline pharmaceuticals which focus on the health aspect of the community where they set up health camps and tribal villages, which Offer medical checkups and treatments also, corporate are now increasingly joining their hands with non-government organisations, for example, a lot of work is being undertaken to rebuild the lives of tsunami affected victims.

CSR has now gone through many different phases in India. The ability to make a significant difference in society and improve the overall quality of life has been clearly proved by the corporates.

MANDATORY NATURE OF CORPORATE SOCIAL RESPONSIBILITY IN INDIA- SECTION 135 OF COMPANIES ACT, 2013

Under the section 135 of companies act, CSR will become a mandatory duty for companies from April 2014³, where all companies with turnover ₹1000 crore and More or a net worth of ₹500 crore or a net profit of ₹5 crore or more will have to spend at least 2% of the three-year average profit every year on CSR activity. any activity must has been the part of the CSR policy of the company, which is also made available on the Company website, once a company crosses any of these eligibilities, it is legally obligated to comply with the CSR provisions. Therefore, now it is not optional but it is a statutory duty activated by financial capacity. Section 135⁴ mandates that eligible companies much spent at least 2% of their average net profit of the preceding three financial years on the CSR activities. Profit calculation is done as per the section 198 of the act newly incorporated companies. Calculate the profit based on available years. Surplus generated from the CSR activities must be reinvested only for CSR purposes and pending, and we only carried forward subject to rules. Companies have discretion to select the CSR project, but these projects must fall within the activities listed in the schedule seven of the act which include poverty, radiation, education, environment, Sanitation, gender equality, disaster management, and contribution to specified government funds. The mandatory nature is further strengthened through governance requirements of CSR committee. Companies must constitute a CSR committee of the board and frame a CSR policy, recommend projects and monitor its implementation. The board must approve these policies and ensure its implementation. The strongest indicator of the mandatory nature is the imposition of penalties on any failure to comply Company penalty up to 10,000,000 or twice the unspent amount whichever is less and officer penalty up to 2 lakh rupees

³ Sneha Sengupta, CSR in India, A constitutional and theoretical commentary, Lawctopus, <https://www.lawctopus.com/academike/corporate-social-responsibility-in-india/amp/>

⁴ Companies Act, 2013 (Act No. 18 of 2013), s. 135

or 1/10 of the unspent amount, whichever is less. If a company fails to spend the required CSR amount, it must transfer to specified funds or a special unspent CSR account.

CSR under Indian law is now no more voluntary philanthropy, but a structured and enforceable obligation integrated into corporate governance. This shows the mandatory nature of CSR in India because a fixed percentage of profit must be spent and it is restricted to only the listed activities and non-compliance attracts penalties and surplus cannot be retained by the company. It must be transferred to a specific account.

The net profit is calculated as per the provisions of section 198 and any profit arising from any overseas branch or any dividend received from other companies in India is not included in the calculation of the net profit for the purpose of CSR.

The different modes of entering CSR expenditure can be done in three ways, activities route, contribution to funds route and contribution to incubators and R&D projects. The activities route is a direct route where a company undertakes CSR projects as per the schedule seven, the contribution to funds is specified in the schedule seven of the act and the contribution to incubators as specified in schedule seven of the act and in any research and development activity. A company can undertake CSR activity by itself or by any of the established implementing agencies. Every company on which CSR provisions are applicable shall furnish a report on corporate social responsibility to the concerned ROC in form CSR-2. A company on which CSR provisions are applicable shall disclose the content of CSR policy in the board report. The unpaid amount on CSR does not go to an ongoing project, but shall make the disclosure in a board report and shall specify the reasons for not spending the prescribed amount and the company shall within six months from the close of the financial year, transfer the unpaid amount to schedule specified funds. It goes to the following specified funds: Clean Ganga fund, Swachh Bharat fund, Prime Minister's national relief fund and any other central assistance and relief in emergency situations while set up by the central government for social economic development and relief and welfare of the schedule, cast and schedule tribes and other backward classes, minorities, and women. If the unpaid amount relates to an ongoing project, the company shall make a disclosure and the company shall within 30 days from the closure of the financial year transfer this amount to a special account opened by the company called the unspent corporate social responsibility account. If a company has spent an excess amount that is in existence of the CSR obligation, then the excess amount may be set against the future CSR obligation up to the immediate succeeding three financial years provided at the board resolution has been passed by a company.

IS CSR A TAX?

It is argued that CSR contribution is made as a mandatory requirement as per the section 135 and not as a voluntary charitable donation, and it was held in the case of Goldman Sachs Services Pvt Ltd. Versus JCIT⁵ that CSR expenditure cannot be treated as deduction under income tax act and is not a tax. because tax has compulsory imposition by law and it is paid into the consolidated fund of India. It is clearly mentioned in article 265 of the constitution that no tax shall be divide or collected except by authority of Law CSR is mandatory in nature and is imposed by a statute but is not paid to the government. It is paid and spent by the company itself. it can be described as a statutory obligation, but not tax. but when corporate contribute for NGOs in the CSR activities, they do get some tax benefits and exemptions.

It is clearly mentioned in the Section 37 of the Income Tax Act⁶ that CSR shall not be deemed to be an expenditure incurred by the assessee for the purposes of the business or professional, and it cannot be termed as tax⁷.

CSR AS A QUASI-FISCAL LEVY

The shift from comply or explain model to a mandatory comply or penalty model has made CSR a compulsory financial action. tax should be compulsory imposed by law collected by the state. CSR satisfies the two requirements which is compulsory and imposed by a but it does not fully satisfy direct collection by the state. However, when unspent amounts are transferred to schedule seven funds, including government funds. The character begins to resemble a fiscal levy. But according to the income tax act, it is not deductible as a tax because it is not incurred wholly and exclusively for business purposes. But now CSR is mandatory and legally enforceable and backed by penalties, this creates doctrinal tension. A company earns profit and pays the corporate income tax and then it's compelled to spend 2% of its profit and the company cannot even deduct that amount. This makes the company suffer and additional financial burden over and above the income tax, some treat it as, it's not paid into the consolidated fund, so, company retains discretion over its project selection, so this hybrid character places CSR at the intersection of taxation and social welfare.

⁵ Goldman Sachs (India) Securities Pvt. Ltd. v. JCIT, (2016) 69 taxmann.com 347 (Mumbai ITAT)

⁶ Bharat Vasnani, New CSR regime, A tax or a philanthropy, Cyril Amarchand mangaldas, <https://corporate.cyrilamarchandblogs.com/2021/05/new-csr-regime-is-it-a-philanthropy-or-a-tax-levy/>

⁷ Income-tax Act, 1961 (Act No. 43 of 1961), s. 37

IS CSR A PENALTY?

The nature of penalty is punitive in nature as it is imposed by law or a contract for violation of rules such as fine or imprisonment. It is a corrective measure for failure to perform a duty or for breaking a rule. It can be pecuniary or corporal that is imprisonment. CSR obligation arises before any wrong doing. It is not triggered by a violation or a misconduct, but it is triggered by financial eligibility, when a company meets that specific financial eligibility dress code, it is obliged to contribute its funds to CSR activity and any failure to do so will attract penalties. CSR itself is not a penalty but non-compliance with CSR attracts so it is not in nature. It is an obligation and penalty is a secondary consequence of its non-compliance.

IS CSR A REGULATORY COMPLIANCE MECHANISM?⁸

Regulatory compliance involves mandatory governance structure, disclosure requirement, monitoring mechanisms and statutory reporting. CSR includes a formation of a CSR committee framing of a policy mandatory 2% pending filing of CSR return and transfer of and spent amount and penalties for default. Therefore, the framework is compliance driven and disclosure-based CSR forms a part of corporate governance. The repeated use of mandatory language in section 135 of shall spend, shall constitute and shall disclose, confirms a legislative intent and therefore it is best understood as a corporate governance regulatory compliance obligation.

IS CSR A SOCIAL DUTY?

Corporate social responsibility is not a charity, but a duty and responsibility towards society inspired by the highest values of seeking to return to society. A part of what we have received in whatever capacity and whatever extent we can social responsibility has always been a part of our ancient Indian tradition. The spirit of contributing towards the welfare of society is inherent in every individual, but sometimes it needs inspiration and direction. For example, Swami Vivekanand inspired Jamshedji Tata to spend on healthcare when he established institutions like the national Centre for performing art and the Tata Memorial Hospital. Our former Prime Minister Dr Manmohan Singh started that business is an obligation to the society. No one appreciated this better than JRD who invested liberally in socially useful activities. He urged industrialists to consider what their applications were. It is not a charity, not a philanthropy but an investment in our collective future, he added for a president of India. Pranav Mukherjee pointed that the notion of CSR is not new to India, Mahatma Gandhi had a spouse, the social economic philosophy of

⁸ <https://csrimes.org/csr-is-not-a-charity-but-a-duty-responsibility-towards-society/>

trusteeship which reiterated that for welly people to be trustee to Cook. After the welfare of the common man, inclusive growth is objective of our public policy calls for an intensive collaborative effort of the government and the corporate sector to provide the basics for improving the quality of life in rural and urban areas. Companies can adopt specific activities to tackle health related problems, education and malnutrition issues. Importance of inclusive growth is widely recognised as an essential part of India's quest for development. The government of India is willing to take up measures to facilitate ease of doing business by creating an effective and receptive CSR legal framework. This will in Calicut social consciousness in a company and therefore CSR expenditure can even more meaningfully contribute towards the sustainable development goals. The schedule seven clearly alliance with the welfare goals of India which include welfare, state, philosophy and social justice orientation. But unlike traditional moral obligation, CSR is not a voluntary obligation, but it carries sanctions with it so it's not merely a moral duty but a legal social obligation.

Therefore, CSR is neither a penalty nor a tax but a hybrid model, combining welfare, state ideology and corporate governance regulation backed by sanctions. This hybrid character gives rise to a constitutional and jurisprudential debate. It is primarily a regulatory mechanism but grounded within social responsibility.

JURISPRUDENTIAL ANALYSIS OF CSR⁹

The jurisprudence of corporate social responsibility examines the legal and ethical foundations that justify the obligation of Corporations to contribute to social welfare.

In the early ages, following the Industrial Revolution, Corporations to needed a specific portion of their profit to Society out of respect for business support, historically businesses saw these activities as fundamental to their morals and ethics and they engaged in such activities to influence their moral and ethical behaviour. Although it's well settled that ethical and moral behaviour can only be maintained in the long-term through legal obligations. overtime governments recognise that corporate activities significantly affect social welfare and environmental sustainability. And as a result, CSR evolved from a moral expectation to a legal obligation. The Indian CSR regime reflects this transformation by requiring certain companies to allocate a portion of their profits towards activities which promote social welfare and education and sustainable development.

Therefore, according to Salmond, a corporation's moral obligations have been elevated to legal

⁹ Pooja Srivastava, The jurisprudence of CSR, European economic letters, <https://www.eelet.org.uk/index.php/journal/article/download/566/480/580>

obligations or burden and corporate. Social responsibility is a correlative duty that they must fulfil in exchange of the resources, labour, and other services. The services they avail make the corporate entity, a person through legal fiction. Salmond argued that every legal right correspondence with a legal duty corporations, enjoy several rights in society, including the right to conduct business to use natural resources and to employ labour from the society and it creates a correlative duty requiring the corporations to return a portion of that benefit to the community.

According to German jurist Savigny¹⁰, corporations are recognised as persons and hence they have rights and obligations imposed by the state offers corporations some rights, but also impose obligations which they must follow. Here it is pointless to argue whether the legislation is moral or immoral because the law was enacted for two purposes: to guide the businesses' ethical behaviour and advance towards society's social good, gradually activities which promote social welfare gained popularity, making CSR an overused acronym among corporate circles. This meant that even corporations were aware of their accountability towards the community and the shareholders, and when a firm adopts a CSR policy indicates ethical commitment and dedication towards people, community and the environment. In addition, the Corporation commit to monitoring and reporting on its compliance with its stated CSR policy, similar to how it reports financial outcomes. The German Jurist argued that corporations possess legal personality similar to individuals, and they also bear legal responsibilities and CSR is justified on the principle that if corporations benefit from the society, they must also contribute to the society.

The primary purpose of CSR is that it is for the greater benefit. This type of law is enacted for the benefit of the majority, the greatest good as defined by Jeremy Bentham. but individual validity becomes secondary year. Another argument is that because the company uses the society resources, they should be held accountable for it. Wood's stakeholder theory presents its contradiction by saying that the concept of giving back to the society began as a voluntary return, but it evolved into a legal requirement because laborers are already compensated for their work and society benefits from the products produced by the Corporations and turning this social responsibility to a legal compulsion makes law an absolute duty conferred by state as stated by Austin. Further, according to John Locke's social contract theory, anything for the God of the society is for the social good of the people who live together, but in contradiction, Dworkin possesses that when a pragmatic approach is utilized wrongly, the law loses validity because it is based on achieving the greatest good of the society at the expense of individual interest. And as a

¹⁰ Sneha Sengupta, CSR in India, A constitutional and theoretical commentary, Lawctopus

statutory limit according to section 135 of the companies act, if a business reaches certain threshold level, it falls under the eligibility of section 135. Therefore, even if a corporation does not exceed the requirement in future, it is still required to spend on CSR activities. Section 135 specifies that the net profit shall be calculated according to section 198 of the companies act and section 198 allows for the set of accumulated losses incurred after the implementation date but not for periods before such date against net profit to calculate the average profits required by section 135, therefore, our Corporation that has produced profits over the last three financial years, but has not yet recovered. It's carried forward losses from the time before the effective date of 198 will be forced to spend on CSR. A loss-making business has the same requirement to contribute to CSR as a profit-making business as long as the average net profit test is met. Also, section 135 applies to corporations registered under the section 8 of the act. This section mandates corporations to use their profits exclusively to promote their objectives, but under the section competition of net profit for a foreign company with a subsidiary in India is ambiguous because the classification requirement is not met. Section 135 violates article 14 in certain instances. The state may justify this classification by arguing that companies are separate legal entities which enjoy rights and liabilities and imposing additional social obligations may be constitutional justified.

CSR violates article 19(1)(g) of the Indian constitution¹³, which guarantees freedom of trade, commerce and profession. Section 135 of the companies act mix CSR activities spending a mandatory requirement for companies who made the eligibility criteria section 135 constitute such a restriction since it requires the company to divert the money which could have been otherwise re-invested into the company's business for being spent on CSR activities. However, article 19(6) allows the state to impose reasonable restrictions in the interest of general public. So, the CSR provision can be interpreted as a regulatory measure intended to ensure that corporate entities contribute to social welfare and sustainable development. The Supreme Court in state of Madras versus VG Row¹⁴ held that the test of reasonableness must be determined objectively by considering the nature of the right and the purpose and extent of restriction to be imposed from this perspective, CSR spending can be justified as a reasonable restriction aimed at promoting social welfare and inclusive growth.

Another constitutional concern rises from the principle of corporate democracy where shareholders are considered the owners of the company under section 135. The board of directors decide the

¹³ Constitution of India, art. 19

¹⁴ State of Madras v. V.G. Row, AIR 1952 SC 196.

CSR activities and shareholders have limited control over the CSR expenditure. This could lead to situations where directors exercise discretionary power over the Company funds without adequate shareholder oversight.

CSR activities are listed in the schedule seven, which can be modified by the central government through notifications. Delegated legislation must operate within the constitutional limits in the landmark judgement of *Re Delhi laws act 1951*¹⁵. The Supreme Court held that the legislature cannot delegate its essential legislative functions and essential legislative policy must be determined by the legislature itself. If amendments to schedule seven substantially alter the policy framework of CSR, such changes could potentially be challenged as excessive delegation of legislative power.

The Supreme Court in the case of *JK industries Limited versus union of India*¹⁶, held that regulatory provisions under the company law, serve as public interest and economic stability, and companies is being statutory creations can be subjected to greater regulatory applications and individuals.

CSR and the welfare State principle, India follows the constitutional model of welfare state where economic development must be balanced with social justice. CSR supports several constitutional objectives, including social justice and environmental protection and community development. These goals are clearly reflected in the directive principles of State policies, particularly articles, 38,39 and 48A¹⁷, therefore, it can be viewed as a mechanism to advance constitutional social and economic goals. Judicial observations in cases such as *national textile workers union versus PR Ramakrishnan* recognise that corporate institutions and entities are not merely profit generating entities, but also social institutions whose functioning must consider the welfare of the society.

Balancing corporate autonomy and social responsibility

The constitutional debate ultimately revolves around balancing two competing considerations, corporate autonomy, and economic freedom and social accountability and public welfare. Mandatory CSR represents an attempt by the legislature to reconcile these interests by requiring corporations to allocate a small portion of the profit to socially beneficial activities. The law seeks to integrate economic growth with social development. However, critics argue that transforming

¹⁵ In *In Re: The Delhi Laws Act, 1912, The Ajmer-Merwara (Extension of Laws) Act, 1947 & The Part C States (Laws) Act, 1950 (1951)*, the Supreme Court addressed the validity of delegated legislative powers under Article 143 of the Constitution

¹⁶ *J. K. Industries Ltd. v. Union of India*, (2007) 11 SCC 1467.

¹⁷ Constitution of India, art. 38, 39, 48A

it to a statutory mandate may undermine the very spirit of corporate social responsibility.

CSR AND HUMAN RIGHTS OBLIGATIONS¹⁸

Constitutional systems impose for primary applications regarding human rights that is obligation to respect, to protect, fulfil and to promote. The obligation to respect ensures that operations do not violate fundamental human rights, industrial activities and environmental pollution can affect rights of workers including their health, livelihood and dignity. CSR initiatives encourage companies to adopt practices to respect these rights. The obligation to protect prevents harm to individuals and communities. CSR requires corporations to implement safeguard that minimize environmental damage and protects workers. The obligation to fulfil support social development, such as education, healthcare, and environmental conservation, thereby improving the living standard of communities. The application to promote ensures in calculating awareness of social welfare and sustainable development by engaging in community Programmes and reasonable governance practices.

WHY IS CSR IMPORTANT?

Corporations need to enhance their focus on social responsibility. Today we have seen several successful firms using their social responsibility to give back to the society and express gratitude to the customers. This can manifest in the shape of projects or movement. CSR improves customer engagement. It has the potential to assist organisations in increasing their consumer involvement. It can also boost a brand impression among the customers. Today's business market is very competitive in nature and it can be challenging for businesses to separate themselves from the clients views. But on the other hand, companies who take up social responsibility seriously can develop a marketing platform and Win potential customers. Therefore, it is very crucial for branding purposes. it also demonstrates a commitment to investors because they have a single goal to receive a larger rate of return on the investment that they have invested businesses who manage their finances effectively. Why also giving their commitment to social welfare, accountable and open their dealings, less prone to mis-steps or financial fraud. To summarize firms not continue to operate only for profit, putting the environment and the society at risk. Businesses must consider ways to give back to the community for a successful venture.

¹⁸ Ms. Amudha Murthy, Constitutional validity of CSR, Lawmantra, <https://journal.lawmantra.co.in/?p=141>

CRITICAL ANALYSIS OF CORPORATE SOCIAL RESPONSIBILITY¹⁹

Argument supporting CSR- Article 21 of the Constitution²⁰ includes the right to cohabit with other persons, dignity, and all that Intel is specifically the bear necessity of life such as food, clothing, and shelter. The court has interpreted and clarify the scope of article 21 in plethora of cases, including Bandhan, Mukti Morcha versus Union of India, et cetera the court has repeated enough times that CSR efforts serves as a stimulus for the government to enforce fundamental rights, most notably article 20 on obtain Indian constitution, right to education as article 21A is promoted through CSR. Further, the right to life has been enlarged to encompass tradition and culture, including the right to shelter a decent place to live, all these rights have been judiciary recognised and pertaining to the things stated in schedule seven, these rights absolutely aligned with the CSR activities. This shows that CSR act as an instrument, it supports constitutional goal, especially that of a welfare state.

Corporate activities often produce negative externalities like that of environmental decoration, mandatory CSR functions as a corrective mechanism by ensuring that corporations reinvest a part of the profits into environmental sustainability, which aligns with the broader principle of social economic justice. Voluntary CSR initiatives depend on corporate goodwill and a statutory framework creates uniform accountability and transparency, ensuring that corporations systematically engage in socially irresponsible practices. Modern corporate governance increasingly recognise the stakeholder model by corporations are accountable not only to the shareholders but also to employees and consumers, including the community.

Arguments against the mandatory corporate social responsibility Critics argue that mandatory CSR I interfere with corporate economy by compiling the companies to allocate their profits in a specific manner. Shareholders who are the ultimate of the company may prefer to reinvest their own profits into business expansion, but by maintain the transfer of it to a CSR expenditure restricts the freedom of the companies, especially the shareholders to determine their own financial priorities, undermining the spirit of article 19. One of the most common criticisms is that mandatory CSR converts a voluntary ethical practice into a state-imposed philanthropy, philanthropy is expected to arise from a voluntary rather than a legal compulsion. When CSR becomes a legal compulsion Corporation Street it as a compliance rather than treating it as their own social responsibility. Another critique is that CSR applies only to companies that meet certain financial threshold by other

¹⁹ <https://www.india-briefing.com/news/corporate-social-responsibility-india-5511.html/>

²⁰ Constitution of India, art. 21

economically powerful businesses such as the partnerships are excluded. This selective application may raise concerns regarding quality and fineness within the regulatory framework.

CONSTITUTIONAL EVALUATION THROUGH THE DOCTRINE OF PROPORTIONALITY

A useful framework for assessing the legality of CSR is the doctrine of proportionality which has been applied to the Supreme Court in cases such as the modern dental College versus the state of Madhya Pradesh. The proportionality tests involve four stages. The stage of legitimate in the objective of CSR is to promote social welfare and equitable distribution of resources. These are consistent with the directive principles and therefore constitute a legitimate aim. The stage of rational connection between the measure adopted and the objective which has to be achieved requiring profitable companies to contribute a small percentage of their profit is reasonably connected to the goal of promoting social welfare. The necessity stage examines whether less restrictive alternate could achieve the same objectives, critiques argue that voluntary CSR or tax benefits could achieve similar outcomes without imposing a mandatory obligation. Finally, benefits of the regulation must outweigh the burden and imposed on affected entities, since, requirement mandates only 2% of the net profit and does not interfere with the core business operations. The burden imposed may be considered relatively minimal compare to the potential social benefits.

India's CSR model represents a unique regulatory mechanism Inc corporate governance while the mandatory requirement attempts to reconcile corporate profitability with social responsibility. But there are concerns regarding autonomy and efficiency. Therefore, the mandatory CSR can be viewed as a hybrid regulatory mechanism.

GLOBAL COMPARATIVE PERSPECTIVE ON CORPORATE SOCIAL RESPONSIBILITY

The Indian model of CSR is unique in the global corporate²¹ governance framework. Many countries encourage corporate social responsibility, but India remains one of the jurisdiction where it is mandated by a statute in the United Kingdom. CSR operates largely through a voluntary and disclosure-based approach where directors are required to consider the interests of stakeholder such as employees and communities while promoting the success of the company, but it is not required to spend a fixed percentage of their profits on CSR. It is encouraged only through

²¹ <https://www.unesco.org/en/dtc-finance-toolkit-factsheets/corporate-social-responsibility-csr>

transparency and reporting obligations in the United States. CSR remains again a voluntary and driven by market forces, shareholder activism, and corporate governance norms. In contrast, several European jurisdictions encourage corporate sustainability through environmental and social reporting obligations rather than turning it to a mandatory spending obligation. India's model is therefore a unique hybrid approach which combines elements of corporate governance and social welfare policy by requiring mandatory CSR expenditure.

CONCLUSION

The interaction of mandatory corporate social responsibility under the companies act 2013 marks a significant evolution in Indian corporate governance which requires companies to allocate a portion of their profits towards social welfare initiatives. The legislature has attempted to align the corporate activity with the broad objectives of social and economic justice from a constitutional approach. The CSR framework raises important questions regarding equality and corporate autonomy. While critics argue that mandatory CSR interferes with corporate decision-making but supporters contend that it represents a legitimate regulatory mechanism, aiming at society development. Nevertheless, the long-term success of mandatory CSR depends not merely only legal compliances, but on the genuine commitment of Corporation to integrate social responsibility in their business operations. If implemented effectively, CSR has the potential to bridge the gap between corporate profitability and social welfare, reinforcing the idea that corporations are not isolated economic characters, but an integral participant in the broader social framework.