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# CORPORATE SOCIAL RESPONSIBILITY AS AN INSTRUMENT OF TRANSFORMATIVE CONSTITUTIONALISM IN INDIA

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Malkar Chowdary Bhargavi, Advocate, Ananthapuramu, Andhra Pradesh

## ABSTRACT

Corporate Social Responsibility (CSR) in India has evolved from voluntary philanthropy to a statutory obligation under the Companies Act, 2013, requiring certain corporations to spend at least 2% of their average net profits on specified social development activities. This article examines CSR as an instrument of *transformative constitutionalism* — the use of constitutional principles to engender deep socio-economic change, enhance equality, dignity, and participation, and bridge the gap between constitutional ideals and ground realities.

The article situates CSR within the constitutional framework of India, analyses how its statutory mandate aligns with transformative aims, evaluates its achievements and limitations, and suggests directions for strengthening CSR's impact on inclusive development. It concludes that while CSR has potential to complement state action and advance constitutional goals, strategic alignment, community participation, robust impact assessment, and integration with developmental planning are essential for realizing its transformative promise.

## Introduction

Transformative constitutionalism captures the idea that a constitution functions not merely as a set of enforceable rules but as a dynamic tool for social transformation. In India, a constitutional democracy committed to justice, equality, and dignity, transformative constitutionalism implies progressive structural change to uplift marginalized communities and reduce entrenched inequalities. Traditionally, the State has borne principal responsibility for delivering socio-economic justice. However, the rise of global business, public expectations of corporate accountability, and India's unique statutory mandate for CSR have expanded the arena for non-state actors to contribute to public goods.

CSR in India, codified through Sections 135 and the Companies (Corporate Social Responsibility Policy) Rules, 2014, compels qualifying companies to invest in activities such as education, health, environmental sustainability, and livelihood enhancement. This statutory model offers a novel instrument to operationalize constitutional ideals beyond state mechanisms. This article explores whether and how CSR functions as an instrument of transformative constitutionalism in India.

### Transformative Constitutionalism: Concept and Constitutional Foundation

The Constitution of India's Preamble promises *justice* (social, economic, and political), *liberty*, *equality*, and *fraternity*. The Fundamental Rights (Part III) ensure civil and political liberties, while the Directive Principles of State Policy (Part IV) articulate socio-economic goals — including education, health, and welfare — as normative targets for policy action. Although DPSPs are non-justiciable, they are binding in conscience and serve as interpretative guides for legislation and governance.

Transformative constitutionalism in this context involves:

- **Substantive equality**, not merely formal guarantees.
- **Dignity and participation** for marginalized populations.
- **Redistributive justice** to address structural socio-economic disparities.
- **Collaborative governance** among state and non-state actors.

India's constitutional ethos thus supports progressive policies that extend beyond legal rights to enhance capabilities and inclusion.

### **CSR in India: Statutory Framework and Evolution**

Before 2013, CSR in India was largely voluntary and driven by corporate philanthropy. The Companies Act, 2013 introduced a **mandatory CSR regime**, recognized as pioneering in global corporate governance. Key features include:

- **Applicability Thresholds:** Companies with net worth  $\geq$  ₹500 crore, turnover  $\geq$  ₹1,000 crore, or net profit  $\geq$  ₹5 crore in the preceding financial year must comply.
- **CSR Spending Requirement:** At least 2% of the company's average net profit over the three preceding financial years must be spent on CSR activities.
- **CSR Committee:** Boards must constitute a CSR committee to formulate and recommend a CSR policy.
- **Specified Activities:** Schedule VII of the Act enumerates thematic areas — including education, healthcare, environment, rural development, poverty alleviation, and gender equality.
- **Disclosure and Reporting:** Mandatory disclosure of CSR policy, activities, and expenditure in the board's report and on the company's website.

This framework elevates CSR to a regulatory obligation and embeds corporate contributions into India's broader development ecosystem.

### **CSR and Transformative Constitutionalism: Analysis**

#### **Advancing Socio-Economic Rights and Equality**

Although socio-economic rights like education and healthcare are not enforceable as fundamental rights, they are essential constitutional values under DPSPs. CSR initiatives targeting these areas help fill gaps in public provisioning, particularly in underserved regions. For instance, corporate interventions in school infrastructure, scholarship programmes, mobile health units, and sanitation projects contribute to improved access and outcomes for

marginalized groups. Through sustained engagement, CSR can enhance equality of opportunity and dignity — core goals of transformative constitutionalism.

### **State–Market–Civil Society Synergy**

Transformative constitutionalism presupposes collaborative governance. CSR creates structured interfaces among the government, corporations, and civil society organizations. Government schemes often have broad design but limited reach; CSR resources and managerial expertise can complement these schemes. Civil society partners bring local knowledge and community trust to ensure relevance and accountability. Such multi-actor engagement can accelerate inclusive development and democratize decision-making at the grassroots.

### **Addressing Structural Inequities**

India's socio-economic landscape reflects deep cleavages along caste, gender, regional, and class lines. CSR programmes, when strategically designed, can target systemic exclusion — for example, through skill training tailored to Scheduled Castes and Scheduled Tribes, women's entrepreneurship programmes, or financial inclusion initiatives. While CSR alone cannot dismantle structural inequality, it can strengthen capacities and create opportunities for historically marginalized communities, aligning with the redistributive dimension of constitutional transformation.

### **Environmental Justice and Sustainable Development**

Environmental protection is part of India's constitutional vision, informed by DPSPs and judicial interpretations of Article 21 (right to life). CSR investments in renewable energy, afforestation, water conservation, and sustainable agriculture contribute to environmental sustainability and resilience — essential for equitable development. By internalizing ecological concerns into corporate practices, CSR reinforces constitutional commitments to intergenerational justice.

### **Challenges and Limitations**

Despite its creative thrust, CSR's transformative impact faces significant challenges.

**Compliance-Driven Culture:** Mandatory CSR risks becoming a compliance formality. Some

companies concentrate on high-visibility but low-impact activities, prioritizing branding over transformative outcomes.

**Fragmentation and Strategic Disconnect:** CSR projects can be fragmented, lacking alignment with local development priorities or integration with government planning processes. Short-term interventions may not yield sustainable change.

**Limited Accountability and Impact Measurement:** Current disclosure norms focus on expenditure rather than outcomes. There is limited emphasis on rigorous impact evaluation, participatory monitoring, and transparent reporting that reflect substantive social change.

**State Capacity and Coordination:** Effective CSR requires state facilitation and oversight. However, weak institutional coordination and lack of integration with district planning mechanisms reduce potential synergies.

**Scope and Corporate Agency:** Debates persist on the extent to which the state should mandate CSR, with some arguing that compulsory CSR intrudes on corporate autonomy and distracts from business objectives.

### **Strengthening CSR for Transformative Impact**

Realizing CSR's potential as an instrument of transformative constitutionalism demands multi-pronged reforms:

- **Strategic Alignment with Constitutional and Development Goals:** CSR must align with national frameworks (e.g., Sustainable Development Goals), state priorities, and constitutional imperatives of equality and dignity.
- **Community-Centred Design and Participation:** Incorporating community needs assessments and participatory planning enhances relevance and ownership, shifting CSR from charity to empowerment.
- **Robust Impact Evaluation:** Moving beyond expenditure reporting to outcome-based metrics and independent evaluations will strengthen accountability and learning.
- **Institutional Integration and Collaboration:** Mechanisms to link CSR planning with local governance structures (Panchayati Raj Institutions, urban local bodies) can

improve coherence and efficiency.

- **Holistic Corporate Citizenship:** CSR should accompany ethical corporate practices — inclusive employment, sustainable supply chains, environmental stewardship — integrating social responsibility into core business strategy.

## **Conclusion**

Corporate Social Responsibility in India, with its statutory mandate and broad thematic scope, represents a significant innovation in aligning private corporate action with public welfare goals. When oriented toward empowerment, equality, and sustainability, CSR can complement state efforts and contribute to the constitutional promise of a just, inclusive, and dignified society. However, its transformative constitutional potential will remain unrealized without strategic focus, participatory design, rigorous evaluation, and meaningful integration with developmental planning. Strengthened in these dimensions, CSR can evolve from an instrument of compliance to a force for deep social transformation in India's constitutional democracy.

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