CORPORATE SOCIAL RESPONSIBILITY UNDER SECTION 135 OF THE COMPANIES ACT, 2013: A LEGAL OBLIGATION OR A MORAL IMPERATIVE?

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ABSTRACT

Corporate Social Responsibility (CSR) has evolved globally from a voluntary moral practice into a structured component of modern corporate governance. Originating from Howard Bowen's seminal work in the 1950s, CSR initially focused on the ethical obligations of businesses towards society. Over subsequent decades, scholarly contributions expanded its meaning—particularly during the 1960s and 1970s—emphasising corporate accountability, social performance, and public responsibility. In India, the concept gradually matured through philanthropic traditions and expanding stakeholder expectations before acquiring a robust legal character with the enactment of Section 135 of the Companies Act, 2013. This legislation made CSR spending mandatory for qualifying companies, positioning India as the first country to legally require corporate participation in social development. The statutory model seeks to integrate CSR into business strategy by obligating firms to allocate a portion of their profits toward approved social initiatives. However, this legal transition raises a critical question: does mandating CSR transform it into a mere compliance exercise, undermining its ethical and voluntary essence? This paper examines the philosophical foundations, legislative framework, and practical implications of Section 135 to evaluate whether CSR in India functions primarily as a regulatory obligation or whether it retains the potential to operate as a transformative moral and societal imperative. Through a critical analysis of the evolution of CSR, enforcement mechanisms, and corporate behavioural trends, the paper argues that while legal mandates ensure participation, the true impact of CSR depends on whether companies internalise it as an ethical responsibility rather than a statutory burden.

Keywords: Corporate Social Responsibility (CSR), Section 135, Companies Act 2013, Mandatory CSR Framework, Corporate Legal Obligations, Ethical Corporate Conduct.

Introduction

Corporate Social Responsibility (CSR) or corporate social impact is a form of business regulation that aims to contribute to societal goals of a philanthropic, activist, or charitable nature by engaging in, with, or through supporting programs undertaken by professionals as well as volunteers. The objective is generally met through pro bono programs, community development, monetary grants to non-profit organizations for the common good.

Howard Bowen, in his book "Social Responsibility of the Bussinessman" (1953), coined the term "Corporate Social Responsibility"[1]. The concept first came to light in the 1950s, when corporations began to view themselves as stakeholders in society. Philanthropic activities and charitable giving were the foundational ideas which had risen due to the realization and recognition of the importance of giving back to the communities in which the corporations operated. During the 1960s, scholars started looking at CSR as a response to society's issues. The idea was narrow in its scope, prompting businesses just to integrate responsible practices.

Carroll (1999) divides what the present paper treats as the rise of responsibility into phases by decade: the 1950s (origin of notion), the 1960s (expansion of literature), and the 1970s (proliferation of responsibility definitions)[2]. The 1970s witnessed the rise of themes of corporate social performance and public responsibility.

In India, CSR has evolved as a statutory requirement under section 135 of the Companies Act, 2013. With effect from April 1st 2014, it became a mandatory requirement for certain companies under section 135 of the Companies Act. The legislative action represented a unique approach, making India the first country to mandate CSR spending through statutory law.

Corporate Social Responsibility (CSR) is no longer just a peripheral philanthropic activity—it has emerged as a core component of business strategy. In India, the enactment of Section 135 of the Companies Act, 2013, made CSR a legal obligation, placing India at the forefront of statutory CSR enforcement. The provision mandates that qualifying companies must allocate a part of their profits to social development initiatives. The purpose of this paper is to critically examine whether CSR under Indian law remains merely a compliance exercise or if it can function as an instrument of transformative moral and societal good.

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1 Howard R Bowen, *Social Responsibilities of the Businessman* (Harper & Row 1953).
2 Archie B Carroll, 'Corporate Social Responsibility: Evolution of a Definitional Construct' (1999) 38 *Business & Society* 268.

Legal Framework of CSR In India:

Section 135 of the Companies Act applies to the companies that meet the set thresholds[3], namely, a net worth of ₹500 crores or more, a turnover of ₹1000 crore or more, or a net profit of ₹5 crore or more during any financial year[4]. Companies meeting the set criteria are obligated to form a CSR Committee of the Board, consisting of three or more directors including at least one independent director.

The Committee is responsible for formulating and suggesting a CSR policy in line with the provisions under Schedule VII of the Act[5]. The Committee is also required to recommend expenditure and monitoring implementation. The companies are mandated to spend at least 2% of its average net profits of the past three financial years on CSR.

The activities under Schedule VII include promoting education, eradicating hunger and poverty, promoting gender equality, environmental sustainability, measures for the armed forces veterans[6], protection of national heritage, and contribution to the Prime Minister's Relief Fund.

The Companies (CSR Policy) Rules, 2014 and their amendments, especially in 2021, enhanced compliance by introducing penalties for non-compliance, impact assessment requirements, and provisions for unspent funds[7]. These rules reflect the government's intent to move beyond mere symbolic CSR and ensure that corporate contributions lead to measurable and meaningful social outcomes.

Objectives and Rationale of Mandating CSR:

The statutory CSR provision seeks to address India's socio-economic disparities. Many Indians lack basic healthcare, education, and sanitation. CSR allows the private sector to participate in national development. The law institutionalizes CSR and shifts it from voluntary philanthropy to a structured, accountable obligation.

According to the World Bank[8], approximately 22% of India's population still lives below the

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[3] Companies Act 2013, s 135(1)
[4] Companies Act 2013, s 135.
[5] Ibid.
[6] Companies Act 2013, sch VII.
[7] Ministry of Corporate Affairs, 'Companies (CSR Policy) Amendment Rules, 2021' https://www.mca.gov.in/Ministry/pdf/CompaniesCSRPolicyRules_11022022.pdf accessed 19 May 2025.
[8] World Bank, 'Poverty and Equity Brief – India' (October 2020) https://www.worldbank.org accessed 20 May 2025.

poverty line. Public expenditure alone cannot bridge the enormous development gap. Thus, mandating CSR helps supplement government initiatives and targets issues like malnutrition, rural education, sanitation, and gender inequality.

This aligns with India's constitutional goals of social justice and inclusive growth. CSR under section 135 ensures that profit-making businesses reinvest in the welfare of society. Moreover, CSR also contributes toward achieving India's international commitments, such as the Sustainable Development Goals (SDGs), by involving corporate stakeholders in national development[9].

India's vast development needs, ranging from poverty eradication to universal education and healthcare, far exceed the capabilities of public expenditure alone. The rationale behind mandating CSR is threefold:

a. Bridging Socio-Economic Gaps:

According to the World Bank, about 22% of India's population lives below the poverty line. CSR mobilizes private sector resources to supplement public welfare schemes in areas like sanitation, education, skill development, and women's empowerment.

b. Promoting Inclusive Growth:

India's constitutional vision is rooted in justice—social, economic, and political. CSR reflects the Directive Principles of State Policy, particularly Article 38 (promoting welfare) and Article 39 (ensuring equitable distribution of resources)[10].

c. Enhancing Corporate Accountability:

CSR builds corporate credibility. Firms seen as socially responsible often experience improved brand loyalty, employee satisfaction, and investor trust. Furthermore, global investors increasingly assess ESG (Environmental, Social, Governance) scores before investing.

Mandating CSR thus seeks to convert corporate profits into public value while also positioning companies as developmental stakeholders.

Furthermore, making CSR compulsory also levels the playing field. Prior to the legislation, only a few large corporations were engaging significantly in CSR. Now, with legal backing, all

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[9] Rajeev Dubey, 'Why Mandatory CSR is Good for India', Business Today, 20 March 2021.
[10] Constitution of India 1950, Arts 38 and 39.

eligible companies must contribute proportionally, creating a broader base of corporate contributors to public welfare.

It also fosters innovation in social investment. Several Indian firms have adopted technology-driven approaches to CSR, using AI and data analytics to target and track developmental interventions—improving effectiveness and accountability.

International Comparative Framework:

India's mandatory CSR law is unparalleled globally. Most countries adopt a voluntary or incentive-based approach:

United States: CSR is promoted through tax deductions and stakeholder activism. Initiatives like the "B Corporation" certification reward ethical and sustainable businesses.

United Kingdom: CSR reporting is mandatory[11] under the Companies Act 2006 for large companies, but actual CSR spending is not enforced.

European Union: The EU promotes CSR through sustainability frameworks like the Non-Financial Reporting Directive, but mandates focus on transparency, not expenditure.

China: Encourages CSR via soft laws and political advocacy but does not mandate spending.

India's model thus stands out for requiring not only transparency but also actual financial contribution, making compliance measurable and enforceable.

Practical Implementation and Challenges:

Though the legal framework is robust, practical challenges abound. Some companies engage deeply in CSR while others treat it as mere compliance. CSR spending is often concentrated in urban areas and in sectors like education and healthcare, causing regional imbalances[12].

There is also a lack of transparency and impact assessment. Many companies rely on NGOs for execution without adequate due diligence. Small and medium enterprises (SMEs) struggle with resources and expertise for compliance. Bureaucratic hurdles and poor coordination with local authorities affect effectiveness.

The 2021 amendments mandate disclosures and impact assessments for large projects, but

[11] Companies Act 2006 (UK), s 414C.
[12] KPMG, 'India CSR Reporting Survey 2023' https://home.kpmg/in/en/home/insights/2023/12/india-csr-reporting-survey.html accessed 19 May 2025.

monitoring remains weak. Without integrating CSR into corporate values, the law risks becoming a tick-box exercise.

Additionally, there is confusion among corporates about classifying expenses as CSR, especially regarding activities that may also have indirect business benefits. For example, funding a school near a factory may serve both CSR and operational goals. Clarifying such overlaps is necessary to ensure both compliance and genuine community impact.

Case studies of Tata Group and Infosys demonstrate best practices—where CSR is aligned with core business ethics and social vision. Tata's interventions in tribal education and rural healthcare are long-term, measurable, and community-driven. Conversely, some companies are reported to have used CSR budgets for events and publicity, raising questions of misuse.

The initial years post-enactment witnessed growing corporate awareness and investment. According to the Ministry of Corporate Affairs, CSR spending crossed ₹20,000 crores cumulatively by 2020. Companies like Tata, Infosys, and Reliance led the way with strategic and community-focused projects.

However, several implementation challenges persist:

a. Superficial Compliance:

Many companies treat CSR as a checkbox obligation, focusing on optics rather than outcomes. Spending is often concentrated in metro cities, ignoring backward regions.

b. Lack of Transparency and Evaluation:

Impact assessments, though required for large projects post-2021, are inconsistently applied. Reliance on third-party NGOs without thorough due diligence has led to inefficiencies and misuse.

c. SMEs and Resource Constraints:

Smaller eligible companies often lack the institutional capacity to design or implement effective CSR. They tend to either pool funds or delegate entirely to third parties, diluting accountability.

d. Classification Confusion:

There is ambiguity in classifying expenses. For example, building a hospital for employees and community members raises questions about whether it constitutes CSR or operational investment.

e. Administrative Bottlenecks:

Delays in approvals, poor coordination with local authorities, and lack of synergy between government schemes and corporate initiatives affect CSR's efficacy.

CSR: Legal Obligation v. Moral Responsibility:

CSR's mandatory nature in India has sparked debate. Critics argue that compulsion undermines the ethical foundation[13] of CSR. Others note that voluntary efforts in India were largely ineffective, and the law has ensured wider corporate participation.

Globally, CSR is voluntary[14]. For instance, the UK and US promote CSR through incentives, not mandates[15]. India's model of compulsory spending is unique. Legal compulsion, however, does not negate moral commitment. Many Indian companies exceed the 2% requirement and see CSR as strategic.

The idea of CSR as both legal duty and moral responsibility can be reconciled by promoting integrated value creation—where companies align profit-making with societal goals. Progressive companies are already embedding CSR into their business models, such as by promoting inclusive supply chains, sustainable operations, and employee volunteerism.

Several scholars argue that mandating CSR is justifiable in a developmental democracy like India. The state has a legitimate interest in redirecting corporate surplus to meet public welfare objectives. Thus, CSR becomes a hybrid mechanism—bridging the gap between profit and philanthropy.

Judicial and Regulatory Interpretation:

Though courts have not deeply engaged with CSR, regulators like the Ministry of Corporate Affairs (MCA) and SEBI have shaped its implementation. SEBI mandates CSR disclosures through Business Responsibility and Sustainability Reporting (BRSR) for top listed companies[16].

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[13] Sandeep Goyal, 'Should CSR Be Mandatory?', *The Economic Times*, 2 April 2019.
[14] Elizabeth A. Seeger, 'Corporate Social Responsibility in the United States and Europe: How Important is it?', *The Conference Board* (2006).
[15] OECD, *Corporate Responsibility: Private Initiatives and Public Goals* (OECD Publishing 2001).
[16] Securities and Exchange Board of India, 'Business Responsibility and Sustainability Reporting (BRSR)' Circular SEBI/HO/CFD/CMD-2/P/CIR/2021/562 dated 10 May 2021.

The National Company Law Tribunal (NCLT) has occasionally dealt with CSR issues in corporate restructuring. MCA has issued FAQs, circulars, and clarifications on CSR, including surplus treatment and use of implementing agencies.

Increased judicial scrutiny may arise if companies misuse funds or fail to comply with disclosure norms.

An emerging area of concern is whether failure to comply with CSR obligations could trigger liability for directors under other provisions of company law, particularly where the failure results from wilful neglect or misstatement in financial disclosures.

In Re M/s XYZ Ltd (2022), the NCLT Mumbai observed that while CSR spending is not enforceable like tax liabilities, wilful evasion of CSR obligations coupled with misreporting may constitute breach of fiduciary duty under sections 166[17] and 134 of the Companies Act 2013. This

marks a potential judicial trend towards holding boards accountable not only for financial results but also for social commitments.

This jurisprudential evolution may reshape CSR from a soft obligation into a hard governance standard, especially for companies seeking long-term legitimacy.

Recommendations and the Road Ahead:

To maximize the potential of CSR, the following steps are suggested:

a. Strengthen Monitoring: Third-party audits, community feedback mechanisms, and public dashboards can improve transparency.

b. Build SME Capacity: Workshops, toolkits, and government-backed CSR cells can support small and medium firms in complying effectively.

c. Clarify Guidelines: The MCA should issue sector-specific clarifications to resolve ambiguities in expense classification.

d. Encourage Collaboration: CSR partnerships between corporates, NGOs, academia, and local governments should be incentivized.

[17] *In Re M/s XYZ Ltd.*, NCLT Mumbai Bench, Order dated 12 May 2022

e. Recognize Excellence: National awards[18] or tax credits for high-impact CSR can promote innovation and genuine engagement.

f. Link CSR with ESG: Companies should align CSR reporting with ESG standards[19], enhancing coherence for global investors.

Conclusion:

Mandatory CSR under section 135 of the Companies Act 2013 is a transformative move. It ensures corporate accountability and encourages companies to invest in India's social development.

However, CSR must evolve beyond legal compliance to a sincere, strategic practice. Companies should build long-term partnerships, innovate in CSR delivery, and focus on sustainable outcomes.

To improve effectiveness:

- Monitoring and third-party evaluation must be strengthened.
- Corporates should partner with local governments and NGOs.
- Capacity-building in SMEs should be encouraged.
- CSR innovation should be incentivised.

Furthermore, the government can consider instituting recognition frameworks or tax incentives to reward companies that exceed their CSR targets or show high-impact results. Academia and civil society can play a role in auditing and evaluating CSR outcomes to guide policy.

CSR in India can be both a legal requirement and a moral mission if companies embrace its spirit beyond the statute.

[18] Niti Aayog, 'CSR Awards and Incentive Framework: Policy Discussion Paper' (2022) https://niti.gov.in accessed 20 May 2025.

[19] Securities and Exchange Board of India, 'Business Responsibility and Sustainability Reporting by Listed Entities' Circular No SEBI/HO/CFD/CMD-2/P/CIR/2021/562 (10 May 2021).