
MANDATORY CORPORATE SOCIAL RESPONSIBILITY AND STRUCTURAL SOCIAL INEQUALITY IN INDIA: A DOCTRINAL AND CRITICAL ANALYSIS OF SECTION 135 OF THE COMPANIES ACT, 2013

Harinarayanan. P, LLB, Vels Institute of Science, Technology and Advanced Studies

Under the Guidance of Prof. N. Megavannan, School of Law,
Vels Institute of Science Technology and Advanced Studies

ABSTRACT

The mandatory Corporate Social Responsibility (CSR) regime introduced by Section 135 of the Companies Act, 2013, represents one of the most distinctive experiments in obligatory corporate philanthropy globally. Requiring qualifying companies to allocate a minimum of two per cent of average net profits to prescribed social activities, the framework was animated, at least in part, by a legislative aspiration to engage corporate resources in mitigating the structural social inequality that continues to characterise Indian society despite decades of sustained economic growth. This article subjects that aspiration to critical doctrinal scrutiny. Drawing on a systematic analysis of Section 135 and the Companies (CSR Policy) Rules, 2014 as amended, the interpretive jurisprudence of the Gujarat High Court and the National Company Law Tribunal, the audit findings of the Comptroller and Auditor General, and the normative frameworks offered by the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises, the article argues that mandatory CSR has succeeded in institutionalising corporate participation in social development and improving transparency in social spending, but has not produced a proportionate or demonstrable reduction in structural social inequality. The framework is predominantly compliance-oriented, evaluating corporate performance through expenditure thresholds and disclosure requirements rather than measurable social outcomes. Judicial and regulatory enforcement similarly privileges procedural fidelity over substantive impact. Regional and sectoral imbalances, governance deficits in CSR Committees, and the absence of outcome-based accountability

mechanisms collectively undermine the redistributive potential of mandatory CSR. The article concludes by proposing five targeted reforms: the introduction of mandatory social impact assessment anchored in capability and SDG indicators; a tiered Schedule VII that allocates enhanced weight to aspirational districts; mandatory alignment of CSR strategy with state welfare priorities; strengthened CSR Committee governance; and the elevation of the National Guidelines on Responsible Business Conduct into binding regulatory requirements. Together, these reforms would reorient the mandatory CSR regime from a compliance exercise into a genuine instrument of social justice grounded in the constitutional values of Articles 38 and 39.

Keywords: Corporate Social Responsibility; Section 135; Companies Act 2013; Social Inequality; Mandatory CSR; Doctrinal Analysis; Schedule VII; Outcome Accountability; UN Guiding Principles; Comparative Corporate Law.

I. INTRODUCTION

India's enactment of a legally mandated corporate social responsibility regime under Section 135 of the Companies Act, 2013 was a watershed moment in the global history of corporate law. No other major economy had previously embedded a statutory expenditure obligation of this character within company legislation for qualifying domestic and foreign enterprises. The provision requires every company with a net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more, or net profit of rupees five crore or more during the immediately preceding financial year, to constitute a CSR Committee and ensure that the company spends, in every financial year, at least two per cent of the average net profits of the company made during the three immediately preceding financial years on activities specified in Schedule VII.

The legislative genesis of this provision is inseparable from the broader question of social inequality in India. The Directive Principles of State Policy under Articles 38 and 39 of the Constitution impose obligations on the State to minimise inequalities of income and status, prevent concentration of wealth, and direct material resources of the community to serve the common good. The parliamentary debates on the Companies Bill, 2012 made clear that mandatory CSR was conceived, at least partly, as a mechanism to enlist the resources of the corporate sector in the

pursuit of these constitutional objectives, drawing on a tradition of industrialist philanthropy associated with Jamsetji Tata, G.D. Birla, and the Gandhian trusteeship doctrine.¹

More than a decade after its enactment, the empirical record on Section 135 is extensive but contested. Annual reports filed on the Ministry of Corporate Affairs' National CSR Portal confirm substantial increases in corporate social spending, with thousands of qualifying companies collectively disbursing tens of thousands of crores annually across the activity categories in Schedule VII. Yet independent scholarship, civil society audits, and the Comptroller and Auditor General's performance reports raise fundamental questions about whether this expenditure is addressing the structural dimensions of inequality — rooted in caste, gender, regional disadvantage, and the dominance of informal labour — or merely providing visible but low-impact welfare outputs at the margins of a persistent and deepening deprivation.²

This article undertakes a doctrinal and critical legal analysis of mandatory CSR as a regulatory instrument for mitigating structural social inequality in India. The article proceeds through seven sections. Following this introduction, Section II maps the conceptual and normative foundations of the mandatory CSR regime. Section III provides a doctrinal analysis of the statutory framework under Section 135 and the CSR Rules. Section IV examines the relationship between mandatory CSR expenditure and the multidimensional character of social inequality in India. Section V analyses judicial and regulatory enforcement of CSR obligations. Section VI undertakes a comparative assessment of alternative regulatory approaches in the United Kingdom, the European Union, and France. Section VII proposes a reform agenda and concludes.

1 Companies Act, No. 18 of 2013, SS 134(3)(o), 135(1)– (7), sched. VII; Ministry of Corporate Affairs, Report of the Standing Committee on Finance on the Companies Bill, 2012; Lok Sabha Debates, Companies Bill, 2012, 15th Lok Sabha (Dec. 18, 2012).

2 Dhammika Dharmapala & Vikramaditya Khanna, *The Impact of Mandated Corporate Social Responsibility: Evidence from India's Companies Act of 2013*, 54 *J.L. & Econ.* 375 (2018); Comptroller and Auditor General of India, *Reports on Corporate Social Responsibility in Public Sector Undertakings* (2017–19)

II. CONCEPTUAL AND NORMATIVE FOUNDATIONS OF MANDATORY CSR

A. From Voluntarism to Statutory Obligation

The theoretical lineage of CSR contains a long-running debate between the shareholder-primacy position and the stakeholder model. Milton Friedman's classical argument that the sole social responsibility of business is to increase its profits within the bounds of law, leaving redistributive functions to the State, provided the ideological pole against which the expansion of corporate social obligations has been measured.³ Freeman's stakeholder theory, by contrast, proposed that corporations owe responsibilities to a broader set of constituencies — employees, consumers, communities, and society — whose interests cannot legitimately be subordinated to shareholder returns.⁴

Carroll's four-part pyramid of corporate responsibility — encompassing economic, legal, ethical, and philanthropic obligations — provided a more nuanced theoretical architecture, acknowledging that corporate social engagement could operate simultaneously across multiple normative registers without being reduced to either voluntary charity or regulatory compulsion.⁵ The European Commission's definition of CSR as the responsibility of enterprises for their impact on society, and the United Nations Global Compact's ten principles, shifted international discourse further towards a regulatory conception of corporate social accountability. India's mandatory CSR regime represents the legislative culmination of this doctrinal journey — the conversion of what was previously a matter of corporate discretion into a legal obligation enforced through statutory penalties.

B. Distributive Justice, Capabilities, and Corporate Obligation

The normative case for directing mandatory corporate resources towards inequality reduction draws on at least three distinct theoretical traditions. Rawls's difference principle holds that social and economic inequalities are justifiable only insofar as they benefit the least advantaged members of society.⁶ Applying this principle to CSR, one may ask whether the activity categories prescribed in Schedule VII and the discretion conferred upon qualifying companies in selecting projects are designed to prioritise the welfare of the most disadvantaged — a question to which the doctrinal analysis in Section III suggests a negative answer.

3 Milton Friedman, *The Social Responsibility of Business Is to Increase Its Profits*, N.Y. Times Mag., Sept. 13, 1970.

4 R. Edward Freeman, *Strategic Management: A Stakeholder Approach* (Pitman Publ'g 1984).

5 Archie B. Carroll, *The Pyramid of Corporate Social Responsibility: Toward the Moral Management of Organizational Stakeholders*, 34 Bus. Horizons 39 (1991).

6 John Rawls, *A Theory of Justice* 60–83 (Harvard Univ. Press 1971).

Sen's capability approach evaluates development not by aggregate economic growth but by the expansion of substantive freedoms — access to education, healthcare, social participation, and political voice.⁷ CSR initiatives that construct school buildings or fund health camps without engaging with the institutional barriers and social norms that perpetuate capability deprivation deliver outputs rather than outcomes in Sen's sense. Nussbaum's central capabilities framework specifies the minimum threshold of human capability — including bodily integrity, affiliation, and control over one's social and political environment — that a just society must secure for all its members, providing a demanding standard against which the quality of CSR interventions must be assessed.⁸

Drèze and Sen's empirical analysis of India's development record underscores the persistence of social deprivation despite sustained GDP growth, cautioning that corporate contributions to welfare, however substantial, cannot substitute for structural state action on education, healthcare, and the elimination of caste and gender discrimination.⁹ The 'responsibilities' risk — the gradual withdrawal of state provision in reliance on corporate contributions — is a concern raised by critical scholars and is directly relevant to the evaluation of mandatory CSR under the Companies Act, 2013.

C. The Licence to Operate and Constitutional Justification

The constitutional justification for imposing mandatory expenditure obligations on private corporations rests partly on the 'licence to operate' rationale: corporations derive legitimacy, access to public resources, infrastructure, and legal protection from the State and therefore bear reciprocal social obligations.¹⁰ In India, this rationale has particular historical force given the dependence of large industrial enterprises on State-granted licences, access to natural resources and public land, and the benefits of tariff protection and public procurement. The Directive Principles, particularly Articles 38 and 39, provide the constitutional framework within which the social obligation of corporate enterprises is situated, embedding mandatory CSR within the broader project of achieving the social and economic transformation envisioned in the Constitution.

7 Amartya Sen, *Development as Freedom* (Oxford Univ. Press 1999).

8 Martha C. Nussbaum, *Creating Capabilities: The Human Development Approach* 17–45 (Harvard Univ. Press 2011).

9 Jean Drèze & Amartya Sen, *An Uncertain Glory: India and its Contradictions* (Princeton Univ. Press 2013).

10 Andrew Johnston, *Reforming English Company Law to Promote Sustainable Companies*, 11 *Comp. L. Rev.* 1 (2011).

III. DOCTRINAL ANALYSIS OF THE STATUTORY FRAMEWORK

A. The Architecture of Section 135 and the CSR Rules

Section 135 of the Companies Act, 2013 and the Companies (Corporate Social Responsibility Policy) Rules, 2014, as amended by successive notifications in 2019, 2020, and 2021, constitute the primary statutory architecture governing mandatory CSR in India. The provision is structurally composed of four inter-related components: eligibility criteria, governance requirements through the CSR Committee, expenditure obligations including the two per cent spend mandate and treatment of unspent funds, and disclosure requirements under Section 134(3)(o).¹¹ The eligibility criteria cast the net broadly: any company meeting any one of the three financial thresholds — net worth, turnover, or net profit — must comply, regardless of its sector, age, or size relative to the threshold. This breadth reflects the legislative intent to generate a substantial and diversified pool of mandatory corporate contributors to social welfare. However, it also creates threshold effects and compliance costs for companies that marginally cross the eligibility criteria, a design tension that the 2019 and 2021 amendments partially addressed by introducing proportionality into the penalty structure.

B. CSR Committee Governance and Its Limitations

Section 135(1) requires every qualifying company to constitute a CSR Committee comprising three or more directors, at least one of whom must be an independent director. The Committee is charged with formulating the company's CSR policy, recommending the amount of expenditure to be incurred, and monitoring the policy's implementation. The Companies (CSR Policy) Rules require the Committee to institute a transparent monitoring mechanism for implementing CSR activities.¹²

¹¹ Companies Act, No. 18 of 2013, SS 134(3)(o), 135; Companies (Corporate Social Responsibility Policy) Rules, 2014; Companies (CSR Policy) Amendment Rules, 2021, G.S.R. 40(E) (Jan. 22, 2021).

¹² Companies (Corporate Social Responsibility Policy) Rules, 2014, Rule 4.

Examined against the normative standard of outcome-based social accountability, the CSR Committee framework reveals significant governance deficits. The statute imposes no expertise requirements on Committee members — a qualified chartered accountant or a director with purely commercial experience may satisfy the statutory requirement without any demonstrated knowledge of social development, community welfare, or impact assessment. More significantly, the Committee's statutory mandate is framed in terms of activity approval and financial monitoring rather than outcome evaluation: the Rules require preparation of an annual report disclosing the amounts spent and the activities undertaken, without any requirement for reporting on outcomes achieved or an assessment of whether activities have produced the social welfare impact they were intended to deliver.¹³

C. Schedule VII, Discretion, and Redistributive Failure

Schedule VII of the Companies Act, 2013 identifies fourteen broad activity categories eligible for CSR expenditure, including eradicating hunger and poverty, promoting education, ensuring environmental sustainability, promoting gender equality, and contributions to the Prime Minister's National Relief Fund and other specified funds. The breadth of these categories, and the absence of any mandatory allocation between them or any prioritisation of particular communities or geographic areas, confers extensive discretion upon qualifying companies in selecting their CSR activities.¹⁴

Empirical data from the MCA's National CSR Portal consistently reveals that this discretion produces expenditure patterns that are shaped by corporate convenience, reputational considerations, and proximity to corporate operational areas rather than by the distribution of social deprivation across the country. Education and healthcare receive the largest shares of aggregate CSR expenditure, while activities targeting scheduled tribes, persons with disabilities, aspirational districts, and programmes addressing caste-based discrimination and gender-based violence represent a small fraction of total spending.¹⁵ This distribution reflects not bad faith on the part of corporate actors but a rational response to the incentive structure created by the existing framework: companies will invest in activities that are visible, attributable, and manageable, and Schedule VII, as currently drafted, does not require them to do otherwise.

13 High-Level Committee on Corporate Social Responsibility, Report (Ministry of Corporate Affairs, Government of India, 2018).

14 Companies Act, No. 18 of 2013, sched. VII.

15 Ministry of Corporate Affairs, Annual Report on Corporate Social Responsibility 2021–22 (Government of India 2022); NITI Aayog, SDG India Index and Dashboard 2020–21 (Government of India 2021).

D. Treatment of Unspent CSR Funds and Enforcement

The Companies (Amendment) Acts of 2019 and 2020, and the CSR Policy Amendment Rules of 2021, introduced significant changes to the treatment of unspent CSR funds and the enforcement of the expenditure obligation. Unspent amounts that relate to ongoing projects must be transferred to a designated Unspent CSR Account within thirty days of the end of the financial year and spent within three years; amounts not relating to ongoing projects must be transferred to prescribed funds within six months of the end of the financial year. Failure to comply with these requirements attracts a civil monetary penalty of twice the amount required to be transferred, with officer liability up to one-tenth of that amount.¹⁶

The decriminalisation of CSR offences, while reducing regulatory burden, has materially weakened the deterrent effect of the statutory obligation. Prior to the 2019 amendments, non-compliance carried potential criminal liability; the replacement of criminal sanctions with civil penalties allows companies to treat the monetary penalty as a cost of non-compliance rather than as a serious legal sanction. Scholars have observed that where the quantum of financial penalty is low relative to the compliance cost, a rational actor calculus may favour non-compliance, a concern that is particularly acute for companies that marginally exceed the eligibility threshold.¹⁷

IV. MANDATORY CSR AND THE STRUCTURAL DIMENSIONS OF SOCIAL INEQUALITY

A. The Multidimensional Character of Inequality in India

Social inequality in India is not reducible to income disparity alone. NITI Aayog's National Multidimensional Poverty Index identifies overlapping deprivations across health, education, and living standards as the defining features of poverty in India, with particular concentrations among Scheduled Castes, Scheduled Tribes, rural populations, and women.¹⁸ Ambedkar's analysis of the relationship between caste hierarchies and economic exclusion remains indispensable for understanding why conventional developmental interventions — including corporate philanthropy — repeatedly fail to reach the most marginalised: because the barriers to their inclusion are social and structural as well as material.¹⁹

¹⁶ Companies (Amendment) Act, 2019; Companies (CSR Policy) Amendment Rules, 2021, G.S.R. 40(E).

¹⁷ Dharmapala & Khanna, *supra* note 2.

¹⁸ NITI Aayog, National Multidimensional Poverty Index: A Progress Review 2023 (Government of India 2023).

¹⁹ B.R. Ambedkar, *Annihilation of Caste* 47–69 (Navayana Publishing 2014) (1936)

The NSSO's data on household consumption expenditure, and the Periodic Labour Force Survey's documentation of unemployment and underemployment, confirm that the benefits of post-liberalisation economic growth have been unevenly distributed, with the urban-rural gap, the gender wage gap, and inter-caste disparities in educational attainment and labour market access all remaining persistently wide. This multidimensional character of inequality means that interventions targeted exclusively at visible material outputs — building schools, funding scholarships, constructing toilets — may improve headline indicators without addressing the social norms, institutional barriers, and governance failures that perpetuate structural exclusion.

B. Spatial and Sectoral Imbalances in CSR Expenditure

One of the most consistently documented limitations of mandatory CSR in India is the spatial concentration of expenditure in industrialised states and districts proximate to corporate operational areas. States such as Maharashtra, Gujarat, Karnataka, and Tamil Nadu — which host the largest concentrations of eligible companies — receive disproportionate shares of CSR spending, while the aspirational districts and tribal-concentrated areas that score highest on deprivation indicators receive comparatively little.²⁰ The CAG's performance audits of CSR in public sector undertakings found inadequate needs assessment, weak project design, and absent outcome evaluation even in companies with explicit public interest mandates.²¹

Sectoral concentration compounds spatial imbalance: education and healthcare dominate aggregate CSR expenditure, partly because these are well-understood activity categories with established implementation partners and measurable output metrics, and partly because they carry high reputational value. Activities related to caste discrimination, gender-based violence prevention, legal empowerment of marginalised communities, and support for informal workers — arguably the interventions most likely to address structural inequality — receive minimal corporate attention, in part because they are complex to implement, difficult to attribute, and potentially controversial from a corporate reputational perspective.

²⁰ Surya Deva, *Corporate Social Responsibility in India*, 47 *Econ. & Pol. Wkly.* 18 (2012).

²¹ Comptroller and Auditor General of India, *Reports on Corporate Social Responsibility in Public Sector Undertakings* (2017–19).

C. Misalignment with National Development Priorities

The SEBI Business Responsibility and Sustainability Report framework, while requiring disclosure of social and governance performance metrics, does not mandate alignment between CSR activities and national development priorities or SDG targets.²² This absence of a mandatory alignment requirement means that the potential for CSR to contribute systematically to India's stated development objectives — as expressed through NITI Aayog's SDG India Index and the National Multidimensional Poverty Index — remains largely unrealised. Where government flagship programmes such as Swachh Bharat, the National Education Policy, and the Pradhan Mantri Jan Arogya Yojana have created well-defined programmatic frameworks, CSR contributions have been more coherently channelled; elsewhere, corporate social investment remains fragmented and disconnected from identifiable national welfare priorities.

V. JUDICIAL AND REGULATORY INTERPRETATION OF MANDATORY CSR

A. Judicial Restraint and Procedural Compliance

Judicial bodies in India have taken a limited but doctrinal approach to interpreting CSR obligations. The Gujarat High Court's consideration of CSR compliance matters in *KHS Machinery Pvt. Ltd. v. Registrar of Companies* reflects the dominant pattern of judicial engagement with Section 135, which has been characterised by an emphasis on procedural regularity — adherence to spending thresholds, CSR Committee composition requirements, and disclosure formats — rather than substantive scrutiny of the social quality of CSR activities.²³ Courts have consistently adopted a deferential stance towards corporate decisions on activity selection, treating such choices as falling within the domain of corporate autonomy protected by the business judgment rule. This judicial restraint is doctrinally defensible given that the statutory framework itself confers broad discretion upon qualifying companies, and given the separation of powers constraints on judicial supervision of corporate strategy. However, it has the effect of insulating compliance-oriented but low-impact CSR practice from any form of judicial accountability.

²² Securities and Exchange Board of India, Business Responsibility and Sustainability Report Framework, Circular No. SEBI/HO/CFD/CMD-2/P/CIR/2021/562 (May 10, 2021).

²³ *KHS Machinery Pvt. Ltd. v. Registrar of Companies*, Special Criminal Application No. of 2025 (Guj. H.C. July 7, 2025); *Tata Iron & Steel Co. Ltd. v. State of Bihar*, AIR 1958 SC 452.

The Delhi High Court's ruling in *Principal Commissioner of Income Tax v. Steel Authority of India Ltd.* confirmed that CSR expenditure does not qualify as a deductible business expense under Section 37(1) of the Income Tax Act, 1961, thereby foreclosing a potential incentive structure that might have encouraged higher-quality CSR engagement. The NCLT's approach to compounding applications under Section 441 has been broadly permissive, allowing companies that have defaulted on CSR requirements to regularise their position through monetary payment without any requirement to demonstrate genuine social engagement.²⁴

B. Regulatory Architecture and Its Limitations

The Ministry of Corporate Affairs functions as the primary regulatory authority for CSR implementation. Through successive general circulars — including General Circular No. 21/2014 on early interpretive questions, the 2021 clarification on ongoing projects and implementing agencies, and the National CSR Portal's reporting framework — the MCA has elaborated the operational meaning of Section 135 and progressively addressed interpretive gaps.²⁵ Regulatory oversight, however, remains structurally biased towards procedural compliance and financial accountability rather than substantive social impact. The MCA's National CSR Portal collects data on amounts spent, implementing agencies, and project categories, but does not require companies to report on outcomes achieved, beneficiary assessments, or social impact evaluations. This data architecture reflects the broader compliance orientation of the regulatory framework and creates a systematic information gap that prevents the MCA, Parliament, or civil society from assessing whether mandatory CSR is producing social value commensurate with the tens of thousands of crores disbursed annually.²⁶ The Supreme Court has not yet pronounced authoritatively on the constitutional dimensions of mandatory CSR, including whether the two per cent spend requirement constitutes an unreasonable restriction on the right to carry on trade and business under Article 19(1)(g), or whether it represents a legitimate exercise of the State's power to direct corporate resources towards the constitutional goals articulated in the Directive Principles. The absence of Supreme Court guidance has left the constitutional foundations of the regime underexplored and has contributed to the doctrinal uncertainty that has necessitated successive legislative and regulatory clarifications.

24 *Principal Commissioner of Income Tax v. Steel Authority of India Ltd.*, (2023) SCC OnLine Del; Income-tax Act, 1961, S 37(1), Explanation 2; Registrar of Companies v. Pvt. Ltd., NCLT (compounding orders under S 441, Companies Act, 2013). 25 Ministry of Corporate Affairs, General Circular No. 21/2014 (June 18, 2014); Ministry of Corporate Affairs, Frequently Asked Questions on CSR (Government of India). 26 Ministry of Corporate Affairs, Annual Report on Corporate Social Responsibility 2021–22 (Government of India 2022).

VI. COMPARATIVE LEGAL ANALYSIS

A. The United Kingdom: Enlightened Shareholder Value

Section 172 of the UK Companies Act 2006 requires directors to act in the way they consider, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole, having regard to a range of specified considerations including the interests of the company's employees, the need to foster long-term business relationships, the impact of the company's operations on the community and the environment, and the desirability of maintaining a reputation for high standards of business conduct. This 'enlightened shareholder value' model integrates stakeholder considerations into the fiduciary duty of directors without imposing specific expenditure obligations.²⁷

The UK approach has the advantage of embedding social responsibility within core governance mechanisms rather than treating it as an add-on expenditure. Its limitation, from an inequality-reduction perspective, is its voluntarism: without minimum expenditure requirements or mandatory activity categories, the social impact of Section 172 depends entirely on corporate interpretation of what promotes long-term success, a discretion that in practice is rarely exercised in ways that prioritise the welfare of the most marginalised communities.

B. The European Union and France: Due Diligence and Mandatory Reporting

The European Union's Non-Financial Reporting Directive (Directive 2014/95/EU), applicable to large public-interest entities, requires disclosure of policies, risks, and outcomes relating to environmental, social, and governance matters, including respect for human rights, anti-corruption measures, and diversity. The emerging EU Corporate Sustainability Reporting Directive and Corporate Sustainability Due Diligence Directive signal an international convergence towards legally binding corporate accountability for social and human rights impacts — a regulatory trajectory that goes significantly beyond India's expenditure-focused model.²⁸

²⁷ Companies Act, 2006 (United Kingdom), S 172; UK Companies Act 2006 (Strategic Report and Directors' Report) Regulations, 2013.

²⁸ Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 (Non-Financial Reporting Directive).

France's Loi de Vigilance (Duty of Vigilance Law, Law No. 2017-399 of March 27, 2017) requires large French companies to develop and publish a vigilance plan identifying risks of human rights violations and environmental damage arising from their own operations and those of their supply chains, and to take preventive measures to mitigate those risks. The French model thus addresses the harm-prevention dimension of corporate social responsibility — the avoidance of negative social impact — complementing rather than substituting the positive contribution model embedded in India's mandatory spend requirement.²⁹ The comparative analysis yields two instructive lessons. First, the most effective regulatory frameworks for corporate social accountability combine elements of both positive obligation (to contribute to social welfare) and due diligence obligation (to avoid social harm), rather than relying exclusively on either. India's current regime addresses primarily the former without the latter. Second, outcome-based accountability — whether through mandatory impact reporting, third-party auditing, or regulatory evaluation — is common to the most effective systems and conspicuously absent from the Indian framework.

VII. TOWARDS A SOCIALLY EFFECTIVE MANDATORY CSR REGIME: A REFORM AGENDA

A. Outcome-Based Accountability Through Mandatory Social Impact Assessment

The most fundamental reform required to transform mandatory CSR from a compliance exercise into a substantive instrument of social justice is the introduction of mandatory, independent, and standardised social impact assessment. Section 135 should be amended to require all qualifying companies to commission third-party impact evaluations of their CSR activities on a biennial cycle, using a common assessment methodology prescribed by the MCA in consultation with NITI Aayog and the Comptroller and Auditor General. The methodology should be anchored in the capability indicators articulated by Sen and Nussbaum and the SDG targets adopted by India, enabling measurement of outcomes in terms of expanded human capabilities and SDG progress rather than merely financial inputs and physical outputs.³⁰

²⁹ French Loi de Vigilance (Duty of Vigilance Law), Law No. 2017-399 of March 27, 2017.

³⁰ Sen, *supra* note 7; Nussbaum, *supra* note 8; Organisation for Economic Co-operation and Development, *OECD Guidelines for Multinational Enterprises* (OECD Publishing 2011).

The aggregate impact data generated through this framework would for the first time enable the MCA, Parliament, civil society organisations, and academic researchers to assess whether mandatory CSR is producing social value commensurate with the regulatory burden it imposes. This would create the evidential foundation for more targeted regulatory intervention — redirecting corporate resources towards high-deprivation areas and activities, identifying implementing partners with credible impact records, and building a national learning infrastructure around effective social investment.

B. Tiered Schedule VII and Geographical Targeting

The current Schedule VII is insufficiently differentiated to direct corporate resources towards the populations and areas of greatest social need. A reformed Schedule VII should adopt a tiered structure that assigns enhanced compliance weight — or provides additional incentive credits — to CSR expenditure in aspirational districts identified by NITI Aayog, scheduled tribe-concentrated areas, and programmes specifically targeting persons with disabilities, manual scavengers and their rehabilitated communities, and victims of gender-based violence. The Multidimensional Poverty Index and SDG India Index provide the necessary data infrastructure for calibrating these differential weights across geographic units.³¹ This reform would redirect the incentive structure created by Schedule VII from a framework in which all qualifying activities are treated as equivalent, regardless of the social urgency of the populations they serve, to one that creates a measurable premium for investment in the most underserved communities. It would not eliminate corporate discretion — companies would retain flexibility in identifying specific projects — but it would create a regulatory architecture that tilts corporate decision-making towards the communities that the Directive Principles mandate the State to prioritise.

C. Strengthened CSR Committee Governance

Section 135 should be amended to require that at least one member of every CSR Committee possess demonstrated expertise in social development, community welfare, impact assessment, or a related field, and that this expertise requirement be subject to verification by independent directors and disclosure in the annual report.

³¹ NITI Aayog, National Multidimensional Poverty Index: A Progress Review 2023 (Government of India 2023); NITI Aayog, SDG India Index and Dashboard 2020–21 (Government of India 2021).

The Committee's statutory mandate should be extended to require preparation of a social impact narrative — assessing outcomes achieved against predefined social welfare indicators — as a component of the annual CSR report filed with the MCA. This narrative disclosure would shift the reporting framework from its current exclusive focus on financial inputs towards a more balanced accountability architecture that requires companies to demonstrate the social value generated by their CSR activities.

D. Coordination with Public Welfare Systems

Mandatory CSR should not operate in institutional isolation from the State's own social development programmes. A reformed framework should introduce a mandatory requirement for qualifying companies to consult with district and state-level planning bodies in developing their annual CSR strategies, and to disclose in their annual reports the development priorities identified through such consultation and the rationale for the activities selected in response. This coordination requirement would improve the developmental coherence of CSR investment, reduce duplication with State programmes, and leverage corporate resources to complement public welfare provisioning in areas where State capacity is constrained.³²

E. Alignment with the UN Guiding Principles and OECD Guidelines

India's mandatory CSR framework should be brought into closer alignment with the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises by introducing a statutory due diligence obligation requiring large qualifying companies to identify and address human rights and social risks in their operations and supply chains.³³ This due diligence requirement should complement the mandatory spend obligation — addressing the harm-prevention dimension of corporate social responsibility alongside the positive contribution dimension. The MCA's National Guidelines on Responsible Business Conduct, revised in 2019, provide the normative foundation for this integrated framework and should be elevated from voluntary guidance to binding regulatory requirements for companies above the Section 135 threshold.

32 Sukhadeo Thorat & Katherine Newman, Caste and Economic Discrimination: Causes, Consequences and Remedies, 42 Econ. & Pol. Wkly. 4121 (2007).

33 United Nations, Guiding Principles on Business and Human Rights (U.N. 2011); OECD, *supra* note 30.

VIII. CONCLUSION

Mandatory CSR under Section 135 of the Companies Act, 2013 represents a significant and internationally distinctive experiment in using corporate law to pursue social welfare objectives. It has succeeded in institutionalising corporate participation in social development and improving the transparency of social spending. These are not trivial achievements in a country where corporate social engagement was previously characterised by inconsistency, opacity, and a limited universe of philanthropic actors.

However, the analysis presented in this article demonstrates that the framework has not produced a proportionate or demonstrable reduction in the structural social inequality that animates its constitutional justification. The compliance-oriented design of Section 135, the governance deficits of CSR Committees, the absence of outcome-based accountability mechanisms, the spatial and sectoral concentration of CSR expenditure in areas and activities of greatest corporate convenience rather than greatest social need, and the enforcement architecture's exclusive focus on procedural compliance together constitute a systemic failure of the regulatory framework to deliver on its redistributive potential.

These failures are not accidental. They reflect a fundamental tension at the heart of the mandatory CSR regime: between the statutory aspiration of directing corporate resources towards the reduction of structural inequality and the operational reality of a compliance framework that evaluates corporate performance by reference to financial inputs rather than social outcomes. Resolving this tension requires not merely technical amendments to the CSR Rules but a reconceptualization of the purpose and design of mandatory CSR — from a fiscal obligation to be discharged through qualifying expenditure, to a strategic corporate commitment to be evaluated against substantive social welfare objectives grounded in the constitutional values of Articles 38 and 39. The reform agenda proposed in this article — mandatory social impact assessment anchored in capability and SDG indicators, a tiered Schedule VII, strengthened CSR Committee governance with social expertise requirements, coordinated alignment with public welfare priorities, and the introduction of a due diligence dimension aligned with international standards — is designed to give effect to this reconceptualization in a manner that is legally coherent, administratively workable, and consistent with India's constitutional commitments and international obligations. Whether the legislature and the Ministry of Corporate Affairs are prepared to take these steps will determine whether mandatory CSR matures into a genuine instrument of social justice or remains, as the evidence thus far suggests, a well-intentioned compliance obligation whose transformative potential remains substantially unrealised.

BIBLIOGRAPHY

A. Statutes and Subordinate Legislation

- i. Companies Act, No. 18 of 2013 (India), SS 134(3)(o), 135(1)– (7), 198, 441, sched. VII.
- ii. Companies (Corporate Social Responsibility Policy) Rules, 2014 (as amended).
- iii. Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021, G.S.R. 40(E) (Jan. 22, 2021).
- iv. Companies (Amendment) Act, 2019; Companies (Amendment) Act, 2020.
- v. Income-tax Act, 1961 (India), S 37(1), Explanation 2.
- vi. Constitution of India, arts. 14, 19(1)(g), 38, 39, 41.
- vii. Companies Act, 2006 (United Kingdom), S 172.
- viii. Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 (Non-Financial Reporting Directive).
- ix. French Loi de Vigilance (Duty of Vigilance Law), Law No. 2017-399 of March 27, 2017.
- x. Securities and Exchange Board of India, Business Responsibility and Sustainability Report xi. Framework, Circular No. SEBI/HO/CFD/CMD-2/P/CIR/2021/562 (May 10, 2021).
- xi. SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.

B. International Instruments

- i. United Nations, Guiding Principles on Business and Human Rights (U.N. 2011).
- ii. Organisation for Economic Co-operation and Development, OECD Guidelines for Multinational Enterprises (OECD Publishing 2011).
- iii. United Nations Global Compact — Ten Principles.
- iv. United Nations Sustainable Development Goals, 2030 Agenda.

C. Case Law

- i. KHS Machinery Pvt. Ltd. v. Registrar of Companies, Special Criminal Application No. of 2025 (Guj. H.C. July 7, 2025).
- ii. Principal Commissioner of Income Tax v. Steel Authority of India Ltd., (2023) SCC OnLine Del (India).
- iii. Tata Iron & Steel Co. Ltd. v. State of Bihar, AIR 1958 SC 452 (India).
- iv. Registrar of Companies v. Pvt. Ltd., National Company Law Tribunal (compounding orders under S 441, Companies Act, 2013).

D. Parliamentary, Government and Committee Reports

- i. High-Level Committee on Corporate Social Responsibility, Report (Ministry of Corporate Affairs, Government of India, 2018).
- ii. Ministry of Corporate Affairs, Report of the Standing Committee on Finance on the Companies Bill, 2012.
- iii. Ministry of Corporate Affairs, Annual Report on Corporate Social Responsibility 2021–22 (Government of India 2022).
- iv. Ministry of Corporate Affairs, National Guidelines on Responsible Business Conduct (Government of India 2019).
- v. Ministry of Corporate Affairs, General Circular No. 21/2014 (June 18, 2014); General Circular No. 14/2021 (Aug. 25, 2021).
- vi. Comptroller and Auditor General of India, Reports on Corporate Social Responsibility in Public Sector Undertakings (2017–19).
- vii. NITI Aayog, National Multidimensional Poverty Index: A Progress Review 2023 (Government of India 2023).
- viii. NITI Aayog, SDG India Index and Dashboard 2020–21 (Government of India 2021).
- ix. National Sample Survey Office, Key Indicators of Household Consumer Expenditure.
- x. European Commission, A Renewed EU Strategy 2011–14 for Corporate Social Responsibility, COM (2011) 681 final (Oct. 25, 2011).

E. Books and Monographs

- i. Amartya Sen, *Development as Freedom* (Oxford Univ. Press 1999).
- ii. Jean Drèze & Amartya Sen, *An Uncertain Glory: India and its Contradictions* (Princeton Univ. Press 2013).
- iii. Martha C. Nussbaum, *Creating Capabilities: The Human Development Approach* (Harvard Univ. Press 2011).
- iv. John Rawls, *A Theory of Justice* (Harvard Univ. Press 1971).
- v. R. Edward Freeman, *Strategic Management: A Stakeholder Approach* (Pitman Publ'g 1984).
- vi. Umakanth Varottil, *Corporate Governance in India* (Oxford Univ. Press 2018).
- vii. B.R. Ambedkar, *Annihilation of Caste* (Navayana Publishing 2014) (1936).
- viii. Vandana Shiva, *Staying Alive: Women, Ecology and Development* (Zed Books 1988).
- ix. Milton Friedman, *Capitalism and Freedom* (Univ. of Chicago Press 1962).
- x. Jeremy Moon, *Corporate Social Responsibility: A Very Short Introduction* (Oxford Univ. Press 2014).

xi. Beate Sjøfjell & Barnali Choudhury, Corporations and Sustainability, in Cambridge Handbook of Corporate Law, Corporate Governance and Sustainability (Cambridge Univ. Press 2020).

F. Journal Articles and Working Papers

i. Archie B. Carroll, The Pyramid of Corporate Social Responsibility: Toward the Moral Management of Organizational Stakeholders, 34 Bus. Horizons 39 (1991).

ii. Milton Friedman, The Social Responsibility of Business Is to Increase Its Profits, N.Y. Times Mag., Sept. 13, 1970.

iii. Dhammika Dharmapala & Vikramaditya Khanna, The Impact of Mandated Corporate Social Responsibility: Evidence from India's Companies Act of 2013, 54 J.L. & Econ. 375 (2018).

iv. Surya Deva, Corporate Social Responsibility in India, 47 Econ. & Pol. Wkly. 18 (2012); Corporate Social Responsibility in India: Revisited, 15 J. Corp. L. Stud. (2015).

v. Andrew Johnston, Reforming English Company Law to Promote Sustainable Companies, 11 Comp. L. Rev. 1 (2011).

vi. Sukhadeo Thorat & Katherine Newman, Caste and Economic Discrimination: Causes, Consequences and Remedies, 42 Econ. & Pol. Wkly. 4121 (2007).