

## **The Jurisprudence of Corporate Social Responsibility (A Comprehensive Analysis)**

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### **Abstract**

This article comprehensively analyzes the jurisprudential dimensions of Corporate Social Responsibility (CSR) within the framework of business and society. Focusing on the legal, ethical, and philosophical aspects, the study traces CSR's evolution from historical origins to its contemporary legal mandates, anchored in Section 135 of the Companies Act, 2013, and its accompanying Rules. The analysis underscores CSR's transformation from voluntary philanthropy to a constitutionally mandated obligation, aligning with fundamental rights and Directive Principles of State Policy (DPSP). By examining legal foundations, ethical considerations, and philosophical implications, the article illuminates the complexities and challenges of balancing corporate interests with societal well-being. This exploration contributes to the ongoing discourse on CSR's pivotal role in achieving equitable development and underscores its significance within the broader jurisprudential landscape.

**Keywords:** Corporate Social Responsibility (CSR), Jurisprudence, Companies Act, 2013, Companies (Corporate Social Responsibility Policy) Rules 2014, Sustainable Development, Inclusive Growth, Ethical Obligations, Corporate Accountability, Social Welfare, Equitable Development, Corporate Governance

### **1. Introduction:**

In the contemporary global landscape, the intricate interplay between corporations and society has transcended traditional business paradigms, giving rise to a transformative concept known as Corporate Social Responsibility (CSR). This multifaceted framework embodies a dynamic fusion of legal, ethical, and philosophical considerations, spotlighting the evolving relationship between corporate entities and the broader societal milieu. The evolution of CSR reflects the maturation of a reciprocal duty – a realization that businesses not only thrive within the fabric of society but also shoulder an intrinsic responsibility to contribute positively to the well-being of the communities they operate within and their environment.

Historically rooted in the aftermath of the Industrial Revolution, where nascent gestures of philanthropy marked the inception of a moral obligation, CSR has since blossomed into a legally defined and socially significant doctrine. The jurisprudence of CSR encapsulates a comprehensive analysis of its legal foundations, ethical underpinnings, and philosophical implications. As corporations transition from being mere profit-driven entities to stewards of social progress, the legal framework of CSR navigates uncharted territories, reconciling corporate interests with societal imperatives.

This article embarks on a comprehensive exploration of the jurisprudence of Corporate Social Responsibility, dissecting its intricate dimensions and contextualizing its evolution within the realm of business and society. Building upon a firm foundation of legal principles, the article delves into the landmark cases, ethical considerations, and philosophical debates that shape the landscape of CSR. From its historical origins, underpinned by moral reciprocity, to its contemporary legal mandates, CSR's transformation reflects the dynamism inherent in its pursuit.

The legal mandate of CSR, as underscored by Section 135 of the Companies Act, 2013, and its subsequent rules, sets forth a structured framework that mandates certain corporations to contribute a portion of their profits toward initiatives that foster societal welfare and sustainable development. This legislative edifice underscores a pivotal shift from voluntary philanthropy to constitutionally mandated social engagement, elevating CSR to a realm where it harmonizes with fundamental rights and Directive Principles of State Policy (DPSP).

Drawing inspiration from legal luminaries, ethical philosophers, and constitutional architects, this article navigates the jurisprudential dimensions of CSR with a keen eye on the convergence of law, ethics, and societal well-being. It explores the tensions between corporate profitability and social responsibility while highlighting the symbiotic potential that lies within this dichotomy. Through the lens of jurisprudence, this article aims to unravel the complexities, challenges, and opportunities that arise as CSR traverses the terrain of legal mandates, ethical considerations, and the broader societal fabric.

## **2. Objective of Research**

In the ensuing sections, we will embark on an immersive journey through the jurisprudence of CSR, dissecting its historical roots, ethical foundations, legal obligations, and philosophical implications. As we traverse this intricate landscape, we aim to shed light on the multifaceted dimensions of CSR, offering a comprehensive analysis that underscores its profound impact on the evolving dynamics of business and society.

## **3. Conceptual Framework of Corporate Social Responsibility:**

Corporate Social Responsibility (CSR) is a multifaceted and dynamic conceptual framework that embodies the intricate interplay between corporations and the broader societal context. Its evolution over time reflects the evolving relationship between businesses and the communities they operate in, encompassing historical, ethical, legal, and practical dimensions.

Historically, the seeds of CSR were sown in the aftermath of the Industrial Revolution when corporations recognized their symbiotic reliance on societal resources. This realization led to voluntary acts of philanthropy as a gesture of reciprocity for the support and resources received from the community. Corporations embraced a moral obligation to contribute positively to society, reflecting a nascent form of CSR.

Over time, this moral underpinning transformed into a more structured and legally defined concept. Governments, acknowledging the potential impact of corporations on society and the environment, enshrined CSR as a legal obligation. Modern CSR mandates, such as those outlined in Schedule VII, require corporations to establish dedicated CSR committees and undertake specific activities that align with sustainable development goals and societal well-being.<sup>2</sup>

Central to the conceptual framework of CSR is the principle of sustainability. Corporations recognize their role as stewards of resources and commit to preserving and passing on a pristine environment to future generations. The principles of intergenerational equity emphasize the responsibility to ensure that the resources utilized today do not compromise the needs and rights of future generations. Similarly, intragenerational equity underscores the equitable distribution of resources within the current population.

*Salmond's* theory of correlative duty aptly encapsulates the essence of CSR as a reciprocal obligation.<sup>3</sup> Corporations benefit from societal resources, labor, and services, and in return, they are expected to contribute to societal well-being. This correlative duty is further reinforced by the legal

concept of corporate personhood, as advocated by *Savigny*, which grants corporations both rights and responsibilities analogous to individuals.<sup>4</sup>

The advantages of embracing CSR are manifold. It aligns economic success with social progress, yielding benefits for both corporations and society. CSR initiatives enhance a company's reputation, fostering trust and loyalty among consumers. It also appeals to socially conscious investors who prioritize ethical and responsible business practices. Moreover, CSR can lead to cost savings through improved resource efficiency and employee retention.<sup>5</sup>

However, challenges persist within the realm of CSR. Implementing comprehensive CSR programs can be financially demanding, particularly for smaller businesses. The tension between profit maximization and social responsibility raises ethical dilemmas for corporate decision-makers. The phenomenon of "greenwashing" reminds us that tangible and substantive actions are paramount to truly effect positive change.<sup>6</sup>

In conclusion, the conceptual framework of CSR encapsulates the evolving relationship between corporations and society, from its moral origins to its contemporary legal mandates. It emphasizes sustainable practices, intergenerational equity, and the correlative duty between corporations and the communities they operate in. While challenges exist, the far-reaching benefits of CSR underscore its profound importance in fostering a harmonious coexistence between business success and societal well-being.

#### **4. Jurisprudential Dimensions of Corporate Social Responsibility:**

Corporate Social Responsibility is a multifaceted concept that brings together legal, ethical, and philosophical considerations within the realm of business and society. At its core, CSR underscores the responsibility of corporations to go beyond their financial interests and actively contribute to the well-being of society and the environment. This discussion explores the jurisprudential aspects of CSR, encompassing a range of viewpoints and insights from legal thinkers and philosophers.

##### ***Legal Foundation and Imposition:***

CSR finds its roots in legal mandates, as states impose these responsibilities on corporate entities through legislation and regulations. Corporations, possessing legal personality, are bound by the legal legitimacy of CSR, supported by potential penalties. While CSR is a legal obligation, its ethical underpinnings and social objectives often extend beyond mere legal compliance. This dual nature of CSR introduces an intricate interplay between legal duty and moral responsibility.

##### ***Balancing Social, Environmental, and Economic Needs:***

The essence of CSR lies in striking a balance between the social, environmental, and economic needs of society. This equilibrium requires corporations to consider the long-term implications of their actions on multiple fronts. From an ethical perspective, CSR aims to maximize the greater good for the majority, echoing the utilitarian principles of *Jeremy Bentham*.<sup>7</sup> The emphasis on societal welfare sometimes necessitates a secondary consideration of individual interests, as emphasized by *Ronald Dworkin*.<sup>8</sup>

##### ***Ethics, Accountability, and Stakeholder Theory:***

The ethical dimension of CSR transcends legal mandates, focusing on the responsible utilization of societal resources and labor. This accountability is rooted in the premise that corporations should reciprocate for what they draw from society. However, the introduction of stakeholder theory by *Wood* presents a paradox, questioning whether CSR is solely about societal benefits or if it also

encompasses a broader set of stakeholders, challenging the ethics of enforcement.<sup>9</sup>

#### ***Evolving from Voluntary to Legal Obligation:***

The evolution of CSR from a voluntary commitment to a legal requirement highlights the shifting dynamics between corporations and society. Initially motivated by a desire to contribute to sustainability voluntarily, corporations now bear a legal duty to return to society for their resource consumption. This transformation underscores the complexities of translating ethical ideals into legally enforceable obligations.

#### ***Absolute Liability vs. Correlative Duty:***

The debate over absolute liability, advocated by *Austin*, *Allen*, and *Hibbert*,<sup>10</sup> versus the concept of correlative duty, as proposed by *Salmond*, introduces philosophical nuances.<sup>11</sup> Absolute liability imposes unmitigated responsibility, while *Salmond* argues for a correlative duty arising from granted rights.<sup>12</sup> This conceptual disagreement further challenges the practical implementation of CSR and the nature of corporate accountability.

#### ***Human Rights Perspective and Pragmatism:***

*Henkin* introduces the linkage between human rights and CSR, emphasizing the role of social expectations and corresponding legal obligations.<sup>13</sup> This perspective underscores the interconnectedness of legal, ethical, and societal considerations. However, *Dworkin*'s critique of a pragmatic approach to the law highlights potential conflicts between achieving societal benefit and safeguarding individual interests.<sup>14</sup>

#### ***Libertarianism and Market Allocations:***

*Nozick*'s libertarian perspective raises questions about the extent to which individual liberty and property rights should influence CSR. The focus on market allocations, even at the expense of creating disparities, challenges the equilibrium between societal well-being and individual rights.<sup>15</sup>

#### ***Law as a Factual Sense and Social Discrepancy:***

*Karl Olivecrona*'s assertion that law exists in a factual sense emphasizes the importance of societal perception. This perspective acknowledges that while laws serve the greater good, they may inadvertently compromise individual liberties. A regulatory framework that disregards individual rights could potentially lead to social discrepancies and dissatisfaction.<sup>16</sup>

To sum up the segment, it is fair to say that the jurisprudential aspect of Corporate Social Responsibility navigates a complex landscape of legal obligations, ethical considerations, and philosophical debates. CSR's transformation from voluntary action to legal compulsion underscores the dynamic interplay between corporations, society, and the law. While the pursuit of societal welfare often takes precedence, challenges arise in balancing this objective with individual rights and corporate interests. The integration of ethical ideals, legal mandates, and societal expectations shapes the ever-evolving nature of CSR within the broader context of jurisprudence.

### **5. Constitutional Aspects of Corporate Social Responsibility:**

Corporate Social Responsibility has evolved into a multifaceted concept that interweaves with constitutional principles, particularly within the framework of the Indian Constitution. This comprehensive perspective reveals how CSR transcends corporate governance to become a conduit for upholding fundamental rights, fostering social welfare, and aligning with the overarching

objectives of the Directive Principles of State Policy (DPSP).

The foundation of CSR's constitutional relevance rests on Article 14 of the Indian Constitution, which ensures equality before the law and equal protection.<sup>17</sup> Corporations, as legal entities, derive rights and responsibilities from this principle, harmonizing their duties with societal needs. The Constitution's allowance for rational classification of legislation is mirrored in CSR, as corporations are subject to specific obligations under the Companies Act, often complementing the Constitution's focus on equitable treatment.

Integral to this relationship is Article 21, which extends beyond the right to life to encompass dignified living.<sup>18</sup> CSR's role in addressing essentials like food, shelter, healthcare, and clean water indirectly aligns with the constitutional commitment to individual well-being. Judicial interpretations, exemplified by cases like *Bandhua Mukti Morcha v. Union of India*, highlight CSR as a catalyst for enforcing fundamental rights, particularly Article 21.<sup>19</sup>

Moreover, CSR's relevance to education, a fundamental right enshrined under Article 21A, is undeniable.<sup>20</sup> The right to education is extended to the right to free education up to a certain age, disregarding socioeconomic constraints. Thus, CSR's potential to support educational programs becomes inherently linked to the constitutional ethos of equitable access to education.

The expanded dimensions of Article 21 encompass environmental rights, fostering a linkage between CSR and environmental protection. A clean and healthy environment is viewed as intrinsic to the right to life. This aligns with CSR's role in conservation, sustainable development, and protection of natural resources. The precedence of environmental protection over economic concerns, established in various legal precedents, strengthens this intersection.

Additionally, Article 48A's mandate to protect the environment and safeguard forests and wildlife extends the constitutional canvas of CSR to ecological stewardship.<sup>21</sup> CSR initiatives focusing on environmental sustainability, afforestation, and waste management align with the constitutional commitment to preserve the environment for future generations.

CSR's resonance with the right to livelihood considered an integral part of the right to life, introduces yet another constitutional facet. By supporting livelihood programs, CSR contributes to the constitutionally guaranteed right to a stable and dignified life.

The synergy between CSR and the cultural rights encapsulated in Articles 29 and 30 is palpable, especially concerning the promotion of traditional arts, crafts, and cultural heritage.<sup>22</sup> Furthermore, the comprehensive nature of CSR dovetails with Article 47's mandate of raising the level of nutrition and standard of living, indicating an alignment between CSR efforts and constitutional directives.<sup>23</sup>

The incorporation of CSR into the framework of fundamental rights necessitates its transformation from voluntary corporate philanthropy to a constitutionally mandated endeavor. The argument for mandatory CSR is anchored in the obligation to uphold constitutional principles and achieve societal equity. Legislative measures could establish penalties for non-compliance, ensuring that CSR resonates with the constitutionally guaranteed rights.

Corporate Social Responsibility (CSR) is a dynamic concept that interfaces with constitutional principles, particularly the Directive Principles of State Policy (DPSP) enshrined in the Indian Constitution. The amalgamation of CSR and DPSP provisions delineates a comprehensive framework that harmonizes corporate obligations with the broader goals of societal welfare and equitable development.

Article 39 of the DPSP underscores the state's responsibility to ensure that the ownership and control of material resources are so distributed as to subserve the common good.<sup>24</sup> This resonates with CSR's role in promoting equitable development by fostering initiatives that uplift marginalized sections and

contribute to social inclusivity. CSR activities directed towards skill development, livelihood enhancement, and income generation align with the spirit of Article 39.

Furthermore, Article 41 of the DPSP obliges the state to secure, through suitable legislation or economic organization, all citizens the right to work, education, and public assistance in cases of unemployment, old age, sickness, and disablement.<sup>25</sup> CSR initiatives geared towards employment generation, education, and social welfare resonate with the principles enshrined in Article 41, thereby synergizing corporate efforts with constitutional directives.

The cohesive integration of CSR with DPSP provisions extends to cultural rights as well. Article 49 of the DPSP underscores the preservation of monuments, places, and objects of artistic or historic interest as a cultural imperative.<sup>26</sup> CSR initiatives directed at heritage preservation, art, and culture conservation align with the principles enshrined in Article 49.

In conclusion, the constitutional aspects of CSR underscore its intricate connection with fundamental rights and DPSP. By embracing CSR through a constitutional lens, corporations fulfill their ethical and constitutional obligations, contributing to a just, equitable, and sustainably developed India as envisioned by the framers of the Indian Constitution.

## **6. Legal Validity of Corporate Social Responsibility in India:**

Corporate Social Responsibility in India holds legal validity through the provisions outlined in Section 135 of the Companies Act, 2013,<sup>27</sup> along with the Companies (Corporate Social Responsibility Policy) Rules, 2014.<sup>28</sup> These legislative instruments establish the legal framework that mandates certain companies to engage in CSR activities.

According to Section 135, companies meeting specific financial thresholds are required to allocate a portion of their profits toward CSR initiatives. The law stipulates that companies falling within the criteria of having a net worth of Rs. 500 crore or more, a turnover of Rs. 1,000 crore or more, or a net profit of Rs. 5 crore or more, during any financial year, must constitute a Corporate Social Responsibility Committee of their Board. This committee is entrusted with formulating a CSR policy that outlines the scope and areas of CSR activities the company intends to undertake.

The CSR policy, as per the law, should focus on activities that promote inclusive growth, and sustainable development, and benefit marginalized and underserved sections of society. It provides a list of eligible CSR activities across various categories, such as eradicating hunger and poverty, promoting education, ensuring environmental sustainability, empowering women, and supporting rural development, among others.<sup>29</sup>

The law emphasizes that CSR activities should be undertaken in “project/program” mode, with specific, measurable, and time-bound goals. Furthermore, companies are required to spend at least 2% of their average net profits from the preceding three financial years on CSR initiatives.

Companies subject to the law are also required to report on their CSR activities in their annual reports, providing details about their CSR policy, committee composition, expenditure, and specific projects. Failure to comply with the CSR spending requirements or the reporting obligations can result in penalties, and non-compliant companies are required to provide explanations for their non-compliance.

To conclude, one can say the legal validity of Corporate Social Responsibility in India is established by the provisions of Section 135 of the Companies Act, 2013, and the accompanying Rules. These legal requirements mandate certain companies to allocate a portion of their profits towards socially responsible activities aimed at contributing to the betterment of society and promoting sustainable development.

## 7. Conclusion:

This study The Jurisprudence of Corporate Social Responsibility (CSR) encapsulates a journey through the intricate nexus of law, ethics, and societal progress, revealing a narrative of evolving responsibilities and dynamic partnerships between corporations and the communities they serve. As this comprehensive analysis has unveiled, CSR transcends its historical roots as a voluntary philanthropic endeavor, now firmly entrenched within the legal and constitutional fabric of nations like India.

From its nascent origins intertwined with post-Industrial Revolution reciprocity, CSR has blossomed into a multi-dimensional concept, one that mandates corporate entities to allocate a portion of their profits towards initiatives that advance inclusive growth, sustainable development, and social welfare. The legal foundation, firmly established by Section 135 of the Companies Act, 2013, etches into law an obligation that transforms CSR from an ethical aspiration to a tangible commitment.

In this contemporary landscape, corporations are not merely profit-driven entities, but pivotal contributors to societal well-being. This transition underscores the transformative power of CSR and its alignment with fundamental rights, constitutional directives, and ethical principles. The symbiotic interplay between corporate profitability and social responsibility, once perceived as opposing forces, now harmonizes within a holistic framework that fosters a harmonious coexistence between business interests and societal welfare.

The jurisprudence of CSR navigates through intricate debates surrounding legal enforceability, ethical authenticity, and philosophical underpinnings. It unearths complexities that arise when translating ethical ideals into actionable legal mandates, balancing individual rights with societal good, and addressing challenges that range from resource constraints to the ethics of enforcement.

The jurisprudential examination of CSR resonates beyond the realm of business and legal academia. It reverberates in courtrooms where cases of corporate accountability are adjudicated, in boardrooms where strategic decisions are crafted, and in the corridors of policymaking where the trajectory of societal progress is charted. As jurisprudence interlaces with CSR, it provides a roadmap for harmonizing economic aspirations with the imperatives of social justice and environmental stewardship.

In this closing reflection, we must acknowledge that the jurisprudence of CSR is not static; it is a living, breathing discourse that evolves with societal expectations, legislative reforms, and global dynamics. As businesses traverse an ever-changing landscape, the interplay between CSR and the law will continue to shape the contours of responsible corporate conduct.

As the ink dries on this comprehensive analysis, we stand at the crossroads of an interconnected future, where the compass of jurisprudence guides corporate endeavors toward societal betterment. In the grand tapestry of the legal landscape, CSR emerges as a vibrant thread, woven seamlessly into the fabric of justice, ethics, and progress. It is through the synergy of law and conscience that CSR unfurls its wings, embarking on a journey towards a future where the corporate quest for profit aligns harmoniously with the pursuit of a better world.

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- [23] *Ibid.* Article 39, Certain principles of policy to be followed by the State.
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- [26] *The Companies Act, 2013*, Section 135 of the Act mandates that companies with a net worth of Rs. 500 crore or more, a turnover exceeding Rs. 1,000 crore, or a net profit of at least Rs. 5 crore during a financial year must establish a Corporate Social Responsibility (CSR) Committee consisting of at least three directors, including one independent director. This committee is entrusted with formulating a CSR Policy, recommending the budget for CSR activities, and monitoring the company's adherence to the CSR Policy. The Board of Directors is responsible for approving this CSR Policy, disclosing it in the annual report and on the company's website, if applicable, and ensuring the implementation of the CSR activities outlined in the policy. Notably, these companies are required to spend at least 2% of their average net profits over the preceding three years on CSR initiatives annually. Preference is to



be given to the local areas where the company operates for this spending. Failure to meet this spending requirement necessitates providing reasons for non-compliance in the annual report. The calculation of “average net profit” is in accordance with the provisions of Section 198 of the Act.

[27] *The Companies (Corporate Social Responsibility Policy) Rules, 2014.*

[28] *The Companies Act, 2013, Schedule VII.*