

BETWEEN EFFICIENCY AND RIGHTEOUSNESS—THE AFTERMATH OF MANDATING CSR IN INDIA

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Efficiency corresponds to the “size of the pie,” while equity [righteousness] has to do with how it is sliced.

Mitchell Polinsky¹

ABSTRACT

The Indian Corporate Social Responsibility (CSR) law was enacted to encourage the social responsibility performance of medium to large companies and to promote the implementation of public policies. While the law has led to an increase in Indian companies' CSR projects with a certain degree of efficiency, there are concerns about the righteousness of the projects. Many CSR initiatives only address surface-level social needs, rather than fully integrating CSR principles into corporate decision-making process. This warrants a critical review of the Indian CSR law to ensure that it not only promotes sustainable business practices but also addresses pressing social issues.

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¹ Monica Florentina Popa, *What the Economic Analysis of Law Can't Do—Pitfalls and Practical Implications*, 11 JUD. TRIB. 81, 84 (2021) (quoting A. MITCHELL POLINSKY, AN INTRODUCTION TO LAW AND ECONOMICS (Wolters Kluwer, 4th ed. 2021)).

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INTRODUCTION

Corporate social responsibility (CSR) encompasses companies' various obligations towards society, the economy, the environment, and all stakeholders involved in their operations.² It is a vital component of modern business and corporate management that seeks to achieve lasting sustainability and establish an accountable corporate culture.³ CSR has played a vital role in transforming the traditional understanding of corporate management into a means of pursuing public policy objectives beyond ordinary business interests.

Indian corporate management has traditionally embraced four operational models to tackle CSR: the ethical, statist, liberal, and stakeholder models.⁴ Among these, the ethical model stands out. It draws from religious values and Gandhian thought to champion moral and

² See Peter Utting, *CSR and Policy Incoherence*, in *FAIR TRADE, CORPORATE ACCOUNTABILITY AND BEYOND: EXPERIMENTS IN GLOBALIZING JUSTICE* 170 (Kate Macdonald & Shelley Marshall eds., Ashgate 2010).

³ See Gordon Renouf, *Fair Consumption? Consumer Action on Labour Standards*, in *FAIR TRADE, CORPORATE ACCOUNTABILITY AND BEYOND: EXPERIMENTS IN GLOBALIZING JUSTICE*, at 191.

⁴ See RITU KUMAR ET AL., *ALTERED IMAGES: THE 2001 STATE OF CORPORATE RESPONSIBILITY IN INDIA* POLL 1–5 (2001).

socially responsible business practices. This approach resonates deeply with the core values of Indian corporate culture.⁵ The statist model emphasizes the economic policies of postcolonial India, highlighting the state's role in driving socioeconomic development.⁶ The liberal model prioritizes profit motives and market-driven approaches to CSR, focusing on the idea that responsible business practices can align with the pursuit of economic gains.⁷ Lastly, the stakeholder model, built upon Freeman's stakeholder responsibility concept, emphasizes considering the interests of all stakeholders in shaping CSR initiatives and organizational decision-making.⁸ Although the evolution of CSR regulation in India have verified and utilized these models, companies in this country do not strictly adhere to any one model but rather tactically use elements from multiple models that best suit their business interests.⁹

In the absence of a universal model for adopting CSR principles, countries implement various policies to incorporate these principles into corporate self-regulation. In most cases, countries follow either of two forms: business-constraining or business-supporting policies.¹⁰ Business-constraining policies, for example, would require companies to publish sustainability reports.¹¹ Such a measure would make companies transparent about their performances to their stakeholders and consumers, and face accountability threats to save their brand image. It is a public-private partnership where the partners share the burden of reaching a public policy goal. Business-supporting policies depend on the voluntary

⁵ Rahul Mitra, "My Country's Future": *A Culture-Centered Interrogation of Corporate Social Responsibility in India*, 106 J. BUS. ETHICS 131, 132–33 (2012); see generally GLYN RICHARDS, *THE PHILOSOPHY OF GANDHI: A STUDY OF HIS BASIC IDEAS* (Taylor & Francis 2005) (1991) (surveying the philosophical and theoretical ideas of Mohandas K. Gandhi).

⁶ NANDAN NILEKANI, *IMAGINING INDIA: IDEAS FOR THE NEW CENTURY*: [EXCLUSIVE EXCERPTS] (Allen Lane, 2008); Bimal Arora & Ravi Puranik, *A Review of Corporate Social Responsibility in India*, 47 DEVELOPMENT 93, 96–98 (2004).

⁷ Milton Friedman, *A Friedman Doctrine—The Social Responsibility of Business Is to Increase Its Profits*, N.Y. TIMES, Sept. 13, 1970, at 122.

⁸ See R. EDWARD FREEMAN, *STRATEGIC MANAGEMENT: A STAKEHOLDER APPROACH* 38 (Cambridge Univ. Press 2010) (1984).

⁹ Mitra, *supra* note 5, at 132–33.

¹⁰ For more about these CSR public policies, see TOM FOX ET AL., *THE WORLD BANK, PUBLIC SECTOR ROLES IN STRENGTHENING CORPORATE SOCIAL RESPONSIBILITY: A BASELINE STUDY* (World Bank, 2002); Jean-Pascal Gond et al., *The Government of Self-Regulation: On the Comparative Dynamics of Corporate Social Responsibility*, 40 ECON. & SOC'Y 640 (2011); Jette Steen Knudsen et al., *Government Policies for Corporate Social Responsibility in Europe: A Comparative Analysis of Institutionalisation*, 43 POL'Y & POL. 81 (2015).

¹¹ See, e.g., Knudsen et al., *supra* note 10, at 89.

initiatives of companies to meet their competition in the markets strategically.¹²

Choosing one of these forms is a vital matter in any state's regulatory framework for CSR. Indeed, this choice depends on the unique mix of interests and influence of those involved in policymaking process, which varies depending on the political and economic climate.¹³ In Spain, corporate entities gained control over the formation of CSR policies aimed at enhancing business accountability for the impacts their operations had on the public.¹⁴ This led companies to develop a policy that enabled them to leverage CSR as a strategic advantage.¹⁵ A similar collaborative approach between government and business arose in the United Kingdom, where CSR policy was designed to improve the acceptance of liberal economic policies.¹⁶ Furthermore, the European Union revised its CSR policy to function as a resource for companies.¹⁷ The European Union strengthened its CSR regulations following the Great Recession.¹⁸ In Denmark, for instance, CSR policies have fluctuated because of the differences in ideologies among different ruling political parties; this has led to some measures in this country advantaging businesses and others restricting them.¹⁹ The National Voluntary Guidelines for the Social, Environmental and Economic Responsibilities of Business 2011 was the first major CSR policy in India.²⁰ This country, however, undermined this business-supporting policy by inserting Section 135 in its Companies Act 2013—an outcome of several business-constraining policies.

¹² Krichewsky finds such measures profit-driven *modi operandi*. For details of his arguments, see Damien Krichewsky, *CSR Public Policies in India's Democracy: Ambiguities in the Political Regulation of Corporate Conduct*, 19 BUS. & POL. 510, 512 (2017).

¹³ Knudsen et al., *supra* note 10, at 85, 92–93.

¹⁴ Krichewsky, *supra* note 12, at 512.

¹⁵ See, e.g., Pablo Archel et al., *The Institutionalisation of Unaccountability: Loading the Dice of Corporate Social Responsibility Discourse*, 36 ACC., ORGS. & SOC'Y 327, 334 (2011).

¹⁶ Daniel Kinderman, 'Free Us Up So We Can Be Responsible!' *The Co-Evolution of Corporate Social Responsibility and Neo-Liberalism in the UK, 1977–2010*, 10 SOCIO-ECON. REV. 29, 30–31, 38 (2012).

¹⁷ See Daniel Kinderman, *Corporate Social Responsibility in the EU, 1993–2013: Institutional Ambiguity, Economic Crises, Business Legitimacy and Bureaucratic Politics*, 51 J. COMMON MKT. STUD. 701, 716–17 (2013).

¹⁸ *Id.* at 711–712.

¹⁹ Steen Vallentin, *Governmentalities of CSR: Danish Government Policy as a Reflection of Political Difference*, 127 J. BUS. ETHICS 33, 43–45 (2015).

²⁰ Jayati Sarkar & Subrata Sarkar, *Corporate Social Responsibility in India—An Effort to Bridge the Welfare Gap*, 7 REV. MKT. INTEGRATION 1, 3–4 (2015).

The Companies Act 2013²¹ aims to mainstream “the practice of business involvement in CSR and make [businesses] socially, economically and environmentally responsible.”²² This legislation is a rare global example of CSR requirements. It compels companies to engage in CSR activities while also specifying the percentage of profits they must dedicate to funding these initiatives.²³ As such, the objectives of this law are to (a) make companies act ethically, (b) raise corporate awareness of broader stakeholder concerns, and (c) ensure a systematic contribution from specific companies to support rightful causes in society. Companies with a net worth of five hundred crore rupees or more, a turnover of one thousand crore rupees or more, or a net profit of five crore rupees or more in the previous financial year are required to establish a CSR committee within their board of directors.²⁴ This committee must consist of at least three directors, including one independent director.²⁵ The committee is responsible for developing the company’s CSR policy, ensuring that the company allocates at least 2 percent of its net profits to social responsibilities, and overseeing the implementation of CSR initiatives.²⁶ The Act outlines specific sectors to guide companies in selecting areas for their CSR spending. Additionally, it requires companies to adopt a “comply or explain” approach for their CSR expenditures; if companies do not meet the required spending, they must provide an explanation in their annual report.²⁷

It is disappointing to see that corporate entities have consistently fallen short of meeting these expectations. Companies that could spend more than 2 percent have reduced their spending.²⁸ The law influences the increase in disclosures, but these disclosures primarily explain companies

²¹ The Companies Act, 2013, § 135 (India).

²² MINISTRY OF CORP. AFFS., REPORT OF THE HIGH LEVEL COMMITTEE ON CORPORATE SOCIAL RESPONSIBILITY 2018, at 22 (2019) (India).

²³ Lucia Gatti et al., *Are We Moving Beyond Voluntary CSR? Exploring Theoretical and Managerial Implications of Mandatory CSR Resulting from the New Indian Companies Act*, 160 J. BUS. ETHICS 961, 967 (2019).

²⁴ Afra Afsharipour, *Corporate Social Responsibility and the Corporate Board: Assessing the Indian Experiment*, in GLOBALISATION OF CORPORATE SOCIAL RESPONSIBILITY AND ITS IMPACT ON CORPORATE GOVERNANCE 95, 107–08 (Jean J. du Plessis et al. eds., 2018).

²⁵ The Companies Act, 2013, § 135(1) (India).

²⁶ The Companies Act, 2013, § 135(3), (5) (India).

²⁷ Amit Kumar & Indrajit Dube, *The Paradox of Corporate Purpose in India: Shareholder Primacy Versus Stakeholder Model*, 25 AUSTRALIAN J. ASIAN L. 69, 78 (2024).

²⁸ *Id.*; Dhammika Dharmapala & Vikramaditya Khanna, *The Impact of Mandated Corporate Social Responsibility: Evidence from India’s Companies Act of 2013*, 56 INT’L REV. L. & ECON. 92, 100 (2018).

reasons for not utilizing the required CSR funds.²⁹ Most importantly, instead of leveraging their potential for social development, companies often prioritize their own interests, drawing criticism for their misuse of power.³⁰ Moreover, while the negative impacts of corporate activities are emphasized by law, these effects often surpass the regulatory capacity of government organizations, and corporate initiatives to address these issues remain minimal.³¹

This legal provision rather contributed to the gradual shift of the *private governance* of CSR towards the growing *government of self-regulation* of CSR. This shift indicates a reassertion of states' power and political goals in an area that was initially planned to rely on private ordering systems. While we are yet to determine the outcome of this shift in CSR performance, there is already a great deal of debate on the drawbacks this shift might cause to the objectives of CSR. Krichewsky argues that such a shift might ultimately further institutionalize the private forms of governance in CSR regulation and might "end up transforming the regulatory power of the state by promoting and legitimizing companies' control over the performance of business relevant regulatory and social welfare redistributive functions."³²

Has the CSR law in India influenced companies to change their approach towards CSR? Assessing the *righteousness* of several influential companies' recent CSR performances will help answer this critical question and is the goal of this paper. In simple terms, righteousness is about doing morally and justifiably right things. The concept of doing the right thing can be interpreted in many different ways. It can refer to having a moral code or a set of values that guides our outcomes, or it could refer to a particular action or set of actions that are seen as being morally correct or just.³³ Righteousness allows us or society to decide what is right and

²⁹ Kumar & Dube, *supra* note 27, at 78; Ritika Gupta & Jadhav Chakradhar, *The Consequences of Mandatory Corporate Social Responsibility Expenditure: An Empirical Evidence from India*, 127 BUS. & SOC'Y REV. 49, 56 (2022).

³⁰ Cf. Gupta & Chakradhar, *supra* note 29, at 75–76 (discussing numerous incentives for prioritizing shareholder interests over stakeholder interests).

³¹ In 2008, Trucost, a consultancy firm based in London, calculated that "the 3,000 biggest public companies in the world" caused environmental damage worth \$2.2 trillion—an amount greater than the economies of all but seven countries worldwide in 2008. Juliette Jowit, *World's Top Firms Cause \$2.2tn of Environmental Damage, Report Estimates*, THE GUARDIAN (Feb. 18, 2010, 1:19 PM), <https://www.theguardian.com/environment/2010/feb/18/worlds-top-firms-environmental-damage> [<https://perma.cc/DL9T-QLDW>].

³² Krichewsky, *supra* note 12, at 511.

³³ The most commonly discussed theories of righteousness are utilitarianism, natural law, deontology, virtue ethics, and social contract theory. According to utilitarianism, an action is

wrong and to act in accordance with our own social moral code. The concepts of efficiency and righteousness are intertwined in many ways and are vital considerations in assessing regulatory impacts on CSR performances. *Efficiency* is the act of achieving a desired goal in the most efficient manner possible. It is frequently characterized in terms of economic efficiency, meaning to use the least resources to achieve the desired outcome. It is also about looking for new and creative ways to use resources or using existing resources in a more efficient manner.

The largest three hundred companies in India contributed to about two-thirds of the country's yearly, average CSR spending, or nearly ten thousand crore rupees, in 2020.³⁴ With such a large input, it is critical to comprehend how companies decide on their activities, programs, and funding, as well as to research whether these decisions are actually socially responsible. Many studies have evaluated the drawbacks and opportunities of Section 135 of the Companies Act 2013; however, few have examined the historical context of its development. As a result, they have missed the opportunity to assess the law's impact from an ethno-political perspective. This study aims to fill that gap. It finds that while this legal regulation of CSR increases the volume of CSR programs, the overall outcomes of these programs do not align with the long-standing societal expectations of Indian companies. In the absence of any law regarding CSR, large Indian companies engaged in significant philanthropic activities with an ethical and moral basis; they made substantial contributions to society during the early stages of nation-building. The introduction of CSR legislation has had a minimal impact on improving companies' social responsibility performance. In fact, it appears to be a cultural "misfit" for Indian businesses, which raises concerns that the legislation may not only fail to

deemed to be morally right if it results in the greatest amount of overall benefit for society. This theory is often referred to as "the greatest good for the greatest number". Utilitarianism is based on the idea that the most important thing is to maximize the overall benefit for society, rather than focusing on the individual. Natural law theory advocates the idea that morality is inherent in the world and that it is our responsibility to act in accordance with this morality. Some refer this theory as "the law of nature" or "the law of God". Regardless of the differences in its names, this theory takes morality as an absolute and insists others to act in accordance with this morality. Embracing deontology means believing in the inherent rightness or wrongness of certain actions, irrespective of their outcomes. Conversely, virtue ethics advocates for the necessity of specific virtues or qualities in leading a morally upright life and encourages aligning our actions with these virtues. The theory of social contract denotes that an action is deemed to be morally right if it is in accordance with this implicit agreement. It is based on the idea that individuals are bound by an implicit agreement to act in a certain way.

³⁴ Srishiti & Tavleen Singh, *Why This Is Not CSR: A Study of 5 Major Corporates*, DOWN TO EARTH (Dec. 9, 2020, 6:36 PM), <https://www.downtoearth.org.in/blog/governance/why-this-is-not-csr-a-study-of-5-major-corporates-74587> [<https://perma.cc/9GTB-VH33>].

achieve its intended goals but also distort the social heritage that Indian companies have traditionally upheld.

The rest of this paper proceeds as follows. Part I analyzes the definitional features of CSR to show how it prioritizes righteousness over efficiency. Part II provides a brief overview of the legislative changes in CSR regulation while arguing that India's recent approach to mandatory CSR was motivated by the logic of efficiency, aimed at maximizing CSR. The ultimate goal was to encourage improved corporate conduct and accountability for their deeds. Part III applies the regulatory impact of the CSR regime to the recent CSR programs of five leading Indian companies. It assesses their performances in terms of righteousness, which brings us to the final section of this paper. Part IV offers a critical assessment of Section 135, arguing that this legal provision allows companies to disregard pressing social issues and, with that, fails to ensure meaningful CSR performance. Section V concludes by arguing that the Indian CSR regime needs to adopt a moral approach of righteousness that extends beyond the efficient ordering and market-based approach to CSR.

I. CORPORATE SOCIAL RESPONSIBILITY: A TURN TOWARDS RIGHTEOUSNESS

CSR is an adaptable concept.³⁵ Its meaning comes from its versatility and ability to overlap with other concepts. Some scholars argue that this concept is not just a source of competitive advantage, but a vital response to the growing “demands of key stakeholders such as employees, investors, consumers and environmentalists.”³⁶ In a restricted sense, however, it may refer to a multidimensional organizational phenomenon that describes how an organization is actively accountable for its actions (and inaction) to safeguard the interests of its stakeholders. In a broader sense, CSR refers to doing the right thing, where attaining the goals and ideals of society appears to be the most important objective. If we consider CSR as doing the correct thing, it should have a positive impact on society. A narrower definition of CSR, on the other hand, implies a logic of

³⁵ Michael Hopkins, *Corporate Social Responsibility: An Issues Paper* 22 (Pol’y Integration Dep’t World Comm’n on the Soc. Dimension of Globalization Int’l Lab. Off., Working Paper No. 27, 2004).

³⁶ *An Overview of Corporate Social Responsibility in Croatia*, BUS. FIGHTS POVERTY (May 13, 2004), <https://businessfightspoverty.org/an-overview-of-corporate-social-responsibility-in-croatia/> [https://perma.cc/3X3E-DGNA]; Tammie S. Pinkston & Archie B. Carroll, *A Retrospective Examination of CSR Orientations: Have They Changed?*, 15 J. BUS. ETHICS 199, 199–200 (1996).

efficiency in which CSR is viewed as a promise built into the way a business operates. In this study, I aim to place these two perspectives on CSR within two distinct moral frameworks.

The growing adoption of CSR in corporate practice and the business-society relationship indicates that the underlying driver of CSR practice is transitioning from *efficient* to *righteous*. Stakeholders increasingly demand that companies operate socially responsibly.³⁷ This rising expectation of corporate behaviour, particularly in how it is reflected in an organization's CSR policy, is "an inescapable reality for business."³⁸ As a result, CSR performance has evolved beyond simply being an altruistic response to requests for support.³⁹ With strategic thinking, corporate leaders now aim to develop CSR initiatives that can provide a competitive edge. Efficient management of CSR initiatives is crucial for corporate management; the better companies manage CSR, the more they align with their business strategies and goals.⁴⁰ While efficient management of CSR can support the business progress of a company, this is not the core objective of demanding CSR. CSR represents a holistic approach to business that seeks to generate positive social and environmental impact alongside financial success.⁴¹ The stakeholder demand for CSR includes ethical, sustainable, and responsible business

³⁷ N. Craig Smith, *Bounded Goodness: Marketing Implications of Drucker on Corporate Responsibility*, 37 J. ACAD. MKTG. SCI. 73, 74 (2009); Archie B. Carroll & Kareem M. Shabana, *The Business Case for Corporate Social Responsibility: A Review of Concepts, Research and Practice*, 12 INT'L J. MGMT. REVS. 85, 95, 98, 100 (2010); OC FERRELL ET AL., *BUSINESS & SOCIETY: A STRATEGIC APPROACH TO SOCIAL RESPONSIBILITY & ETHICS* (Sage Publ'ns, 6th ed. 2020).

³⁸ Michael E. Porter & Mark R. Kramer, *Strategy & Society: The Link Between Competitive Advantage and Corporate Social Responsibility*, HARV. BUS. REV., Dec. 2006, at 78, 78.

³⁹ See Jessica Foote et al., *Corporate Social Responsibility: Implications for Performance Excellence*, 21 TOTAL QUALITY MGMT. 799, 805 (2010); Charles Nwaneri Emezi, *Corporate Social Responsibility: A Strategic Tool to Achieve Corporate Objective*, RESP. & SUSTAINABILITY, Dec. 2014, at 43, 45.

⁴⁰ David Campbell et al., *Corporate Philanthropy in the UK 1985–2000: Some Empirical Findings*, 39 J. BUS. ETHICS 29, 31 (2002); Stephen Brammer & Andrew Millington, *Stakeholder Pressure, Organizational Size, and the Allocation of Departmental Responsibility for the Management of Corporate Charitable Giving*, 43 BUS. & SOC'Y 268, 271 (2004); Jennifer C. Chen et al., *Corporate Charitable Contributions: A Corporate Social Performance or Legitimacy Strategy?*, 82 J. BUS. ETHICS 131, 133 (2008).

⁴¹ Richard E Smith, *Defining Corporate Social Responsibility: A Systems Approach for Socially Responsible Capitalism* (2011) (M.Phil. dissertation, University of Pennsylvania) (on file with ScholarlyCommons).

practices that foster the overall well-being of society and the planet.⁴² CSR is not merely about responding efficiently to stakeholder demands; it also involves contributing positively to society, from which the company derives its resources and operates toward progress.⁴³

The transformation of efficient CSR to righteous CSR is evident in the evolution of CSR over the past several decades. Archie B. Carroll meticulously outlined the evolution of the CSR definition, spanning from the 1950s to the 1990s, showcasing the changes and their progression. For each decade, he discussed what changed and how it occurred.⁴⁴ In the 1980s, he observed the integration of other theoretical concerns, such as corporate social performance, stakeholder theory, and business ethics theory, into the CSR concept.⁴⁵ As the 1990s ushered in a new definition of CSR, these alternative themes took the spotlight.⁴⁶ Since then, the stakeholder and societal approaches have dominated all definitions of CSR. The stakeholder approach highlights the importance of considering the interests and impacts of all stakeholders involved in or affected by a company's operations.⁴⁷ This includes shareholders, employees, customers, suppliers, communities, and the environment.⁴⁸ The societal approach is about the companies contributing positively to society beyond their economic and legal obligations.⁴⁹ This approach encourages companies to actively engage in initiatives that address social,

⁴² Afsharipour, *supra* note 24, at 97–98; Wayne Eastman, *Ideology as Rationalization and as Self-Righteousness: Psychology and Law as Paths to Critical Business Ethics*, 23 BUS. ETHICS Q. 527, 546–47 (2013).

⁴³ See Steffen Roth et al., *CSR Beyond Economy and Society: A Post-Capitalist Approach*, 165 J. BUS. ETHICS 411, 417 (2020).

⁴⁴ *Id.*

⁴⁵ *Id.* at 284.

⁴⁶ *Id.* at 288.

⁴⁷ Dima Jamali, *A Stakeholder Approach to Corporate Social Responsibility: A Fresh Perspective into Theory and Practice*, 82 J. BUS. ETHICS 213, 217 (2008); Don Clifton & Azlan Amran, *The Stakeholder Approach: A Sustainability Perspective*, 98 J. BUS. ETHICS 121, 125–27 (2011); Massimiliano Bonacchi et al., *The Evolution of Corporate Social Responsibility in Gucci: From Risk Management to Stakeholder Engagement*, in A STAKEHOLDER APPROACH TO CORPORATE SOCIAL RESPONSIBILITY: PRESSURES, CONFLICTS, AND RECONCILIATION 167, 168 (Adam Lindgreen et al. eds., Routledge 2016) (2012).

⁴⁸ R. Edward Freeman & S. Ramakrishna Velamuri, *A New Approach to CSR: Company Stakeholder Responsibility*, in R. EDWARD FREEMAN'S SELECTED WORKS ON STAKEHOLDER THEORY AND BUSINESS ETHICS 251, 255 (Sergiy D. Dmytryiev & R. Edward Freeman eds., 2023).

⁴⁹ Duane Windsor, *Corporate Social Responsibility: Three Key Approaches*, 43 J. MGMT. STUD. 93, 96, 99 (2006); Andromachi Athanasopoulou & John W. Selsky, *The Social Context of Corporate Social Responsibility: Enriching Research with Multiple Perspectives and Multiple Levels*, 54 BUS. & SOC'Y 322, 326 (2015).

environmental, and ethical issues, with the aim of positively impacting the community and the world.⁵⁰

Michael Hopkins finds CSR when a company regards its social responsibilities in an ethical manner.⁵¹ In this sentence, the word “ethical” emphasizes that the treatment of stakeholders should be based on moral conduct. The word “responsibilities” is about discharging the “core activities” related to a role in both legal and moral ways.⁵² As such, CSR requires a company to act legally and morally on its core activities, balancing the needs and desires of a society.⁵³

The question of whether a business corporation can possess moral status—a conscience—has become a significant topic in discussions about CSR. Goodpaster and Matthews argue that “a corporation can and should have a conscience,” emphasizing that the language of ethics is relevant to corporate operations.⁵⁴ They contend that corporations should be ethically good, not just legally compliant. Many scholars share this view, believing that a corporation’s performance in CSR can be evaluated in much the same way as that of an individual. They argue that there has already been considerable progress, if not the full realization, of transforming business corporations into conscience-driven moral agents.⁵⁵

⁵⁰ ABAGAIL MCWILLIAMS, *CORPORATE SOCIAL RESPONSIBILITY* (Oxford University Press 2020).

⁵¹ MICHAEL HOPKINS, *CORPORATE SOCIAL RESPONSIBILITY & INTERNATIONAL DEVELOPMENT: IS BUSINESS THE SOLUTION?* (2006).

⁵² Mallika Tamvada, *Corporate Social Responsibility and Accountability: A New Theoretical Foundation for Regulating CSR*, INT’L J. CORP. SOC. RESP., Apr. 2020, at 1, 6.

⁵³ The concept of CSR has been gaining momentum since 2002, with the European Commission urging companies to step up and take on additional responsibilities beyond just maximizing profits and meeting legal requirements. This means embracing social and environmental initiatives alongside economic goals. By adopting the triple bottom line approach—considering economic, social, and environmental factors—businesses can truly make a positive impact on the world. Andrea Broughton, *Commission Launches New Strategy on Corporate Social Responsibility*, EUROFOUND (July 22, 2002), <https://www.eurofound.europa.eu/en/resources/article/2002/commission-launches-new-strategy-corporate-social-responsibility> [https://perma.cc/452N-YCE5]; *Corporate Sustainability & Responsibility*, EUR. COMM’N, https://single-market-economy.ec.europa.eu/industry/sustainability/corporate-sustainability-and-responsibility_en [https://perma.cc/T3ZB-R9RK].

⁵⁴ Kenneth E. Goodpaster & John B. Matthews, Jr., *Can a Corporation Have a Conscience?*, HARV. BUS. REV., Jan. 1982, at 132, 133.

⁵⁵ See, e.g., Rachel Browne, *Review of Kenneth E. Goodpaster Conscience and Corporate Culture*, PHIL. FOR BUS. (Sept. 9, 2006), <http://klempner.freeshell.org/businesspathways/issue32.html> [https://perma.cc/2VGE-33SZ]; William C. Frederick, “. . . And He Hewed a Mighty Stone,” WILLIAM C. FREDERICK (Apr. 2007), https://www.williamcfrederick.com/articles/and_He_Hewed.pdf [https://perma.cc/WUU4-JALE] (reviewing KENNETH GOODPASTER, *CONSCIENCE AND CORPORATE CULTURE* (2007)).

Performing CSR is about harmonizing morally commendable, corporate activities for the greater good of society with a profit motive. Towards this end, first and foremost, businesses must carefully assess how their operations affect society, the environment, and the economy. Secondly, it is crucial to proactively listen to the needs and expectations of stakeholders, such as local communities and other relevant parties. By doing so, businesses can ensure that they are making a positive impact and meeting the needs of all those involved.⁵⁶ Patagonia is well-known for its commitment to environmental sustainability, using organic and recycled materials while ensuring fair labor practices throughout its supply chain.⁵⁷ This dedication has fostered a loyal customer base and positioned Patagonia as a leader in corporate environmental responsibility. Likewise, Ben & Jerry's is recognized for its social responsibility, actively engaging in social causes and supporting fair trade practices.⁵⁸ This commitment has earned the company widespread respect and a positive brand image. In contrast, many companies have suffered and continue to suffer because they did not prioritize ethics and social causes. Enron, for instance, operated efficiently until its corporate misconduct, characterized by accounting fraud and market manipulation, ultimately led to its bankruptcy.⁵⁹ This scandal prompted the implementation of stricter accounting regulations, culminating in the Sarbanes-Oxley Act of 2002. Similarly, Volkswagen's ethical violations resulted in substantial fines, a significant drop in stock value, and severe reputational damage due to its emissions scandal, highlighting the importance of compliance with environmental standards.⁶⁰

⁵⁶ See Christopher Tung, *The Legal Implications of CSR: Changing Landscape of Liability* (2006), www.csr-asia.com/CGconference2006/ChrisTung.pdf [<https://perma.cc/4JZB-URY9>]; Adisa Azapagic, *Developing a Framework for Sustainable Development Indicators for the Mining and Minerals Industry*, 12 J. CLEANER PROD. 639, 646 (2004); Stephen Brammer & Andrew Millington, *Corporate Reputation and Philanthropy: An Empirical Analysis*, 61 J. BUS. ETHICS 29, 31 (2005).

⁵⁷ *Organizational Ethics: Building a Culture of Integrity and Responsibility*, BUS. ETHICS NETWORK (Dec. 24, 2023), <https://www.businessethicsnetwork.org/organizational-ethics-building-a-culture-of-integrity-and-responsibility/> [<https://perma.cc/HX64-QB7E>].

⁵⁸ *Id.*

⁵⁹ *Id.*; see also Muhammad M. Rashid, *A Case Analysis on Enron: Ethics, Social Responsibility, and Ethical Accounting*, in 1 NEW INNOVATIONS IN ECONOMICS, BUSINESS AND MANAGEMENT 62, 63–64 (Chun-Chien Kuo ed., 2021).

⁶⁰ Frank J. Cavico & Bahaudin G. Mujtaba, *Volkswagen Emissions Scandal: A Global Case Study of Legal, Ethical, and Practical Consequences and Recommendations for Sustainable Management*, 4 GLOB. J. RSCH. BUS. & MGMT. 303, 303–07 (2016); Tara J. Shawyer & William F. Miller, *Volkswagen: Balancing Values vs Profits*, in 25 RESEARCH ON PROFESSIONAL RESPONSIBILITY AND ETHICS IN ACCOUNTING 181 (Tara J. Shawver ed., 2023).

Effectively managing CSR is crucial for maximizing the benefits of CSR initiatives.⁶¹ However, a company must ensure its efforts are directed toward the right causes.⁶² Focusing efficiently on a wrong or unethical cause can undermine investments and harm the company's brand and public trust.⁶³ Simple efficiency in managing strategic CSR projects cannot mitigate the damage caused by failing to address morally right issues and adequately respond to genuine social needs.⁶⁴ Through a historical analysis of four British industrialists of the nineteenth and early twentieth centuries, Lee Parker concludes that

Owen, Salt, Lever and Cadbury offer historical insights that illuminate the complexities of historical and contemporary CSR strategies. Their innovations occurred when government regulation of corporate social impacts was arguably at a minimum level. Yet their social innovations and experiments did not necessarily reduce overall costs associated with labor, and their CSR activism extended deep into their organizations and workforces as well as extending well beyond their company boundaries to include members of the general community.⁶⁵

II. INCORPORATING CSR PRINCIPLES IN INDIAN COMPANIES

As India's society, economy, and politics evolved, so did the concept of CSR.⁶⁶ This evolution can be divided into four phases, where this evolution in each of these phases was guided by four separate themes. The first phase was in the pre-British period when business was involved

⁶¹ See, e.g., Peggy Simcic Brønn & Albana Bellu Vriani, *Corporate Social Responsibility and Cause-Related Marketing: An Overview*, 20 INT'L J. ADVERT. 207, 215 (2001); JOHN R. BOATRIGHT & JEFFERY D. SMITH, *ETHICS AND THE CONDUCT OF BUSINESS* (8th ed. 2017); André Martinuzzi & Barbara Krumay, *The Good, the Bad, and the Successful—How Corporate Social Responsibility Leads to Competitive Advantage and Organizational Transformation*, 13 J. CHANGE MGMT. 424, 425, 429 (2013).

⁶² Karin Buhmann et al., *Do No Harm and Do More Good Too: Connecting the SDGs with Business and Human Rights and Political CSR Theory*, 19 CORP. GOVERNANCE 389, 395 (2019); Yuan-Shuh Lii & Monle Lee, *Doing Right Leads to Doing Well: When the Type of CSR and Reputation Interact to Affect Consumer Evaluations of the Firm*, 105 J. BUS. ETHICS 69, 77–78 (2012); Oliver Falck & Stephan Heblich, *Corporate Social Responsibility: Doing Well by Doing Good*, 50 BUS. HORIZONS 247, 250–51 (2007).

⁶³ Wenzhong Shu & Yucheng Yao, *On the Value of Traditional Confucian Culture and the Value of Modern Corporate Social Responsibility*, INT'L J. BUS. & MGMT., Feb. 2008, at 58, 61.

⁶⁴ Maria Zuba-Ciszewska, *The Contribution of the Cooperative Movement to the CSR Idea—The Aspect of Ethical Responsibility*, 435 PRACE NAUKOWE UNIwersYTETU EKONOMICZNEGO WE WROCŁAWIU 163 (2016); Windsor, *supra* note 49, at 100, 108–09.

⁶⁵ Lee D. Parker, *Corporate Social Accountability Through Action: Contemporary Insights from British Industrial Pioneers*, 39 ACCT., ORGS. & SOC'Y 632, 654 (2014).

⁶⁶ TATJANA CHAHOUD ET AL., *CORPORATE SOCIAL AND ENVIRONMENTAL RESPONSIBILITY IN INDIA—ASSESSING THE UN GLOBAL COMPACT'S ROLE* 24–28 (2007).

in social welfare due to religious influences. In the second phase, CSR performance was in the form of corporate trusteeship, reflecting the policies of the newly independent nation. Devolution in the economic policy frameworks in India during 1980 and the beginning of 1990s dominated the evolution of CSR in its third phase. Legal regulation is at the core of the social responsibility performance of companies in the fourth phase of CSR evolution in India.⁶⁷ These themes guide the following discussion on the incorporation of CSR principles in Indian companies.

A. RELIGIOUS INFLUENCE

The cultural and religious belief of the pre-British period influenced CSR profoundly in the region. Before the 1850s, CSR was deeply rooted in religious beliefs, with Hinduism being the most prominent, along with considerable influences from Muslim, Sikh, and Christian communities.⁶⁸ All these religions emphasize the importance of CSR to their followers.⁶⁹ For instance, Hinduism stresses the concept of *Dharmada*, which urges Hindu manufacturers and sellers to contribute to charitable activities in society.⁷⁰ Hindu scriptures, such as the Bhagavad Gita and the Isopanishad, further emphasize selflessness and the minimal use of resources for leading a simple life.⁷¹

⁶⁷ Pushpa Sunder outlines the evolution of CSR in India through four distinct phases, beginning from the pre-independence era to the present day. The first phase, spanning from 1850 to 1914, centered on business donations and participation in social welfare initiatives as the essence of CSR. During the second phase, from 1914 to 1960, CSR focused on companies acting as trustees for social development. The third phase, from 1960 to 1988, saw the emergence of legislation related to social issues, such as labor rights and environmental protection, shaping CSR practices. Sunder identifies the fourth phase, which began in 1988, as a time when corporate philanthropy significantly influenced the integration of social responsibilities within companies in India. For details, see PUSHPA SUNDAR, *BEYOND BUSINESS: FROM MERCHANT CHARITY TO CORPORATE CITIZENSHIP* 10 (2000).

⁶⁸ Cf. John Godfrey et al., *Old and New Forms of Giving: Understanding Corporate Philanthropy in India*, 28 *VOLUNTAS* 672, 680–85 (2017) (discussing “historical and cultural antecedents for giving and volunteering in India” in order to provide context for “contemporary corporate philanthropy”).

⁶⁹ Cf. *id.* (discussing the role of philanthropy in several religions in India).

⁷⁰ Rajesh Kumar, “*Dharmada*” or Charity Amount Not Part the Assessable Value Under the Central Excise Act, *TAX GURU* (Nov. 18, 2009), <https://taxguru.in/excise-duty/dharmada-or-charity-amount-not-part-the-assessable-value-under-the-central-excise-act.html> [<https://perma.cc/DVM8-QXBW>].

⁷¹ Subhamoy Das, *The Sacred Texts of the Hindus*, LEARN RELIGIONS, <https://www.learnreligions.com/the-sacred-texts-of-the-hindus-1770376> [<https://perma.cc/4492-3CAJ>] (Mar. 17, 2017).

Sri Krishna⁷² states in the Bhagavad Gita (3:13) that all societal sorrows can be alleviated if the socially conscious members of a community find satisfaction in enjoying the remnants of their work performed in the spirit of *yagna*, which emphasizes selfless welfare for others.⁷³ In his interpretations of a principle provided by the Bhagavad Gita—“the value system protects you if you follow it”—Swami Vivekananda emphasized that the foundations of both social and political systems are built upon the inherent goodness of individuals.⁷⁴ Hence, an individual should accumulate wealth as a means to serve noble objectives, rather than as an end in itself. The primary function of money, as mentioned in various philosophical texts, is to fulfill the needs of society and contribute to its overall welfare.⁷⁵ This perspective redefines wealth, framing it as a tool for social progress and not merely a measure of personal success.⁷⁶

The Vedas, which serve as ancient scriptures central to Hindu philosophy, endorse this notion of accumulating wealth.⁷⁷ However, they also provide guidance on the right methods to earn substantial wealth and resources, urging adherence to ethical practices in the pursuit of prosperity.⁷⁸ While the accumulation of wealth is encouraged, Vedic teachings place significant emphasis on the responsible use of this wealth.⁷⁹ This includes utilizing financial resources for personal development, addressing societal challenges, and engaging in altruistic actions through donations aimed at improving the welfare of others.⁸⁰

⁷² Sri Krishna holds a significant position in Hinduism as the eighth incarnation of Lord Vishnu. See Sri Swami Sivananda, *Krishna*, THE DIVINE LIFE SOC'Y, <https://www.dlshq.org/religions/krishna/> [<https://perma.cc/M8MS-B5SA>] (last visited Feb. 7, 2025).

⁷³ Balakrishnan Muniapan & Mohan Dass, *Corporate Social Responsibility: A Philosophical Approach from an Ancient Indian Perspective*, 1 INT'L J. INDIAN CULTURE & BUS. MGMT. 408, 415 (2008); see also *Bhagavad Gita: Chapter 3, Verse 13*, BHAGAVAD GITA, <https://www.holy-bhagavad-gita.org/chapter/3/verse/13> [<https://perma.cc/LN4L-APUK>] (last visited Feb. 7, 2025) (providing translations of the verse and commentary on the verse).

⁷⁴ SWAMI VIVEKANANDA, COMPLETE WORKS OF SWAMI VIVEKANANDA (Partha Sinha trans., 2019).

⁷⁵ MAHAVIR, VEDIC ARTHA VYAVASTHA (Samanantar Prakashan 2001); see, e.g., A.K. Sharma & Balvir Talwar, *Corporate Social Responsibility: Modern vis-à-vis Vedic Approach*, 9 MEASURING BUS. EXCELLENCE 35, 40 (2005).

⁷⁶ Muniapan & Dass, *supra* note 73, at 415.

⁷⁷ See *The Yajur Veda* 10:20, 5:19, 34:38 (Devi Chand trans., 1965).

⁷⁸ *Id.* at 7:13; Muniapan & Dass, *supra* note 73, at 415.

⁷⁹ Dhananjay Vasudeo Dwivedi, *Wealth and Its Various Aspects as Depicted in Vedic Literature*, 28 VEDA-VIDYĀ 91, 95–96 (2016).

⁸⁰ *Wealth and Wisdom: Ethical Investing Through a Hindu Lens*, RAMANA MAHARSHI, <https://www.ramana-maharshi.org/wealth-and-wisdom-ethical-investing-through-a-hindu-lens/> [<https://perma.cc/LN4L-APUK>].

Importantly, the Vedas highlight a powerful principle regarding generosity: whatever is given selflessly to others will often return to the giver manifold, creating a cycle of abundance and goodwill.⁸¹ This principle reinforces the idea that wealth, when used wisely and benevolently, benefits others and enriches the giver's life in unforeseen ways.⁸² Vedic literature on business philosophy emphasizes the importance of mutual support and the need to avoid envy among individuals. It considers business as a vital instrument for generating wealth and ensuring a consistent flow of resources to benefit society.⁸³

Additionally, Kautilya's principles have taught business owners in this region the importance of ethical business practices for centuries.⁸⁴ In his *Arthashastra*,⁸⁵ Kautilya also emphasises the "welfare of the many and the happiness of the many," and urges the king (the owner of a business or the head of an organization) to "submerge his personality into the larger personality of his people."⁸⁶ In the Islamic tradition, *Zakat* is mandatory for wealthy Muslims, requiring them to bestow a share of their affluence annually to help the less fortunate.⁸⁷ Similarly, Guru Nanak, the

⁸¹ Muniapan & Dass, *supra* note 73, at 415.

⁸² *Id.*

⁸³ *Id.*

⁸⁴ Kautilya, commonly referred to as Chanakya, was a notable ancient Indian political thinker and strategist. Pravin Chandrasekaran, *Kautilya: Politics, Ethics and Statecraft* (Munich Personal RePEc Archive, Paper No. 9962, 2006), https://mpra.ub.uni-muenchen.de/9962/1/MPRA_paper_9962.pdf [<https://perma.cc/9AZ9-Z5UQ>]. His pragmatic and analytical approach to politics and administration has solidified his work as a cornerstone of ancient Indian political thought. Gobinda Chandra Sethi, *Indian Vision of Political Thinking with Reference to Kautilya: A Critical Analysis*, 78 INDIAN J. POL. SCI. 185, 187 (2017).

⁸⁵ The *Arthashastra* is an ancient Indian treatise attributed to Kautilya, also known as Chanakya or Vishnugupta. MEDHA BISHT, KAUTILYA'S ARTHASHASTRA: PHILOSOPHY OF STRATEGY (2019). Composed in Sanskrit, this influential text addresses a wide range of subjects, including statecraft, political science, economic policy, and military strategy. BISHT, *supra*. Renowned for its pragmatic and thorough approach to governance and administration, it offers valuable insights into the management of economic resources, diplomacy, law enforcement, and military tactics. BISHT, *supra*. The *Arthashastra* remains a significant work in the study of ancient Indian political thought and continues to be cited for its comprehensive analysis of statecraft. BISHT, *supra*; D.M. Prasad, *Politics and Ethics in Kautilya's Arthashastra*, 39 INDIAN J. POL. SCI. 240 (1978).

⁸⁶ Muniapan & Dass, *supra* note 73, at 417.

⁸⁷ Ajaz Ahmed Khan, *Religious Obligation or Altruistic Giving? Muslims and Charitable Donations*, in SACRED AID: FAITH AND HUMANITARIANISM 90, 96–97 (Michael Barnett & Janice Stein eds., 2012); Dilwar Hussain, *Islamic Social Ethics, Social Work and the Common Good: Learning from Western Contexts*, in EXPLORING ISLAMIC SOCIAL WORK: BETWEEN COMMUNITY AND THE COMMON GOOD 121, 123–124 (Hansjörg Schmid & Amir Sheikhzadegan eds., 2022).

founder of Sikhism, advocated for *Dasvandh*, which is the compulsory donation of one-tenth of income to charitable activities.⁸⁸

Religions strongly influenced sociopolitical life in the pre-British era in the Indian subcontinent. The business leaders of this era were dedicated to philanthropic and charitable activities, and thus, companies were involved in improving the well-being of society.⁸⁹ Indian business families held the conventional view that businesses had a role in social development, so they established their companies under company law during the British era, and contributed to industrial growth.⁹⁰ Before the country gained its independence at the beginning of the twentieth century, companies also got involved in socioeconomic growth⁹¹ and actively contributed to proliferation as a form of resistance to colonial power.⁹² Large, domestically owned companies were committed to the Gandhian philosophy of trusteeship, which assisted these companies in rooting their social responsibility on value-based ethical standards.⁹³ This philosophy is grounded in values such as *prema* (universal love) and *ahimsa* (nonviolence), which are integral to *satyagraha* (service).⁹⁴ Gandhi believed that these values would help business owners recognize their ultimate responsibility to stakeholders as a selfless duty of care that respects the rights of others.⁹⁵

B. THE IMPACT OF INDEPENDENCE

From an economic and social perspective, the period after independence was difficult for India. The country was left with severe

⁸⁸ Muhammad Salman Khan, *God, Gift and Charity: The Case of Zakat and Dasvandh in the Local Governance of Social Welfare Provision in Pakistan*, in *INFRASTRUCTURE, MORALITY, FOOD AND CLOTHING, AND NEW DEVELOPMENTS IN LATIN AMERICA* 55, 58 (Donald C. Wood ed., 2021).

⁸⁹ Seema G. Sharma, *Corporate Social Responsibility in India: An Overview*, 43 *INT'L LAW.* 1515, 1516–17, 1519 (2009).

⁹⁰ *Id.* at 1519.

⁹¹ *Id.* at 1516, 1518–19.

⁹² *Id.* at 1519.

⁹³ *Id.* at 1516. Embracing this philosophy is rooted in the belief that the wealthy have a responsibility to safeguard their assets and promote the well-being of the broader community. Sharma, *supra* note 89, at 1519. Gandhi passionately championed the concept that prosperous individuals could be inspired to generously share their wealth to support those in need. See Kazuya Ishii, *Gandhi's Theory of Trusteeship*, *MKGANDHI.ORG*, <https://www.mkgandhi.org/articles/Gandhis-theory-of-Trusteeship.php> [https://perma.cc/996R-25LD].

⁹⁴ See Mia Mahmudur Rahim & Sanjaya Kuruppu, *Corporate Governance in India: The Potential for Ghandism*, in *CORPORATE GOVERNANCE IN DEVELOPING AND EMERGING MARKETS* 92, 94, 105–106 (Franklin N. Ngwu et al. eds., 2017).

⁹⁵ *Id.* at 105.

poverty and a weakened social structure due to widespread economic disparity, neo-capitalist organizations, the existence of the Zamindari system, and economic misgovernance under British colonial rule.⁹⁶

Gandhism played a crucial role in nation-building immediately after India gained independence. Mahatma Gandhi, the father of independent India, aimed to minimize capitalism, perhaps even more so than the most advanced socialists.⁹⁷ However, he proposed a different approach to reach this aim; he emphasized the practical application of his concept of trusteeship.⁹⁸ This concept allows for private ownership of property only to the extent that it serves the best interests of society—essentially renouncing capitalism in favor of a more egalitarian societal framework.⁹⁹

The first Prime Minister of India, Jawaharlal Nehru, agreed to Gandhi's pro-socialist approach and started building the economy with a mixture of socialist and market principles.¹⁰⁰ State-owned corporations largely controlled business then and led CSR activities how and when the government directed them.¹⁰¹

Prime Minister Jawaharlal Nehru created a National Planning Commission, which, under his chairmanship, produced a series of short- to mid-term plans for India in 1951.¹⁰² Although initially set up in an advisory capacity, this commission assisted the government in creating

⁹⁶ Umakanth Varottil, *Analysing the CSR Spending Requirements Under Indian Company Law*, in GLOBALISATION OF CORPORATE SOCIAL RESPONSIBILITY AND ITS IMPACT ON CORPORATE GOVERNANCE, 231 (2018).

⁹⁷ Suresh Mony & Shekar Babu, *CSR in India: Evolution, Models, and Impact*, in RETHINKING BUSINESS RESPONSIBILITY IN A GLOBAL CONTEXT: CHALLENGES TO CORPORATE SOCIAL RESPONSIBILITY, SUSTAINABILITY AND ETHICS 147, 149 (Bodo B. Schlegelmilch & Ilóna Szocs eds., 2020); cf. NIRMAL KUMAR BOSE, SELECTIONS FROM GANDHI 59, 182 (Navajivan Pub. House, 1948) (critiquing the colonial Indian government).

⁹⁸ According to his concept of trusteeship, the capitalists should act as caretakers of the resources entrusted to them, on the condition that they behave in a socially responsible manner. See Bimal Arora & Ravi Puranik, *A Review of Corporate Social Responsibility in India*, 47 DEVELOPMENT 93, 96–98 (2004). This required them to manage the resources in the most efficient way possible, using a portion of the profits for their own sustenance while dedicating the rest to improving society. See Arora & Puranik, *supra*. The term “resource” encompasses a wider range of items, including knowledge and expertise.

⁹⁹ Mony & Babu, *supra* note 97, at 149.

¹⁰⁰ Kaushal Yadav et al., *A Study on Evolution of Corporate Social Responsibility in India*, 5 J. POSITIVE SCH. PSYCH. 186, 189 (2021); Mony & Babu, *supra* note 97, at 151.

¹⁰¹ Yadav et al., *supra* note 100, at 189.

¹⁰² Rahim & Kuruppu, *supra* note 94, at 96.

numerous pieces of legislation to support state-owned corporations in managing labor and environment-related responsibilities.¹⁰³

A few families controlled more than 40 percent of the private business assets from 1951 to 1958, and from 1970 to 1975.¹⁰⁴ Industrialists such as Ghanshyam Das Birla, Ramakrishan Bajaj, Jamsetji N Tata, and Ardeshir Godrej led most of this private corporate business.¹⁰⁵ Through their corporate philanthropic activities, these industrialists contributed to nation-building. They believed in Gandhi's trusteeship concept of wealth management and made this concept the basis of their CSR performances.¹⁰⁶ Their companies contributed to building society by reforming the "untouchables," empowering women, and creating research capacities, among other things.¹⁰⁷ Birla and Bajaj established numerous charitable trusts and foundations aimed at addressing various social issues. These trusts focused on areas such as education, healthcare, rural development, and environmental sustainability.¹⁰⁸ The Tata Group, led by Jamsetji Tata, introduced a sustainable labor well-being system and built a city focusing on the generational development of its workers. Such philanthropic activities, starting just after independence and running until the 1980s, resemble CSR with a sense of altruism and social commitment.¹⁰⁹

C. THE NEW ECONOMIC POLICY

The Indian economy changed between the end of 1980 and the start of 1991. Numerous factors contributed to this change, including the inefficiency of the public sector enterprise (PSU) model, the economy's slow growth—popularly referred to as the "Hindu Rate of Growth"—the

¹⁰³ B. R. TOMLINSON, *THE ECONOMY OF MODERN INDIA, 1860–1970* 171 (1993); MEERA MITRA, *IT'S ONLY BUSINESS! INDIA'S CORPORATE SOCIAL RESPONSIVENESS IN A GLOBALIZED WORLD* 30–32 (2007).

¹⁰⁴ C. GOPALA KRISHNA, *CORPORATE SOCIAL RESPONSIBILITY IN INDIA: A STUDY OF MANAGEMENT ATTITUDES* 9–11 (1992);

¹⁰⁵ Shraddha Jha, Ghanshyamdas Das Birla: A Study of an Indian Entrepreneur and a Nationalist Leader 1912–1947, at 1, 19 (Oct. 20, 1992) (Ph.D. thesis, Gujarat University) (ProQuest).

¹⁰⁶ See Arora & Puranik, *supra* note 98, at 6.

¹⁰⁷ KUMAR ET AL., *supra* note 4, at 19; R.K. PACHAURI, *The Rationale for Corporate Social Responsibility in India*, *FIN. EXPRESS* (Dec. 23, 2004); PUSHPA SUNDAR, *BEYOND BUSINESS: FROM MERCHANT CHARITY TO CORPORATE CITIZENSHIP* 163–65 (2000).

¹⁰⁸ See Punam Singh & Shulgana Sarkar, *Revolutionising Corporate Social Responsibility in India: Is It Truly Revolutionised?*, 13 *ASIA-PAC. J. MGMT. RSCH. & INNOVATION* 1, 7 (2018).

¹⁰⁹ See Anupama Mohan, *Corporate Citizenship: Perspectives from India*, *J. CORP. CITIZENSHIP*, Summer 2001, at 107, 110.

severe balance of payments deficit, the declining foreign exchange balance, and others.¹¹⁰

The 1991 introduction of the New Economic Policy (NEP) aimed to integrate India with the global economy.¹¹¹ Under the NEP, centralized bureaucratic control over resource allocation—often known as “license raj”—and control over capital market access eliminated excessive reliance on PSUs.¹¹² This encouraged private equity to engage in areas previously controlled by PSUs or to which they formerly had limited access. Several sectors’ deregulation led to more domestic non-PSU company growth and international company investment. The goal was to transition from the Hindu growth rate to holistic growth through increasing private participation.¹¹³ The government performed numerous institutional reforms by repealing, establishing, and altering several laws to encourage this expansion through a market economy.¹¹⁴

India founded the Securities and Exchange Board of India (SEBI), a capital market regulator, to initiate reforms under the NEP.¹¹⁵ Charged with creating and governing the capital market, the SEBI started reforming market practices, setting standards and guidelines for market players, and changing how stock exchanges conducted trading.¹¹⁶ This was done to increase the transparency and predictability of market practices. The

¹¹⁰ Caroline Van Zile, Comment, *India’s Mandatory Corporate Social Responsibility Proposal: Creative Capitalism Meets Creative Regulation in the Global Market*, 13 ASIAN-PAC. L. & POL’Y J. 269, 285 (2012); Valerie Cerra & Sweta Chaman Saxena, *What Caused the 1991 Currency Crisis in India?*, 49 IMF STAFF PAPERS 395, 403 (2002); Samrat Sharma, *Indian Companies Evade Large Part of CSR Mandate; Half of Them Don’t Even Report*, FIN. EXPRESS (Nov. 4, 2019, 6:54 PM), <https://www.financialexpress.com/business/industry-indian-companies-evade-large-part-of-csr-mandate-half-of-them-dont-even-report-1754199/> [<https://perma.cc/YB25-WPH4>].

¹¹¹ See Geeta Gouri, *The New Economic Policy and Privatization in India*, 8 J. ASIAN ECON. 455 (1997).

¹¹² Montek S. Ahluwalia, *Economic Reforms in India Since 1991: Has Gradualism Worked?*, 16 J. ECON. PERSPS. 67, 83–84 (2002).

¹¹³ Atul Kohli, *Politics of Economic Growth in India, 1980-2005: Part II: The 1990s and Beyond*, ECON. & POL. WKLY. 1361, 1363 (2006); Charan D. Wadhwa, *India Trying To Liberalise: Economic Reforms Since 1991*, in ASIA PACIFIC: A REGION IN TRANSITION 259, 262, 266 (Jim Rolfe ed., 2004).

¹¹⁴ Subir Gokarn, *Indian Capital Market Reforms, 1992-96: An Assessment*, 31 ECON. & POL. WKLY. 956, 958–61 (1996).

¹¹⁵ Pallavi Tripathi & Javed Qadri, *A Study on Role of SEBI as a Regulatory Authority in Indian Capital Market*, 7 INT’L J. RSCH. IT & MGMT. 28, 29 (2017); G. Sabarinathan, Securities and Exchange Board of India and the Regulation of the Indian Securities Market 16-17 (Indian Inst. Mgmt. Bangalore, Working Paper No. 309, 2010), <https://ssrn.com/abstract=2145220> [<https://perma.cc/8N7F-YR5F>]; Itesh Kumar Singh, *A Study of Role and Significance of Securities Exchange Board of India (SEBI)*, 5 J. EMERGING TECH. & INNOVATIVE RSCH. 188, 188 (2018).

¹¹⁶ Ajay Shah, *Institutional Change in India’s Capital Markets*, 34 ECON. & POL. WKLY. 183, 187–88, 192 (1999).

reforms improved regulatory institutions, boosted investor trust, and reduced bureaucratic oversight, which aided in business growth.¹¹⁷

The Indian economy expanded in diversity, complexity, and dynamics after the reforms.¹¹⁸ As the favored business instrument for economic and commercial operations, companies, primarily private equity companies, arose.¹¹⁹ There were a staggering number of incorporations at this time.¹²⁰ Companies expanded into new service and production areas while pursuing their goals on a global scale.¹²¹ This expansion significantly boosted the economy and facilitated international trade. In response, India needed to implement changes in its institutions, laws, and policies.¹²² To achieve this, the Companies Act of 1956 was amended in 1999, 2000, 2001, 2002 (twice), and again in 2006.

The Confederation of Indian Industry proactively established a committee to thoroughly investigate corporate governance concerns and propose a set of best practices for voluntary adoption.¹²³ In 1998, the Confederation released its task force report: *Desirable Corporate Governance: A Code*. One year later, the SEBI established the Kumar Mangalam Birla Committee to implement the provisions of this code. Taking into account many suggestions, the committee decided that corporate boards had a formal duty to both stakeholders and shareholders.¹²⁴ As such, this duty was laid out in Clause 49 of the Listing Agreement for companies interested in joining the stock exchanges. This clause specifies the minimum number of independent directors required on a company's board. It also made it mandatory to establish a shareholders' grievance committee and an audit committee. Additionally, the clause required the inclusion of a "Management's Discussion and

¹¹⁷ See R.H. Patil, *Current State of the Indian Capital Market*, 41 ECON. & POL. WKLY. 1001, 1001–03, 1005–10 (2006); Shah, *supra* note 116, at 187.

¹¹⁸ STANDING COMM. ON FIN., 15TH LOK SABHA, THE COMPANIES BILL, 2009, TWENTY-FIRST REPORT 2 (2010) (India).

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.*

¹²³ *Corporate Governance Recommendations for Voluntary Adoption*, CONFEDERATION OF INDIAN INDUS. (Nov. 2009), <https://cii.in/WebCMS/Upload/Corporate%20Governance%20Report.pdf> [<https://perma.cc/UZT5-WWLL>].

¹²⁴ Sandeep Gopalan & Akshaya Kamalnath, *Mandatory Corporate Social Responsibility as a Vehicle for Reducing Inequality: An Indian Solution for Piketty and the Millennials*, 10 NW. J.L. & SOC. POL'Y 34, 78–79 (2015).

Analysis” section in companies’ annual reports, reports on corporate governance, and a disclosure of fees paid to non-executive directors.¹²⁵

With the liberalization of its economy through the NEP, various stakeholders began to influence corporate governance and the foundation of CSR practices within the country. Global actors promoting “globalization” have infused Indian businesses with new ideas, capital, technology, and market access. This reliance on private sector-driven growth has enabled large Indian companies to amass significant political, economic, and social power.¹²⁶ This corporate influence also reflected in their CSR initiatives, marking a departure from the Gandhian principles of *Satya* (truth), *prema* (universal love), *seva* (service), *Sarvodaya* (universalism), *ahimsa* (nonviolence), and *satyagraha* (nonviolent struggle).¹²⁷ As a result, the CSR practices of contemporary Indian companies stand in stark contrast to the philosophical foundations rooted in Gandhi’s concept of trusteeship. Moreover, their approach to CSR often contradicts Gandhian ideals, as issues of fraud and opacity undermine truth, love, and service.¹²⁸ Instead, a relentless profit motive has prioritized exclusivity and aggressive competition over universalism and non-violence.¹²⁹

D. CSR LAW CREATION

The Companies Act 1956 is the first legislation regarding corporations in India and was modeled after the English Companies Act 1948. The primary aim of the English Companies Act 1948 was to promote the private sector in the UK. However, since the economic policy of the newly independent India was grounded in Fabian socialism, the Companies Act 1956 contrasted with the government’s policies.¹³⁰ India included the term “socialism” in the preamble of its constitution. Most large companies were government-owned, and their social responsibility

¹²⁵ Dilip Kumar Sen, *Clause 49 of Listing Agreement on Corporate Governance*, CHARTERED ACCT. 806, 808 (2004).

¹²⁶ See Rahim & Kuruppu, *supra* note 94, at 106.

¹²⁷ See generally M.V. Naidu, *The Philosophical and Psycho-Behavioral Foundations of Gandhism*, PEACE RSCH., Aug. 1995, at 1 (explaining the six postulates of Gandhism: “*Satya* (truth), *Prema* (love), *Seva* (service), *Sarvodaya* (universalism), *Ahimsa* (nonviolence), and *Satyagraha* (nonviolent struggle)”).

¹²⁸ Rahim & Kuruppu, *supra* note 94, at 106.

¹²⁹ *Id.*

¹³⁰ Umakanth Varottil, *The Evolution of Corporate Law in Post-Colonial India: From Transplant to Autochthony*, 31 AM. U. INT’L L. REV. 253, 272–74 (2016).

performances focused on government activities such as poverty alleviation and resource distribution within society.¹³¹ This practice extended to privately owned companies as well.¹³²

The Companies Act 1956 was ambiguous regarding the intended purpose of Indian companies and was amended thirty times from 1960 onward to better align with the requirements of the socialist economic framework.¹³³ In addition to legislative changes, the judiciary also recognized the socialist economic pattern and the corporate stakeholder model.¹³⁴ For example, the Supreme Court upheld the social nature of corporations in *Charanjeet Lal Chaudhary v. UOI*,¹³⁵ acknowledging that a corporation producing essential goods holds social significance and should not be viewed solely from the perspective of its investors.¹³⁶ Later, in *National Textiles Union v. PR Ramakrishnan*,¹³⁷ the Supreme Court emphasized the socialist nature of the economy, pointing out that capital and labor should share the control of economic power.¹³⁸ The Court noted that the dominance of the laissez-faire economic model, which treated corporations as the property of shareholders, had been replaced by a social perspective that recognizes corporations as “socio-economic institutions that wield economic power and influence the lives of people.”¹³⁹

With the shift of state policy’s base from socialism to economic liberalization, the Companies Act 1956 required a massive amendment so that companies could be at the core of progressing economic liberalization.¹⁴⁰ The Ministry of Corporate Affairs posted a concept paper on its website on August 4, 2004, asking for feedback from stakeholders on how to further reform company laws.¹⁴¹ To this end, the Ministry of Corporate Affairs established an expert committee (also known as the Irani

¹³¹ Kumar & Dube, *supra* note 27, at 71.

¹³² MIRCEA RAIANU, *TATA: THE GLOBAL CORPORATION THAT BUILT INDIAN CAPITALISM* 173 (2021).

¹³³ Kumar & Dube, *supra* note 27, at 71.

¹³⁴ *Id.* at 72.

¹³⁵ *Id.*

¹³⁶ Pragash Boopal, *Chiranjit Lal Chowdhuri vs. The Union of India and Ors.*, L. TIMES J. (Apr. 17, 2019), <https://lawtimesjournal.in/chiranjit-lal-chowdhuri-vs-the-union-of-india-and-ors/> [<https://perma.cc/JK53-KSKQ>].

¹³⁷ *Nat’l Textile Workers’ Union v. P.R. Ramakrishnan & Others*, AIR 1983 SC 75 (1982) (India).

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ See Montek S. Ahluwalia, *The 1991 Reforms: How Home-Grown Were They?*, ECON. & POL. WKLY., July 16, 2016, at 39, 45.

¹⁴¹ Ministry of Company Affairs of India, *Concept Paper on Company Law*, Press Note No. 1/2004 (Aug. 4, 2004).

Committee), which included members from various industries and trade organizations.¹⁴² The committee's report addressed the interests of non-shareholder constituencies and emphasized the need for a regulatory framework that protects investors and other stakeholders. It highlighted the importance of credible corporate operations and informed stakeholders about legal compliance.¹⁴³ Additionally, the report established a hierarchy of penalties, stating that serious violations of shareholders' rights require significant consequences, while minor procedural violations should be handled differently.¹⁴⁴ The Companies Bill of 2008 was based on this report's recommendations, but it was never enacted because the fourteenth Lok Sabha prematurely dissolved.¹⁴⁵

The Corporate Social Responsibility Voluntary Guidelines 2009, the Voluntary Guidelines on Social, Environmental, and Economic Responsibility of Business 2011, and the SEBI Circular on Business Responsibility Reports 2012 are three major initiatives India had before inserting Section 135 in the Companies Act 2013. The Voluntary Guidelines on CSR 2009 offer a comprehensive approach to implementing CSR. They emphasize that businesses should demonstrate socially responsible practices to ensure the fair distribution of wealth and the well-being of their communities.¹⁴⁶ The guidelines do not position CSR as merely a philanthropic effort; instead, they stress the importance of conducting CSR ethically and sustainably.¹⁴⁷ The Voluntary Guidelines on the Social, Environmental, and Economic Responsibilities of Business 2011 established principles for organizations to enhance their CSR practices. They also provided a structured format for reporting these CSR performances.¹⁴⁸ In 2012, the SEBI Circular on Business Responsibility

¹⁴² JAMSHED J. IRANI, MINISTRY OF CO. AFFS., REPORT OF THE EXPERT COMMITTEE ON COMPANY LAW 2005, at 2–3 (May 31, 2005) (India).

¹⁴³ *See id.* at 1–4, 78–96.

¹⁴⁴ *See id.* at 129–40.

¹⁴⁵ Kumar & Dube, *supra* note 27, at 74.

¹⁴⁶ *Id.*

¹⁴⁷ *Id.* at 77.

¹⁴⁸ The principles are as follows. (1) “Businesses should conduct and govern themselves with ethics, transparency and accountability;” (2) “Businesses should provide goods and services that are safe and contribute to sustainability throughout their life cycle;” (3) “Businesses should promote the wellbeing of all employees;” (4) “Businesses should respect the interests of, and be responsive towards all stakeholders, especially those who are disadvantaged, vulnerable and marginalized;” (5) “Businesses should respect and promote human rights;” (6) “Businesses should respect, protect, and make efforts to restore the environment;” (7) “Businesses, when engaged in influencing public and regulatory policy, should do so in a responsible manner;” (8) “Businesses should support inclusive growth and equitable development;” and (9) “Businesses should engage

Reports introduced Clause 55 to the Listing Agreement between SEBI and listed companies.¹⁴⁹ This clause mandates that the top one hundred listed companies include a business responsibility report alongside their annual reports. The report must describe a company's CSR activities and detail the total amount the company spent on CSR in a given year, reported as a percentage of profits after tax.¹⁵⁰

The guidelines and the accompanying circular contributed to developing several draft bills, which included CSR-related provisions for companies in India. The CSR provision in the 2009 draft Companies Bill merely required the corporate board to "make every endeavor to ensure" that the mandated CSR expenditure was met.¹⁵¹ However, the 2011 draft of the bill amended this to state that "the board shall ensure," thereby making it a mandatory obligation for boards.¹⁵² During the Lok Sabha debate on the bill, the Minister of State for Corporate Affairs, Shri Sachin Pilot, defended this provision by stating that it aimed at "clearing the air" and addressing the growing divide between the rich and the poor.¹⁵³ He asserted that this could only be achieved if companies themselves took the initiative to demonstrate that they are responsible, sensitive, and committed to giving back to society.¹⁵⁴ The Companies Bill 2011, the most recent iteration following the Companies Bill 2009, was introduced in the Rajya Sabha. It passed on August 8, 2013, and following the president's signature on September 12, 2013, India implemented Section 135 of the Companies Act 2013.¹⁵⁵

Section 135 and Schedule VII of the Companies Act 2013 comprise most of India's CSR laws. Schedule VII outlines the specific areas where companies can engage in CSR activities, while Section 135 provides the substantive law on CSR. By requiring the formation of a board committee consisting of a minimum of three directors, including at

with and provide value to their customers and consumers in a responsible manner." For details, see Ministry of Corporate Affairs, National Voluntary Guidelines on Social, Environmental & Economic Responsibilities of Business 7 (Issued July 2011) (India).

¹⁴⁹ Securities and Exchange Board of India, Circular on Business Responsibility Reports, CIR/CFD/DIL/8/2012 (Issued on August 13, 2012), https://www.sebi.gov.in/legal/circulars/aug-2012/business-responsibility-reports_23245.html [<https://perma.cc/ER7J-WLMR>].

¹⁵⁰ *Id.* at 3.

¹⁵¹ Krichewsky, *supra* note 12, at 534.

¹⁵² STANDING COMM. ON FIN., 15TH LOK SABHA, THE COMPANIES BILL, 2011, FIFTY-SEVENTH REPORT 730 (2012) (India).

¹⁵³ Gopalan & Kamalnath, *supra* note 124, at 63.

¹⁵⁴ *Id.*

¹⁵⁵ The Companies Act, 2013, § 135 (India).

least one independent director, the legislation establishes CSR as a permanent part of businesses.¹⁵⁶ Only businesses with a net value of five hundred crore rupees or more, a turnover of one thousand crore rupees or more, or a net profit of 500 crore rupees or more during any fiscal year are required to comply with these statutory CSR provisions.¹⁵⁷

The committee in charge of creating policies must specify the actions the business will take, the costs associated with implementing those actions, and the monitoring process.¹⁵⁸ To comply with its CSR policy, the company must spend “in every financial year, at least two percent of the average net profits made during the three immediately preceding financial years, in pursuance of its Corporate Social Responsibility Policy.”¹⁵⁹

The Companies (CSR Policy) Amendment Rules 2021 have significantly changed to India’s CSR regulations. According to the new rules, companies can engage in CSR activities through self-implementation, joint implementation, or eligible implementing agencies. Additionally, administrative overheads are now limited to 5 percent of the total CSR expenditure,¹⁶⁰ any surplus from CSR activities must be reinvested in CSR projects or transferred to specified funds.¹⁶¹ These rules also introduce penalties for noncompliance, including fines for companies and officers in default.

Under this regulatory approach, businesses must identify potential social and environmental risks related to their activities and devise, implement, and carry out a strategy to mitigate those risks and prevent potential harm.¹⁶² This approach empowers businesses to identify and map potential risks effectively, establish standardized assessment processes, mitigate risks and major breaches proactively, and implement a robust warning mechanism. Noncompliance with regulatory reporting would allow the government to seek injunctive remedies.¹⁶³ Moreover, any consequences of bad management brought on by corporate irresponsibility

¹⁵⁶ See *id.* § 135(1).

¹⁵⁷ *Id.*

¹⁵⁸ *Id.* § 135(3).

¹⁵⁹ *Id.* § 135(5).

¹⁶⁰ *Id.*

¹⁶¹ *Id.* Sched. VII.

¹⁶² NANOTECHNOLOGY & SOCIETY: CURRENT AND EMERGING ETHICAL ISSUES (Fritz Allhoff & Patrick Lin eds., 2009).

¹⁶³ Corporate Governance and the Role of the Board of Directors: A Study of the Indian Companies Act, 2013.

may lead to harsher sanctions.¹⁶⁴ Seemingly, the Indian government's strategy has elevated CSR in the eyes of business leaders, encouraging improved corporate conduct and accountability for their deeds.¹⁶⁵

III. INSTANCES OF CSR PERFORMANCE OF INDIAN COMPANIES AFTER 2013

A long-running argument centers on the extent to which legal regulation should affect how companies develop their social responsibility. Some scholars believe that traditional regulations have not effectively encouraged companies to prioritize objectives over profits.¹⁶⁶ On the other hand, some argue that letting companies regulate themselves is not enough to ensure they consider social values without external nonlegal incentives.¹⁶⁷ In response to this conundrum, as covered in the Parts above, India introduced legal guidelines for increasing CSR in 2013. Some ten years after its inception, how Indian companies carry out their social responsibility remains a significant problem in CSR legislation. This Part evaluates the most recent CSR initiatives of five top Indian companies, emphasizing the importance of righteousness in evaluating such performance.

A. COCA-COLA INDIA

Coca-Cola India is the Indian subsidiary of the global beverage giant Coca-Cola Company. Established in 1993, Coca-Cola India has been

¹⁶⁴ *Id.*

¹⁶⁵ Lucia Gatti et al., *Grey Zone In-Greenwash Out. A Review of Greenwashing Research and Implications for the Voluntary-Mandatory Transition of CSR*, INT'L J. CORP. SOC. RESP., Aug. 19, 2019, at 1, 11.

¹⁶⁶ E.g., Tamvada, *supra* note 52, at 4–5; Ruba Subhi Hamed et al., *The Impact of Introducing New Regulations on the Quality of CSR Reporting: Evidence from the UK*, J. INT'L ACCT., AUDITING & TAX'N, Mar. 2022, at 5; Bimal Arora et al., *Emerging Paradigms of Corporate Social Responsibility, Regulation, and Governance: Introduction to the Thematic Symposium*, 162 J. BUS. ETHICS 265, 265–66 (2020); Tong Lu et al., *The Real Effects of Mandatory Corporate Social Responsibility Reporting in China*, 30 PROD. & OPERATIONS MGMT. 1493, 1493–94 (2021).

¹⁶⁷ E.g., DAVID LAWRENCE & SARAH MORLEY, *Morally Significant Technology: A Case Against Mere Corporate Self-Regulation*, in NOVEL BEINGS: REGULATORY APPROACHES FOR A FUTURE OF NEW INTELLIGENT LIFE (Elger 2022); Valentin Jentsch, *Corporate Social Responsibility Between Self-Regulation and Government Intervention: Monitoring, Enforcement and Transparency*, 31 EUR. BUS. L. REV. 285, 289 (2020); Fatima Yusuf & Amna Yousaf, *Can Self-Regulation Work in Environments of High Corruption?*, 10 J. ACCT. EMERGING ECONS. 117, 117–18, 121 (2020); Anna-Lena Maier, *Political Corporate Social Responsibility in Authoritarian Contexts*, 4 J. INT'L BUS. POL'Y 476, 488–89 (2021).

the leader in the Indian beverage market ever since.¹⁶⁸ The company is headquartered in New Delhi and has locations in over two hundred cities across India.¹⁶⁹ It has a strong distribution network with over eight hundred bottling plants that cater to the needs of its consumers.¹⁷⁰ Coca-Cola India offers various products, including soft drinks, juices, energy drinks, and mineral water. It has a portfolio of over twenty-five brands and a market share of over 50 percent.¹⁷¹ The company has been focusing on expanding its presence in India and has recently launched several new products to meet customers' changing needs.¹⁷²

In its sustainability reports, Coca-Cola India emphasizes its commitment to contributing to the national effort to achieve a *Kuposhan-Mukt Bharat* (malnutrition-free India).¹⁷³ The company has introduced two new products as part of this initiative. The first product, "Minute Maid Vintigo," is a mix of iron and micronutrient supplements to address nutritional deficiencies. The second product, "Aquarius Glucocharge," is marketed as a quick energy source containing lemon and glucose.¹⁷⁴ However, the ways Coca-Cola addressed malnutrition in India raised questions about this company's commitment to this cause. Malnutrition is not caused by a lack of specific micronutrients alone.¹⁷⁵ Quick-fix solutions like rapid energy drinks may temporarily relieve hunger and malnutrition, but they do not address the underlying issues that contribute

¹⁶⁸ *Coca-Cola India*, C.B. INSIGHTS, <https://www.cbinsights.com/company/coca-cola-india> [https://perma.cc/9G4E-B664].

¹⁶⁹ Karan Kashyap, *India's Startups and Changing Consumer Tastes Are Forcing Coca Cola to Up Their Game*, FORBES (June 17, 2017, 11:04 AM), <https://www.forbes.com/sites/krmkashyap/2017/06/16/indias-startups-and-changing-consumer-tastes-are-forcing-coca-cola-to-up-their-game/> [https://perma.cc/DHT4-2Z5P].

¹⁷⁰ *The Coca-Cola Co targets India juice growth with US\$800m spend*, JUSTDRINKS (June 6, 2017), <https://www.just-drinks.com/news/the-coca-cola-co-targets-india-juice-growth-with-us800m-spend/?cf-view> [https://perma.cc/3ZA8-QBAS].

¹⁷¹ *Id.*

¹⁷² *The Coca-Cola Story in India: A Journey of Resilience and Adaptation*, VIEW HUB (Sept. 25, 2024), <https://viewhub.in/the-coca-cola-story-in-india-a-journey-of-resilience-and-adaptation/> [https://perma.cc/YFH9-RHDS].

¹⁷³ *CSR Policy 2022*, COCA-COLA INDIA (2022) at 2, <https://www.coca-cola.com/content/dam/onexp/in/en/legal/privacy-policy/pdf/CCIPL%20CSR%20Policy%202022%20-%20%20Final%2024%2008%202022.pdf> [https://perma.cc/T5DJ-4LQA].

¹⁷⁴ *Coca-Cola Launches Two New Minute Maid Product Lines*, FOOD INGREDIENTS First (Mar. 14, 2007), <https://www.foodingredientsfirst.com/news/coca-cola-launches-two-new-minute-maid-product-lines.html> [https://perma.cc/3R7D-R3CS].

¹⁷⁵ Olaf Müller & Michael Krawinkel, *Malnutrition and Health in Developing Countries*, 173 CAN. MED. ASS'N J. 279, 279 (2005); Gyorgy Scrinis, *Reframing Malnutrition in all its Forms: A Critique of the Tripartite Classification of Malnutrition*, 26 GLOB. FOOD SEC., at 5 (2020).

to these problems.¹⁷⁶ Widespread hunger and malnutrition are often the result of exploitative practices and systemic issues that cannot be solved with temporary measures.¹⁷⁷ Implementing structural reforms that address the root causes of food insecurity is essential to creating lasting change. This includes addressing the exploitation of vulnerable populations and developing sustainable, long-term solutions that can effectively combat the systemic issues contributing to hunger and malnutrition.¹⁷⁸

The widespread starvation and famine in many communities is caused by rising food prices and diminishing livelihoods, largely due to Coca-Cola's market dominance. This has led to the monopolization of farm products and the depletion of land resources, leaving many unable to access essential food and resources.¹⁷⁹ Coca-Cola is committed to water sustainability through its "reduce-reuse-replenish" strategy and to supporting local communities with initiatives for water conservation and access to clean water.¹⁸⁰ However, the anticipated change has not yet materialized on the ground. Multiple community-led campaigns protested the company's activities, which pose a threat to the crucial land resources.¹⁸¹ The primary issue is how Coca-Cola's industrial plants affect the quality of precipitation and availability of water resources in the areas adjacent to their facilities.¹⁸²

After establishing a bottling factory in Kaladera, a semi-arid, impoverished village in Rajasthan, Coca-Cola India's plant began consuming most of the water, leaving insufficient quantities for agricultural practices. This resulted in a loss of livelihood for the community, despite the farmers' efforts to conserve water and cultivate crops suitable for arid conditions.¹⁸³ In its sustainability report, the

¹⁷⁶ Ricardo Mora-Rodriguez & Jesús G Pallarés, *Performance Outcomes and Unwanted Side Effects Associated with Energy Drinks*, 72 NUTRITION REVIEWS 108 (2014).

¹⁷⁷ Neva Hassanein, *Practicing Food Democracy: A Pragmatic Politics of Transformation*, 19 J. RURAL STUD. 77, 79 (2003).

¹⁷⁸ *Id.* at 79–80.

¹⁷⁹ JOHN MADELEY, BIG BUSINESS, POOR PEOPLES: HOW TRANSNATIONAL CORPORATIONS DAMAGE THE WORLD'S POOR 39 (2009).

¹⁸⁰ THE COCA-COLA Company, *2030 Water Strategy Guide* (Nov. 12, 2020), https://www.coca-colacompany.com/content/dam/company/us/en/about-us/bottlers-links/Water_Sustainability_Comms_Guidebook_09.pdf [<https://perma.cc/H8GD-4A2Y>].

¹⁸¹ Gavin Raders, *Combating the Privatization of Life in a Neo-Liberal Regime: The Fight for Water Democracies in India*, 22 BERKELEY UNDERGRADUATE J., at 11 (2009).

¹⁸² Jonathan Hills & Richard Welford, *Coca-Cola and Water in India*, 12 CORP. SOC. RESP. & ENV'T MGMT 168, 176 (2005).

¹⁸³ Vikrant Shirodkar et al., *Firm-level Determinants of Political CSR in Emerging Economies: Evidence from India*, 148 J. bus. Ethics 673, 677 (2016); Ritu Agarwal, *CSR to Be or not Be*, 8

company attempts to downplay the severity of the situation by highlighting that its water consumption represents only 0.025% of the nation's total industrial water usage.¹⁸⁴ However, the company used a minimum of 1.81 liters of water for every 1-liter bottle of its product.¹⁸⁵ This is an alarming practice, particularly given that nearly 65 percent of India's reservoirs have been running dry since 2019.¹⁸⁶

In addition to contributing to water scarcity, for the past four years, Coca-Cola has been identified as the leading contributor to plastic pollution on a global scale.¹⁸⁷ The company's waste is significantly influenced by the use of plastic bottles and labels. Despite this, the company has not made any plans to investigate alternative options. The company's reasoning is that the lightweight design of the packaging is an attractive feature for its customer base in India.¹⁸⁸ In fact, due to the recent trend toward healthier options in India, Coca-Cola has started developing smaller bottles for perceived portion control.¹⁸⁹ This has led to increased waste creation but also boosted sales and profits.¹⁹⁰ Coca-Cola focused on bottle recycling and promoted bottle reuse through CSR efforts. However,

Glob. J. Enter. Info. Sys. 21, 24 (2016); Earth Talk, *Coca-Cola Charged With Groundwater Depletion and Pollution in India*, ThoughtCo. (July 16, 2019), <https://www.thoughtco.com/coca-cola-groundwater-depletion-in-india-1204204> [<https://perma.cc/Y395-ZQRN>].

¹⁸⁴ Gangadhar S Patil, *Coca-Cola Nears Biggest Showdown with India Activists*, NIKKEI ASIA (Apr. 12, 2017), <https://asia.nikkei.com/Politics/Coca-Cola-nears-biggest-showdown-with-India-activists> [<https://perma.cc/MK88-Y7KR>].

¹⁸⁵ *Water Withdrawal by Coca-Cola in 2021*, GLOBALDATA (Sep. 2022), <https://www.globaldata.com/data-insights/consumer/water-withdrawal-by-coca-cola-2095647/> [<https://perma.cc/8PZX-4Z2Q>].

¹⁸⁶ Kasha Patel, *Water Shortages in India*, NASA EARTH OBSERVATORY (May 31, 2018), <https://earthobservatory.nasa.gov/images/145242/water-shortages-in-india> [<https://perma.cc/EW3E-PKPC>].

¹⁸⁷ *The Coca-Cola Company and PepsiCo Named Top Plastic Polluters for the Fourth Year in a Row*, BREAK FREE FROM PLASTIC (Oct. 25, 2021), <https://www.breakfreefromplastic.org/2021/10/25/the-coca-cola-company-and-pepsico-named-top-plastic-polluters-for-the-fourth-year-in-a-row/> [<https://perma.cc/Q3FK-ABWX>] (demonstrating that Coca-Cola is in the top three plastic polluters in the world for the last three years.).

¹⁸⁸ Benjamin Ferrer, *Coca-Cola India Rolls Out Recycled Lightweight Bottles for Carbon Savings*, Packaging Insights (Jun. 20, 2024), <https://www.packaginginsights.com/news/coca-cola-india-rolls-out-recycled-lightweight-bottles-for-carbon-savings.html> [<https://perma.cc/39Q5-WFXX>].

¹⁸⁹ *Id.*

¹⁹⁰ Robin Larocque, *Corporate Social Responsibility: An Anthropological Approach to Understanding CSR as Global Governance*, 2 PATHWAYS 73, 80 (2021); *Improving Our Water Efficiency: Meeting Goals and Moving Goalposts*, THE COCA-COLA COMPANY (Aug. 28, 2018), <https://web.archive.org/web/20200810214159/https://www.coca-colacompany.com/news/improving-our-water-efficiency> [<https://perma.cc/2M7E-VXQW>].

microtears can allow chemicals such polyethylene terephthalate to seep into the liquid, making bottle reuse hazardous.¹⁹¹

B. PEPSICO INDIA

PepsiCo India Holdings Pvt. Ltd. is a subsidiary of PepsiCo Inc., one of the world's largest food and beverage companies.¹⁹² PepsiCo India sells a wide range of products in Indian markets, including soft drinks, snacks, and dairy products.¹⁹³ The company has several production facilities in India and employs more than 170,000 people.¹⁹⁴ PepsiCo India is also actively involved in various CSR initiatives to promote sustainable development in India. In 2015, PepsiCo India claimed to have reduced its dependence on non-renewable energy for manufacturing food and beverages by 74 percent and 62 percent, respectively, compared to a 2006 baseline.¹⁹⁵

Awaaz Mitti Ki (Voice of Earth) is a well-known PepsiCo India campaign.¹⁹⁶ The campaign showcases powerful black-and-white images of farmers working hard, accompanied by poignant poems celebrating their resilience.¹⁹⁷ It effectively communicates the critical role of farmers in sustaining our communities and highlights the urgent need to invest in the agricultural sector. The advertising concludes with an image showcasing the company's partnerships with local farmers.¹⁹⁸ It invokes patriotism and persuades the spectator that purchasing PepsiCo's products will benefit the community.

In reality, PepsiCo's relationship with farmers is anything but beneficial for the community. PepsiCo recently sued four farmers in

¹⁹¹ See K Ravi Raman, *Community—Coca-Cola Interface: Political-Anthropological Concerns on Corporate Social Responsibility*, 51 SOC. ANALYSIS 103, 108 (2007). (noting that the 'biosolids' Coca-Cola provides to local farmers to use as fertilizers contain toxic metals and other materials that could lead to serious problems to human health and the environment)

¹⁹² *PepsiCo, Inc. Subsidiaries*, SEC, 12511040427/dex21.htm [https://perma.cc/CA7N-YKYP].

¹⁹³ PEPSICO INDIA, *About Us*, <https://www.pepsicoindia.co.in/who-we-are/about-pepsico-india> [https://perma.cc/VEJ2-4HQZ].

¹⁹⁴ *Id.*

¹⁹⁵ PEPSICO INDIA, *Care for the Environment*, <https://web.archive.org/web/20190220141120/https://www.pepsicoindia.co.in/company/pepsico-india/about-us> [https://perma.cc/2AW5-AA98].

¹⁹⁶ *PepsiCo India Launches 'Awaaz Mitti Ki' Programme for Farmers*, ETBRANDEQUITY (Aug. 21, 2019), <https://brandequity.economictimes.indiatimes.com/news/marketing/pepsico-india-launches-awaaz-mitti-ki-programme-for-farmers/70766455> [https://perma.cc/5WFU-JTHQ].

¹⁹⁷ *Id.*

¹⁹⁸ *Id.*

Gujarat for allegedly cultivating its FC5 potato species, which it uses to make Lay's chips.¹⁹⁹ This company provided these seeds and their related technologies as part of its CSR-related agro-sustainability and crop diversification programs. One of the arrested farmers argued that they "have been growing potatoes for a long time, and we didn't face this problem ever, as we've mostly been using the seeds saved from one harvest to plant the next year's crop."²⁰⁰ In response, PepsiCo India argued that the judicial recourse was necessary to "safeguard the larger interest of farmers that are engaged with us and who are using and benefiting from seeds of our registered variety."²⁰¹ PepsiCo India does not allow farmers to freely use the seeds of this potato species and sell their harvest. Such a policy can rarely benefit the community; rather, such market monopolization is directly proportional to PepsiCo's ability to negotiate prices with farmers.²⁰² While the company may appeal to consumers' awareness of hardworking farmers, it also uses its business power to oppress them.

C. RELIANCE INDUSTRIES LIMITED

Reliance Industries Limited (RIL) is one of India's largest and most successful business conglomerates, with a market capitalization of over \$185.75 billion.²⁰³ It was founded by the late Dhirubhai Ambani in 1966 and is managed today by his sons Mukesh and Anil Ambani.²⁰⁴ RIL

¹⁹⁹ Benjamin Parkin, *PepsiCo Offers to Settle with Indian Potato Farmers After Backlash*, THE GUARDIAN (Apr. 26, 2019), <https://www.theguardian.com/business/2019/apr/26/pepsico-accused-of-harassment-after-suing-indian-potato-farmers-lays-crisps> [https://perma.cc/5KJX-MS7T].

²⁰⁰ Amit Dave & Mayank Bhardwaj, *PepsiCo Sues Four Indian Farmers for Using its Patented Lay's Potatoes*, Reuters (Apr. 26, 2019, 10:28 AM), <https://www.reuters.com/article/idUSKCN1S21E8/> [https://perma.cc/K3TU-6SZ2].

²⁰¹ Adam Arnold, *Farmers in India Sued by Pepsi for 'Illegally Growing Potato Seeds'*, Sky News (Apr. 28, 2019), <https://news.sky.com/story/farmers-in-india-sued-by-pepsi-for-illegally-growing-potato-seeds-11705948> [https://perma.cc/97KU-R5CR].

²⁰² See Flavia Lopes, *Explained: The legal battle over the potatoes used to make Lay's chips* (Sept. 20, 2022), <https://scroll.in/article/1033021/explained-the-legal-battle-over-the-potatoes-used-to-make-lays-chips> [https://perma.cc/HQ62-QEKW]; Shalini Bhutani, *The case of Indian farmers' potato vs PepsiCo's property rights* (July 17, 2022), <https://www.eastmojo.com/national/2022/07/17/the-case-of-indian-farmers-potato-vs-pepsicos-property-rights/> [https://perma.cc/4EHF-RSDE].

²⁰³ GOBALDATA, *Reliance Industries Ltd: Overview*, <https://www.globaldata.com/company-profile/reliance-industries-ltd/> [https://perma.cc/P8Z8-8N8E].

²⁰⁴ *Mukesh Ambani*, Forbes (updated Feb. 9, 2025), <https://www.forbes.com/profile/mukesh-ambani/> [https://perma.cc/76JL-BY7R].

is a highly diversified company with operations in sectors such as petrochemicals, oil and gas, refining, retail, telecommunications, media, financial services, and technology.²⁰⁵ Its retail arm, Reliance Retail, is the largest retail chain in India, with over 12,771 stores across the country.²⁰⁶ RIL is consistently ranked among India's most admired companies, and its strong financial performance has made it a favorite among investors for many years.²⁰⁷

Nita Ambani oversees the Reliance Foundation, a separate subsidiary of Reliance Industries responsible for its CSR efforts.²⁰⁸ Over the years, one of Reliance Foundation's main investments has been in the healthcare industry. Its health and healthcare objectives emerge clearly from its different CSR reports throughout the last years.²⁰⁹ The Sir H. N. Reliance Foundation and Research Centre, a 345-bed, tertiary-level, multispecialty hospital specializing in exceptionally high-end procedures such as heart transplants and transcatheter valve replacement, is one of the Reliance Foundation's primary conduits for achieving these objectives.²¹⁰ The hospital operates at rates comparable to other private hospitals. However, the foundation's statement, "What We Do," does not clarify how much of the hospital's services are specifically provided to vulnerable patients at reduced rates.²¹¹

Still, Reliance Foundation's view of health is unsustainable and restricted. Its charitable activities in the public health sector disregard the WHO's definition of health, which states explicitly that health is more than the absence of sickness.²¹² Rather, health is shaped by numerous social factors, including a person's social position (such as one's sex, class, and

²⁰⁵ RELIANCE INDUSTRIES LTD, *Our Businesses*, <https://www.ril.com/businesses> [<https://perma.cc/3RAU-AB5U>].

²⁰⁶ RELIANCE INDUSTRIES LTD, *Building Emotional Chains: Providing Delightful Experiences*, <https://www.ril.com/businesses/retail> [<https://perma.cc/QR4M-83TQ>].

²⁰⁷ *Id.*

²⁰⁸ RELIANCE FOUNDATION, *About the Chairperson - Nita Ambani*, <https://www.reliancefoundation.org/who-we-are> [<https://perma.cc/JNW9-PEGE>].

²⁰⁹ RELIANCE INDUSTRIES LTD, *Corporate Social Responsibility*, <https://www.ril.com/about/corporate-social-responsibility> [<https://perma.cc/S5HF-9VKP>].

²¹⁰ RELIANCE FOUNDATION, *The Hospital*, <https://www.rfhospital.org/about-us/the-hospital> [<https://perma.cc/T7Y4-6TJC>] (last visited Feb. 9, 2025).

²¹¹ RELIANCE FOUNDATION, *What We Do*, <https://www.reliancefoundation.org/what-we-do> [<https://perma.cc/ECK4-K9VD>].

²¹² WORLD HEALTH ORGANIZATION, *Health and Well-Being*, <https://www.who.int/data/gho/data/major-themes/health-and-well-being> [<https://perma.cc/6KLW-8VCQ>] (last visited May 19, 2024); Hetal Kishor Parmar, A Study on CSR Activities of Reliance Industries Limited (2019) (Master thesis, IES Management College and Research Centre).

caste) and access to necessities such as housing, clean water, and food. However, this foundation does not view health as an all-encompassing issue with preventative and promotional components. It does not plan for the training and empowerment of the community's healthcare personnel and community members. Instead, it sees beneficiaries as passive recipients of primarily private interventions and considers health as a generous gift rather than a right. Its efforts do not encourage community self-reliance, behavioral modification, or a sense of ownership.²¹³

Reliance Foundation runs specific programs that invest significant funds in fighting individual diseases but neglects the interconnected societal factors that contribute to illness.²¹⁴ It addresses tuberculosis without addressing the causes of the disease's proliferation, such as poor ventilation and living conditions. The organization advises rural women about anemia but overlooks the societal biases that make them the last to eat a meal, which is usually inadequate. Moreover, it fails to draw a connection between the surge in diabetes and the unregulated market for processed foods, which significantly contributes to chronic health issues in the population.

D. HINDUSTAN UNILEVER LIMITED

Hindustan Unilever Limited (HUL) is a leading consumer goods company that ranked fifth among the top Indian companies in terms of market value.²¹⁵ Established in 1933, HUL is a subsidiary of the global giant Unilever²¹⁶ and has a presence in over twenty categories, including soaps, detergents, shampoos, skin care products, tea, coffee, and packaged foods.²¹⁷ The company has a network of over nine million retailers, making it one of the largest and most trusted consumer goods companies in

²¹³ Sushree Das, *CSR Initiatives at Reliance Foundation: A Reality Check*, ETHICS & SOC. RESP. (2017).

²¹⁴ CB Bureau, *Reliance Foundation: Bigger may not always be better*, Cause Because (Mar. 14, 2019), <https://causebecause.com/reliance-foundation-bigger-may-not-always-better/6523> [<https://perma.cc/K96Z-5S64>].

²¹⁵ *Top 10 Companies in India by Market Valuation in 2025*, Forbes India (Jan. 14, 2025), <https://www.forbesindia.com/article/explainers/top-10-companies-india-market-valuation/86307/1> [<https://perma.cc/LA53-BKPE>].

²¹⁶ *HUL History*, HINDUSTAN UNILEVER LIMITED, <https://www.hul.co.in/our-company/hul-history/> [<https://perma.cc/F7W8-F6P9>].

²¹⁷ *Brands*, Hindustan Unilever Limited, <https://www.hul.co.in/brands/> [<https://perma.cc/3TF7-LF4B>].

India.²¹⁸ HUL has a strong financial performance, with revenues of over 58,154 crore rupees in the financial year 2023.²¹⁹ With a strong presence in the Indian market and a substantial market share, HUL is well-positioned to continue its success into the future.

HUL positions itself as a staunch proponent of a “sustainable” lifestyle. During the fiscal year 2019-2020, the organization enhanced its CSR policy by incorporating initiatives aimed at supporting the maintenance and improvement of road medians.²²⁰ Additionally, the company also focused on initiatives to safeguard and preserve the flora and fauna in public areas.²²¹ At the same time, this company continues testing animals to progress its industrial production of business goods. A study conducted by an ethical consumer found that, while Unilever appeared to be taking steps to eliminate animal testing in some areas, the company still conducted tests in countries where it was mandatory. Additionally, HUL did not provide a specific timeline for when it would cease testing ingredients on animals.²²²

The company is deeply committed to the Dove Self-Esteem Project, a groundbreaking initiative to nurture positive body image and boost self-esteem among young people.²²³ Through this program, as this company claims, it will empower the next generation to embrace their appearances with confidence and achieve their full potential.²²⁴ As a brand, Dove Skin Care has evolved its marketing approach to resonate with the

²¹⁸ *We are Hindustan Unilever Limited*, HINDUSTAN UNILEVER LIMITED, <https://www.hul.co.in/our-company/> [https://perma.cc/Y77N-6PJ6].

²¹⁹ UNILEVER, *Inside our markets: Unilever in India* (Jan. 20, 2023), <https://www.unilever.com/news/news-search/2023/inside-our-markets-unilever-in-india/> [https://perma.cc/4KGJ-ZTBW]; HINDUSTAN UNILEVER LIMITED, *Performance Review*, <https://hul-performance-highlights.hul.co.in/performance-highlights-fy-2022-2023/financial-performance.html> [https://perma.cc/M84X-HEMK] (last visited May 12, 2024).

²²⁰ Tavleen Srishti, *Why This is not CSR: A Study of 5 Major Corporates*, DOWNTOEARTH (Dec. 9, 2020), <https://www.downtoearth.org.in/governance/why-this-is-not-csr-a-study-of-5-major-corporates-74587> [https://perma.cc/PWB6-TPKW].

²²¹ Hindustan Unilever Limited, Annexure A: CSR Initiatives, <https://assets.unilever.com/files/92ui5egz/production/d1367b1dc228eab60f7aa66a849920e4c5ef44c7.pdf/c> [https://perma.cc/ZL5C-XUG8].

²²² Ethical Consumer, *How ethical is Unilever* (Jan. 16, 2025), <https://www.ethicalconsumer.org/company-profile/unilever> [https://perma.cc/AY34-BWUN].

²²³ Unilever, *Supporting self-esteem and wellbeing*, <https://www.unilever.com/sustainability/health-and-wellbeing/supporting-self-esteem-and-wellbeing/> [https://perma.cc/5CBG-A5FH] (last visited Feb. 9, 2025).

²²⁴ *Id.*

modern woman.²²⁵ Its advertisements, such as the “Dove Campaign for Real Beauty” celebrate women of all sizes, colors, ages, and skin types, promoting “inner beauty” and self-acceptance.²²⁶ However, it is essential to consider the impact of another product of this company, Fair and Lovely,²²⁷ which has faced criticism for perpetuating colorism in a society already influenced by colonial beauty standards.²²⁸ In response to this feedback, this company is actively considering removing the word “fair” from the product’s name.²²⁹ Throughout the past few years, this product’s advertising has emphasized how this “cream” empowers young women to achieve their aspirations by boosting their self-confidence.²³⁰

The Glow & Lovely Career Foundation (formerly known as Fair & Lovely Career Foundation) is a mobile platform that provides women with career assistance, skills-based courses, and job training to assist them in establishing a professional identity.²³¹ Starting such a program appears to be an attempt to quell concerns about the product’s regressive propaganda. The product advertisements for Dove, Fair and Lovely, and the CSR activities named after them have conflicting and superficial motivations. While Dove has prioritized skincare as a women’s issue, in

²²⁵ Branding in Asia, *Campaign Questions Society on ‘The Beauty Report Card’ Given to Girls in India* (Sept. 29, 2022), <https://www.brandinginasia.com/campaign-questions-society-on-the-beauty-report-card-given-to-girls-in-india/> [https://perma.cc/7GE8-CUB5].

²²⁶ Team TBH, *Case Study: Dove’s “Real Beauty” Brand Campaign*, The Brand Hopper (Jan. 6, 2024), <https://thebrandhopper.com/2024/01/06/case-study-dove-real-beauty-brand-campaign/> [https://perma.cc/8XF6-J4H6]; Abhishek Bajpai, *Dove’s “Real Beauty” Campaign: A Marketing Case Study*, LinkedIn (Oct. 17, 2023), <https://www.linkedin.com/pulse/doves-real-beauty-campaign-marketing-case-study-abhishek-bajpai-8iwyc/> [https://perma.cc/NT9H-EA5E].

²²⁷ Michael Safi, *Unilever to Rename Fair & Lovely Skin-Lightening Cream in India*, THE GUARDIAN (June 25, 2020), <https://www.theguardian.com/world/2020/jun/25/unilever-rename-fair-and-lovely-skin-lightening-cream-inclusive-beauty> [https://perma.cc/R5LP-SSB4].

²²⁸ See Saubhik Chakrabarti, *Dark and Lovely: Obsessed with Fair Skin? Well, the World Thinks Deep Brown is Hot*, The Times of India (Mar. 12, 2023), <https://timesofindia.indiatimes.com/blogs/open-patent/dark-and-lovely-obsessed-with-fair-skin-well-the-world-thinks-deep-brown-is-hot/> [https://perma.cc/UR8S-A7KY].

²²⁹ Karuna Sharma, *Fair and Lovely to Drop ‘Fair’ from its Name but will that be Enough to Appeal to New-Age Consumers?*, Business Insider India, (June 26, 2020), <https://www.businessinsider.in/advertising/brands/article/fair-and-lovely-to-drop-fair-from-its-name-but-will-that-be-enough-to-appeal-to-new-age-consumers/articleshow/76631286.cms> [https://perma.cc/3WM3-KF7D]; Team Pepper, *Why Fair & Lovely Dropped ‘Fair’ From Its Brand Name*, PEPPER CONTENT (May 5, 2022), <https://www.peppercontent.io/blog/fair-lovely-drop-fair-from-its-brand-name/> [https://perma.cc/477E-PMZ7].

²³⁰ Sharma, *supra* note 229; Kajal Mehta, *Fair or Glow: What’s in the Name: HUL Case Study*, The Art of Law (July 29, 2020), <https://theartoflawin.wordpress.com/2020/07/29/fair-or-glow-whats-in-the-name-hul-case-study/> [https://perma.cc/E7EW-BU6J].

²³¹ Glow & Lovely, *Careers*, <https://www.glowandlovelycareers.in/en> [https://perma.cc/Q8DB-JQ75].

this instance, feminism has been manipulated and used to make it profitable for businesses. For a company that claims to support gender equality, its lack of female board members seems indicative of the company's true values.²³²

E. INFOSYS LIMITED

Infosys Limited is a global powerhouse offering cutting-edge consulting, technology, and outsourcing solutions.²³³ It is headquartered in Bangalore, India.²³⁴ It has offices in over fifty cities and a presence in over thirty countries.²³⁵ Infosys has a market share of over 25 percent in the global IT services market,²³⁶ and is one of the largest employers in India, with more than two hundred thousand employees.²³⁷ It is also one of the most innovative companies in India, having won numerous awards for its innovative solutions.²³⁸

In 2018, the Infosys Foundation, the driving force behind the CSR initiatives of Infosys Limited, teamed up with the Akshaya Patra Foundation (APF) to launch a cutting-edge centralized kitchen in Telangana's Kandi district.²³⁹ The APF is controlled by the International Society for Krishna Consciousness,²⁴⁰ which has faced criticism for its

²³² Hindustan Unilever Limited, *Board of Directors*, <https://hul-performance-highlights.hul.co.in/performance-highlights-fy-2020-21/board-of-directors.html> [https://perma.cc/B9JE-5WRK] (Kalpana Morparia is the only woman director of this company. She became the first woman director in the company when she joined the board as an independent director in 2014).

²³³ See Team Eela, *Infosys Ranked in Top Three Global Brands for IT Services*, TechEela (Jan. 19, 2023), <https://techeela.com/news/infosys-it-services-consulting/> [https://perma.cc/3L5V-UZXE].

²³⁴ Forbes, *Infosys*, <https://www.forbes.com/companies/infosys/> [https://perma.cc/55BL-MCLV].

²³⁵ Infosys, *About Us*, <https://www.infosys.com/about/overview.html> [https://perma.cc/6A28-3SZZ].

²³⁶ *Id.*

²³⁷ *Id.*

²³⁸ Gaytri Madh, *Infosys, HUL, L&T Among World's Most Innovative Companies: Forbes*, Business Today (Sept. 7, 2012), <https://www.businesstoday.in/latest/corporate/story/infosys-hul-landt-among-worlds-most-innovative-companies-32606-2012-09-07> [https://perma.cc/D8GJ-5CEA]; INFOSYS, *Awards*, <https://www.infosys.com/about/awards.html> [https://www.infosys.com/about/awards.html].

²³⁹ AKSHAYA PATRA FOUNDATION, *Introducing Mega Centralised Kitchen, Khandi, Telangana*, (April 3, 2018), <https://telangana.akshayapatra.org/news/introducing-mega-centralised-kitchen-khandi-telangana> [https://perma.cc/UJJ4-V3H2].

²⁴⁰ Sanika Athavale, *Iskcon Aims to Take Akshaya Patra Beyond Shores of India*, Times of India (Apr. 3, 2024), <https://timesofindia.indiatimes.com/city/bengaluru/iskcon-aims-to-take-akshaya-patra-beyond-shores-of-india/articleshow/108986120.cms> [https://perma.cc/8BDJ-NYKY].

rigid ideological practices.²⁴¹ The Infosys Foundation supports the APF in providing meals to schools across various states, including Karnataka.²⁴² However, the APF meals consumed by young people in Karnataka did not meet government recommendations, resulting in a deficiency of essential nutrients and a lack of dietary variety within the local population.²⁴³ This situation arose because the APF adopted a “sattvic” diet, which excludes garlic, onions, and eggs, in accordance with the principles of the International Society for Krishna Consciousness.²⁴⁴ This diet reinforces the ideals of cleanliness associated with the “higher castes.”²⁴⁵ When regarding children as true stakeholders, it becomes essential to prioritize their needs, preferences, and culture. However, in a decision-making body primarily consisting of Brahmin men and following a top-down approach to welfare, this important consideration may have been overlooked.

Different theories of righteousness offer different ways of interpreting what to do when it comes to CSR efforts.²⁴⁶ As mentioned earlier, some theories of righteousness focus on the individual, while others focus on the collective; some focus on the consequences of an action, while others focus on the motivations behind an action. Indian corporate society’s considerations for CSR are based broadly on one or all of these four objectives: (a) that CSR programs resonate with corporate values and identities, (b) that CSR programs align with the capacity of

²⁴¹ Sumon Maitra, LinkedIn (Nov. 30, 2024), <https://www.linkedin.com/pulse/iskcon-extremist-variant-hinduism-disrupting-communal-sumon-maitra-h4rxc/> [https://perma.cc/N5VN-83CL].

²⁴² Simran Kaur, *Simran Kaur’s Campaign to Provide Mid-Day Meals to 15 School Children for a Year*, Fuel a Dream, (Feb. 21, 2024), <https://www.fueladream.com/home/campaign/16630> [https://perma.cc/HA6J-VL53]; Akshaya Patra, *Yashasvi Dreams of Becoming a Paramedic and Help People in Distress* (Feb. 19, 2024), <https://www.akshayapatra.org/stories-of-children/yashasvi-dreams-of-becoming-a-paramedic-and-help-people-in-distress> [https://perma.cc/Y5WX-BX4M].

²⁴³ Nimeshika Jayachandran, *Akshaya Patra Ties Up with Karnataka Govt, to Continue Giving School Mid-day Meals*, The News Minute (Mar. 18, 2019), <https://www.thenewsminute.com/karnataka/akshaya-patra-ties-karnataka-govt-continue-giving-school-mid-day-meals-98514> [https://perma.cc/GL8S-RSWJ].

²⁴⁴ Kenneth Valpey, *ISKCON (International Society for Krishna Consciousness)*, Oxford Bibliographies, <https://www.oxfordbibliographies.com/display/document/obo-9780195399318/obo-9780195399318-0130.xml?rskey=wlgVTr&result=28&q=#obo-9780195399318-0130-div1-0006> [https://perma.cc/9T5S-WH4U] (the International Society for Krishna Consciousness (ISKCON), also known as the Hare Krishna Movement, is a movement with roots in Hinduism that began in the United States during the 1960s. It has expanded to other countries and includes some elements from Western religious traditions); Vikhar Sayeed, *Imposing a Food Culture*, FRONTLINE (June 19, 2019), <https://frontline.thehindu.com/the-nation/article28064675.ece#> [https://perma.cc/GN3L-4RX5].

²⁴⁵ Srishti & Singh, *supra* note 34.

²⁴⁶ See Michael J. Sandel, *Justice: What’s the Right Thing to Do?*, 91 B.U. L. REV. 1303 (2011).

individual companies, (c) that CSR programs design be outsourced as needed, and (d) that CSR programs be connected with the political goals of influential political or governmental organizations.²⁴⁷ These objectives fall within the “logical framework analysis” where strategies, needs, and capacities join to secure organizational outputs, outcomes, and impacts.²⁴⁸ These considerations are against the precepts of the “theory of change” that implies combining various programmatic and non-programmatic factors to comprehend an objective.²⁴⁹ As such, India’s medium and large companies prioritized convenience above an accurate, well-considered grasp of contribution to the community. Often, companies prioritize short-term projects whose funding decisions ineffectively address social problems. Although these companies are vital, they distance themselves from righteousness, which requires certain forms of charity to be grounded in a CSR-related program. In the following section, I will further explain the influence of Section 135 of the Companies Act 2013 on the progress of righteousness in CSR practices in India.

IV. SECTION 135 AND THE FRAMEWORK OF “FALSE TARGET”

The social responsibility performances of large Indian companies do not reflect the fundamental driving factors that initially promoted the development of CSR, nor do they fulfill the core objective of legislating CSR in this country. I argue that Section 135 facilitates this deviation because it provides a framework of “false target.” It allows the companies in India to shirk their legal responsibility to contribute funds for meeting social needs through CSR activities. One of the ways companies do so is by intertwining “sustainability” with their business strategies, mainly to circumvent CSR payments.²⁵⁰ These companies have devised cunning methods that blend sustainability, social obligation, and business concepts

²⁴⁷ Shyam Singh et al., *Bridging Sustainability and Corporate Social Responsibility: Culture of Monitoring and Evaluation of CSR Initiatives in India*, 10 SUSTAINABILITY 11–12 (2018).

²⁴⁸ *Id.* at 12; See Suchitra Pandey & Parul Rishi, *Logical Framework Analysis of Corporate Social Responsibility Initiatives of Indian Paper Industry*, 5 J. OF ORG. & HUM. BEHAV. 21–27 (2016).

²⁴⁹ Olivier Serrat, *Theories of Change*, 22 KNOWLEDGE SOLS. 1–2 (2013).

²⁵⁰ See Sharma, *supra* note 89; Dinesh Narayanan, *How Indian Companies are Misusing Public Trusts to Launder their CSR Spending*, THE ECONOMIC TIMES, (Oct. 21, 2015), <https://economictimes.indiatimes.com/news/economy/finance/how-indian-companies-are-misusing-public-trusts-to-launder-their-csr-spending/articleshow/49474584.cms?from=mdr> [<https://perma.cc/Z4RX-G7YD>]; Panchali Guha, *Why Comply with an Unenforced Policy? The Case of Mandated Corporate Social Responsibility in India*, 3 POL’Y DESIGN & PRAC. 58–72 (2020).

to increase their profit margins rather than improve society's growth. For example, HUL used a similar strategy to deceive customers. HUL invested significant money in raising awareness about sanitation and hygiene in underdeveloped rural areas.²⁵¹ Although this appears to be a CSR-compliant activity, it is merely a façade. Many companies typically allocate their required CSR budget to NGOs they have previously partnered with. However, this approach has not been particularly effective; administrative costs incurred by these NGOs consume a significant portion of the CSR budget. As a result, companies often miss the opportunity to maximize the impact of their mandatory CSR contributions. Such delegation of CSR management to another organization suggests that companies are not putting in sufficient effort to identify valuable projects or to support grassroots-level NGOs.²⁵²

Additionally, companies that urgently need to meet their CSR requirements often choose NGOs without conducting proper research, which can lead to unethical practices and a huge misuse of CSR funds.²⁵³ Referring to government data, a report by Ernst and Young LLP found that companies spent nearly twelve thousand crore rupees in 2018 and 2019 to develop and manage their CSR initiatives.²⁵⁴ It is disconcerting that some companies are misusing this huge amount of money by recklessly spending on CSR project management. In a survey of CSR executives in India, 65 percent lacked a defined due diligence policy for CSR partners, while 75 percent had no governance structure to address ethical gaps or

²⁵¹ Tina Edwin, *CSR: Help Others, Not Yourself*, BUSINESS TODAY, (May 6, 2014), <https://www.businesstoday.in/opinion/new-in-the-new-companies-act/story/csr-help-others-not-yourself-46615-2014-05-06> [<https://perma.cc/A2WN-VBTU>].

²⁵² See Development Monitoring and Evaluation Office [DME0], *Social Impact Assessment of Corporate Social Responsibility in India*, 53 (April 2021) (the Development Monitoring and Evaluation Office of the National Institution of Transforming India found that the lack in identification of capable implementing agencies and suitable projects are the two main challenges in compliance of CSR provisions); Naik, et al., *Transforming India: The CSR Opportunity*, SAMHITA (Aug. 2016) (a study by the Rockefeller Foundation found that 26% of the companies liable for mandated CSR expenditure had a lack of information on organizations credible for implementing CSR programs).

²⁵³ See, e.g., Rajesh Ahuja, *CBI Files FIR Against Corporate Lobbyist, NGO Over Misuse of CSR Funds*, HINDUSTAN TIMES (Nov. 17, 2017), <https://www.hindustantimes.com/india-news/cbi-files-fir-against-corporate-lobbyist-ngo-over-misuse-of-csr-funds/story-278i8W6UCK8I2hIdl8lr0M.html> [<https://perma.cc/2CFW-TSNS>]; see also Development Monitoring and Evaluation Office [DME0], *supra* note 252, at 6–7.

²⁵⁴ EY India, *Weak Governance and Lack of Due Diligence Pose a Grave Risk to CSR Programs: EY Survey*, ERNST AND YOUNG LLP (2020), <https://www.companycsr.com/wp-content/uploads/2020/05/ey-csr-survey2020.pdf> [<https://perma.cc/N8DW-F9U7>].

deception in CSR programs.²⁵⁵ Recently, the CBI lodged a complaint against the Delhi-based NGO Advantage India for alleged misuse of CSR funds.²⁵⁶ Concurrently, the Mumbai police uncovered a CSR funding scandal involving the forging of documents from Hexaware Technologies.²⁵⁷ The accused individuals then approached various NGOs and charitable funds nationwide with a proposal for over one hundred rupee crore in CSR funds.²⁵⁸

Moreover, many companies use charitable trusts to falsify their CSR expenditure, which returns the donated money to the company.²⁵⁹ Company processes involve issuing a check payable to a trust that operates within one of the ten vital areas of work, including, but not limited to, healthcare, education, and environmental protection, as stipulated by the law.²⁶⁰ The trust deducts its commission before returning the money to the company, its directors, or its promoters in cash, thereby converting white money into black money. This has a detrimental impact on the economy. Politicians and wealthy businesspeople often set up these trusts to evade accountability for unreported CSR funds. While the money initially flows through legal banking channels into these trusts, it ultimately returns to the company as cash.²⁶¹ Dinesh identifies public trusts as a favored avenue for companies to launder CSR funds, given the inadequate and loosely monitored laws governing these trusts. In certain Indian states, including Delhi, the absence of nationwide legislation further compounds the issue. Additionally, there is no centralized registrar in the country for these trusts.²⁶²

Furthermore, many of these companies fund major projects initiated by the political party in power. This money is used for

²⁵⁵ *Id.* at 5–6.

²⁵⁶ See, e.g., Ahuja, *supra* note 253; *CBI Books Delhi NGO Advantage India for Rs 90 Crore Fund Misuse*, NEW INDIAN EXPRESS, (Nov. 17, 2017), <https://www.newindianexpress.com/nation/2017/Nov/17/cbi-books-delhi-ngo-advantage-india-for-rs-90-crore-fund-misuse-1703878.html> [<https://perma.cc/F6WS-LTPG>].

²⁵⁷ Raina Assainar, *Police Uncover CSR Funding Scam: Accused Promised NGOs Over ₹100 Crore in Name of IT Firm*, THE HINDU (May 2, 2019), <https://www.thehindu.com/news/cities/mumbai/police-uncover-csr-funding-scam/article27006141.ece> [<https://perma.cc/C4AE-FGNT>].

²⁵⁸ *Police Uncover CSR Funding Scam in Navi Mumbai*, THE CSR JOURNAL (May 2, 2019), <https://thecsrjournal.in/police-uncover-csr-funding-scam-in-navi-mumbai/> [<https://perma.cc/3WV8-XPFT>].

²⁵⁹ See Development Monitoring and Evaluation Office [DMEO], *supra* note 252 at 18.

²⁶⁰ Narayanan, *supra* note 250.

²⁶¹ *Id.*

²⁶² *Id.*

government spending that is beyond the budget.²⁶³ This practice aims to ensure that these companies receive protection from legal action related to noncompliance with CSR laws. This exchange of favors between wealthy business leaders and government officials often results in the misuse of CSR funds. Goodera, a CSR sustainability management platform, analyzed a report that showed a significant increase in spending from 46.51 crore rupees in 2016 to 155.78 crore rupees in 2017 for implementing political programs.²⁶⁴ This occurred because five major public sector undertakings, Oil and Natural Gas Corporation, Hindustan Petroleum, Bharat Petroleum, Indian Oil Corporation, and Oil India Limited, collectively donated 146.83 crore rupees towards the construction of the Statue of Unity in Gujarat, the Bharatiya Janta Party's flagship project. These funds were allocated for CSR purposes under the preservation of the national heritage category. Furthermore, fourteen other Gujarat companies also donated CSR to this project.²⁶⁵

The rise of utilizing CSR funds for animal welfare, particularly cow protection, is another trend of using CSR funds improperly. According to a report by the PRIME database, forty-one listed companies made seventy-three donations towards cow-based activities and the establishment and management of Gaushalas between 2015 and 2018.²⁶⁶ Companies such as Genus Power Infrastructure and Paisalo Digital have allocated approximately 19.5 million rupees towards the well-being and protection of cows.²⁶⁷ Although Schedule VII of the Companies Act 2013 permits CSR funds for animal welfare, it does not explicitly mention cow protection, which is why it is often used as a loophole to bypass CSR regulations.²⁶⁸ Section 135 of the Companies Act 2013 states that companies' CSR activities should align with the subjects listed in Schedule VII.²⁶⁹ While the schedule covers a broad range of topics and activities, it is important not to overlook the primary objective of the provision. It is concerning to witness companies prioritize the protection

²⁶³ See Development Monitoring and Evaluation Office [DMEO], *supra* note 252, at 37 (CSR expenditure by government schemes and funds raise from Rs 625 crore in 2014-2015 to Rs 1110 crore in 2018-2019).

²⁶⁴ Pushpa Sundar, *Using CSR Funds for Political Gain*, THE WIRE (Dec. 22, 2018), <https://thewire.in/business/modi-government-csr-political-gain> [<https://perma.cc/M4MR-CKJY>].

²⁶⁵ *Id.*

²⁶⁶ *Id.*

²⁶⁷ Avantika Rai, *Failure of CSR in India*, TAXGURU (Oct. 11, 2020), https://taxguru.in/company-law/failure-csr-india.html#google_vignette [<https://perma.cc/S7ZR-GNBY>].

²⁶⁸ See the Companies Act, 2013, sched. 7 (India).

²⁶⁹ *Id.*

of cows and other animals over more pressing societal issues.²⁷⁰ They spend their CSR funds on false targets by aligning their actions with political interests. Another example of this kind of misuse is the misuse of 2.9 crore rupees from CSR funds by Hindustan Steelworks Construction Ltd. for renovating a house owned by a former minister.²⁷¹ The significance of such practices has been reflected in the Ministry of Finance and Corporate Affairs' approval of prosecutions related to CSR frauds; this ministry approved 366 cases in the last three years, starting in March 2021.²⁷²

The inability of Section 135 of the Companies Act 2013 to ensure that large companies effectively contribute to the social good has shifted the focus of CSR regulation in India toward the moral legitimacy of CSR. Like other organizations, companies are also a part of an organized social system where local legitimacy is important to gain market access.²⁷³ One way companies obtain this legitimacy is by introducing CSR initiatives. Under this perspective, JG Maurer narrates that companies' legitimacy in society depends on the strength of their business practices.²⁷⁴ However, Maurer's perspective advances the idea of legitimacy through efficiency. In contrast, Suchman sees legitimacy from a wider context, "in terms of manipulation and engineering of societal support."²⁷⁵ Suchman argues that businesses employ a range of strategies, such as creating specific policies and engaging in social responsibility initiatives, to ensure that external stakeholders view their actions as legitimate.²⁷⁶ Societal legitimacy examines the appropriateness of the nexus between business and

²⁷⁰ See Priya Nair Rajeev & Suresh Kalagnanam, *India's Mandatory CSR Policy: Implications and Implementation Challenges*, 12 INT'L J. OF BUS. GOVERNANCE & ETHICS (2017); Vijay Kumar, *Corporate Social Responsibility in India: An Overview*, 9 J. OF ASIAN BUS. MGMT. 53–57 (2017).

²⁷¹ B Sivakumar, *CSR Implementation Plagued by Corruption, Says Watchdog*, FORTUNE INDIA, (Jul. 18, 2023), <https://www.fortuneindia.com/macro/csr-implementation-plagued-by-corruption-says-watchdog/113417> [<https://perma.cc/UTR4-C3KC>].

²⁷² Somesh Menon, *CSR Violation: 366 Cases Sanctioned for Prosecution in the Past Three Years*, THE CSR UNIVERSAL (Mar. 10, 2021), <https://thecsruniverse.com/articles/csr-violation-366-cases-sanctioned-for-prosecution-in-the-past-three-years> [<https://perma.cc/N7LP-89W8>].

²⁷³ David J. Campbell, *Legitimacy Theory or Managerial Reality Construction? Corporate Social Disclosure in Marks and Spencer Plc Corporate Reports*, 24 ACCT. FORUM 80–100 (2000).

²⁷⁴ J.G. MAURER, READINGS IN ORGANIZATION THEORY: OPEN-SYSTEM APPROACHES (Random House, 1st ed. 1971).

²⁷⁵ MIA MAHMUDUR RAHIM, LEGAL REGULATION OF CORPORATE SOCIAL RESPONSIBILITY: A META-REGULATION APPROACH OF LAW FOR RAISING CSR IN A WEAK ECONOMY (2013).

²⁷⁶ See Mark C. Suchman, *Managing Legitimacy: Strategic and Institutional Approaches*, 20 ACAD. MGMT. REV. 571 (1995).

society.²⁷⁷ Societal legitimacy also explores how society and businesses can agree regarding CSR.²⁷⁸ According to Suchman, this relationship is a “generalised perception or assumption that the actions of an entity are desirable, proper or appropriate within some socially constructed system of norms, values, beliefs, and definitions.”²⁷⁹ Within this context, he considers three types of organizational legitimacy: (a) pragmatic legitimacy, (b) cognitive legitimacy, and (c) moral legitimacy.

Shareholders’ self-interest serves as the foundation for a company’s pragmatic legitimacy.²⁸⁰ For instance, a company that damages the environment might not want to pay to repair the harm because doing so will reduce its owners’ earnings. Companies create strategies using the pragmatic legitimacy method that directly benefit them (such as creating management roles for their constituents). Companies frequently achieve pragmatic legitimacy by carefully manipulating the opinions of its stakeholders.

Cognitive legitimacy is attained when a company subtly conveys to its stakeholders that it has a valuable place in society.²⁸¹ This may include, for instance, the stakeholders’ perception that a company’s operations, procedures, infrastructure, and leadership abilities are crucial and are based on stakeholders’ expectations.²⁸² This approach can also account for practical considerations. A company that pollutes the environment and subsequently experiences a credibility crisis provides a good example. In such a situation, the company might “create [companies] in [its] own image, either through success and modeling or through force or regulation.”²⁸³

When the people who are important to a company make moral judgments about its operations, leadership, and policies, the company might achieve moral authority.²⁸⁴ Within this approach, a company “reflects a pro-social logic that is very different from narrow self-interest.”²⁸⁵ For moral and social reasons, a company might decide, for

²⁷⁷ See Guido Palazzo & Andreas Georg Scherer, *Corporate Legitimacy as Deliberation: A Communicative Framework*, 66 J. BUS. ETHICS 71 (2006).

²⁷⁸ David Fiaschi, et al., *Overcoming the Liability of Origin by Doing No-Harm: Emerging Country Firms’ Social Irresponsibility as They Go Global*, 52 J. WORLD BUS. 546 (2017).

²⁷⁹ Suchman, *supra* note 276, at 574.

²⁸⁰ *Id.* at 578.

²⁸¹ *Id.* at 582–585.

²⁸² *Id.*

²⁸³ *Id.* at 593.

²⁸⁴ *Id.* at 579.

²⁸⁵ *Id.*

example, to pay for the repair of environmental damage before a lawsuit is filed. In this instance, the company makes no effort to evade social or legal obligations. It does not attempt to circumvent the law or imitate other businesses' tactics, which may have allowed them to escape accountability for their improper behavior. This example demonstrates how the emphasis on the outside contrasts with the emphasis on the inside.

India's mandatory approach to CSR regulation has had a limited impact on corporate moral commitments to improving social conditions through CSR projects. Many eligible Indian companies lag in spending their CSR budgets and use their budgets to fill the resource gap through taxation. The amendments to the Company Act 2013 further demonstrate companies' lack of moral commitment to social causes. Many companies have been heavily fined under the newly added Sub-section 5 to Section 135 of the Act.²⁸⁶

Corporate immoral practices related to CSR are widespread in India. Public agencies would exceed their legal authority by issuing show cause notices, asking companies to settle their CSR expenditure arrears, and depositing the amount into government funds.²⁸⁷ To tackle this situation, Section 135 of the Act was recently updated to include Sub-section 8. This amendment empowers the central government to direct companies or specific groups of companies regarding the areas where they can allocate their CSR funds. This directive indicates that the government does not fully trust companies to make their own decisions about contributing to society through their CSR funds. Anushka Pinto finds this situation "crossed the line from seeking to be a transformative regime to a draconian one. And all the critics, who in 2014 said making 'philanthropy' mandatory is nothing but another form of taxation, will have been right."²⁸⁸ Despite all the added sub-sections and the revised schedule, Section 135 of the Act has failed to manage the fraud with CSR funds in India. Indian companies still utilize their CSR funds in limited geographical and thematic areas.²⁸⁹ Bihar, Chhattisgarh, Madhya Pradesh, Odisha, and Uttar Pradesh have the highest "backward districts" in India but have only

²⁸⁶ See, e.g., *Private Limited Company Faces Rs.61.31 Lakhs Penalty for CSR Fund Lapse*, THE CSR JOURNAL (Dec. 22, 2023), <https://thecsrjournal.in/private-limited-company-faces-lakhs-penalty-for-csr-fund-lapse/> [https://perma.cc/79CH-DRAZ].

²⁸⁷ Anushka Pinto, *India's CSR Law: From Good, to Bad, to Worse*, INDIA DEVELOPMENT REVIEW (Mar. 25, 2020), <https://idronline.org/indias-csr-laws-from-good-to-bad-to-worse/> [https://perma.cc/C74J-4SLU].

²⁸⁸ *Id.*

²⁸⁹ See Abhishek Gawande & Atul Arun Pathak, *Uncovering the geographical skew in CSR spending in India and opportunities for impactful allocations*, 34 DEV. IN PRAC. 370 (2023).

received 9 percent of the total CSR funds.²⁹⁰ In contrast, Maharashtra, Karnataka, Andhra Pradesh, Gujarat, Tamil Nadu, and Delhi have only around 11 percent of such districts but have received around 40 percent of the total CSR funds for the years 2014-2015 and 2017-2018.²⁹¹ Odisha has disclosed the districts in most urgent need of CSR funds on its platform for coordinating corporate support in executing government projects.²⁹² However, between 2014 and 2015, 90 percent of the CSR funds in the state were concentrated in just 30 percent of its districts.²⁹³ Companies autonomously determined the allocation of their CSR funds without any collaboration with the public authorities.²⁹⁴ Consequently, no CSR funds were available for the most vulnerable populations and critical sectors, particularly healthcare for tribal and marginalized communities in the state.²⁹⁵

India has identified key areas to focus on to achieve its sustainable development goals, including the eradication of poverty and hunger, the promotion of healthy lives, and the attainment of gender equality.²⁹⁶ Despite making some progress, India still faces significant challenges in these areas. The 2020 population data reveals that India is home to the largest number of poor people globally.²⁹⁷ In 2022, approximately 24 percent of the country's population was illiterate, and 19 percent of

²⁹⁰ Vikrant Wankhede, *Indian firms' CSR spending needs more accountability and transparency*, DOWNTOEARTH (Feb. 14th, 2019, 12:13 AM), <https://www.downtoearth.org.in/economy/indian-firms-csr-spending-needs-more-accountability-and-transparency-63241> [https://perma.cc/TF5C-QYL].

²⁹¹ *Id.*

²⁹² *District Wise Projects*, GOV. OF ODISHA, <https://csr.odisha.gov.in/> [https://perma.cc/D6KA-QHPA].

²⁹³ *MIS Reports, State Wise*, MINISTRY OF CORP. AFF., GOVERNMENT OF INDIA, (Jul. 23, 2024), <https://www.csr.gov.in/content/csr/global/master/home/ExploreCsrData/mis-reports/state-wise-report.html> [https://perma.cc/V4SX-VPDR].

²⁹⁴ Subhasis Ray & Eshani Beddewela, *Resolving 'Grand Challenges': India's Mandatory CSR in Practice*, in *THE EQUAL PILLARS OF SUSTAINABILITY* (David Crowther & Shahla Seifi, eds., 2022).

²⁹⁵ *Id.* at 234.

²⁹⁶ Baiju Pallayil, et al., *India's Sustainable Development Goal Journey: Progress and Pathways*, in *1 ANTICIPATING FUTURE BUSINESS TRENDS: NAVIGATING ARTIFICIAL INTELLIGENCE INNOVATIONS* 423, 426 (R. El Khoury ed., 2024); United Nations India, *Our Work on the Sustainable Development Goals in India*, UNITED NATIONS (2025), <https://india.un.org/en/sdgs> [https://perma.cc/CGZ6-W7PS].

²⁹⁷ Yoshita Singh, *Number of Poor People in India Fell by About 415 mn Between 2005-06 and 2019-21, a 'Historic Change': UN*, THE ECONOMIC TIMES (Oct. 17, 2022, 12:09 IST), <https://economictimes.indiatimes.com/news/india/number-of-poor-people-in-india-fell-by-about-415-mn-between-2005-06-and-2019-21-a-historic-change-un/articleshow/94910830.cms?from=mdr> [https://perma.cc/T67U-FFP9].

households lacked access to proper toilet facilities.²⁹⁸ Although India has launched national initiatives such as the National Social Assistance Program to combat poverty, these efforts have not yielded the desired results.²⁹⁹ This is also the case with educational development. Ray and Beddewela have characterized the country's education system as being in a state of disarray,³⁰⁰ leaving the less privileged at the mercy of the system.³⁰¹

While India requires substantial support to achieve its sustainable development goals, Indian companies' commitment to allocating their CSR funds in these areas is limited. Research conducted by Mulky indicates a lack of alignment between the CSR expenditures of top Indian companies and the national policy goals.³⁰² Ray and Beddewela's study, however, suggest that this posit such alignment "post facto – i.e. more by chance than by choice."³⁰³ Jumde and Plessis assessed the annual reports of two hundred Indian companies in 2017 and 2018 and found that:

none of the companies have identified support for the elderly and aged population, orphans, measures for the benefit of the armed forces veterans, contributions for technology incubators in government approved academic institutions; eradication of malnutrition, infant mortality rates, setting up of public libraries and slum development as focus areas for their CSR initiatives.³⁰⁴

In other words, the companies they assessed did not focus on broader social and environmental issues when spending their CSR funds. Companies may focus on limited thematic areas for CSR spending because their goal is to obtain more result-oriented viability and tax rebates from

²⁹⁸ Aaron O'Neill, *Literacy Rate in India 1981-2022, by gender*, STATISTA (Sept. 19, 2024), <https://www.statista.com/statistics/271335/literacy-rate-in-india/> [<https://perma.cc/66DB-MU4J>]; PTI, *Nineteen per cent households do not use any toilet facility: NFHS survey*, THE INDIAN EXPRESS (May 11, 2022, 15:21 IST), <https://indianexpress.com/article/india/nineteen-per-cent-households-do-not-use-any-toilet-facility-nfhs-survey-7911402/> [<https://perma.cc/SM9E-J67H>].

²⁹⁹ Samridhi Vij, *Resource Gap Analysis of National Social Assistance Programme*, CTR. FOR BUDGET & GOVERNANCE ACCOUNTABILITY (Nilachala Acharya & Saumya Shrivastava eds. 2017); Rubina Nusrat, *A Critical Analysis of National Social Assistance Programme in India*, 12 RSCH. J. OF MGMT. SOCIO. & HUMAN. 55 (2021).

³⁰⁰ Ray & Beddewela, *supra* note 294, at 232.

³⁰¹ See generally Jean Drèze & Amartya Sen, *An Uncertain Glory: India and its Contradictions* (2013).

³⁰² See Avinash Mulky, *Are CSR Activities Directed Towards Sustainable Development Goals? A Study in India*, 5th (Int'l OFEL Conf. on Governance, Mgmt. and Entrepreneurship, 2017).

³⁰³ Ray & Beddewela, *supra* note 294, at 233.

³⁰⁴ Akanksha Junde & Jean du Plessis, *Legislated Corporate Social Responsibility (CSR) in India: The Law and Practicalities of its Compliance*, 43 STATUTE LAW REV., 170, 183 (2020).

the government.³⁰⁵ Companies' contribution to CSR reflects on their profit trend but does not reflect on the actual needs of their CSR projects.

The gap between the aims of the highlighted CSR projects and the emphasized goals of large Indian companies is wide. For instance, while Coca-Cola India declared its aim to contribute to eradicating malnutrition in India, this company does not currently have a Nutrient Profiling System in place to assess the nutritional value of its products.³⁰⁶ The Access to Nutrition Initiative scored the company's products 3.5 out of 10 in the India Spotlight Index 2020.³⁰⁷ The Initiative suggested that Coca-Cola India should enhance the overall nutritional quality of its product range or redirect its marketing efforts to promote healthier options.³⁰⁸ Additionally, the company should enhance transparency in its engagements with relevant stakeholders, particularly those affecting its nutrition strategies in India.³⁰⁹ From a broader perspective, after surveying the key CSR executives in India, the Forensic and Integrity Services of Ernst and Young LLP "point[s] toward a strong need for corporate India to integrate ethics within their CSR programs, encompassing practices and processes in the engagement of partners to mitigate financial and reputational risks."³¹⁰

V. CONCLUSION

Indian lawmakers enacted CSR laws to encourage companies to transition from ad hoc philanthropy to purposeful and structured CSR initiatives that address critical developmental challenges.³¹¹ Gopalan and Kamalnath found that after the incorporation of Section 135 in the Companies Act 2013, the majority of the top fifty companies embraced "the reasoning of the government; they view CSR as stemming from an obligation towards contributing to the development of the country by virtue of being corporate citizens."³¹² With this development, the total expenditure for CSR and sustainability reporting has increased in this

³⁰⁵ *Id.* at 181–82.

³⁰⁶ COCA-COLA INDIA, INDIA SPOTLIGHT INDEX 2020 (2020), <https://accesstonutrition.org/app/uploads/2024/12/Coca-Cola-India.pdf> [<https://perma.cc/Q6DR-D5MY>].

³⁰⁷ *Id.*

³⁰⁸ *Id.*

³⁰⁹ *Id.*

³¹⁰ Ernst and Young LLP, *supra* note 254, at 3.

³¹¹ Gatti et al., *supra* note 23 at 965.

³¹² Gopalan & Kamalnath, *supra* note 124, at 81.

country.³¹³ This expenditure increased from 10066 crore rupees in 2014 and 2015 to 18653 crore rupees in 2018 and 2019.³¹⁴ By 2014, 82 percent of the top fifty Indian companies established CSR committees as per the requirement of the Companies Act 2013.³¹⁵ In the 2014 to 2015 financial year, 57 percent of the companies liable for reporting on CSR published their CSR reports. These reporting rates were 64 percent, 64 percent, and 51 percent in the 2015 to 2016, 2016 to 2017, and 2017 to 2018 financial years, respectively.³¹⁶

Although the legislation has helped improve companies' CSR performance, it is only a surface-level solution. It does not address the fundamental issue of incorporating the concept of righteousness into business practices. Satapathy and Paltasingh find that "CSR in contemporary [India] has been unduly quantitative rather than qualitative. Quantifiable consequences or graphical descriptions of CSR budgets, expenditures, and activities are more visible now rather than qualitative outcomes of interventions."³¹⁷ Companies' CSR programs are often driven by the need to meet legal requirements and legitimize their operations, rather than a genuine commitment to social policy goals. While some CSR programs may address societal needs such as education and sanitation, many are unjust and contradict social values and environmental needs. Large Indian corporations often misuse the flexibility in legislation to carry out social work based on their individual preferences. They tend to ignore the immediate adverse impacts of their production processes on the environment and the effects of their corporate practices on employees. Companies benefit from simply publicizing their CSR programs without actually complying with the underlying cause of the requirements. Consequently, the negative impacts of their CSR programs often outweigh any potential benefits, indicating a lack of genuine dedication to addressing social issues through CSR initiatives.

³¹³ *Id.* at 92.

³¹⁴ Social Impact Assessment of Corporate Social Responsibility in India, *supra* note 230, at 26 (listed companies contributed 61% of the INR 18653 core, while the contribution of the unlisted companies was 39%. Unlisted companies contributed 33% of the CSR expenditure in 2014-2015 financial year). Sanjeev K Ahuja, *Exodus 2017?*, HINDUSTAN Times, (Jan. 12, 2009, 1:03 AM), <https://www.hindustantimes.com/india/exodus-2017/story-WKpK5jEOqpWsxgggrmtrGP.html> [[https://perma.cc/9\\$NM-2898](https://perma.cc/9$NM-2898)].

³¹⁵ Gopalan & Kamalnath, *supra* note 124, at 88.

³¹⁶ See Development Monitoring and Evaluation Office [DMEQ], *supra* note 252, at 38.

³¹⁷ Jayadev Satapathy & Tattwamasi Paltasingh, *CSR in India: a journey from compassion to commitment*, ASIAN J. BUS. ETHICS 224, 237 (2019).

The CSR law in India has mainly benefited large corporations, leading to a distorted idea of responsibility and raising doubts about the efficiency and righteousness of CSR performances. The law does not align with the original principles intended by lawmakers. It has not fostered a culture of corporate support for social needs and formal corporate philanthropy. Furthermore, it has not met the lawmakers' goal of promoting transparency and accountability in the social responsibility efforts of large corporations in India. This indicates the need for a reformed CSR regulatory framework in the country.

If updated, the framework should not limit CSR initiatives to corporate strategy alone, but instead, it should reflect the resolution of conflicts arising from non-market actors, societies, NGOs, and companies.³¹⁸ If a company's practical approach to societal legitimacy causes backlash and its cognitive approach is weakening, adopting a moral approach through CSR initiatives can help address its need for legitimacy. Therefore, the regulatory framework should implement strategies to increase the moral obligations of businesses and improve communication. This will make the framework an effective tool to involve influential social actors, such as companies, in tackling societal, economic, and environmental issues. India has low levels of civil society and minimal media engagement in companies' internal auditing practices to develop performance in societal issues. In the regulatory framework, a moral approach should involve various actors working together to combat corruption rather than relying solely on private ordering and market-based actors.

³¹⁸ See Tim Bartley, *Transnational Governance as the Layering of Rules: Intersections of Public and Private Standards*, 12 THEORETICAL INQ. IN LAW 517 (July 2011); Luc Fransen & Brian Burgoon, *A market for worker rights: Explaining business support for international private labour regulation*, 19 REV. OF INT'L. POL. ECON. 236 (May 2012).