
EXPLORING THE LEGAL DEBATE ON CORPORATE SOCIAL RESPONSIBILITY: MANDATORY VS VOLUNTARY CSR APPROACH

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ABSTRACT

Corporate social responsibility (CSR) is an initiative that has grown rapidly during last 3 decades for the welfare of the company and the society. Corporate social responsibility (CSR) can be understood as where a company puts efforts to work for the welfare of the society and this involves working ethically with a view to work toward the betterment of society and further emphasizes the companies about their responsibilities which they have towards the society. This was initiated with a motive of voluntary contribution to the society and later it ended in the debate as it should be mandated by law and the same was made because of the demand from the society. Despite being mandated by law, the debate as whether it should be Mandatory or voluntary is not conclusive. The debate evolves around as whether the company's focus should be on ethical commitments or on regulatory mandates. The argument on one side is that the company should focus on maximization of profit for their shareholders and other side they argue that from the profit they earn some contributions should be done to the community. This paper aims on the evolution of the concept of Corporate social responsibility (CSR) and it further focuses on the concept of the advantages and disadvantages of Voluntary and mandatory Corporate social responsibility (CSR). It further focuses on the evolving legal frameworks along with the need and benefits of CSR. In order to determine the best CSR system there are certain factors which should be taken into consideration and examining these factors it will make it easy to determine the best CSR system and further concludes on the necessity of CSR irrespective of Mandatory or Voluntary Corporate social responsibility (CSR).

Keywords: Corporate Social Responsibility, Mandatory, Voluntary, Disclosure, Sustainability.

1. INTRODUCTION

Corporate social responsibility (CSR) has become an integral part of business operations worldwide, with companies allocating substantial budgets to CSR initiatives. As interest in sustainable investments continues to rise, the demand for detailed information on CSR policies and activities has grown significantly. CSR plays a vital role in helping investors assess a company's strategy, risk profile, and potential for long-term value creation, ultimately addressing information gaps and mitigating financial risks, especially in emerging economies.

It refers to a corporate initiative where businesses assess and take responsibility for their impact on the environment and social welfare. It goes beyond what is required by regulators or environmental protection groups, aiming to create positive change in society. This concept of CSR is evolved by the Industrial families in the 19th century, such as Tata, Godrej, Bajaj, and Birla, were strongly inclined toward economic as well as social considerations. However, their efforts in social and industrial development were often driven by a combination of selfless, religious motives, caste group influences, and political objectives.

Although CSR has a long history in India, it gained formal recognition through the Ministry of Corporate Affairs, which introduced Section 135 of the Companies Act, 2013, along with the Companies (CSR Policy) Rules, 2014. These rules, effective from April 1, 2014, mandate certain companies meeting specific criteria to comply with CSR provisions. In light of the time-bound changes implemented by the Ministry of Corporate Affairs under the Corporate Governance rules, CSR spending has become a key focus, giving rise to discussions on "*Voluntary vs. Mandatory CSR*"¹.

The Chairman of the CSR Committee emphasized that CSR is not just about charity or donations but a strategic process through which organizations evolve their relationships with stakeholders for the common good. It involves integrating economic, environmental, and social objectives into a company's operations and growth, ensuring they contribute to social welfare. CSR is, therefore, not merely an optional tool but a core aspect of corporate governance, promoting sustainable growth and societal development through collaboration between the corporate and social sectors.

¹ Bhavesh Sarna: Voluntary V/s Mandatory CSR-The Sound of Employees, Jyväskylä University School of Business and Economics, Master's Thesis, August 2016.

One of the most debated issues surrounding CSR is whether it should be mandatory or voluntary. It will also analyse recent measures taken by the Government of India to regulate CSR. The main aim of the paper is to assess which approach voluntary or mandatory CSR proves to be more effective in implementing and enforcing CSR practices.

2. UNDERSTANDING THE CONCEPT OF CORPORATE SOCIAL RESPONSIBILITY

2.1 Evolution of CSR

CSR has existed for over a century, despite its widespread adoption being relatively recent. Its origins trace back to the late 1800s, a period marked by the rise of philanthropy and growing concerns over deteriorating working conditions. During this time, some businesses began reevaluating their production models. Prominent industrialists started contributing to community initiatives, while certain business owners, albeit reluctantly, improved factory conditions and reduced working hours, laying the groundwork for responsible corporate practices.

In 1953, the word CSR was introduced by the American Economist and he highlighted the significant influence of corporations and emphasized that their actions directly impact society. He argued that business leaders have a duty to adopt policies that promote the common good².

This concept has evolved significantly and it initially focuses on, charitable donations and reducing working hours. However, it has since expanded to address a broader range of issues and influence nearly every aspect of business operations. What began as a modest initiative has transformed into a fundamental part of modern business practices.

In 1960s, the scholars began exploring CSR as a response to the challenges of modern society. Businesses gradually adopted these practices, though the scope of CSR remained limited. At that time, many believed companies were only responsible for the

² Howard R. Bowen, *Social Responsibilities of the Businessman* (2013)

immediate consequences of their actions and not broader social issues. While the 1960s marked progress, the understanding of CSR was still far from what it is today.

In The 1970s and 1980s, the adoption of CSR grew steadily. The deregulation of business in the 1980s further emphasized the need for self-regulation, with companies focusing on human and labour rights, pollution control, and waste management.

In 1990s, the CSR marked a pivotal moment for CSR due to increasing globalization. For the first time, multinational corporations began considering their global impact rather than just their local influence. During late 1990s and early 2000s, CSR started focusing on minimizing harm to addressing global challenges.

2.2 Need and Necessity of CSR

CSR have grown significantly in recent years, driven by various factors that contribute to a company's long-term success and sustainability. Firstly, CSR plays a crucial role in reputation management, as businesses are held increasingly accountable to the public. By engaging in socially responsible initiatives, companies can build trust, enhance their reputation, and comply with legal frameworks in many countries that encourage or require contributions to societal well-being, such as environmental protections and labour rights.

Additionally, CSR practices help in risk mitigation by identifying and reducing potential risks, such as environmental hazards, supply chain issues, and worker exploitation. As customer, investor, and employee expectations evolve, there is a growing demand for businesses to act ethically, contributing to social causes and adopting sustainable practices. This shift in values also helps businesses attract top-tier talent, as employees are more inclined to work for companies that uphold strong CSR values.

Furthermore, CSR is vital for ensuring sustainable growth. With rising concerns about environmental and social issues, companies must take responsibility for their long-term impact on the planet and society. This responsibility aligns with the increasing demand for ethically produced and environmentally friendly products,

positioning companies as forward-thinking and socially responsible. CSR also contributes to better corporate governance, fostering transparency, accountability, and more effective decision-making within organizations³.

Finally, the rising public pressure from non-governmental organizations (NGOs), activists, and consumers has made CSR a key tool for companies to demonstrate their accountability. By engaging in CSR, companies can avoid reputational damage and align their operations with societal expectations, ensuring they remain competitive and respected in the global marketplace⁴.

2.3 Pros of CSR

CSR offers several advantages that contribute to a company's success and long-term sustainability. One key benefit is an enhanced reputation. When a business demonstrates a commitment to ethical practices and social causes, it builds trust and recognition among customers and stakeholders, which ultimately leads to increased customer loyalty and a stronger brand value.

CSR also provides companies with a competitive advantage. By focusing on sustainability, businesses often uncover cost-saving opportunities and meet the growing consumer demand for socially responsible products, improving their market position and profitability. Moreover, CSR initiatives can significantly boost employee engagement. Employees who witness their company's positive impact are more likely to feel motivated and satisfied in their roles, resulting in higher productivity and lower turnover rates⁵.

Attracting investors is another important advantage of CSR. As investors increasingly prioritize CSR performance, companies with strong sustainability practices are better positioned to attract socially responsible investment and secure funding, which fuels growth. Additionally, CSR plays a crucial role in risk mitigation.

³ Carol A. Tilt, Corporate Social Responsibility Research: The Importance of Context, 1 International Journal of Corporate Social Responsibility 2 (2016), <https://doi.org/10.1186/s40991-016-0003-7> (last visited Dec 15, 2024)

⁴ Hency Thacker, What Is the Importance of CSR? The CSR Journal (Dec. 12, 2019), <https://thecsrjournal.in/what-is-the-importance-of-csr/> (last visited Dec 15, 2024)

⁵ The 8 Key Benefits of Corporate Social Responsibility - CSR - India CSR, (Nov. 3, 2022), <https://indiacr.in/the-8-key-benefits-of-corporate-social-responsibility-csr/> (last visited Dec 15, 2024)

By addressing social and environmental issues proactively, businesses can reduce the likelihood of negative incidents. In the event of a crisis, a robust CSR framework helps manage and mitigate potential reputational and operational risks effectively⁶.

2.4 Cons of CSR

Despite numerous advantages, there are several disadvantages associated with CSR. One major drawback is the financial burden it places on organizations. Implementing sustainability initiatives and philanthropic efforts often requires significant investment, which can strain a company's financial resources, especially in the short term.

Another challenge is the inconsistent application of CSR practices across an organization. Different departments may have been varying interpretations of what CSR entails, leading to uneven execution and a diluted impact of initiatives. This inconsistency can harm the company's reputation and undermine the effectiveness of CSR efforts.

Further, some companies engage in "*greenwashing*," where they exaggerate or misrepresent their CSR activities. This practice can lead to accusations of dishonesty and damage the company's credibility. Furthermore, measuring the true impact of CSR initiatives is often difficult. Assessing social and environmental benefits lacks clear metrics, making it challenging for organizations to determine the actual value of their efforts and to make informed decisions.

Today balancing the diverse demands of various stakeholders such as customers, investors, employees, and local communities can be difficult. These groups may have differing priorities and views on what effective CSR looks like, making it challenging for organizations to address all expectations in a balanced and meaningful way⁷.

⁶ Immanuel Martinez, Pros and Cons of Corporate Social Responsibility, Konyse (2024), <https://www.konyse.com/articles/pros-and-cons-of-corporate-social-responsibility/> (last visited Dec 15, 2024)

⁷ Ivan Hilliard, The Limitations of Corporate Social Responsibility (CSR): A Philosophy at Odds with Its Surroundings, in *Coherency Management: An Alternative to CSR in a Changing World 1* (Ivan Hilliard ed., 2019), https://doi.org/10.1007/978-3-030-13523-2_1 (last visited Dec 15, 2024)

3. “MANDATORY” CSR APPROACH

The mandatory CSR approach involves a legal requirement for companies, unlike the traditional voluntary model. In recent years, several countries have adopted mandatory CSR as part of their legal frameworks to promote sustainability and environmental conservation. By implementing laws and penalties for non-compliance, governments aim to ensure that companies contribute to social development and environmental protection. CSR, while typically seen as voluntary, involves investments that do not yield immediate profits but offer long-term benefits, such as goodwill and positive social impact.

A landmark example of mandatory CSR is India's legal framework⁸ which requires companies with a net profit of 5 crores or a turnover of 1,000 crores to spend at least 2% of their average net profit over the previous three years on CSR initiatives. This landmark legislation made India the first country to introduce mandatory CSR provisions, reflecting the country's commitment to corporate responsibility and social welfare. This includes activities like rural development, slum improvement, and educational advancements. The Act encourages companies to contribute meaningfully to societal welfare rather than just fulfilling a legal requirement. Despite these efforts, challenges remain in ensuring that CSR is effectively implemented and that companies are genuinely committed to social and environmental goals.

The authors examine CSR in the Indian context, highlighting the importance of corporations in addressing pressing societal challenges, such as poverty, education, and environmental sustainability. They further argued that while CSR in India has historically been voluntary, there is a growing need for companies to adopt more structured and effective CSR practices, especially in the face of increasing globalization and economic development. They emphasize that CSR should not merely be seen as a tool for enhancing a company's image, but as a genuine commitment to fostering social welfare and promoting sustainable development. The further discusses the challenges of implementing CSR in India, including issues of accountability, transparency, and the need for a clear legal framework⁹.

⁸ Companies Act of 2013, Sec.135.

⁹ Aruna Das Gupta & Ananda Das Gupta, *Corporate Social Responsibility in India: Towards a Sane Society?*, 4 Social Responsibility Journal 209 (2008), <https://www.emerald.com/insight/content/doi/10.1108/17471110810856965/full/html> (last visited Dec 16, 2024).

However, mandating CSR presents several challenges. It focuses on values, which are difficult to enforce legally, and companies might seek ways to bypass obligations, leading to potential loopholes or political interference. Moreover, mandatory CSR can increase the financial burden on companies, which are already obligated to pay taxes and wealth taxes. This could create resistance among businesses, particularly when CSR requirements are seen as burdensome.

4. “VOLUNTARY” CSR APPROACH

Corporations are integral social entities that operate in a global environment, where their actions have significant economic, social, and environmental consequences. The rise of globalization has led corporate activities to extend beyond national borders, challenging governments to address citizens' needs, local development, and quality of life. As a result, there has been growing pressure for corporations to take responsibility for their actions, a demand reflected in the increasing trend of voluntary CSR reporting. However, concerns over the extent, quality, and credibility of this voluntary CSR reporting have also emerged.

The voluntary CSR model suggests that companies choose to engage in socially responsible practices beyond what is legally required. These practices are guided by ethical values, corporate self-interest, and are generally conducted with minimal government involvement.

The voluntary nature of CSR means that companies are not legally obligated to adopt CSR practices, giving them significant flexibility in how they operate. This lack of enforceability has sparked debate. Some argue that the voluntary approach allows companies to exercise freedom and innovation in addressing social and environmental issues, while others believe it lacks effectiveness and accountability. These differing viewpoints will be explored in the following sections.

The authors explore the relationship between CSR practices and the role of government regulation. The authors propose a contingency approach, arguing that the effectiveness of CSR is contingent on various factors, including the industry, the size of the company, and the social and political context in which it operates. They examine the balance between voluntary CSR initiatives and the role of governments in shaping corporate behaviour. While acknowledging the benefits of voluntary CSR, the article suggests that government involvement may still be

necessary to create a level playing field, ensure accountability, and address issues that corporations might overlook. They further stated that both voluntary practices and government regulation can complement each other, depending on the specific context and circumstances surrounding a company's operations¹⁰.

The authors analyse how voluntary CSR reporting can contribute to improved corporate transparency, accountability, and stakeholder trust. Through their study, they find that voluntarily disclose CSR activities tend to experience positive outcomes, such as enhanced reputation, better customer relations, and increased investor confidence. The authors further highlighted that while voluntary CSR disclosure is not legally mandated, it can provide substantial benefits for corporations, particularly in terms of fostering social responsibility and promoting long-term sustainability. They concluded that voluntary CSR reporting not only works but can lead to tangible advantages for firms in the competitive and increasingly socially-conscious banking industry¹¹.

5. LEGAL DEBATE ON MANDATORY Vs. VOLUNTARY CSR

The author analyses the ongoing legal debate between voluntary and mandatory CSR approaches. By discussing the growing global trend towards mandatory CSR, where governments enforce legal obligations for businesses to engage in social and environmental initiatives. She further argues that mandatory CSR can help ensure consistency and accountability, especially in industries where voluntary efforts may be insufficient or ineffective in addressing social issues.

On the other hand, the author also highlights the advantages of voluntary CSR, emphasizing that it allows companies to act based on their ethical values, business strategies, and social commitment, without the pressure of legal compliance. Voluntary CSR is seen as fostering genuine corporate responsibility, enabling companies to tailor their efforts to specific

¹⁰ Nikolay A. Dentchev, Mitchell Van Balen & Elvira Haezendonck, *On Voluntarism and the Role of Governments in CSR: Towards a Contingency Approach*, 24 *Bus Ethics Eur Rev* 378 (2015), <https://onlinelibrary.wiley.com/doi/10.1111/beer.12088> (last visited Dec 16, 2024).

¹¹ Ameeta Jain, Monica Keneley & Dianne Thomson, *Voluntary CSR Disclosure Works! Evidence from Asia-Pacific Banks*, 11 *Social Responsibility Journal* 2 (2015), https://econpapers.repec.org/article/emesrjpps/v_3a11_3ay_3a2015_3ai_3a1_3ap_3a2-18.htm (last visited Dec 16, 2024).

social needs while promoting goodwill and long-term sustainability¹².

The legal debate centres on whether CSR should be a mandated activity or regulated by law with penalties for non-compliance, or whether it should remain voluntary, driven by corporate ethics and stakeholder expectations. While mandatory CSR might ensure broader impact and equitable distribution of corporate contributions, critics argue that it could lead to reduced innovation, as companies may treat CSR as just a legal obligation rather than a core part of their values.

The debate continues, with each approach having its strengths and weaknesses, depending on the social, economic, and political context. Ultimately, a hybrid approach combining both mandatory frameworks for baseline responsibility and voluntary initiatives for innovation and flexibility may offer the most effective way forward in promoting corporate social responsibility.

CONCLUSION

The paper concludes the legal debate between mandatory and voluntary CSR approaches and suggests that a balanced and flexible framework may be the most effective way forward. While making CSR mandatory can ensure that all companies contribute to societal well-being, providing exceptions and adjustments based on a company's financial situation such as reducing the required CSR spend or allowing reinvestment for greater societal good can prevent undue burden on struggling businesses.

Furthermore, CSR activities should be expanded to benefit both urban and rural areas equally, and provisions should be made for all types of businesses, including partnerships and sole proprietorships, to engage in CSR. Tax incentives could encourage companies, including startups, to adopt CSR practices, making them more attractive.

Moreover, broadening the scope of CSR to include activities like pollution control, basic infrastructure, and education would allow companies to make more comprehensive contributions. Ultimately, CSR, whether mandatory or voluntary, it should offer long-term

¹² Williams, Cynthia; Aguilera, Ruth V., *Williams, Corporate Social Responsibility in a Comparative Perspective. In Oxford Handbook of Corporate Social Responsibility (Ed.):* (2008) https://digitalcommons.osgoode.yorku.ca/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1329&context=scholarly_works, checked on 3/2/2019.

benefits for both businesses and society, improving environmental sustainability and social well-being. By fostering a supportive regulatory environment and incentivizing companies, the government can ensure that CSR is practiced widely and effectively, leading to a more sustainable and responsible business landscape.