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Corporate Social Responsibility in India

How the Companies Act May Augment Regional Disparities

AUTHOR
Richard M. Rossow

A Report of the CSIS Wadhwani Chair in U.S.-India Policy Studies

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Executive Summary

One of the final legislative achievements of the Indian National Congress-led United Progressive Alliance (UPA) government was passage, in late 2013, of a new Companies Act. This new act introduces a soft mandate that companies spend at least 2 percent of profits on corporate social responsibility. While this soft mandate has won plaudits for its potential contribution to easing societal concerns such as access to healthcare, it may actually augment regional disparities across a host of social welfare measures.

India is in the midst of a massive societal transformation, and despite a slump between 2011 and 2013, the country has been hitting economic growth rates that would have been unimaginable for most of India's independent history. India's dynamic companies have charged onto the global stage in sectors such as automobiles, information technology, telecommunications, and consumer products.

Yet the benefits of India's economic modernization remain relegated to a small part of the nation's overall population. In 2014 the United Nations Development Program (UNDP), through its Human Development Report index, ranks India's development level as 135th in the world of the 187 countries covered. Since 2008 the country has only moved up a single space in the Human Development Report index, highlighting the challenging development agenda India faces.

This new Companies Act, 2013,[1] redefines corporate governance rules in India. Among its many provisions, the act includes a soft mandate that medium and large companies must contribute 2 percent of their profits (averaged across the previous three years) toward corporate social responsibility (CSR), or describe in their annual report why they failed to meet this threshold. While some aspects of the new law and accompanying rules appear to be loose mandates, companies so far appear focused on complying with both the letter and the spirit of the law.

Companies initially decried the move, equating it to a new tax and complaining that being forced to meet a CSR spending threshold could turn it into another routine business operation and reduce innovation.

However, most attempts to alter this rule have died down. Now companies are focused on compliance. But there is also a danger that the way companies are meant to comply with these CSR rules could ultimately increase regional imbalances.

The inclusion of this CSR policy in the Companies Act was aligned with the broader objective of the UPA government, which focused the bulk of its policymaking energy while in office (2004–2014) on expanding social programs and related initiatives.

[1] The Companies Act, 2013, *Gazette of India*, August 30, 2013, http://indiacode.nic.in/acts-in-pdf/182013.pdf.

However, the rules governing the 2 percent CSR contribution are not well-defined, leaving much of its implementation subject to interpretation.

Since coming to power in May 2014, the Narendra Modi-led National Democratic Alliance (NDA) appears poised to retain the CSR rules within the Companies Act. In fact, there are even hints that it may strengthen penalties for noncompliance with the CSR rules.

There is a wide range in terms of how much companies currently spend on CSR, with most below 2 percent but some well above. This new “mandate” is expected to generate a substantial amount of new CSR spending, $3.6 billion by one estimate.[2]

Through the Companies Act, the government of India *urges affected companies to focus CSR activities in the regions where they have operations*. Many companies use CSR as a way to build their reputation within their community, so localizing CSR expenditures makes a great deal of sense.

However, other companies look at their CSR operations, in part, as a means to expand brand consciousness across India. Others have a pure development mission and attempt to find communities most in need of assistance, and focus CSR efforts there. In these instances, limiting a company’s CSR commitment to regions where it has operations may preclude investment in programs that would yield a wider benefit to India.

There is a mismatch between the regions with high levels of economic activity, and those areas with the most critical social development needs, such as public health, disease prevalence, gender equality, poverty, infant mortality levels, and other important indicators. For the purpose of this paper we used two parameters for measuring a state’s level of economic activity—per capita income levels, and the number of companies included in the Economic Times 250 (ET250) that have their headquarters in a given state.

Seven states rank in the top half among large Indian states (more than 10 million people), both in terms of per capita income levels, as well as hosting the headquarters of ET250 companies. These states include Maharashtra, Delhi, Karnataka, Tamil Nadu, Haryana, Gujarat, and Andhra Pradesh/ Telangana. With relatively high levels of economic activity, these states would presumably also generate the largest share of spending under the Companies Act CSR mandate.

Another group of states have relatively low per capita incomes, host few, if any, large companies, and also suffer most acutely from many of the social inequities

[2] “India Inc likely to spend Rs 22,000 crore on corporate social responsibility: Ernst & Young,” *The Economic Times*, June 5, 2014, http://bit.ly/1yMBKQ7.

highlighted by the Companies Act. These include Bihar, Assam, Jharkhand, Madhya Pradesh, Odisha, Chhattisgarh, Jammu & Kashmir, and Rajasthan.

A third group of states have mixed indicators, ranking in the top half of either the ET250 or per capita income levels, while ranking low in the other. West Bengal and Uttar Pradesh host some large companies yet have low per capita income levels. Kerala and Uttarakhand have high per capita income levels yet low prevalence of large corporate headquarters.

The government of India has outlined eleven social concerns as targets for this CSR mandate expenditure. These include such things as eradicating hunger and poverty, combating disease and child mortality, education, gender equality, sports, and many more.

A few of these social issues are prevalent in India's more developed regions, such as slum development. However, the majority of people impacted by the social issues outlined in the Companies Act for CSR spending, particularly health and related issues, would be concentrated in India's less-developed states—and therefore the CSR mandate may ultimately deprive these states of an important new source of funds to combat their most pressing social problems.

There is also a need to ensure the rules accommodate existing and emerging business models that focus less on a physical presence. Such a model has been in place for some time by industries such as television channels, which have a nationwide presence despite a small physical footprint. Similar models are now transforming new industries such as retail commerce, which is moving toward online sales. Companies leading India's growth wave in ecommerce sales may have a modest physical presence in a few locations, yet have a pan-Indian reach.

For this new pool of CSR spending to have an impact on most of the social issues notified by the government of India, the rules governing the CSR mandate must be relaxed to remove the geographical direction and ensure emerging business models are accommodated. While many companies would still choose to expend their CSR contributions in areas local to their operations, some will choose to build or continue programs well outside of their own operational areas. Such activities should be encouraged so this policy does not ultimately augment regional imbalances.

March 31, 2015, marks the end of the first fiscal year that the CSR requirement is in force. If the Modi administration plans to keep the CSR requirement, there will need to be a rigorous review of compliance and the concrete health, educational, and other development impacts of the requirement, including to what degree these investments create sustainable results and win strong support from community partners. If the requirement does indeed augment regional imbalances of the enumerated social issues, the government should look for ways to ensure more targeted results.

Corporate Social Responsibility in India

How the Companies Act May Augment Regional Disparities

Richard M. Rossow

Introduction

After decades of slow growth, India is now consistently hitting economic growth rates well above its historical average since becoming an independent nation. Over the last 20 years, India's per capita income level has leapt from $355 to $1,499 in 2013.[1] Poverty rates have dropped from 82 percent to 61 percent over the same timeframe.

Credit for this transformation is largely given to Indian government policies that have slowly peeled back onerous business rules, which have unleashed India's entrepreneurial spirits. India's dynamic companies have charged onto the global stage in sectors such as automobiles, information technology, telecommunications, and consumer products.

Yet India's economic modernization remains relegated to a small part of the nation's overall population. The United National Development Program (UNDP) ranks India relatively low—135th in the world—in its Human Development Report index. And despite relatively high economic growth rates, the country has only been able to move up a single space in the last seven years, underscoring the difficulties in translating growth into wider progress on human development indicators. Some examples of how India ranks on a select number of human development indicators, compared to global averages, taken from the Human Development Report:

- 26 percent of 1-year-olds are not immunized against measles (global average: 16 percent).
- 6.5 physicians per 10,000 people (global average: 34).
- 68.3/64.7—life expectancy at birth for males/females (global averages: 73.0/68.8).
- 62.8 percent adult literacy rate (global average: 81.2 percent).

[1] World Bank, "GDP per capita," http://data.worldbank.org/indicator/NY.GDP.PCAP.CD.

- 1.11 sex ratio—boys per girls at birth (global average: 1.07).
- 200 maternal mortality ratio per 100,000 live births (global average: 145).

Naturally, these disparities are not uniform across India. With a strong federal system and regional geographic and cultural advantages, some states have dramatically outperformed others on many fronts.

In 2013, India adopted a new Companies Act that redefines corporate governance rules in India. Among its many provisions, the act includes a soft mandate that medium and large companies must contribute 2 percent of their profits (averaged across the previous three years) toward corporate social responsibility (CSR). Such a policy was much in line with the social welfare instincts of the Congress Party, which was in power from 2004 until May 2014.

Studies show that there is a wide range in terms of the size of corporate CSR expenditure. Most companies surveyed contribute below 2 percent, though some are well above this level. This new "mandate" is expected to generate a substantial amount of new CSR spending—at least $3.6[2] billion across India. Improving healthcare access and delivery is already an area of focus for many companies' existing CSR programs. This is an effort to supplement the low level of public health expenditure in India. India's government spends around 4 percent of GDP on healthcare (around $72 billion annually), among the lowest level in the world. Such programs will likely be expanded under the new mandate.

The rules governing how companies are to contribute to CSR are fairly basic and open to interpretation, which worries some companies, fearing that compliance could be used subjectively against them. Other aspects of this CSR mandate appear at odds with the desired outcome from expanding the total amount of CSR spending. One key example in this regard is the fact that companies are urged to make these contributions in areas where they have operations; yet many of India's most serious social and health problems are located far away from key industrial centers. This could ultimately augment development disparities already evident in India. And the definition of operations may limit how some companies, particularly those engaged primarily in new sectors such as ecommerce, will comply.

Companies Act: Background

On August 13, 2013, the lower house of India's national Parliament, or Lok Sabha, approved the Companies Bill, 2011, completing a legislative journey that took nearly four years from when the first version of the legislation was introduced to Parliament.

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[2] "India Inc likely to spend Rs 22,000 crore on corporate social responsibility: Ernst & Young," *The Economic Times*, June 5, 2014, http://bit.ly/1yMBKQ7.

The new Companies Act replaced The Companies Act, 1956, an outdated framework of corporate governance that gave the Indian government a high degree of oversight into corporate management. The new Companies Act empowers shareholders to play the most critical guiding role.

A few of the salient features of the new Companies Act:

- Every company will have a uniform fiscal year running from April 1 to March 31, which matches with the government's fiscal year;
- Publicly traded firms and large private firms must rotate financial auditors every 5 or 10 years;
- Every publicly traded firm and large private firm must have at least one female director on its board of directors;
- Publicly traded firms and large private firms must ensure that one-third of the board should be "independent directors";
- Publicly traded firms must establish specific board committees if they are not already established, including a "Nomination and Compensation Committee," an "Audit Committee," and a "Corporate Social Responsibility Committee";
- The board of each company above a modest threshold must ensure that the company spends 2 percent of its pretax profits (average from previous three fiscal years) on corporate social responsibility activities, or specify the reasons why it did not meet this target in its annual report.

The Corporate Social Responsibility "Soft Mandate"

As noted earlier, the 2 percent contribution to corporate social responsibility is not, strictly speaking, a mandate for covered companies. Companies are encouraged to devote 2 percent of profits to CSR, but if a company is unable to meet this threshold, it must specify the reasons in its annual report. The company could be subject to penalties only if it fails to report its CSR activities.

The concern voiced by companies is that missing this mark will result in a "name and shame" campaign once annual reports are released. Public pressure will force them to comply, resulting in something tantamount to a mandate. Even companies that are below the size thresholds necessary to qualify for the CSR "mandate" are looking at adopting the mandate as a best practice, so it ultimately may become more widespread than initially conceived.

Importantly, under Article 135, subsection 5, "the company shall give preference to the local area and areas around it where it operates, for spending the amount

earmarked for Corporate Social Responsibility activities," meaning covered companies will be expected to expend their CSR programs where they have operations. So the ultimate impact of the CSR "mandate" could be felt with particular strength in those areas with higher levels of economic activity.

The specific thresholds companies must comply with in the CSR provisions are:

- Annual turnover of 1,000 crore INR (Indian rupees) and more ($167 million), or
- A net worth of 500 crore INR and more ($83 million), or
- A net profit of 5 crore INR and more ($830,000).

The broad set of issues to which companies must devote their CSR spending was included is an annex in the Companies Act.

(i) Eradicating hunger, poverty, and malnutrition, promoting health care including preventive health care and sanitation and making available safe drinking water;

(ii) Promoting education, including special education and employment enhancing vocation skills especially among children, women, elderly, and the differently abled and livelihood enhancement projects;

(iii) Promoting gender equality, empowering women, setting up homes and hostels for women and orphans; setting up old-age homes, day care centers and such other facilities for senior citizens and measures for reducing inequalities faced by socially and economically backward groups;

(iv) Ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agroforestry, conservation of natural resources, and maintaining quality of soil, air, and water;

(v) Protecting national heritage, art, and culture including restoration of buildings and sites of historical importance and works of art; setting up public libraries; promoting and developing traditional art and handicrafts;

(vi) Measures for the benefit of armed forces veterans, war widows, and their dependents;

(vii) Training to promote rural sports, nationally recognized sports, paralympic sports, and Olympic sports;

(viii) Contributing to the prime minister's National Relief Fund or any other fund set up by the central government for socioeconomic development and relief

and welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities, and women;

(ix) Having the central government approve contributions or funds provided to technology incubators located within academic institutions;

(x) Implementing rural development projects;

(xi) Promoting slum area development.

On February 27, 2014, the Ministry of Corporate Affairs notified companies of a set of rules further governing the CSR contribution under the Companies Act. Then on June 18, 2014, the Ministry of Corporate Affairs released General Circular No. 21/2014 that clarifies how these provisions are to be handled in certain instances.[3] It is not dissimilar to a "Frequently Asked Questions" document, adding a bit more clarity on whether certain programs will be allowed as part of a company's CSR contribution.

Such a broad mandate with so few specific details leaves the implementation of this rule open to interpretation. In the past, Indian officials have claimed the rules are purposely left quite loose to allow flexibility. However, large companies with robust compliance teams will feel compelled to look at the spirit of the law in addition to the specific details. Experience shows that companies, whether domestic or foreign, that are lulled into thinking certain rules in India will remain loosely enforced sometimes become targets for harassment and possible regulatory action. This can be driven by competitors, public interest groups, or a change in government.

The Impact of the CSR "Mandate"

The Indian Institute of Corporate Affairs (IICA), a think tank established by the Ministry of Corporate Affairs, estimates that at least 6,000[4] companies will have to adopt the new CSR rules. Many, if not all, would already have some level of CSR spending. But this provision in the Companies Act is expected to increase the scope of such spending in India.

With a quick scan of the CSR spending patterns of India's largest private firms (see Table 1), it is apparent that a 2 percent mandate is likely to impact a wide range of Indian companies. Of the 15 companies listed below, only six of them noted CSR spending at or above 2 percent of net profits, highlighted in yellow (Essar Oil did not disclose its specific CSR spending).

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[3] "General Circular No. 21/2014," Ministry of Corporate Affairs, Government of India, http://www.mca.gov.in/Ministry/pdf/General_Circular_21_2014.pdf.
[4] See PriceWaterhouseCoopers, *Handbook on Corporate Social Responsibility in India* (Haryana, India: PriceWaterhouseCoopers, 2013), http://bit.ly/1A6RfVs.

Table 1: CSR Expenditure of India's Largest Private-sector Companies

Company	2013–14 CSR Spending (USD millions)	CSR Spending as Percentage of Net Profits
Reliance Industries	119.88	3.24
Tata Motors	2.84	5.17
Tata Steel	34.7	3.31
Essar Oil	N/A	N/A
Hindalco Industries	5.28	1.81
Bharti Airtel	6.62	1.46
Larsen & Toubro	12.6	1.40
TCS	15.06	0.48
ICICI Bank	80.59	2.00
Mahindra & Mahindra	5.35	0.87
Sesa Sterlite	28.32	1.40
Adani Enterprises	0.9	3.08
Infosys	1.47	0.09
JSW Steel	4.42	2.00
HDFC Bank	11.52	0.83

Looking at the five largest government-owned firms in Table 2 (Public Sector Undertakings, or PSUs), it appears the mandate will impact this group of companies to an even larger extent. None of them report a level of CSR spending above the 2 percent mandate.

Table 2: CSR Expenditure of India's Largest Public-sector Companies

Company	2013–14 CSR Spending (USD millions)	CSR Spending as Percentage of Net Profits
Indian Oil Corporation	13.7	1.20
Bharat Petroleum Corporation	5.59	0.85
Hindustan Petroleum Corp	3.86	1.37
State Bank of India	24.26	1.37
Oil & Natural Gas Corporation	55.49	1.55

The IICA estimates currently average CSR spending across India is around 1 percent of profits. The CSR provisions of the Companies Act are expected to generate $3.6 billion in CSR spending.[5]

Establishing this 2 percent CSR rule in the Companies Act was very much aligned with the United Progressive Alliance (UPA) government's overall policymaking focus, which

[5] "India Inc likely to spend Rs 22,000 crore on corporate social responsibility: Ernst & Young."

emphasized the creation and expansion of social programs. Other reforms with distinct social elements enacted during the UPA government include:

- **The National Rural Employment Guarantee Act (2005):** Guaranteeing 100 days of paid labor to one member of every rural family in India.
- **Agricultural Debt Waiver and Debt Relief Scheme (2008):** The government waived existing loans made to 30 million farmers, with accelerated payment plans for another 10 million farmers (and later expanded).
- **The National Food Security Act (2013):** Expands India's programs of subsidized food grain for the poor and other marginalized groups in society.
- **The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act (2013):** Establishes a new process for reviewing land acquisition deals, including establishing mandatory premiums for buying rural (four times the market rate) and urban (twice the market rate) land for development purposes.

This focus on social programs worked while the economy was growing fast early in the party's tenure. In the first three years of the UPA government's rule (2005–2007), the economy grew by 9.3 percent, 9.3 percent, and 9.8 percent.[6] While the economy then suffered a dip to 3.9 percent in 2008 in line with global trends, it quickly rebounded to 8.5 percent growth in 2009 and 10.3 percent in 2010. However, from that point the Indian economy steadily decelerated, and has hovered at around 5 percent these last two years. While Indian citizens continued to avail of the social programs launched by the UPA government, there was a strong desire to return to higher growth rates.

The Leadership Transitions in New Delhi

India held an election for its powerful lower house of Parliament, the Lok Sabha, in April–May 2014. It was clear that after 10 years of Congress Party-led leadership, and striking recent declines in India's economic growth rates, Indian voters wanted a government focused on rekindling economic growth.

With the resounding victory by the Bharatiya Janata Party (BJP) and its pro-business prime minister, Narendra Modi, there are wide expectations that policymaking would again emphasize economic growth. There are also hopes that the Modi government will reverse some of the more damaging social programs launched by the previous government to ease budgetary pressures and relax new, burdensome corporate rules that may limit growth.

[6] World Bank, "GDP growth," http://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG.

So far there are signs that some of these policies may indeed be up for review, such as the onerous Land Acquisition, Rehabilitation and Resettlement Bill, 2011.[7] While senior political leaders have, so far, been relatively quiet on the new Companies Act, press reports indicate that, if anything, the Modi government may actually strengthen the 2 percent rule by adopting penalties for companies that do not comply with the 2 percent minimum spend—turning it into a true "mandate."[8] An amendment to the Companies Act introduced in December 2014 does not appear[9] to touch on the CSR provisions of the act.

Not surprisingly, companies have bristled at the prospect of being forced to spend money on corporate social responsibility. They call it a "tax," talk about how compulsory CSR devalues the intrinsic benefit of voluntary giving, and complain about the lack of clarity on the rules.

At any rate, the rule is in effect for the fiscal year concluding March 31, 2015. Without assurances that the 2 percent rule will be relaxed in any manner, companies are busy looking for ways to comply. And, as noted earlier, the Ministry of Corporate Affairs continues to issue additional clarifications of the rules—none of which have served to dramatically simplify compliance.

The Mandate's Geographical Focus

There is one other point from the Companies Act that has largely passed under critics' radar screen. It relates to additional guidance on how companies should utilize this 2 percent contribution, from Article 135 in the Companies Act. It states:

> Provided that the company shall give preference to the local area and areas around it where it operates, for spending the amount earmarked for Corporate Social Responsibility activities

At one level, this guidance is immensely reasonable. Part of the reason companies engage in corporate social responsibility is to strengthen their bonds with the local community. Whether it is running a local immunization camp, conducting literacy programs, donating goods for raffles, or similar activity, maintaining strong bonds with the community can boost employee morale, help protect against targeting by local activists, strengthen relations with local suppliers, and aid the recruitment of new employees.

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[7] Remya Nair, "Arun Jaitley hints at more reforms ahead," *The Mint*, November 21, 2014, http://bit.ly/1yMJktZ.
[8] Rajat Arora, "Narendra Modi-led government plans to penalize CSR defaulters under Companies Act 2013," *The Economic Times*, September 18, 2014, http://bit.ly/1GmvrJb.
[9] Tanushree Bhuwalka and Radhika Agarwal, "Proposed Changes to Companies Act—What They Mean," *BusinessWorld*, December 11, 2014, http://bit.ly/1vNGkeY.

Good local CSR programs may also provide a buffer that is helpful during challenging times, such as when the company goes through layoffs or suffers from some other type of problem. A good CSR program can help insulate the company from harmful effects of these predicaments.

However, there are three main problems with the guidance that companies earmark CSR programs in their operational areas.

- First, many of India's most serious problems—including the majority of those covered under the set of social, health, and development issues listed in the Companies Act—are far more prevalent in parts of India that have a lower level of economic development, thereby reducing the potential impact of the CSR rules in such areas.

- Second, companies may not have "operations" in an area that is critical to their growth, thereby limiting the benefit of brand exposure through doing CSR programs in that other region. An example might be a consumer products company. The company may only have a few bottling operations, but its products could be sold throughout the country. Having product on shelves in far-flung areas may not qualify as "local area and areas around where it operates," yet is vitally important to the continued success of the company.

- Third, the world is moving to a dematerialized form of commerce. With the rise in electronic commerce, some of the world's largest companies today and in the future will have an even smaller operational footprint. Such companies may generate massive revenue yet be relegated to a headquarters and perhaps a group of distribution centers. Indian companies such as Flipkart and MakeMyTrip are leaders in building this new commercial model in India. Questions will arise as to whether an online presence constitutes "where it operates," or if this provision in the act is defined as a company's physical locations.

The Mismatch between the CSR Mandate and the CSR Need

Looking at the categories of issues on which companies are meant to focus their CSR program, a real inconsistency quickly becomes apparent. It is reasonable to assume that high per capita income levels would be indicative of higher levels of economic activity. Among the 20 states/territories in Table 3 with at least 10 million people, here is the ranking of per capita income levels.

Table 3: Per Capita Income by State (highest to lowest)

State	Population (millions)	Per Capita Income[10] (INR)
Delhi	16	219,979
Haryana	25	132,089
Maharashtra	112	114,392
Tamil Nadu	72	112,664
Uttarakhand	10	103,349
Gujarat	60	*96,976*
Kerala	33	92,638
Punjab	27	88,876
Andhra Pradesh (presplit)	85	*88,527*
Karnataka	61	84,709
West Bengal	90	69,413
Rajasthan	69	65,098
Jammu & Kashmir	13	58,593
Chhattisgarh	25	58,297
Odisha	42	54,241
Madhya Pradesh	73	54,030
Jharkhand	33	46,354
Assam	31	46,131
Uttar Pradesh	200	37,630
Bihar	100	31,229

Note: States' per capita income in italics indicates the 2013–2014 data is not available; 2012–2013 data is used instead. No data yet on Andhra Pradesh following its division into two separate states.

The top 10 states in this list have an average per capita income of $2,073, well over double the per capita income of the bottom 10 states—$944. While not perfect, this indicates that certain states are likely to receive relatively high levels of the CSR spending. States such as Bihar, Assam, Jammu, Kashmir, and others on the lower end of this list will likely receive a much lower infusion of corporate CSR distributions as fewer companies have operations there.

Another indicative measure of the geographical impact of the CSR mandate is to look at where India's largest companies are headquartered. This serves as an effective proxy for where companies have substantial operations, and therefore, the bulk of their obligations under the CSR mandate.

[10] "Economic Survey, 2014–15," Ministry of Finance, Government of India, http://indiabudget.nic.in/survey.asp.

Table 4: Where Are India's 250 Largest Companies Headquartered?

State	Number of ET250 Companies	Percent of ET250 Companies
Maharashtra	106	42
New Delhi	33	13
Karnataka	19	8
Tamil Nadu	17	7
Haryana	17	7
West Bengal	14	6
Gujarat	12	5
Uttar Pradesh	10	4
Telangana	7	3
Madhya Pradesh	3	1
Punjab	3	1
Kerala	3	1
Rajasthan	2	1
Goa	1	<1%
Uttarakhand	1	<1%
Orissa	1	<1%
Jammu and Kashmir	1	<1%

Just seven states—Maharashtra, New Delhi, Karnataka, Tamil Nadu, Haryana, West Bengal, and Gujarat—are home to 87 percent of ET250 companies. Large states such as Uttar Pradesh, Rajasthan, and Madhya Pradesh have a total of 15 companies among the ET250.

By dividing the 20 states with more than 10 million residents into a top half and bottom half, the differences in prosperity levels is striking. The top half has more than double the per capita income levels of the bottom half (Rs. 113,000 per year, compared to Rs. 52,000 per year). States in the upper half of the per capita income range, on average, host the headquarters of 22 of the ET250, while states in the lower half average only 3.

Table 5: Size and Economic Vibrancy of States

State	Population, 2011	Per Capita Income (INR)	ET250 Companies
Delhi	16,787,941	219,979	33
Haryana	25,351,462	132,089	17
Maharashtra	112,374,333	114,392	106
Tamil Nadu	72,147,030	112,664	17
Uttarakhand	10,086,292	103,349	1
Gujarat	60,439,692	*96,976*	12
Punjab	27,743,338	92,638	3
Andhra Pradesh (presplit)	84,580,777	88,876	7
Kerala	33,406,061	*88,527*	3
Karnataka	61,095,297	84,709	19
West Bengal	91,276,115	69,413	14
Rajasthan	68,548,437	65,098	2
Jammu and Kashmir	12,541,302	58,593	1
Chhattisgarh	25,545,198	58,297	0
Odisha	41,974,218	54,241	1
Madhya Pradesh	72,626,809	54,030	3
Assam	31,205,576	46,354	0
Jharkhand	32,988,134	46,131	0
Uttar Pradesh	199,812,341	37,630	10
Bihar	104,099,452	31,229	0
Top 10 Average	**50,401,222**	**113,420**	**22**
Bottom 10 Average	**68,061,758**	**52,102**	**3**

Comparing Social Issues under CSR Rules to Regional Prevalence

As noted earlier, the Companies Act, 2013, urges covered companies to devote their CSR activities in the vicinity of the company's operations. It is reasonable to expect that Indian states with the highest levels of economic activity will receive the largest share of this new CSR spending. Below we take a look at six of the social issues highlighted in the Companies Act for a company's CSR activities. For each, we use a few statistical series that can be measured on a state-by-state basis.

Five of the categories of social issues do not have a single, easy data point offering a strong indication of the prevalence of the issue, so we left these out (protection of national heritage; armed forces veterans and dependents; sports; prime minister's Relief Fund; and technology incubators).

Eradicating hunger, poverty, and malnutrition; promoting health care, including preventive health care and sanitation; and making available safe drinking water

Below we look at three different data points highlighting disparities between states in a few key indicators including severe malnourishment and infant mortality rates. In the 10 states with the highest per capita income levels, about 1.2 percent of children are severely malnourished. For the 10 states in the lower half, the rate of severe malnourishment is three times higher at 3.6 percent. There is also a huge disparity in infant mortality rates (number of infant deaths per 1,000 live births). The more developed states have an infant mortality rate of less than 30. The less developed states have an infant mortality rate of 46.5.

Poverty rates are naturally higher in those states with lower per capita incomes. The poverty rate in the 10 poorer states is more than double the rate of the wealthier states, at 28.1 percent, compared to 12.3 percent. India has the world's largest TB epidemic, and prevalence of the disease is also higher, on average, in the 10 poorer states shown.

Table 6: Hunger, Poverty, and Health

State	Population, 2011[11]	Per Capita Income (INR)[12]	ET250 Companies[13]	Percentage of Children Severely Malnourished[14]	Percentage of Population below Poverty Line[15]	Infant Mortality (per 1,000 live births)[16]	Total Patients Registered for TB Treatment, 2013[17]
Delhi	16,787,941	219,979	33	0.03	9.9	25	50727
Haryana	25,351,462	132,089	17	0.05	11.2	42	38104
Maharashtra	112,374,333	114,392	106	2.61	17.4	25	137237
Tamil Nadu	72,147,030	112,664	17	0.02	11.3	21	80407
Uttarakhand	10,086,292	103,349	1	1.19	11.3	34	13700
Gujarat	60,439,692	96,976	12	4.56	16.6	38	74086
Punjab	27,743,338	92,638	3	0.05	8.3	28	37258
Andhra Pradesh (presplit)	84,580,777	88,876	7	0.08	9.2	41	103707
Kerala	33,406,061	88,527	3	0.08	7.1	12	24204
Karnataka	61,095,297	84,709	19	2.84	20.9	32	61446
West Bengal	91,276,115	69,413	14	4.08	19.9	32	90423
Rajasthan	68,548,437	65,098	2	0.33	14.7	49	94698
Jammu and Kashmir	12,541,302	58,593	1	0.06	10.1	39	11038
Chhattisgarh	25,545,198	58,297	0	1.97	39.9	47	25889
Odisha	41,974,218	54,241	1	0.72	32.6	53	45269
Madhya Pradesh	72,626,809	54,030	3	1.88	31.7	56	92420
Assam	31,205,576	46,354	0	0.46	31.9	55	35624
Jharkhand	32,988,134	46,131	0	0.7	36.9	38	34941
Uttar Pradesh	199,812,341	37,630	10	0.21	29.4	53	256733
Bihar	104,099,452	31,229	0	25.94	33.7	43	67020
Top 10 Average	**50,401,222**	**113,420**	**22**	**1.2**	**12.3**	**29.8**	**62087.6**
Bottom 10 Average	**68,061,758**	**52,102**	**3**	**3.6**	**28.1**	**46.5**	**75405.5**

11 "Census of India, 2011," Ministry of Home Affairs, Government of India, http://censusindia.gov.in/2011census/censusinfodashboard/.
12 "Economic Survey of India, 2013–14," Ministry of Finance, Government of India, http://indiabudget.nic.in/budget2013-2014/es2012-13/echap-13.pdf.
13 "ET500 Companies, 2014," *Economic Times*, http://bit.ly/1MeXnBv.
14 "Report no. 22 of 2012–13," Ministry of Women and Child Development, Government of India, http://bit.ly/1CHwWmp.
15 "Handbook of Statistics on Indian Economy 2013-14," Reserve Bank of India, http://bit.ly/1FkGnpk.
16 "SRS Statistical Report 2012," Ministry of Home Affairs, Government of India, http://bit.ly/1waURIF.
17 "TB India 2014 Annual Status Report," Ministry of Health and Family Welfare, Government of India, http://bit.ly/1CHCL3m.

Promoting education, including special education and employment-enhancing vocation skills especially among children, women, the elderly, and the differently abled, as well as livelihood-enhancement projects

Here we review a pair of data points highlighting educational statistics—literacy and school enrollment. Not surprisingly we again find major disparities between the two groups of states. States with higher per capita income levels have an average literacy level of 80 percent, while states with lower per capita income levels have literacy rates nearly 10 percent less. Similarly, school enrollment levels in Class 5 are much higher in the wealthier states. An average of 87 students are enrolled in Class 5, as compared

Table 7: Education

State	Population, 2011	Per Capita Income (INR)	ET250 Companies	Literacy (percent)[18]	Enrollment Class 5 vs 100 Enrollment Class 1[19]
Delhi	16,787,941	219,979	33	86.34	87
Haryana	25,351,462	132,089	17	76.64	94
Maharashtra	112,374,333	114,392	106	82.91	90
Tamil Nadu	72,147,030	112,664	17	80.33	89
Uttarakhand	10,086,292	103,349	1	79.63	64
Gujarat	60,439,692	*96,976*	12	79.31	75
Punjab	27,743,338	92,638	3	76.68	92
Andhra Pradesh (presplit)	84,580,777	88,876	7	67.66	80
Kerala	33,406,061	*88,527*	3	93.91	106
Karnataka	61,095,297	84,709	19	75.6	97
West Bengal	91,276,115	69,413	14	77.08	67
Rajasthan	68,548,437	65,098	2	67.06	40
Jammu and Kashmir	12,541,302	58,593	1	68.74	71
Chhattisgarh	25,545,198	58,297	-	71.04	68
Odisha	41,974,218	54,241	1	73.45	61
Madhya Pradesh	72,626,809	54,030	3	70.63	84
Assam	31,205,576	46,354	-	73.18	40
Jharkhand	32,988,134	46,131	-	67.63	36
Uttar Pradesh	199,812,341	37,630	10	69.72	49
Bihar	104,099,452	31,229	-	63.83	29
Top Half	**50,401,222**	**113,420**	**22**	**80**	**87.4**
Bottom Half	**68,061,758**	**52,102**	**3**	**70.2**	**54.5**

18 "Census of India, 2011," Ministry of Home Affairs, Government of India, http://bit.ly/17Yh01A.
19 "Seventh All India School Education Survey," National Council of Educational Research and Training, Government of India, 312–316, http://bit.ly/1BfxEEc.

to 100 in Class 1. This is far higher than in poorer states, which have an average enrollment of 54.5.

Promoting gender equality, empowering women, setting up homes and hostels for women and orphans; setting up old-age homes, day care centers and such other facilities for senior citizens; and developing measures for reducing inequalities faced by socially and economically backward groups

Here we use two statistics to measure gender equality—a state's sex ratio (number of females per 1,000 males), and the male-female literacy gap. We find a moderate disparity in the sex ratio between the two groups of states. The literacy divide is much deeper, with wealthier states having a 13 percent gap between male and female literacy, whereas poorer states have a gap of nearly 20 percent.

Table 8: Social Inequities

State	Population, 2011	Per Capita Income (INR)	ET250 Companies	Sex Ratio[20]	Male Literacy[21]	Female Literacy[22]	Male-Female Literacy Gap[23]
Delhi	16,787,941	219,979	33	868	91.03	80.93	10.1
Haryana	25,351,462	132,089	17	879	85.38	66.77	18.61
Maharashtra	112,374,333	114,392	106	929	89.82	75.48	14.34
Tamil Nadu	72,147,030	112,664	17	996	86.81	73.86	12.95
Uttarakhand	10,086,292	103,349	1	963	88.33	70.7	17.63
Gujarat	60,439,692	96,976	12	919	87.23	70.73	16.5
Punjab	27,743,338	92,638	3	895	81.48	71.34	10.14
Andhra Pradesh (presplit)	84,580,777	88,876	7	993	75.56	59.74	15.82
Kerala	33,406,061	88,527	3	1084	96.02	91.98	4.04
Karnataka	61,095,297	84,709	19	973	82.85	68.13	14.72
West Bengal	91,276,115	69,413	14	950	82.67	71.16	11.51
Rajasthan	68,548,437	65,098	2	928	80.51	52.66	27.85
Jammu and Kashmir	12,541,302	58,593	1	889	78.26	58.01	20.25
Chhattisgarh	25,545,198	58,297	-	991	81.45	60.59	20.86
Odisha	41,974,218	54,241	1	979	82.4	64.36	18.04
Madhya Pradesh	72,626,809	54,030	3	931	80.53	60.02	20.51

[20] "Census of India, 2011," Ministry of Home Affairs, Government of India, http://censusindia.gov.in/2011census/censusinfodashboard/.
[21] "Census of India, 2011," Ministry of Home Affairs, Government of India, http://bit.ly/17Yh01A.
[22] Ibid.
[23] Ibid.

Assam	31,205,576	46,354	-	958	78.81	67.27	11.54
Jharkhand	32,988,134	46,131	-	948	78.45	56.21	22.24
Uttar Pradesh	199,812,341	37,630	10	912	79.24	59.26	19.98
Bihar	104,099,452	31,229	-	918	73.39	53.33	20.06
Top Half	**50,401,222**	**113,420**	**22**	**950**	**86**	**73**	**13**
Bottom Half	**68,061,758**	**52,102**	**3**	**940.40**	**79.57**	**60.29**	**19.28**

Ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agroforestry, conservation of natural resources, and maintaining quality of soil, air, and water

Electricity generation can be among a nation's largest sources of environmental degradation depending on the fuel and technologies employed. Below we compare the relative levels of adoption of renewable power in India as one measure of a state's existing environmental sustainability. We find that wealthier states have a much higher concentration of renewable usage—both in terms of total installed capacity, and in terms of per capita installed capacity.

Table 9: Environmental Sustainability

State	Population, 2011	Per Capita Income (INR)	ET250 Companies	Capacity of Grid Interactive Renewable Power (megawatts)[24]	People per Megawatt of Interactive Renewable Power
Delhi	16,787,941	219,979	33	18.53	905,987
Haryana	25,351,462	132,089	17	122.7	206,613
Maharashtra	112,374,333	114,392	106	3,644.05	30,838
Tamil Nadu	72,147,030	112,664	17	7,664.03	9,414
Uttarakhand	10,086,292	103,349	1	185.87	54,265
Gujarat	60,439,692	96,976	12	3,607.27	16,755
Punjab	27,743,338	92,638	3	263.58	105,256
Andhra Pradesh (presplit)	84,580,777	88,876	7	891.54	94,870
Kerala	33,406,061	88,527	3	185.61	179,980
Karnataka	61,095,297	84,709	19	3,267.13	18,700
West Bengal	91,276,115	69,413	14	120.75	755,910
Rajasthan	68,548,437	65,098	2	2,375.45	28,857
Jammu and Kashmir	12,541,302	58,593	1	130.52	96,087
Chhattisgarh	25,545,198	58,297	0	274.15	93,180
Odisha	41,974,218	54,241	1	97.3	431,390

[24] "Energy Statistics 2013," Ministry of Statistics and Programme Implementation, Government of India, http://mospi.nic.in/mospi_new/upload/Energy_Statistics_2013.pdf.

Madhya Pradesh	72,626,809	54,030	3	477.06	152,238
Assam	31,205,576	46,354	0	31.11	1,003,072
Jharkhand	32,988,134	46,131	0	8.05	4,097,905
Uttar Pradesh	199,812,341	37,630	10	686.98	290,856
Bihar	104,099,452	31,229	0	79.8	1,304,504
Top Half	**50,401,222**	**113,420**	**22**	**1,985**	**162,268**
Bottom Half	**68,061,758**	**52,102**	**3**	**428**	**825,400**

Rural development projects

Below we compare the rural population levels across India's states. Not surprisingly, the rural population is concentrated in India's poorest states. The bottom 10 states have nearly twice the average rural population as the wealthiest 10 states.

Table 10: Rural Development

State	Population, 2011	Per Capita Income (INR)	ET250 Companies	Rural Population[25]
Delhi	16,787,941	219,979	33	419,319
Haryana	25,351,462	132,089	17	16,531,493
Maharashtra	112,374,333	114,392	106	61,545,441
Tamil Nadu	72,147,030	112,664	17	37,189,229
Uttarakhand	10,086,292	103,349	1	7,025,583
Gujarat	60,439,692	96,976	12	34,670,817
Punjab	27,743,338	92,638	3	17,316,800
Andhra Pradesh (presplit)	84,580,777	88,876	7	56,311,788
Kerala	33,406,061	88,527	3	17,455,506
Karnataka	61,095,297	84,709	19	37,552,529
West Bengal	91,276,115	69,413	14	62,213,676
Rajasthan	68,548,437	65,098	2	51,540,236
Jammu and Kashmir	12,541,302	58,593	1	9,134,820
Chhattisgarh	25,545,198	58,297	0	19,603,658
Odisha	41,974,218	54,241	1	34,951,234
Madhya Pradesh	72,626,809	54,030	3	52,532,899
Assam	31,205,576	46,354	0	26,780,516
Jharkhand	32,988,134	46,131	0	25,036,946
Uttar Pradesh	199,812,341	37,630	10	155,111,022
Bihar	104,099,452	31,229	0	92,075,028
Top Half	**50,401,222**	**113,420**	**22**	**28,601,851**
Bottom Half	**68,061,758**	**52,102**	**3**	**52,898,004**

[25] "Census of India, 2011," Ministry of Home Affairs, Government of India, http://bit.ly/1KyaqRa.

Slum development

Slum development is one of the few social issues highlighted under the CSR mandate of the Companies Act that seems more aligned—though not perfectly—with areas having the highest level of economic development. States in the top half of the per capita income chart have one-third higher levels of slum residency than states in the lower half. And two states in the lower half with high numbers of slum residents—West Bengal and Uttar Pradesh—are host to a combined 24 ET250 companies. So they may potentially be targets for corporate CSR under this category.

Table 11: Slum Development

State	Population, 2011	Per Capita Income (INR)	ET250 Companies	Slum Residents[26]
Delhi	16,787,941	219,979	33	1,785,390
Haryana	25,351,462	132,089	17	1,662,305
Maharashtra	112,374,333	114,392	106	11,848,423
Tamil Nadu	72,147,030	112,664	17	5,798,459
Uttarakhand	10,086,292	103,349	1	487,741
Gujarat	60,439,692	96,976	*12*	1,680,095
Punjab	27,743,338	92,638	3	1,460,518
Andhra Pradesh (presplit)	84,580,777	88,876	7	10,186,934
Kerala	33,406,061	88,527	3	202,048
Karnataka	61,095,297	84,709	19	3,291,434
West Bengal	91,276,115	69,413	14	6,418,954
Rajasthan	68,548,437	65,098	2	2,068,000
Jammu and Kashmir	12,541,302	58,593	1	662,062
Chhattisgarh	25,545,198	58,297	0	1,898,931
Odisha	41,974,218	54,241	1	1,560,303
Madhya Pradesh	72,626,809	54,030	3	5,688,993
Assam	31,205,576	46,354	0	197,266
Jharkhand	32,988,134	46,131	0	372,999
Uttar Pradesh	199,812,341	37,630	10	6,239,965
Bihar	104,099,452	31,229	0	1,237,682
Top Half	**50,401,222**	**113,420**	**22**	**3,840,335**
Bottom Half	**68,061,758**	**52,102**	**3**	**2,634,516**

As the data above highlights, the vast majority of social problems included as targets for companies' CSR programs are focused on states likely to receive smaller shares of the development funds generated through the CSR provisions in the Companies Act.

[26] "Census of India, 2011," Ministry of Home Affairs, Government of India, http://bit.ly/1zVmmRV.

This could ultimately augment regional development disparities. While companies would likely prefer to focus their CSR efforts in the areas where they have a physical presence, they should not be barred from conducting CSR activities in other regions. There are important programs being run in areas with relatively low levels of economic development that may be curtailed due to the new rules, and potential programs that may never be launched.

In addition, a company's physical location may become less important for industries such as television, radio, and electronic commerce. The government should ensure that the rules accommodate the unique aspects of businesses in these sectors to maximize the impact of their CSR programs.

Recommendations to the Indian Government

The Indian government should look for ways to ensure that the intent behind the CSR obligation is carried out in practice. These rules are certain to generate important new funds that, if leveraged in a thoughtful manner, could alleviate some of India's most striking social problems.

Two recommendations can help match corporate CSR obligations with the nation's needs:

1. **Expand the Operational Limitation on Corporate Social Responsibility Spending:** The Indian government should issue a formal clarification that corporate social responsibility spending outside a company's operational areas is acceptable and will not result in discriminatory action. As highlighted above, most of the social problems listed in the Companies Act as targets for CSR contributions are concentrated in the states likely to receive relatively low amounts of the new CSR spending. Existing CSR programs by companies in less-developed states may also be wound down.

2. **Ensure that the Definition of Operational Area Includes Emerging Business Models:** In addition, the government should define what is meant by "areas around which it operates," preferably in a way that will accommodate modern business models that focus less on physical locations. E-commerce companies, for instance, have national operations by virtue of their online presence, though their physical facilities may be concentrated in a few select locations.

Conclusion

India's development needs are immense. The country is host to some of the world's most striking social problems, often at massive scale. Yet the country is also on a clear path of economic growth that is quickly expanding prosperity to new sections of society. Focusing policymaking efforts on economic growth will ensure this age of

prosperity continues, yet, at least initially, its benefits are likely to be most immediately felt by those in the regions of the country that are poised for quick growth.

With India's federal system, central policymaking will also have uneven application across states. Haryana, for instance, enjoys a per capita income level that is four times higher than the state of Bihar. This inequality will likely balance out over time, but will persist in the near term.

The new corporate social responsibility provisions included in the Companies Act will increase the level of CSR giving in India. However, limiting the use of these funds to areas where companies have operations could limit the impact of this spending to the states that already have relatively high levels of development. The Indian government should instead clarify that using CSR funds in areas outside of the companies' operational footprint is acceptable and will not result in discriminatory action.

There is also ambiguity in terms of what the Indian government considers the "areas around which it [a company] operates." Limiting this definition could preclude the widespread use of important new pools of CSR funds to the areas that have the greatest need.

The potential changes to the rules requested in this paper should be considered for immediate action. Companies are already considering how best to comply with the rules, and setting plans in motion that may be difficult to amend shortly after. At the very least, if the Modi administration plans to keep the CSR requirement, the Ministry of Corporate Affairs should conduct a rigorous review of the results of this new requirement to ensure compliance, and also that it contributes evenly to alleviating the health, educational, and other development goals enumerated in the Companies Act. And if the intended results are not met, the Indian government should look at ways to strengthen the Act's provisions and implementation.

About the Author

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