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Article

Corporate responsibility in India: Academic perspectives on the Companies Act 2013

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Abstract:

Developing prosperous and inclusive societies requires a reformulation of the business-society nexus toward sustainability. This means that all economically motivated behaviors of firms need to also consider their social and environmental impact, and all social and environmental policies need to also consider their impact on the economy. With the Companies Act 2013, the Indian government adopted a legislative approach to reconfigure the business-society nexus. Mandating what has been considered discretionary elicited an extensive academic debate. We employ Content Configuration Analysis on 70 local and international English-language book chapters, research articles, reports, reviews, and expert commentaries published between 2013 and 2019 to develop a typology of the advantages and disadvantages associated with the Companies Act 2013. We find that, among the large set of arguments for and against the Act, specific arguments extolling its advantages concurrently appear as disadvantages in other texts. This paradox is indicative of the difficulties of satisfying stakeholder expectations, as well as the complexities corporate responsibility programs face in India. By systematizing the opportunities and challenges associated with the Companies Act 2013, we reveal how, similar to China, context and culture influence India's socioeconomic development trajectory beyond the conventional market economy canon.

Keywords: India; Companies Act 2013; business-society nexus; corporate responsibility; Content Configuration Analysis;

> *We have seen the business sector generating wealth and value for the shareholders in the last sixty years, but simultaneously we also have the problems of poverty, unemployment, illiteracy, malnutrition etc. facing the nation. The corporate growth is sometimes seen as widening the gap between the India and Bharat through its income-skewing capability. This gap needs to be bridged. While the Government undertakes extensive developmental initiatives through a series of sectoral programmes, the business sector also needs to take the responsibility of exhibiting socially responsible business practices that ensures the distribution of wealth and well-being of the communities in which the business operates.*
>
> Salman Khurshid, Minister of State for Corporate Affairs [1]

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1. Introduction

Despite geopolitical shifts that have caused far-reaching global uncertainties, India's economy has remained robust, with a steady GDP growth above 6% [2]. Thus far, the International Monetary Fund's forecast – that India's growth would become and remain the highest worldwide – has proven accurate [3]. The collective revenue of the top ten Indian Fortune 500 enterprises have increased steadily from just over Rs. 21 trillion in 2016 [4] to more than Rs. 23 trillion in 2017 [5] and Rs. 27 trillion in 2018 [6]. India's Foreign Direct Investment exceeded USD 10 billion in December 2018, up from USD 7.0 million in June 1991 [7]. Economic expansion has translated into a socioeconomic upward mobility for its citizens, especially the upper-middle and rapidly expanding middle classes. Access to basic infrastructure and services, however, remain significant challenges [8-9] and the latest census data indicated that 74% of the rural population still earned less than Rs. 5 000 (approximately USD 72) per month, and 24% of the urban population still lived in slums in 2014 [10].

Such disparities have traditionally been addressed, at least in part, by India's long-standing commitment to corporate philanthropy [11-14]. While enjoying some success, philanthropic activities fall well short in addressing even extreme forms of poverty, let alone making accessible basic services for the majority of the population. Given India's sizeable population and associated challenges in light of its growing geopolitical clout and socioeconomic development status and potential, a popular government could realign India's diverging developmental trajectories more sustainably [15-16]. It is within this context that Prime Minister Narendra Modi developed his political platform of utilizing economic growth to activate social development. The resulting Companies Act 2013 [17] led the Indian government into unchartered territory as it explicitly and legislatively redefined the relations between business and society. Modi's recent reelection results illustrate the broad support among the majority of Indians. But what is the business-society nexus in India, and how is it being shaped according to India's context and culture?

2. Theoretical Background

In recent decades, most nations have directed their policies towards making businesses the engine of socio-economic development. Business interests have been placed at the center of governance and national interests, and the private sector has repaid this privileged position by generating heretofore unimaginable rates of growth and profits. Nowadays, corporate headquarters define the skylines of major cities and, in developed economies, they have replaced religion by becoming the new cathedrals and sites of worship [18]. Despite the enabling political support, policies and infrastructural support for the burgeoning private sector, many national and regional governments and their institutions are straining under crushing debt burdens, lack of revenue streams, mounting civic responsibilities, and growing public discontent and distrust in government [19-23]. While the needs of society were traditionally part of the remit of the state, increasing corporate power challenges and undermines this custodianship [18-19,24-29]. The increasingly complex sets of expectations in light of a shift in responsibilities of the state, its citizens, and the private sector raises important questions about who is responsible for what and for whom?

Whether they are motivated by benevolence, shared value creation, enlightened self-interest, generating and capturing new markets through image building, or a combination of all or some of these factors, the long-term success and sustainability of firms is closely associated with the wellbeing and prosperity of the societies within which they are embedded (as the long-term success and sustainability of societies is associated with the success of their economic activities). Over time and with the rise and mobility of corporate power, the reciprocity and interdependence between business and society has blurred. Attributing clear responsibilities between increasingly impoverished governments and increasingly wealthy, mobile, and autonomous businesses is becoming impossible [19].

Since 2009, the Indian government has taken progressive steps to formalize responsibilities of firms toward the Indian society and its citizens, first with the National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business [1], and through successive steps, by introducing the Companies Act 2013 and its subsequent variants. The Companies Act 2013 defines

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dimensions of business practices in India. Section 135 of the Act outlines what the government defines as its corporate social responsibility expectations. It stipulates that all firms with a "net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more or a net profit of rupees five crore or more during any financial year" must establish an independent board level corporate social responsibility (CSR) committee [17] (p. 87); Rs. 1 crore is equivalent to Rs. 10 million or approximately USD 142,000 in 2019. The committee must ensure that "the company spends, in every financial year, at least two per cent of the average net profits of the company made during the three immediately preceding financial years, in pursuance of its Corporate Social Responsibility Policy" [17] (p. 87). The committee is expected to formulate and recommend the business' corporate social responsibility policy, as well as oversee the implementation thereof. According to Schedule VII of the Act (see Table 1), the committee also must ensure that the corporate social responsibility activities "give preference to the local area and areas around it where it operates" [17] (p. 87). Initially, the Act stipulated that, if the company fails to spend the 2% of its profits, it is to publicly report "the reasons for not spending the amount" [17] (p. 87). On 26 July 2019, the Lok Sabha, the House of the People (lower house of the bicameral Parliament of India), passed the Companies Act (Amendment) Bill 2019 [30], which stipulates that firms who fail to spend the required amount will face heavy fines and their officers potential imprisonment, and that all unspent money must be transferred to a special account, to be spent on corporate social responsibility activities. The list of activities in which firms are expected to invest are listed in **Table 1**:

Table 1. Schedule VII, List of CSR activities proposed by government (amended 30 May 2019) [17]

	Schedule VII, List of CSR activities
(i)	eradicating hunger, poverty and malnutrition, promoting health care including preventive health care and sanitation including contribution to Swach Bharat Kosh set-up by the Central Government for promotion of 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 centres 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 including contribution to the Clean Ganga Fund set-up by the Central Government for rejuvenation of the river Ganga;
(v)	protection of national heritage, alt and culture including restoration of buildings and sites of historical importance and works of art; setting up public libraries; promotion and development of traditional arts and handicrafts;
(vi)	measures for the benefit of armed forces veterans, war widows and their dependents;
(vii)	training to promote rural sports, nationally recognised sports, paralympic sports and olympic sports;
(viii)	contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government for socio-economic development and relief and welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women;
(ix)	contributions or funds provided to technology incubators located within academic institutions which are approved by the Central Government;

(x)	rural development projects;
(xi)	slum area development;
(xii)	Disaster management, including relief, rehabilitation and reconstruction activities.

Mandating that which has until now been considered largely voluntary, introduced a novel and momentous definition of the role of business in a society. While the Act left limited room for how firms could respond, expert commentators who know and study the contours of these debates were free to react to the way the government changed the rules of the game. To better understand this metamorphosis of CSR, we examine how academia from economics, business, management and related sciences responded to this. More specifically, we analyzed the academic perspectives on the Companies Act 2013 to develop a typology of the strengths and weaknesses associated with this approach and the recommendations made to further develop this business-society nexus. Based on this focus, two research questions guided this analysis: First, what are the advantages and disadvantages of the Company's Act debated by academia? And second, what strategies and recommendations do they propose to improve the implementation of this type of CSR in India?

3. Materials and Methods

Data for this qualitative study are comprised of academic papers on the Companies Act 2013. Four sampling criteria were used to select academic texts: type of publication, focus, timeframe, and language. We identified relevant literature using online search engines, library catalogues, and journal websites from a wide range of disciplines, including business and management studies, economics, finance, commerce, accounting, law, business ethics, sociology, social work, as well as sustainability studies. All sampled publications were published between 2013 and 2019 and explicitly focused on the Companies Act 2013. Based on these criteria, the final sample consisted of 70 regional, national, and international English-language book chapters, research articles, reports, reviews, and published expert commentaries [12-14,31-98].

To develop a typology of the advantages and disadvantages associated with the Companies Act 2013, we employed Content Configuration Analysis [99-100], a qualitative method for the systematic analysis of non-numeric data related to thematic and content analysis. This method has been employed in the fields of business and management studies, business ethics and corporate sustainability, economics, education, psychology, sociology, sustainability studies, and mobility studies [11,19,100-102]. CCA can be adapted to most qualitative research questions and to fit the research focus, approach, and researcher needs [100].

We used a two-step analysis to develop our typology. First, we randomly selected a sub-set of articles (n = 20 articles) to conduct an in-depth, exploratory analysis. To do this, we identified all implicit and explicit statements relating to advantages and disadvantages. We then sorted and classified the statements to derive an initial typology. We then used the typology as an analytic framework to conduct a quasi-deductive analysis, sorting and classifying the remaining texts to adapt and refine the typology. **Table 2** represents the final taxonomy of the advantages and disadvantages based on our data. Finally, we identified, sorted, and classified the authors' recommendations in relation to the advantages and disadvantages.

4. Results

One of the interesting hallmarks of the Companies Act 2013 is the clear demarcation of the content and its boundaries of CSR, which drew praise and criticism from academia as authors identified advantages and disadvantages associated with this policy-driven reformulation of CSR. Based on our analysis, advantages and disadvantages are divided into two domains: conceptual and theoretical issues associated with advantages and disadvantages, and the positive and negative impacts of the Companies Act 2013 on different stakeholders.

Conceptual issues concern the theoretical boundaries of CSR as defined in the Act, which include whether CSR should be anchored to a legal spending minimum, whether CSR is philanthropic, and whether CSR should be mandated. Advantages and disadvantages related to a stakeholder perspective concern how firms, government, Indian society, communities, and especially the poor are effected by the Act (**Table 2**).

Table 2. Academia's perspective on the advantages and disadvantages of the Companies Act 2013

Advantages		Disadvantages
	Conceptual dimensions of CSR	
Legal minimum	vs	Anchoring effect
CSR is philanthropy	vs	CSR is not philanthropy
Institutionalization of CSR	vs	Mandating CSR
	CSR Stakeholders	
	Firms	
CSR know-how	vs	Lack of skills
Aligning CSR is good for business	vs	CSR is antagonist to business practice
Transparency and accountability	vs	Greenwashing
	Government	
Institutionalizing CSR	vs	Lack of monitoring CSR
Shared responsibility	vs	Shifting responsibility
	Society	
Increased equality	vs	Increased inequality
Increased partnership	vs	Lack of collaboration

4.1. Advantages and disadvantages associated with the conceptual dimensions of the Companies Act 2013

4.1.1. The Act imposes a legal CSR minimum vs CSR is insufficiently anchored

According to academia, the 2% spending minimum has advantages and disadvantages. On the one hand, it is argued that it successfully engineers a set legal minimum for CSR investment, which is expected to significantly increase the overall financial commitment to Indian society and thus creating commitments to society's wellbeing [36,38,46,55,95-96]. Interestingly, this argument is also presented as a disadvantage: In many cases, according to the authors, past contributions were substantially larger than 2%, and the Act may inadvertently lower CSR investments and reduce CSR to a 2% tax [43-46,48,70,77]. Accordingly, an unintended consequence may be a shift from quality to quantity or from long-term to short-term projects and programs [43-46,48,70,77]. Here are two examples from the literature:

> We infer that this limit was imposed with a view to stimulate corporate spending on social causes and maybe to make the growth experienced by corporations more inclusive of the society as a whole. This minimum spending limit does have the potential of increasing the number of companies investing in CSR activities. [46] (p.9)

> While there were few firms that spent more than 2% prior to Section 135, these firms appear to have decreased their CSR spending after Section 135 came into effect; presumably, this was an unintended and undesired outcome. … the threshold becoming both a ceiling and a floor (or an "anchor"). [48] (p. 103)

4.1.2. CSR and philanthropy

The differentiation to philanthropy as conceptualized in the Act reveals another layer of tension between its advantages and disadvantages. According to some authors, traditional philanthropic activities are preserved since firms can continue to invest in health- or educations-related initiatives, or donate their 2% contribution to the Prime Minister's National Relief Fund [43-44,53,67,82,85]. Explicitly excluded in the Act, however, are donations or gift giving to charities, leading others to claim that the true philanthropic nature of CSR has been fundamentally undermined [44-45,53,70]. Here, two examples of these contrasting positions:

> The potential for corporate philanthropy to lessen poverty has been recognized by the Companies Act 2013, which, in Schedule VII, specifies 'eradicating extreme hunger and poverty' as an allowable CSR activity (Government of India 2013, p. 294). [53] (pp. 687-688)

> The act clearly demarcates CSR from charity and does not position it as a 'moral responsibility' for companies. Charities and donations are outside the purview of CSR. [70] (p. 23)

4.1.3. Mandating CSR

Advantages associated with mandating CSR are rare. When present, they propose that the institutionalization of CSR connects well to public concerns over rising corporate irresponsibility [41,49,66,74,95]. Far more prevalent are debates on the disadvantages and challenges associated with mandating something, which traditionally was considered voluntary and discretionary. Some argue that CSR in India is positioned in opposition to international or Western normative practices [31,39,72, 90-92,98]. A more fundamental argument – that CSR in the form of philanthropy and other voluntary activities, is a natural and discretionary part of business and should remain voluntary lest the "unique joy and benefits that flows from giving back to society" be removed [59] (p.7) [see also 44,63,83,90]. According to this view, mandating CSR may jeopardize firms' willingness to engage with society, resulting in passive participation [11,37,39,44,45,70,81]. Here two examples:

> The boom in the economy during the last decade and rising global concerns about corporate social irresponsibility triggered the debate about public policy on CSR. … The Companies Act, 2013 provided the much needed articulation to the concerns of public. [66] (pp. 156-157)

> These and other related arguments for CSR stems from the fact that, contributing to the social welfare of people is a charitable act. Making CSR mandatory defeats the natural laws of donation thereby shifting CSR as a charitable act to new realm of increasing the tax burden of companies. [59] (p. 2)

As the above illustrates, there are several debates in the literature on the benefits and challenges associated with the conceptual dimensions of CSR as conceptualized in the Act. These varying positions presented in our data illustrate how dimensions of the Act intertwine with CSR investment, legal obligations, and philanthropy, blurring the line between what is considered voluntary and mandatory. The oppositional argumentation in the literature on advantages and disadvantages seem to be a defining characteristic of how the Act is understood by academia, revealing inherent conflictual strengths and weaknesses embedded in the Act. Within this conflict, CSR as defined in the Act is presented simultaneously as a needed, inadequate, or outright dangerous business practice, a mandatory tax but also a practice that strengthens the philanthropic spirit of CSR, and an effective legislature that assists in alleviating social problems but also interfering with CSR by mandating what ought to be voluntary and go well beyond a 2% "tax".

4.2 Advantages and disadvantages from a stakeholder perspective: Firms, the government, and society

4.2.1. Advantages and disadvantages associated with firms

The second domain of advantages and disadvantages connects to stakeholder groups, namely firms, (local and national) government, and society (including communities, regions, and "the poor"). **Table 3** lists advantages and disadvantages to business mentioned. Advantages include how provisions in the Act capitalize on corporate know-how, how aligning CSR in this way is good for business in the long run, and how the implementation of the Act will increase transparency, accountability, and corporate citizenship.

Table 3. Advantages and disadvantages associated with firms

Advantages		**Disadvantages**
	Firms	
The Act capitalizes on corporate know-how	vs	Lack of corporate know-how and skills to engage outside of their area of expertise
Aligning CSR is good for business	vs	Aligning CSR based on the Act is bad for business
The Act increases corporate transparency and accountability	vs	Evading CSR mandate may increase greenwashing and under- or misreporting

The Act requires firms to create a board level CSR committee, and with its own strategic agenda, dedicated staff, and reporting and monitoring mechanisms. According to the literature, there are multiple advantages associated with embedding CSR in a firm in this way. First, integrating CSR into the core operations of business will capitalize on corporate know-how and enable initiatives to leverage existing management and strategic capacities [33-34,39,48,58,69,90-92,94]. Second, the Act compels firms to embed economic, social, and environmental objectives into their core business strategy, projects, and processes [11,49,50,66-67,85,87,], which results in improved stakeholder relations and new business opportunities [38,47-48,70,72,77,85], increase competitive advantage [55, 84-85] or enhanced efficiency and accountability relating to CSR activities [11,49,58,87]. Finally, by enforcing the disclosure of CSR practices, the Act promotes transparency and accountability [14,41,43-44,49,56,68-69,77,85,89,98], and assists in unifying sporadic CSR activities by standardizing procedures [39,57,70,77]. Here, some examples from the literature:

> Corporations have the know-how, strategic thinking, manpower, and financial strength to enable widespread social transformation. [90] (p. 459)

> [I]ntegrating social environment and ethical responsibilities into the governance of business ensures their long term success, competitiveness and sustainability. [85] (p. 34)

> Today, CSR in India has gone beyond merely charity and donations, and is approached in a more organized fashion. It has become an integral part of the corporate strategy. Companies have CSR teams that devise specific policies, strategies and goals for their CSR programs and set aside budgets to support them. [34] (p. 78)

Contradicting these advantages, others point out that firms lack the necessary know-how to effectively pursue the large-scale CSR programs proposed in the Act because it stipulates that CSR initiatives cannot fall within the area of expertise of firms and not be linked to the normal business of the firm. Forcing businesses to engage in areas where they have no experience or interest may side-steps valuable skills and sector-specific know-how, and it may lead to inefficient and uncommitted CSR projects and programs [11,14,39,42,45,47,50,52,58,60-61,68,70,80-81,85,88,93,97]. Another disadvantage relates to the idea that the CSR formulation in the Act has a negative impact on business. The main premise here is that all activities undertaken "in pursuance of the normal course of business" cannot be considered as CSR [45] (p. 90) [see also 33,43,80]. This includes initiatives aimed at improving operational efficiency [44], developing and supporting employees [43-44,70,80] and activities which may generate or maximize profits, including all forms of shared value creation [31,37,44-45,59,67-68,70-71]. These concerns mainly focus on local and global competitiveness of large and successful national firms, which fall under the law, because the Act inadvertently provides a competitive advantage to small, unprofitable, or international firms, which are exempt from participating in the CSR activities as outlined by the Act [11,35,52,54,58,63,87]. Finally, some argue that, instead of increasing transparency and accountability, attempts to evade the mandate may actually increase the prevalence of greenwashing as firms either underreport their profits to reduce their CSR obligation or misreport their involvement in CSR activities [31,35,38,46,54,58,62,64,87,90]. Here are some examples:

> In a nutshell many companies, especially those with little or no previous experience with CSR, will likely face challenges right from planning through to implementation, monitoring, measurement and reporting. [80] (p. 100)

> In the case of Jain Irrigation, while farmers' income received a boost, so did profitability of the company. Of course, in the context of the Companies Act 2013, it will be a challenge to convince the government that such initiatives were not part of the normal course of business and that it could qualify for CSR activities as per the Act. [43] (p. 10)

> …only activities that are not exclusively for the benefit of employees of the company or their family members will be considered as CSR activities. In other words, if a company provides elementary education for children of its plantation workers, such expenditure would not be eligible CSR spend[ing]. [70] (p. 24)

> However, industry is apprehensive that implementations of this provision is bound to throw up challenges because of the rather prescriptive manner in which rules have been formulated. There is a concern on flexibility within legitimate boundaries and how the monitoring and interpretation of companies' efforts will take place. Further, the industry grouping said the rules do not provide clarity on certain issues. [39] (p. 1)

4.2.2. Advantages and disadvantages associated with the Government

Table 4. Advantages and disadvantages associated with the government

Advantages	Government	Disadvantages
The government is taking control of the CSR landscape	vs	The government is not monitoring CSR activities sufficiently, 'report and explain clause'
The Act shares societal responsibility between the government and firms	vs	The government is abdicating its responsibility of taking care of society

There are two types of advantage associated with the government (**Table 4**). The first concerns advantages associated with taking control of CSR projects and programs by formalizing and institutionalizing CSR activities in India [41,49,66,74,95]. The second concerns benefits associated with sharing and managing societal responsibilities between government and business [11,31,34,50,59-60,65,75-76,90]. Others argue that government did not sufficiently take control of the CSR landscape because it is not monitoring its implementation. Instead, CSR projects and programs are left to what is considered an inadequate 'report or explain' clause [44,54,59,64,79,87]. Others argue that the lack of adequate oversight leaves open the possibility for corrupt government officials to use the Act to further their personal agendas. Specifically mentioned are national projects and the Prime Minsters Relief Fund, which, according to these authors, lack transparency and enjoy a privileged tax status [39,77,80,90]. Finally, those who oppose sharing societal responsibility argue that the care and wellbeing of society ought to be the responsibility of government. Mandating and restructuring CSR in accordance with the Act is an abdication of this duty [44,58-59,70-71,87,90]. In line with this argument, the Act is viewed as a 2% increase in business tax, with an additional burden of taking care of society [39,43-44,51-52,55,58-59,63,70,83,87-88,90-92]. Here some examples:

> A related (political) issue is that the Act allows companies to use their CSR funds to support development projects initiated by the Prime Minister or Central Government. Additionally, the 2015 federal budget allows 100% tax exemption for contributions to selected national projects and contributions to Prime Minister's National Relief Fund. Although some of these national projects can have significant environmental impacts if implemented properly, the proposed tax exemptions could become vehicles for political patronage, and be used as indirect political payoffs. It is worth noting here that India Inc. has been demanding that CSR spending be allowed as deduction or weighted deduction for the purpose of computing tax liability, a request that has not been conceded yet. [80] (p. 96)

> The CSR Bill refers to a new form of welfare governance in India that moves part of the burden of social policy expenditure away from the state to the private sector. … It is an opportunity for the corporate sector to contribute to social development and preserve the legitimacy of state support to economic value creation and growth. [60] (p. 832)

> Lack of proper monitoring mechanism for the mandatory CSR regulation is a pertinent challenge. [79] (p. 300)

> The role of the government is to promote and improve the welfare of the society by providing educational facilities, transport and communication, hospital, improve the standard of living of people. Companies on the other hand aimed to maximise the profit of the firm and not to improve the welfare of the society. But making corporate social responsibility mandatory is to shift the role of government to corporate. [59] (p. 7)

4.2.3. Advantages and disadvantages associated with Society

Table 5. Advantages and disadvantages associated with society

Advantages	**Society**	**Disadvantages**
More inclusive growth, greater equality, and more sustainable development	vs	The geographic and thematic limitation imposed by the Act will increase inequality and disparity among states
Increased partnerships and collaboration to implement CSR	vs	Meaningful collaboration and partnerships are missing

Advantages of the Companies Act 2013 are mainly associated with large-scale societal upliftment (**Table 5**). According to the literature, the CSR investment induces inclusive economic growth, promotes greater societal equality, and enhance the country's sustainable development [12,34,39,41,43,46,55,57-58,60-61,67,70-71,77,87,90,94]. Other advantage relating to society relate to new and enhanced partnerships between stakeholders: As different stakeholders enter into partnerships and collaboratively develop and implement CSR projects and programs, the collaboration increases local knowledge, improves effectiveness, and secures the long-term sustainability of CSR initiatives [11,14,34,36,41,43-45,47,50,60-61,66,78,82,89,91-93].

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The counterargument states that the geographic and thematic limitations imposed by the Act exacerbate inequality. Authors embracing this position highlight a clause in the Act, which stipulates that firms should invest in the communities where they operate. Accordingly, this disadvantages communities located in regions with little industry, especially industrially lagging states and some rural areas [39,45,77,80,83]. In terms of thematic limitations, authors also point out that the list of CSR activities stipulated in the Act channels corporate investment into certain thematic areas while neglecting others [39,45,46,77]. Furthermore, some academics argues that is not always the case that enhanced collaboration is achieved. Some of the challenges for collaboration include the lack of consultation with local partners and top-down approaches of projects or programs without considering local needs or contexts [12,14,53-54,61,77,85]. According to some authors, there is a dearth of well-organized and capable NGOs or NPOs to assist in developing and implementing CSR activities [11-12,14,34,42,53-54,61,80,85], as well as a lack of knowledge or interest from local communities to participate in CSR initiatives [11,14,34,42,54,61,66,75-76,78,82,84-85,96]. Here are some excerpts:

> Recognising the need for inclusion of socially underprivileged sections of the society in India's growth story, the new company law of 2013 has come up with a mandate for giant corporates to shell out at least two percent of their three years annual average profits toward Corporate Social Responsibility (CSR) activities. [87] (p. 757)

> It is difficult for one single entity to bring about change, as the scale is enormous. Effective partnerships between corporate, NGOs and the government will place India's social development on a faster track. [11] (p. 12)

> Schedule VII of the rules specifically mention a list of activities which may be included by companies in their CSR policies, along with a customary line "such other matters as may be prescribed". The recommended activities are already being circulated by many agencies and individuals and are being accepted by many corporate as the preferred activities for CSR. This is not only polarizing the CSR resources to few chosen are-as, but also discouraging many other critical areas. [39] (p. 3)

> Often, the communities who are the intended beneficiaries of a CSR program show less interest which will affect their participation and contribution. Also, very little efforts are being made to spread CSR within the local communities and instill confidence in the people. The situation is further aggravated by inadequate communication between the organization and the community at the grassroots level. [54] (p. 24)

The manner in which advantages and disadvantages of the Act are connected to different stakeholders follow a similar logic to those relating to the conceptual dimensions of the Act, since they are frequently presented in conflicting, contradictory, or oppositional terms. For firms, this means that managerial and strategic knowhow could enhance implementation of CSR projects and programs, while others claim that firms lack the know-how and motivation to engage in activities that fall outside of their areas of interest and expertise. Another area of contention concerns accountability; CSR as proposed by the Act ostensibly either leads to more or less transparency, accountability, corporate citizenship, misreporting of revenue or CSR activities, or greenwashing. Especially interesting are the contrasts associated with society, the one stakeholder that ought to benefit most from the Act. Here, academics point out that specifying where and on what CSR investments should focus may inadvertently exacerbate geographical and social disparities, and the goal of creating strong partnerships has not materialized. Interesting also is that the negative consequences for Indian society in our data outnumber the advantages by four to one.

4.3. Recommendations to address CSR challenges

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Based on the reported advantages and disadvantages of the Act, we sorted and classified recommendations made by academics on how to deal with them. Recommendations are divided into two domains: theoretical and conceptual issues and issues relating to stakeholders.

4.3.1. Conceptual Dimensions

Table 6. Recommendations to supplement advantages and overcome disadvantages associated with the conceptual dimensions of the Act

Conceptual advantages and disadvantages and recommendations
Advantage: Mandating CSR as a form of institutionalization
⇨ Firms who fail to spend their 2% should be penalized, or unspent money should automatically be deposited into long-term, multi-year government programs
⇨ Exceptions or concessions should be made for (a) financially distressed firms, (b) those who participate in other CSR schemes, and (c) all CSR contributions should be made tax deductible
Disadvantage: Mandating that which should be voluntary
⇨ This legalistic approach should be replaced by a philosophical one

Despite the many objections to mandate what ought to be considered discretionary, many authors nevertheless considered the current CSR activities as vital. Only one author offered an alternative to mandating CSR by calling on the government to replace the legalistic with a philosophic approach akin to the ideas of trusteeship, as proposed by Mahatma Gandhi, Milton Friedman, and Adam Smith [44]. While such a move would preserve the voluntary nature of CSR, no concrete recommendations are provided as to what this may mean or how this should be institutionalized. **Table 6** includes all other recommendations in support of mandating CSR and provide further suggestions on how to refine its foundation. Recommendations include how to penalize firms if they fail to contribute adequately [36-37,45,64-65,79], under what condition firms should be relieved of their spending duties [45,62], which concessions could be made for firms that invest in additional or alternative CSR schemes [79], and how to credit or integrate CSR spending into tax schemes [14,33,62,81,97-88,90-92].

4.3.2. Firms

Table 7. Recommendations by academia to overcome disadvantages associated with firms

Disadvantages for firms and recommendations
Disadvantage: Lack of corporate know-how and skills to engage outside of their area of expertise
⇨ Firms should overcome sector- and skill-specific biases in CSR engagement to develop holistic programs which bring about long-term, socio-economic change
⇨ Firms should establish professional teams to define, implement, monitor, and manage CSR funds and projects
Disadvantage: Aligning CSR with the thematic scope of the Act is bad for business
⇨ To enable win-win CSR investments, activities should be situated within their areas of expertise

The CSR recommendations concerning firms (**Table 7**) follow a two-pronged approach. First, authors appeal to firms to overcome their bias against CSR initiatives. Specifically, projects are considered too limited in scope and ambition with a focus on a project-by-project basis, or too focused on sector-specific skills and expertise. They recommend that CSR programs should be part of corporate visions and strategies in order to develop ambitious, effective, and holistic CSR programs that could bring about long-term socioeconomic change in regions and communities [14,39,49-50,61,79,82,89]. According to the literature, the most efficient way to achieve this would be to establish professional teams to develop, implement, monitor, and maximize CSR capacities on behalf of firms by collectively managing CSR funds [14,39,61,67,82,87]. Finally, and in contrast to the first recommendation, it is argued that CSR activities should be nested within the existing skills and expertise of firms in order to drive entrepreneurship, innovation, and long-term growth for the benefit of firms and their CSR initiatives [33].

4.3.3. Government

Table 8. Recommendations by academia to overcome disadvantages associated with the government

Governmental disadvantages and recommendations
Disadvantage: The government is not monitoring CSR sufficiently, 'report and explain clause'
⇨ The government should adopt a more elaborate CSR monitoring mechanism to ensure investments are made
⇨ The government should (a) provide statutory guidelines to direct CSR efforts, (b) assist in the establishment of independent performance monitoring standards, and (c) make annual reporting mandatory
⇨ Limit the potential of corruption by placing limits on the PM's Fund and making government programs more transparent

According to academia, government ought to monitor more stringently the implementation of the Act. Recommendations include providing statutory guidelines to better define CSR initiatives [82] or establishing performance monitoring indices and standards, to be overseen by an independent authority [14,38,54,90,96]. To make CSR investments more transparent and firms more accountable, some authors suggest integrating CSR activities and expenditures in the annual financial statements or making annual CSR reporting mandatory [38,54,82,86,90]. Finally, to limit the potential for misappropriation, some texts argue for restricting CSR funding toward government-run schemes [39,80].

4.3.4. Society

Table 9. Recommendations by academia to overcome disadvantages associated with society

Societal disadvantages and recommendations
Disadvantage: The geographic and thematic limitation imposed by the Act will increase inequality
⇨ Expand (a) the geographic reach of the Act, and (b) the list of activities in Schedule VII
Disadvantage: Meaningful collaboration and partnerships are missing
⇨ Firms should develop more effective strategies to identify and capitalize on local knowledge and technical expertise to increase the potential for meaningful collaboration
⇨ Firms should develop and implement public awareness campaigns to increase public knowledge of CSR initiatives
⇨ Both business and the government should invest into training programs to develop a pool of qualified specialists to oversee CSR initiatives

Recommendations to improve the societal impact of the Act (**Table 9**) address issues of inequality and involvement of societal stakeholders. According to the literature on the Act, the geographic reach of CSR initiatives ought to be expanded beyond the communities in which firms operate, specifically to integrate rural development [14-39]. Furthermore, the list of activities that qualify as CSR-relevant in Schedule VII ought to be expanded to include additional priority areas [39,81,89]. A four-pronged approach is suggested to increase meaningful collaboration between stakeholders. First, firms should increase their CSR capacities by identifying and capitalizing on local knowledge and technical expertise to make initiatives more scalable and results-oriented [14,54].

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Second, firms should collaborate with one another and with local development organizations to create synergies and to build region- and project-specific know-how [14,39,54,61,67,78,85,87,97]. Third, firms should develop awareness campaigns to increase the public's knowledge of the scope and potential of CSR initiatives, as well as to increase public support and cooperation [11,14,34,50,96]. Finally, business and government ought to invest in expanding CSR education and training to create a pool of local specialists with the capacities to create and oversee collaborative initiatives [71].

Despite the large number and range of criticisms associated with the Companies Act 2013, the literature contains relatively few recommendations on how to address them. Most recommendations do not suggest major adjustments but focus instead on strategies to enhance the effectiveness of the Act. Most authors propose that firms should enlist the help of independent professional teams to develop, implement, monitor, and maximize CSR capacities. Ostensibly, this would overcome the lack of corporate engagement and expertise. External bodies would also measure, monitor, and report on the impact of CSR initiatives more objectively and systematically, and they would foster collective networking, capacity building, and multi-stakeholder partnerships. From a government perspective, independent agencies take on the role of an accountability watchdog, monitoring CSR performance of firms, establishing performance monitoring standards and indices, and facilitating compliance and evaluation. From a societal perspective, suggestions to better secure the long-term success of CSR initiatives include the development of partnerships via public knowledge campaigns, educational programs, technical assistance teams, local experts, and NGOs or NPOs.

5. Discussion and Conclusion

The introduction of the Companies Act 2013 ushered in a new chapter for corporate sustainability in India. The advantages and disadvantages discussed in this paper illustrate the considerable disagreement by academics. Our findings are marked by two characteristics: First, that which is considered an advantage in one set of articles is considered a disadvantage an another, emphasizing the potential benefits and challenges associated with how CSR is formulated and implemented in India. The resulting tension is indicative of the complexity of CSR and the manifold challenges associated with appropriately defining and operationalizing responsibilities for the business sector. It also lays bare the difficulty of successfully connecting CSR to the context and culture within which business are embedded. It is therefore unsurprising to find that academic responses to the Companies Act 2013 emulate the enduring, conflicting debates in the field of CSR. We were struck by the relative dearth of high-quality empirical evidence that was employed by many authors when they were making sweeping statements about the ostensible success or failure of the Companies Act 2013. This also explains the tendency of many authors to clearly support or criticize the Act – few provided a balanced or complex assessment thereof.

The second defining characteristic relates to the disproportionately high representation of disadvantages in the literature. At first glance, this could easily be interpreted as an indicator of resistance to the Act. However, despite extensive criticisms, relatively few recommendations are proposed to address its shortcomings. Interestingly, academics do not suggest major adjustments to the Act, nor does anyone propose that it should be rescinded – despite numerous and strong objections to mandating CSR. Instead, most suggestions offer implementation strategies aimed at enhancing the effectiveness of the Act. While initial responses may have addressed the inadequacy of the conceptual nature of CSR in the Act, recommendations tend to focus instead on matters of execution and refinement. The most recent revision of the Act, adopted on 26 July 2019, seem to indicate that some critiques raised in the literature has been integrated. Recommendations to penalize firms that fail to spend their 2% and that unspent funds automatically be invested into long-term government projects [36-37,45,64-65,79] have now been incorporated.

Any CSR approach ought to be based on the interdependence between business and society, and the dynamic process through which the Act is being redefined is a real-world application thereof. We have also emphasized the importance of including politics, culture, and context as transversal influences in shaping the responsibilities of business [19], something we observe here not only in the way government shapes CSR expectations, but also how academia participates in reflecting and evaluating the Act in relation to cultural realities, societal needs, and the initiatives' impact.

It is our belief that economic, social, and environmental concerns are not independent from each other and that they cannot be treated separately. In defining the interdependent relationship between business and society, we have stated elsewhere that:

> Corporate sustainability refers to a systematic business approach and strategy that takes into consideration the long-term social and environmental impact of all economically motivated behaviors of a firm in the interest of consumers, employees, and owners or shareholders. [19] (p. 10)

Using this as the benchmark to evaluate the evolving business-society-nexus in India highlights several advantages of the Companies Act. First, clearly formulating the responsibilities of business toward societal and environmental impacts not only acknowledges their interdependence but also helps to foster pragmatic alliances that may build a sustainable society and business environment. Clearly formulating expectations operationalizes CSR while facilitating transferability within and between contexts and cultures. This would facilitate evaluation, measurement, and reporting of CSR. As outlined in the Companies Act 2013, CSR activities extend beyond the normative ethics-based conceptualizations, which tend to dominate the international/Western literature on business ethics. The implementation of the Act may encourage greater commitment, participation, and collaboration, and it fosters negotiations between stakeholder groups.

Although the Act emphasizes the role of business in social development and environmental management, economic development and prosperity are mostly excluded or deemphasized. From our perspective, this is a cause for concern. Here two brief examples to illustrate what we mean.

We have stated elsewhere that, in order to continue strengthening the business-society nexus, it is vital that CSR expectations do not oppose economic interests but explicitly integrate and embrace them [19]. This counters the general gist of the Act, where, for example, activities relating to employees are largely excluded (i.e. they may not exceed 5% of the total CSR investments), or the prohibition of shared-value creation. While the former encourage firms to extend their CSR investments beyond those who work for the firm, it nevertheless undermines the indirect benefits to local communities when, for example, health, education, and living conditions are developed, despite the firms' vested interest. Second, a growing consensus promotes shared value creation as a viable model for developing sustainable and inclusive societies. Many well-known initiatives in finance, agriculture, digitization, and renewable energy have proven how such initiatives can drive innovation and enhance leapfrogging. The latter mechanism is especially relevant to emerging market economies as a way to address challenges such as inequality and lack of access to infrastructure. How CSR is defined and implemented has a significant impact on the action potential for corporate practices. We wonder what the long-term consequences are of excluding these types of approaches? We fear that, separating business practice from the responsibility of business to society may contribute to a mindset, in which firms pay the obligatory 2% "tax", instead of a more systematic integration of social and environmental concerns as active partners in a shared wealth and wellbeing creation.

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