

CORPORATE SOCIAL RESPONSIBILITY: GLOBAL IDEA AND NATIONAL IMPORTANCE

Mr. Ishwar Ahuja*
Ms. Isha Gandhi**

Introduction

It is rightly stated by William Ford Jr., Chairman, Ford Motor Co.: “A good company delivers excellent product and services, and a great company does all that and strives to make the world a better place”. With the emergence of civilization of mankind, social behavior became an integral part of life and every activity. A society is a group of individuals with different cultural background. Culture is the environment in which people live. Society and culture remain backbone of each other. Society becomes the community consisting of members. Business is created by the society and success of business depends on society as the goods and services provided by business are ultimately consumed by society. Business and society are closely knit and have dependency on each other. Business is affected by the society’s legal, political, economic and governmental system and laws. The forces of social change (including science, technology and extent of relationship among nations) do influence business.

The last 50 years have witnessed a revolutionary change in the world’s business environment. This necessitated the business to realign its objectives and goals from the historical objective of profit or wealth maximization to social objectives. Corporate Social Responsibility (hereinafter CSR) is also called corporate responsibility, corporate citizenship, responsible business, sustainable responsible business or corporate social performance.

The concept of CSR is not new. The history of corporate activity shows that businesses have always encompassed the nation of broader obligations to the communities in which they operate. Companies have recognized the value of enlightened self interest responding to their own specific circumstances. A project on corporate social responsibility was launched in 1969 by Ralph Nader and several other lawyers to change the purpose of corporation. In

* Student, 4th Year, BBA.LL.B, Bharati Vidyapeeth, New Law College, Pune.

** Student, 4th Year, BBA.LL.B, Bharati Vidyapeeth, New Law College, Pune.

Nader's view the corporation is to be transformed from a means of maximizing investor wealth to a vehicle for using a private wealth to redress social ills. Stakeholder theory embodies many aspects of the theory of corporate social responsibility. On the other hand, value based management holds that the social mission of corporation is to make as much money as possible for its owners while conforming to the rules of society and let shareholders, employees and customers undertake their own efforts.

Objectives of the Research

Although there is unanimous acceptance over the responsibility of business towards customers, employees, investors, suppliers, and community as a whole yet there are different opinions regarding the degree of responsibility due to various reasons like, financial constraints, time constraint, human energy constraint etc. Therefore, the initiatives taken by the Indian companies need to be examined to determine how far the companies are assuming their responsibility towards different stakeholders and the nation.

The main objective of this study is to examine the initiative taken by the Indian companies with respect to their responsibility towards the nation. Based on the opinion of respondents of different Indian companies, the study has the following specific objectives:

- To identify the main drivers and agenda for undertaking CSR activities;
- To understand the implementation strategies for accomplishment of CSR programmes;
- To check the allocation budget of the companies for CSR activities;
- To examine its impact on a nation.

Methodology

We know that the objective of legal research is not only to propose suggestions for legal reform. It may be carried on for many other purposes as well. Where, however, the object of research is only to indicate in which way it is to be carried on, such a research is termed as critical research is termed as critical research because in such cases the objective is to ascertain a common principle or norm and hence, it is also termed as 'normative research'. In this kind of research gathered material is thoroughly becomes the basic norm.

For the purposes of critical research, the necessary material is obtained from codified law, judicial observations and

pronouncements and academic writings. In matters of critical research, public opinion also plays an important role and public opinion must be ascertained in a proper manner.¹

Genesis

A practice of CSR dates back to the ancient Greece. A similar development on CSR took place on the Indian subcontinent from the Vedic philosophy.² Early conceptualization of CSR was broadly based on religious virtues and values such as honesty, love, truthfulness and trust. CSR refers to the obligations of an organization which considers the interests of all their stakeholders which includes the customers, employees, shareholders, communities and ecological considerations in all aspects of their operations. Such values were found dominant in the golden rule constructed by the Immanuel Kant's Categorical Imperative. It has also been argued that this golden rule can be applied in viewing companies as responsible to stakeholders and society. Implicitly, this argument suggests that those who do not practice such values are deemed to be unethical and not concerned of social welfare. Since then, civilizations has been in the process of wealth accumulation through a series of business venture travels to colonize; then industrial revolution to capitalize production processes; and finally multinational corporations to maximize profits from the modern theories of comparative advantage. Practices of CSR were neglected and overshadowed by the pursuit of wealth accumulation.

A revival of interest in CSR began after the World Wars. Contemporary western conceptualization of CSR from an academic perspective was initiated with Bowen's definitive text through his publication in 1953. His work on CSR broadly focused on the pursuit of policies that makes decisions or to follow those lines of action that are desirable in terms of the objectives and values of our society. Carroll argued that social responsibilities of business encompass the economics, legal, ethical, and discretionary expectations that the society has of organizations at a given point of time. The World Business Council for Sustainable Development (WBCSD 2000) argued that companies have an obligation to society and are responsible to the numerous stakeholders (outsiders) including owners, employees,

¹ S.R. MYNENI, LEGAL RESEARCH METHODOLOGY 130 (Pioneer Books, 2nd ed. 2001).

² Balakrishnan Muniapan & Mohan Dass, *Corporate Social Responsibility: A Philosophical Approach from an Ancient Indian Perspective*, 1(4) INTERNATIONAL JOURNAL ON INDIAN CULTURE AND BUSINESS MANAGEMENT 408, 412 (2008).

customers, suppliers, competitors, government regulators and communities viz., nation as a whole.³

Differing Views on Social Responsibility

The issue of social responsibility evokes varying-and, often, extreme-responses from academicians and businessmen. At one end, the body of opinion clearly does not favour including social responsibility in business considerations. Under this view, which has been propounded by notably by the economists Adam Smith and Milton Friedman, the only responsibility of the business is to perform its economic function efficiently and provide goods and services to the society and earn maximum profits. By doing so, it is felt, market forces would ensure that business performs its economic functions and leaves the social functions to other institutions of society such as government.

At the other extreme, there is an opposite view which favors the position that it is imperative for business to socially responsible. This is based on the argument that business organizations are a part of society and have to serve primarily social interests rather than narrow economic objectives such as profit generation. In doing so, they have to deal with social concerns and issues and have to allocate resources for solving social problems.

In between the two extreme views, there is considerable support for the opinion that all business organization should not attempt to solve all, or any, types of social problems. Rather, social responsiveness should be exercised on a selective basis and responsibility should be discharged in such a manner that corporate competence act as a limitation and the scope of social responsibility is limited to those areas where the business organization can achieve self-enlightened interests. In other words, the economic goals and social responsibility objectives need not be contradictory to each other and should be achieved simultaneously.⁴

Definition of Corporate Social Responsibility

WBCSD defines CSR as “the commitment of the company to contribute to the sustained economic development by working with employees, their families, the local community, and the entire society in order to improve life quality”.⁵

³ *Id.* at 413.

⁴ AZHAR KAZMI, BUSINESS POLICY 300 (Tata McGraw-Hill Publishing Com. Ltd., 8th reprint 1996).

⁵ HOLIDAY ET AL. 2002, at 103.

The Global Compact (2000)

The Global Compact, United Nations Global Compact Programme (2000) launched by United Nations in 2000 calls on companies to embrace nine principles in the areas of human rights, labor standards and environment. The Global Compact is a value-based platform designed to promote institutional learning. It utilizes the power of transparency and dialogue to identify and disseminate good practices based on universal principles. The nine principles are drawn from the Universal Declaration of Human Rights, the International Labor Organization's Fundamental Principles on Rights at Work and the Rio Principles on Environment and Development.

India taking a clue from international scenario incorporated Corporate Social Responsibility Voluntary Guideline, 2009.

Core Elements

The CSR policy should normally cover following core elements:

1. Care for all stakeholders

The companies should respect the interests of, and be responsive towards all stakeholders, including shareholders, employees, customers, suppliers, project affected people, society at large etc., and create value for all of them.

2. Ethical functioning

Their governance systems should be underpinned by ethics, transparency and accountability. They should not engage in business practices that are abusive, unfair, corrupt or anti-competitive.

3. Respect for workers' rights and welfare

Companies should provide a workplace environment that is safe, hygienic, and humane, and which upholds the dignity of employees. They should provide all employees with access to training and development of necessary skills for career advancement, on an equal and on non-discriminatory basis. They should uphold the freedom association and the effective recognition of the right to collective bargaining of labor have an effective grievance redressal system, should not employ child or forced labor.

4. Respect for human rights

Companies should respect human rights for all and avoid complicity with human rights abuses by them or by third party.

5. Respect for environment

Companies should take measures to check and prevent pollution; recycle, manage and reduce waste, should manage natural resources in a sustainable manner and ensure optimal use of resources like land and water, should proactively respond to the challenges of climate, change by adopting cleaner production methods, promoting efficient use of energy and environment friendly technologies.

6. Activities for social and inclusive development

Depending upon their core competency and business interest, companies should undertake activities for economic and social development of communities and geographical areas, particularly in the vicinity of their operations.

This was further improved and imbibed by incorporating National Voluntary Guidelines on Social Environmental and Economic Responsibilities of Business, 2011.

Principles and Core Elements

Principle 1: Business should conduct and govern themselves with ethics, transparency and accountability.

Principle 2: Business should provide goods and services that are safe and contribute to sustainability throughout their life cycle.

Principle 3: Business should promote the wellbeing of all employees.

Principle 4: Business should respect the interest of and be responsive towards all stakeholders especially those who are disadvantaged, vulnerable and not original.

Principle 5: Business should respect and promote human rights.

Principle 6: Business should respect, protect and make efforts to restore the environment.

Principle 7: Business when involved in influencing public and regulatory policy should do so in a responsible manner.

Principle 8: Business should support inclusive growth and equitable development.

Principle 9: Businesses should engage with and provide value to their customers and consumers in a responsible manner.

National Importance

Can a country where the corporate sector keeps on destroying the environment just to generate profits become a great country? Nay, such a behavior would even threaten the very ecological balance of the country and thereby inviting disaster.

Consequently, can respect for environment be treated merely as a social obligation or responsibility of a company or should it be one of the fundamental pillars on which the business of a company is based, particularly when the business would result in damage to environment. Once it becomes a basic requirement for a company, the business should not proceed unless due care is taken to avoid ecological disaster or undue loss to the environment or measures have been initiated for finding alternative methods to reduce the likely damage that would be caused by the company's business.

There are three bases which make corporate to assume social responsibility voluntarily, as under:

- The corporations/companies are creatures of society and thus respond to the demands of society.
- Long term self-interests of business are best served when corporate assume social responsibilities.
- It is the moral and right thing to do.

For instance, Internationally Merck Pharmaceutical (established in 1891) has set an example. If we actually want to know the meaning of corporate social responsibility, we must look at the policies adopted by Merck. Where other companies are exploiting their employees and not contributing to the society, Merck has become successful by practicing distinguished tactic. It is one of the best companies involved in CSR strategy. The company devotes extensive efforts to increase access to medicines through far-reaching program that only donate Merck medicines, but help deliver them to the people who need them. Merck became the leading company CSR practice in 1987, when it produced the drug Mectizan (Ivermectin). This drug

treats Onchocerciasis also called as “River Blindness”. This disease mainly occurs in Africa and Yemen. Around 122 million were affected by this epidemic. Through the Mectizan Donatio Programme undertaken by Merck, more than 50 billion people are treated every year for Lymphatic Filariasis. Merck has undertaken a long term commitment to donate maximum to prevent and treat River Blindness. The company’s CSR strategy has made it a globally reputed company. It was also praised by United States President Jimmy Carter as ‘company with the highest possible quality’.⁶

CSR is often called the triple bottom-line approach—Sustainability in Environment, Social Community and Business. The law is here and so is the implementation mandate. However, it remains to be seen how long India takes to redefine the concept and how corporate India moves away from philanthropy to a world of redistribution of wealth. Till 2012, there was no concrete legislative provision with respect to CSR for companies in India. Official notifications by the government were issued in the form of “guidelines”—some mandatory and some voluntary. The first official notification was issued by the Ministry of Petroleum and Natural Gas, whereby the public sector oil-companies had agreed to spend at least 2% of their net profits on CSR initiatives.⁷ This was followed by the ‘Corporate Social Responsibility Voluntary Guidelines’ which was issued by the Ministry of Corporate Affairs in 2009.⁸ Further guidelines were issued for Central Public Sector Enterprises (CPSEs) in April 2010, whereby the creation of a “CSR Budget” was made mandatory.⁹ The next notification was the ‘Guidelines on CSR and Sustainability for Central Public Sector Enterprises’, which came into effect from April 1, 2013.¹⁰

⁶ Manali Singhal, *Corporate Social Responsibility*, THE CHARTERED ACCOUNTANT 112 (Mar. 2011).

⁷ Press Information Bureau, Ministry of Petroleum and Natural Gas, Government of India, *Oil PSUs Agree to Spend 2% of profits on Social Responsibilities* (Feb. 2, 2009), available at <http://pib.nic.in/newsite/erelease.aspx?relid=47172>.

⁸ MINISTRY OF CORPORATE AFFAIRS, CORPORATE SOCIAL RESPONSIBILITY VOLUNTARY GUIDELINES (2009), available at http://www.mca.gov.in/Ministry/latestnews/CSR_Voluntary_Guidelines_24dec2009.pdf.

⁹ Press Information Bureau, Ministry of Corporate Affairs, Government of India, *Corporate Social Responsibility* (Aug. 11, 2011), available at <http://pib.nic.in/newsite/erelease.aspx?relid=74428>.

¹⁰ DEPARTMENT OF PUBLIC ENTERPRISE, GUIDELINES FOR CSR AND SUSTAINABILITY FOR CENTRAL PUBLIC SECTOR ENTERPRISES, available at http://www.dpemou.nic.in/MOUFiles/Revised_CSR_Guidelines.pdf.

Corporate Social Responsibility in the Companies Act, 2013

“Like for all good things, corporate India had to wait a long time for a corporate reporting framework that is current, and with some work, can be considered visionary. Introduction of the comply or explain principle in the case of CSR rule is one such example.”

– Vishesh C. Chandiok¹¹

The Companies Act, 2013 Act has introduced several provisions which would change the way Indian corporates do business and one such provision is spending on CSR activities. CSR, which has largely been voluntary contribution, by corporates has now been included in law. The Act is a proactive endeavour by the Indian government to provide a more formalized and structured manner of CSR spending in India. Section 135 of the Companies Act, 2013 contains provisions exclusively dealing with CSR.

The purpose of inclusion of CSR provisions in the Companies Act, 2013 is basically to facilitate deeper thought and long term strategies for addressing some of the most persistent social, economic and environmental problems. The intention is that the companies should come forward to contribute towards nation-building. It is not about the quantum of money, it is about being part of the social and economic development of the country.¹² It shall allow a corporate to harness and channelize their core competencies as well as develop effective business models.¹³

According to Section 135, there shall be a Corporate Social Responsibility Committee of the Board in every company having:

- Net worth of Rs. 500 crore or more, or
- Turnover of Rs. 1000 crore or more ,or
- Net profit of Rs. 5 crore or more during any financial year.

Such committee shall comprise of three or more directors, out of which at least one director shall be an independent director.¹⁴ The mandate of such committee shall be:

¹¹ National Managing Partner, Grant Thornton India LLP.

¹² *Commented by* Sachin Pilot, Union Corporate Affairs Minister, India (Oct. 4, 2013), available at <http://www.dnaindia.com/money/report-religious-contributions-by-corporates-not-csr-activity-sachin-pilot-1898387>.

¹³ *Commented by* Bhaskar Chatterjee, Director General & CEO of the Indian Institute of Corporate Affairs.

¹⁴ “Independent Director” in accordance to the Companies Act 2013 § 149-means any director other than a managing director or a whole time director or a nominee

- a. to formulate and recommend to the Board, a Corporate Social Responsibility Policy, which shall indicate the activities to be undertaken by the company as specified in Schedule VII;
- b. to recommend the amount of expenditure to be incurred on the activities referred to above;
- c. to monitor the Corporate Social Responsibility Policy of the company from time to time.

The Board of the Qualifying Company shall after taking into account the recommendations made by the CSR Committee, approve the CSR Policy for the company and disclose contents of such policy in its report and also place the same on the company's website and also ensure that the activities as included in the CSR Policy are undertaken by the Company in a proper manner.¹⁵

The Board of the Qualifying Company shall ensure that the company spends, in every financial year, at least two percent of the average net profits of the company made during the three immediately preceding financial years, in pursuance of the CSR Policy.¹⁶ For this purpose of first CSR reporting the Net Profit¹⁷ shall mean average of the annual net profit of the preceding three financial years ending on or before March 31, 2014.¹⁸

This 2% is not a tax that is to be paid to the government, state government or any agency. It is not a levy or cess. It is primarily the money of the company and by mandating CSR the intent of the government is to urge them to spend their own money in the areas that they feel the most comfortable through agencies they feel familiar with.¹⁹ In case the company fails to meet such criteria, the board shall specify the reasons for not spending the amount. The activities so included in the Schedule VII are as follows:

- Eradicating extreme hunger and poverty;
- Promotion of education;
- Promoting gender equality and empowering women;
- Reducing child mortality and improving maternal health;

director who in the opinion of the Board is a person of integrity and possesses relevant expertise and experience or who didn't have any pecuniary relationship with the company or transaction with the company and doesn't hold any position of a key managerial personnel in the company.

¹⁵ The Companies Act, 2013 §135 (4).

¹⁶ The Companies Act, 2013 §135 (5).

¹⁷ "Net Profit" for §135; and these rules shall mean net profit before tax as per books of accounts and shall not include profits arising from branches outside India.

¹⁸ Draft CSR Rules of Companies Act, 2013.

¹⁹ *Commented by Sachin Pilot, Union Corporate Affairs Minister, India.*

- Combating human immunodeficiency virus, acquired immune deficiency syndrome, malaria and other diseases;
- Ensuring environmental sustainability;
- Employment enhancing vocational skills;
- Social business projects;
- Contribution to the Prime Minister's National Relief Fund or any other fund set-up by the central government or the state governments for socio-economic development and relief, and funds for the welfare of the scheduled castes and Tribes, other backward classes, minorities and women;
- Such other matters as may be prescribed.

Draft CSR Rules under Companies Act, 2013

The Draft Rules for CSR were made available on August 9, 2013 for public comments. The Preamble of the Draft CSR Rules under the Act indicates that the objective is to integrate the economic, environmental and social objectives with a company's operations and growth.

- CSR activities may generally be conducted as projects or programmes (either new or ongoing) excluding activities undertaken in pursuance of the normal course of business of a company. The Committee constituted under Section 135(1), shall prepare the CSR Policy of the company which shall include the following:
 - a. specify the projects and programmes that are to be undertaken;
 - b. prepare a list of CSR projects/programmes which a company plans to undertake during the implementation year;
 - c. CSR projects/programmes of a company may also focus on integrating business models with social and environmental priorities and processes in order to create shared value;
 - d. surplus arising out of the CSR activity will not be part of business profits of a company;
 - e. would specify that the corpus would include 2% of the average net profits, any income arising there from, and surplus arising out of CSR activities.
- The CSR Committee shall prepare a transparent monitoring mechanism for ensuring implementation of the projects/programmes/activities.

- Where a company has set up an organization which is registered as a Trust or Section 8 Company, or Society or Foundation or any other form of entity operating within India to facilitate implementation of its CSR activities in accordance with its stated CSR Policy, the following shall apply:
 - a. The contributing company would need to specify the projects/programmes to be undertaken by such an organization, for utilizing funds provided by it;
 - b. The contributing company shall establish a monitoring mechanism to ensure that the allocation is spent for the intended purpose only;
- A company may also conduct/implement its CSR programmes through Trusts, Societies, or Section 8 companies operating in India, which are not set up by the company itself.
- A company may also implement its CSR programs through not-for-profit organizations that are not set up by the company itself. Such spends may be included as part of its prescribed CSR spend only if such organizations have an established track record of at least three years in carrying out activities in related areas.
- Companies may collaborate or pool resources with other companies to undertake CSR activities.
- Only such CSR activities will be taken into consideration as are undertaken within India.
- Only activities which are not exclusively for the benefit of employees of the company or their family members shall be considered as CSR activity.
- Companies shall report, in the prescribed format, the details of their CSR initiatives in the Directors' Report and in the company's website.
- The CSR provisions under the 2013 Act require a minimum of 3 directors for the constitution of the CSR committee, clarification needed as to whether qualifying private companies would be required to appoint a third director to comply with the CSR provisions.
- Such spends may be included as part of its prescribed CSR spend only if such organizations have an established track

record of at least three years in carrying on activities in related areas.

- Companies may collaborate or pool resources with other companies to undertake CSR activities and any expenditure incurred on such collaborative efforts would qualify for computing the CSR spending.
- Only such CSR activities will be taken into consideration as are undertaken within India.
- Only activities which are not exclusively for the benefit of employees of the company or their family members shall be considered as CSR activity.

Golden example of CSR

Though there is many Indian corporate which are well known for so many years and have been contributing to the society and disseminate socially responsible behavior, it will not be out of place to mention the Corporate “Tatas”. Tata Steel is a golden example. It is pointed out here that the founder of Tata Steel, Jamsetji Nusserwanji Tata was a visionary in his own right. In his words the business is defined as: “in a free enterprise, the community is not just another stakeholder in business, but is, in fact the very purpose of our existence”. From the above, it can be easily concluded that unless a Corporate tries to improve the socio economic status and conditions of the community in which it is operates, the existence of that Corporate will be a question mark. In fact, Tata Steel is the forerunner in providing CSR activity and has incorporated its CSR responsibility and mandate in this regard in its Articles of Association. Tata Steel has gone a further step in CSR activity and adopted Corporate Citizenship Index, Tata Business Excellence Model and Tata Index for Sustainable Development. It is said that Tata Steel under a broad spectrum, about 5 to 7% of its net profit is spent on CSR activities, with core areas specified as employee welfare, environment and community, nation welfare at large.

Limitations of Corporate Social Responsibility

There are a few limitations related with the notion of corporate social responsibility. Firstly, the concept of CSR says that business needs to be committed towards the stakeholders and perform its activities in a socially responsible way. The term “socially responsible” can never be defined. There is no limit to social responsibility and also no definite point where a business can claim to be socially responsible. Secondly,

for whose interest business needs to be responsible? Should it be for the stakeholders, Customers, Suppliers or Government? In the practice of CSR, sometimes money is used for the purpose which is not directly related to the business. Furthermore, if the corporation pays more attention to the practice of CSR, there might be a shift of focus from a main business concern (profit maximization).²⁰

Conclusion

The Indian concept of CSR translates to philanthropic activities. It is more about giving donations, and about uplifting the poor. CSR, however, has a larger manifesto and fold. It is more to do with shared value and about distribution of wealth. The previous idea was about after making and then giving away some of it, CSR relates also to “how” that money is made. Companies currently may have a few programs and initiatives going here and there, what is needed is to create an integral CSR strategy.

Lord Sri Krishna says in *Bhagavad-Gita* (3-13) that: “All sorrows from the society would be removed if socially conscious members of a community feel satisfaction in enjoying the remnants of their work performed in *yagna* spirit (selfless welfare of others)”. In short, the Indian philosophy of business management is to inculcate corporate social responsibility.



²⁰ *Supra* note 5, at 114.