

Corporate Social Responsibility: Understanding the Legal Framework and Philanthropic Indian Companies

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Abstract

Business and conglomerates have never been an isolated entity as the entrepreneurs or the businessmen have always maintained a consistency in the internal and external management and also properly follow-up the movement that use to take place in the external business environment such as consumers, communities, stakeholders, shareholders, and by-laws. Gradually, with the passage of time in last three decades the changes that took place in the Indian cultural norms of corporations had brought forward the concept of corporate social responsibility (CSR) referring to bring about overall positive impact of corporations on the communities, societies, and environments in which they operate. The term CSR became popular in the 1960s and narrowly construed. It had remained a term used indiscriminately by many to cover legal and moral responsibility but in the present scenario, it has been used in a broader way. CSR promotes a vision of business accountability to a wide range of stakeholders, besides shareholders and investors. Key areas of concern are environmental protection and the wellbeing of employees, the community, civil society in general, customers, employees, investors, suppliers, and activist organizations both now and in the future. This article is exclusively based on secondary data and presents an in-depth conceptual framework of the CSR, major provisions and guidelines encrypted by the Ministry of Corporate Affairs, Government of India. Further, the fundamental principle, core elements and its role in nation development are discussed briefly for the better understanding of the reader.

Keywords

Corporate social responsibility, Legal bindings, Philanthropic Indian companies

Corporate Social Responsibility (CSR)

The idea of CSR first came up in 1953 when it became an academic topic in HR Bowen's "Social Responsibilities of the Business." Since then, there has been a continuous debate on the concept and its implementation. Although the idea has been around for more than half a century, there is still no clear consensus over its definition. One of the most contemporary definitions is from the World Bank Group, stating, "CSR is the commitment of businesses to contribute to sustainable economic development by working with employees, their families, the local community and society at large, to improve their lives in ways that are good for business and for development."¹

In order to assist the businesses to adopt responsible governance practices, the Ministry of Corporate Affairs has prepared a set of voluntary guidelines which indicate some of the core elements that businesses need to focus on while conducting their affairs. These guidelines have been prepared after taking into account the governance challenges faced in our country as well as the expectations of the society. The valuable suggestions received from trade and industry chambers, experts, and other stakeholders along with the internationally prevalent and practiced guidelines, norms and standards in the area of CSR have also been taken into account while drafting these guidelines².

¹The Challenges of Social Corporate Social Responsibility: Facts for You, May 2013, pp. 38-39

²India, Ministry of Corporate Affairs, Corporate Social Responsibility Voluntary Guidelines 2009

Fundamental Principle

Each business entity should formulate a CSR policy to guide its strategic planning and provide a roadmap for its CSR initiatives, which should be an integral part of the overall business policy and aligned with its business goals. The policy should be framed with the participation of various level executives and should be approved by the board.

Core Elements of CSR Policy

The CSR policy should normally cover following core elements:

Care for all stakeholders

The companies should respect the interests of, and be responsive toward all stakeholders, including shareholders, employees, customers, suppliers, project affected people, and society at large, etc., and create value for all of them. They should develop a mechanism to actively engage with all stakeholders, inform them of inherent risks and mitigate them where they occur.

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.

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 non-discriminatory basis. They should uphold the freedom of 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 and provide and maintain equality of opportunities without any discrimination on any grounds in recruitment and during employment.

Respect for human rights

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

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 such as 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.

Activities for social and inclusive development

Depending on 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. These could include: Education, skill building for livelihood of people, health, cultural, and social welfare, etc., particularly targeting at disadvantaged sections of society.

Implementation Guidance

1. The CSR policy of the business entity should provide for an implementation strategy which should include identification of projects/activities, setting measurable physical targets with the timeframe, organizational mechanism and responsibilities, time schedules, and monitoring. Companies may partner with local authorities, business associations and civil society/non-government organizations. They may influence the supply chain for CSR initiative and motivate employees for voluntary effort for social development. They may evolve a system of need assessment and impact assessment while undertaking CSR activities in a particular area. Independent evaluation may also be undertaken for selected projects/activities from time to time
2. Companies should allocate specific amount in their budgets for CSR activities. This amount may be related to profits after tax, cost of planned CSR activities or any other suitable parameter
3. To share experiences and network with other organizations the company should engage with well-established and recognized programs/platforms which encourage responsible business practices and CSR activities. This would help companies to improve on their CSR strategies and effectively project the image of being socially responsible
4. The companies should disseminate information on CSR policy, activities and progress in a structured manner to all their stakeholders and the public at large through their website, annual reports, and other communication media.

CSR in Old Times

India has a long rich history of close business involvement in social causes for national development. In India, CSR is known from ancient time as a social duty or charity, which through different ages is changing its nature in a broader aspect, now generally known as CSR. From the origin of business, which leads toward excess wealth, social, and environmental issues have deep roots in the history of business. India has a long tradition of corporate philanthropy, and industrial welfare has been put to practice since late 1800s. Historically, the philanthropy of business people in India has resembled western philanthropy in being rooted in religious belief.

Business practices in the 1900s that could be termed socially responsible took different forms:

1. Philanthropic donations to charity,
2. Service to the community,
3. Enhancing employee welfare and
4. Promoting religious conduct.

Corporations may give funds to charitable or educational institutions and may argue for them as great humanitarian deeds when, in fact, they are simply trying to buy community good will. The ideology of CSR in the 1950s was primarily based on an assumption of the obligation of business to society. In initial years, there was little documentation of social responsibility initiatives in India. Since then there is a growing realization toward contribution to social activities globally with a desire to improve the immediate environment (Shinde, 2005). It has also been found that to a growing degree companies that pays genuine attention to the principles of socially responsible behavior are also favored by the public and preferred for their goods and services. This has given rise to the concept of CSR.

The term corporate social performance was first coined by Sethi (1975), expanded by Carroll (1979), and then refined by Wartick and Cochran (1985). In Sethi's 1975 three-level model, the concept of corporate social performance was discussed, and distinctions made between various corporate behaviors. Sethi's three tiers were social obligation (a response to legal and market constraints); social responsibility (congruent with societal norms); and social responsiveness (adaptive, anticipatory, and preventive) (Cochran, 2007). The last decade of the 20th century witnessed a swing away from charity and traditional philanthropy toward more direct engagement of business in mainstream development and concern for disadvantaged groups in the society. This has been driven both internally by corporate will and externally by increased governmental and public expectations (Mohan, 2001). An ideal CSR has both ethical and philosophical dimensions, particularly in India where there exists a wide gap between sections of people in terms of income and standard as well as socio-economic status (Bajpai, 2001).

According to Infosys founder, Narayan Murthy, "social responsibility is to create maximum shareholders value working under the circumstances, where it is fair to all its stakeholders, workers, consumers, the community, government, and the environment." Commission of the European Communities 2001 stated that being socially responsible means not only fulfilling legal expectations, but also going beyond compliance and

investing “more” in human capital, the environment and the relation with stakeholders (Bajpai, 2001). Over the time, four different models have emerged all of which can be found in India regarding corporate responsibility (Kumar et al., 2001).

Provision for CSR in Companies Bill 2012

Until date it is very difficult to exercise to analyze the spending of CSR by various firms and private companies and such information is not maintained at government level, even among the top 100 firms by revenue, there are many who do not report their CSR spends or even declare the social causes they support, that is because they are not required to do so by law and no provisions for CSR exists in the Companies Act 1956, so currently, the Ministry does not maintain such details. However, all that will change when the new Companies Bill, 2012 (which has already been passed by the Lok Sabha) becomes law.³

The Companies Bill, 2012 incorporates a provision of CSR under Clause 135 which states that every company having net worth Rs. 500 crore or more, or a turnover of Rs. 1000 crore or more or a net profit of Rs. 5 crore or more during any financial year, shall constitute a CSR Committee of the Board consisting of three or more directors, including at least one Independent Director, to recommend activities for discharging corporate social responsibilities in such a manner that the company would spend at least 2% of its average net profits of the previous 3 years on specified CSR activities. It is proposed to have detailed rules after passing of Companies Bill 2012 by Rajya Sabha to give effect to this provision.⁴

According to Schedule-VII of Companies Bill, 2012 the following activities can be included by companies in their CSR Policies:

- i. Eradicating extreme hunger and poverty;
- ii. Promotion of education;
- iii. Promoting gender equality and empowering women;
- iv. Reducing child mortality and improving maternal health;
- v. Combating human immunodeficiency virus, acquired immune deficiency syndrome, malaria, and other diseases;
- vi. Ensuring environmental sustainability;
- vii. Employment enhancing vocational skills;
- viii. Social business projects;
- ix. Contribution to the Prime Minister’s National Relief Fund or any other fund set by the Central Government or the State Governments for socio-economic development and relief and funds for the welfare of the scheduled caste, the scheduled tribes, other backward classes, minorities and women; and
- x. Such other matters as may be prescribed.⁵

The Companies Bill, 2012, Clause 135 also provides for constitution of a CSR Committee of the Board. The CSR Committee is required to;

- a. Formulate and recommend to the Board, a CSR Policy which shall indicate the activities to be undertaken by the

company as specified in Schedule VII;

- b. Recommend the amount of expenditure to be incurred on activities referred to in clause (a);
- c. Monitor the CSR Policy of the company from time to time
- d. The format for disclosure of CSR policy and the activities therein as part of Board’s report will be prescribed in the rules once the Bill is enacted.⁶

The data pack compiled by CSR identity.com together with Forbes India is revealing to some extent how much each company will have to fork out on CSR when they will bound by law and their actual spending for the financial year 2012. The data is given in Annexure I.⁷

Remarkable Work by Some Indian Companies

Ashok Leyland

Operates a FunBus in Chennai and New Delhi. This bus, equipped with a hydraulic lift, takes differently abled children and those from orphanages and corporation primary schools on a day’s picnic. The company also runs AIDS awareness and prevention programs in its Hosur factories for about 3.5 lakh drivers.

Axis Bank

The Axis Bank Foundation runs Balwadis which are learning places for children living in large urban slum clusters. It also conducts skill development programs (PREMA and Yuva Parivartan) in motor driving, welding, mobile repairing, tailoring, etc., for the youth in backward districts.

Bharat Petroleum Corporation

Its rain water harvesting project Boond, in association with the Oil Industries Development Board, selects draught-stricken villages to turn them from “water-scarce to water-positive.” Some of Bharat Petroleum Corporation Limited’s other social programs include the adoption of villages, prevention and care for HIV/AIDS, and rural health care.

Hindalco Industries

Its CSR activities are concentrated in 692 villages and 12 urban slums, where it reaches out to about 26 lakh people. It has constructed check dams, ponds, and bore wells to provide safe drinking water. In education, it awards scholarships to students from the rural schools it supports. Its other interests include women’s empowerment and health care, in which it treats patients in hospitals, runs medical camps, and operates rural mobile medical van services.

Indian Oil Corporation

It runs the Indian Oil Foundation, a non-profit trust, which works for the preservation and promotion of the country’s heritage. Indian Oil Corporation Limited also offers 150 sports scholarships every year to promising youngsters. Some of its other initiatives lie in the domains of clean drinking water, education, hospitals, and health care. It comes out with the human development index, a composite index of health, education and

³CSR Report Card: Where Companies Stand - Forbes India Magazine dated 18.3.2013

⁴Rajya Sabha Unstarred Question No. 2986 dated 22.4.2013

⁵Lok Sabha Unstarred Question No. 4113 dated 21.3.2013

⁶Lok Sabha Starred Question No. 153 dated 7.3.2013

⁷CSR Report Card: Where Companies Stand - Forbes India Magazine dated 18.3.2013



Figure 1: The business in society



Figure 2: Six core characteristics of CSR. Source: Based on Crane, A., Matten, D., & Spence, L.J. (2008). Corporate Social Responsibility: Readings and Cases in Global Context. Ch. 1. London: Routledge. pp3-20.

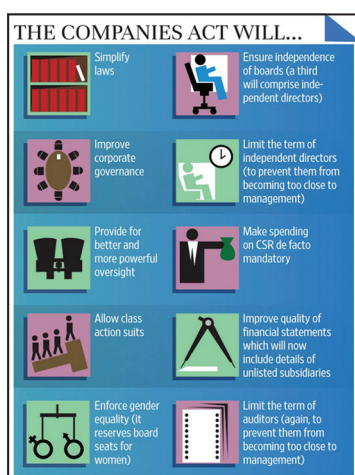


Figure 3: Companies act will

income levels, to assess the impact of its work in rural areas. Health care is one of its main concerns. The Tata Steel Rural Development Society aims to improve agricultural productivity and raise farmers' standard of living.

Table 1: The four models of corporate responsibility (Arora and Puranik, 2004)

Model	Focus	Champions
Ethical	Voluntary commitment by companies to public welfare	M K Gandhi
Statist	State ownership and legal requirements determine corporate responsibility	Jawaharlal Nehru
Liberal	Corporate responsibilities limited to private owners (shareholders)	Milton Friedman
Stakeholder	Companies respond to the needs of stakeholders-customers, employees, communities, etc.	R. Edward Freeman

Source: Ministry of Corporate Affairs, Government of India

Infosys

The Infosys Science Foundation, set up in 2009, gives away the annual Infosys Prize to honor outstanding achievements in the fields of science and engineering. The company supports causes in health care, culture, and rural development. In an interesting initiative undertaken by it, 100 school teachers in Karnataka, who were suffering from arthritis, underwent free surgery as a part of a week-long program.

Table 1: The model of corporate social responsibility quotes four major models of Ethical, Statist, Liberal and Stakeholder with their focus statements in respect to various relevant types of corporate.

Figure 1: depicts the picture of the various types business persons and professionals in the society and how it is connected with the quality of management.

Figure2 : shows the six core characteristics of corporate social responsibility that comprises of voluntary, managing externalities, multiple stakeholders, social & economic alignment and practices & values.

Figure 3: shows the Companies Act Will, that shows resolutions of companies like, simplifying laws, spending sum of money on CSR, providing better and powerful oversight, allowing class action suits, improving quality of financial statements and so on.

Mahindra & Mahindra (M&M)

Nanhi Kali, a program run by the KC Mahindra Education Trust, supports the education of over 75,000 underprivileged girls. The trust has awarded grants and scholarships to 83,245 students so far. In vocational training, the Mahindra Pride School provides livelihood training to youth from socially and economically disadvantaged communities. M&M also works for causes related to the environment, health care, sports, and culture.

Oil and Natural Gas Corporation (ONGC)

It offers community-based health care services in rural areas through 30 Mobile Medicare Units. The ONGC-Eastern Swamp Deer Conservation Project works to protect the rare species of

Easter Swamp Deer at the Kaziranga National Park in Assam. ONGC also supports education and women empowerment.

Tata Consultancy Services (TCS)

Its Computer Based Functional Literacy initiative for providing adult literacy has already benefitted 1.2 lakh people. The program is available in nine Indian languages. Besides adult education, TCS also works in the areas of skill development, health care, and agriculture.

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