

**AN ANALYSIS OF CORPORATE SOCIAL RESPONSIBILITY  
IN INDIAN LEGAL PERSPECTIVE**

**A DISSERTATION**

**Submitted**

**In Partial Fulfillment of the Requirement  
for the award of Degree of Master of Laws**



**BBD UNIVERSITY**

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## **DECLARATION BY THE SCHOLAR**

I, **Sonam Chaudhary**, hereby declare that I have completed the Dissertation work on the topic “**An Analysis of Corporate Social Responsibility in Indian Legal Perspective**” under the supervision of **Dr. Gunjan Srivastava (Supervisor)** for the partial fulfillment of the requirements for the Degree of Master of Laws (LL.M.) of Babu Banarasi Das University, Lucknow, Uttar Pradesh. This is an original piece of work and I have not submitted it earlier elsewhere.

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## **CERTIFICATE FROM THE SUPERVISOR**

This is to certify that the Dissertation, entitled “**Analysis of Corporate Social Responsibility in Indian Legal Perspective**” submitted by **Ms. Sonam Chaudhary** embodies the findings of his original research work carried out under my supervision and it fulfills all the conditions prescribed by Babu Banarasi Das University, Lucknow Uttar Pradesh for the award of Degree of Master of Laws (LL.M.).

To the best of my knowledge, the matter embodied in this Dissertation has not been submitted elsewhere for the award of any other degree or diploma.

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**(Sonam Chaudhary)**

## **PREFACE**

Whilst the initial interpretation of CSR has been modified and refined since it was first used, the significance of this multi-dimensional concept for Business World has continued to be overshadowed by traditional stakeholder approach. This study therefore investigated the concept of CSR in Indian perspective vis-a-vis international guidelines, legislations & constitutional provisions covering the aspects of CSR and in relation to the provisions of other CSR related legislations in India.

As, there has been significant increased interest in Corporate Social Responsibility (CSR) in recent years and it is regarded as an important topic for research because not only this topic has received academic attention but it is also becoming a mainstream issue for many organisations. CSR is a Business Management Concept that originated in the early 1930s after the Wall Street crash of 1929 exposed corporate irresponsibility in large organisations. Since then, CSR has continued to be the focus of business operations and a popular topic of investigation for practitioners and academics from a range of disciplines.

The aim of this research is to advance the understanding of the appropriate definition of CSR and different approaches towards social responsibility of corporate sector. From the literature review, a few areas were identified in which investigation would contribute to developing a holistic understanding. These areas are: definition and historical development of the concept CSR, its legislative framework, role of the Government and Judiciary in fostering CSR and the issues and challenges in implementation of CSR practices. The doctrinal method of research methodology was applied to investigate the research problem. The analysis of responses commenced with suggesting appropriate solution of research problem and then conclusion forming.

This research supports the view of Carroll that every activity of a business is a CSR activity whether it is ethical responsibility or its legal & economic responsibility towards the society at large. In contrast, to pass assumptions,

business enterprises are well aware of the fundamentals of social responsibility and presently consider responsible behaviour as a platform to grow their businesses. As a result, they think, act and engage with their communities proactively. The term Business Social Responsibility (BSR) appears to be relevant and appropriate for corporate rather than the traditional term 'CSR'. However, creating and maintaining business reputations through social networking and relationships with stakeholders, irrespective of their silence, is the primary motivation for the corporate to participate in social activities.

The findings of this study indicate that even though primary stakeholders like employees/ customers and suppliers are important, for economic objectives, social engagement with secondary stakeholders in the community, and the social capital which results from those social engagements, are more important for the survival of corporate sector.

This Dissertation has been covered in 6 chapters:

**Chapter 1-** Introduction provides overview of the concept of Corporate Social Responsibility and also tries to settle the definitional dispute by analysing the available literature.

**Chapter 2-** discusses about Evolution and Development of Corporate Social Responsibility

**Chapter 3-** Corporate Social Responsibility and Sustainable Development covers the relationship of corporate social responsibility with other fields governing corporate behaviour like corporate governance and sustainable development has been examined.

**Chapter 4-** Judicial Approach towards Corporate Social Responsibility in India covers the analysis of the roles of government and judiciary in fostering CSR and bring forth in detail the manner in which both the Government and Judiciary have played key roles in establishing the field of CSR.

**Chapter 5-** Issues & Challenges in the field of Corporate Social Responsibility have been examined with the aim to assess the current state of CSR in India.

**Chapter 6-** Conclusion & Suggestions: In this chapter, the Scholar, while concluding the research brings out the meaning, nature & scope of CSR in Indian perspective and provides suggestions for effective CSR mechanism.

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# CHAPTER-1

## INTRODUCTION

Business has been the key element in development of civilization. Since ancient times, business always remained at the centre stage of all the governments. Initially the business world over were controlled by the Governments, subsequently by the private entities. One of the forms of business run by private entities is through company/corporate body. Broadly the corporate entity can be defined as–

*“An organization formed with state governmental approval to act as an artificial person to carry on business”.*

As per Indian Companies Act, 2013, The Company means:

*“A company incorporated under this Act or under any previous Company Law”.*

In India, till late twentieth century, the Economic policies were for the most part constrained by the Governments. Such controlled monetary environment was not yielding wanted formative outcomes. While the free economies were performing obviously better than the controlled economies than that of India and hence India additionally joined the bang down in 1991 and the idea of free economy, which was at that point profound established world over, got further stimulus by different negotiations through world exchange association. Along these lines the Liberalization and Globalization have corporatized the financial environment of the world. After liberalization of economy we are seeing contracting job of State and developing job of corporate and business areas in general improvement of the country.<sup>1</sup>

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<sup>1</sup> Andrew Crane and Dirk Matten, *Corporate Social Responsibility (Volume I)*, 2007 P.-xvi

As the world is continuously heading towards free trade regime, the corporatization is an ever growing phenomenon. Corporations now are involved in many of the activities that we might once have expected to be the preserve of governments and the public sector including utilities, social services, and even national security. On the one hand we can see that corporations help to create economic growth, provide jobs, benefits and invest enormous resources into environmental protection and social development initiatives that go beyond the economic role of a private firm on the other side, critics complain that corporations are exploiting natural resources, without adequately compensating for them; consumers, without caring for them; contributing to global warming, disregarding worker's right, and a whole host of other social ills. While resorting to all these practices they use corruption as their main tool with the sole objective of earning profit at any cost for fulfilling ever increasing corporate greed.<sup>2</sup>

Since the role of corporate has become very critical in any Nation's success and sustainability, it is Sine-qua-non that corporate operations must be sustainable and this sustainability can only be achieved by having a socially responsible behavior. In a survey by Tata Energy Research Institute (TERI), it was found that the public expects from corporate and business sector that they must ensure that their operations are environmentally sound, adhere to high labour standards, reduce human right abuse and mitigate poverty.

However, it is in effect constantly noticed worldwide that corporate conduct demonstrates towards an alternate viewpoint of their methodology towards society on the loose. The developing contamination levels because of modern exercises without holding fast to standards are adding to global warming and compromising the presence of planet earth itself. Alongside this, steadily expanding corporate outrages to swindle stakeholders world over, corporate-political nexus for illegal gains even at the expense of countries security, insufficient wages to labour and their abuse, decreasing open positions, expanding hole between rich and poor because of blundered entrepreneur financial example and posturing for the sake of social welfare mirrors the distinctive

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<sup>2</sup> *ibid*

picture of corporate and brings up a wide range of issues about the social responsibility of the enterprise in contemporary society. The present circumstance brings up numerous issues about corporate conduct.

The emergence of welfare state and liberalized economic environment have made it sine qua non that the corporate will have to be socially responsible and thus Corporate Social Responsibility (CSR) is becoming an increasingly important activity for businesses nationally and internationally. As globalization accelerates and large corporations serve as global providers, these corporations have progressively recognized the benefits of providing CSR programs in their various locations. CSR activities are now being undertaken throughout the globe. The Governments worldwide also recognizing the values of CSR and also enacting suitable legislations. India has also incorporated a new Section in this respect in Companies Act 2013 which is aimed at mandating CSR expenditure for certain categories of corporate entities.

Corporate Social Responsibility in the past few decades has intrigued not only the scholars but the society as a whole. It is essentially a concept whereby companies decide voluntary to contribute to a better society and cleaner environment. Companies consider themselves as an integral part of the society and act in socially responsible manner. Till recently, it was viewed as philanthropic activity indulged into only when firms were in jeopardy. But it is now viewed to be inclusive, broad and diverse. CSR is now viewed as an integral part of business strategy to minimize the business risks linked to uncertainty. Whereas the critics are of the view that CSR is nothing but corporate conspiracy to snatch resources.

In India, most of the corporate do not have a clear policy on social Responsibility. While developed Countries like England have separate Ministries to look after the issue of Corporate Social responsibility. In India, government has recently enacted a provision regarding CSR but even after that only very few companies which contribute to social development, there basic intention is not to ensure the good of the nation rather they use this provision as a business strategy to escape from tax net and

somehow comply with the provisions of Companies Act.

Even after enactment of Law, the concept of Corporate Social Responsibility is not taking deep roots in India because the meaning, nature & scope of CSR are not yet properly defined. We can also say that CSR in the present form in India is in embryonic stage. Much need to be done to bring changes in the attitude towards CSR and bring awareness among the corporate about their social responsibilities. The corporate are not aware about the benefits of inclusive growth/development, sustainable development by environment friendly techniques and ethical behavior for brand imaging and thereby enhancing business prospects. The market economy has paved the way for enterprise-led development and new cultural perspective is taking place in Indian business environment that has a strong bearing on social responsibilities.

Since, corporate use natural resources, human resources & infrastructure on which society at large has the right & control, therefore it is the moral responsibility of the corporate to be socially responsible. Social responsibility may encompass the sectors like environment, health, education, employment, income(poverty) and quality of life. Corporate sector need to work on the above aspects, which are considered to be primary social indicators and for this they have enough money to serve the nation on the above segments of the society.

In A survey conducted by the Tata Energy Research Institute (TERI) traces back the history of CSR in India and suggests that basically there are four models of CSR:-

- I The origin of the first ethical model of corporate responsibility lie in the pioneering efforts of 19<sup>th</sup> century corporate philanthropists such as the Cadbury brothers in England and the Tata family in India.
- II. Gandhi's influence prompted various Indian companies to lay active roles in nation building and promoting socio-economic development during the 20<sup>th</sup> century. Many firms, particularly 'family-run business', support philanthropic initiatives like cash or kind donations, community investment in trusts and provision of essential services such as schools, libraries, hospitals, etc.

- III. Statistic model of CSR emerged in India after independence in 1947, when India adopted the socialist and mixed economy framework, with a large public sector and state-owned companies.
- IV. Liberal Model, in which the worldwide trend towards privatization and deregulation can be said to be underpinned by a third model of corporate responsibility in that the companies are solely responsible to their owners.

The basic purpose of the survey was to capture perceptions and expectations of the various stakeholders such as general public, worker (skilled, semiskilled and un-skilled) and corporate executives (head of corporate relation, labour relation, welfare dept. and manufacturing in MNC's, large and medium sized Indian companies) related to corporate responsibility and environment . The poll gathered that people believe that companies should be actively engaged in social matters. More than 60% of the general public felt that the companies should also be held responsible for bridging the gap between the rich and the poor, reducing human rights abuses, solving social problems and increasing economic stability.<sup>3</sup>

### **1.1 The Reason for selecting this topic for Dissertation:**

The rise of globalization has brought with it a growing consensus that with increasing economic rights, business also has a growing range of social obligations. Citizen campaigns against irresponsible corporate behavior along with consumer action and increasing shareholder pressure have given rise to the stakeholder model of corporate responsibility.

With developing progression and globalization the corporate not exclusively are in manufacturing yet they have likewise come in such region which were in the domain of Government prior along these lines now corporate assume critical part in the existence of human creatures and their activities influence the society at each point. Advancement, privatization and globalization have made the corporate elements huge

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<sup>3</sup>*Supra* 3.



and amazing. From one viewpoint their activities cause extreme issue of environmental degradation because of global warming, soil, air and water contamination and yet they have assets and capability to embrace those social welfare estimates which governments either find hard to attempt or have over and over again neglected to embrace. The mindful conduct with respect to corporate will likewise contribute towards comprehensive and reasonable development which is the need of great importance for the endurance of humanity overall and of corporate specifically. Particularly after enactment of CSR arrangement in Companies Act 2013 there is a need to confirm the cases of corporate elements in regard of CSR use in order to learn the consistency, genuineness and difference between real activities and empty talk.

The business of the 21st century will have no choice but to implement CSR. The sooner corporate houses realize this and aggressively pursue this process, the better off they will be, and the laws need to be formulated to help in reinforcing CSR practices. As discussed, in India, till very recently, the focus was on charity, which is not really CSR.

In today's changed business scenario, there is an increased focus on giving back to society and creating a model which works long term and is sustainable and it is imperative that the best practices for inclusive growth are shared with the stakeholders. Getting multinationals to comply with local laws is not an easy task. Many countries do not direct sufficient resources to enforcement. Management practices that evade regulations persist. Furthermore, labour laws can indeed be difficult to interpret. But suppliers, companies, and countries can't point to these difficulties to elude legal accountability. Legal compliance will be hard to achieve, whether within the CSR rubric or not, but extracting legal compliance in the form of CSR has the advantage of bringing to light a range of issues related to workplace and wage that companies are required by law to attend to. The companies' attitude towards CSR is more on transformation rather than giving information on web sites.

In recent years, CSR has become a fundamental business practice and has

gained much attention from chief executives, chairmen, boards of directors and executive management teams of larger international companies. They understand that a strong CSR program is an essential element in achieving good business practices and effective leadership. Companies have determined that their impact on the economic, social and environmental landscape directly affects their relationships with stakeholders, in particular investors, employees, customers, business partners, governments and communities. In countries like India where socialism was the base for formulating industrial & labor policies and social welfare is the prime concern of the government for achieving inclusive development there the role of corporate becomes very critical for achieving these objectives. These goals can only be achieved if the corporate contribute in social welfare activities and prima facie it is their obligation to undertake these tasks. Further, since the law has been enacted, therefore its compliance is required to be monitored to ascertain the efficacy and advantages.

## **1.2 Statement of the Problem**

Last two decades have seen growing sizes of businesses and the corresponding shrinking roles of governments. As the people are now more educated and informed than their predecessors, their expectations from corporate houses too have increased manifold. The advent of scientific inventions and the dominance of democratic forms of governance with liberalization in most parts of the world have led to the exponential growth of the middle classes all over the world. Globalization has created many corporate entities in the world whose annual sales are more than the Gross National Products (GNP) of many countries. According to a newspaper analysis, the total annual revenue receipt of the retail chain Wal-Mart is greater than the economies of all but 30 of the world's nations. In India too, there is a growing number of companies in the private sector whose revenue receipts are much more than Rs 10,000 crore, led by Reliance Industries Limited (RIL), which has crossed the figure of 1,50,000 crore. The level of these receipts is much more than the annual receipts of many of the smaller

states. These big companies control a large part of earth's resources, the price of which is paid in the form of sacrifices by different sections of society. In today's scenario corporate influence every activity of not only the human beings but also of governance let it be policy formulation or implementation. So their involvement in social activities is inevitable.<sup>4</sup>

As progress carries with it responsibility, the developing size and clout of corporate houses has prompted the requirement for socially capable conduct. In any case, over and over it has been seen that the corporate conduct has been unethical and truly unreliable, what's more, the uncontrolled and flighty modern activities are contaminating the environment prompting global warming consequently making extraordinary misfortune environment and unfavorably influencing the existence of millions. The examples of corporate corruption are expanding both in numbers and greatness. Presently to make the corporate responsible the significance, nature and extent of the field of CSR should be plainly characterized. Be that as it may, there is part of contestation among the masterminds regarding the matter of corporate social responsibility. So characterizing and finding out significance, nature and extent of CSR is the first and the preeminent research problem. In addition, there are extraordinary contentions among the experts about the fact that whether CSR is just about charity or it is more than that. With respect to controllers there is quandary that whether it ought to be willful or it ought to be managed and whenever directed how far it ought to be directed. Allies of the idea of CSR imagine that it is critical for comprehensive development and supportable development which are exceptionally critical for endurance of human progress and the planet earth itself. The evaluation of as of late enacted arrangement as far as its significance and viability is likewise a research problem.

However, then again pessimist consider Social Responsibility as a distraction

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<sup>4</sup>Sanjay K. Agarwal, *Corporate Social Responsibility in India, Response Books, Business books from SAGE, 2008, P-13*

to redirect consideration from the vanishing of direct investor control, even couple of masterminds have proceeded to remark that CSR is corporate trick to grab assets. So there is question even about pertinence and superfluity of Corporate Social Responsibility. However, regardless of whether we acknowledge that CSR is fundamental for society everywhere then additionally there are various inquiries which should be replied, and not many of them are that organizations prepared to accept the accountability of CSR? Even after enactment of Law, can corporate houses stay away from responsibility? Can there be financial development without social reason? What will be the job of government, NGOs, assembly and Judiciary in CSR? Are society and buyers willing to pay for CSR costs? Do we have gifted individuals who comprehend and can embrace CSR activities? What are the Indian and global patterns in CSR? This load of perspectives clubbed together structure the research problem.

### **1.3 Review of Literature**

Corporate activity may have done marvels to world economy, it might have made rich business houses and executive class however the society is comprised of an average person and each time the job of corporations in the betterment of masses and country building is investigated, the thought blends banter. The market based economic activity where individuals are target crowd, consumers, the gross abuse of natural resources for the sake of economic development with a visually impaired eye to the social upliftment of the everyday person have caused a stir. The voices to structure a legal framework attaching the social responsibility of the corporations are getting stronger. A ton of literary work has been done in this field. There are sure wonderful bits of work by some praised authors on Corporate Social Responsibility. Some of them are note worthy, viz; Corporate Social Responsibility: An Investment Social Corporation for Mutual Advantage by Lin-Hi, Nick, 2008, Arguments against Corporate Social Responsibility by Backer & Mallen, 2008 & Corporate Social Responsibility in India by C. Gopal Krishana, 1992. The subject of CSR has been approached from a variety of perspectives, disciplinary lenses and ideological positions. Writers like Lockett, Moon, and Visser have mentioned that the CSR is best understood not as a concept, a construct, or a theory but as a field of scholarship. The natural home of CSR is arguably in management

literature but the work on CSR has also increasingly originated from other disciplines, such as law, economics, political science, development studies etc. CSR has been linked to issues like Corporate Governance by Guler Aras and David Crowther in their book titled “A Handbook of Corporate Governance and Social Responsibility”. CSR has also been linked to Sustainable Development by Sanjay K. Agarwal in his book titled “Corporate Social responsibility in India”. He has also brought to the notice the Judiciary’s approach toward the cases of tax break on Corporate Social Responsibility. Andrew Crane and Dirk Matten have also contributed significantly to CSR literature by editing papers / articles written by different writers on various aspects related to CSR by compiling them in to three volumes. Volume-I deals with what CSR is and is not, the second volume deals with how CSR can or can not be put into practice in corporations, and the third volume deals with understanding these theories and practices in an international context.

However, it is evident that despite the multidisciplinary of approaches to CSR, there is still limited evidence of inter-disciplinary research. There is definitional debate in the field of CSR. This makes it difficult to draw boundaries around the field but this diversity is good thing for the conceptual richness of the field because CSR is still a developing field of research. De Bakker, Groenewegen, and den Hond (2005)’ concluded that the field of CSR is vibrant and developing. Similarly Lockett, Moon, and Visser also concluded after 10 years of research that CSR knowledge could best be described as in a continuing state of emergence.

## **1.4 Hypothesis**

After review of literature and detailed examination of research questions the Scholar also reviewed the hypothesis. The hypothesis, which was under evolution at the time of submission of synopsis, was crystallized with the onset of this Research. The hypothesis so crystallized for this research is as under:

- (i) *“Presently, the Corporate Social Responsibility is considered a philanthropic activity, however considering its role in social development there is a need to redefine its sphere.*

- (ii) *In view of the significance of CSR in current socio-economic environment in India, there is need to enact a suitable & dedicated Legislation governing various aspects of CSR in India and ensuring its strict compliance by various stake-holders in the interest of both, society & corporate.”*

## **1.5 Research Methodology**

The Scholar has altered the conventional approach a bit to understand and study the problem pertaining to Corporate Social Responsibility. Basically, the Research Methodology is dominated by Doctrinal approach. The empirical study has also been carried out for certain parts of the research. However this research remotely relates to positivism schools of thought on research methodology and we may also categorize this as a socio-legal research. The methodology of data collection is through case study and extensive analysis of literature available on these subjects. Various data has been collected through internet, AIR, news papers, magazines and books available on the subject matter.

The Scholar has carried out extensive study to ascertain the prevailing trend on the subject. Views of luminaries including administrators, academia, lawyers, consumers, employees, employers, etc. have been incorporated. The wide arena of books and journals were referred to make the whole effort more successful. The Scholar has also evaluated the Constitutional and other statutory provisions related to the subject under study. The Scholar has also analyzed the data related to CSR spending by various corporate entities.

## **1.6 Limitation of the Study**

The idea of Corporate Social Responsibility has a long and changed history. It is feasible to follow confirmations of the business community's anxiety for society for quite a long time. The subject of CSR has been drawn nearer from an assortment of points of view, disciplinary lenses, and ideological positions. The work on CSR has started from numerous controls like management, law, economics, political science,

development studies, geography, area studies, sociology, and history and so on Its natural home is ostensibly in the management literature and in management additionally it has been drawn nearer from an assortment of sub-trains like strategy, marketing, accounting, operations management, and organizational conduct. In this way, to contemplate, break down and incorporate viewpoint of every single related field was simply unrealistic and accordingly just short thought of relationship of order with important field for example corporate conduct has been incorporated in this research. Itemized enquiry of every single order could not be attempted. Corporate form of business entities and their commonness is an impression of capitalist form of economy. Countries world over have received this form of economic set up and presently they are confronting sick impacts of this form of set up. Capitalist form of economic design is going through disturbance times. In this current research the social duties of business in other form of economies and their repercussions could not be attempted exhaustively. Globalization has brought forth huge MNCs which are working in different countries all the while in assorted socio-economic-political and cultural environment. In this manner, there can't be a universal framework of Corporate Social Responsibility. Corporate are likewise not exceptionally co-operative to substantiate their cases of receiving CSR measures with confirmations. In this research likewise no uniform component for the CSR could be proposed. Accordingly, these are the limit of the research yet these constraints have not the slightest bit influenced the pertinence of this research.

## **1.7 Preface of Chapters**

**Chapter 1** – The ongoing chapter deals with Introduction of the subject, the research topic and brief information about the research. It also intends to deal with meaning, nature & scope of Corporate Social Responsibility by covering various definitions, theories, framework, rational behind and advantage of Corporate Social Responsibility.

**Chapter 2** – This chapter deals with historical background and development of the concept of Corporate Social Responsibility by analyzing the history of CSR in various countries along with India. It also deals with nature and present state of Corporate Social

Responsibility in globalize economic set up by way of analyzing CSR practices adopted by different countries and recent trends of CSR practices & its regulation worldwide including India.

**Chapter 3**– This chapter deals with the inter-relationship of Corporate Social Responsibility and Corporate Governance by way of analyzing various theories and scope of Corporate Governance and then by having comparative study with theories and scope of Corporate Social Responsibility. It also deals with existing regulatory & legislative framework in support of CSR by way of analyzing various legislative provisions enacted for environment protection, labour welfare and for protection of the various stake holders. The constitutional provisions in support of CSR have been examined in this chapter.

**Chapter 4**– This chapter deals with the Judicial Approaches in fostering CSR in India by way of leading decisions by various courts in India. The decision related to constitutional provisions in respect of fundamental rights and directive principals of state policy on corporate behavior & stake holders' rights have been examined.

**Chapter 5**- This chapter covers the various advantages of adopting CSR Practices along with the current issues and challenges in the field of CSR in India.

**Chapter 6**- This chapter being the last chapter summarizes the research through conclusion, verification of Hypothesis and suggestions.

## **1.8 An Introduction to the Concept of Corporate Social Responsibility**

In liberalized economic pattern most of us live in a highly corporatized world. These big Corporations are nothing but byproduct of the activity called business. So there is need to have some basic idea as to what business is, how it developed, how the present structure of Corporations came in to existence, what is the relationship between society and business/ corporate and why there is need for corporate to be socially



responsible.<sup>5</sup>

Business relates to any activity that creates utility for either the masses or the classes, and to command a price for these utilities the demand has to be more than the supply. This, in economics, is called the demand- supply gap and business can manipulate this gap in various ways to earn profit. The free market economy is supposed to reduce this gap and offer enough choice to consumers by encouraging free entry and free exit to organizations operating in the market. The great trading companies were the first business enterprises.<sup>6</sup> Business activities got organized into three major categories- sole trading concern, partnership firms, and joint-stock companies (both private limited and public limited), depending on resources, business development plans and promoters. The most commonly used term for a business enterprise is the word company. Company can be defined as an association of persons coming together voluntarily to pursue a certain economic activity with the motive to make profit. ‘Like any juristic person, a company is legally an entity apart from its members, capable of rights and duties of its own and endowed with the potential of perpetual succession’ (Hahlo and Trebilock 1977).

The relationship of the company beyond the legal existence to the socio- economic scenario is well summarized by Berle (1959). According to him, the ‘Company’ is not merely a legal institution. It is rather a legal device for the attainment of any social or economic end and to a large extent; this is done publicly and by being socially responsible.<sup>7</sup> It is therefore, a combined political, social, economic, and legal institution. This brings us to the concept of Corporate Social Responsibility (CSR) and moreover corporations derive wealth from society, create wealth for society, and earn profit by dealing with the wealth for society. Thus, in the larger perspective, it is society that actually gives permission to business to operate in society and earn money. This obviously demands that the business world should pay for this permission by a

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<sup>5</sup> Andrew Crane and Dirk Matten, *Corporate Social Responsibility (Volume I)*, 2007 P. -xvi

<sup>6</sup> Madhumita Chatterji , *Corporate Social Responsibility*, Oxford University Press, 2011,P-3

<sup>7</sup> Berle, A.A. Jr.(1959) in *Foreword to The Corporation in Modern Society* by E.S. Mason, Harvard University Press , Cambridge

legitimate sharing of the wealth it is earning from society by sharing it with society.<sup>8</sup>

Till recently, CSR was viewed as philanthropic activity indulged into only when firms were in jeopardy. But it is now viewed to be inclusive, broad and diverse. CSR is now viewed as an integral part of business strategy to minimize the business risks linked to uncertainty. Also the critics are of the view that CSR is nothing but corporate conspiracy to snatch Resources in the name of CSR. Therefore to understand the subject in detail and its importance for society in general and corporations in particular, we need to study various aspects of the subject 'Corporate Social Responsibility'.

Till recently, the focus of companies was on charity, which is not really CSR. Sustainable CSR programmes mean a cohesive mix of economic, legal, ethical and philanthropic tenets. In today's changed business scenario, there is an increased focus on giving back to society and creating a model which works long term and is sustainable and it is imperative that the best practices for inclusive growth are shared with the stakeholders.

## **Defining CSR**

There are as many definitions of CSR as there are disagreements over the appropriate role of the corporation in society. Here is an overview of just some of the definitions of CSR that have been proposed over the years.

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<sup>8</sup> *Madhumita Chatterji, Corporate Social Responsibility, Oxford University Press, 2011, P-5*

## **Important definitions of the term Corporate Social Responsibility.**<sup>9</sup>

Source	Definition
	Bowen (1953) (The social responsibilities of businessmen) ‘refers to the obligations of businessmen to pursue those policies, to make those decisions, or to follow those lines of action which are desirable in terms of the objectives and values of our society.’
Friedman (1970)	‘The social responsibility of the firm is to increase its profits.’
Davis (1973)	CSR refers to ‘the firm’s consideration of, and response to, issues beyond the narrow economic, technical, and legal requirements of the firm.’
Carroll (1979)	‘The social responsibility of business encompasses the economic, legal, ethical, and discretionary expectations that society has from organizations at a given point in time.’
Jones (1980)	‘Corporate Social Responsibility is the notion that corporations have an obligation to constituent groups in society other than stockholders and beyond that prescribed by law and union contract.’
Epstein (1987)	‘Corporate Social Responsibility relates primarily to achieving outcomes from organizational decisions concerning specific issues or problems which (by some

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<sup>9</sup> Andrew Crane and Dirk Matten, *Corporate Social Responsibility, (Vol.-I)*, SAGE Publications, P- xix-xx.

normative standard) have beneficial rather than adverse effects on pertinent corporate stakeholders. The normative correctness of the products of corporate action has been the main focus of corporate social responsibility.’

Wood (1991) ‘The basic idea of Corporate Social Responsibility is that business and society are interwoven rather than distinct entities; therefore, society has certain expectations for appropriate business behaviour and outcomes.’

Brown and Dacin CSR are defined as a company’s ‘status and activities with respect to its perceived societal or, at least, stakeholders obligations.’<sup>10</sup>

In addition to these definitions there is one definition *given by The World Business Council for Sustainable Development (WBCSD) about Corporate Social Responsibility as “the commitment of business to contribute to sustainable economic development.”* The primary purpose of CSR is to engage with the internal and external stakeholders.

The point is that defining CSR is not just a technical exercise in describing what corporations do, but is also as much a normative exercise in describing what corporations should be responsible for in society, or even an ideological exercise in describing how the political economy of society should be organized more broadly, for instance if we compare the early definitions of CSR from Friedman (1970) - ‘the social responsibility of the firm is to increase its profits’.<sup>11</sup>

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<sup>10</sup> Andrew Crane and Dirk Matten, *Corporate Social Responsibility, (Vol.-I), SAGE Publications, P- xix-xx.*

<sup>11</sup> Friedman, M.1970.*The New York Time Magazine, 13<sup>th</sup> September 1970.*

Davis (1973: 312) ‘consideration of issues beyond the narrow economic, technical, and legal requirements of the firm’<sup>12</sup> we can see a great deal of difference in their assumptions about what firms should be responsible for. Similarly, whilst the originators of CSR tended to define the concept in terms of obligations to restrain corporate power within a pluralistic system, developments in the 1980s and 1990s saw CSR definitions evolve into purely voluntary exercises of discretion from corporate executives (Marens 2004).<sup>13</sup>

The definitional debate on CSR is unlikely to go away, especially with different national perspectives on CSR being developed from alternative cultural, legal, and political assumptions about the role and responsibility of the firm in society. The development of new CSR literature in continental Europe, Asia, Latin America and Africa brings with it very different definitions of CSR that include, for example, elements of legal obligation, political participation and development - all of which may redefine CSR in ways very different to its US identity.

Despite these ongoing definitional disputes, however, what we can probably say without creating too much controversy is that, in its broadest sense, CSR is about the social obligations and impacts of business in society. Beyond this, admittedly, there is a great deal of contestation over the nature and extent of these obligations, how or whether they should be translated into concrete actions to create positive corporate or societal benefits — or even whether the obligation to consider societal impacts exists in the first place. CSR questions are ultimately questions about societal obligations and impacts.

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<sup>12</sup> Andrew Crane and Dirk Matten, *Corporate Social Responsibility, (Vol.-I)*, SAGE Publications, P- xix-xx.

<sup>13</sup> Marens R. *Whobbling on a one-legged stool: the decline of American pluralism and the academic treatment of corporate social responsibility. Journal of Academic Ethics, 2 P-63-87*

## **Examination of several of various theories of CSR**

Since the second half of the 20th century a long debate on Corporate Social Responsibility (CSR) has been taking place. In 1953, Bowen wrote the seminal book 'Social Responsibilities of the Businessman'.<sup>14</sup> Since then there has been a shift in terminology from the social responsibility of business to CSR. Additionally, this field has grown significantly and today contains a great proliferation of theories, approaches and terminologies. Society and business, social issues management, public policy and business, stakeholder management, corporate accountability are just some of the terms used to describe the phenomena related to corporate responsibility in society. Recently, renewed interest for Corporate Social Responsibilities and new alternative concepts has been proposed, including corporate citizenship and corporate sustainability.<sup>15</sup>

Thus, various theories related to CSR can be classified in four groups:

1. A first group in which it is assumed that the corporation is an instrument for wealth creation and that this is its sole social responsibility. Only the economic aspect of the interactions between business and society is considered. This group of theories could be called instrumental theories because they understand CSR as a mere means to the end of profits.
2. A second group in which the social power of corporation is emphasized specifically in its relationship with society and its responsibility in the political arena associated with this power. This leads the corporation to accept social duties and rights or participate in certain social cooperation. This group may be called political theories.
3. A third group includes theories which consider that business ought to integrate social

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<sup>14</sup> Bowen, H.R.1953,*Social Responsibility of the business (Harper & Row, New York)*

<sup>15</sup>Elisabet Garrige and Domence Mele,2004,*Corporate Social Responsibility Theories: Mapping the Territories* edited by Andrew Grane and Dirk Matten in *Corporate Social Responsibility(Vol-I) P.-43*

demands. They usually argue that business depends on society for its continuity and growth and even for the existence of business itself. This group can be termed as integrative theories.

4. A fourth group of theories understands that the relationship between business and society is embedded with ethical values. This leads to a vision of CSR from an ethical perspective and as a consequence, firms ought to accept social responsibilities as an ethical obligation above any other consideration. This group can be termed as ethical theories.

### **Instrumental Theories**

In this group of theories CSR is seen only as a strategic tool to achieve economic objectives and ultimately, wealth creation.

Representative of this approach is the well-known Friedman's view that "the only one responsibility of business towards society is the maximization of profits to the shareholders within the legal framework and the ethical custom of the country" (1970).<sup>16</sup> These theories can be broadly be categorized as **Maximizing the Shareholder Value, Strategies for Achieving Competitive Advantages** and **Cause-related Marketing**.

### **Political Theories**

A group of CSR theories and approaches focus on interactions and connections between business and society and on the power and position of business and its inherent responsibility. They include both political considerations and political analysis in the CSR debate. Although there are a variety of approaches, two major theories can be distinguished: Corporate Constitutionalism, **Integrative Social Contract Theory** and Corporate Citizenship.

### **Integrative Theories**

This group of theories looks at how business integrates social demands, arguing that

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<sup>16</sup> Friedman, M. 1970. *The New York Time Magazine*, 13<sup>th</sup> September 1970. P32-33,

business depends on society for its existence, continuity and growth. Social demands are generally considered to be the way in which society interacts with business and gives it a certain legitimacy and prestige. As a consequence, corporate management should take into account social demands, and integrate them in such a way that the business operates in accordance with social values. So, the content of business responsibility is limited to the space and time of each situation depending on the values of society at that moment, and comes through the company's functional roles (Preston and Post, 1975).<sup>17</sup>The theories of this group are focused on the detection and scanning of, and response to, the social demands that achieve social legitimacy, greater social acceptance and prestige. These theories cover various aspects like Issues Management, The Principle of Public Responsibility, Stakeholder Management and Corporate Social Performance.

### **Ethical Theories**

There is a fourth group of theories or approaches focus on the ethical requirements that cement the relationship between business and society. They are based on principles that express the right thing to do or the necessity to achieve a good society. As main approaches we can categorized them as **Normative Stakeholder Theory, Universal Human Rights, Sustainable Development, The Common Good Approach**

### **Framework of CSR (The Pyramid of Corporate Social Responsibility)**

Carroll while summarizing scope of Corporate Social Responsibility presented the complete framework of CSR in the form of a pyramid of Corporate Social Responsibility for CSR to be accepted by a conscientious business person, it should be

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<sup>17</sup>*Preston and Post: 1975, Private Management and Public Policy. The Principle of Public Responsibility ( Prentice Hall, Englewood Cliffs, NJ)*



framed in such a way that the entire ranges of business responsibilities are embraced. It is suggested here that four kinds of social responsibilities constitute total CSR: economic, legal, ethical and philanthropic.<sup>18</sup> Each of these four categories deserves closer consideration.

**(a) Economic Responsibilities**

Historically, business organizations were created as economic entities designed to provide goods and services to societal members. The profit motive was established as the primary incentive for entrepreneurship. At some point the idea of the profit motive got transformed into a notion of maximum profits, and this has been an enduring value ever since. All other business responsibilities are predicated upon the economic responsibility of the firm, because without it the others become moot considerations.

**(b) Legal Responsibilities**

Society has not just sanctioned business to work according to the benefit rationale; simultaneously business is required to comply with the laws and regulations promulgated by federal, state, and local governments as the guidelines under which business should work. As an incomplete satisfaction of the "social contract" among business and society, firms are relied upon to seek after their economic missions inside the framework of the law. Legal obligations mirror a perspective on "codified ethics" as in they typify essential ideas of reasonable operations as set up by our lawmakers. They are portrayed as the following layer on the pyramid to depict their recorded development, yet they are properly seen as coexisting with economic obligations as fundamental precepts of the free venture framework.

**(c) Ethical Responsibilities**

Albeit economic and legal obligations typify ethical norms about fairness and justice, ethical duties embrace those activities and practices that are normal or

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<sup>18</sup> Carroll, A.B.:1991, 'The Pyramid of Corporate Social Responsibility: Towards the Moral Management of Organisational Stakeholders', *Business Horizons*(July/August),P. 39-48.

precluded by cultural individuals despite the fact that they are not codified into law. Ethical duties encapsulate those principles, norms, or assumptions that mirror a concern for what consumers, workers, investors, and the community view as fair, only, or with regards to the regard or insurance of stakeholders' moral rights.

The business ethics development of the previous decades has solidly settled a moral responsibility as a legitimate CSR component. However it is portrayed as the following layer of the CSR pyramid, it should be constantly recognized that it is in dynamic interchange with the legal responsibility classification. That is, it is constantly pushing the legal responsibility classification to widen or grow while simultaneously setting ever better standards on businesspersons to work at levels over that legally necessary.

#### **(d) Philanthropic Responsibilities**

Philanthropy encompasses those corporate actions that are in light of society's assumption that businesses be acceptable corporate residents.

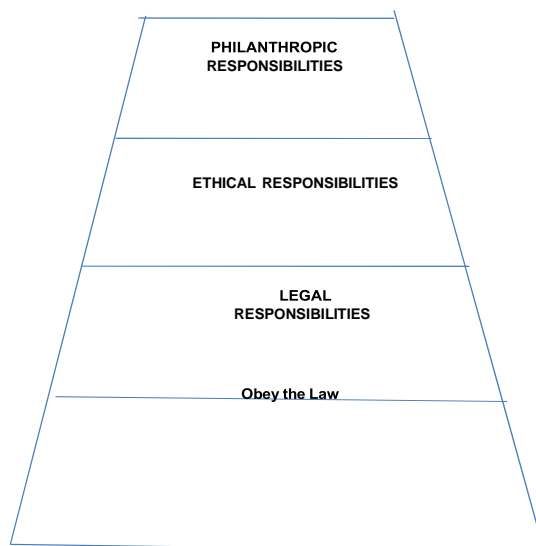
Instances of philanthropy incorporate business contributions of monetary resources or executive time, like contributions to expressions of the human experience, schooling, or the community. A lent executive program that gives administration to a community's United Way crusade is one representation of philanthropy.

The distinctive component among humanitarian and ethical obligations is that the former are not expected in an ethical or moral sense. Communities want firms to contribute their cash, offices, and employee time to humanitarian programs or purposes, yet they don't see the organizations as unethical in the event that they don't give the ideal level. Along these lines, philanthropy is more discretionary or willful with respect to businesses despite the fact that there is consistently the cultural assumption that businesses give it. One notable reason for making the distinction between philanthropic and ethical responsibilities is that some firms feel they are being

socially responsible if they are just good citizens in the community.

The pyramid of corporate social responsibility portrays the four components of CSR, beginning with the basic building block notion that economic performance undergirds all else. At the same time, business is expected to obey the law because the law is society's codification of acceptable and unacceptable behavior. Next is business's responsibility to be ethical. At its most fundamental level, this is the obligation to do what is right, just, and fair, and to avoid or minimize harm to stakeholders (employees, consumers, the environment, and others). Finally, business is expected to be a good corporate citizen. This is captured in the philanthropic responsibility wherein business is expected to contribute financial and human resources to the community and to improve the quality of life.

### **The Pyramid of Corporate Social Responsibility**



In summary, the total corporate social responsibility of business entails the simultaneous fulfillment of the firm's economic, legal, ethical, and philanthropic responsibilities. Stated in more pragmatic and managerial terms, the CSR firm should

strive to make a profit, obey the law, be ethical, and be a good corporate citizen.

## **Rationale for Corporate Social Responsibility**

Corporates are part of the wider social set up and can't survive and progress in isolation. They are formed by the elements of society, for the society and being run by the elements of this society itself. There are numerous factors which lay emphasis on the fact that the corporate should be socially responsible because each and every activity of corporate affects some or other part of society in some or other way.

As we are aware that the company is not merely a legal institution, it is more than that. The relationship of the company exists not only with the people who voluntarily participate in its activities but also extends with many social and environmental factors. The relationship of company beyond the legal existence to the socio-economic scenario is well explained by Berle (1959). According to him, the 'Company' is not merely a legal institution. It is rather a large device for attainment of any social or economic end and to a large extent; this is done publicly and by being socially responsible. It is, therefore, a combined political, social, economic and legal institution.<sup>19</sup>

Few of the justification or rationale of CSR are as under:

### **(a) Enlightened Self-Interest**

Enlightened Self-Interest argument postulates that the business community as a whole will benefit from socially responsible behaviour. This argument can be extended

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<sup>19</sup> A.A. Jr.(1959) in *Foreword to The Corporation in Modern Society* by E.S. Mason, Harvard University Press, Cambridge

in all direction showing that a better society produces a better environment for business”.<sup>20</sup>

**(b) Sound Investment Theory**

The argument that social responsibility is a sound investment has been developed most fully and literally by Edward Bowman of MIT. He proposes the hypothesis that through the effect of a “neo- invisible hand,” the market price of a company’s stock is affected by its social behavior.<sup>21</sup>

**(c) Avoiding Interference**

This rationale of CSR means that if the corporate are behaving responsibly than there will be minimum interference from regulators.<sup>22</sup>

**(d) CSR Essentials for Inclusive development.**

The corporatization of economy world over has resulted in development of poor countries like China and India but inequality and gap between rich & poor has widened. If the corporate are socially responsible, this gap may be reduced and growth may be inclusive and sustainable.

China has succeeded in lifting 250 million people out of poverty over the past 30 years. However, during the same period, inequalities have doubled.<sup>23</sup>

The situation is not very different in India either. Nowhere in the world does

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<sup>20</sup> Mintzberg, 1983: *The case for Corporate Social Responsibility, The Journal of Business Strategy, P.3-15*

<sup>21</sup> E.H. Bowman, 1973: “ *Corporate Social responsibility and the Investor, P.42*

<sup>22</sup> *Ibid*

<sup>23</sup> Khalid Malik, (UNDP Resident Representative in China ), 2005: *China Human Development Report (CHDR) in December 2005.*

one see a paradox as immense as in India, wherein agriculture contributes nearly 20 per cent of our GDP, but supports two- third of our population. The gap between the rich and the poor has widened during the last 50 years. These facts are not new, these findings were given in *The India Development Policy Review, 2006*<sup>24</sup> and various reports since then have been emphasizing on this issue. After examining numerous reports in this respect, the following points emerge:

- i) Capitalism is not proving Inclusive rather widening the gap.**
- ii) Clout / capacity of Corporate have increased enormously in modern world of free economy.**
- iii) With globalization & liberalization, the Resource ownership and utilization of corporate have grown manifold. Therefore, CSR practices are sine qua non for ensuring responsible behavior by corporate but there are enough evidences that corporate are not behaving responsibly and few of such instances/evidences are as under:**
  - Increase in Corporate Scams
  - Irresponsible behavior of executive
  - Huge variations in salary structure
  - Exploitation of contract labour

#### **iv) CSR is must for sustainable development**

The irresponsible behavior of the corporate, if continued unabated, it will jeopardize the sustainability of the Planet Earth. The same can be gauged from the following paragraphs:

#### **a) Adverse Impact of Industrialization/Corporatization**

Rapid industrialization has given rise to environment concern. Ever increasing environment pollution has given rise to problem like climate change and global

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<sup>24</sup> World Bank report titled 'Inclusive Growth and Service Delivery: Building on India's Success'.in 2007

warming which are threatening the existence of the planet earth itself.

We can gauge the devastating effect of pollution as brought to the notice by the Earth Summit held by UN in 1986 that Each year, as many as 50,000 species become extinct, up to 17 million hectares of forest on area roughly the size of Saudi Arabia, disappear. More that 8.2 billions of carbon dioxide are dumped into atmosphere. Due to the effect of environmental pollution, people are suffering and dying from environmental induced disease. All the holy rivers are polluted and there is crisis of fresh water, in few areas natural disaster are on rise, weather pattern are changing because ultimately climate is changing against the order of nature.<sup>25</sup>

In view of details provided above we can conclude that there is urgent need to arrest this trend of ever increasing pollution, because this kind of development in neither inclusive nor sustainable. Therefore there is need for effective implementation of existing legislations and even enactment of new legislation for enforcing social responsibility measures.

#### **b) Significance and Driving factors of Corporate Social Responsibility**

There are many drivers of corporate Social responsibility and each one of this has its own significance, few of the important drivers have been analyzed in following paragraphs:

##### **i) Creating Sustainable Environment**

Many organizations had started realizing the importance of environmental protection, as they are directly or indirectly contributing towards environmental protection. There are many issues regarding the environmental protection and particularly the issues which require immediate attention involve Climate change, Water Conservation, Air emission, e-waste etc.

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<sup>25</sup> P.M.Bakshi,2005: *Public Interest Litigation*, Ashok Law House,P.269

**ii) Creation of Goodwill**

Corporate Social Responsibility can play a major role in building customer loyalty based on ethical values practiced in the organizations.

**iii) Social Awareness and Honest Business Practices**

Rapid industrialization in many developing countries has now opened avenues for International Trade. Due to increasing awareness among customers regarding the malpractices in the market, the consumers are now more conscious about their rights. Now in this global scenario, companies need to apply high standards of ethics and morality when making corporate decisions.

**iv) Employees –Shareholders’ Relationship**

Some business organizations enjoy corruption, taking of Intellectual Property Rights, Financial Scams and Scandals or creating environmentally hazardous items for the customers. Rather they need to fabricate goodwill and trust among the customers and shareholders. Building an ethically responsible culture in organizations can reduce the changes of employees indulging on unfair practices within the organization by emphasizing on professionalism, transparency, socially responsible investments, effective communication, employee participation, fairness, and promotions, adequate compensation and personal development.

**v) Intelligent use of natural Resources**

Agriculture in our country had essentially confronted its slump because of the climate changes which were fundamentally brought about by during of-coal, oil and other fossil fuels. The world delivers more carbon-dioxide and different gases which are liable for man made global warming. Henceforth it becomes vital to distinguish new fuels which may cause comparatively less pollution. Numerous companies are en route to distinguish new non-renewable resources to guarantee energy conservation also a stage



to control the global warming.

#### **vi) Accountability towards the Government**

Organizations have to comply with the general law applicable in every country. Management policies, strategies, mission, should be in accordance to the rules and regulations of the legal environment and should follow fair trade practices. Organizations should pay taxes and other dues and discourage bribery, corruption, and biases in the departments.

### **CSR – A Tool of Business Strategy**

Based on the maturity of strategic thinking in the company, CSR can be implemented in one or more of the following ways as hereunder:

- CSR as reactive strategy
- CSR as an image building exercise
- CSR for improving operational efficiency
- CSR as a source of competitive advantage

Some of the business benefits, which can be associated with CSR in the Indian context, are listed below. While some of them demonstrate a direct link with business benefits, some others can only be felt.

#### **(e) CSR creates conducive working environment and reduces expenditure.**

CSR is a business process, wherein the institution and individuals are sensitive to and careful about the direct and indirect effect of their work on internal and external communities, nature and the outside world. This consciousness has come from a sense of social and environmental responsibility, which, in turn, has helped reduce operating costs. Some studies in the UK show that ‘stakeholder- balanced’ companies registered four times the growth rate and eight times the employment growth as compared to companies that are ‘shareholder-only’ focused.<sup>26</sup>

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<sup>26</sup> Sanjay K Aggarwal, 2008: *Corporate Social Responsibility in India* P.35

**(f) CSR contributes in Image and Reputation of company.**

Branding of products, more particularly of consumer products, gets an immense boost through social messages. Advertisements with social messages have a larger and deeper appeal than general advertisements.<sup>27</sup>

**(g) CSR enhances Customer faith.**

This is perhaps the most non-controversial statement about CSR's business benefits. Many people, who are socially conscious and do not have any brand preference, will opt for the product, so that they are able to contribute something, however small, for the good of society.

**(h) CSR makes the corporate entity an attractive employer.**

The extent of publicity and goodwill generated by CSR activities helps in talent management as the average employee feels pride in being associated with good corporate citizens. A natural soft corner is developed in the mind of employee towards employer. It imparts confidence to the employee that his employer will stand by his side in times of crises.

**(i) CSR helps in avoiding regulation.**

We are shy of talking about this benefit of CSR but the fact remains that businesses caring for their community responsibility get more cooperation and less queries from regulators, be it the administration or taxation officials or social and environment activists. In a vast and populous country like ours, the administration is, at all times, hard-pressed to manage its day-to-day affairs ranging from law and order to VVIP security and meetings, leaving little time and expertise for real developmental activities. They depend, to a great extent, on the support and initiative of business. The local administration, on its part, tries to maintain a good rapport with care-oriented

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<sup>27</sup> Sanjay K Aggarwal, 2008: *Corporate Social Responsibility in India*, p-36

organisations for their needs ranging from manpower and resources for managing their administrative jobs, to help required in the time of crises. The greater commitment a business house shows towards CSR, the more lenient are governments and regulators with it.

**(j) CSR helps in easy access to funds.**

Businesses that show an environmental and social responsibility tend to be viewed as being less risky than those that do not, as that can translate into cost prevention, lower insurance premiums, reduced interest rates, reduced legal and regulatory costs, greater investor appeals, and so on. In the Indian context, it is presently difficult to demonstrate how concern for the environment and the community can make a difference in the cost of capital (except in terms of visibility and goodwill). The time is, however, not far when the depletion of natural resources like water and wood will force the operations of some of the inefficient and non-caring organisations to come to a standstill. For example, our

country, already on the course to reach a situation of ‘water scarcity’ will force investors and lenders to differentiate between caring and non-caring organisations in the very near future, as far as the competitive capabilities to sustain costs are concerned. Some researches in the West have shown that incorporating social responsibility can reduce portfolio volatility and increase returns.<sup>28</sup>

Over a period of time, lenders and investors have become more vocal and assertive about their own expectations regarding evidence of a company’s responsibility to reduce cost and ensure its sustainability. An impressive number of leading financial services firms has confirmed the material relevance of governance and sustainable development performance on equity valuation. Companies such as ABN AMRO, Deutsche Bank and Goldman Sachs are calling upon investors, asset managers and financial markets, in general, to include these non-traditional aspects in their decision-

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<sup>28</sup> Sanjay K Aggarwal, 2008: *Corporate Social Responsibility in India*, P-44

making. In a circular issued on 20 December 2007, the Reserve Bank of India has asked banks to put in place a suitable and appropriate plan of action towards helping the cause of 'sustainable development' with the approval of their boards.<sup>29</sup>

While concluding we can say that even though there is definitional dispute but the scope of CSR is more or less settled with " The Pyramid Of Corporate Social Responsibility " provided by the Carroll, and it include economic, legal, philanthropic and ethical responsibilities. The justifications behind the CSR are many and there are enormous business benefits of socially responsible behaviour. The field is still evolving and for sustainable development and inclusive growth it will be very critical for the corporate to follow the principles of Corporate Social Responsibility. Thus, the field is here to stay and it needs more refinement and fine tuning with local requirements.

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<sup>29</sup> Sanjay K Aggarwal, 2008: *Corporate Social Responsibility in India*, P-45

## CHAPTER – 2

# EVOLUTION AND DEVELOPMENT OF CORPORATE SOCIAL RESPONSIBILITY IN INDIA

### 2.1 Introduction

As we saw in previous chapter that a lot of literature is available on CSR and initial literature dates back to even eighteen century. In initial stages CSR practices were mostly in the form of charity and were not very significant. But in present economic culture of liberalization CSR is in nascent stage however it is not a new phenomenon. The practices related to CSR were prevalent in some or other form in historical periods also. Therefore it is imperative for understanding the subject properly that we should trace the historical background and development of CSR.

Around the beginning of the twentieth century a backlash against the large corporations began to gain momentum. Big business was criticized as being too powerful and for practicing anti-social and anti-competitive practices. Laws and regulations, such as the Sherman Anti-trust Act (United State), were enacted to rein in the large corporations and to protect employees, consumers, and society at large. An associated movement sometimes called the "social gospel," advocated greater attention to the working class and the poor. The labour movement also called for greater social responsiveness on the part of business. Between 1900 and 1960 the business world gradually began to accept additional responsibilities other than making a profit and obeying the law.

In the 1960s and 1970s the civil rights movement, consumerism, and environmentalism affected society's expectations from business. Based on the general idea that those with great power have great responsibility, many called for the business world to be more proactive in (1) ceasing to *cause* societal problems and (2) starting to

participate in *solving* societal problems. Many legal mandates were placed on business related to equal employment opportunity, product safety, worker safety, and the environment protection. Furthermore, society began to expect business to voluntarily participate in solving societal problems whether they had caused the problems or not. This was based on the view that corporations should go beyond their economic and legal responsibilities and accept responsibilities related to the betterment of society. This view of Corporate Social Responsibility is the prevailing view in much of the world today.<sup>30</sup>

History suggests that the field of Corporate Social Responsibility (CSR) has been practiced in some or other way in nearly every country where business and trade was prevalent. The concepts similar to CSR were practiced in UK for well over two hundred years, albeit actions that are tantamount to the activities now referred to as social responsibility were not previously so described. CSR is a relatively modern term used for all those corporate action that now fall under its ambit.<sup>31</sup>

### **2.1.1 History of CSR in U.K.**

The UK - a widely acknowledged world leader in the field - has played a pivotal role in recent corporate activities/actions in the field. This chapter explores how corporate entities have been practicing CSR over the last few decades and also roles that the governments have assumed at different times in the field of CSR in the past few centuries.

The notion that British corporate entities should behave responsibly can be traced back to several centuries. It was the Portuguese that started the slaving of Africans in 1440 (Rawley and Behrendt, 2005); by 1562 England had joined in the socially irresponsible

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<sup>30</sup><http://www.referenceforbusiness.com/management/Comp-De/Corporate-Social-Responsibility.html#b> date 02 jun 2012

<sup>31</sup>*Ibid*

trade through Sir John Hawkins (Du Bois 1896). By the 1760s, slavery and the treatment of African slaves had become a social issue in Great Britain. By the last part of the 1780s, Sir William Wilberforce and two of his other parliamentary colleagues, Thomas Clarkson and Granville Sharp, had formed the 'social activists bunch' of their time - 'The Abolitionists' as they were then called. This pressure bunch they formed battled calmly for 35 years for the annulment of slave trade.

The powerful federation of planters, merchants, manufacturers, and ship owners understandably put up a strong resistance against the efforts of these social activists through their actions in both the Houses of Commons and Lords. Finally, on the 25th of March 1807 the Abolition of Slave Trade Act was passed. The Act made it illegal for British ships to carry slaves and for British companies to trade in slaves. In effect, the Act could be interpreted as a legal mandate that forced British corporate entities, including the church, to behave in a socially responsible manner in respect of the trade in human beings and all related activities. However, the trade continued despite the 1807 Act until another Act: The Slavery Abolition Act 1833 was passed; even then the Tory government of Robert Peel had to pay compensation to the slave owners. The value of the compensation depended on the number of slaves owned. It was claimed that the then Bishop of Exeter, Dr Henry Philpot's, was paid £12,700 for 665 slaves, an average of about £19 per slave.<sup>32</sup>

During the Industrial Revolution of 1750-1830, several British industrialists and entrepreneurs had indirectly practiced some aspects of Corporate Social Responsibility (CSR) as we know it today.

Arkwright was the first industrialist to build low-cost houses near his factories for his employees in Derby in 1775. Arkwright had embarked on what in today's terms would be perceived as being socially responsible by providing these homes either rent free or

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<sup>32</sup> S.O. idowu and W.L. Filho :Global Practices of Corporate Social Responsibility, Springer, 2009,P-12

at nominal rents, as pointed out by Crowther (2002), and this took place even in the eighteenth century when making a profit was the single objective of a business enterprise. There was also a businessman named Titus Salt, the Yorkshire wool baron, to whom Cook (2003) describes as ‘A pioneer of caring capitalism who should really be described as ‘the pioneer of modern environmentalism’. In 1848, in an attempt ‘to make a difference’ in the lives of the residents of Bradford town, which was then described as the most polluted town in Britain, he relocated his woolen mill in Saltaire, outside Bradford town centre. Over a 20 year period Salt created a model community for his staff in which every home had running water. Cook (2003) recites the social responsibility behavior of Joseph Rowntree, the sweet manufacturer and famous philanthropist, who in 1904 built ‘Rowntree Village’ in York for his employees with houses centered on a community hall. In 1906, Rowntree set up a pensions fund for his staff, in 1916 he established a profit-sharing scheme for his employees, and in 1918 he introduced 13 staff holidays in United Kingdom and Northern Ireland. All these acts of social responsibility were revolutionary at the time.<sup>33</sup>

Maltby (2004), in her study of the historical antecedents of CSR reporting in the UK, argues that the assumption that CSR reporting in the UK is a recent phenomenon is incorrect. She notes that CSR reporting had been practiced pro-actively by several UK manufacturing companies; for example, there is evidence of such reporting by Sheffield steelmakers since the earlier part of the 1900s. Cook (2003) argues that the UK National Insurance Act of 1911 introduced by Herbert H. Asquith’s Liberal Government, which compelled firms to make contributions for unemployment and sickness benefits for all their staff, was the first recorded direct intervention by the state in this aspect of CSR anywhere in the world. History, therefore, indicates that the UK has contributed its fair share in the development of the practice of CSR.<sup>34</sup>

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<sup>33</sup> S.O. Idowu and W.L. Filho, *Global Practices of Corporate Social Responsibility*, Springer, 2009, P-11

<sup>34</sup> S.O. Idowu and W.L. Filho, *Global Practices of Corporate Social Responsibility*, Springer, 2009, P-13



## 2.1.2 History of CSR in U.S.A.

The first sign of CSR in USA is seen in the ‘Quaker movement’, which was founded in 1652 by George Fox, who rebelled against the established political and religious practices and promoted what he believed was genuine Christianity. Quakers are credited with being the first group of investors to use social criteria to investing standards, based on their belief in human equality and nonviolence.<sup>35</sup>

The first significant judgment came in 1819 in the *Dartmouth College versus Woodward, 17 U.S. (4 Wheat.) 518 (1819)*, case. The judgment declared that the role of the state was no longer that of a sovereign over the corporate, but that of a partner in a private contract. In 1886, the US Supreme Court declared that a corporation is considered a ‘natural person’.<sup>36</sup>

The social awareness was first reflected in the creation of the Pioneer Fund in 1928 to take care of the needs of the church group investors, who did not want to invest in ‘sin’ such as gambling, tobacco, and alcohol. The beginning of using shareholder activism to create social awareness can be traced to 1970, when Ralph Nader launched a campaign against General Motors. He submitted nine shareholder resolutions on consumer rights, minority hiring, and representation on GM’s board. In the same year, the Interfaith Centre on Corporate Responsibility (ICCR) was formed. It is a coalition of almost 300 groups of religious investors who sponsor shareholder resolutions on social issues in order to affect corporate policies and practices.<sup>37</sup>

Examples of some early initiatives by organizations that began to take active steps towards CSR are discussed here. The Pax World Fund was the first mutual fund to adopt

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<sup>35</sup> Madhumitta Chatterji , *Corporate Social Responsibility, Oxford University Press,2011, P-292*

<sup>36</sup> *Ibid*

<sup>37</sup> Madhumitta Chatterji , *Corporate Social Responsibility, Oxford University Press,2011, P-292*

social responsibility standards for its investments. It promoted the idea of a mutual fund with conscience and included companies with fair employment practices and sound environmental policies. South Shore Bank is the country's oldest bank that is involved in the largest community development activities. It promotes and focuses on improving the economic health of neighborhoods and also caters to individual financial concerns of consumers, businesses, religious, and community organizations. The bank is also the first bank to offer bank accounts to social investors with development deposit options for funds to go directly towards rebuilding urban communities.

The promulgation of the 'Sullivan Principle', which was drafted by Rev. Leon Howard Sullivan to promote social, economic, and political justice through corporate codes of conduct, encouraged the business world to get involved in ethical and human rights concern. It is interesting to note that Rev. Sullivan was the first black member in the board of the General Motors Corporation, and he secured GM's support in development of the Sullivan Principles, which began as a code of conduct for American businesses operating in South Africa. The principles were later widened for universal application.<sup>38</sup>

Voluntary Corporate Codes of Conduct (CERES Principle) regarding waste reduction, energy conservation, and public safety. This is also known as the Valdez Principle. Organizations like Body Shop, Ben & Jerry's Seventh Generation, and Aveda were the first to endorse the principle and were willing to report on their environmental activities.

Another interesting index that took shape around the same time, i.e., 1990, was the Kinder, Lydenberg, Domini and Co. Inc (KLD), which created the Domini 400 Social Index (DSI). The main purpose behind this was to track the performance of a number of companies that pass multiple broad-based social screens. DSI attempts to reflect the market as it exists for most socially responsible investors. This means that it further attempted to reflect the behaviour of stocks of companies that socially responsible

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<sup>38</sup> Madhumitta Chatterji , *Corporate Social Responsibility*, Oxford University Press,2011, P-293

investors might purchase. The famous Dow Jones Global Sustainability Index is the first index to incorporate social, environmental, and financial analysis into a comprehensive rating system. The evaluation is based on the company's ability to compete in a global economy and focus on sustainability. A movement by students called Students for Responsible Business, now called Net Impact, has a membership of about 1500 graduates who together work to foster socially responsible businesses.<sup>39</sup>

## **2.2 DEVELOPMENT OF CORPORATE SOCIAL RESPONSIBILITY IN GLOBAL PERSPECTIVE**

By any count, the world is changing faster than any time in recent memory. Human numbers are becoming faster, and the impact of our activities is being felt in an ever increasing number of ways. This change has significant implications for business , and means that the world of CSR - or how businesses respond to society's expectations - is at the front line of this change. So it merits searching for what are the latest things and where are they heading.

### **2.2.1 Global Definition of Corporate Social Responsibility**

The World Business Council for Sustainable Development in 2004 defined Corporate Social Responsibility as hereunder:

*“Corporate Social Responsibility is the continuing commitment by business to behave ethically and contribute to the economic development while improving the quality of life of the work force and their families as well as of the local community and the society at large.”*

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<sup>39</sup> Madhumitta Chatterji , *Corporate Social Responsibility, Oxford University Press,2011, P-293*

The World Bank Group uses the term Corporate Responsibility, which it defines as:

*“Corporate responsibility is the commitment of businesses to behave ethically and to contribute to sustainable economic development by working with all relevant stakeholders to improve their lives in ways that are good for business, the sustainable development agenda and society at large.”*

“Corporate responsibility – the way a company deals with the economic, social, and environmental impact of its practices has evolved from being the exception to being the norm.”

According to Canadian Centre of philanthropy, “CSR is a set of management practices that ensure the company minimized the negative impact of its operations on the society while minimizing its positive impacts.”

Corporate Social Responsibility have different trend across the world and to know these trends we need to examine the CSR status of various countries. Few are discussed below:-

### **2.2.2 Development of Corporate Social Responsibility in United States of America**

The concept of CSR arose in the USA in the form of corporate philanthropy. The concept is controlled by the American companies themselves. Consequently, CSR in the USA seems somewhat ambiguous as there are limited guidelines for companies to follow in their work with CSR. However, there are scholars who have followed the development of CSR in the USA and contributed to the discussion on the matter. It is obvious from these contributions that CSR is still to a great extent regarded as corporate philanthropy. Corporate philanthropy, however, goes far beyond the concept of CSR, as it can be dated back to the seventeenth century. Back then it was prominent business

people who made donations and not the actual company. It was not until the late 1800s that corporate philanthropy was linked directly to the company. However, at this stage it was not at all tied to the company's strategy.<sup>40</sup>

CSR today is tied to a company's core business and exploited as a strategic management and marketing tool. Nevertheless, Kotler and Lee<sup>41</sup> among others, argue that American CSR is still connected to corporate philanthropy. This seems to be emphasized in the six CSR initiatives that Kotler and Lee in their book "Corporate Social Responsibility Doing the Most Good for Your Company and Your Cause", a book intended to guide business managers, executives and their staff in their work with CSR. The six initiatives, Cause Promotion Cause – Related Marketing, Corporate Social – Marketing, Corporate Philanthropy, Community volunteering and Socially Responsible Business Practices are introduced and discussed in the next sub- section. However, in order to discuss whether these initiatives are all really concerned with philanthropy, seemingly, two different conceptions of philanthropy exist in the literature. The one conception regards philanthropy charity, which is evident in the following definitions:

*"Donating money to a good cause is the same as philanthropy"*<sup>42</sup>

*"Most philanthropic activities involve giving money to other organizations that actually deliver the socialbenefit"*<sup>43</sup>

The other conception also regards philanthropy as the practice of donating money, but in addition it regards contributions of company resources – time, goods, knowledge etc – as philanthropy as long as the donations support a good cause or improve human life. This is evident in the Following definitions:

*"Philanthropy is the practice of giving money or help to people who are poor or in*

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<sup>40</sup> Corporate Social Responsibility; A comparative Analysis of Denmark and the USA, By Susan Vangedal, 2010

<sup>41</sup> Kotler and Lee, 2005: 23-24

<sup>42</sup> Djors and Neergaard, 2006 : 21

<sup>43</sup> Porter and Kuameu, 2003

:45

trouble.”<sup>44</sup>

*“Philanthropy is an altruistic concern for human welfare and advancement, usually manifested by donations of money, property, or work to needy persons, by endowment of institutions of learning and hospitals, and by generosity to other socially useful purposes*

### **2.2.3 Corporate Social Responsibility Initiatives in U.S.A.**

Even though CSR and the belonging initiatives are determined and initiated by the American companies themselves, this section will describe and discuss the six initiatives established by Kotler and Lee.<sup>45</sup>

#### **I. Corporate Philanthropy**

Kotler and lee describe this drive as the most customary CSR drive in the USA, and as the name indicates, the drive is focused on companies making an immediate contribution to a cause, regularly as money donations. Notwithstanding, companies can also contribute with other corporate resources such as products, granting scholarships, offering an assistance on technical expertise.

#### **II. Cause Promotion**

The target of the CSR drive "Cause – promotion" is to increase awareness and concern for a specific social cause. "Cause promotion" initiatives most frequently incorporate activities that seek to persuade others, for instance different companies, to give money or time to the actual cause. Moreover, "Cause promotion" initiatives can focus on persuading the general public to give money or volunteer to interest in activities and occasion that support the cause in question.

Companies taking part in "Cause promotion" most commonly contribute with money

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<sup>44</sup> Longman, 1995 : 1057

<sup>45</sup> Supra note 2

that can assist with increasing awareness and concern for the cause in question. Second, it is entirely expected to contribute with time and expertise, for instance by assisting with creating printed materials, websites etc. that advance the cause.

"Cause promotion" is one of the initiatives that Kotler and Lee have distinguished from philanthropy. The separation of these two initiatives is based on the accompanying clarification:

"Cause promotion differs from philanthropy in that it involves more from the company than simply composing a check, as promotional campaigns will most regularly require association in the development and distribution of materials and interest in public relations activities, and will incorporate visibility for the corporation's sponsorships."

Based on the definitions of philanthropy that this Dissertation takes take-off point in, it seems that "Cause – promotion" is just a drive covered by the enormous umbrella of philanthropy. Kotler and Lee's argumentation presupposes that philanthropy is tied in with giving money, despite the fact that in their presentation of the drive – "Corporate philanthropy" they contend that companies can contribute with different things such as time, resources and information. Consequently, it seems reasonable to conclude that their argumentation is self-contradictory, and thusly not persuasive enough to keep the distance of the two initiatives. At the end of the day, this Dissertation regards "Cause promotion" as a charitable CSR drive.

### **III. Cause – Related Marketing**

"Cause – related marketing" is a drive where companies bring in a money gift to a specific cause based on its scale of a specific item. Companies can for instance choose to give a specific measure of money for every item sold, or a specific level of their benefit from an item.

### **IV. Corporate Social Marketing**

The purposes of "Corporate Social Marketing" initiatives is to impact and – over the

long haul – change a specific public conduct, most regularly inside the areas of public wellbeing, safety, the environment or community prosperity. Companies that participate in social marketing initiatives most regularly draw in is collaborations with organizations that are the promoters behind the conduct change project. The company's job is in this way fixated on supporting the work with the actual conduct change crusade. There are numerous ways wherein a company can contribute in this respect, both with expertise, money, equipment, resources etc.

The "Corporate Social Marketing" drive is very similar to the "Cause promotion" drive. Nevertheless, the last drive focuses on building awareness and concern, whereas "Corporate Social – Marketing" initiatives focus on conduct change.

#### **V. Community Volunteering**

"Community volunteering" is the fifth of Kotler and Lee's six CSR initiatives. The drive is based on companies encouraging its employees and business partners to intentionally give their time and ability to organizations or causes. Companies can do as such severally, for instance by giving the employees some took care of time to accomplish volunteer work, or suggest specific causes and give the employees information required to get included. This drive is very not quite the same as the other CSR drive, as it just involves the employees and business partners of a company.

Thus we see that the concept of CSR arose in USA as corporate philanthropy, is intentional in nature and controlled by the American companies themselves. The CSR today is attached to the company's core business and misused as a strategic management and marketing tool. CSR practices in USA are basically controlled by companies themselves and they have been basically associated with business development. So, CSR practices in U.S.A. are willful in nature and not controlled by a specific and devoted law .Nonetheless, there are numerous legislative provisions which identify with those activities which fall in the ambit CSR and they are being inspected as under:



### **2.2.4 US Corporate Constituency and Anti-Takeover Laws.<sup>46</sup>**

The corporate law of many comparable jurisdictions now permits and sometimes even requires corporate directors to consider not only shareholder interests, but also non-shareholder interests and the third party effects of corporate decisions and actions too, as reflected in laws governing director's duties and business judgment defenses. Authoritative US-based guidelines on corporate governance stipulate that while 'a corporation should have as its objective the conduct of business activities with a view to enhancing corporate profit and shareholder gain, a corporation must 'act within the boundaries set by law', can justifiably allocate 'a reasonable amount of resources to public welfare, humanitarian, educational, and philanthropic purposes', and is entitled to 'take into account ethical considerations that are reasonable regarded as appropriate to the responsible conduct of business' – and it can do all of these things 'even if corporate profit and shareholder gain are not thereby enhanced'.

By the end of the 20th century, Corporate Constituency Statutes ostensibly promoting interests beyond shareholder interests had been enacted in many US states. Characteristically, they empower corporate executives to consider a wide range of interests in corporate decision- making, including the interests of employees, customers, creditors, and local communities. Their impetus lay in equivalent amendments to corporate charters by members, the long-standing debate about CSR, the rise of stakeholder theory in influential American business and management schools, and the need for legislated anti-takeover protection in the USA in the latter part of the 20th century.<sup>47</sup> Many of the constituency statutes in American states were introduced from the 1980s onwards not simply to guard against undesirable takeovers as such, but to ensure that state employment and services provided by companies for local

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<sup>46</sup> Bryan Horrigan, 21<sup>st</sup> Century Corporate Social Responsibility Trends-An Emerging Comparative Body of Law and Regulation on Corporate Responsibility, Governance and Sustainability, MqJBL (2007) Vol. 4, P.103.

<sup>47</sup> E Orts, 'Beyond Shareholders: Interpreting Corporate Constituency Statutes' (1992) 61 George Washington Law Review 4, 16-25.

communities would not be adversely affected by the resultant asset-stripping, sell-offs, and lay-offs inevitably resulting from some takeovers.

At the same time, many of these standard corporate constituency laws seem at face value to go beyond existing leeway of managerial discretion, and to permit outcomes beyond simply self-interested maintenance of corporate control by existing directors, even if they happen to produce that effect too. So, properly viewed, either they cannot be seen simply as an anti- takeover device, or else their anti-takeover role must be assessed by reference to the background interests thereby served. On either view, the context of their original introduction and their relative lack of success so far in CSR terms does not completely preclude their applicability to CSR contexts in the future.<sup>48</sup> Thus we see that there are provisions like Corporate Constituency Statutes & Anti-Takeover law which provide protection to various stakeholders and govern those aspects which relate to CSR. Thus in U.S.A., even though there is no specific legislation on CSR but there are many CSR related legislation.

### **2.2.5 Corporate Social Responsibility in United Kingdom**

Some UK – based campaign groups have contributed to an emerging backlash against CSR, most vividly in the Christian Aid publication *Behind the Mask: The Real Face of Corporate Social Responsibility*<sup>49</sup> and many UK – based businesses are now showing distaste for the term; preferring instead to talk of ‘Corporate Responsibility’ or the business contribution to sustainable development;

The range of possible definitions of ‘CSR’ is closely related to two considerations. First, the extent to which importance is placed on the centrality of the ‘business case’ for

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<sup>48</sup> S.Deakin, ‘The Coming Transformation of Shareholder Value’, *Corporate Governance: An International Review* (January 2005) 13(1), 11-18

<sup>49</sup> Christian Aid, 2004 [www.ngo-monitor.org](http://www.ngo-monitor.org)

responsible behavior in defining the scope of CSR practices.

Second, the extent to which one sees a role for government – particularly through legislation – in framing the agenda. We returned to these underlying reasons for different definitions of CSR later in the workshop as we framed scenarios for its future in the UK to 2015.

If the ‘business case’ for CSR is key to defining the boundaries of the CSR agenda, that would indicate that as the ‘business case’ expands, so too do those boundaries. But ‘business case’ arguments are not the only way to define boundaries. Some businesses choose to balance ‘values’ and ‘business case’ based arguments for CSR: “I don’t think a company can do CSR purely based on values without taking account of the business case. You have to take values first and then build the business case on that”, said one business person we spoke to.

There are also businesses that understand philanthropic activities as an expression of CSR, though this is sometimes criticized on the basis that philanthropy that is not integrated in core business activities should not properly be considered ‘CSR’ and there are more nuanced approaches to analyzing the relationship between ‘business case’ and ‘philanthropic’ visions of CSR too: “as soon as serious money needs to be spent, you need something more than CSR. For example, if a major pharmaceutical company decides to spend £X million on access to essential medicines, it’s still only doubling a small philanthropy budget. But if you want that company to devote 10% of its R&D to it, that’s a whole different story. You need a real business argument to bring about this change.”

Many businesses understand CSR as encompassing only ‘Voluntary’ business action ‘beyond compliance’ with legally mandated baselines. For example, the definition of CSR that is favoured by the European Commission is that it is “a concept whereby companies integrate social and environmental concerns in their business operations and

in their interaction with their stakeholders on a voluntary basis.<sup>50</sup> In contrast, many non – governmental organizations (NGOs) have chosen to focus on building support for a distinct agenda on ‘Corporate – accountability’ through law and a few (IIED among them) have argued for the legal accountability of businesses to be brought more centrally into the CSR agenda, so that the two are effectively integrated.

Different approaches to defining CSR also reflect wide perspectives on its value in framing understanding of the role of business in society. For example, CSR could be understood essentially as a source of competitive advantage, or alternatively as a collaborative effort to change perceptions of the role of business in society. A similar sentiment was reflected in the contrast between the view that “CSR is the business contribution to the wider agenda of sustainable development”, and the person who argued that companies don’t ‘do’ sustainable development – they simply have a role.

The underlying rationale for different definitions of CSR may also be connected to views on a related question: “Whose agenda is it? How much must the agenda focus on businesses, and on what businesses can and are willing to do?” Some people stress the importance of putting business at the centre: “corporate Social responsibility is only relevant when businesses have choices.” Or “CSR is about business responsibility – which businesses can choose to take or not ... CSR loses its purpose if it ceases to be business – led.” Whilst there may be general consensus that CSR is at heart about viewing businesses as part of society, there is much less certainty about the nature and scope of these societal obligations.

Thus we see that in U.K. there is dispute about specifically defining the nature and scope of CSR. However certain aspects of environment protection, labour welfare and social obligations have got recognition slowly- slowly. The next issue of CSR in U.K. is about

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<sup>50</sup> Communication From the Commission Concerning Corporate Social Responsibility: A business Contribution to sustainable development, COM (2002) 347 (01), 2<sup>nd</sup> July 2002.

its regulation. Corporate are of opinion that it should not be regulated rather should remain voluntary in nature. NGOs focus is on corporate – **Accountability through Law**: Government has tried to tread the middle path for looking after the interest of varying factions. Firstly, while considering corporate point of view the govt. has not comprehensively regulated CSR through any specific legislation. Secondly, the govt. has tried to look after the interest of varying stakeholders including society by incorporating provisions regarding director's duty in Company Act, 2006. Thirdly, the Accountability is being ensured through reporting and review. Fourthly, to look after the implementation of these provisions one separate minister has been appointed. Social reporting Indexes and ratings are also adopted in the form of soft legislation to ensure compliance of CSR practices. So Scholar concluded that even though there is no specific legislation on CSR in U.K. but still there is well established regulatory framework for CSR through related legislations, reporting & rating indexes and business review provisions and government is actively participating in promoting CSR activities among corporate.

## **2.3 Analysis of CSR in Indian perspective**

### **2.3.1 History of CSR in India**

The history of CSR can be traced back to the description of the aim of the state found in ancient Indian literature. Observations in the Vedas suggest that peace, order, security, and justice were regarded as the fundamental aims of the state. Chandogya Upanishad (V.11.5) records that religion was to be promoted, morality was to be encouraged, and education was to be patronized. All-round welfare of the public was clearly regarded as the chief aim of the state during the Vedic and Upanishad ages. These relate to periods as old as c.1000 BC and c.600 BC.<sup>51</sup>

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<sup>51</sup> Madhumitta Chatterji , *Corporate Social Responsibility, Oxford University Press,2011, P-19*

Literatures on politics describe the promotion of Dharma (Moral Law), Artha (Wealth), and Kama (Pleasure) as the aims of the state (Altekar 1977). The state was to promote dharma by fostering a feeling of piety and religiousness, by encouraging virtue and morality, and by patronizing social institutions like hospitals, feeding houses for the poor, as well as promoting literature and sciences. Artha was procured by encouraging trade, industry, and agriculture. Rules were formulated for systematic and extensive working of mines. Kama was ensured through establishment of peace and order. Individuals could enjoy life undisturbed and pursue finer arts and aesthetic culture. Ancient policymakers were thus fully committed to the ideal and perfect development of the individual, which culminated in the development of society.<sup>52</sup>

### **2.3.2 Role of the State**

The activities of the state, as envisaged by the Mahabharata and the Arthashastra relate to all the aspects of human life: social, economic, and religious. The theory that state was a necessary evil was refuted and even the laissez-faire theory in which, the activity of the state should be reduced to the bare minimum of maintaining law and order was not advocated popularly.

The state was to be administered in a manner that encompassed society as a whole. Thus, the activities such as establishing piety, morality, and righteousness were inculcated by encouraging learning, education, and art.

The state delivered public welfare by maintaining rest houses, charity halls, and hospitals to provide relief during distress situations like floods and famines. The state ensured increased productivity in agriculture by acquiring fresh land, and by building dams and canals. It is interesting to note that the state was encouraged to see that the

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<sup>52</sup> Madhumitta Chatterji , *Corporate Social Responsibility, Oxford University Press,2011, P-19*

population was evenly distributed and for this, fresh lands were often colonized and developed, so that there was not over-dependence on one place and development was well spread out by enriching resources like forests, mines, etc., along with agriculture. Thus, the state played a proactive part in helping trade and industry and ensuring that common citizens did not suffer from capitalistic greed and selfishness. The state regulated vices like gambling and drinking by appointing officers to supervise these institutions. Extreme precaution was taken that individual liberty did not suffer in this embracing of welfare activities. This was achieved through a balance between bureaucracy and independent institutions like trade guilds and Sramana or Brahmana assemblies, which were local in nature. In these assemblies, people had the upper voice, meaning they were not state-controlled and had the autonomy to take independent decisions. Decentralization was carried out by empowering the village panchayats (council), city councils, and trade guilds. In periods of economic instability, guilds took over decision-making and governance roles at local levels (adapted from Altekar 1977, pp. 58—63).<sup>53</sup>

Ancient Indians understood and appreciated the idea of collaboration and felt that the state could reconcile conflicting interests if its bureaucracy worked in close cooperation with well-established popular bodies. During the Maurya (c.300 BC) and Gupta (c.500 AD) periods, this collaborative, socially responsible process worked extremely well and India experienced its golden era of political strength and socio-economic harmony and stability. This portrays the continuity of social responsibility, which can be traced from the BC (before Christ) era to the AD (after the birth of Christ) period in history as an ideology in ancient India.<sup>54</sup>

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<sup>53</sup> Madhumitta Chatterji , *Corporate Social Responsibility, Oxford University Press,2011, P-19*

<sup>54</sup> Madhumitta Chatterji , *Corporate Social Responsibility, Oxford University Press,2011, P-19*

### 2.3.3 Impact of Religion

Religion played a major role in encouraging charity. Hindu scriptures highlighted the concept of using wealth for granting charity, performing sacrifices, and discharging debts. The best gift was the gift of spiritual knowledge and the lowest that which satisfied the basic physical needs of human beings. Therefore, most Hindu merchants made generous gifts to temples, monasteries, and conglomerates of religious practitioners like priests and monks. To encourage secular learning, scholarships were instituted by the merchant families and educational institutions were set up. Other forms of gifts included land, cattle, food, etc. The founder administered all endowments, whether small or big. This thought of giving evolved into the final philosophy of Lokasangraha (universal brotherhood) and Sarvabhutahita (welfare of all beings) found in the sacred book of the Hindus—the Gita. **Jainism** also encouraged charity and many hospitals, rest houses, and libraries were constructed from their endowments.

Since the Jain religion strictly prohibited any kind of violence and cruelty, Jains normally provided charity to all races and creeds as part of the practice of compassion for all living beings. **Islam** popularized Zakat, i.e., a certain percentage of the acquired wealth and profit should be dedicated for the purpose of charity. Building mosques with attached educational institutions was a common form of charity. **Christianity** was made popular by the Jesuits who visited India during the Mughal rule, and was entrenched as a religion when Great Britain colonized India. The tenet of giving was central to Christian teachings as well. In fact Christians were told ‘let thy right hand not know what thy left hand gives’, signifying the importance of giving but not for publicity. In Christianity also, wealth was considered as a trust and therefore, distribution of wealth was also about doing justice to society, not just compassion. Christianity highlighted the importance of giving time and personal service for the welfare of others, and that encouraged great humanitarian activities by the followers of the religion.<sup>55</sup>

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<sup>55</sup> Madhumitta Chatterji, *Corporate Social Responsibility*, Oxford University Press, 2011, P-19-20



The Parsi community in India drew its strength from their religion, Zoroastrianism. The religion, in a way, preached a middle path by neither glorifying poverty nor wealth. It was more about self-development through self- help and hard work. Prosperity was to be shared through works of beneficence and public well-being.

Charity was, by and large, motivated by religion and spirituality. However, at times practice faltered in terms of strict adherence to the religion because self-interest drove charity. This is visible when we find that every charity was linked to business interest and practices. Studies by Rudner and Bayly (1983) have clearly shown that religious giving was often linked to social creditworthiness and this in itself was self-reinforcing and self-fulfilling. Quotes like ‘the social consequences of Sangha (Jain religious brotherhoods are many. On the one hand, prestige is acquired by the Sanghapati (head a the Sangha) and financial reputation is earned through spending large sum of money, which begets investment and credit facilities, which in turn leads to expansion of business’ by Singhi (1991) highlights the underlying business agenda in charity. This encouraged the practice of combining charity with triple bottom line of business.<sup>56</sup>

Often, merchants who had endowed temples with charity used the temple grants to increase their business. As trustees of endowments, they can occupy important social positions and respect, which further enhanced their business. Historical sources verify that various means of religious gifting were used as mechanisms by merchants and mercantile communities to penetrate into new localities and create respectable social identities, which helped them entrench their authority over commercial enterprises (Rudner 1995).<sup>57</sup> Religious grants were supplemented with individual secular spending,

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<sup>56</sup> Singh, N.K. 'A Study of Jains in Rajasthan Town' in Carrithers, Cambridge University Press, 1991, P-149

<sup>57</sup> Rudner, Davis West, *Caste and Capitalism in Colonial India*, Munshilal Manoharlal Publishers, Delhi, 1995.

like building wells, rest houses, and commissioning relief work at times of peril to gain social status by merchants.

### **2.3.4 Emergence of the Merchant Class**

The emergence of reform movements like Buddhism and Jainism, which later became independent religions, gave an extraordinary fillip to trade and business. These religions emphasized non-violence and therefore those who embraced it chose to follow trade as a profession because it helped them maintain the tenet of non-violence. This was so because in the social system then prevalent, there was a movement against Brahmanic hegemony. The Kshatriyas were the warrior class, the Vaisyas tilled the land, which injured living organisms when land was cultivated, and the Sudras performed menial labour. The merchants practiced frugality, honesty, and believed in individual responsibility. These qualities were supported by religious and spiritual teachings and the merchants came to be highly respected in the community. They donated wealth for social causes like setting up educational institutions, hospitals, gardens, charity homes, orphanages, etc. They were renowned for their charity, which also helped them gain social status. History records eminent merchant families like Virji Vora of Surat, Shantidas Jawahari of Ahmedabad in Western India, Jagatseth of Murshidabad in East India, and Malaya at Pulicat in South India. Similar merchant guilds like those that flourished in ancient India can be traced in medieval India as well. A businessman was called shreshthi, which later changed to Seth or sethi. The wealthiest businessman was also selected as the nagarseth who took care of the city's needs as a modern day mayor does.<sup>58</sup>

With the establishment of British rule in India, there was a change in the position of the merchant families. The British brought modern banking and uniform currency system, which affected the merchant bankers and money lenders. Though business flourished because of improvement in transportation, irrigation, communication, etc., traditional

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<sup>58</sup> Madhumitta Chatterji, *Corporate Social Responsibility*, Oxford University Press, 2011, P-21

business families could not keep pace with the changes. Families who migrated from pure trade as business to industries became the next famous group of businessmen.

The Indian merchant community consisted of various religious and regional groups. Some of the famous communities were the Marwaris, Khattris, Chettiars, and Parsis. These communities utilized the opportunities that the British provided by becoming intermediaries, working in the East India Company, or becoming contractors and brokers. Most of them had strong community ties and helped needy members of the community. Among these communities, it was only the Parsis who embraced western education and western culture.<sup>59</sup> Though the merchant community was heterogeneous; there was an underlying bond of unity based on commercial solidarity. The communities collaborated at different levels of common interest, like religion, supplying credit & marketing etc. They actively participated in social reforms and ensured the growth of social welfare.

### **2.3.5 Merchant Charity and CSR**

Merchant gifting was a strategic ploy in gaining political influence and smoothening relations with rulers whose origin was outside the community, city, or country. In return, the donors were credited with honours by the rulers, which enhanced their prestige and added to their creditworthiness, and thus improved business. During the British rule, gifts to buy favours with the rulers took the form of philanthropy, since a different moral code precluded personal gifts. Merchant charity can be studied under four broad headings—religious, secular, individual, and collective. Religious grants were made, as the name suggests, to any activity of religious significance and was not limited to geographical boundary. Merchants often donated to religious institution beyond their homelands. Secular charity included donations and to activities like development in infrastructure, education, arts and culture and public welfare, etc. There are references to individual merchant code and even of a number of merchants coming

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<sup>59</sup> *Madhumitta Chatterji, Corporate Social Responsibility, Oxford University Press, 2011, P-21*

together in a group and offering collective grants and donations.<sup>60</sup>

Perhaps the earliest religious endowments can be traced to the Buddhist era when land was donated for building stupas, or financial help was given to them and monastic institutions like the Sangha was also given financial support by devout merchants. Similar activities were followed by Hindu merchants their religious communities and temples. Merchants often went beyond geographical boundaries and donated to famous religious institutions the notable examples are the Travadi family, a wealthy family of Brahmin banker who built a big temple in Surat and many others across India. The No.1 banking family of Surat-the Chakawala family built a temple of Shiva in a nearby village and also donated huge sums to Vaisnavite (followers of Lord Vishnu) deities elsewhere.

The well-known family of jeweler Manek Chand Jhaveri, who belonged to the Jain community, built rest houses for pilgrims and hostels for Jain students in Surat, Bombay (now called Mumbai), Kohlapur, and other places where Jains traded and worshipped.<sup>61</sup>

Merchant families kept a portion of their profit to use for charitable purposes. Individual grants were made in areas of public welfare, like feeding the poor, building roads, rest houses, wells, providing relief during natural calamities like floods and famine, setting up schools and colleges, and giving alms. Rich merchants often helped their less well-to-do colleagues with financial support because of strong community ties that were ingrained in every community. Communal institutions like hostels were usually built to cater to members of the same community. Animal homes were also provided for as an extension of ahimsa (non-violence) as a religious mandate.

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<sup>60</sup> Madhumitta Chatterji , *Corporate Social Responsibility, Oxford University Press,2011, P-22.*

<sup>61</sup> Madhumitta Chatterji , *Corporate Social Responsibility, Oxford University Press,2011, P-22-23.*

It is also evident that merchants collectively supervised charitable activities for the benefit of the common population. The Buddhist Jatakas record incidents of collective charities organized through the collection of various rates and taxes, which were used for public benefit.

Similar instances can be traced back to the nineteenth century, when businessmen like jewelers and grain dealers came together in an effort to help their city by collecting cesses (taxes). Hindu and Muslim merchants often helped in the upkeep of each other's shrines through donations (Haynes 1987). Although the usual help was extended mainly to members of the same community or caste, it was not unnatural to find grants being given for the development of entire villages and cities, especially during times of calamities.<sup>62</sup>

### **2.3.6 Important Business Categories**

With the establishment of the British hegemony, the urban economy of India threw up two distinct classes of business categories. One was dominated by the typical westernized expatriate businessmen who usually concentrated on running mines, plantations, or indulging in export-import trade. Businesses were controlled by small groups or managing agencies like Shaw Wallace, Andrew Yule, and Dunlop, to name a few.

Indian business houses drew capital from the 'bazaar economy', consisting of the local bankers, money lenders, wholesale merchants, and others. This new group was not the extension of the earlier mentioned merchant families. They belonged to the same community, but to new families who had made fortunes in opium, indigo, cotton, land, and banking.

Some of them had extended beyond the confines of India and forged ties with businesses

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<sup>62</sup> Madhumitta Chatterji, *Corporate Social Responsibility*, Oxford University Press, 2011, P-22- 23

in other countries. Some famous communities that ventured beyond India to do business were Parsis with China, Chettiars with Burma, and Bhatias, Khojas, and Memons with the Middle East and East Africa. Others had become brokers (the Banias of Calcutta and Dubashes of Madras) to the European agency houses.<sup>63</sup>

There was an intellectual movement in India at this juncture. This new intelligentsia drew its impetus from the introduction of English education which helped in the growth of liberal ideas, and scientific and technologic learning was encouraged. A critical outlook on the past and new aspiration for the future marked the new awakening. The pioneer and true representative of the new spirit of the age was eminent social reformer Raja Ram Mohan Roy;’ whose English biographer remarks that the Raja ‘presents a most instructive and inspiring study for the new India of which he is the type and the pioneer. He embodies the new spirit ... its freedom of enquiry, its thirst for science, its large human sympathy; it’s pure and shifted ethics, along with its reverent not uncritical regard for the past.’<sup>64</sup>

## **2.4 Recent Trends Corporate Social Responsibility in Indian Perspective**

The political awakening in India, on the lines of democratic and secular understanding of freedom, helped in creating an atmosphere of social justice, equality, individual freedom, and universal brotherhood. There was a realization that the development of society is depended on public enlightenment. Therefore, education was the most popular and favorite field for donations. Public health was also a concern that received charitable help as health facilities were very poor. Endowments to build libraries, meeting halls, parks, and gardens are also recorded. The Parsi community was more proactive in providing basic needs like housing and sanitation than the other

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<sup>63</sup> Majumdar, R.C., H.C. Raychaudhary, and Kalikinkar Datta, *An Advanced History of India*, Macmillan India Ltd, Madras, 1995, P-809.

<sup>64</sup> Madhumitta Chatterji, *Corporate Social Responsibility*, Oxford University Press, 2011, P-24

philanthropists.<sup>65</sup>

There were momentous changes in the Indian business pattern with the establishment of industrial houses and expansion of the entrepreneurial base. The freedom movement united the efforts of all members of society and there were major shifts in philanthropic activity geared towards achieving independence. Mahatma Gandhi's call for trusteeship, which promoted the idea of voluntary renouncement of part of the wealth by the business community for the good of the community, and also acting as trustee of that wealth to ensure proper and fair implementation, appealed to the business community. Gandhi clearly emphasized that trusteeship was neither charity nor philanthropy—it was to be a way of life. 'The art of amassing riches becomes a degrading and despicable art, if it is not accompanied by the nobler art of how to spend wealth usefully. Let not possession of wealth be synonymous with degradation, vice, and profligacy'.<sup>66</sup>

The combined effects of political and socio-economic factors led to the development of large-scale philanthropy, and famous families like Tata, Birla, Shri Ram, Godrej, Dalpatbhai Lalbhai, Singhanian, Modi, Murugappa Chettiar, Kuppaswamy Naidu, Mafatlal, Mahindras, and others became the backbone of India's economic strength. To this day, these families are the pride of India.

Slowly, the dawn of the era of social responsibility was being acknowledged by business. The government also moved from closed economy to open economy policies. The enlightened educated business leaders realized that government alone cannot be held responsible for development and therefore a movement towards social responsibility emerged. An important change was the industry acceptance of social responsibility as part of the management of the enterprise itself.

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<sup>65</sup> Madhumita Chatterji; *Corporate Social Responsibility*, OXFORD University Press, 2011, P- 24-25

<sup>66</sup> Venkatsubbiah, H.; *Enterprise and Economic Change*, Fifth Year of FICCI, Vikas Publishing House, New Delhi, P-169-172.

The social responsibility of business is not a new concept in India. In earlier times it was prevalent as philanthropy or charity but with time it is institutionalized and corporate are following CSR practices in some or other way. Its structure and nature is continuously evolving, from charity it is changing to social inclusion. The following quotes will explain the changing thought process.

The poor don't want charity. They want opportunity and they want choices. They have resources to pay for high quality products and services. Once corporations realise that, both they and the poor will benefit,' says Vikram Akula, the Founder and CEO of the Hyderabad-based SKS Microfinance, named as one of the 100 most influential people in the world. 'The way to ensure sustainable development is to involve the locals and seek their association in it. It is beneficial to provide manpower for an initiative rather than hand out a cheque to the local government. It is easy to write out a cheque, but very difficult to get thoroughly involved in a development project,' says Dr J.J. Irani of TATA Sons Ltd.<sup>67</sup>

#### **2.4.1 Practices of Corporate Social Responsibility**

There has been a long history of CSR in India and the Tatas have been the role models on this path. The chairman of the **Tata Group**, Ratan Tata explains that "*We do not do it for propaganda. We do not do it for publicity. We do it for the satisfaction of having really achieved something worthwhile.*" The Tata Business Excellence Model integrates social responsibility into the framework of corporate management wherein social responsibility is encapsulated as Key Business Process. In fact all social service departments in Tata companies have annual programs and budgets and all this is aligned to the MD's Balanced Score Card.

Corporate Social Responsibility programmes at the Tata group of companies extend across a wide spectrum including rural development, community development and social welfare, family initiatives, tribal development and water management.

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<sup>67</sup> Sanjay K Aggarwal; *Corporate Social Responsibility in India, Response Books P-184-185*



About 7000 villages around Jamshedpur and Orissa benefit from development programmes run by the Tata Steel Rural Development Society (TSRDS). Programmes of TSRDS cover issues like education, irrigation, afforestation, adult literacy, vocational training, handicrafts and rehabilitation of the handicapped persons. The Community Development and Social Welfare Department (CDSW) at Tata steel carries out medical and health programmes, blood donation drives, mass screening of Tuberculosis patients immunization camps and drug de-addiction.

In 1999, Tata Steel embarked on an AIDS awareness programme, which has now become an integral part of all training programmes. Routine activities like immunization programmes, sterilization operations and mother and child health care programmes are conducted through family welfare centers, child clinics and community-based clinics.

In fact, Tata Steel's Centre for Family Initiatives (CFI) was successful in influencing 59 per cent of Jamshedpur's eligible couples practicing family planning; compared to the national figure of 35 per cent<sup>68</sup>a commitment to the welfare of the community has long been central to the value system of companies in the Tata Group. To build upon this heritage the Tata Council for Community Initiatives (TCCI) has created the Tata Guidelines on Community Development, an effort of over three years from the field evolved into a framework of best practices.

The Birla group of companies is also among the pioneers in the field of corporate social responsibility in India. As part of the Aditya Vikram Birla Group's Social Reach, the Birla group runs as many as 15 hospitals in India; includes Adult education and schools conducting as many as 78 schools all over India; rehabilitates Handicapped persons

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<sup>68</sup> Ashwani Singla, Chief Executive Officer, Genesis Public Relations Pvt. Ltd, Trust and Corporate Social Responsibility: Lessons from India, published in USA Journal of Communication Management , 2003

having touched more than 5000 physically challenged individuals. More than 1, 00,000 patients have been examined under the Group's medical programmes. Over 15,000 children along with 2000 pregnant women have been immunized, over 500 cataract patients operated, 2000 TB patients provided medical care, 100 leprosy-afflicted attended to, free of cost.

It also provides Vocational Training, having provided training to over 3000 women and having distributed over 1400 tool kits in a variety of areas like electrical, auto repair, electronic equipment maintenance and repair and tailoring. It has adopted several villages under its Village Infrastructure Development programme and has provided extensive training to over 10,000 villagers in its Carpet Weaving Center.

Among corporate who have displayed deep commitment to Corporate Social responsibility over long years is **Mahindra & Mahindra**. The late Mr. K. C. Mahindra for promoting education among Indians at all levels established the K. C. Mahindra Education Trust in 1953. Every year the Trust offers up to 30-40 interest-free loan scholarships to post-graduate students going abroad for higher studies. The Mahindra Search for Talent Scholarships is a scheme established in 34 schools in India to enthuse and reward students who have achieved excellence in their academic pursuits.

The Mahindra All India Talent Scholarships are awarded every year from all over India to over 300 students from lower income group families with good scholastic record pursuing job-oriented diploma courses in various polytechnics. Similar commitment to CSR has been displayed by several corporate in India. The list, which at best can be far from complete, includes Arvind Mills, Escorts,

Dabur, Bajaj, Godrej, Hero Honda, DCM Sriram, Ashok Leyland, Ballarpur Industries, Eicher, Kinetic Group, Kirloskar, Infosys, Reliance, Ranbaxy, Wipro, each of which has been deeply committed to their communities engaging in programmes encompassing education, health, education, integrated rural development. Beyond the

private sector, corporate players in India's public sector too have been actively involved in corporate social responsibility initiatives.

Most public sector units in the heavy engineering industry have not only set up a township around the plant, but also established a school, a hospital and several other civic facilities for its employees and those that live in that area. Private sector companies have been encouraged to undertake rural development programmes down the years through fiscal incentives by the government. For instance, special benefits are offered in the industrial policy to companies that set up industries in backward areas and tax incentives are also offered to companies that set up water purification projects. In India, it has also been noticed that when it comes to individual CSR activities, the 'anonymous' donor mentality prevails. That most people tend to keep a low profile was confirmed by The Economic Times, a leading business daily in India. It conducted a straw poll and talked to several professionals involved in the field and NGO circuit to get an idea about the leading lights. Of course, with the intense spotlight on the subject, the interest in corporate social responsibility is spreading in India as well. The Corporate Social Responsibility Survey 2002–India, jointly conducted by the United Nations Development Programme, British Council, Confederation of Indian Industry and PricewaterhouseCoopers, covering 19 industry sectors reveals that this interest is growing as more and more companies in India are keen to project themselves as good corporate citizens. This was the most important factor driving CSR in India, according to the survey. Good corporate citizenship and CSR initiatives are inextricably linked with improved brand reputation, which is one of the most important drivers of CSR identified by the respondent companies. The other key drivers of Corporate Social Responsibility in India

were diverse ranging from stated philosophy of founding fathers to improving relationship with local communities to enhanced shareholder value. Many other Indian corporate is also observing the practice of Corporate Social Responsibility covering various areas including the followings:

Corporate companies like ITC have made farmer development a vital part of its business strategy, and made major efforts to improve the livelihood standards of rural communities. Unilever is using micro enterprises to strategically augment the penetration of consumer products in rural markets. IT companies like TCS and Wipro have developed software to help teachers and children in schools across India to further the cause of education. The adult literacy software has been a significant factor in reducing illiteracy in remote communities. Banks and insurance companies are targeting migrant laborers and street vendors to help them through micro-credits and related schemes.

In June 2008, a survey was carried out by TNS India (a research organization) and the Times Foundation with the aim of providing an understanding of the role of corporations in CSR. The findings revealed that over 90 per cent of all major Indian organizations surveyed were involved in CSR initiatives.<sup>69</sup>

In another study undertaken by automotive research company, TNS Automotive, India has been ranked second in global corporate social responsibility. State-owned Bharat Petroleum and Maruti Udyog were ranked as the best companies in India. Bharat Petroleum and Maruti Udyog came on top with 134 points each, followed by Tata Motors (133) and Hero Honda (131).

The study was based on a public goodwill index and India received 119 points in the index against a global average of 100. Thailand was at the top slot with 124 points. Pharmaceuticals Company Jubilant Organosys Ltd already runs an anti-tuberculosis programme with the government of Uttar Pradesh. Apart from schools and hospitals that are run by trusts and societies, the government, too, is exploring to widen the scope

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<sup>69</sup> Speech on Corporate Structure, Corporate Governance and Corporate Social Responsibility in India by Shri R. Bandyopadhyay, Secretary, Ministry of Corporate Affairs, Government of India, New Delhi in USA, August, 2010

of public- private partnerships to build and maintain schools and hospitals in return for a fixed annuity payment.

NASSCOM Foundation offers Technology Assistance for Non-profits. Aje consultants is Interested in productive partnerships with community based organization. Braun India is engaged in CSR for Children and the Godrej runs a Course on Servicing of Refrigerators & Air-conditioners Free of cost.<sup>70</sup>

The corporate in India are actively involving in CSR projects and few examples are discussed in brief:

#### **2.4.1.1 CSR practices by Hindustan Unilever Limited<sup>71</sup>**

Hindustan Unilever Limited (HUL) has successfully integrated business benefits with CSR activities. Lifebuoy Swasthya Chetna (meaning health awakening) is an HUL initiative in rural health and hygiene, launched in 2002, which has covered more than 17,000 villages across the country. According to a company press release, the programme was launched on 9 May 2002 as the first largest rural health and hygiene educational programme. The stated objective was to develop a sustainable mode to educate and apprise rural customers in 15,000 villages in eight states across India, about maintaining good health through the practice of basic hygienic habits like hand washing. The campaign was divided as a multi-stage initiative. The Swasthya Chetna, consisting of a health development officer and an assistant, visited village schools to teach children about germs and the importance of hand washing with soap through various tools and orienting them to become influencers in the community.

This message was reinforced through subsequent contacts. Subsequently, in co-

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<sup>70</sup> Ashwani Singla, Chief Executive Officer, Genesis Public Relations Pvt. Ltd, Trust and Corporate Social Responsibility: Lessons from India, published in USA Journal of Communication Management , 2003

<sup>71</sup> Sanjay K Aggarwal; *Corporate Social Responsibility in India, Response Books, P-185*

ordination with the village children, the health officers interacted with the parents and educated them about the impact of health and hygiene in their community. This was done to ensure that the model was sustainable, which involved self-initiative and ownership from the community itself wherein the officer was simply a facilitator, and the onus of improvement was not on the officer per se but on the community as a whole. The process culminated in the recruitment of children and parents as volunteers to start health clubs that, in turn, organise events such as community bathing at the pond that the villagers use for washing.

The whole process, from initial contact to the setting up of the self- managed health club, takes two to three years. This campaign was well received by the media as well as the government. In 2003-04, the sales of Lifebuoy grew by 20 per cent with particularly strong sales reported in the eight states where the programme operates. This model is also being replicated in other countries like Bangladesh; where close to 3,100 villages have already been visited. Such events surely reflect the successful marketing of the brand in the subcontinent. Was this a purely philanthropic initiative? The answer is 'No' and the company officials do not hesitate to say so. The company termed the programme as 'a marketing programme with social benefits'. 'We recognise that the health of our business is totally interconnected with the health of the communities we serve and if we are to grow sales of our brand, we have to increase the number of people who use soap,' says a report by Unilever.

#### **2.4.1.2 CSR practices by Gujarat Ambuja Cements Limited<sup>72</sup>**

One of the largest cement companies in India, Gujarat Ambuja Cements Limited has set up Ambuja Cement Foundation with the objective of improving the socio economic conditions of the communities it works with and of ensuring sustainable development. The Foundation works in the areas of natural resource management, watershed development, health and sanitation, education, women's development, livelihood, wasteland development, agricultural development, AIDS awareness, adoption of

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<sup>72</sup> Sanjay K Aggarwal; *Corporate Social Responsibility in India, Response Books*P-189

schools and setting up of schools for mentally challenged children. Its healthcare solution programme can be a model for corporate intervention in social development.

This programme started with the premise that the solution to most of the basic primary healthcare issues lies in innovative experiments and not merely in relying on the existing infrastructure that the government is providing. With the objective of making rural health services available at the doorstep of villagers, the Foundation carried out a programme in the village areas to train a core group of 20 women as health functionaries in the community. These women were nominated by the community. As a part of this pilot project, the training focused on diagnosing illness, providing adequate treatment to members of the community and guiding them to appropriate referrals as and when required. Aware of the fact that the cement industry is one of the highest pollution creating industries, the company has set up an 'Environment Management Division' to take care of the environmental impacts of its operations. This division is manned by engineering graduates and professionals holding M.Sc./PhD degrees in Environmental Science with experience in areas like air pollution monitoring, water and wastewater treatment, plantation and mining area restoration as well as voluntary environmental initiatives such as ISO 14001, OHSAS and cement sustainability initiatives, among others.

#### **2.4.1.3 CSR practices by Azim Premji Foundation<sup>73</sup>**

Run by the WIPRO Chairman, Azim Premji, the Foundation is working to provide elementary schooling to thousands of underprivileged children. It has partnered with the government and is making efforts to strengthen the education delivery system and building capacity across government organisations through structuring and training. The Foundation became operational in 2001, and roped in over 250 professionals and 1,100 paid volunteers to realise the vision of elementary education in India. The Foundation is currently engaged with over 14,000 schools in partnership with governments of 15 Indian states.

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<sup>73</sup> Sanjay K Aggarwal; *Corporate Social Responsibility in India, Response BooksP-193*

#### **2.4.1.4 CSR practices by Reliance Industries Limited (RIL)<sup>74</sup>**

Reliance takes part in community development at its all manufacturing sites through the community medical initiative. These initiatives provide facilities for free preventive and curative health care to nearby communities. They also participate in the national health programs such as Pulse Polio, Revised National Tuberculosis Control Programme (RNTCP), National Immunization Programme and Maternal and Child Health. Towards community assistance and social development, RIL has provided financial as well as administrative support for supplying drinking water to villages in the vicinity of its manufacturing sites. The company runs 'Reliance Kargil Scholarship Scheme' instituted with the contribution from Reliance employees, to support educational needs of the children of defence personnel who sacrificed their lives or were disabled during the Kargil war. The company has several scholarship schemes for students of different classes of society.

#### **2.4.1.5 Practices by TATA Consultancy Services Limited (TCS)<sup>75</sup>**

TCS operates its social and community initiatives as expressions of the Company's CSR at three levels. Generation-I of CSR focuses on philanthropy. Blood donation camps, support to orphanages, visits to remand homes, computer donation programmes for schools and charitable causes are activities carried out by TCS volunteers and Maitree organization, and in-house association of employees and their families. Generation II CSR in TCS covers engagement with external stakeholders. This involves active interaction with the academic and professional communities. Generation III CSR relates to the use of the company's core competencies in technology to address societal problems such as developing websites and customized database applications for charitable institutions.

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<sup>74</sup> Sanjay K Aggarwal; *Corporate Social Responsibility in India, Response Books,P-196*

<sup>75</sup> Sanjay K Aggarwal; *Corporate Social Responsibility in India, Response Books,P-198*



#### **2.4.1.6 CSR practices by Oil and Natural Gas Corporation of India (ONGC)<sup>76</sup>**

ONGC works with a well laid out, clearly defined corporate citizenship policy. It promotes education, healthcare and entrepreneurship in the community and supports water management and disaster relief in the country. The corporate citizenship practice of ONGC is to promote community projects selected on basis of well defined focus area parameters, i.e., shared contribution by corporation and community, sustainable impact of the project on the well-being of the community, process credibility to enhance corporate image, creating enduring values, satisfactions and recognition and support national cause in the focus areas.

The Corporation allocates funds equivalent to 0.75 per cent of net profits of the previous year towards socio-economic development programs every year.

ONGC has initiated a project christened ‘PURA—Providing Urban Amenities in Rural Area’, which envisage bridging the rural-urban gap through achieving a balanced socio-economic development involving identification of rural clusters with growth potential. ‘Providing urban Amenities in Rural Areas’ was the vision of Dr A.P.J. Abdul Kalam, the former President of India, which involved creating four types of connectivity:

2.4.1.6.1 Physical—road, transportation and power;

2.4.1.6.2 Electronic—reliable telecom, internet and IT services

2.4.1.6.3 Knowledge—good education and training institutions;

2.4.1.6.4 Economic—Enable farmers to get the best price for their products.

The ONGC PURA initiative plans to set up PURAs in Tripura, Assam, Nagaland, Andhra Pradesh, Maharashtra and Gujarat as these are states where ONGC carries out

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<sup>76</sup> Sanjay K Aggarwal; *Corporate Social Responsibility in India, Response Books, P-201*

operational activities. The first ONGC PURA has been set up in the state of Tripura in North-east India. ONGC has set up a foundation named the ONGC PURA trust with corpus amount of Rs 10 crore in partnership with NGOs, The Energy Research Institute (TERI), and National Bank for Agriculture and Rural Development (NABARD), private sector and professionals. Initially, panchayats are being equipped with facilities of learning computers and Internet, running generators during power cuts as well as community centers and public libraries. The scope of activities under the ONGC PURA scheme is to initiate, promote, sponsor, manage, construct and assist in any programme to provide amenities to rural areas in the following areas:

- Schools, colleges, educational and technical scientific institutes etc.
- Disburse aid/relief to rural areas.
- public/hospitals/clinics/dispensaries/crèches etc.
- Agriculture, horticulture, dairy farming, and animal husbandry.
- Help small and marginal farmers to improve farming methods.
- All types of development programs .
- Family welfare, health care and community development programmes.
- Distribute supplies of all essential commodities.
- Promote cottage industries and cooperative ventures for production, manufacture, and sales and distribution of products.
- Industrial and vocation training and production projects.
- Slum eradication, improving hygiene and living standards through fresh supply, electricity and gas utilities.
- Development and urbanization of the rural community by assisting local bodies.
- Welfare and upliftment of rural communities. The first ONGC PURA project was launched in East Kalabaria, Maichara village of Tripura in April 2005. The village, 150 kms from the state capital Agartala, has been provided with urban facilities such as power house, community focus,

school library (information and electronic connectivity) and community kitchen (physical connectivity).

#### **2.4.1.7 Few other examples of CSR initiatives are listed as below:**

**NDTV- Aircel's save our Tiger campaign** in which these companies donate money from their side and also collect donations from other citizen and use that money to assist people living in forest in protecting Tigers.

**Procter and Gamble's Shiksha abhiyan** is a programme related with cause marketing. In this project the certain amount of profit earned through sale of their product will go to fund education and they advertise this aspect to enhance their sale.

**Sajjan Jindal Awards for Environment Protection** is awarded by Jindal foundation annually to those who take initiatives to protect environment .

This list is endless and this shows that there is awareness among corporate and they are claiming that they are taking corporate social responsibility very seriously but there is need to verify their claims. The concept of CSR is not new for Indian corporate. The CSR of older times is prevalent in India since ancient times. The modern CSR practices however are in nascent stage. More and more companies are adopting CSR practices. The future of CSR in India has to be bright for ensuring Corporate Governance and Sustainable Development.

While there is no universal meaning of corporate social responsibility, it generally refers to transparent business practices that are based on ethical values, compliance with legal requirements, and respect for people, communities, and the environment. Thus, past making profits, companies are responsible for the totality of their impact on people and the planet. "People" constitute the company's stakeholders: its employees, customers, business partners, investors, suppliers and vendors, the

government, and the community.

Increasingly, stakeholders expect that companies should be all the more environmentally and socially responsible in conducting their business. In the business community, CSR is alternatively alluded to as "corporate citizenship," which essentially means that a company should be a "acceptable neighbor" inside its host community.

Today, an ever increasing number of companies are realizing that to stay productive, competitive, and relevant in a rapidly changing business world, they have to become socially responsible. In the last decade, globalization has obscured national borders, and innovation has accelerated time and masked distance. Given this sea change in the corporate environment, companies want to increase their ability to manage their profits and risks, and to protect the reputation of their brands. Because of globalization, there is also furious competition for skilled employees, investors, and consumer loyalty. How a company relates with its workers, its host communities, and the marketplace can greatly contribute to the sustainability of its business success.

## **2.5 Conclusion**

Thus, while concluding this chapter the Scholar concludes that CSR is not a cutting edge discovery and certainly not a discovery that can be credited to the economically developed countries of today. Wherever in the world where there was impact of religion on the overall dimensions of lifestyle, education and governance there was certainly an impact on trade also. And the natures of socially responsible activities were affected by religion, education and governance. Notwithstanding, in India these were more as philanthropy or charity in ancient times which took some shape of present type in late Nineteenth century and early 20th century. Whereas in U.K. and U.S. it started taking concrete shape in eighteen century itself.

As far as academic development of concept of CSR is concerned it started in eighteenth century and is going on till date. There is part of debate about the nature of CSR yet at the same time a consensus is also arising about the aspects of stakeholder's concern and environment protection. So, we can say that CSR is not another concept rather it is an ancient activity and concept has been developing continuously.

## CHAPTER - 3

# **CORPORATE SOCIAL RESPONSIBILITY AND** **SUSTAINABLE DEVELOPMENT**

### **3.1 Introduction**

Governance is an issue which has come to the fore recently as a direct cause of problems associated with the financial and economic crisis. This applies to governance in general but to corporate governance in particular. Corporate governance can be considered as an environment of trust, ethics, moral values and confidence - as a synergic effort of all the constituents of society that is the stakeholders including government, the general public and so on, professional/service providers and the corporate sector. Corporate governance is a current buzzword the world over. It has gained tremendous importance in recent years. Two of the main reasons for this upsurge in interest are the economic liberalization & deregulation of industry & business and the demand for new corporate ethos & stricter compliance with the law of the land. One more factor that has been responsible for the sudden exposure of the corporate sector to a new paradigm for corporate governance, is in tune with the changing times, is the demand for greater accountability of companies to their shareholders and customers.<sup>77</sup>

Good governance is essential for good corporate performance and one view of good corporate performance is that of stewardship and thus, just as the management of an organization is concerned with the stewardship of the financial resources of the organization so too would management of the organization be concerned with the stewardship of environmental resources. The difference, however, is that the environmental resources are mostly located externally to the organization. Stewardship in this context, therefore, is concerned with the resources of society as well as the

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<sup>77</sup> Bushman R.M. & Smith A.J., *Financial Accounting Information and Corporate Governance*; *Journal of Accounting and Economics*, 2001,32, P- 237-333.

resources of the organization. As far as stewardship of external environmental resources is concerned then the central tenet of such stewardship is that of ensuring sustainability.<sup>78</sup>

Sustainability is focused on the future and is concerned with ensuring that the choices of resource utilization later on date are not constrained by decisions taken in the present. This necessarily implies such concepts as generating and using renewable resources, limiting pollution and using new techniques of manufacture and distribution. It also implies the acceptance of any costs associated with the present as an investment for what's to come.

## **3.2 Genesis of Need for Corporate Governance**

### **3.2.1 Globalization and Free Market**

Two features describe the modern world-- Globalization and the free market. It is duly accepted almost unquestioningly that free markets will lead to greater economic growth and that we will all benefit from this economic growth. So the world is rapidly becoming a global market place for global corporations, increasingly unfettered by regulation. But the ill effect of the actions of some of these corporations within the United States itself has projected the adverse picture. The global accounting firm Anderson collapsed; Major corporations such as Enron and World.com went bankrupt with thousands of people being thrown out of work and many people lost the savings for their old age for which they have worked so long and hard to gain. The subprime crisis of U.S. and Eurozone crisis in Europe and Satyam saga of India are the latest examples of poor or rather corrupt/ unethical corporate governance.<sup>79</sup>

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<sup>78</sup> *Guler Aras and David Crowther; A Handbook of Corporate Social Responsibility, Gower, 2010, P-3*

<sup>79</sup> *Guler Aras and David Crowther; A Handbook of Corporate Social Responsibility, Gower, 2010, P-*

### **3.2.2 Growing size and influence of Corporates**

The unprecedented size and geographical scope of today's large corporations have created entity's profits surpass the GDPs of many smaller countries. Wal-Mart and the larger oil related corporations such as Exxon, Royal Dutch Shell, BP and General Motors, achieve annual profits in the locale of US \$10 to 40 billion. The total revenues of the world's 12 largest corporations in 2007, US\$ 2.8 trillion, are comparable to the GDP of Germany and surpass the GDP of China or the UK.

### **3.2.3 Scope of Corporate Governance**

Economists, especially of the neo-liberal persuasion, may characterize corporate governance narrowly as 'being concerned with the institutions that impact how business corporations allocate resources and returns', or all the more generally as 'a set of relationships between a company's board, its shareholders, and different stakeholders.

Probably since the mid-1980s, corporate governance has attracted a great deal of attention. The early impetus was provided by Anglo-American codes of good corporate governance.

This type of self-regulation was chosen above a set of legal standards (Van sanctum Barge 2001). After the new enormous corporate scandals the formalization of corporate governance has become central to most companies.



### **3.2.4 Principles of Corporate Governance**

Since corporate governance can be profoundly influential for the firm performance, firms must know what the corporate governance principles are and how it will improve strategy to apply these principles . In practice there are four principles of good corporate governance ,which are:

- Transparency**

- Accountability**

- Responsibility**

- Fairness**

### **3.3 Relating Corporate Governance and Sustainable Development with Corporate Social Responsibility**

It is clearly accepted that good corporate governance is fundamental to the success of any corporation; hence much attention has been paid to the procedures of Governance. Often, however, what is actually meant by the corporate governance is merely assumed without being made explicit; moreover, it is assumed that the concept is simply connected to the management of investor relationships. Similarly, the Corporate social responsibility is generally accepted to be fundamental in continuing of any corporation.

For these two such important aspects there have to be a relationship between the two, although little work has been undertaken on exploring this relationship. But after analysing the definitions it seems that the two concepts are inextricably linked and that it is necessary to take a broader view of corporate governance which encompasses relationship with the whole stakeholder community and necessarily therefore

incorporates the principles of Corporate Social Responsibility.<sup>80</sup>

It is off course not, at this point questioned that the activities of a corporation impact upon the external environment and that consequently such an organization should be accountable to a more extensive audience than simply its shareholders.

### **3.3.1 CSR is gaining more prominence probably due to more awareness**

There has been considerable debate about the relationship between Corporate Social Responsibility and corporate governance but in recent years the term Corporate Social Responsibility has gained prominence, both in business and in the press to such an extent that it seems to have become ubiquitous.<sup>81</sup>

Issues of socially responsible behavior are not new and examples can be found from throughout the world and at least from the earliest days of the industrial revolution and the concomitant founding of large business entities and the divorce between ownership and management or the divorcing of risk from rewards.<sup>82</sup> Thus, for example in the UK (where the Industrial Revolution started), Robert Owen (1816,) demonstrated dissatisfaction with the assumption that only the internal effects of actions need be considered and the external environment was a free resource to be exploited at will.

Definitions of CSR abound but all can be seen as an attempt to explain and define the relationship between a corporation and its stakeholders, including its relationship with

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<sup>80</sup> *Guler Aras and David Crowther; A Handbook of Corporate Governance and Social Responsibility, Gower, 2010,P-265*

<sup>81</sup> *Aras G & Crowther D ; Exploring Framework of Corporate Governance, Leicester; SRRNet;2008, P-3-16.*

<sup>82</sup> *Aras & Crowther ; Is the Global Economy sustainable? Forum Press, London,2007, P-165-194*

society as a whole. Many are phrased in terms of the triple bottom line, in a way which, we argue, trivializes the concept. Because of the uncertainty surrounding the nature of CSR activity, it is difficult to evaluate any such activity. It is therefore imperative to be able to identify such activity and Aras & Crowther (2007b) argue that there are three basic principles which together comprise all CSR activity.<sup>83</sup> These are:

- Sustainability
- Accountability
- Transparency

For a couple of years now the idea of CSR has acquired unmistakable quality and is acquiring expanding consideration all throughout the planet among business individuals, media individuals and academics from a wide scope of controls.

### **3.3.2 Agenda 21, the Action Plan for Sustainable Development<sup>84</sup>**

During 3-14 June 1992, the United Nations held a Conference on Environment and Development (The Earth Summit) in Rio de Janeiro, Brazil, where the countries of the world conceded to an action plan for economical advancement for the following century.

This action plan, known as Agenda 21, recognizes that:

- (a) Humans rely upon the earth to support life.
- (b) There are cause and effect relationship between human activity and environmental issues.

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<sup>83</sup> Aras & Crowther; *Sustainable Corporate Social Responsibility and the Value Chain*, MARA

<sup>84</sup> Sanjay K. Aggarwal; *Corporate Social Responsibility in India*, Response Books, 2008, P-66

(c) Global concerns needs local actions.

(d) People must be engaged in planning developments for their own if these developments are feasible and sustainable .

Agenda 21 is an extensive plan of action to be embraced universally, nationally and locally by organizations of the United Nation Systems, governments and significant gatherings in each space in which human effects on the environment.

The action plan incorporates the issues of:

- (a) Combating of poverty;
- (b) Changing consumption patterns;
- (c) Demographics and sustainability;
- (d) Protection of human health;
- (e) Human settlements;
- (f) Integration of the environment and development in decision- making;
- (g) Protection of the atmosphere;
- (h) Planning and management of land resources;
- (i) Combating of deforestation;
- (j) Desertification and drought;
- (k) Sustainable mountain development;
- (l) Sustainable agriculture;
- (m) Conservation of biological diversity;
- (n) Management of biotechnology;
- (o) Protection of the oceans;
- (p) Management and use of water resources;
- (q) Management of toxic chemicals;

- (r) Management of hazardous wastes;
- (s) Management of solid wastes;
- (t) Management of radioactive wastes;
- (u) Global action for women;
- (v) Role of children and youth in sustainable development;
- (w) Role of NGO partners;
- (x) Strengthening of workers and trade unions;
- (y) Role of business and industry; and
- (z) Role of farmers.

Agenda 21 has been the reason for action by many national and local governments. More than 150 countries have set-up National Advisory Councils to promote discourse between governments, environmentalists, the private area and the overall community. Many have likewise settled programs for monitoring national advancement on sustainable development indicators. Almost 2,000 urban communities and towns worldwide have made their own local Agenda 21 plans. Presently this sort of mechanism essentially power corporate to act capably and guarantee environment insurance for guaranteeing sustainable development.

### **3.3.3 Triple Bottom Line Principles of Sustainable Development and CSR<sup>85</sup>**

The term 'Triple Bottom Line' has its starting point in the idea of sustainable development. As of late, the business case for CSR has been making strides, spinning

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<sup>85</sup> Sanjay K Aggarwal; *Triple Green Rating in Triple Bottom Line in Corporate Social Responsibility in India, Response Books, 2008, P- 61.*

around the possibility that what is useful for the environment, the laborers and the local area is additionally useful for the financial performance of the business. It is normal depicted as 'performance with a reason'. CSR is firmly connected with the principles of sustainable development, as indicated by which companies ought to be obliged to settle on choices put together with respect to financial/economic factors yet additionally on the social, environmental and different outcomes of their activities. 'Triple Bottom Line' (TBL) takes in its overlap the accompanying three parameters to measure business performance, i.e.

- (a) Economic;
- (b) Environmental; and
- (c) Social Factors.

The term 'Triple Bottom Line' was authored by Sustainability Limited ([www.sustainability.com](http://www.sustainability.com)), an international business consultancy, established in 1987, settled at London with workplaces in Europe and the United States and with a network of associations all throughout the planet, especially in the arising economies of China, South Africa, Brazil and India.

As per Sustainability, 'The Triple Bottom Line' centers corporations around the economic value they add, yet in addition on the environmental and social value they add and annihilate. At its tightest, the term 'Triple Bottom Line' is utilized as a framework for estimating and revealing corporate performance against economic, social and environmental parameters. At its broadest, the term is utilized to catch the entire arrangement of values, issues and processes that companies should address to limit any damage coming about because of their activities and to create economic, social and environmental value. This includes being clear about the company's motivation and contemplating the requirements of the relative multitude of company's stakeholders for example investors, customers, employees, business partners, governments, local communities and the public. Triple Bottom Line is additionally characterized as an assessment of a business enterprise by comprehensively evaluating its financial,

environmental and social performance. TBL gives a framework inside which corporate performance and social duties are estimated and evaluated.

A newer concept, far superior to the TBL concept, called 'Triple Green Rating' is slowly emerging.<sup>86</sup> Triple Green Rating involves three parameters, i.e.:

- (a) Being water-positive;**
- (b) Being carbon-positive; and**
- (c) Having zero solid waste.**

### **3.3.4 Equator Principles of Sustainable Development<sup>87</sup>**

Forty-four top international banks and financial institutions have subscribed to the 'Equator Principles'. They were evolved when International Finance Corporation (IFC) convened a meeting of banks in London in October 2002 to discuss environmental and social issues in project finance. These principles, evolved in 2003, were revised in 2006 ([www.equatorprinciples.com](http://www.equatorprinciples.com)).<sup>88</sup> By adopting the Equator Principles, these banks and institutions try to guarantee that infrastructure projects being financed by them reflect socially capable and environmentally solid practices. The principles apply to the financing of all new projects with total capital expenses of USD 10 million or more across all industry sectors globally.

These will apply to financing of all projects concealing the expansion or upgradation of a current undertaking where changes in project scale or scope create huge extra environmental and additionally social impacts or fundamentally change the nature or

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<sup>86</sup> Sanjay K Aggarwal; *Tripple Green Rating in Tripple Bottom Line in Corporate Social Responsibility in India, Response Books, 2008, P- 62.*

<sup>87</sup> Sanjay K. Aggarwal; *Corporate Social Responsibility in India, Response Books, 2008, P-74*

<sup>88</sup> [www.equator-principles.com](http://www.equator-principles.com) (Appx. 7)

level of its current impact. The appropriation of Equator Principles affirms that the job of global financial institutions is evolving. Like never before previously, individuals at the local level realize that the environmental and social parts of a speculation can have significant results on their lives and communities, especially in the developing markets where regulatory systems are often powerless.

**By adopting these principles, financiers undertake to:**

Survey cautiously all sponsors of project financing proposals and (b) Refuse to give loans to projects wherein the borrower can't comply with the recommended environmental and social policies and processes. A significant strength of the principles is the incorporation of covenants connected to compliance.

The borrower is needed by covenant to:

- (i) Comply with all relevant local, state and host country social and environmental laws, regulations and permits in all material respects;
- (ii) Comply with the action plan (where applicable) during the construction and operation of the project in all material respects;
- (iii) Provide regular reports (e.g., quarterly, semi-annually or annually), prepared by in-house staff or third party experts, on compliance with the action plan, and on compliance with relevant local, state and host country's social and environment laws, regulations and permits; and
- (iv) De-commission the facilities in accordance with an agreed de-commissioning plan (where applicable). Each EPFI adopting the Equator Principles commits to periodically report publicly about its implementation processes and experience, taking into account appropriate confidentiality considerations.



### **3.4 Constitutional, Legislative and Regulatory framework for Corporate Social Responsibility in India**

The corporate sector is a key component of the socio-economic structure of any country. Business needs to keep up with equilibrium both internally and externally. Perceived as an economic activity, it is emphatically affected by the encompassing social and biological environments. A society's legal system, its politics and governmental guidelines, buyer mentalities and public opinion, ideas of profound quality and morals, and the powers of social change including science, technology and contention among countries can apply both positive and negative impacts, upon a business firm's expense costs and benefits. Thus, perhaps the main step in the social responsibility of an enterprise is to release its legal commitment well. Be that as it may, the current thought in regard of CSR being related to just charity and keeping it absolutely voluntary goes against any arrangement which is pointed toward controlling CSR. Yet, in Indian scenario, to defend the interest of the society and to guarantee that society in general partakes in the products of industrialization and development, there are various Constitutional provisions which give assent to govt. for enactment of appropriate enactment on any viewpoint the govt. appears to be appropriate and govt. now and again has enacted numerous legislations which despite the fact that not straightforwardly yet in a roundabout way cover numerous angles related to CSR. Judiciary has likewise assumed vital part in interpreting Constitutional provisions and different Legislative provisions in a way in order to take care of the interest of common individuals on the loose. Be that as it may, without explicit enactment, the effective regulation of CSR can't be accomplished. Keeping this in mind the significance of constitutional provisions also authoritative framework related to CSR regulation should be analyzed to discover whether there is sufficient foundation to have a particular enactment on CSR or the current set up of constitutional cure alongside regulating different parts of CSR through related enactment will fill the need. In India there exist a comprehensive legal framework which upholds the idea and practices of corporate social responsibility. The legal provisions by and by accessible in India can be comprehensively categorized into three sections and the equivalent are analyzed in a word as follows:

### **3.4.1 Constitutional Provisions Supporting CSR Mechanism**

Indian Constitution accommodates division of powers between executive, legislature and Judiciary. There is supremacy of the constitution and custodian of constitution is Supreme Court of India. As given in constitution, the idea of Indian state is sovereign, socialist, secular and democratic republic. The preamble likewise accommodates social and economic justice. In India there are numerous constitutional provisions which relate to corporate social responsibility and they can be categorized as follows:

- A. Contents of Preamble Supporting CSR concept
- B. Provisions under Fundamental rights.
- C. Provisions under Directive principle of state policies.

#### **A) Contents of Preamble supporting CSR concept**

As given in constitution the idea of Indian state is sovereign, socialist, secular and democratic republic. The preamble additionally accommodates social and economic justice. Preamble pronounces as;

“We the people of India having solemnly resolved to constitute India into a Sovereign, Socialist, Secular, Democratic Republic and to secure to all its citizens:

Justice; social, economic and political;

Liberty of thought, expression, belief, faith and worship;

Equality of status and of opportunity; and to promote among them all;

Fraternity assuring the dignity of the individual and the unity and integrity of the nation”.<sup>89</sup>

Presently provisioning of socialist state, social justice and economic justice are the

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<sup>89</sup> Dr. J.N. Pandey; *Constitutional Law of India: Central Law Agency, 2001, P-29*

objective visualized in previously mentioned preamble that relates to the part of corporate social responsibility.

The principle point of a socialist state is to eliminate inequality in income; status and standard of life to the people who are working particularly give security from birth to grave, as held in **DS Nakara Vs Union of India**. The word socialism has no definite meaning ; it changes with the idea of constitutions/governance. It might have various ideas in democratic arrangement than communistic arrangement. The fundamental framework of socialism favors nationalism and ownership of industry with state. Be that as it may, in as much as private ownership of ventures deals with bigger cultural interest it ought to be permitted to continue<sup>90</sup>.

In **Excel wear Vs Union of India**<sup>91</sup> the Supreme Court thought about the above impact of the word socialist in the preamble. The court held that the expansion of word socialist may empower the courts to lean more for nationalization and state ownership of industry. However, in as much as private ownership of industries is perceived and oversees a staggering enormous extent of our economic structure, this principle of socialism and social justice can't be pushed so much in order to overlook completely, or to an exceptionally huge extent, the interest of another part of the public specifically the private owners of the undertakings. The concept of social justice means social wellbeing or benefit to community.

The social equality and prevalence of justice in social setup should be the aim of the state and other organisations including private enterprises.

The Supreme Court in **Sadhu Ram Vs Pulin Bihari**<sup>92</sup> held that accomplishing social justice for every single citizen of the nation is one of the yearnings of the Indian

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<sup>90</sup> AIR, 1983,SC 130: 1982 Lab IC 1.

<sup>91</sup> AIR, 1979,SC 25.

<sup>92</sup> AIR, 1984, SC 1471.

constitution. Since corporate are essential for more extensive social arrangement, they can contribute altogether towards accomplishing the constitutional aims of social justice by satisfying their social commitment through confirming to the norms of corporate social responsibility.

The idea of economic justice envisages the economic equality and equitable distribution of income. This likewise implies that beyond what many would consider possible the legitimized and equitable distribution of economic resources of the nation which implies that citizens of all circles of the country ought to partake in the advantage of economic development.

Liberalization and privatization ought not bring about convergence of economic resources into few hands rather they ought to be distributed in such a way in order to bring about comprehensive growth/development. Alongside social status the economic status of people should improve. This aim likewise can be accomplished if the corporations stick to the principles of corporate social responsibility by having sensible pay structure, giving adequate offices and resources to their employees and furthermore by acting mindfully via following different acts, provisions related to utilization of natural resources, tax payments and so forth.

## **B) Provisions of fundamental rights supporting CSR concepts**

There are provisions given in Part-III related to fundamental rights of the constitution which support the idea of corporate social responsibility and they are as per the following;

### **1. Article 19(1) (c) – Right to form association or union;<sup>93</sup>**

This Article additionally invigorates development of trade unions under Trade Union Act 1926. These trade unions are framed for making favorable environment for running

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<sup>93</sup> *Dr. J. N. Pandey; Constitutional Law of India, Central Law Agency, 2001, P-178*

an industrial establishment and regulating the relations among workmen and employers or among workmen and workmen or among employers and employers. It is fundamentally the object of an association or combination which determines if any union or association is trade union. As in **Banglore Water Supply and Sewerage Board Vs A Rajappa**, A.I.R (1978) S.C. 548.<sup>94</sup> The scope of industry has been given wide adequacy there by covering numerous establishments under the meaning of industry; the association related with such establishment has additionally come under the ambit of meaning of trade unions.

## 2. **Article 21 – Protection of life and personal liberty:**

This article provides that “No person shall be deprived of his life or personal liberty except according to procedure established by law.” Supreme Court in India has over and over extended the scope of right to life and freedom by falling back on legal activism through PIL and suo moto action. While growing the scope of the right to life the S.C has held

(a) In **Olga Tellis Vs Bombay Municipal Corporation**<sup>95</sup> that Right to life includes Right to livelihood because the right to livelihood is an important aspect of right to life because no person can live without the means of living i.e. the means of livelihood.

(b) Right to pollution free water and air as held In **MC Metha Vs State of Tamil Nadu**<sup>96</sup> that right to live under Article 21 includes the right of enjoyment of pollution free water and air for full enjoyment of life. This is one of the most important aspect

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<sup>94</sup> AIR (1986) S.C. 180

<sup>95</sup> AIR (1978) S.C. 548

<sup>96</sup> AIR 1991 S.C 417

which relate to the concept of corporate social responsibility because corporate/ industry are the main source of air and water pollution so to continue enjoying fruits of industrialization and liberalization corporate will have to protect environment and this can only be done by being socially responsible.

(c) Right to protection form hazardous industries. **In *MC Metha Vs Union of India***<sup>97</sup> the court held that even though setting up of chemical/ hazardous industries are essential for economic development and advancement of wellbeing of the people, measures should be taken to reduce the elements of hazard or risk to community by taking all necessary steps for locating in such a manner which would pose least risk or danger to community and maximizing safety requirements in such industries. Corporate are also responsible for ensuring the implementation of these constitutional obligations and these forms the part of wider concept of corporate social responsibility.

(d) Right to life and Labour welfare. The scope and ambit of Article 21 has been widened in ***Bandhua Mukti Morcha Vs Union of India***<sup>98</sup>, by which it was held that everyone in this country have right to live with human dignity, free from exploitation. This right also includes protection of health and strength of workers, men and women and of the tender age of children against abuse, opportunities and facilities for children to develop in a healthy manner and in conditions of freedom and dignity, educational facilities, just and human conditions of work and maternity relief. Now the corporate even though are private entrepreneur but still they are bound to follow this constitutional obligation to ensure all round welfare of labour by protecting their right to life.

### 3. **Article 23 & 24 – Protections against exploitation**

(i)Article 23 provides for prohibitions of traffic in human beings and forced labour.

(ii)Article 24 provides for prohibitions of employment of children in factories etc. No

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<sup>97</sup> AIR 1996 S.C 2969

<sup>98</sup> AIR 1996 S.C 2969

children below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

**(C) Provisions of Directive Principle of State Policy supporting CSR concepts <sup>99</sup>**

There are provisions provided in Part-IV of the constitution related to Directive Principle of State Policy which relate to the concept of corporate social responsibility and they are as follows;

- (i) **Article 38.** State to secure a social order for promotion of welfare of people by securing and protecting as effectely as it may, a social order in which justice- social, economic and political- shall inform all the institution of national life
- (ii) **Article 39 (b).** This article provides that the ownership and control of the material resources of the community are so distributed as best to sub serve the common good.
- (iii) **Article 39 (c).** This article provides that the operation of the economic system does not result in concentration of wealth and means of production to the common detriment.
- (iv) **Article 39 (d).** This article provides that there should be equal pay for equal work for both men and women.

To achieve the goal of Article 39 (d) the parliament has enacted the Equal Remuneration Act 1976. In **Randhir Singh Vs Union of India** the S.C has held that the principle of equal pay for equal work though not a fundamental right is a certainly a constitutional goal and therefore capable of enforcement through constitutional remedies under article 32.

- (v) **Article 39 (e).** This article provides for protection of health and strength of workers and tender age of workers and to ensure that they are not forced by economic necessity to enter a vocation unsuited to their age and strength.

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<sup>99</sup> Dr. J.N. Pandey; *Constitutional Law of India: Central Law Agency, 2001, P-344*

- (vi) **Article 39 (f).** This article provides that childhood and youth are protected against exploitation and also against moral and material abandonment.
- (vii) **Article 42.** This article provides that state shall make provisions for securing just and humane conditions of work and for maternity relief.
- (viii) **Article 43.** This article provides for living wage etc for workers and states that the state shall endeavor to secure, by suitable legislation or economic organization or in any other way to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and in particular the state shall Endeavour to promote cottage industries on individual or co-operation basis in rural areas.
- (ix) **Article 43-A.** This article provide for worker participation in management.
- (x) **Article 51-A (g).** This article relates to fundamental duties provided in Part –IV- A and it obligation on citizens of nation to follow these duties. This particular article provide for protection and improvement of the natural environment including forest, lakes, rivers and wild life and to have compassion for living creatures.<sup>100</sup>

Presently, it is responsibility of the state to uphold the provisions of constitution through reasonable legislation and on the off chance that there is infringement of fundamental rights the cure is accessible against state just, not against private corporate players but rather here additionally the cure can be authorized through state. On the off chance that corporate could do without these constitutional provisions, state will be constrained by the court to intervene and state's intervention comes in type of control through legislation and regulation and overabundance control through legislation is contrary to the principles of liberalization and free trade. In this way, it is in the interest of Corporate to act mindfully and ought to follow the practices of Corporate Social Responsibility.

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<sup>100</sup> *Dr. J.N. Pandey; Constitutional Law of India: Central Law Agency, 2001, P-348*



### 3.4.2 Provisions under Law of Tort Which Support Framework of Corporate Social Responsibility

#### 1. Rule of Absolute Liability

In **M.C. Mehta Vs. Union of India**, the Supreme Court held that “where an enterprise is engaged in a hazardous or inherently dangerous activity and harm results to anyone on account of an accident in the operation of such hazardous or inherently dangerous activity resulting, for example, in escape of toxic gas, the enterprise is strictly and absolutely liable to compensate all those who are affected by the accident and such liability is not subject to any of the exceptions which operates vis-à-vis the tortious principle of strict liability under the rule in **Rylands Vs.Fletcher** .<sup>101</sup>

The court gave two reasons justifying the rule:

**Firstly**, that the enterprise carrying on such hazardous and inherently dangerous activity for private profit has a social responsibility/obligation to compensate those suffering there from, and it should absorb such loss as an item of overheads, and

**Secondly**, the enterprise alone has the resources to discover and guard against such hazard and dangers. The Supreme Court has repeatedly used this principle of Absolute Liability in the cases related to environmental pollution caused by industrial establishments and also in cases of release of hazardous gases or waste by industrial establishments. The Supreme Court in **Indian Council for Environ-Legal Action society Vs. Union of India** followed the principle laid down in **M. C. Mehta vs. U.O.I.** by imposing absolute liability on enterprise carrying on hazardous and inherently dangerous activity. In view of above mentioned facts, we can conclude that the principle of Absolute Liability supports practices of corporate social responsibility.<sup>102</sup>

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<sup>101</sup> 1868, L.R. 3 H.L. 330.

<sup>102</sup> AIR, 1987, S.C. , 1086, P-1098-1099

### **3.4.3 Various Legislative Provisions Supporting Corporate Social Responsibility.<sup>103</sup>**

Legislature in India now and again has passed different legislations which support the provisions compelling corporate to be socially capable and provisions contained in New Companies Act, 2013 are examined in short.

#### **Companies Act, 2013:**

The Companies Act, 2013 has been enacted with the object to amend and consolidate the law identifying with companies and certain different associations. Before enactment of this Act, the undertakings of the companies were administered through Companies Act 1956. The Act of 1956 fundamentally regulated the scope of activities from arrangement to liquidation and winding up of Companies. Regulation of corporate governance, structure and commitments of companies towards their stakeholders, examination and enforcement and company cycle like mergers/amalgamations/arrangements/reconstructions and so forth constitute the primary focal point of the Act. In this manner, the Act empowered a statutory stage for corporate Governance necessities, fundamental for working of the Companies with transparency and accountability, perceiving and protecting the interests of different stakeholders however was not having any arrangement identifying with CSR. The Companies Act, 2013 has been incorporated with a particular arrangement related to Corporate Social Responsibility (Section 135).

On the off chance that we go out of spotlight of how we find out about mandatory CSR provisions notice here that it was started from the presentation of Companies Bill, 2008. The Standing Committee on Finance has acquired idea from organizations/specialists as additionally written data on the previously mentioned Bill from the Ministry of Corporate Affairs. Considering the principles enunciated in the Report of the Irani Committee and perspectives, comments and ideas got by the Ministry from different

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<sup>103</sup> Corporate Governance, Ethics and social Responsibility by V. Balachandran & V. Chandrasekaran, PHI learning Pvt. Ltd. pages-199

quarters, the Companies Bill, 2008 was ready. The Companies Bill 2008 was presented in the Lok Sabha, which was thusly alluded to the Parliamentary Standing Committee on Finance for examination and report. Notwithstanding, before the Committee could introduce its report, 14th Lok Sabha was broken down and the Companies Bill, 2008 slipped by according to condition (5) of Article 107 of the Constitution of India. Considering this, it was proposed to once again introduce the Companies Bill, 2008 as the Companies Bill, 2009, with no change aside from the Bill year and the Republic year. The Companies Bill, 2009 in like manner, was presented in the Lok Sabha on third August, 2009.

After presentation, the Companies Bill, 2009 was alluded to Parliamentary Standing Committee on Finance for examination and report. The Committee inspected something similar exhaustively in conference with different stakeholders including the administrating Ministry and submitted a comprehensive Report to the Parliament on 31st August, 2010. Keeping in see the recommendations made by the Standing Committee, an overhauled Companies Bill, 2011 was arranged which was supported by the Cabinet on 24th November, 2011. This Bill was presented in the Lok Sabha on 14th December, 2011. The Hon'ble Speaker alluded the Bill to Parliamentary Standing Committee on Finance on fifth January, 2012 as specific new provisions were remembered for the Bill, which were not prior alluded to the Committee during the examination of Companies Bill, 2009.

Now, the Companies Act 2013 has been enacted and provision for establishing CSR mechanism has been incorporated in the Act and the same is as under: **Section 135:**

- (1) Every company having 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 shall constitute a Corporate Social Responsibility Committee of the Board consisting of three or more directors, out of which at least one director shall be an independent director.

The new Companies Act makes it mandatory for companies above thresholds to spend

2% of their net profit on corporate social responsibility (CSR) activities.

(2) The Board's report under sub-section (3) of section 134 shall disclose the composition of the Corporate Social Responsibility Committee.

(3) The Corporate Social Responsibility Committee shall:

- a. 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. Recommends the amount of expenditure to be incurred on the activities referred to in clause (1); and
- c. Monitor the Corporate Social Responsibility Policy of the company from time to time.<sup>104</sup>

(4) The Board of every company referred to in sub-section shall:

(a) After taking into account the recommendations made by the Corporate Social Responsibility Committee, approve the Corporate Social Responsibility Policy for the company and disclose contents of such Policy in its report and also place it on the company's website, if any, in such manner as may be prescribed; and

(b) Ensure that the activities as are included in Corporate Social Responsibility Policy of the company are undertaken by the company.

(c) The Board of every company referred to in sub-section (1), shall 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: Provided that the company shall give preference to the local area and areas around it where it operates, for spending the amount earmarked for Corporate Social Responsibility activities: Provided further that if the company fails to spend such amount, the Board shall, in its report made under clause (o) of sub-section (3) of section 134, specify the reasons for not spending the

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<sup>104</sup>Companies Act, 2013

amount.

Explanation.—for the purposes of this section “average net profit” shall be calculated in accordance with the provisions of Section 198 of Companies Act, 2013. Further, Schedule VII of the Act provides for fulfillment of various objectives through CSR activities. The various objectives as envisioned in the schedule are:

1. Eradicating hunger, Poverty and malnutrition, promoting preventive health care and sanitation and making available safe drinking water
2. Promoting education, including special education and employment enhancing vocation skills especially among children, women, elderly, and the differently-abled and livelihood enhancement projects
3. 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;
4. Ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agro forestry, conservation of natural resources and maintaining quality of soil, air and water
5. Protection of national heritage, art 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
6. Measures for the benefit of armed forces veterans, war widows and their dependents
7. Training to promote rural sports, nationally recognized sports, Paralympics sports and Olympic Sports
8. 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
9. Contributions or funds provided to technology incubators located within academic institutions which are approved by the Central Government
10. Rural development projects

Any activity performed by the company in the normal course of its business shall not be considered eligible expenditure under the CSR rules. The rules also provide that any schemes instituted for the benefit of the employees of the company or for the benefit of their families shall not be included in the total eligible spend. Further, any expenses undertaken by the company to build the CSR capabilities either in its own staff or staff engaged by a third party, must be capped at 5% of the total CSR spend for a single year. The CSR policy therefore is ideally a list of projects that the company wants to undertake to fulfill its obligations under these rules and lays down the parameters for the monitoring of such projects. The rules also specify that donations/contributions to political parties shall not be any activity performed by the company in the normal course of its business shall not be considered eligible expenditure under the CSR rules.

It is important to mention here that the financial limits of turnover are on higher sides thus excludes many medium and small enterprises which are major chunk of the corporate in India, moreover the above Act also fails to address squarely the festering issue of corporate delinquency. The promoters of companies should be held liable for acts of omission and commission by the company together with the senior management including the Board of Directors. Both Civil and criminal liabilities have to be fixed for acts of corporate delinquency. Whistle-blowers, who expose such acts, should be protected by law.

Further it is well-perpetuated fallacies that corporate are run on the promoters or shareholders' funds alone. The fact of the matter is that most of the capital required by corporate – both long-term and medium-term is provided by the banking/financial system, which is operated out of the public funds. Therefore, if corporate are mandated to undertake CSR, it is very fair and logical and a natural corollary of the nature of capital invested in them. It need not be over-stated that the corporate owe it to the people and the society to pay them back in terms of social services and by building social capital for common good. This cannot be the sole responsibility of governments.

In this regard the accountability requires to be fixed for both individual Auditors and their firms. Auditors should be appointed from a panel to be maintained by an independent body, which will help ensure their independence from the management. Their removal should also be vetted by this independent body, so that they can function without any fear. (Accountability and Independence of Auditors). These provisions are actually laying the foundation for effective regulation of CSR aspects.

Thus, the Section 135 of the Companies Act, 2013, though, has made provisions in respect of CSR but from the above discussion, it emerges that this sole provision does not address all those issues which are or which may prove to be the impediments in effective & successful implementation of CSR Framework/Mechanism. However, if a suitable dedicated Legislation, containing suitable provisions aimed at addressing all the above issues, is enacted, then the same may serve as more effective tool to realise true goal of CSR.

## **Conclusion**

It is clear that the definition of corporate governance has extended considerably beyond investor relations and encompasses relations with all stakeholders — including the environment. This is essential for the longer- term survival of a firm and is therefore a key component of sustainability. It is equally possible to state that a firm which has a more complete understanding of the relationship between social responsibility, sustainability and corporate governance will address these issues more completely. By implication a more complete understanding of the inter-relationships will lead to better corporate governance, and therefore to better economic performance.

The corporate governance framework is there to encourage the efficient use of resources and equally to require accountability for the stewardship of those resources. The aim is to align as nearly as possible the interests of individuals, corporations, and society. There is similar disagreement over the scope of CSR, and even of its relevance to business. The Confederation of British Industry stated, in 2001, that, ‘CSR is highly

subjective and therefore does not allow for a universally applicable definition.’ However, the Commission for the European

Communities, also in 2001, defined CSR as a concept whereby companies integrate social and environmental concerns in the business operations and in their interactions with stakeholders on a voluntary basis. The obligation of a firm, beyond that required by law or economics, to pursue long term goals that are good for society.

The variance between the definitions is as instructive as the definitions themselves and serves to highlight the different agendas of the agencies involved. Ernst and Young (2002) notes the influence of investors, peer pressure, stakeholders and an internal ‘sense of social responsibility’ within the corporation, as agents promoting an increase in CSR as a regulatory factor in corporate governance. The identity and role of investors (shareholders) in a company is often clear and corporations may well feel pressure, either from competitors (peer pressure) or from within the corporation (internal sense) to adopt a socially responsible form of governance. There is even a Kantian argument that firms should not be involved in CSR because this is using shareholders as means to a social end, not as ‘ends in their own right’. The contrary argument is that such social ends bring benefits back to the company and its owners.

Nevertheless, a broad view of CSR can be profitable, according to recent data from the journal *Marketing* (13 September 2006, pp. 30-31). This publication reports that 80 per cent of FTSE 100 companies now employ CSR directors, and that the UK market for ethical goods was worth £24.7 billion in 2004 and growing at 15 per cent per annum. However, building a CSR commitment with customers can be a long-term process, and in today’s fast changing and crowded advertising world that may not always appeal to the marketers. When a consumer spending downturn looms, corporations, especially large global corporations heavily reliant on economies of scale, may be tempted to re-focus on price cuts rather than quality and green issues. This was



the route Tesco, Britain's largest grocery retailer, appeared to be taking in 2007.<sup>105</sup>

Thus, after examining this literature, we can infer that there is profound connection between CSR, Corporate Governance and Sustainable Development. Corporate Governance and sustainable development measure and component lead to mindful corporate conduct. Corporate Governance and Sustainable Development are essential for more extensive arrangement of Corporate Social Responsibility.

Further while summing up the constitutional and authoritative framework related to CSR in India it tends to be reasoned that the legal framework supporting CSR is comprehensive. The government has its own structure, structure, style and theory. Contingent upon the idea of the government at work, business needs to put together its activity. Beginning with a specific belief system or reasoning, the government of each country formulates and executes a bunch of policies and projects. Quite a couple of these policies are executed through these legislations. These legislations and guidelines constitute the politico-legal environment. Different socio-economic legislations subject to which business operates constitute the legal environment. Presently after investigating this load of legislations the Scholar reasons that different perspectives related to CSR are represented to an extent through these backhanded legislations and assuming the more extensive perspective on CSR is thought of, this load of laws structure the generally speaking legal responsibility of the corporate. Researcher further reason that as of now despite the fact that there is no particular legislation on CSR except for there is sufficient socio-legal foundation and constitutional mandate for having a comprehensive legislation overseeing all the part of CSR.

The arrangement on CSR in Section 135 of the Company Act, 2013 is only a start in this regard despite the fact that by making the commitment discretionary and

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<sup>105</sup> *Guler Aras and David Croether; A Handbook on Corporate Governance and Corporate Social Responsibility, Gower, 2010, P-276-279*

requiring just announcing of justification non-commitment has debilitate the proposed arrangement in regard of CSR. Accordingly, the Scholar presumes that a more comprehensive legislation is expected to effectively regulate the different part of CSR.

## CHAPTER-4

# **JUDICIAL APPROACH TOWARDS CORPORATE SOCIAL RESPONSIBILITY IN INDIA**

### **4.1 Introduction:**

After dissecting the legal base for regulating CSR in going before chapter there is need to break down the legal methodology towards Corporate Social Responsibility. As we know that Indian Constitution accommodates division of power between executive, legislature and Judiciary. There is supremacy of the constitution and custodian of constitution is the Supreme Court of India. As given in constitution the idea of Indian state is sovereign, socialist, secular and democratic republic. The preamble likewise accommodates social and economic justice. Responsibility of interpretation and giving exact significance and tracking down the appropriate intention the legislature behind any legislation is with judiciary and judiciary has assumed this part till now effectively while keeping the sensations of provisions intact particularly in matters related with social welfare, social justice, and environment protection. Judiciary has additionally extended the scope of Article 21 "The Right to Life and Liberty" by relating it to environment, business, poise and has likewise included numerous provisions of Directive Principle of State strategy in the ambit of meaning of fundamental rights in different cases related to generally speaking welfare of society particularly of more fragile areas.

Presently provisioning of socialist state, social justice and economic justice are the aim visualized in preamble, the provisions of Article 21, Article 23 and 24 of fundamental rights and arrangement of Directive Principle of State Policies relates to the part of Corporate Social Responsibility and Judiciary has assumed critical part in building up this relationship. The part of judiciary in fostering CSR should be broke down in regard of its methodology towards relationship of different provisions with CSR.

## 4.2 Recognizing relationship between various constitutional provisions and Corporate Social Responsibility

This aspect can be studied by further sub-dividing the topic into following parts:

### 4.2.1 Explaining the meaning of Socialist State & Social Justice

In *DS Nakara Vs. Union of India*<sup>106</sup> S.C. held that “The principle aim of a socialist state is to eliminate inequality in income status and standard of life to the working people especially and provide security from cradle to grave.

In *Excel wear Vs Union of India*<sup>107</sup> the Supreme Court considered the above effect of the word socialist in the preamble. The court held that the addition of word socialist might enable the courts to lean more in favour of nationalization and state ownership an industry. But so long as private ownership of industries is recognized and governs an overwhelming large proportion of our economic structure, this principle of socialism and social justice cannot be pushed to such an extent so as to ignore completely, or to a very large extent, the interest of another section of the public namely the private owners of the undertakings.

In *Sadhau Ram Vs Pulin Bihari*<sup>108</sup> the S.C. held that the concept of social justice means social wellbeing or benefit to community. The social equality and prevalence of justice in social setup should be the aim of the state and other organization including private enterprises.

*In MC Mehta Vs State of Tamil Nadu*,<sup>109</sup> the court held that **right to live under article**

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<sup>106</sup> AIR, 1983, SC 130: 1982 Lab IC 1.

<sup>107</sup> AIR, 1979, SC 25.

<sup>108</sup> AIR, 1984, SC 1471.

<sup>109</sup> A.I.R., 1991, S.C 417

21 includes the **Right to pollution free water and air**. If anything endangers or impairs the quality of life in derogation of laws a citizen has a right to have recourse to article 32. This is one of the most important aspect which relates to the concept of corporate social responsibility because corporate/ industry are the main source of air and water pollution so to continue enjoying fruits of industrialisation and liberalisation corporate will have to protect environment and this can only be done by being socially responsible.

In *M. C. Mehta Vs Union of India*,<sup>110</sup> the court held that **Right to life includes protection from hazardous industries**. The court held that even though setting up of chemical/ hazardous industries are essential for economic development and advancement of wellbeing of the people, measures should be taken to reduce the elements of hazard or risk to community by taking all necessary steps for locating in such a manner which would pose least risk or danger to community and maximizing safety requirements in such industries. Corporate are also responsible for ensuring the implementation this constitutional obligations and this forms the part of wider concept of corporate social responsibility.

In *Bandhua Mukti Morcha Vs Union of India*,<sup>111</sup> the scope and ambit of Article 21 was widened, and it was held that everyone in this country have right to live with human dignity, free from exploitation.

This right also includes protection of health and strength of workers, men and women and of children of tender age against abuse, opportunities and facilities for children to develop in a healthy manner and in conditions of freedom and dignity, educational facilities, just and humane conditions of work and maternity relief. Now the corporates even though are private entrepreneur but still they are bound to follow this constitutional obligation to ensure all round welfare of labour by protecting their right to life.

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<sup>110</sup> A.I.R., 1996 ,S.C 2969

<sup>111</sup> A.I.R.,1984,S.C.802

After expanding the scope of right to life under Article 21 S.C has gone on to giving directions to various authorities in respect of means of protecting this right and also prioritizing the conflicting interest of revenue generation and right to healthy environment and the same is reflected from following decision:.

**(i) Invasion of right to life by pollution caused by private companies.** In a writ petition the S.C directed against the union of India/ government of Rajasthan and RPCB to compel them to perform their statutory duties enjoined by the water (prevention and control of pollution) Act 1974, the Air (prevention and control of pollution) Act 1981 and the Environment (protection) Act 1986 on the ground that their failure to carry out their statutory duties is seriously undermining the right to life of the residence of Bichhari and affected area. If the S.C finds that the authorities have not taken the action required of them by law and that their inaction is jeopardizing the right to life of the citizen of this country or any section thereof, it is the duty of the court to intervene. If an industry is established without taking the requisite permissions and clearances and if the industry is continued to be run in blatant disregard of law to the detriment of life and liberty of citizens living in the vicinity, then this court has power to intervene and protect the fundamental right to life and liberty of citizen of India. The rule lay down by *S.C in Indian council for Enviro- Legal Action vs. Union of India and Oleum Gas leak*<sup>112</sup> case for absolute liability for carrying on hazardous and inherently dangerous activities is binding.

**(ii) Ban on mining for protecting right of people to live in a healthy atmosphere.** While carry forwarding the scope of Article 21 for protection of life the *S.C in Rural Litigation and Entitlement Kendra, Dehradun Vs State of U.P*<sup>113</sup> directed to permanently close the limestone quarries in hilly areas near Dehradun. S.C held that

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<sup>112</sup> A.I.R.,1996,5

<sup>113</sup> AIR 1985 S.C 652 at 656

even though many investors who have invested large sums of money and expended considerable time and effort may suffer but it is a price that has to be paid for protecting and safeguarding the right of the people with nominal disturbance of ecological balance and without avoidable hazard to them and to their cattle, homes and agricultural lands and undue affection of air, water and environment.

(iii) Compulsory exposure of unwilling persons to dangerous and hazardous noise is violative of Article 21. In *MR Pillai Vs Executive office*<sup>114</sup>, S.C held that compulsory exposure of unwilling persons to dangerous and disastrous levels of noise, would amount to a clear infringement of their constitutional guarantee of right to life under Article 21 of the constitution. Right to life, comprises right to safe environment including safe air quality, safe from noise.

(iv) Role of Judiciary in protecting labour from exploitation

In *M.C. Metha Vs State of Tamilnadu*<sup>115</sup> AIR 1997 S.C699 known as child labour abolition case a three judge bench of S.C held that children below the age of 14 years cannot be employed in any hazardous industry, or mines or other work when the lawyer Shri MC Mehta presented the plight of children engaged in Sivakasi Cracker Factories and explained that how the constitutional rights of these children guaranteed by Article 24 was being grossly violated, the court issued number of directions for the government for ensuring the protections of rights of children.

### **4.3 Judicial Approach in relating Directive Principles of State Policy**

#### **Provisions to CSR**

The Judicial approach towards implementation of Directive Principles of State Policy with specific reference to CSR practices can be gauged ascertained from following cases:

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<sup>114</sup> AIR 1997 KER 162 at 163

<sup>115</sup> AIR 1997 S.C699

- (a) In *Air India Statutory Corporation Vs United labour Union*<sup>116</sup>*AIR 1997 S.C 645* the court explained the concept of social justice as provided in Article 38, and provided that social justice a dynamic devise to mitigate the sufferings of poor, weak, dalits, tribals and deprived sections of the society and to eliminate them all to the level of equality to live a life with dignity of person.
- (b) In *Tamilnadu Vs Abu Kavar Bai*<sup>117</sup>*AIR 1984 S.C 516* In this case court held that it is responsibility of the corporate to have such kind of behaviour so as to fulfill the obligations of Article 39 (b) & (c) otherwise state for the purpose of distribution or preventing concentration of wealth can resort to acquisition/ take over by way of nationalization.

#### **4.4 Contribution of Supreme Court in Sustainable Development**

The most amazing commitment of the Supreme Court has been the appropriation of the right to sustainable development as a bad-to-the-bone principle of environmental law in India. The idea of sustainable development itself is comparatively youthful. It previously showed up in the International Union for Conservation of Nature and Natural Resources (IUCN) Report of 1980 in regard of world Conservation strategy. From that point, it was gotten by the Report of the World Commission on Environment and Development in 1987, appropriately called the Brundtland Report. The actual report was the result of 900 days of thought by an international group of legislator, government workers and specialists on environment.

The idea of sustainable development is in its early stages. Holmberg and Sandbrook recognized around 70 meaning of sustainable development. Be that as it may a commonly accepted definition has been proposed by Mrs. G.H. Brudthland in her 1987 report. As indicated by her, sustainable development is the development that 'addresses the issues of the present without compromising the capacity of group of people yet to come to address their own issues'. This definition has solid moral direction centering

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<sup>116</sup> *AIR 1997 S.C 645*

<sup>117</sup> *AIR 1984 S.C 516*



upon the satisfaction of human requirements as opposed to needs. It doesn't lay accentuation on the protection of environment overall. Numerous contemporary environmentalists are exceptionally critical of the idea of sustainable development since it licenses economic growth. Yet, the idea of sustainable development has mass allure exactly on the grounds that it is an expression equipped for redundancy in 'a parrot like style by environmental strategy creators' The Supreme Court has notwithstanding been mindful so as to recognize the idea of sustainable development and its definition by Brundtland avoiding the chance fall for some random content for the idea and subsequently open the way for an active meaning of sustainable development with a changing content. Basically at the occasion, it has decided to stay away from the need to go for any accuracy. In a couple of driving cases sustainable development has been adopted as the principle of environmental law.

In a progression of cases which may not be huge in number yet which have a lot of economic importance, the Supreme Court needed to think about the utilization of the principle of sustainable development. This load of cases included industries producing sizeable incomes and fundamentally adding to the industrial development of the country. In any case, these additionally show that the industries scarcely focused on the environment and which were huge polluters as well as persistent. Repeatedly the environmental offices entreated upon them to amend their contamination outflows and effluents however the industries barely minded. Indeed, even bearings gave by the high courts and Supreme Court were overlooked. It could be said, the personal conduct standard of the industry was unreliable. The circumstance appeared to be bound for destruction for the industry barely minded and the environmental organizations couldn't actually carry their weight to bear upon the industries. The industries traditionally address the instance of too amazing litigants who keep on utilizing their muscles absolutely overlooking the degradation of environment brought about by the industries. Such muscle flexing is common in soft states where the grandness of law is often compromised by Considerations of state and riches.

The first case involving claims to sustainable development was the **Bichhri Village**

**case<sup>118</sup>** wherein a big public sector concern was producing chemicals. Its sister concern, started producing 'H' acid in the same complex. The chemical was meant exclusively for exports. The acid was highly toxic and the effluents from it posed grave danger to land in the surrounding areas. The effluents poisoned the earth, the water and everything else. The industries produced 25 hundred metric tons of highly toxic sludge. The waste waters were allowed to flow out in the open and the toxic sludge was thrown in the open in and around the complex. The toxic substances percolated deep into the earth polluting the subterranean supply of water. The water in the wells and the streams became unsuitable for human consumption as wells as irrigation.

The people revolted and a serious law and order situation was created forcing the district magistrate to close the industries in January 1989. Yet nothing was done to remove the sludge. The long lasting damage to earth and to underground water continued to exist.

The facts revealed that the units were established without obtaining an objection certificate from the pollution control board for production of 'H' acid. They also revealed that Supreme Court had issued a direction as early as 11 December 1989 for supply of drinking water to the affected villages and on 5 march 1990, the court directed that appropriate steps be taken for transportation, treatment and safe storage of the sludge from open spaces and required that the sludge be stored in a safe place. But nothing happened. In the succeeding year, the industry tried to camouflage the sludge. Yet, they did nothing to remove it. Again, on 17 February 1992, the court directed an assessment by experts who were also to suggest a package of remedies for its transportation and safe storage. But still nothing happened. In 1994, the National Environmental Engineering Research Institute (NEERI) submitted a report which showed that only 720 metric tons of sludge was entombed while the rest of the waste was just spread over the fields.

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<sup>118</sup> Writ Petn. (C) No. 967 of 1989 with W. P. (C) Nos. 94 of 1990, 824 of 1993 and 76 of 1994

The NEERI report concluded that the indiscriminate and willful disposal activity by the industry was further aggravating the contamination problem.

These facts highlight the non cooperative attitude of the industry to the danger which it had itself created to the detriment of the environment in Bichhri. Appalled by the state of affairs, the Supreme Court quickly reacted to the situation. It resurrected the principle laid down in the famous **Shri Ram case**, which was threatened with oblivion because of the casual observation of Ranganath Misra J in **Union Carbide Corporation V. Union of India**. Misra J had felt it was not so and rule in the Shri Ram case was the most appropriate one because it suited the conditions obtaining in this country. There was also a veiled reference to the problem of intransigent rich defendant whose pursuit of private profit blinded all claims of poor people. The court held that once the activity carried on is hazardous or inherently dangerous, the person carrying on such activity is liable to make good the loss caused to any other person by his activity irrespective of the fact that he took reasonable care while carrying on his activity. The court did not refer in terms to the ideals of sustainable development. Nevertheless the situation in this particular case classically represents the conflict between the claims of development and the claims of sustainable environment. In fact, Jeevan Reddi J portrayed the conflict in the opening words of his opinion which are worth reproducing.

It features the dismissal, nay, contempt for law and legal experts with respect to some among the arising variety of business people, exploiting, as they do, of the country's requirement for industrialization and fare profit. Quest for profit has absolutely depleted them of any inclination for individual human creatures for that matter, for whatever else. Furthermore, the law appears to have been defenseless. Systemic deformities? It is such occurrences which have driven numerous people in this country to accept that dismissed of law pays and that the results of such negligence won't ever be visited upon them – especially, in the event that they are well endowed individuals.

In *Vellore citizen welfare forum v. Union of India*<sup>119</sup> S.C. defined the precautionary

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<sup>119</sup> A.I.R 1996 S.C. 2175

principle and held that these principals are essential features of sustainable development. The precautionary principle in the context of municipal law means:-

- (i) Environmental measures, by the state government and the statutory authorities, must anticipate, prevent and attack the causes of environmental degradation.
- (ii) Where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.
- (iii) The onus of proof is on the actor or developer/ industrialist to show that his action is environmentally sustainable.

The next case involving the same kind of problem related to **tanneries in Tamil Nadu**. The tannery industry is a significant foreign exchange earner but its effluents are released on the lands, the rivulets and the rivers polluting the sub-soil water and arable lands. Facts indicated that the industries were reluctant to provide for treatment of effluents. The court felt that even though the industry was earning foreign exchange and providing employment, contributing to development, 'it has no right to destroy the ecology, degrade the environment and pose a health hazard'.

The court held that sustainable development is the answer to the problem of conflict between development and ecology. Without much discussion of the content of sustainable development the court held that sustainable development is a balancing concept and has been accepted as part of the customary international law. The court even went one step further to declare that the precautionary principle and the polluter pays principle have been accepted as part of the law of the land in India.

In **A.P. Pollution Control Board II V. Prof. M.V. Nayudu (Retd.)**<sup>120</sup>, the Supreme Court took the question for in-depth consideration. The matter involved the question of permission for establishment of industry within 10 km. of the two big water reservoirs,

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<sup>120</sup>AIR 1999 SC 812

the Himayat Sagar and the Osman Sagar, serving the twin cities of Hyderabad and Secunderabad. Jagannadha Rao J, speaking for the court, adopted the principle of sustainable development. It was asserted that in today's emerging jurisprudence, environmental rights are described as 3rd generation rights.

The Supreme Court in the Nayudu case weighed the claims of development against the claims of sustainability of the supply of pure water for drinking purposes. It gave precedence to the human need for drinking water over and above the possible economic advantage which could be generated by the industry for the state could be generated by the industry for state.

In the next case, the same conflict arose again but with contrary results. In **Goa Foundation V. Diksha Holdings Pvt. Ltd**<sup>121</sup>, another division bench of the Supreme Court again faced a contest in the claims of sustainability and development. Diksha Holdings sought permission to build a hotel in Goa which it claimed would contribute to business of tourism which was the main resource earner for the State of Goa. Which it claimed would contribute to business of tourism which was the main resource earner for the state of Goa. The Goa Foundation contended that the hotel was located in an area which fell in the Coastal Regulating Zone-1 (CRZ-1) where no building was allowed. It also contended that the construction of the hotel will destroy the ecology of coastal areas.

The Supreme Court restated the principle that there should be a proper balance between the protection of environment and the development process. The society shall have to prosper but not at the at the cost of environment and the environment shall have to be protected but not at the development of the society. The court held that the land in question in which the hotel was being built was not in the CRZ-1 area. The court even refused to be persuaded by an expert of the National Institute of Oceanography because two of the scientists who had signed the report had earlier signed another report which favored the builders. Banerjee J. laid down the following principle:-

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<sup>121</sup> 2001 AIR 184, 2000 (4) Suppl. SCR 502, 2001 (2) SCC 97, 2000 (7) SCALE 390, 2000 (2) Suppl. JT 4

While both the *Nayudu* and *Diksha Holding* cases surely established the presence of sustainable development as a fundamental principle of environmental law, they yield little material guidance to ensure proper balancing. *Nayudu* can be used as a precedent holding for primacy of human needs while *Diksha Holding* is for giving weight to claims of development where the societal interests have no primacy. The two together can mean that where basic human needs are threatened, development takes a second place while if such needs are not threatened, development must be allowed to proceed. These cases also show that objective scientific evidence is of relevance only when it is unblemished. The court is not willing to act as a slave to the opinion of the cognoscenti. The weight to be given to expert evidence is to be determined by the court using the traditional rules of evidence. Where the court is convinced of its veracity, expert opinion becomes indispensable. But where doubts arise about the integrity or quality of the experts, the court will ignore it.

The two essential features of sustainable development are – (a) the precautionary principle, and (b) the polluter pays principle and these two principles have been laid down and repeatedly established and followed by Supreme Court in various cases.

In a recent case, the Supreme Court held that public trust doctrine and principle of inter-generational equity are the integral part of the principle of sustainable development.

To sum up, the courts have not been sufficiently successful in establishing the right to wholesome environment as a fundamental right. Had it been so, the efforts would have been far more impact making. Fundamental rights have a supervening character. Any man can approach the highest court for their enforcement. Writ petitions can lie in every high court, any act, legislative or executive, who seeks to abridge or take away any fundamental right, can be challenged. Greater vigor is, therefore, required to ensure that right to wholesome environment is treated as a fundamental right. One option to establish it firmly as a fundamental right is to try the remedy of constitutional tort. ***D.K.***

*Basu v. State of W.B*<sup>122</sup>. The Supreme Court has perceived that infringement of fundamental right may lead to a constitutional misdeed for which compensation might be granted. This claim for compensation in public law depends on severe risk and is notwithstanding the claim accessible in private law for harms. 'This is notwithstanding the customary cures and not in criticism of them'. The court pointed out that this cure accessible in public law guarantees that citizens live under a legal system wherein their rights and interest will be protected and saved.

The court held that It is now a well- accepted proposition in most of jurisdictions, that monetary or pecuniary compensation is an appropriate and indeed an effective and sometimes perhaps that the only suitable remedy for redressal of the established infringement of the fundamental right to life of a citizen.

The action in public law is viable in the most elevated courts of the land. At the point when this cure becomes accessible, one may observe spate of suit looking for constitutional misdeed solutions for encroachment of fundamental right to entire some environment. In any case, that chance is as yet in the belly of things to come. There are numerous obstacles coming. One among them is inadequate fortifying of case for regarding right to healthy environment as a fundamental right. The development, in this way, isn't yet completed. The future may observe unfurling of mysteries of the new fundamental right. At the point when this occurs, we may hope to see interesting developments in the domain of constitutional statute. Additionally, the ramifications of the selection of international norms of third era's aggregate rights for sustainable development are yet to be obviously perceived and accepted.

These ramifications, even at international level, are steadily worked out. Besides, there has yet not been any supported attempt at contemplated elaboration of ramifications of such international norms and their interrelation with the statutory standards exists in India.

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<sup>122</sup> AIR 1997 SC 610

In a recent judgement pronounced on 19<sup>th</sup> April, 2021 in **M.K. Ranjitsinh v. Union of India WP (C) No. 838 of 2019**, the Supreme Court held -

*“18. In all cases where the overhead powerlines exist as on today in the priority and potential GIB area the respondents shall take steps forthwith to install divertors pending consideration of the conversion of the overhead cables into underground powerlines. In all such cases where it is found feasible to convert the overhead cables into underground powerlines the same shall be undertaken and completed within a period of one year and till such time the divertors shall be hung from the existing powerlines.”*

Subsequently, after investigating the job of judiciary in setting up and perceiving different constitutional and authoritative provisions related to CSR, it could be reasoned that judiciary in India has been instrumental in building up a regulatory framework for CSR even without a dedicated or explicit legislation. This legal methodology has additionally contributed in convincing the govt. to begin the interaction of effective regulation of CSR.



## CHAPTER-5

# ISSUES & CHALLENGES IN THE FIELD OF CSR

### **5.1 Introduction:**

The field of Corporate Social Responsibility isn't yet settled is as yet advancing and creating. There exists parcel of contestation about the meaning of Corporate Social Responsibility and the scope of CSR should be unmistakably characterized. There are contentions for and furthermore against the idea/principles of Corporate Social Responsibility. The principles of Corporate Social Responsibility are critical for acceptable Corporate Governance, Sustainable Development and Inclusive growth. The subject is vital for socio-economic development of any nation. There are numerous issues and difficulties in the field of CSR and they are talked about as follows:

### **5.2 Issues & Challenges in the field of CSR**

#### **5.2.1 CSR is mere Rhetoric Not Action<sup>123</sup>**

The most elementary attack comes from those who simply do not trust corporations. They view all of the talk of social responsibility as a giant public relations campaign. The head can pronounce; the hands do not necessarily "respond. Thus, Chief refers to the "Gospel of Social Responsibility, "designed to justify- the power of managers over an ownerless system": "Managers must say that they are responsible, because they are specialist". Chamberlain writes, "The most common corporate response to criticism of a deficient sense of social responsibility has been an augmented program of public

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<sup>123</sup> Henry Mintzberg; *The case for Corporate Social responsibility in Corporate Social Responsibility* edited by Andrew Crane & Dirk Matten; SAGE Library in Business Management, 1983, P-12.

relations”

### **5.2.2 Lack of Personal Capabilities<sup>124</sup>**

Another, more far-reaching attack is that by the very nature of their training and experience, businessmen are ill-equipped to deal with social issues. Theodore Levitt argues that the typical senior executive of the large corporation is there because he is an expert on his own business, not on social issues.

By having had to devote so much time to learning his business, “he has automatically insulated himself from the world around him”, denying himself the knowledge and skills needed to deal with social issues. Others make a related case by claiming that the orientation of business organizations toward efficiency and control renders their leaders inept at handling complex social problems, which require flexibility and political fineness.

### **5.2.3 Corporation’s Structure Precludes Social Responsibility<sup>125</sup>**

Perhaps most devastating of all, the third attack claims that social responsibility is not possible in the large corporation, given the nature of its environment, structure, and control systems. Appropriate or not, social responsibility, it is claimed, simply cannot and does not work. Proponents of social responsibility are dismissed as naïve. Corporations, by the nature of their activities, create the social problems. How can they solve them? Others claim that socially responsible behavior is precluded in the economic system we have. Tumin, for example, bases his argument on “the principle

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<sup>124</sup> Henry Mintzberg; *The case for Corporate Social responsibility in Corporate Social Responsibility* edited by Andrew Crane & Dirk Matten; SAGE Library in Business Management, 1983, P-13

<sup>125</sup> Ibid 61

of least morality-,” that competition or creed causes some participant to depart from the rules and the rules of social responsibility as noted, are vague and not officially enforced in any event, forcing others to follow suit.

\_ Business, as a result, “tends to bring out, standardize, and reward the most un-socialised impulses of mass”. There is a good deal of evidence to back up the cynicism of these commentators. But before we turn to it, let us consider a final and more far-reaching attack on social responsibility.

#### **5.2.4 Company is commercial venture not social welfare organization.<sup>126</sup>**

The fourth attack is that the corporation has no right to pursue social goals. The argument is a simple and appealing one: Corporation managers lack broad public legitimacy; at best they are appointed by private shareholders; more likely they are self-selected. Therefore, they have no right to pursue broad social goals, to impose their interpretation of the public good on society.

Some critics ask what values will be embedded in the “socially responsible choices of businessmen. How much of business ideology — bigger is better, competition is good, material wealth leads to a better society, etc. — will come along with these choices? In a paper titled “The Dangers of Social Responsibility” Levitt comments that “its guilt-dris en urge” has caused the modern corporation to reshape “not simply the economic but also the institutional, social, cultural, and political topography of society”.

He sees the continuation of this trend as posing a serious threat to democracy: “business statesmanship may create the corporate equivalent of the unitary state”. And then there is the argument that the function of business is economic, not social. Social

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<sup>126</sup> M. Friedman; “ A friedman Doctrine: The Social Responsibility of Business Is to increase Its Profit,” *The New York Times Magazine*, Sept. 13, 1970, P-32, 33,122,124,126

responsibility (at least in its pure form) means giving away the shareholders' money: It weakens the firm's competitive position, and it dilutes the efforts of its managers, who are supposed to focus on economic productivity. The best known voice here is that of Milton Friedman:

What does it mean to say that the corporate executive has a "social responsibility" in his capacity as businessman? If this statement is not pure rhetoric, it must mean that he is to act in some way that is not in the interest of his employers.

To Friedman: "There is one and only one social responsibility of business — to use its resources and engage in activities designed to increase its profits so long as it stays within the rules of the game, which is to say, engages in open and free competition without deception or fraud".<sup>127</sup>

### **5.2.5 Current & Emerging Scenario of Corporate Social Responsibility**

Customarily, CSR is viewed as a voluntary action that businesses can undertake in compliance with least legal necessities to address both their own competitive interests and the interests of more extensive society. However, expanding literacy levels, ascent of the working class and an overall expansion in mindfulness among citizens about social and environmental issues have constrained businesses to receive a more extensive perspective on their obligations that covers investors, yet numerous different constituents also, including employees, suppliers, customers, the local community, government, non-governmental organizations (NGOs), environmental groups and specific vested parties.

The meaning of CSR—in the event that it at any point existed past the idea of charity—has changed and presently discusses how a business brings in its cash. Hence, it has moved from giving or sharing what is procured to how it is acquired. 'On the off chance that you are not sensitive and responsible to the society you operate in, you'd be before

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<sup>127</sup> M. Friedman; "A Friedman Doctrine: The Social Responsibility of Business Is to Increase Its Profit," *The New York Times Magazine*, Sept. 13, 1970, P-32, 33, 122, 124, 126.

long out of business,' is the message from Indra K. Nooyi, CEO and President of PepsiCo.

Kumarmangalam Birla, Chairman, Aditya Birla Group, says:

The days are well beyond when the business of business was simply business. The possibility that a corporation is simply a legal abstraction, without essence, no longer has legitimacy. The corporation might be an economic wunderkind, however it misses the mark and often self-destructs in the event that it doesn't address the issues of society, or on the other hand on the off chance that it doesn't act with a conscience. Today, no stakeholder—be it's anything but, a worker, the community or the government—would acknowledge a business whose reasoning is limited to profits at any expense, or just to compulsions of its immediate business.

After having seen the working of Corporate Social Responsibility Regime in India and acquired experience accordingly post execution of the Companies Act, 2013, the Govt. of India vide the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021 ("New Rules") shifted CSR spending mandatory from the voluntary.

### **Significant changes brought in the existing CSR Regime by the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021**

#### **1. Changes in the definition clause**

The New Rules have rolled out generous improvements to the definition provision of CSR Policy Rules, 2014 by characterizing new terms like Administrative Overheads, International Organization, and Public Authority. It has likewise rolled out certain improvements in the current meanings of Corporate Social Responsibility and CSR Policy.

#### a. Definition of Administrative Overheads

The latest amendment presents 'Administrative Overheads' as another term characterized under Rule 2(b) to allude to costs caused by the company for 'general administration and organization' corresponding to its CSR capacities. The definition unequivocally bars expenses straightforwardly brought about for planning, execution, monitoring, and assessment of a specific CSR project from the ambit of administrative overheads.

#### b. Definition of Corporate Social Responsibility

Because of New Rules, Corporate Social Responsibility is currently characterized under Rule 2(d) to allude to activities attempted by a Company in compatibility of its CSR obligation under the Companies Act. The amended principle further recognizes the accompanying activities which don't qualify towards CSR necessity of companies:

1. Activities undertaken in pursuance of normal course of business of the company. However, in view of the COVID pandemic, an exception to this was created by way of MCA notification dated 24<sup>th</sup> August 2020 allowing companies engaged in research and development activity of new vaccine, drugs and medical devices in their normal course of business to undertake such research and development in relation to COVID-19 as their CSR obligation for three financial years (from 2020 to 2023). This exception has been duly incorporated in New Rules subject to the following conditions-
  - Such research and development activities will be completed in a joint effort with any of the institutes or organizations referenced in item (ix) of Schedule VII to the Act including Public subsidized colleges, IITs, Indian Council for Medical Research (ICMR) and so on.
  - Details of such activity shall be disclosed separately in the Annual report on CSR included in the Board's Report.

2.any activity attempted by the company outside India will not be considered as CSR aside from training of Indian sports personnel addressing any State or Union territory at national level or international level.

3.contribution of any sum straightforwardly or by implication to any political faction under segment 182 of the Act by a company will not qualify as CSR;

4.activities profiting employees of the company as characterized in segment 2(k) of the Code on Wages, 2019.

5.activities supported by the companies on sponsorship reason for determining advertising benefits for its items or administrations;

6.activities did for satisfaction of some other statutory obligations under any law in force in India;

#### c. Definition of CSR Policy

Rule 2(e) presently characterizes CSR Policy to allude to a statement containing the methodology and course given by the leading group of a company, considering the recommendations of its CSR Committee, and incorporates core values for choice, implementation and monitoring of activities just as detailing of the annual action plan.

The New Rules are more comprehensive as they examine the technique for development of CSR Policy in greater detail. Prior, the relevant arrangement was found in Rule 6 of CSR Policy Rules, 2014 which gave that modalities of execution and implementation timetable of CSR projects structure a piece of CSR Policy, yet neither portrayed the procedure to foster the equivalent nor distinguished the people responsible to do as such. The New Rules have taken out this equivocalness by making the Board of chiefs responsible to choose CSR activities, administer their implementation, and choose the generally CSR Policy. Because of the new arrangement, the past Rule 6 managing CSR Policy has been repealed.

#### d. Definition of International Organisation

The 2021 amendment presents another term 'International Organization' characterized under Rule 2 (g) which implies an organization advised by the Central Government under section 3 of the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), to which the provisions of the Schedule to the said Act apply.

#### e. Definition of Ongoing Project

The term 'Ongoing Project', alluded to in a roundabout way under CSR Policy Rules 2014, has at last been characterized to mean a multi-year project attempted by a company in satisfaction of its CSR obligation, the maximum permitted length of which is four years (three years barring the time of commencement as referenced in the New Rules). The definition additionally incorporates projects that were at first not endorsed as multi-year yet are later extended past one year by the Board on reasonable justification .

Ongoing Projects involve certain additional obligations regarding companies, for example, the requirement to screen their implementation according to approved timelines under Rule 4(6) of New Rules. An attempt to characterize Ongoing Projects is definitely a welcome step however ambiguity stays concerning Projects the implementation of which goes past the stipulated time-frame of 4 years. According to the current rules, companies will be unable to attempt such projects as their CSR activity since they will not qualify as ongoing projects and any unspent sum in such manner will consequently be moved to the Fund indicated in Schedule VII as needed under Section 135(5) of the Companies Act.

#### f. Definition of Public Authority

The term 'Public Authority' has been recently characterized under Rule 2(j) to mean Public Authority as characterized in Section 2(h) of the Right to Information Act (RTI Act), 2005. Under the RTI Act, Public Authority has been characterized as any authority, body or foundation of self-government set up by (a) the Constitution; (b) some other law made by Parliament; (c) some other law made by State Legislature; (d) notification gave or request made by the appropriate Government, and incorporates



any—(I) body claimed, controlled or substantially financed; and (ii) non-Government association substantially financed, straightforwardly or by implication by funds given by the appropriate Government.

## **2. Changes in rule 4 - CSR Implementation**

The title of Rule 4 has been changed from CSR Activities under CSR Policy Rules 2014 to CSR Implementation because of the 2021 Amendment. Under the New Rules, a company is permitted to attempt its CSR implementation either without anyone else or through another company set up under Section 8 of the Companies Act, a registered public trust or a registered society set up (I) either by the company itself, or (ii) by the Central Government or State Government. Notwithstanding the over, a company may likewise take help of (I) any substance set up under an Act of Parliament or a State legislature, or (ii) a Section 8 company, registered public trust or registered society, not alluded to above however having a set up history of least three years, for its CSR implementation.

It is to be noted that the Draft Rules had omitted references to registered public trusts and societies for CSR implementation which were available in the first CSR Policy Rule 2014. Such an omission was objected by the stakeholders and resultantly public trusts and societies have now been appropriately referenced as permitted executing agencies under the New Rules. Such a move is appreciated as it gives companies admittance to a more extensive scope of entities to satisfy their CSR obligations.

The New Rules further require all such executing entities intending to attempt CSR activities to register themselves with the Central Government by documenting structure CSR-1 electronically for all CSR projects effective from first April, 2021. An interesting CSR Registration Number will be generated for all companies submitting Form CSR-1. Along these lines, a rundown of all such taking an interest entities is kept up with by the MCA which expands the odds of convenient satisfaction of proposed activities. This previous performance record of carrying out agencies can be alluded to

by the companies and assist them with choosing their engagement for future CSR activities.

Under Rule 4(5) of the New Rules, the Board is needed to fulfill itself that the funds are used for purposes approved by it. If there should be an occurrence of ongoing project, the Board is needed to monitor the implementation of the project regarding approved timelines and year-wise allocation. The Board has additionally been enabled to make adjustments to guarantee smooth implementation.

### **3. Changes in Rule 5 - CSR Committees**

As per the New Rules, the CSR Committee has been given the work of defining, formulating and recommending to the Board an annual action plan in accordance with its CSR policy.

The previously mentioned plan will incorporate the accompanying :

1. list of CSR projects to be undertaken under Schedule VII of the Companies Act;
2. manner of execution of such projects;
3. modalities of utilisation of funds and implementation schedules;
4. monitoring and reporting mechanism for the projects; and
5. details of need and impact assessment, if any, for the projects undertaken.

The Board has also been given the power to alter the annual action plan in accordance with the CSR Committee's recommendation based on reasonable justification.

When compared to the original provision on CSR Committees under CSR Policy Rules 2014, the New Rules show up quite definite. The previous Rule 5 of CSR Policy Rules 2014 dubiously referenced establishing transparent monitoring mechanism for CSR implementation without determining its requirements. The New Rules make the process simpler by setting down what all should be essentially included by the company in its action plan.

#### **4. Changes in Rule 7 - CSR Expenditure**

Under the amended Rule 7, the Board has been given the responsibility to guarantee that administrative overheads comparable to CSR don't surpass five percent of complete CSR expenditure of the company. It is to be noted that the Draft Rules proposed an upper constraint of 10% for administrative overheads for companies undertaking impact assessment, however such a provision has not been straightforwardly told in the 2021 amendment. Maybe, under Rule 8(3)(c) of the New Rules, companies doing impact assessment have been permitted to claim five percent of complete CSR expenditure or fifty lakh rupees, whichever is less, as a CSR Expenditure.

Moreover, the New Rules explain that any excess from CSR activities will not be viewed as business profit and (I) should be either furrowed once again into a similar project or, (ii) moved to the Unspent CSR Account or, (iii) moved to a Fund indicated in Schedule VII inside a time of a half year from the expiry of the financial year.

The New Rules additionally permit a company to set off any overabundance sum spent by it corresponding to its CSR requirements up to immediate succeeding three financial years subject to the accompanying:-

1.The abundance sum for set off will exclude the excess emerging out of CSR activities in compatibility of sub-rule (2); and

2.The Board will pass a resolution with that impact. Incorporation of such a provision is appreciated as it gives the companies the alternative of utilizing the overabundant funds spent in earlier years to meet their future obligations.

Under the New Rules, a company is additionally permitted to spend the CSR sum for creation or acquisition of a capital asset held by :

(a) company set up under section 8 of the Act , a registered public trust or a registered society, having charitable objects and CSR Registration

Number;

(b) recipients of the said CSR project, as self – help groups, cooperatives entities; or

(c) a public authority.

As contended in the Report of the High Level Committee on Corporate Social Responsibility 2018, the rationale behind permitting companies to utilize the CSR sum for capital creation or acquisition is to energize sustainable and effective drives. The thought is as far as possible CSR add up to income costs and instead use it to create capital assets that would yield future economic advantages.

### **5. Changes in Rule 8- CSR Reporting**

The New Rules have added Rule 8(3) according to which companies having normal CSR obligation of ten crore rupees or more in three immediately going before financial years are needed to attempt impact assessment through a independent agency of their CSR projects. The impact assessment reports are needed to be put before the Board and attached to the annual report on CSR. A Company undertaking impact assessment is permitted to book the expenditure towards Corporate Social Responsibility for that financial year not surpassing five percent of the all out CSR expenditure or fifty lakh rupees, whichever is less.

In this manner, after the notification of New Rules, companies qualifying the referenced edge will be mandatorily needed to complete impact assessment of their CSR contributions. It is trusted that such a requirement will bring about more significant contributions by companies towards the society. There is in any case scope for lucidity as for the provision permitting companies to claim five percent towards CSR expenditure for impact assessment. Prima facie, it gives an arrangement that such companies have the alternative to claim 10% altogether as their CSR expenditure - five percent for administrative overheads and five percent for impact assessment. Albeit, the equivalent has not been unequivocally referenced in such clear terms. A statement from the government for this benefit can eliminate this ambiguity.

## **6. Changes in Rule 9 - Display of CSR Activities on website**

Rule 9 of the New Rules requires the Board to uncover the composition of the CSR Committee, CSR Policy and Projects on their website for public access. This provision is like the prior Rule 9 under CSR Policy Rules 2014. Causing the companies to reveal their CSR Activities and contributions to society is critical to help the public settle on educated choices. The investors these days are becoming socially mindful and need to draw in with companies that make positive strides for the development of the society.

## **7. Introduction of Rule 10 - Transfer of unspent CSR Amount**

The 2021 Amendment has presented a New Rule 10 expecting companies to move the unspent CSR amount to any fund previously referenced under Schedule VII till "the Fund" alluded to in Section 135(5) and 135(6) of Companies Act, 2013 is created or determined.

It is to be noted that the Draft Rules proposed the establishment of a National Unspent CSR Fund by the Central Government ("the Fund") for the reasons for Section 135(5) and 135(6) of the Companies Act. There has in any case been no notice of any such explicit central Fund to be created by the Central Government under the New Rules of 2021.

The Companies (CSR Policy) Amendment Rules 2021 have redesign India's CSR regime. Other than offering impact to changes presented in Section 135 of Companies Act, because of Companies Amendment Act of 2019 (in regards to transfer of unspent CSR amount) and Companies Amendment Act 2020 (in regards to setting off of overabundance CSR expenditure), the New Rules have presented new requirements like impact assessment of CSR contributions, engagement of International Organizations for CSR Projects in limited capacity and so forth. Indeed, even concerning the ideas prior present in the 2014 Rules, like importance of CSR, CSR Policy, CSR Implementation, the provisions of the New Rules have all the earmarks of being more elaborated and structured.

This is appreciated as it has essentially decreased the inordinate discretion in the possession of a company, upgraded clarity, and presented some consistency by setting out the procedures to be continued in specific regards. A few provisions are still somewhat obscure, similar to Rule 10 of the New Rules discussing the transfer of unspent CSR amount to funds previously referenced in Schedule VII while not resolving the topic of setting up another Fund for the reasons for Section 135(5) and 135(6) of the Companies Act as was talked about in the Draft Rules of 2020. Concerns have likewise been raised with respect to the five percent cap on administrative overheads under the New Rules and companies may think that its hard to maintain such provisions. Thinking about the general plan and the fundamental intention, the New Rules paint a promising picture for India's CSR regime.

#### **5.2.6 Capitalism is not proving Inclusive rather widening the gap.**

Capitalism driven by individuals' greed and aspiration act only in that manner which give advantage to the rich who control capital and whereas profits of owner and salary of higher executives in increasing manifold, on other side the salary of lower employees is not increasing in same manner. Employment opportunities are not increasing with growth. Director General of International Labour Organization Jhon Somaria has categorically mentioned that economic development has not resulted in employment generation. This is basically because of profit maximization and exploitation of employees. But poverty cannot be removed without employment generation.<sup>128</sup>

In capitalist type of economy and securities exchange culture the split between the rich and poor has expanded complex. Rich are becoming richer and poor are becoming poor. High growth has not resulted in inclusive development. Multinational corporate working in poor nations is misusing their natural resources with adequately

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<sup>128</sup> The Hindu Dec. 8, 2011

compensating people of those nations. These corporations enabled with cash power, plot with people in ability to procure place where there is locals, remove them without really focusing on other rehabilitation and employment. These dislodged poor land owner, tribal and so on, resort to brutality as final hotel to procure their occupation. The present circumstance brings about vicious developments like naxalism as predominant in India. Such irresponsible breakdown of governance bring about extending hole among rich and poor, which thus result is unsettling influence of harmony, which again is fundamental for economic development. These factors may prompt social, political and economic distress which isn't in the interest of society on the loose.

### **5.2.7 CSR practices are *sine-qua-non* for ensuring responsible behaviour by Corporate.**

#### **a. Increase in Corporate Scams**

The new investigation of corporate behavior mirrors a poor picture about their responsibility. The rising cases of corporate corruption in each related field present a desolate picture. In this manner, reception of CSR practices is must for checking irresponsible behavior of Corporate. The different negative patterns in regard of corporate behavior are being investigated as under:

In such scandals, truth seemed too easily sacrificed to expediency and to the need, as the companies saw it to reassure the markets that profit were on target. John May, a stake analyst for a U.S. investor service, pointed out that the proforma earning announcement by the top 100 NASDAQ companies in the first nine months of 2001 overstated actual audited profit by \$100 billion.<sup>129</sup> Indeed, even the audited accounts, it currently appears, often caused things to show up better than they truly were (as was done for Satyam's case). The greatness of cash engaged with such tricks currently has become un-precedented and they have gone as high as up to and past two lakhs crores, for example, Coal Block allocation trick, 2-G range allocation trick, KG Basin Scam, Panama Paper Scam, Shadow Company Investment trick of Mauritius and so on and this rundown are perpetual.

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<sup>129</sup> Charles Handy, 2002: *What's a Business For?* Harward Business Review, P.49-56.

## **(b) Irresponsible behavior of executive**

The detection of the above mentioned corporate scams not only highlights the ever-increasing greed of the corporate houses but is also a reflection of the dubious role of corporate executives in all such scams. Few of the glaring examples are corrupt practices by Auditors of PWC in Satyam Case. Neera Radia episode, Lalit Modi IPL Scandal, Insider Trading by Rajat Gupta in US, Sahara Scam etc have shattered the people's trust in business, and also in those executives those who lead these businesses. Due to these huge scams, most of the people now believe that executive no longer run their companies for the benefit of consumers, or even of their shareholders and employees but for their personal ambitions and financial gain. A Gallup pole conducted in year 2002 found that 9% of American felt that people running corporations could not be trusted to look after the interests of their employees and only 18% thought that corporation looked after their shareholder a great deal. 43% believed that senior executives were only in it for themselves. In Britain 95% believed that senior executives looked after their own welfare, not of their stake holders.<sup>130</sup> Individual avarice, deficient scrutiny of corporate affairs, inhumanity or an in contrast to public opinion prompted numerous scandals in corporate world.

### **5.2.8 Adverse impact of industrialization/corporatization**

Rapid industrialization has given rise to environment concern. Ever increasing environment pollution has given rise to problem like climate change and global warming which are threatening the existence of the planet earth itself. Therefore, sometimes questions are asked, such as development for whom.<sup>131</sup>

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<sup>130</sup> Charles Handy, 2002: *What's a Business For?* Harvard Business Review, P.49-56

<sup>131</sup> Sanjay K. Agarwal, 2008: *Corporate Social Responsibility In India* P.82



The rising pollution, emission of green house gases is bringing about depletion of ozone layer and this is bringing about global warming is an incredible danger to the existence of the planet earth. A ton of research work is going on in this field to find out the evil impact of pollution.

### **5.3 Conclusion.**

Despite rapid economic development, solid business fundamentals and the bullish trend in the stock market, the human development pointers, i.e., poverty, illiteracy and infant mortality in the country, keep on cutting a sorry picture. It is the obligation of the individuals who claim all the credit for development to devise and design mechanisms to such an extent that the people don't feel cheated and joyfully come forward to offer penances. This can happen just when businesses consider CSR expenses as among their mainstream costs. This calls for extensive discourse and certitude , prompting adjusted mentalities among the corporate houses. It isn't so much that the Corporate in India are not genuine about CSR. The reporting trend, the subtleties of claims on company's sites and news paper about CSR shows that each company wishes to show worry for society and claim to work on something for society which is only CSR. The issue here is to check these claims and to review the expenditure claimed. It is expected that the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021 will bring wanted outcomes and contribute in patching up the CSR regime in India.

## CHAPTER-6

### CONCLUSION AND SUGGESTIONS

#### 6.1 Conclusion

The main aim of this Dissertation has been to analyze the idea and implementation of Corporate Social Responsibility (CSR) everywhere on the world and to submit recommendations in regard of its effective usage and application for the welfare of humanity.

While summing up the Dissertation, the Scholar presents that in Chapter-I, Scholar has concluded that the importance of Corporate Social Responsibility (CSR) is an idea whereby organizations think about the interests of society by assuming liability for the impact of their activities on customers, suppliers, employees, shareholders, communities and different stakeholders, just as the environment. This obligation apparently extends past the statutory obligation to comply with legislation and sees organizations voluntarily finding a way further ways to work on the personal satisfaction for employees and their families just as for the local community and society on the loose.

After examining its historical foundation in Chapter-II, we can reason that CSR is certifiably not another concept, in each society and religion it has its foundations in a few or other structure. It is an antiquated activity and was practiced as charity by a large portion of the businessmen everywhere on the world and the concept had it establishes in religion, schooling and society. CSR in current term is the finding of Britishers and the concept has been all around adopted by USA and numerous different nations including India. Indeed, even much before the issue turned into a global concern,

India knew about corporate social responsibility (CSR); because of the endeavors of organizations (Around 66% of Tata Sons, the holding group of the Tata Group, is today possessed by a trust). Corporate social responsibility in present state is fundamentally an advancing term that doesn't have a standard definition or a completely perceived arrangement of specific criteria .

After analyzing Chapter-III, we can reason that selection of CSR practices are for the most part seen as the business contribution to sustainable development which has been characterized as "development that addresses the issues of the present without compromising the capacity of people in the future to address their own issues", and is by and large comprehended as concentrating on the best way to accomplish the integration of economic, environmental, and social objectives.

After analyzing the Chapter-IV, we can summarize that Judiciary in India has been active in matters related to right to life and freedom of person. Environment protection has been related right to life and corporate entities has been forced either straightforwardly or through govt. to ensure responsible behavior. Courts in the country have been supportive in matters related to tax exemptions to corporate on the expenses related to social or employee's welfare. Thus, we can say that the Judicial Approach towards CSR has been exceptionally positive.

After analyzing the Chapter-V, the Scholar summarized that the trend of embracing CSR practices is on rise world over and then some and more companies are claiming to receive CSR practices yet there are issues of checking these claims, co-ordinating similar activities of various companies and pooling various resources of various corporate entities. For addressing these issues, there is need to regulate the various aspects of CSR. As a result of this load of issues, the trend of regulating various aspects of CSR is acquiring force. In India also, the inclination for regulating the CSR is acquiring force. So the Scholar finds that the field which is voluntary in nature as of now is going towards effective regulation

primarily because of its increasing significance because of liberalization and globalization.

Taking into account above, it emerges that however the general framework of CSR Mechanism is coming to fruition in India and the Companies Act, 2013 has also given provisions in respect of CSR, notwithstanding, considering the steadily augmenting ambit of activities under CSR and its direct socio-economic impact, there is need of more concerted, coordinated and dedicated efforts towards streamlining and institutionalizing an effective CSR Mechanism for ensuring significant conveyance. For accomplishing this load of objectives, the present legislative provisions, however incorporated with positive intent, are confronting challenges as these don't accommodate addressing every one of the issues which have been followed during this research. Hence, the Scholar is of considered view that there is a need of dedicated and comprehensive CSR Legislation to make it really relevant and effective. Keeping this load of aspects in consideration, the Scholar has dug upon a couple of suggestions.

## **6.2 Suggestions:**

On the basis of findings and conclusions in going before chapters, the Scholar has attempted to determine some suggestions for working on the Legislative and Institutional Framework for effective and significant implementation of CSR Mechanism. The Scholar has partitioned his suggestions in to three general categories and the same are itemized and enumerated as under:

### **6.2.1 Suggestions for improving Legislative Framework governing CSR**

**(a) Enactment of Suitable Dedicated Legislation on CSR:** As we have concluded that appropriation of CSR measures is key for inclusive growth

and sustainable development, thus there is need to enact a suitable dedicated legislation in this respect. The proposed legislation may incorporate the accompanying provisions:

- i. Mandatory Imposition of CSR Cess.
- ii. **Establishment of independent Statutory Agency/Authority responsible for mainstreaming, institutionalisation of CSR Mechanism:** It is discovered that there are approximately 250 corporate houses in the country that are straightforwardly engaged with various CSR initiatives. These companies keep on choosing their own projects relying upon a number of parameters. These efforts are driven absolutely by the company's functional perspectives and ease of implementation of their CSR projects. As there are a number of companies engaged with CSR activities, it is recommended that an accreditation mechanism should be set up for companies through an independent agency for mainstreaming and institutionalizing CSR in the main business framework of the companies. It is discovered that companies engaged with CSR implement projects in the areas of wellbeing, education, environment, livelihood, disaster management and women empowerment, to mention a couple. In many such contexts, it is observed that companies end up duplicating or copying each others' endeavour on similar type of projects in the same geographical locations. This creates obstacles and give rise a competitive spirit amongst companies. Considering the variety of issues and different contexts that are there currently in the CSR domain, it is recommended that companies involved in CSR activities as soon as possible consider pooling their efforts into creating a national alliance for corporate social responsibility. This alliance, representing diverse and variety of industry interests, should take up wide -ranging development agenda and provide high value services to the poor and the oppressed. Over the years, the alliance would grow into a special purpose vehicle (SPV) and work in collaboration with stakeholders to raise the level and quality of CSR

interventions. There are already such models present in different industry segments both within the country and overseas; all that is required is to identify and leverage these models to set up a national platform for effective thought of arrangement between companies and other stakeholders, for the purpose of redefining CSR practices in India.

- iii. **Suitable provision for mandating Statutory Audit of CSR expenses for ensuring transparency:** In India, there are many corporate entities which are involved in many CSR activities and they claim Tax exemption on such expenses. Moreover, many NGOs and corporate houses invite and collect corporate donations for some dedicated purposes like NDTV-TOYOTA inviting corporate donations for Greenatham for environment protection, Reliance foundation for various projects. Now there is need to ensure that money so collected is actually spent for the cause claimed. The Tax exemption claimed is also needs to be verified. For achieving these objectives, there is need of an audit agency to carry out independent and periodic audit of such claims to avoid irregularities in the name of CSR activities.
- iv. **Incorporation of Penal Provisions for Non-compliance:** A suitable provision providing for imposition of penalty on the corporate houses and their functionaries thereof. In case of fraud with regard to CSR Expense, the proposed legislation may also contain provision for appropriate criminal liability.
- v. **The Company Act, 2013 may also be suitably amended incorporating the CSR Compliance in the Directors' liabilities.**

vi. **A suitable provision providing that 70 % of the CSR fund be spent in rural areas and 30 % is spent in urban areas** so as to uplift the rural areas which require it the most.

vii. Till enactment of suitable dedicated legislation on CSR, the applicability of Section 135 of the Companies Act, 2013 may be widened and **all profit making agencies/ organisations irrespective of limit of turnover/ capital/capacity of earning profit should be covered for making 2% contribution towards CSR activities.** It will profit in two ways (i) making responsible each and every business association and their involvement in the prosperity of society (ii) by segregation of business association in two categories may result in embracing various wrong methods to keep their profits/turnovers underneath the specified limits. In case all business association are covered under the Act this problem won't arise.

**(b ) Suggestions for corporate and various Stakeholders**

In India, the Corporate Social Responsibility is still being taken and exercised as charity based activity because of various contributing factors and circumstances.

Stakeholders should foster positive approach and consider the accompanying issues:

**i. Requirement of changing attitude towards CSR practices:**

Non-governmental organizations and Government agencies usually possess a tight outlook towards the CSR initiatives of companies, often characterizing CSR initiatives more as donor-driven as local in approach. As a result, they think that its difficult to choose whether they should participate in such activities at all in medium and long run.

**ii. Govt. should provide comprehensive CSR guidelines:**

There are no obvious statutory guidelines or policy directives to provide a conclusive guidance to CSR initiatives of companies. It is tracked down that the scale of CSR initiatives of companies should rely on their business size and profile. At the end of the day, the greater the company, the bigger its CSR program.

**iii. CSR activities should be visible:**

The job of media in highlighting great cases of successful CSR initiatives is welcomed as it spreads great stories and sensitizes the local populace about various ongoing CSR initiatives of companies. This obvious impact of acquiring visibility and branding exercise often leads many non-governmental organizations to include themselves in event-based programs; in the process, they often miss out on meaningful grassroots interventions.

**iv. There should be transparency in CSR practices and expenditure on it:**

Lack of transparency is one of the key issues delivered by the survey. There is an expression by the companies that there exists lack of transparency on the piece of the local implementing agencies as they don't make adequate efforts to disclose information on their programs, audit issues, impact assessment and utilization of funds. This reported lack of transparency adversely impacts the process of trust working among companies and local communities, which is key to the success of any CSR drive at the local level.

**v. NGOs to play very instrumental role in CSR:**

It is also reported that there is unavailability of efficient non-governmental organizations in remote and village areas that can assess and recognize genuine needs of the community and work along with companies to ensure successful implementation of CSR activities. This also builds the case for investing in local communities via building their capacities to embrace development projects at local levels.



**vi. Requirement of participation of society:**

There is a lack of interest of the local community in taking part and adding to CSR activities of companies. This is to a great extent owing to the fact that there exists practically zero knowledge about CSR inside the local communities as no serious efforts have been made to spread awareness about CSR and instill trust in the local communities about such initiatives. The situation is additionally aggravated by a lack of communication between the company and the community at the grassroots. So there is need to have the community engagement in implementation of CSR mechanism.

**vii. Creating & strengthening local capacities:**

There is a requirement for capacity building of the local non-governmental organizations as there is serious lack or shortage of prepared and efficient organizations that can effectively contribute to the ongoing CSR activities initiated by companies. This seriously consists of upgrading of CSR initiatives and subsequently reduces the scope of such activities.

**viii. Achieving consensus on adopting CSR:**

There is a lack of consensus amongst local agencies with regard to CSR projects. This lack of consensus most of the times results in duplication of activities by corporate houses in areas of their intervention. This leads to a competitive spirit among local implementing agencies instead of building communitarian approaches on issues. This consequently results in limiting company's abilities to attempt impact assessment of their initiatives from time to time. Along these lines, there is need to have an expansive consensus on CSR concepts.

The survey focused on a number of issues including current CSR practices, co-ordination among various stakeholders including private sector, Government and local communities, flagship social projects run by the private sector and the function of Government to further boost and

strengthen CSR within local communities and business houses. These issues are very crucial in the sense that they present opportunities to take CSR to its logical conclusion and also enable involved stakeholders search and find workable solutions to huge and complex challenges that face CSR.

**ix. Addressing the Issue of Time Bound measures:**

In the direction to crystal gaze the future of CSR in India and take time bound steps to mainstream it, the recommendations of the survey are strong indications of the current state of affairs in the CSR domain; they correspondingly call for necessary and effective steps to be taken to put CSR on better ground. Keeping in mind the broad results of the survey, the following recommendations are summed up for serious consideration by all concerned stakeholders for their effective Operationalization to strengthen CSR in the company's core business and to construct collaborative relationships and effective networks with involvement of all

**x. Need to create awareness among general public:**

It is being observed that there is a need to create awareness about CSR amongst the general public to make CSR initiatives more effective and efficient. This awareness generation can be initiated by various stakeholders including the media to showcase the good work done by corporate houses in the field of CSR. This will bring about required changes in the approach and view point of the public towards CSR initiatives undertaken by various corporate houses. This effective step will also motivate other corporate houses to join the league and play an substantial role in addressing issues such as access to quality education, better health care facilities and livelihood opportunities for a large number of people in India through their innovative and appropriate CSR practices. Thus, the social justice objective of the day would be fulfilled more meaningfully.

**xi. Participation of Small and Medium Enterprises in the CSR domain:**

It is noted that only medium and big corporate houses are engaged in CSR activities, and that also only in selected geographical areas. This matter creates a ground for more companies to be brought under the ambit of CSR domain. To resolve the issue of reaching out to wider geographical areas, the involvement of small and medium enterprises (SMEs) in the CSR domain will be crucial. It is also suggested that a campaign should be launched to both spread awareness on CSR issues amongst the general public as well as to involve SMEs to participate and engage more actively in CSR initiatives. This will help CSR reach out to other geographical areas and cover a huge number of communities and help companies play an effective role in tackling various social and development issues. This approach will support CSR get ingrained into the DNA of core business activities of companies.

**xii. Pooling the Resources of Corporate, Government and Non  
Govt. Organisation:**

It is recommended that corporate houses and non-governmental organizations should actively think about pooling their resources and constructing synergies to implement finest CSR practices to upgrade projects and innovate new ones in order to reach out to more beneficiaries. This will enlarge the impact of their initiatives on the lives of the needy and underprivileged people. After all, both corporate houses and non-governmental organisations stand to help the people through their various respective projects and initiatives. It is recommended that the projectisation, scaling up and sustainability of CSR projects need to be protected no matter what for their efficiency and efficacy.

**xiii. Govt. to set broader social welfare goals for the Country:** It is the duty

of the government to determine the broader social goals which are to be achieved as soon as possible to have an egalitarian social order. Government should declare focus areas on which the CSR funds & CSR activities and practices should be worked on. By this CSR activities can make collaboration and effort in attaining the broad objective of social welfare of the downtrodden and poor section of the society.

**xiv. Direction of CSR initiatives towards rural areas:**

It is observed that various CSR initiatives and programs are taken up in urban areas and localities. Consequently, the impact of such projects and programs does not reach the needy and the underprivileged people in the rural areas. This does not imply that there are no poor and needy in urban Areas; they too equally suffer because of lack of basic amenities and services. While concentrating on urban areas, it is suggested that companies should also actively consider their involvement in rural areas for better quality of education, health facilities, protection of rights girl child and protection against child labour because it will directly help rural population. Also, more than 70 per cent people still live in rural India.

### **6.2.2 Suggestions for Government for Effective Implementation of CSR Mechanism**

**i. Encouraging & Promoting Corporate Houses and NGOs:** The Government should think about rewarding and recognizing corporate houses and their partner non-governmental organizations carrying out projects that effectively benefit the poor and the underprivileged. Incentives to be given to the private sector to support their great work and must contain a formal partnership with local administration, easy grant of Sections 12A and 80G of the Income tax Act 1961 and under the Foreign Contribution Regulation Act (FCRA) license and other fiscal incentives including matching project grants and tax breaks for social and development projects. This will be crucial in encouraging more and more voluntary participation of a larger number of corporate houses in CSR

activities.

- ii. **Implementation of item adoption policy:** The rapid industrialization badly impact the environment and there area large number of industries whose existence depends upon exploitation of natural resources. For instance , the beverage industry depends upon ground water of the area. In such cases, the industry concerned should be forced to adopt an activity related to water conservation and ground water recharge by way of rain water harvesting etc. Similarly, Industries releasing toxic waste should be compelled to make sure creation & maintenance of better and improved health facilities in the area and should also provide insurance cover to local population of the area.
- iii. **Establishing of rating indices & reporting indexes:** Companies must report their CSR initiatives and activities in their quarterly/Annual reports and this reporting should be made mandatory. The claim made must be countersigned by the internal auditors and M.D. of the entity.
- iv. **Introduction of CSR as a Subject at business school:** It is observed that CSR as a subject or discipline should be made compulsory at business schools and in colleges and universities to make aware students about social and development issues and the role of CSR in supporting corporate houses to maintain a judicious balance between their business and societal concerns.

In addition to above, there are some specific suggestions which are as under:

1. ***50 % of the CSR contribution should be directly linked to Government of India Missions focusing on Basic Needs of Food, Shelter ,better quality of Education, improved health facilities, Rural Development etc.***  
Companies/ business organisations *spending more* than the minimum limit of 2% *should be rewarded* by the Government by providing some special relaxations.
2. Under the CSR activity related to ***“Environment” main emphasis should be given on “Cleanliness” let it be soil, water, air, area, river etc.***
3. ***Waste and effluents management related to the company shall not be considered as CSR***

*activity* reason being that management of waste and effluents is their duty under other laws.

4. ***CSR activities shall be undertaken by the company itself and not by any NGO or third party.*** Involvement NGOs and any other party may lead to embezzlement of the money.
5. ***If any money is left unspent at the end of the year it should go to Prime Minister Relief Fund.***
6. ***In the current pandemic situation arisen due to COVID-19, the Corporates should come forward to carry out the drive of vaccination and take effective measures for rehabilitation of children and old aged senior citizens who have become orphan because of the untimely death of bread earners of their family.***
7. ***Local Area Preference of the companies should be removed*** because most of the times it results in expenditure of money in a small area only. Instead of this, it should be make sure that if a particular activity is undertaken by one company in an area that activity should not be undertaken to another company.

Lastly while summarizing this Dissertation, it may be concluded that today, CSR in India has gone beyond charity and donations. Now, it has become mandatory and is approached in a more organized manner. It has become an integral and important part of the corporate functioning. Companies have their CSR teams that devise specific policies, strategies and objectives for their CSR programs and set aside budgets to support them.

These programs, in most of the cases, are grounded on a clearly defined social philosophy or are closely related with the companies' business expertise. Employees become the pillars of these CSR activities and initiatives and volunteer to devote their time, energy, apply their expertise and skills, to implement and carry out these CSR practices and activities. CSR Programs could range from overall development of a community to supporting specific causes like access to education, protection of environment, healthcare

etc.

CSR has come a long way in India. Ranging from responsive activities to sustainable initiatives, corporates have explicitly displayed their ability to make a significant contribution in the society and improve the overall quality and standard of life. In the present social situation in India, it is cumbersome for one single entity or company or corporation to bring about change, as the scale is enormous. Corporates have the expertise, strategic thinking, manpower and financial resources to further and strengthen extensive social change. Effective and efficient partnerships among corporate, NGOs and the Government will place India's social development and upliftment of underprivileged section of the society on a faster track and this will also prove beneficial for corporate sector itself. However, the above suggestions submitted by the scholar would further strengthen the CSR mechanism in India and such strengthening would lead towards true realization of CSR objectives and such realization would further result in inclusive and sustainable development of the nation.

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