

CORPORATE SOCIAL RESPONSIBILITY (CSR): IMPACT, ISSUES AND CHALLENGES IN INDIA

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ABSTRACT

We live a dynamic life in a world which is growing more and more complex. Every corporation in the present era has obligation towards the society. Corporate Social Responsibility is basically making positive impact on the society through economic environmental and social action. The establishment of a Corporate Social Responsibility strategy (sometimes referred to as a sustainability strategy) is a crucial component of a company's competitiveness and something that should be led by the firm itself.

Corporate Social Responsibility has been enacted in the Companies Act, 2013 which came into effect from 1 April 2014 which mandates companies with a net worth of INR500 crore or more, turnover of INR1000 crore or more, or a net profit of INR5 crore or more in a given financial year must spend of their net profits on Corporate Social Responsibility programmes (to be calculated as per Section 198 of the Act).

After the enforcement of Section 135 of Companies Act,2013 many Indian companies has taken initiatives towards many Corporate Social Responsibility projects such as TATA, Mahindra, ITC group etc. which has made substantial expenditure towards better education, eradication of poverty, towards women empowerment and youth empowerment.

With above all still Corporate Social Responsibility has failed to make a substantial effect on the society at large because in lack of proper mechanism, wider range and adequate knowledge of existing public problems and policy measures.

Corporate Social Responsibility creates a long term consumer and employee value by not only creating a ‘green strategy’ on natural environment but also considering every dimension of how a business operates in social, cultural and environment. Corporate Social Responsibility is all about corporate giving back to society.

INTRODUCTION

Corporate social responsibility (CSR) is a self-regulating business model that helps a company be socially accountable — to itself, its stakeholders, and the public. By practicing corporate social responsibility, also called corporate citizenship, companies can be conscious of the kind of impact they are having on all aspects of society including economic, social, and environmental.¹

The establishment of a Corporate Social Responsibility strategy (sometimes referred to as a sustainability strategy) is a crucial component of a company’s competitiveness and something that should be led by the firm itself. This means having policies and procedures in place which integrate social, environmental, ethical, human rights or consumer concerns into business operations and core strategy – all in close collaboration with stakeholders.²

As it relates to corporate social responsibility, sustainability means managing a business using sustainable methods: Methods that will not deplete, destroy, or completely use up natural resources, Methods that can persist over long periods of time, Methods that are able to last perpetually. It is becoming well documented that companies who have and CSR / Sustainability strategy and share it enjoy higher growth rates, more engaged employees and better stock values.³

¹*Corporate Social Responsibility (CSR)*, INVESTOPEDIA, Corporate Social Responsibility <https://www.investopedia.com/terms/c/corp-social-responsibility.asp#ixzz5WBCYQsXz>.

²Fraser Tennant, *The importance of corporate social responsibility*, FINANCIAR WORLDWIDE, (Nov,2015) , <https://www.financierworldwide.com/the-importance-of-corporate-social-responsibility/#.W-L2sJMzZEY>

³ *Corporate Social Responsibility*, CORPORATE SOCIAL RESPONSIBILITY, <http://www.corporatesocialresponsibility.com/>.

Corporate Social Responsibility is a concept with many definitions and practices. The way it is understood and implemented differs greatly for each company and country. Moreover, CSR is a very broad concept that addresses many and various topics such as human rights, corporate governance, health and safety, environmental effects, working condition and contribution to economic development. Whatever the definition is, the purpose of CSR is to drive change towards sustainability.⁴

WHAT IS CORPORATE SOCIAL RESPONSIBILITY?

Corporate Social Responsibility is the way companies manage their businesses to produce an overall positive impact on society through economic, environmental and social actions. According to MICHEL HOPKINS, “Corporate Social Responsibility is concerned with treating the stakeholders of a company or institution ethically or in a responsible manner ‘ethically or in a responsible manner’ refers to treating key stakeholders in a manner deemed acceptable according to international norms.”⁵

Corporate Social Responsibility is defined under CSR RULES 2014, Companies Act, 2013

Corporate Social Responsibility means and includes but it is not limited to:-

- i. Projects or programs relating to activities specified in Schedule VII to the Act ; or
 - ii. Projects or programs relating to activities undertaken by the board of directors of a company (Board) in pursuance of recommendations of the Corporate Social Responsibility committee of the Boars as per declared Corporate Social Responsibility Policy of the company subject to the condition that such policy will cover subjects enumerated in Schedule VII of the Act.
- **Applicability:** As per section 135 of the Companies Act 2013, the Corporate Social Responsibility is applicable to companies who have net worth of rupees five hundred

⁴ *Definition of corporate social responsibility(CSR)*, FINANCIAL TIMES,
[http://lexicon.ft.com/Term?term=corporate-social-responsibility--\(CSR\)](http://lexicon.ft.com/Term?term=corporate-social-responsibility--(CSR)).

⁵ COMPANY LAW 230, THE INSTITUTE OF COMPANY SECRETARIES OF INDIA.

crore or more; or turnover of rupees one thousand crore or more; or net profit of rupees five crore or more during any financial year.

According to the Corporate Social Responsibility Rules, above mentioned company means every company including its holding or subsidiary and a foreign company having its branch office or project offices in India.

- **CSR Committee and Policy:** Every qualifying company will be required to constitute a committee (CSR Committee) of the Board of Directors (Board) consisting of 3 or more directors. The CSR Committee shall formulate and recommend to the Board, a policy which shall indicate the activities to be undertaken (CSR Policy); recommend the amount of expenditure to be incurred on the activities referred and monitor the CSR Policy of the company. The Board shall take into account the recommendations made by the CSR Committee and approve the CSR Policy of the company.⁶
- **CSR Activities:** The CSR activities shall be undertaken by the company, as per its stated CSR policy, as projects or programs or activities (either new or ongoing), excluding the activities undertaken in pursuance of its normal course of business. Some activities are specified in Schedule VII as the activities which may be included by the companies in their CSR policies. The entries in the said Schedule VII must be interpreted liberally so as to capture the essence of subject enumerated in the said Schedule.
- **CSR expenditure:** The Board of every company referred in section 135(1) shall ensure that the company spends, in every financial year, at least 2% of the average net profits of the company made during the three immediately preceding financial years, in pursuance of CSR policy. This amount will be CSR expenditure. Company shall give preference to local area and areas around it and where it operates for spending the amount for CSR activities. If the companies fail to spend such amount, the board shall specify the reason for not spending such amount in its report. Companies can also

⁶ Mansukhlal Hiralal & Company, *Corporate Social Responsibility- Indian Companies Act 2013*, MONDAQ, (Jan 14,2015),

<http://www.mondaq.com/india/x/366528/Corporate+Governance/Corporate+Social+Responsibility+Indian+Companies+Act+2013>.

collaborate with each other for jointly undertaking CSR activities. Provided that each of the companies are able individually report on such projects.

WHY CORPORATE SOCIAL RESPONSIBILITY?

The nature of benefits of Corporate Social Responsibility for any organization can vary depending on the nature of the enterprise. The business case for Corporate Social Responsibility within a company will likely rest on one or more of these arguments.

Human resources: A Corporate Social Responsibility programme can be an aid to recruitment and retention, particularly within the competitive graduate student market. Potential recruits often ask about a firm's CSR policy during an interview, and having a comprehensive policy can give an advantage.

Risk management: Managing risk is a central part of many corporate strategies. Reputation as take decades to build up can be ruined in hours through incident such as corruption scandals or environmental accident. These can draw unwanted attention from regulators, courts, governments & media. Building a genuine culture of doing the right thing within a corporation can offset these risk.

Brand differentiation: In crowded market places, company's striving for a unique selling proposition. That can separate them from the competition in the minds of consumers. CSR can play role in building customer loyalty based on distinctive ethical values.

License to operate: Corporation are keen to avoid interference in their business through taxation. By taking substantive voluntary steps, they can pursuit governments that they are taking issues such as health & safety, diversity, or the environment seriously as good corporate citizen for positive impact on the environment.⁷

Communities as suppliers: There are certain innovative Corporate Social Responsibility initiatives emerging, wherein companies have invested in enhancing community livelihood by

⁷ Priya Anand, *Why Indian needs aggressive CSR Implementation?*, CSR TIMES, (Jul 01,2015), <http://www.csrtimes.com/community-articles/why-india-needs-aggressive-csr-implementation/eFVPkxHMIIn>.

incorporating them into their supply chain. This has benefitted communities and increased their income levels, while providing these companies with an additional and secure supply chain.

Enhancing corporate reputation: The traditional benefit of generating goodwill, creating a positive image and branding benefits continue to exist for companies that operate effective CSR programmes. This allows companies to position themselves as responsible corporate citizens.⁸

EMERGENCE OF CORPORATE SOCIAL RESPONSIBILITY

Corporate Social Responsibility in India has traditionally been seen as a philanthropic activity. And in keeping with the Indian tradition, it was an activity that was performed but not deliberated. As a result, there is limited documentation on specific activities related to this concept. However, what was clearly evident that much of this had a national character encapsulated within it, whether it was endowing institutions to actively participating in India's freedom movement, and embedded in the idea of trusteeship.⁹

Global History:

1950s-1960s: The focus was on businesses doing good deeds for society, the drivers of change were events, people and ideas who were instrumental in characterizing the emerging social changes.⁷

1970s: Thinkers such as Carrol ensured the change in the thought which argued that 'firms have responsibilities to societies including economic, legal, ethical and discretionary.

1980s: Taking from Donaldson and Dunfee who highlighted the 'tactic social contract between firms and the society' was characterized by an enhanced responsiveness towards stakeholders.

⁸ *Handbook on Corporate Social Responsibility In India*, PWC,

<https://www.pwc.in/assets/pdfs/publications/2013/handbook-on-corporate-social-responsibility-in-india.pdf>.

⁹ Id.

1990s: CSR became a strategic issue focusing on Freeman's stakeholder theory. It correlated with current CSR definition that views it as a concept 'whereby companies integrate social and environmental concerns in their business operations and interactions with their stakeholders'.

Indian History:

Before 1947: The concept manifested itself through charity that was carried out by businessmen and philanthropists with a strong religious sentiment.

Post 1947: The Gandhian philosophy of trusteeship was popular. It advocated the role of PSUs as important fulfilling the development agenda.

Post 1991: The era allowed the entry of global players which enhanced competition in the market. The global standards of CSR motivated the local players to respond to the needs and enhance brand value and meet consumer satisfaction.

Post 2000: The global information sharing allowed the Indian government to incorporate the best practices that made India the first country to mandate CSR. The undertone has been focused on partnership and triple bottom line of engagement and not just on monetary alliance.¹⁰

Companies Act, 1956 and Corporate Social Responsibility:

Prior to coming into existence of new Companies Act, many companies have been spending monies in a limited way on CSR activities by contributing to Trusts/ charitable organizations which run for the good of the society. Companies have been using Section 293(1) (e) of the Old Act, 1956 so far for making contributions for charitable activities.¹¹

¹⁰ *Corporate Social Responsibility(CSR)*, FIINOVATION, <http://www.fiinnovation.co.in/corporate-social-responsibility/>.

¹¹ GS Rao, *New Rules of Corporate Social Responsibility*, TAXGURU, <https://taxguru.in/company-law/rules-corporate-social-responsibility.html>.

India is the first country in the world to make corporate social responsibility (CSR) mandatory, following an amendment to The Company Act, 2013 in April 2014. Businesses can invest their profits in areas such as education, poverty, gender equality, and hunger.¹²

CORPORATE SOCIAL RESPONSIBILITY AT PRESENT

The Companies Act, 2013 and the Corporate Social Responsibility (Policy) Rules (The Act) came into effect from 1 April 2014. The Ministry of Corporate Affairs is responsible for the enforcement of the Act and its regulation. As per the India's CSR reporting survey 2017 analyses and brings together findings from CSR reporting of the top hundred (N100) listed companies as per market capital as on 31 March 2017. All these companies are required to comply with the requirements of the Act. Their CSR policy, CSR committee, disclosure on CSR in the annual report, CSR spends, and others were reviewed based on their availability in the public domain as on 30 September 2017. A comparative analysis has also been presented to track the progress as compared to the last two years.¹³

The union government has set up a 12-member panel to review the enforcement of CSR provisions under the Companies law as well as look at having a centralised scrutiny and prosecution mechanism to deal with violations. The committee would inter-alia re-study the guiding principle for enforcement of Corporate Social Responsibility (CSR) provisions and basis, including the structure of Centralised Scrutiny and Prosecution Mechanism (CSPM). The committee would also review the methodologies for monitoring of compliance by companies with CSR norms for having an effective CSPM. As per the government notification, the panel will revisit "Schedule VII of Companies Act, 2013, on the basis of references received from stakeholders, including ministries and department of centre and states, members of Parliament, member of state legislatures and civil societies". Besides, there will be two sub-committees —

¹² Dezan Shira & Associates, *Corporate Social Responsibility in India*, INDIA BRIEFING, (Jan 11,2017), <https://www.india-briefing.com/news/corporate-social-responsibility-india-5511.html/>.

¹³ *India's CSR reporting survey 2017*, KPMG, (Jan , 2018), <https://assets.kpmg.com/content/dam/kpmg/in/pdf/2018/02/CSR-Survey-Report.pdf>.

legal and technical — that would go into various aspects in relation to compliance with CSR provision.¹⁴

Analysis of Corporate Social Responsibility report of big companies in FY 2017-18:-

- Public sector enterprises account for over 1/4th of India's total CSR spend.
- Over 1/3rd of the CSR spend is on education and skill development projects while over 1/4th of the CSR spend is on WASH and healthcare projects
- 6% increase in the prescribed CSR and 8% increase in the actual CSR spend from FY 16-17
- The number of projects has increased by 25% from the previous year
- Oil, refinery and petrochemicals sector companies command almost 1/4th of the CSR fund of India
- CSR Funding on education and skill development areas have increased by 50% from FY 15-16 to FY 17-18
- CSR fund deposit in PM Relief Fund has gone substantially down by 80% from FY 15-16 to FY 17-18
- Maharashtra, Karnataka and Gujarat together received over 25% of India's total CSR fund.¹⁵

Examples of companies performing Corporate Social Responsibility in India:-

Tata Group: The Tata Group conglomerate in India carries out various CSR projects, most of which are community improvement and poverty alleviation programs. Through self-help groups, it is engaged in women empowerment activities, income generation, rural community development, and other social welfare programs. In the field of education, the Tata Group provides scholarships and endowments for numerous institutions.

¹⁴ Sharda Nand, *Government appoints panel to review CSR enforcement under Companies Act*, JAGRAN JOSH, Apr 12, 2018, <https://www.jagranjosh.com/current-affairs/government-appoints-panel-to-review-csr-enforcement-under-companies-act-1523507562-1>.

¹⁵ NGOBOX & CSRBOX, *India CSR Outlook Report 2018*, CSRBOX, (Sep 27, 2018), https://csrbox.org/India_CSR_report_India-CSR-Outlook-Report-2018_47.

Ultratech Cement: The company is involved in social work across 407 villages in the country aiming to create sustainability and self-reliance. Its CSR activities focus on healthcare and family welfare programs, education, infrastructure, environment, social welfare, and sustainable livelihood.

Mahindra & Mahindra: The company primarily focuses on education programs to assist economically and socially disadvantaged communities. CSR programs invest in scholarships and grants, livelihood training, healthcare for remote areas, water conservation, and disaster relief programs. M&M runs programs such as Nanhi Kali focusing on girl education, Mahindra Pride Schools for industrial training, and Lifeline Express for healthcare services in remote areas.

ITC Group: The company has been able to generate sustainable livelihood opportunities for six million people through its CSR activities. Their e-Choupal program, which aims to connect rural farmers through the internet for procuring agriculture products, covers 40,000 villages and over four million farmers. Its social and farm forestry program assists farmers in converting wasteland to pulpwood plantations. Social empowerment programs through micro-enterprises or loans have created sustainable livelihoods for over 40,000 rural women.¹⁶

WHY CORPORATE SOCIAL RESPONSIBILITY IN INDIA IS NOT WORKING?

'Corporations are not responsible for all the world's problems, nor do they have the resources to solve them all...but, a well run company can have a greater impact on social good than any other institution or philanthropic organisation'-by Michael Porter and Mark Kramer, Harvard Business Review.

Mandating CSR for businesses will not do any good unless there are proper mechanisms for its enforcement. One of the main hindrances that stand in the way of effective CSR enforcement is finding credible projects that the corporates can support. According to Guardian, bigger

¹⁶ Supra at 12.

charities are being flooded with money, while the smaller charities have to seek their way for finding of funds due to which they lack the resources and capacity to cope up with the company's bureaucratic and operational demands.¹⁷

Eminent scholars have claimed that companies while having enormous fiscal resources lack adequate knowledge of existing public problems and policy measures. As a result, their CSR efforts are misguided and do not help the public in the long run with sustaining benefits. For example- companies blinded with carrying out their mandated CSR activities might employ contractual workers with extremely low pay packages and virtually no other benefits. CSR activities carried out by companies often clash with their commercial and other vested interest which are prioritized over serving the society. Furthermore, it is also claimed by scholars that social issues often cannot be solved by money alone and most corporates do not want to look beyond fiscal measures to help the society. They also do not realize that money can often worsen existing problems.¹⁸

The Corporate Social Responsibility law is inherently contradictory. Corporate Social Responsibility is fundamentally an inspirational exercise, and it is very difficult to legislate aspirations. Laws only set minimum standards, but do not create an impetus for positive action. For example, it would be difficult to require that companies build “excellent” schools; the legal requirement can be met merely by spending money on education. Inequality in India, which was already high, has increased even more. The CSR law does not go far enough in reducing inequality and helping the disadvantaged. Without a coercive enforcement mechanism, it is unlikely that the law will result in widespread compliance and real effectiveness. In other

¹⁷ Oliver Blach, *Indian Law requires the Company to give 2% to charity. Is it working?*, THE GUARDIAN, (Apr 5, 2016, 05.00 BST), <https://www.theguardian.com/sustainable-business/2016/apr/05/india-csr-law-requires-companies-profits-to-charity-is-it-working>.

¹⁸ *Corporate Social Responsibility under Companies Act*, IPLEADERS, <https://blog.ipleaders.in/csr-laws-india/>.

words, “required” CSR will remain largely voluntary, but give the illusion of progress. This is “greenwashing” on a national scale.¹⁹

CONCLUSION

With the enactment of Section 135 there has been a progressive approach towards the Corporate Social Responsibility activities. Nowadays companies are serious about contributing towards the social obligations. There is always been a difference in enacting the Act and enforcing such Act. Corporate Social Responsibility is also affected by such issue. Corporate Social Responsibility came into effect with the enforcement of Companies Act, 2013. It mandates Corporate Social Responsibility, as one of the board agenda but without any substantial penal provision against non-compliance.

Amendments have been proposed to the Corporate Social Responsibility provisions. Under the law, certain class of profitable companies are required to shell out at least 2 per cent of their three-year annual average net profit towards social welfare activities. In case the entities concerned fail to spend the requisite amount, they have to provide reasons for the same. According to the proposed changes, any amount remaining under Corporate Social Responsibility provisions should be transferred by the company within 30 days from the end of the financial year to "a special account to be opened by the company in that behalf for that financial year in any scheduled bank". It would be called "the Unspent Corporate Social Responsibility Account, and such amount shall be spent by the company in pursuance of its Corporate Social Responsibility Policy within a period of three financial year in any scheduled bank".²⁰

¹⁹ Aneel Karnani, *Why the CSR law is not a success*, LIVEMINT, (Dec 13, 2016, 05:53 AM IST), <https://www.livemint.com/Opinion/1wIQwFPRyRckBMg5IugW1K/Why-the-CSR-law-is-not-a-success.html>.

²⁰PTI, *Government set to further amend companies law and CSR spending*, ET, (Nov 06, 2018, 11:22 PM IST), [//economictimes.indiatimes.com/articleshow/66529532.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst](http://economictimes.indiatimes.com/articleshow/66529532.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst).

The authors conclude Corporate Social Responsibility is all about corporate giving back to society. The Corporate Social Responsibility is also known as corporate conscience, corporate citizenship, social performance or sustainable responsible business. Mahatma Gandhi always believed that, “the future depends on what we do in present”. So taking this forward every corporation or any entity is obligatory towards the development and growth of the society as a whole. Mahatma Gandhi always believed in ‘society first’, so growth of society will always provide a better mankind.

