

CORPORATE SOCIAL RESPONSIBILITY AND LABOUR WELFARE

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ABSTRACT

In many business studies it has been found that CSR is mainly a comprehensive business strategy, arising mainly from performance considerations and stakeholder pressure. Though, this phenomenon is not new at all to argue that firms should behave ethically or on a responsible manner. The companies have long been subject to regulation by welfare states regarding many aspects of social responsibility. In this context, the classical regime of labour law is probably the most important, since it regulates and enforces the main social responsibilities of enterprises (employers) towards employees (in terms of CSR and business ethics, employees are core and primary “stakeholders”). However, globalization and the constantly rising (multinational) corporate power are creating challenges to existing rules and regulations for compliance of carrying out new, non-governmental and self-regulating forms of CSR regulation. Labour welfare occupies a place of significance in the industrial development and economy. It is an important facet of industrial relations, the extra dimension, giving satisfaction to the worker in a way which even a good wage cannot. “People” constitute the company’s stakeholders: its employees, investors, customers, business partners, suppliers and vendors, the government, and the community.

Gradually more and more stakeholders expect that companies should be more environmentally and socially responsible in conducting their business. Council for Sustainable Development defined CSR as “the continuing commitment by business to behave ethically and contribute to economic development while improving the quality of life of the workforce and their families as well as of the local community and society at large.” Each employer depending on his priorities gives varying degrees of importance to labour welfare. Business organizations have to work under different environments and had to adopt themselves to it.

Keywords- Social Responsibility, Business Ethics, Labour Welfare, Industrial Development.

INTRODUCTION

The concept of Corporate Social Responsibility (CSR) is generally understood to mean that Corporations have a degree of responsibility not only for the economic consequences of their activities, but also for the social and environmental implications. This is referred to as a ‘triple bottom line’ approach that considers the economic, social and environmental aspects of corporate activity. Social responsibility is not a philosophy. It is a goal. This goal is accepted by business in response to demands of the society for improved standard of living¹. In today’s era of globalization, the trend of Corporate Social Responsibility (CSR) is appearing as a managerial “magic word”.

It would be an attempt to place this new-found “trend” of voluntary CSR initiatives and practices into the regulatory context of the traditional labour law dimension with an analytical and comparative framework for conceptualising and understanding the potential connections and overlaps between CSR and labour law.

In this world of business, the main objective for corporations has historically been to make money and increase shareholder value which can also be termed as the financial responsibility of them. This corporate financial responsibility has been the sole bottom line driving force. However, corporations in last few decades are under the pressure of recognizing their responsibility towards for the environment, for local communities, for working conditions, and for ethical practices – in short towards a broader group of stakeholders, external as well as internal.

This new driving force is known as corporate social responsibility (CSR). In the business community, CSR is alternatively referred to as “corporate citizenship,” which essentially means that a company should be a “good neighbor” within its host community. Corporate social responsibility (CSR) is the latest concept in a long line of philosophies aimed at ensuring that companies and corporations accept the notion of being responsible to society beyond merely

¹ C.S.G. Krishnacharyulu and D. Dakshinamurthy, “Social and Economic Goals of Business”, Chartered Secretary (1980), p 1022.

providing goods or services that benefit the public on a functional level. Social responsibility, at its most basic level, is about ensuring that what a company produces is useful to those for whom it is produced. Beyond that, however, there has always been an underlying belief that organizations should also act in a responsible manner in other areas, such as environmental stewardship, safety issues, and philanthropy.

CSR as “the continuing commitment”

The term ‘CSR’ (Corporate Social Responsibility) has grown over the years which indicates that companies today have to prepared with a definite plan to balance business and social objectives, in turn laying the structure of a reputable organization. It marks a transformation from being a good company to a great one. It is commonly said that the Corporate Social Responsibility (CSR) concept is still being elaborated There is no single definition for 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, beyond making profits, companies are responsible for the totality of their impact on people and the planet”².

In 80s & 90s there were fewer definitions but more efforts to measure and conduct research for the purpose of operationalizing CSR. New concepts which were closely related to CSR were introduce; stakeholder theory, business ethics, corporate governance, responsiveness, corporate social performance, and corporate citizenship. According to Infosys founder, Narayan Murthy, “social responsibility is to create maximum shareholders value working under the circumstances, where it is fair to all its stakeholders, workers, consumers, the community, government and the environment”.

All these different views in defining CSR refer mainly to the social character of corporate responsibility. Some authors link the concept to the company’s action towards the community, seeking to minimize social inequality and promote social well-being. For others, the social responsibility of the company is not only social, but also ethical and includes everyone. Such approaches are not mutually exclusive and allow us to conclude that actions in relation to the community represent only one of the aspects of corporate social responsibility with a specific

² Sir Geoffrey Chandler, “Defining Corporate Social Responsibility,” Ethical Performance Best Practice, Fall 2001.

stakeholder, the community. The importance of joining the concept to all of the company's fields of action lead us to the abstruse condition, a concept whereby the ethically committed company is itself an example and witness of what it claims.

With the growth of industrialization and mechanization, it has acquired added importance. A happy and contented work force is an asset for the industrial prosperity of any nation.³ Labour welfare is nothing but the maintenance function of personnel in the sense that it is directed specifically to the preservation of employee health and attitudes. In other words, it contributes to the maintenance of employee morale.

The welfare services in an industry is to improve the living and working conditions of workers and their families because the workers well-being cannot be achieved in isolation of his family⁴ Labour welfare, though it has been proved to contribute to efficiency in production, is expensive. It is because the government is not sure that all employers are progressive minded and will provide basic welfare measures that it introduces statutory legislation from time to time to bring about some measure of uniformity in the basic amenities available to industrial workers. "Obviously, there is some creation and stimulation in the maintenance function just as there is some maintenance in all other operative personnel functions.

But the primary emphasis in employee service programme has been on maintaining an employee's favourable attitude towards his work and work environment⁵". today, welfare has been generally accepted by employers. The state only intervenes to "widen the area of applicability"⁶. The Committee on Labour Welfare (CLW), formed in 1969 to review the labour welfare scheme, described it as social security measures that contribute to improve the conditions under which workers are employed in India.

Vaid considers it as an "expression of the assumption by industry of its responsibility for its employees".⁷ Fought industrial workers are generally better paid, their conditions of work, and often poorer living conditions necessitate more than minimum amenities, and hence most

³ N. K Joshi, "Labour welfare - concept, meaning and scope", Indian Labour Journal, V. 9 (10) October 1968, p. 280.

⁴ The Committee on Labour Welfare (1969) Constituted by the Government of India vide their resolution No. Lwl (1) 30 (3) 165 of August 5, 1966 issued by the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), p.5

⁵ Flippo, Principles of Personnel Management, New Delhi, MC Graw-Hill Book Company, 1984, p. 133

⁶ Government of India, Report of the Committee on labour Welfare, "Concept and scope of labour welfare", Ministry of Labour, Employment and Rehabilitation, New Delhi, 1969, p.5

⁷ K.N. Vaid, Labour Welfare in India, Shri Ram Centre for Industrial Relations, New Delhi, 1970, p.27.

statutory legislations apply to them. In a resolution in 1947, the ILO defined labour welfare as "such services, facilities and amenities as adequate canteens, rest and recreation facilities, arrangements for travel to and from work, and for the accommodation of workers employed at a distance from their houses, and such other services, amenities and facilities as contribute to improve the conditions under which workers are employed.

HUMAN RIGHTS AND CORPORATE SOCIAL RESPONSIBILITY

Human rights are relevant to the economic, social and environmental aspects of corporate activity. For ex: labor rights requiring companies to pay fair wages affect the economic aspect. Human rights such as the right to non-discrimination are relevant to the social aspect. And the environmental aspects of corporate activity might affect a range of human rights, such as the right to clean drinking water. So, while the primary responsibility for the enforcement of international human rights standards lies with national governments, there is a growing acceptance that corporations also have an important role to play⁸. Business organizations have to work under different environments and had to adopt themselves to it. It is a matter of survival in adverse conditions and flexibility is needed. Even before globalization, there are many multinational corporations doing business in many countries other than where they are incorporated. They go out in search of raw materials or markets for their products. It is happening since the days of East India Company.

In order to get a foothold in foreign countries and exploit the natural resources there, the managements resort to many practices, legal and sometimes illegal. The easiest way was to bribe the head of the country and get on with the work silently. That was how the empires grew. And that is how the present day multinationals spread with the help of their respective governments. That is why many of the dictatorial and autocratic regimes are being supported by capitalist countries. In those governments it is enough if you bribe one individual who has control. If it is a democratic government, you may have to bribe many more, if at all it is possible. That is how undemocratic governments continue to thrive in 21st century also⁹. Even

⁸ "Corporate social responsibility and Human Rights". Available at <http://www.Humanrights.gov.au/publications/CSR>.

⁹ Jawaharlal Jasthi, "The Concept of Corporate Governance", p 192

when permission is obtained to exploit the resources, the company cannot afford to import all the workers required from their motherland. They have to depend on local people for that.

The situation goes on for some time. Then the workers feel the burden of it, the injustice of it. Then comes resistance. That is what is happening in China now. The government also allowed the exploitation as they need all the foreign money for their schemes. But the time has come to make demands. Laws are made and the foreign employer has to follow it. At some stage the people also become aware that the natural resources are being exploited by the foreigner and resistance grows. That is what is happening in Nigeria and India. When the situation changes, the foreign company also changes its way of doing business. It is not out of respect for human rights. It is out of necessity to continue the business. Meanwhile the people in the home country develop a feeling that they have lost many jobs because of the company going to foreign countries for production. But they find it difficult to convince them to come back as it involves higher costs and renders the company uncompetitive. They try other means. They allege that the company is exploiting the poor labor in the other country by paying low wages.

It is a strange situation where the workers in one country try to protect the interest of workers in another country. It may be interpreted as the universal brotherhood of workers. A forgotten legislation of the United States came handy for them in this effort.¹⁰ In 1789, the US Congress passed the Alien Tort Claims Act. As a newly born nation they felt it safe to have international law and expect others also to follow the same. It covers not only the persons of US but also the foreigners, corporate or natural, that have anything to do with US. If any such entities commit a tort or violation of human rights in a foreign country, the courts in US can take cognizance of it. The relationship with the US gives that jurisdiction to the courts.

This Act was dormant and ignored for a long time.¹¹ Traditional role of company has consisted of following functions:

- 1) To generate income
- 2) To employ people
- 3) To earn income.

¹⁰ Hirani M.H., "The Concept and Facet of Social Responsibility", p 29-30.

¹¹ Hirani M.H., "The Concept and Facet of Social Responsibility", p 33

But legitimacy of corporate power demands legitimacy of functions of company. Company should perform only legitimate functions. Its functions determine role of company. Company uses societal resources- manpower and raw material. Government also uses these resources. Therefore company's role can be compared to government in this context. This role consists in balancing needs of company and society.

The new role of the company may include following functions.¹²

- 1) Starting a company in rural area.
- 2) Employing socially handicapped and weaker section of community.
- 3) Taking interest in the area of its work, the welfare of its employees and their families including the spread of adult literacy.
- 4) Environmental protection.
- 5) Consumer's health, welfare and safety.

But these functions cannot be unqualified functions because society creates company¹³. Therefore, company only can be for social welfare and economic betterment of society. Company should make profit only to survive. Beyond that level Company's endeavor must result into its contribution to general social welfare. Company must be patriotic.¹⁴

In *Daily Rated Casual Labour v. Union of India*¹⁵ it has been held that the daily rated casual laborers in P & T Department who were doing similar work as done by the regular workers of the department were entitled to minimum pay in the pay scale of the regular workers plus D.A. but without increments. Classification of employees into regular employees and casual employees for the purpose of payment of less than minimum pay is violation of Articles 14 and 16 of the Constitution. It is also opposed to the spirit of Article 7 of the International Covenant of Economic, Social and Cultural Rights 1966. Although the directive principle contained in Articles 38 and 39 (d) is not enforceable by virtue of Article 37, but they may be relied upon by the petitioners to show that in the instant case they have been subjected to hostile

¹² VIII Chartered Secretary, (1978), p. 68.

¹³ The Companies Act, 1956

¹⁴ J.L.Nain, "Concept of Public Interest in Company Law", XI Chartered Secretary (1981), p 5.

¹⁵ 1988) 1 SCC 122)

discrimination: Denial of minimum pay amounts to exploitation of labour. The government cannot take advantage of its dominant position. The government should be a model employer.

In *F.A.I.C. and C.E.S. v. Union of India* the Supreme Court has held that different pay scales can be fixed for government servants holding same post and performing similar work on the basis of difference in degree of responsibility, reliability and confidentiality, and as such it will not be violative of the principle of equal pay for equal work, implicit in Article 14. The Court said, “Equal pay must depend upon the nature of the work done. It cannot be judged by the mere volume of work. There may be qualitative difference as regards reliability and responsibility. Functions may be the same but the responsibilities make a difference.

COMPANY TO BE SERVICE MOTIVATED AND SOCIETY ORIENTED

Law permits and encourages company to do business. This encouragement and permission is to serve society at large and not only for the sole purpose of profit making¹⁶. Company must exist to serve life and not to serve economic interest only.¹⁷ Traditional goals of company like profit, sales, wealth maximization are not enough. Company should be service motivated and society oriented.¹⁸ Object of company should be proper utilization of societal resources for the benefit of society. Thus, company must play a role of an agent for social change. Company should be catalyst to transform societal resources into social benefits.¹⁹ Corporations impact on human rights in significant ways.

These impacts have increased over recent decades as the economic might and political influences of corporations has grown, and as corporations have become more involved in delivering services previously provided by governments. Corporations have come to recognize that part of being a good corporate citizen includes respecting the human rights of those who come into contact with the corporation in some way. This might be direct contact (employees and customers) or indirect contact (workers or people living in areas affected by a corporation’s

¹⁶ S.S. Nahar, “Investigation into the affairs of Companies, under the Companies Act, 1956”. Journal of Indian Law Institute, 415

¹⁷ Barbara Sheffield, *Company Boards*, p 22.

¹⁸ *Supra* note 1, p 1024

¹⁹ Ministry of Law, Justice and Company Affairs, department of Company Affairs, Government of India, New Delhi, Report of the High powered Expert Committee on Companies & MRTP Acts, August, 1978. (Referred as the Sachar Report). p 95

activities). Corporations are also responding to the fact that many consumers and investors expect corporations to act in a socially responsible manner. The extent to which a company implements a comprehensive CSR program can influence consumer and investor decisions.²⁰ Companies no more consider human capital as commodity but as an asset. In the age of globalization, corporations and business enterprises are no longer confined to the traditional boundaries of the nation state. One of the key characteristics of globalization is the spread of the market and the change in the mode of production.

The centralized mode of production has given way to a highly decentralized mode of production spread across the world. In the last 25 years, multinational corporations have played a key role in defining markets and influencing the behavior of a large number of consumers. The rules of corporate governance have also changed. And there has been a range of reactions to this change. The globalization and liberalization have provided a great opportunity for corporations to be globally competitive by expanding their production-base and market share. On the other hand, the same situation poses a great challenge to the sustainability and viability of such mega businesses, particularly in the context of the emerging discontent against multinational corporations in different parts of the world. Laborers, marginalized consumers, environmental activists and social activists have protested against the unprecedented predominance of multinational corporations. The ongoing revolution in communication technology and the effectiveness of knowledge-based economies has created a new model of business and corporate governance.

A growing awareness about the need for ecological sustainability and the new economy framework, with an unprecedented stress on communication and image merchandising, have paved the way for a new generation of business leaders concerned about the responses of the community and the sustainability of the environment. We need to understand the new trends in corporate social responsibility in this context, so the picture of human resource in front of the corporate leaders is clear that without human resource nothing is possible in this ever changing world and the nation.²¹ The pursuit of economic growth does not necessarily lead to social progress. In many cases it actually leads to a deteriorating physical environment, an unsafe

²⁰ *Supra* note 5

²¹ Shoubhagya Ranjan Mahakud, "Corporate Social Responsibility- Indian Perspective", p 2.

workplace, needless exposure to toxic substances on the part of the workers and consumers, discrimination against certain groups in society, urban decay, and other social problems.²²

Justice Kuldeep Singh, judge of Supreme Court of India, while ordering the closure of more than 700 industrial units in Delhi which were actively harming ecological balance and had virtually converted river Yamuna into a sewer, observed that no one can allow economic progress and growth at the cost of ecological imbalance. As a result, corporate social responsibility has become increasingly important in the modern era. Many Indian companies have understood the need of people and the way of utilizing the power for productive work, which turned organizations to think about their people and the people indirectly associated with the organization. The long term aspect from the organization shows a clear view towards the people management for existence in this competitive world. Society is the form of group of people which cannot be overlooked by the organizations because of their contribution towards the well being of the organization.²³

CORPORATE SOCIAL RESPONSIBILITIES ENACTED IN VARIOUS LABOR LEGISLATIONS

The Factories Act, 1948 provides for the working conditions. The payment of Wages Act, 1936 and the Minimum Wages Act, 1948 provide for the protection of wages. The Workmen's Compensation Act, 1923, the Employees' State Insurance Act, 1948, the Employees' Provident Fund Act, 1952, the Payment of Gratuity Act, 1962, the Payment of Bonus Act, 1965 were enacted as social security measures for protecting the interests of labor. The Industrial Disputes Act, 1947, the Trade Unions Act, 1926 provide for the industrial harmony and for better labor relations.

Corporate responsibilities under the Factories Act, 1948

The factories Act, 1948 stipulates following types of responsibilities for a company using a factory:

²² Leonard, D., McAdam, R. "Corporate Social Responsibility", Quality Progress; ASQ Magazine, October, p 27-32.

²³ Supra note 18, p 4.

- 1) Health
- 2) Safety
- 3) Provisions related to hazardous processes
- 4) Welfare
- 5) Employment of young persons
- 6) Working hours of adults
- 7) Investigations of accidents and provision for safety at work.

Under the health provision, a company has certain responsibilities towards its factory. The responsibilities are,

- i) to keep premises clean²⁴,
- ii) to dispose off wastes and effluents²⁵.
- iii) to provide adequate ventilation²⁶
- iv) to secure and maintain a temperature for workers' responsible comfort and to prevent injury to their health²⁷
- v) to take effective measures to prevent inhalation by and accumulation in any worker of dust or fumes or any such impurity.²⁸
- vi) To regulate artificial humidification keeping workers' health in view.²⁹
- vii) To avoid over crowding³⁰
- viii) To provide sufficient and suitable lighting- natural or artificial or both.³¹
- ix) To sufficiently supply wholesome drinking water.³²
- x) To provide sufficient spittoons and latrine, urinal accommodation³³

The Act creates following responsibilities for working hours of adults;

- a) No adult worker is to work for more than forty eight hours in a week,

²⁴ Sec 11 of the Factories Act, 1948. (here in after referred as "The Act")

²⁵ Sec 12 of the Act

²⁶ Sec 13 of the Act.

²⁷ Sec 13 (b) of the Act.

²⁸ Sec 14 of the Act.

²⁹ Sec 15 of the Act.

³⁰ Sec 16 of the Act.

³¹ Sec 17 of the Act

³² Sec 18 of the Act

³³ Sec 19 & 20 of the Act

b) Every worker must be given a weekly holiday. In case he losses a holiday, he is to be compensated with a holiday within two months immediately following the month in which the weekly holiday was denied,

c) No adult worker is to be made to work for more than nine hours in any day, at least half an hour interval is to be given to adult workers. Spread over of working hours together with rest-intervals are not to exceed ten and a half hours in any day,

d) Overlapping shifts are prohibited unless otherwise allowed by the State Government,

e) Workers are to be paid for overtime work at the double- rate of ordinary rate of wages³⁴.

Expected impact of the statutory content on the society

Foregoing statutory obligations are expected to have following societal impact: Health provisions are to provide healthy work environment for workers to prevent sickness. Sickness of a worker can be detrimental at two planes; at workers' personal level and at performance level. At personal level, worker's sickness can make him unable to work. This inability can affect his earning capacity. This can also affect economic situation of his family resulting into poverty driven misery for the worker and his family. A miserable family can only contribute tension to society. At performance level, sickness can deprive a factory of an experienced and sometime skilled worker's performance. To reach skilled and experienced level takes considerable time for a new worker replacing him. In this way, the worker's sickness can result in decline of a factory's efficiency.

Welfare and working hours of adults and employment of young persons

These provisions are made to have satisfied and happy workers in order to have enhanced productivity and to prevent exploitation of children and women. These provisions are to ratify the ILO convention Nos 89 and 90 prohibiting employment of women and young person's during night in factories.

Effect of non- compliance of statutory provisions

As a result of directors being able to transfer corporate liability under the Act, to the occupier, the law does not seem to reach a company at all. The device of occupier seems to act as a buffer

³⁴ Sec 51, Sec 52 , Sec 55& 56, Sec 58 and Sec 59 of the Act

between the law and a company. Therefore, in case of a noncompliance of legal obligations under the Act, the effect of legal consequences is effectively absorbed by the occupier. For example, in *Gamdia v. Emperor*,³⁵ a fire took place in the factory resulting in the death of twelve women and burns and injuries to ten other women. Three occupiers and the manager were prosecuted. For want of enough evidence conviction was set aside and re-trial was ordered. Even if an occupier is convicted for a ghastly result like death of several women, yet if he is a paid employee and not a director, directors who are the guardians of a company are not affected.

Corporate responsibilities under the Payment of Bonus Act, 1965

The Payment of Bonus Act, 1965 stipulates following responsibilities for a company having a factory or any other establishment in which twenty or more persons are employed.³⁶ A company is to pay every employee a minimum bonus of 8.33 per cent of the salary or wages earned by him during the accounting year or Rupees one hundred (Rupees sixty in case of employees below fifteen years of age), whichever is more. This responsibility is regardless of the company having allowable surplus or not. The company is responsible to pay the bonus within eight months from the close of the accounting years. In case of dispute, the time limit is one month within its settlement, or enforcement date of an award.³⁷

Expected impact of the statutory content on the society

Corporate responsibilities created by the Act are aimed at giving legitimate share of profits above certain level to the employees; thereby letting them share the company's prosperity. In the case of low-paid employees such sharing of the prosperity augments their earnings and helps to bridge the gap between the actual wage and need-based wage. The bonus mechanism at least better standard of living, in pursuance of the Article 43 of the Constitution of India, of employees contributing to the profits of the concern they work for. The mechanism imparts a measure of desirable flexibility to the wage structure. The workers can share the prosperity of the concern without disturbing the underlying basic wage-structure.

³⁵ AIR 1926, Bom 57.

³⁶ Sec 1 of the Payment of Bonus Act, 1965.

³⁷ Sec 19 of the Act. 1965

Persons responsible for compliance of obligatory provisions

The Act makes an employer responsible for compliance of obligatory provisions. The Act visualizes two types of establishments for this purpose: Factories and other establishments. In case of a factory, the employer is the owner or occupier of the factory, including the agent of such owner or occupier and a person named a manager under the Factories Act, 1948.³⁸

Effect of non-compliance of statutory provisions

Non-compliance is under the Section 10 & 11 for minimum and maximum bonus. The courts have upheld the corporate social responsibility to pay minimum bonus even when there is no profit. For ex; in Jalan Trading Co. v. Mill Mazdoor Sabha, the company made an appeal to the Supreme Court against a judgment to pay bonus in a year of loss. Shah, J stated that “the scheme of prescribing maximum and minimum rates of bonus together with the scheme of “set off and set on” not only secures the right of labor or share in the prosperity of the establishment, but also secures a reasonable degree of uniformity.” Since the charge is on the corporate finances; company and not its directors, is judicially compelled to pay bonus in accordance with the Act.

Corporate Responsibility under the Payment of Wages Act, 1936

The Payment of Wages Act, 1936 creates following responsibilities for companies;

A company as an employer is responsible for the payment to persons employed to him of all wages required to be paid under the Act.³⁹ Employer includes the legal representative of a deceased employer.⁴⁰ If a company has factory⁴¹ and a person is named as its manager, then such named person shall also be responsible for the payment, under the Act.⁴²

Impact of the statutory content on the society

The Act is to ensure that the wages payable to employees covered by the Act are disbursed by the employers in particular form, within the prescribed time limit and that no deductions other than those authorized by law are made by the employer. The wage limit for the applicability of

³⁸ Sec 2 (14) (i) of the Act. 1965

³⁹ Sec 3 of the Payment of Wages Act, 1936. (hereinafter referred as ‘The Act’). 114 Sec 7 of the Factories Act, 1948.

⁴⁰ Sec 2(i a) of the Act, 1936

⁴¹ Sec 7 of the Factories Act, 1948.

⁴² Sec 3(a) of the Act. , 1936

the Act is Rs.1600 per mensem.⁴³A company and a person employed by it stand on unequal economic footings. The Act ensures protection to the employed persons against exploitation by the company in the nature of non-payment of payable wages, delayed payment of wages or undue deductions from the wages.

Effect of non-compliance of statutory provisions

The court is empowered to attach so much of the property of the employer or other person responsible for the payment of wages as would be sufficient to satisfy the amount payable⁴⁴.In *Kishanchand Agarwal v. City Magistrate, Varanasi*⁴⁵ the lower court attached entire assets of the employers without recording any finding as to whether the property attached is of the value lesser or greater than the amount claimed. C.S.P.Singh, J. ruled that the order of attachment could not be sustained. He stated that the authority acting under Sec 15 of the Act exercises quasi-judicial function and he must give reasons for his order. Court can attach only so much of the property of the employer as is sufficient to satisfy the amount which may be payable to the claimant under its direction. Any one contravening obligatory provisions is punishable with fine between two hundred rupees and one thousand rupees.⁴⁶Any one contravening any requirement related to maintain any record or register is punishable with fine between two hundred rupees and one thousand rupees.⁴⁷Any one guilty of the same offence under the Act is punishable with imprisonment between one month and six months and with fine between five hundred rupees to three thousand rupees.Generally, mens rea is an essential ingredient of a crime, but it is left to the legislature to exclude the element of mens rea by express words or by implication from any such offence. Therefore, in each case it will depend upon the language of the order the contravention of which is sought to be punished and also the object of the statute, the words used, the nature of the duty laid down the person by whom it would be formed and the person upon whom the penalty is imposed.⁴⁸

⁴³ P .L. Malik, Labor and Industrial Law, p 630.

⁴⁴ Sec 17 of the Act. , 1936

⁴⁵ 1973, Lab, I.C.816.

⁴⁶ Sec 20(1) of the Act.

⁴⁷ Sec 20(3) of the Act.

⁴⁸ State v. Sheo Prasad, AIR 1956 All 612

Corporate Responsibility under the Workmen's Compensation Act, 1923

The Workmen's Compensation Act, 1923 (hereinafter referred as the Act) creates following responsibilities for a company: An employer⁴⁹ has to pay compensation according to provisions of the Act to a workman⁵⁰ incurring personal injury arising out of and in the course of his employment.⁵¹ An employer is not responsible to pay compensation if

a) the disablement is not for more than three days,

b) the workman does not die and the injury can be attributed to influence of drugs or drinks on him, his wilful disobedience to an express order or rule for his safety or wilful removal or disregard of a safety device by him.⁵² Contracting an occupational disease peculiar to an employment is an injury to be compensated under the Act. A workman can claim compensation either from a commissioner under the Act, or he can claim damages from a Civil Court. He cannot make both the claims in respect of an injury.

CORPORATE SOCIAL RESPONSIBILITY ENHANCES BETTER WORKING CONDITIONS

Labor standards are closely linked to the corporate social responsibility, according to which companies voluntarily integrate social and environmental aspect into their business activities and their relations with stakeholders. As companies operate more and more globally, corporate social responsibility must apply to the whole value chain without regard to geographical borders. With regard to corporate responsibility, the authorities' role is limited to encouragement and dissemination of information. Among the key international recommendations relating to corporate responsibility are the OECD Guidelines for Multinational Companies, the ILO's corresponding tripartite declaration and the UN Global Compact initiative. The EU has taken workers' fundamental human rights into account in its bilateral trade and cooperation agreements with third world countries.

⁴⁹ Sec 2(3) of the Workmen's Compensation Act, 1923

⁵⁰ Sec 2(i) (n) of the Act.

⁵¹ Sec 3(i) of the Act.

⁵² Proviso to Sec 3(i) of the Act.

The EU has also sought to enhance respect for workers' fundamental human rights through its GSP scheme. In the new GSP Regulation, the EU grants additional tariff benefits for recipient countries that respect workers' fundamental rights and comply with obligations under other international conventions. CSR is a valuable backstop when national governments falter at adopting and enforcing strong national and international labor standards. Governments cannot possibly inspect every workplace and catch every lawbreaker. CSR can also help when workers cannot help themselves through collective bargaining. Trade unions face a worldwide crisis of organizing and bargaining. Workers struggle, often against great odds, to build unions in many of the most globalised sectors of production and commerce such as Unfair Advantage: Workers' Freedom of Association in the United States under International Human Rights Standards (2000) agriculture, apparel and electronics.

They make some breakthroughs, but most workers in these sectors are still without organizations to defend them and bargain on their behalf. Codes of conduct offer a new way to advance workers' rights through private sector self-regulation using civil society vigilance, consumer buying power, and socially responsible business leadership. CSR can make valuable contributions to workers' rights, but CSR by itself is not enough. Focusing on CSR as the solution to workers' rights violations could undermine effective labor law enforcement by governmental authorities and the representational role of trade unions. A rush to corporate codes of conduct could allow powerful companies to avoid government regulation, union organizing and enforceable collective agreements that uphold workers' rights and labor standards. Strong laws effectively enforced, along with self-organization and collective bargaining, are the best sustainable ways to protect workers' rights. CSR and corporate codes of conduct should be seen as an alternative but as a supplement to labor law enforcement and collective bargaining. One of the adverse side effects of industrialization is exploitation of labor. Abnormally long working hours, poor safety conditions, unhygienic and hazardous working conditions, child labor and total absence of job security are some of the major difficulties faced. It is found that labor is not in a dictating position.

The labor has to accept unfair service conditions as he is always at the receiving end. The labor needs protection and it is necessary to ensure some basic minimum working conditions. Various labor laws have been passed to protect interests of workmen. Trade union movements also have become strong so that workmen can become united and get their legitimate rights. The result is that workers in the organized sector are enjoying reasonably good working

conditions and job security. Indeed, there is a feeling that now management needs protection from unreasonable demands from workmen and militant unions.

There is a frequent work stoppage; productivity in such unit is also low, which affects the growth of the organization. Social security, social insurance, employment, working conditions, standard of living, and quality of life are some of the main reasons to have sound and good labor legislation. In developing their own CSR approaches, businesses are guided by standards and principles derived from ILO, UN and OECD Conventions and other acts which have been adopted at the multilateral level through an inter- governmental process in consultation with business, labor and other stakeholders. These standards and principles are presented in the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy and the OECD Guidelines on Multinational Enterprises, and are stated in the United Nations Global Compact.

Labor standards are closely linked to the corporate social responsibility, according to which companies voluntarily integrate social and environmental aspect into their business activities and their relations with stakeholders. As companies operate more and more globally, corporate social responsibility must apply to the whole value chain without regard to geographical borders. With regard to corporate responsibility, the authorities' role is limited to encouragement and dissemination of information. The EU has taken workers' fundamental human rights into account in its bilateral trade and cooperation agreements with third world countries. The EU has also sought to enhance respect for workers' fundamental human rights through its GSP scheme.

CONCLUSION

Responsibility towards society simply means fulfilling the commitments towards the society and the components of business and improving its economic and social conditions by all possible means. In other words, the concept of social responsibility assumes that the business has not only economic and legal obligations but also certain other social responsibilities too i.e. a company must besides taking care of its own interest, must also take care of interest of the community members i.e. – workers, suppliers, customers etc. Workers have direct interest in an organization because by working there they satisfy their needs. The traditional economic

concept of organizational functioning does not give workers their proper share in the distribution of income. But, in this globalized business environment it is significant on the part of the companies to understand the importance a stable and satisfied workforce.

Social security systems are important pillars for sustaining social and economic welfare in contemporary societies. Social security systems provide a safety shelter to protect individuals as labours from the undesirable outcomes that might occur as a result of risks associated with high probabilities of being deprived from acquiring a level of income that is sufficient to cover the costs of basic human needs. These dangers that any individual in any random society might face creates basis for solidarity in between the members of communities because no one can be sure about which step of the welfare ladder one might end up- conceptualized as veil of ignorance. The traditional economic concept of organizational functioning does not give workers their proper share in the distribution of income. But, in this globalized business environment it is significant on the part of the companies to understand the importance a stable and satisfied workforce. Sooner or later, modern labor law need to accept the changes in relation with CSR and codes of conduct, despite resistance and aggravating factors referring to the lack of the interpretive capacity or specific legal culture in societies in which the teleological interpretation is neglected, as the creative potential of creating legal sources and sources of law.

The concept of social responsibility assumes that the business has not only economic and legal obligations but also certain other social responsibilities too i.e. a company must besides taking care of its own interest, must also take care of interest of the community members i.e. – workers, suppliers, customers etc. Sooner or later, modern labor law need to accept the changes in relation with CSR and codes of conduct, despite resistance and aggravating factors referring to the lack of the interpretive capacity or specific legal culture in societies in which the teleological interpretation is neglected, as the creative potential of creating legal sources and sources of law. Hence hypothesis proved is justifiable. The rights of labor are set forth in the positive laws – to protect rights and privileges of workers ensuring a decent and dignified life yet much is to be done so that in real.

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