

THE ROLE OF PUBLIC-PRIVATE COLLABORATION IN THE FIGHT AGAINST CORONAVIRUS IN INDIA: IS 'COVID-19 SOCIAL RESPONSIBILITY' THE NEW CSR?

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ABSTRACT

In March 2020, the government of India declared a nation-wide lockdown to reduce the infection rate of the Covid-19 virus. The central and the state governments have been lumbered by many challenges, including enforcing a strict lockdown to combat the spread of the virus, to ensure availability of adequate health and medical facilities, and finally to manage millions of migrant labourers who lost their means of livelihood. However, it was the need of the hour for governments to establish a meaningful partnership with the private sector and run a joint campaign to combat this unprecedented situation effectively. In light of this situation, the Ministry of Corporate Affairs decided to treat Covid-19 as a 'notified disaster' under Schedule VII of the Companies Act, 2013. This move by the government has been taken spiritedly by India Inc. Many companies, including those severely hit by the lockdown themselves, have come forward in support of this and have donated in considerable numbers to help the Government fight the spread of the Coronavirus in India. The article analyses the legal concept of CSR and the various approaches taken by Indian companies through their CSR initiatives, primarily focussing on providing meals to the needy, medical facilities, and education (to extend help to those worst affected by the lockdown). It is finally suggested that the government should support and encourage these CSR initiatives by protecting the interests of Indian companies. It is also imperative for companies to introspect and develop sound sustainability practices to mitigate the unfavourable effects of similar pandemics in the future.

Keywords: Covid-19, Coronavirus, Corporate Social Responsibility, CSR, India, Company Law, India Inc.

India declared a nation-wide lockdown in March 2020 to mitigate the spread of the dreaded Coronavirus. The step was very timely and has been hailed as the one which saved the lives of hundreds of thousands of Indians. As a population of over 130 billion was trying to come to terms with this new challenge, a very large chunk of it, the migrant daily wage earners from across the country feared an immediate loss of jobs and a resultant loss of homes. Though the Central, as well as the State governments, got into a war mode and swiftly raised facilities to help such people, lack of information and the fear of the unknown, forced thousands of these migrant workers to rush towards their native places. With the public transport facilities already withdrawn, the situation became extremely daunting.

So, the governments of the day have been saddled with three significant challenges: First, enforcing a strict lockdown to check the spread of the Coronavirus; Second, keeping the medical and health facilities up and kicking to control fatalities and ensure faster recovery of infected patients and; Third, managing millions of migrant labourers and other Indians stranded at various places, by providing them with food and shelter, while also maintaining the social distancing norms to the best of their abilities.

Governmental action to handle the situation has so far been exemplary. The financial assistance announcements of the Central and State governments, unhindered supplies of essential commodities, and regular communications from the political leadership, as well as the Indian Council Medical Research (ICMR), have ensured that the situation is kept under control. But very early into this battle, these measures started looking inadequate, and it became imperative for governments to establish a meaningful partnership with the private sector and run a joint campaign to combat this unprecedented situation effectively. It was realized that the vision of India's business leaders and their robust, innovative approach could be instrumental in developing a strategy to counter this menace.

Corporate India has always been very active in community service, and many business houses are credited with raising valuable social assets in the fields of education, medical and health, and other areas. Corporate Social Responsibility (“CSR”) became an integral part of business functioning when it was introduced in the Companies Act, 2013. According to Section 135 of the Companies Act, 2013, companies with a net worth of Rs. 500 crores, or turnover of Rs. 1000 crore or net profit of Rs. 5 crores or more are required to set aside 2 percent of their average net profits over the last three years, for activities listed in Schedule VII of the act,

which are called the 'CSR activities'. The institution of mandatory CSR has been a game-changer for India, where corporates work hand in hand with the government and civil society to bring about national regeneration through sustainable development.

India was one of the first countries in the world to make CSR activities mandatory. Through this, the government sought to establish a robust framework for companies to support the developmental activities undertaken by the government through their technology, innovation, and managerial skills.

Owing to the rapidly increasing number of Covid-19 infections, the Indian government decided to treat Covid-19 as a 'notified disaster' under Schedule VII of the Companies Act, 2013. The Ministry of Corporate Affairs (MCA) has also announced that funds spent on measures to tackle the Covid-19 outbreak, like promoting healthcare or disaster management including relief and rehabilitation, will be reckoned towards the mandatory CSR expenditure. Additionally, all donations made to the PM Cares fund would also be treated as CSR expenditure.

This move by the government has been taken spiritedly by India Inc. Many companies, including those severely hit by the lockdown themselves, have come forward in support of this and have donated in considerable numbers to help the Government fight the spread of the Coronavirus in India. These corporate contributions can be used effectively to strengthen the healthcare infrastructure of the country, improving the supply of food to the needy and to provide shelter to those rendered homeless. The fiscal space thus created can be used by the government for making emergency cash transfers to the weaker sections of the society.

Indian Companies have been broadly taking the following two approaches. First, some companies are directly donating to the Central fund, and are strengthening the hands of the government to decide how they would wish to use the funds for social benefit. The PM CARES fund, established especially for this case, has already received thousands of crores worth donations from various companies. The advantage of this approach is that the geographical reach of the government is much more extensive than individual companies.ⁱ Thus, it ensures that the money is used to help those who need it the most.

Second, they are making effective use of their resources by developing innovative ways to help the society in dealing with the crisis. Broadly, companies have been making monetary contributions to the following causes:

Providing food to the poor

One of the significant effects of the lockdown was that a massive number of daily-wage earners were left jobless. Many companies have come forward to provide hygienic and nutritious food to those vulnerable sections of society. They are also collaborating with state governments by providing them with additional food packets. An outstanding effort has been the Reliance Foundation's meal distribution programme called 'Mission Anna Seva', which has already provided more than two crore meals across more than sixteen states and union territories. The beneficiaries of the programme include daily wage earners, slum dwellers, factory workers, and residents of old-age homes and orphanages. At some locations, it is also providing food tokens that could be redeemed at various Reliance stores.ⁱⁱ Similarly, Essar Group has also decided to offer more than two million meals to such poor and needy.

Medical facilities

India's healthcare infrastructure is highly inadequate to meet the demands of the population. With the Corona pandemic onslaught, there is now an acute shortage of Personal Protection Equipment (PPE), masks and sanitizers also. This puts the medical and paramedical staff at the highest risk as they battle against the virus every day. Reliance on the import of such protection equipment exacerbates the current problem.

Several companies have risen to the occasion and deployed innovative methods to overcome this situation successfully. Companies are contributing to the overhauling of hospitals and testing facilities, as well as donating protective gear to hospitals. Hindustan Unilever Limited has committed to donating 20 million pieces of soap and Rs.10 crores towards the up-gradation of health care facilities in testing centres and hospitals. NTPC has dedicated its 45 hospitals/health units to make isolation facilities and procured requisite amount of equipment for its medical staff.

Many companies have also started utilizing their existing production lines to manufacture goods for which there is increasing demand, and which are currently in short supply. For

instance,ⁱⁱⁱ Mahindra & Mahindra has offered to use its manufacturing units to produce ventilators. Many textile firms have gone big-time into producing masks. These are extraordinary examples of reengineering.

Education

Another area that has received significant corporate support is the education sector. Since schools and colleges were shut down even before the lockdown was announced, studies of millions of students in India got severely affected. Minimal impact was felt by those educational institutions which already had e-learning systems in place and were able to shift to online classes seamlessly. However, this is not the case with most institutions that did not have adequate systems to undertake this transformation. Many tech companies have come forward to assist schools and universities in conducting successful remote teaching through their CSR activities.

Infosys Foundation has volunteered to help establish smart classes in 1,000 government primary schools in Karnataka. HP Inc. has announced education partnerships and learning programs to support remote teaching and to drive learning initiatives for teachers, parents, and students. It has also partnered with publishing companies to provide free printable content for students confined to their homes.

In addition to the approaches described above, a very encouraging and unique initiative has emerged in the state of Maharashtra through two groups, truly the best example of a Public-Private alliance. The Maharashtra Covid Response Group, having corporate pioneers like Ajay Piramal, Vikas Oberoi, Pirojsha Adi Godrej, and Noshir Kaka, has been working very closely with the Maharashtra Chief Minister's office. This group has been monitoring the efforts of India Inc. in Maharashtra, every 24 hours, through regular video calls. There are breakaway sub-groups of this group, to meet challenges as diverse as hospital-bed capacity, food management, logistics, isolation beds, PPE and hospital supplies, etc. Another response group has been constituted, which is working in tandem with the city Municipal Commissioner. This group has members like leading business stalwarts like Mukesh Ambani, Kumar Mangalam Birla, Anand Mahindra, and N Chandrasekaran.

Thus, by tweaking the existing law on CSR in India, and thereby treating COVID-19 as a notified disaster, the government was able to successfully rope in the private sector in the fight

against Coronavirus. It may still be too early to assess the positive impact of this decision; however, it is evident what collective resolve and action can achieve.

The importance of the CSR efforts from India Inc. in these trying times cannot be overstated. Companies must realize the importance of social responsibility in these current times of social distancing. According to the report of a High-Level Committee on CSR (2018)^{iv}, companies in India had spent more than Rs.13,000 crores cumulatively towards their CSR activities in the financial year 2017-18. Now is the time for the companies to proactively increase this economic impetus, as in this war-like situation, India requires more significant support than before.

That being stated, it is also highly desirable that the government comes out to protect the interests of Indian companies by extending to them a viable financial stimulus package. This will ensure that companies can minimize the detrimental impact of the lockdown on their business and would also encourage them to continue to support the government in extending help to the socially and economically disadvantaged people.

This is also the right time for companies to introspect and develop sustainable practices to mitigate the unfavourable effects of any such impending disasters in the future. Through this Public-Private collaboration and the technological interventions, India can bring about major changes in its healthcare, logistics, and education sector to develop capacities to withstand any future challenges.

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