

CORPORATE GOVERNANCE AND THE REFLECTIONS OF CORPORATE SOCIAL RESPONSIBILITY NORMS IN GLOBAL LEGAL PARADIGM

Written by Annie Wilson

*Assistant professor, School of Law, Vel Tech Rangarajan Dr. Sagunthala R&D Institute of
Science and Technology, Avadi, Chennai*

ABSTRACT

Large swathes of the world tend to incorporate the idea of corporate social responsibility on their corporate sector. The CSR initiatives in European Union, USA and Asia are comparable based on various elements like the legal frame work, political aspects and also the institutional structure of the same. The growth of the international trade due to the industrialization as well as globalisation and trade liberalisation helped in spreading the idea of the CSR initiatives around the globe. Institutional arrangements adopted through the WTO's trade related norms can be considered as some of the major drivers of CSR.

There are countries where there is a mandatory reporting like Denmark, the Netherlands, Norway, Sweden, and France, South Africa, China. Whereas at the same time, there are countries continuously taking efforts to adopt the CSR norms in their legislative framework and also there are countries that never insists for a compulsory reporting of CSR.

INTRODUCTION

This Article focusses on the concept of corporate social responsibility and to examine the idea of Corporate Social Responsibility in different legal jurisdictions, by making a comparison of the idea, evolution and the present legal structure of Corporate Social Responsibility norms in the European Union, United Kingdom, China, Denmark and India. The growing political and economic importance of the BRICⁱ countries contribute to a general context for the growth, the future and the destiny of CSR. The value driven CSR activities are famous among the developed countries, and now many developing countries are trying to follow the same to create a balance in the social and economic sector in a sustainable way.

AN ANALYSIS OF THE CORPORATE SOCIAL RESPONSIBILITY NORMS IN DIFFERENT LEGAL JURISDICTIONS

While discussing the concept of Corporate Social Responsibility, it is vital to have a comparative study of the notion of CSR in different legal jurisdictions and to have an analysis of how it differs from one another. Corporate Social Responsibility in the European Union, United Kingdom and China, Denmark are discussed herewith.

European Union and the Approach to Corporate Social Responsibility: An Overview

Lisbon summit (2000) is the first step taken by the EU in the corporate social responsibility. Gaining economic growth and a sustainable development was the objectives of the states based on a vibrant approach, which is efficient for creating better jobs and greater social consistency.ⁱⁱ Publication of a policy document that elaborates the Europe's objectives for boosting the awareness among the state has been made, the Green Paper on corporate social responsibility, which was an initiative by the European Commission in July 2001.ⁱⁱⁱ

In order to spread the awareness among the people, a campaign has been set up and the European commission and published a compendium of the member state initiatives adopted on the corporate social responsibility. The interaction by the business operations with their so-called stakeholders on a voluntary basis and the integration of the environmental and social

concerns that pop up in the company are considered as the definition formulated in the Green paper.^{iv} Hence, CSR is a voluntary engaged mechanism that focusses on the future legal requirements in the corporate sector fundamentally for the benefit of the community along with the growth of the company.

The European commission's CSR agenda has been documented in the European commission CSR consultative paper of July in the year 2001 and the policy paper of 2002. Europe flourished in the field of corporate social responsibility by rapidly adopting major CSR activities. The thrilling element of the business in Europe is that, all the states stand uniformly to accomplish endless gain for the nation.^v In 2014 to support this claim European union had prospered in creating various innovative steps for stimulating the corporate social responsibility and development actions, efforts like the social agenda number 36, number 37, new European social fund are best examples for this and made sure that the businesses are socially responsible to the economy in a massive way.

Credibility in the business accomplishments and good faith among the stakeholders are essential to build business and it is possible through the CSR mechanisms. The end result will be commendable if the CSR tools are used to bring the business into a sustainable, economically beneficial and socially responsible realm along with granting benefit to the stakeholders. Lisbon European council was a strategic tool adopted by Europe in order to achieve the goal of reduction of unemployment, to boost the social cohesion along with focusing on new reformations in the economic sector of the states.^{vi} European commission mainly focused on certain essential principles on CSR, the identification of the voluntary nature of CSR was the primary one followed by examination of various other principles like the credibility and accountability issues, matters regarding economic, environmental, consumer and other social issues that revolves around the CSR mechanisms.^{vii}

Another approach by the European Union, to foster the CSR along with increasing the accountability, transparency was done by the establishment of the EU multi stakeholder forum in the year 2002.^{viii} This was done by studying the feasibility of guiding principles for CSR practices. The EU multi stakeholder forum comes up with the final result, stating that the environmental and the social considerations are well integrated into the business activities by

volunteerism. It should also be noted that the core ingredient in the business activity should be commitment.

Corporate Social Responsibility within the United Kingdom

When we look upon the efforts taken by various nations, the first country around the globe to appoint a minister for CSR is United Kingdom, which was done in the year 2000 and the same was a convincing approach taken from the part of Europe on the subject of corporate social responsibility.^{ix} The CSR history in the United Kingdom throws light on the phase of the colonial and post-colonial period. Recently when we evaluate the trends of CSR, it is evident that the companies perceive everything in a global dimension whether it be the recruitment, capital market or the strategies adopting. Hence, in this era CSR is the language of business seeking greater attention globally.

The first report on corporate social responsibility was published in the year 2001 by the government.^x The government stresses on the need of a regulatory framework which encourage the business activities in a sustainable way by focusing on the corporate social responsibility mechanisms. Similar vein, the policy measures weigh on the voluntary approach to CSR. In the prominence of CSR related activities, the global dominance of the United Kingdom remained instrumental within the Union and across the empire. United Kingdom tend to improve the implementation of the CSR activities in their corporate sector for the welfare of the community. The dynamic shift of CSR, look forward towards the economic and social enhancement in the society.^{xi}

When we examine the concept of CSR in United Kingdom, we come across various terms that paves the same notion of CSR in UK. Such terms include, corporate citizenship, sustainable development, community relations.^{xii} The emphasis on the voluntary approach to CSR evidently point outs the lack of a legislative activity on CSR.^{xiii} Department of Business, Innovation and Skills (BIS) of the UK government in the year 2009 attempted to define CSR. They gave a definition where the environmental, social and economic influences of the business activities in a company are addressed to encounter the sustainable development goals.^{xiv} Promoting the notion of CSR internationally was greatly supported by the government. The company's achievement in the protection of the best interest of its shareholders should be

the given prominent goal of the directors in a company and the same objective is penned in the Company Law White Paper.^{xv} More significance is given to the internal and external approach to the stakeholder relationships in a company but the passing of a valid legislation that should be compulsory, explicit on the notion of CSR lacked from support in the United Kingdom.

Motions into the parliament has also been raised for the compulsory passing of the legislation in the United Kingdom for the mandatory reporting of the ecological and social impact of the business ventures in companies in the UK. Many trade unions behind the banner and support of CORE^{xvi} fought for the implementation of the laws regarding the mandatory reporting by the companies regarding this aspect. They also urged for the insertion of the ‘idea of duty of care’ for the directors for the company. Under a circumstance where there is a lack of support for the strict adoption of norms regarding CSR, the government tend to use the legislative levers that are pre-existing, effectively by injecting the CSR mechanisms indirectly in a myriad number of ways in the legal framework in UK.^{xvii}

Amendments to the pension Act of 1995 in the year 1999 was one of the, it brought a drastic change in the empire by adding the notion of reporting the economic, social, environmental and ethical perspectives by the trustees of the pension fund.^{xviii} This alteration primarily pointed towards improving the tendency of reporting the business activities for the evaluation of the social, economic, and sustainable approaches that has been taken up by the companies. So far as all these modifications tend to focus on ensuring a good corporate behaviour by protecting the stakeholder’s interest along with the integration of CSR norms by sharing the profit for the welfare of the society.

Companies should try to reduce the possibility of risk by adopting proper norms. Rules and regulations must be followed for a proper risk-free flow of business activities along with vanishing of the corruption from the firm. World Bank Group conducted a survey in which the findings suggest that 61 percent of the respondents were in a position seeking a compulsory and intense law on CSR for to end the corruption in the corporate sector. Unless and until a new law is enacted and implemented, the companies will not follow the trend of reporting and this can be understood from the approach taken by the company’s years back in UK. In the year 2001, the then Prime Minister Tony Blair set up a challenge for the companies in the

United Kingdom to file the environmental reports but the result was woeful that a huge number of leading companies, 350 in number blindly ignored this. Hence it is justified that only a new legislative measure on CSR can set a standard in the corporate behaviour, along with guiding to follow an ethical standard for the reduction of corporate scandals and to bring a change in the United Kingdom.^{xix}

When we examine the amendments made and regulations imposed by the government in United Kingdom through the existing laws, it can be concluded that the government is supporting the idea of filing the business related social and environmental reporting. The best examples for legislations that concerns the same in the UK are the Working Time (Amendment) Regulations 2001, Race Relations Act (Statutory Duties) Order 2001, Maternity and Parental Leave (Amendment) Regulations 2001, Employment Act 2002, Disability Discrimination Act 2005, and the provisions of Companies Act 2006 of the UK stipulates that the directors of the company should be able to understand the community and environmental impacts made by the operation of their companies. Even though the approach to CSR differs, it embedded the idea of social responsibility of the companies and the businesses.^{xx}

But there are arguments that compulsory CSR norms could lead to a counterproductive action. Legal compliance issues could rise in the community if the corporate social responsibility is forced to pen in a regulatory framework of legislation. And only an ingredient of free will of the companies to contribute to the society by CSR could be supported for a sustainable growth in the community through volunteerism. Many companies preferred a voluntary reporting approach than a mandatory mechanism on CSR. An attempt to introduce a new legislation on corporate social responsibility has been seen in the year 2002 by making provisions for the companies to report on social, economic and environmental matters and to publish the same through the passing of, The Corporate Responsibility Bill 2002, which was supported by CORE. But this bill lacked the government support and has failed.

Followed by this, in the year 2004, another Bill was suggested for consolidating compulsory CSR principles through reporting, that is The Performance of Companies and Government Department (Reporting) Bill. This bill got the support of CORE but has failed due to lack of parliamentary time. Another attempt by the sponsorship of CORE regarding the adoption of

CSR was through, The Companies (Impact on Communities Abroad) Bill. But continuously the policy making agenda on CSR had failed. The demand, seeking for a compulsory reporting of CSR is been shooting up but at the same time the notion of framing a legislation is shrinking the support. The baseline of a mandatory compliance of CSR by a legislation has still remained as a dream.^{xxi}

The soul of CSR is all about considering the business as a segment of the society. When we examine the growth of the CSR through various reforms in UK, we realize that, The Company Law Review Steering Group (CLRSG) contributed towards the reforms in the corporate sector. One of the significant approaches adopted by the CLRSG was the Enlightened Shareholder Value (ESV), which implicitly ensured the corporate behaviour in the company through a proper mechanism in a socially responsible way. CSR is perceived through the notion of volunteerism and the idea of philanthropic activities is holding in the corporate sector to ensure the welfare of the society to make the world a better place.^{xxii}

In 2016, a Green Paper on Corporate Governance Reform contributed for the amble representation of the stakeholder's interest along with the constitution of the stakeholder advisory panel. It focused more on strengthening on the measures to make the reporting efficient.^{xxiii} Representation of CSR by law will improve the social and environmental status by removing the constraints of voluntary approach towards CSR so that a greater responsibility can be imposed on the companies for the betterment of the society. As CSR is a personal responsibility practice, along these lines it is hard to control the utilization of CSR on the grounds that various organizations which have various perspectives about CSR, by which they do different activities to improve the society, also by using government assistance and advantages for the general public. Organizations can end up in troublesome circumstances where they don't have a clue about CSR activities, its corporate behavior and so on.

But the limits of CSR are questionable. So far, by the mid of 2020 it is evident that CSR does not remain as a managerial aspect in the company but it occupies a position, more than an ethical practice to a level of obligation or duty cast upon the companies in the corporate sector to contribute to the welfare of the people in the community. The necessity to glitter CSR through a proper representation of the CSR activities in the corporate sector by a specific legal

framework is adequate and if done, a remarkable change can be seen in the economy. This will steer the companies to be accountable and transparent in reporting of CSR.^{xxiv}

Corporate Social Responsibility in China

China's organizations and protections laws will assume the leading job of characterizing undertakings as lawfully free and capable market members, empowering the corporatization of state-claimed ventures and giving a lawful premise to the foundation through national laws, administration, and exchange exercises of business endeavours. Chinese organization law finds further significance through its growing inclusion of ventures, which are foreign invested. all these ventures which are foreign invested are currently administered by the Law of companies under the precept of general law and the unique law relationship, which suggests that the laws regarding the foreign invested ventures as long as they concern enlisted organizations, are laws which are treated as special laws when comparable to the organization's law or the law of the companies.^{xxv}

The corporate law system, as it right now stands and perhaps advances, could represent a hypothetical test to the established and true way of thinking on the law of business partnerships. The improvement of Chinese corporate law, as in it has widely obtained foundations from both European and Anglo American that has given proof of the intensity of one of the world's biggest markets, when a totally society based, plan-based economy, to instigate union.^{xxvi}

China has imported the hierarchical structures of Western industrialist business into its own endeavour areas. Despite the fact that business partnerships in China have indistinguishable key legitimate qualities from found in all wards and are tormented with some comparative lawful issues, the corporate law framework in China shows solid Chinese attributes. Among the issues that have been asserted to cause most, if not every one of, the embarrassments in corporatized ventures, and the most notable are irreconcilable circumstance between the investors and the directors and between the larger part investors and minority investors, the two great office issues of organization laws or the law of the companies.^{xxvii}

There must be numerous Chinese organizations that have the centre qualities of partnerships that are modern in nature. These qualities are required by the idea of a market economy. China

is likewise encountering the biggest privatization of advantages in world history. Accordingly, the state business segment has pulled back altogether from numerous bleeding edges of the economy, while the private segment has been developing so quickly that it has just become the nation's significant driver of development in efficiency.^{xxviii}

The CSR or the obligation of the corporate has developed as an issue of expanding business and social significance in corporate China. The idea of corporate social responsibility was imagined in the West long before China emerged as a focal piece of the worldwide creation organize. As of late, CSR has grabbed an extensive eye in China, prompting a developing standardizing system. The organization's law has a particular arrangement on CSR, which is the law of companies. Article 5 of the law specifies that, while taking part in business exercises, an organization must maintain laws and managerial guidelines, along with taking care of the social ethics and business morals, and also to act in accordance with some basic honesty, acknowledge oversight by the legislature and the population and uphold the social duties.^{xxix}

In the year 2006, the Shenzhen Stock Exchange gave the directions to follow the social responsibilities and obligations to recorded organizations, that is the listed companies, which characterizes CSR as the commitments that ought to be accepted for the far-reaching improvement of the country and the welfare of the general public, for the protection of assets, and for the protection of the partners including the investors, banks, workers, clients, shoppers, providers and networks.

A later activity by the legislature is the declaration of the managing views Rehearsing social obligations by Endeavours of the central by the SASAC in which the SASAC requested China's midway regulated SOEs to assume the main job in CSR. It gives an expansive meaning of CSR that covers an insurance to the protection of the environment, vitality and preservation of the assets, workers wellbeing, work security, buyer rights, keeping up showcase request, maintaining business morals and charity, investor worth, and employment creation. Evidently, these are regularly commonly clashing targets that are hard to execute by one undertaking. At the business level, China propelled a program for encouraging the CSR initiatives in the business, the first among the industry relationship to do so was the China National Textile and Apparel Council (CNTAC) and gave the principal Yearly CSR Report.^{xxx}

Notwithstanding the legal framework, it is as yet an open inquiry whether CSR ought to be a worry for the law of the companies or not. Despite the fact that CSR ought to be sought after by organizations, it forces moral as opposed to legitimate commitments on corporate conduct. To sum things up, it is presented that Chinese organization laws that is the company law ought to not by any means consider systematizing and implementing CSR.^{xxx1}

Corporate Social Responsibility in Denmark

The Danish government thinks of it as fundamental that the industry and business takes the CSR activities to improve human rights along with social well-being and work measures, just as the sustainable development in the environment. This is important to make a guarantee that Denmark can add to globalization and the feasible administration of our common assets. CSR has become an inevitable element of the market.

The quality and pertinence of the CSR announcing and reporting by Danish organizations is secured by the Danish Financial Statements Act. The biggest organizations in Denmark have been legally necessitated to give an account of Corporate Social Obligation, since 2009. In 2008 the Danish Parliament concluded that the Danish organizations must record for their work on CSR in their yearly reports. Denmark is one of the nations where numerous organizations have embraced the CSR plan, and Danish organizations can assume a vital role in adding to arrangements through their work with CSR, which likewise can improve their business openings.

The Legislature will in this manner bolster and fortify that Danish organizations continue working effectively with social obligation, for instance, improved conditions in the nations they exchange with and additionally are built up in. the legitimate prerequisites concerning CSR announcing has been fulfilled by following Section 99 (a) of the Danish enactment, that is, the Danish Financial Statements Act, 2008.^{xxxii}

Danish organizations have the upper hand of long haul understanding from agreeing to elevated expectations in worldwide terms in such territories as HR and natural administration. The reporting of CSR as per the CSR prerequisites in the Danish Financial Statements Act was tend to be followed in 2008 and which the organizations announced the same to be followed in

2010. The necessities involve that organizations should either uncover their CSR approaches that should include how they actualize them, and what they have accomplished or state explicitly that they don't have CSR arrangements. Danish Parliament in the year 2008 bought a change to the Danish Financial Statements Act. This alteration obliges every single enormous business to uncover CSR data in their yearly reports. Organizations must provide details regarding the CSR approaches they make, how these strategies are converted into activities and also, what the business has accomplished because of working with CSR. On the off chance that the business doesn't have any CSR strategies, this must be explicitly unveiled.^{xxxiii}

The lawful necessity for every single enormous business to give an account of CSR in their yearly budget summaries is another prerequisite in Denmark and is additionally a development in global terms. By examination, organizations have been dependent upon the commitment to document budgetary reports for such a significant number of years this has gotten a built-up schedule. We in this way have constrained involvement in lawful CSR announcing, and these reports are distinctive in manner to money related reports. Satisfying the new prerequisite can in this way normally be an exceptional test for the organizations in question. The lawful necessity has additionally added to huge unlisted organizations starting to move toward the listed organizations that a degree of nature of CSR detailing. Positive improvement has subsequently been found in countless zones, and in that regard the alteration to the Act must be viewed as an achievement. It has end up being an impetus for the organization's receptiveness on CSR and maybe additionally for joining CSR in their business procedures.^{xxxiv}

Denmark considers itself to be a leader in creating and advancing a CSR technique and activities around 2003. The beginning stage was a stock take of the prerequisites of Danish organizations. A study indicated that six out of ten Danish organizations were confronted with necessities to be responsible for CSR. Primarily the stress was coming basically from organizations because of their prerequisites to different providers and from the necessity to know about practices among providers in different nations, instead of emerging from formal national or universal detailing necessities. Putting forth the business defense for CSR was another significant part of the early and continuous technique. Specific accentuation is being put on the way that CSR should be completely incorporated into business system advancement as opposed to being an extra aspect.^{xxxv}

Consequently, CSR turned into an undeniably global issue with worldwide principles playing an always significant job for organizations. As an ever-increasing number of organizations looked to get included, the committee for CSR was made, with the help of representation from various partners. The Committee works based on accord and its joint suppositions assume a significant job in impacting government methodology. Simultaneously, inside the administration, better co-activity between government divisions on the issue was being built up. It is by 2009 that endeavours were made to set up administrative measures, at first according to straightforwardness and CSR announcing.^{xxxvi}

In 2009, Danish enactment presented a prerequisite for organizations which is state-owned, listed and large in Denmark to add announcing for their corporate social obligation endeavours in their yearly reports and the same should be non-financial reporting. The legal necessity is a piece of the Administration's activity plan for corporate social obligation 2008-2012 and is expected to help improve the global seriousness of Danish exchange and industry. From the start, this measure was dubious, yet now 94% of enormous organizations decide to report.^{xxxvii}

In the year 2018, an alteration to Section 99(a) to the Danish Financial Statements Act was made. On 1 January 2019, it came into force, and is viable for budgetary years starting 1 January 2020. The key alteration is the presentation of a principle called 'the safe harbor rule' that permits organizations to discard revelation of data in the CSR report, if the divulgence of the same will make huge harm to the business comparable to progressing dealings or debates. Usage of this exclusion must be unveiled in the report.^{xxxviii}

CONCLUSION

By examining the present legal mechanisms and approaches, it is evident from the reports that there is a climbing stress for an intervention from the legal sector. It is internationally reported, the scope of the corporate social responsibility in the upcoming corporate sector. Social and economic hardships could be controlled in such a manner through all these CSR initiatives taken up by the companies. Queries have been raised regarding whether there is any distinction between the acts of Corporate Social Responsibility in nations which are developed when

contrasted with the nations that are developing. It has been proposed that the idea varies as per national social monetary needs which are themselves affected by verifiable and social factors and as per the various kinds of social on-screen characters that are requesting activity on these needs^{xxxix}.

Corporate Social Responsibility notions, theories, and thoughts fundamentally begin from marketplace economy nations with generally solid institutional situations in which guideline is productive and genuinely authorized. However in various rising economies and creating nations with frail institutional situations underlined by the discretionary requirement of law, bureaucratic irregularity, weakness of property rights, and defilement, Corporate Social Responsibility may get an alternate bend.^{xi} There was a connection with the European Union social plan with the Corporate Social Responsibility idea in tackling to concerns in regards to business and social outcomes of financial and market reconciliation and in adjusting working conditions to the new economy.^{xii}

The Green Paper expresses that the idea of CSR is a chance to include organizations in an association with other social accomplices, neighbourhood specialists and different bodies that oversee social administrations in other to fortify their social duty. The green paper in this manner set to investigate what opportunity, if any the Corporate Social Responsibility idea offers in the fulfilment of the EU social arrangement.

The critical point is that the Green paper perceived the job of guideline or enactment in the process when it expressed that corporate social obligation should not be viewed as a substitute to guideline or enactment concerning social rights or ecological norms, including the advancement of new suitable enactment. In nations where such guidelines don't exist, endeavours should concentrate on putting the correct administrative or authoritative structure set up so as to characterize a level playing field based on which socially dependable practices can be created.^{xlii}

The European Commission in 2006, disclosed its new CSR approach which was a critical move. The commission made it unequivocal that CSR in Europe would remain organization drove and wilful. The commission expressed that CSSR is in a general sense about deliberate business conduct, a methodology including extra commitments and regulatory necessities for

business dangers being counter beneficial and would be in opposition to the standards of better guidelines.^{xliii}

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ENDNOTES

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