CORPORATE SOCIAL RESPONSIBILITY IN INDIA: A SURVEILLANCE *

INTRODUCTION

The corporate beliefs that a company needs to be responsible for its action: socially, ethically and environmentally. Corporate Social Responsibility (CSR) is viewed as a comprehensive set of policies, practices and programs that are integrated into business operations, supply chains and decision-making process throughout the organization – whenever the organization does business and includes responsibility for current past actions as well as future impacts[1]. Effective CSR aims at "achieving commercial success in ways that honor ethical values and respect people, communities, and the natural environment." Simply put it means "what you do, how you do it, and when and what you say."

The issues that represent an organization's CSR focus vary by size of enterprises (small, medium and large), sector (for example financial, institutions, infrastructure development, textile manufactures, agro-procedures, supermarket retailers, etc) and even by geographic region. In its broadest categories, CSR typically includes issues related to business ethics, community investment, environmental concerns, governance, human rights, the marketplace and the workplace.

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[1] Issues Brief: Overview of CSR: Business for Social Responsibility, <http://www.ber.org/CSRResources/IssueBriefDetail.cfm?DocumentID=4889> accessed 01 September 01, 2014
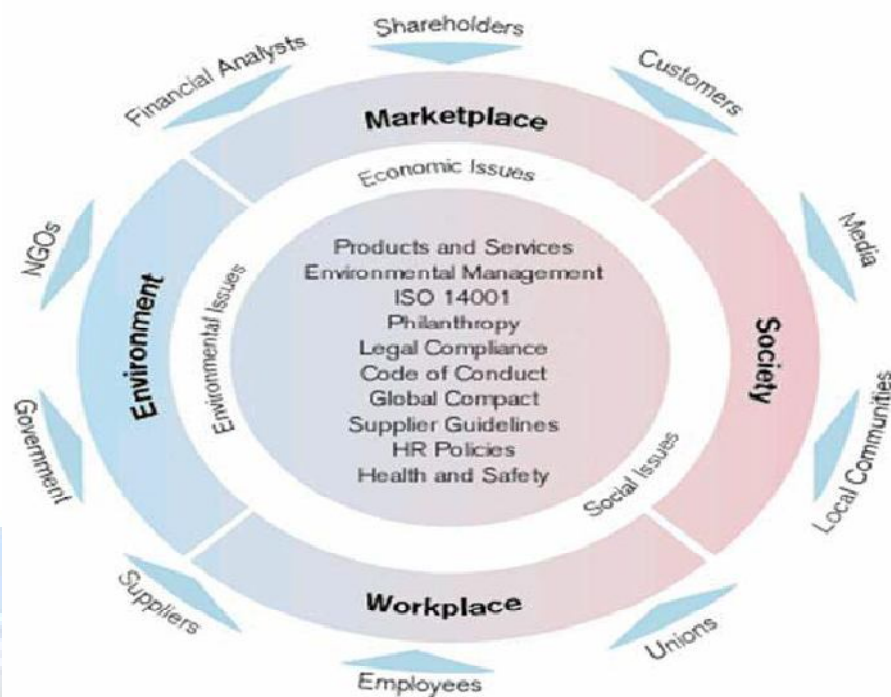
Areas of Corporate Social Responsibility.[2]

The importance of CSR emerged significantly in the last decade. The concept of CSR has gained prominence from all avenues. Many of the leading corporations across the world had realized the importance of being associated with socially relevant causes as a means of promoting their bands commending respect. But now days the problem with CSR is that nobody is very clear about what exactly it encompasses. On April 01, 2014, India provided for CSR in a company law statute[3]. CSR was not dealt with the Companies Act, 1956 and it is the first time it is provided for in a statute. This seems to be in line with the stakeholder theory of corporate governance which seems to be favored by the legislators, in light of the drafting of Section 166 (2)[4]. The Indian Government made it mandatory for companies to spend at least 2% of their net profit on CSR[5] but today CSR

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to some companies only means providing lunch to their employs or tackling global warming issue and carbon-footprint.

Over the time, CSR expanded to include both economic and social interests. There is a universal and prominent view on protecting the environment and its various stakeholders' interest[6]. CSR has become the need of growing business. Emerging economies like India have also witnessed a number of corporate actively engaged in CSR activities and the Ministry of Corporate Affairs has come up with voluntarily guidelines for corporate to follow.

Organization's Commitment towards CSR

Typically, an organization interested in making a pledge towards CSR, will start by first outline a commitment towards the concept given the gravity of the action an its huge responsibility, this commitment will be deliberated on extensively by the top management of the business, before it is made public[7]. This declaration is somewhat analogous to a Quality Policy an ISO 9000 certified organization.

Such a declaration is followed by the development of a CSR management and reporting framework[8]. Here, a detailed CSR review is to be conducted to identify priority CSR's risk, opportunities and impacts, followed by the exercise involving stakeholder engagement to obtain the views of all concerned. Once the reporting and management system of CSR is put into motion, regular audits and Board/ top management – level reviews need to be conducted to ensure that the system is performing as intended[9].[4] Finally organizations may report on their CSR practices in their annual performance report under a different section, or may even produce an

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[6] BARON. D, *CSR and Integrated Strategy,* 10th Journal of Economics and Management Study, 7-8, 2001.

[7] Section 135 (2): The Board's report sub – section (3) of Section 134 shall disclose the composition of the Corporate Social Responsibility Committee.
(3) The Corporate Social Responsibility Committee shall, –
   a. formulate and recommend to the Board, a Corporate Social Responsibility Policy which shall indicate the activities to be undertaken by the company as specified in Schedule VII;
   b. recommend the amount of expenditure to b incurred on the activities referred to in clause (a); and
   c. monitor the Corporate Social Responsibility Policy of the Company from time to time.
(4) The Board of every company referred to in sub – section (1) shall, –
   a. after taking into account the recommendations made by the Corporate Social Responsibility Committee, approve the Corporate Social Responsibility Policy for the company and disclose contents of such Policy in its report and also place it on the company's website, if any, in such manner as may be prescribed; and
   b. ensure that the activities as are included in Corporate Social Responsibility Policy of the company are undertaken by the company.

[8] Ibid;

[9] *Developing a CSR Management and Reporting Frameworks,* <http://www.bba.org.uk/pdf/forgetpar2.pdf> accessed 02 September 2014

exclusive report focusing on CSR practices and issues relevant to the organization. This is a cyclic process – one of continual improvements. The learning curve is never ending.

CSR in India – Sustainable Development

Mahatma Gandhi, the charismatic visionary leader was a person who in several respects was ahead of his time. His view of the ownership of capital was of trusteeship, motivated by the belief that essentially society was providing capitalists with an opportunity to manage resources that should really be seen as a form of trusteeship on behalf of society in general. Today, the world is coming round full circle in emphasizing this concept through an articulation of the principle of social responsibility of business and industry[10] and this trend is no different in India either.

A much less publicized but deeper aspect of the importance of CSR in India is a concept that covers a range of issues under the fabric of sustainable development[11].[6]

There are several bodies now emerging on the Indian scene that focus on issues of CSR. For instances, the Corporate Roundtable on Development of strategies for the Environment and Sustainable Development – Business Council for Sustainable Development (CoRE-BCSD) of India[12] is a growing of Indian corporate trying collectively and individually to build in sustainable development concepts into their operations.

The Indian Partnership forum of the Confederation of Indian Industries (CII)[13] is also an active proponent of CSR. It encourages a multi-stakeholder dialogue for promoting CSR in Indian Business, including policy regard to creation of an enabling environment.

The basic objective of CSR in these days is to maximize the company's overall impact on the society and stakeholders. CSR policies and programs are being comprehensively integrated by an increasing number of companies throughout their business operations and process. A growing number of corporate feel that CSR is not just another form of indirect expenses but is important

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[10] R.K. Pachauri, *The Rationale for Corporate Social Responsibility in India*, <http://www.teriin.org/features/art227.htm> accessed September 02, 2014

[11] <http://www.ec.gc.ca/internationals/refs/gloss_e.htm> Accessed 03 September, 2014

[12] See also *"CoRE-BCSD India, Tata Energy and Resource Institute (TERI) - A WBCSD partner since 2002"*, <http://www.wbcsd.ch/templates/TemplateWBSCD1/layout.asp?type=p&MenuId=MTgy> accessed 03 September, 2014.

[13] Operationalizing CSR – Some Tips, <http://www.indiapartnershipforum.org/csr_how.htm> accessed 03 September , 2014

for protecting the goodwill and reputation, defending attacks of rivals and increasing business competitiveness[14].

The Realities of CSR

Benefits of CSR[15]

CSR is a business strategy that works. In a world where brand value and reputation are increasingly seen as an organization's most valuable assets, CSR can build the loyalty and trust that ensure a bright sustainable future. In our complex, global society corporations are becoming increasingly visible. These businesses are not only judged on their results outputs but also on their behavior too. Thus CSR should be an integral part of every aspect of business life. The following are some of the benefits of CSR:-

(i)   Improved financial performance.

(ii)   Better risk and crisis management.

(iii)   Reduced operating costs.

(iv)   Increased worker – employee Commitment.

(v)   Good relations with government and communities.

(vi)   Enhanced brand value and reputation.

(vii)   Long-term sustainability for their organization and society.

(viii) Long term return on investment.

(ix)   Increased productivity.

(x)   A license to operate.

The Challenges to CSR[16]

There are a number of challenges to the implementation of CSR. Some of the challenges that have emerged over the course of development and expansion of business-to-business CSR over the last decades are as follows:-

(i)   Lack of Community Participation in CSR Activities:

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[14] FRIEDMAN. M, *The Social Responsibility of Business is to increase its Profits,* New York Times, September 13, 1970 at 45.

[15] THE EUROPEAN BUSINESS CAMPAIGN, *Why Corporate Social Responsibility?,* <http://www.csrcampaing.org/why/default.aspx> accessed 04 September 2014

[16] NIGEL TWOSE AND ZIBA CRANNER, *Responsibility Breeds Success*http://www.worldbank.org/devoutreach/march03/article.asp?id=193, accessed 04 September 04, 2015

There is a lack of interest of the local community in participating and contributing to CSR activities of companies. This is largely attributable to the fact that there exists little or no knowledge about CSR within the local communities as no serious efforts have been made to spread awareness about CSR by government and companies and instill in the local communities about such initiatives.

(ii)   Need to build Local Capacities:

There is a need for capacity building of the local non-governmental organizations as there is a serious need of trained and efficient organizations that can effectively contribute to the ongoing CSR activities initiated by companies. There is no dedicated department involving resources and requisite man – power to deal with various aspect of CSR as they usually do with Human Resource Department, Policy Management, and Consumer Complain Cell etc in a company.

(iii)   Issues of Transparency:

Lack of transparency is one of the key issues brought forth by the survey. There is an expression by the companies that there exists lack of transparency on the part of the local implementing agencies as they do not make adequate efforts to disclose information on their programs, audit issues, impact assessment and utilization of funds. Garb of secrecy sustained by company and lack of awareness among masses worsen its compliance.

(iv)   Non-availability of well organized non-governmental organization:

It is also reported that there is non-availability of well organized non – governmental organizations in remote and rural areas that can asses and identify real need of the community and work along with companies to ensure successful implementation of CSR activities.

(v)   Narrow perception towards CSR initiatives:

Non-Governmental organizations and governmental agencies usually posses a narrow outlook towards the CSR initiatives of companies, often defining CSR initiatives more donor – driven than long and sustainable approach.

(vi)   Non-availability of Clear CSR guidelines for its non compliance:

There are no clear cut statutory guidelines or policy directives to give a definition direction to CSR initiatives of companies. It is found that the scale of CSR initiatives of companies should depend upon their business size and profit.

(vii)   Lack of Consumer on Implementing CSR issues:
There is a lack of consensus amongst local agencies regarding CSR projects. This lack of consensus often results in duplication of activities by corporate hours in areas of their intervention. This resulted in competitive spirit between local implementation agencies rather than building collaborative approaches on issues. This factor limits company's abilities to undertake impact assessment of their initiatives from time to time.

Moreover, under there is no such provision under the Act that the companies must have to follow up the 2 per cent rule. Company if not implementing the CSR policy than can be excused by giving the reason for the same. Companies can choose between complying with the provisions or explain why they do not[17] and hence it is a voluntary approach[18]. For a voluntary approach to work there has to be a body which will monitor compliance or deviation but there is no such specified under the Companies Act[19]. Though the Ministry of Corporate Affairs is the overseeing body to regulate corporate affairs in India, the specific function of monitoring is not vested in them[20]. The past track record of compliance of a voluntary code in India is not quite impressive. Though standards of corporate governance have improved over the years, there continue to be breaches of the basic requirements of Clause 49 of the listing agreement[21]. Even in case of these breaches, SEBI has not initiated enforcement actions and even where it has these have not tended to be successful[22]. If there is no proper enforcement of even mandatory requirement, it is highly doubtful that there would be more compliance for a voluntary requirement[23].

Conclusion

[17] Antione Faure, "Corporate Governance in the UK – Is the Comply or Explain Approach Working?" Discussion Paper No. 581, Corporate Governance at LSE (2005)

[18] Andrew Keay, "Comply or Explain: In Need of Greater Regulatory Oversight?" 1 (2012), Available at http://papers.ssrn.com/sol13/papers.cfm?abstract_id=2144132

[19] Jill Treanor, "Corporate Governance: does' comply or explain' have a future?", The Guardian (2012), Available at   http://www.theguardian.com/business/blog/2012/feb/15/corporate-governance-comply-explain-future   ; Umakanth Varottil, "India's Corporate Governance Voluntary Guidelines 2009: Rhetoric or Reality?" 22 (2) National Law School Review (2010)

[20]Sarayu Satish, "Corporate Social Responsibility in the Companies Act, 2013: Voluntary or Mandatory", (2014) PL November 2014.

[21] Supra Note 21 (Jill Treanor)

[22] Afra Afsharipour, "The Promise and Challenges of India's Corporate Governance Norms", 1 (1) Indian Journal of Law and Economics, 58 (2010)

[23] Supra Note 21 (Jill Treanor)

Corporate Social Responsibility is an evolving process and not an end. The concept of CSR is not firmly rooted on the global business agenda. But in order to move from theory to concrete action, many obstacles need to be overcome. Across the globe, the concept of CSR has been accepted as an element for success and survival of business along with fulfilling social objectives. However, the challenge for the companies is to determine a strong and innovative CSR strategy which should deliver higher performance in ethical, environmental and social areas and meet all the stakeholders' objectives. Rules and regulations for penalties and sanctions on companies for the ill or non – compliance should be made more stringent for moving it from the status of quasi – mandatory to mandatory CSR.

Training, conferences and seminars could be organized by companies to disseminate and generate new knowledge and information in this sector. Companies need to involve their stakeholders in order to build meaningful and long term partnership which would lead to creating a strong image and brand identity. Transparency and dialogue can be held to make a business appear more trustworthy, and push up the standards of other organizations at the same time.