Why State Intervention is Required for Corporate Social Responsibility? An Indian Experience

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Abstract

The paper is an attempt to address a much-debated question on the legitimacy of state intervention in Corporate Social Responsibility (CSR). At present, CSR has appeared as a topic of universal discussion. Although, the history of CSR and its origin dates back to the eighteenth century as a part of corporate philanthropy. The term CSR gained popularity since the second half of the twentieth century at the onset of the cold war and during the golden age of new social movements. Indian history has many instances of ethical and social responsibilities adopted by a few religious institutions and emperors. But, nonetheless, postcolonial India remains a mile away in achieving and accepting CSR as a part of business operations. With the Companies Act 2013, new hopes have been rekindled. The rising number of business entities brings about new challenges and new approaches towards CSR. State initiatives should not be restricted merely to legislate but opened to implementing the laws; holding continuous discussions and deliberations; and extending assistance to various other stakeholders that are the keys to success of CSR in India.

Keywords: Corporate Social Responsibility, Corporate Philanthropy, the Companies Act 2013, Indian State, State Intervention.

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Introduction

The term Corporate Social Responsibility (henceforth CSR) has become a buzzword and gathered the attention of social science researchers, entrepreneurs, business entities over the last four decades in the west and the east. India has not been beyond this global phenomenon. CSR may be conceptualized as company’s ethical commitment to conduct business transparently and paying attention to the well-being of its stakeholders, consumers, environment and society at large. Despite its rich historical heritage, the idea of CSR is highly contested one and there is
a great ambiguity in its implications. It is multifaceted and diverse because notwithstanding its universal acceptability in a single form or different, countries have developed their own agenda, policies, and strategies to address a multiplicity of issues within the society. However, the desirability of considering the social performance of the business entities has sparked a new debate. For some researchers, the ultimate objective of any corporation is to do its business well by only serving the needs of the society and making profits, while for others, “every large corporation should be seen as an entity whose decisions and existence can only be justified if it only serves public or social purpose” (Dahl, 1972, p. 18). The advent of Liberalisation, Privatisation and Globalization (henceforth LPG) facilitated the proliferation of Multinational Corporations (henceforth MNCs), and Small and Medium Enterprises (henceforth SMEs) across the world. The rising number of business entities brings about new challenges and new approaches to CSR. Today CSR leads by the Triple Bottom Line (TBL) approach – People, Profit, and Planet (Agarwal, 2008). However, the desirability of considering social performances of corporations is something of a herculean task since corporations’, being business entities, prime interest is how to gain more profit and reduce loss. It is this dichotomy between profits and ethics that dominates the whole understanding of CSR. Here, the role of the state is crucial in ensuring the success of CSR in developing countries, like India. State initiatives should not be restricted to constitute laws but implementing the laws, holding continuous discussions and deliberations, and extending assistance to various other stakeholders— these are the keys to success of CSR.

**Review of Literature**

Crowther and Aras (2008) offer an exhaustive theoretical framework of CSR by addressing various important issues regarding CSR, namely the operational principles of CSR, the working philosophy of CSR, issues of ethics and morality surrounding CSR, CSR and sustainable development, CSR and corporate behaviour, and CSR in the era of globalisation. The three principles of CSR identified are resource sustainability, accountability towards society and environment, and transparency in CSR reporting. Agarwal (2008) understands CSR purely from commercial and business perspectives. He focuses on the historical and philosophical roots of CSR, and also CSR in modern India. He discusses the issues of corporate accountability, taxations, legal complications, and provisions regarding CSR. At the same time, he identifies several CSR development projects carried out by several big corporate houses and their contributions in community development programme especially in the rural India.

Chakrabarty (2012) underlines the historical perspectives of CSR in India considering various sources already embedded in the Indian Constitution and various legal documents. He brings out the ideological roots of CSR in India starting from India’s nationalist struggle, the Gandhian notion of trusteeship, and CSR in neo-liberal India. Chakrabarty (2012) identifies the shift from philanthropic notion of CSR to CSR as a business strategy and argues that the success of CSR depends upon the inclusion of various SMEs in existing framework of CSR. Mander and Asif (2012) define CSR as the role of corporations and market for the overall well-being of the society. Two different models have been analyzed, namely, the US and the European models. US model, a philanthropist model, assumes that the companies, apart from paying taxes, are obliged to donate a certain share of their profits for charitable causes. On the other side, the European model, a business strategy model, accepts CSR as an investment in society for material wealth creation in a competitive environment. Bansal and Rai (2014) have shown the positive impact of the Companies Act, 2013. This article lays emphasis on the relationship between CSR expenditure and profits of the firms and it underlines how the firm size confidently affects this relationship. They found a positive correlation between CSR and profit. This article intends to establish that the probability of
taking CSR as a strategy increases as the firm becomes bigger and, on the other hand, the smaller firms are less likely to adopt CSR as a philanthropy. Jaysawal and Saha (2015) offer a conceptual overview on CSR and have shown the contributions of various corporate houses in CSR agenda. Though this article is a good piece from the statistical point of view, but this article did not discuss why CSR both as a policy and as a corporate practice could not attract business bodies and government for a long time. Kaur and Tandon (2017) take CSR as a medium of social change and social upliftment in India.

They focus on the global pattern of CSR and the CSR guidelines provided by various international organisations. They also focus on how CSR actually works in India by drawing reports from Indian top companies. The study underlines the potential benefits of CSR as a developmental strategy in India after the Companies Act 2013. Masoud (2017) conceptualises a model that can be applicable to both the developing and developed societies. The author identifies some shortcomings of various important CSR models like Carroll’s and Visser’s pyramid models for developing countries, and he provides his own International Pyramid Model of CSR. Here, he points out four responsibilities of the corporations, namely economic responsibilities, legal and ethical responsibilities, and finally philanthropical responsibilities. Singh and Sarkar (2017) opine that the CSR mandate in India has been projected as a ‘game changer’ and also assumed as a ‘revolutionising’ attempt to create an ‘India for all’. This next-level paradigm of strategic CSR is beyond defensive CSR, promotional CSR, and charitable CSR. Though this mandatory version of CSR has been projected as a revolutionising step, but it is too early to evaluate the outcomes as this mandate is still in its nascent stage. Bhusan (2018) points out five CSR models in India, like ethical, statist, liberal, stakeholder, and the Chatterjee model respectively. He discusses the Companies Act, 2013 and examines the contributions of some big companies with data. Finally he concludes with identifying some challenges in implementing the Companies Act, 2013, and he says, the state, being inefficient in socio-economic development, left the responsibilities for the corporates. Pandey and Mukherjee (2018) consider CSR in India from an anthropological perspective. CSR is important as long as humans have engaged in the business process. Though the relation between business entities and society is not new, but CSR provides a kinship between corporation and community. CSR, as a ‘system of exchange’ between corporation and community, can be better understood through ethnographic study of the local communities.

Strotmann, Volkert and Schimdt (2019) probe into whether CSR, as a strategy undertaken by various multinational corporations, is able to foster the well-being of individuals and society, or there is a significant gap between theory and practice. The authors opine that there is a substantial improvement in the quality of life of the villagers in India from 2011 to 2014. This paper has shown how CSR, undertaken by these various corporations, can indeed address multidimensional issues of well-being and poverty, and how poor villagers can evaluate the related changes. Thakur, Srivastava and Panwar (2019) focus on the importance of CSR to develop brand equity for the corporations that work in consumer durable segment. The study brings out five factors namely brand belief and responsiveness, brand loyalty through CSR, Brand inclination through CSR, brand perception, and brand confidence. The authors argue that all of these factors play a central role in increasing brand equity for corporations. Maqbool and Zamir (2019) examine CSR in India in the wake of the Companies Act 2013. By drawing annual reports from the SENSEX companies, the study attempts to envisage how CSR reporting can be used for community development, environmental concerns, healthy relations between producer and consumers. The study has shown that CSR spending significantly increased in India after the Companies Act, 2013 and India is performing well in comparison with other developing countries.
Objectives of the Study

The literatures reviewed provide a conceptual outline of CSR as well as an empirical picture of CSR in India. Conceptually, CSR appears as a dichotomous element between the US Philanthropist Model and European Ethical Business Model. Apart from the two dominant views – the US and European – of CSR, the Indian experience is quite different. Here, the state has taken an initiative to promote CSR by enacting parliamentary act passed in 2013 and its subsequent amendments. Objectives of this study are:

- To examine whether the state has the rightful space to intervene in the domain of the corporations, and
- To assess whether state intervention is needed in India or not.

Methods and Methodology

The building block of any research activity rests upon the theoretical basis of the pertinent issues. Though the research deals with empirical data, yet it remains qualitative in nature. Various governmental and organisation’s annual reports were the primary sources to obtain required data. Existing literatures are surveyed in order to understand the role of government in promoting CSR initiatives in public and private sectors. Various available books and journal articles were taken into consideration as well. The analysis of the policies, implementation measures and experiences helped to build up an understanding on the CSR policies in India. Here the neoinstitutionalist methodology has been employed to assess the nature of a neoliberal state. Neoinstitutionalism as an approach to politics opposes neoliberal theory. While the latter upholds market instead of state, the former favours active role of the state institutions in promoting public policies especially in the developing world.

The Trajectory of CSR in India

The concept of CSR both as an academic discipline and as a business strategy gained momentum during the second half of the twentieth century in the West, but it has also attracted the business corporations in the developing world. In the twenty-first century, known as the ‘Asian Century’, the focus has been on China and India, the two most emerging and economically powerful countries. It is expected that these countries will play a pivotal role in CSR. In case of India, the idea of CSR as a part of philanthropy is quite old. Indian history has many instances of many emperors who were accustomed to donate a large sum of money for societal development. Establishment of Temples, Mosques, Dharmasalas and engagement in various societal activities were also common from the emperors’ end at that time (Agarwal, 2008). However, the beginning of the nineteenth century fundamentally altered the philanthropic notion of CSR in India, and it encouraged various big corporate houses and industrialists to engage in community development programmes. During that time various corporate houses, like Tata under Jamshedji Tata, already ventured in CSR related activities as a part of corporate philanthropy in the early decades of the twentieth century. Apart from Tata, other big houses like Godrej, Birla, were also renowned for their philanthropic activities. However, now, not merely the private enterprises but various public enterprises, like Hindustan Petroleum Corporation, Gas Authority of India, Steel Authority of India Limited (SAIL), Indian Oil Corporation, are also actively engaged in various societal development programme such as providing health care facilities, education, protecting environmental sector, etc. Today, several of these corporations have their own CSR related teams that develop strategies, formulate CSR related policies and also gather financial resources to carry
out their CSR related activities. Therefore, in short, the growth and development of CSR in India can be divided into five phases:

The first phase (1850-1909) was philanthropic and charitable in nature. In this phase Indian values, traditions, customs, etc. immensely influenced the CSR related activities. The big corporations were engaged in community development programmes by constructing Temples, Mosques and other religious institutions. In the second phase (1910-1950), when India was struggling for her independence, Mahatma Gandhi called upon various industrialists to share their wealth for the upliftment of poorer sections of society. The Gandhian idea of trusteeship had influenced various industrialists, notably Jamshedji Tata, to build educational institutions and encouraged other sectors to engage in social reforms. Third phase (1951-1990) was marked by the emergence of various Public Sector Units (PSUs). Government’s policy on industrial licensing and taxes had imposed restrictions upon the private sector and that caused corporate malpractices. Therefore, that situation demanded legislation on corporate governance, and also on labour and environmental issues. In spite of the emergence of various PSUs, their contributions remained limited. So, in order to develop mass consciousness on CSR, various workshops and seminars were often held with collaboration between public and private sectors. This tendency fundamentally changed the notion on CSR. Fourth phase (1991-2012) opens at the onset of LPG and India’s economic reforms. In the era of LPG, expectations from various corporations grew higher. During that time, with the proliferations of MNCs and SMEs, initiatives were called for legislation regarding CSR and better regulatory framework. Fifth phase (2013-ongoing) begins with the Companies Act, 2013. It has been a historic milestone in the arena of CSR in India. This act provides an opportunity to the corporate sector to socialize their operations. This act also introduced several provisions that change the way how Indian corporations will conduct their business. The major aspect of this phase is that it tries to break away from a philanthropic notion to make CSR mandatory for the corporations.

**Important Provisions of the Companies Act, 2013**

The Section 135 of the Companies Act, 2013 will be applicable to all the corporations which have met the following criteria:

1. Net worth of ₹ 5000 Million or more
2. Turnover of ₹ 10000 Million or more
3. Net profit of ₹ 50 Million or more

As per the CSR policy, the companies must ensure the surplus generated from the CSR related activities should not be used for business profits. Correspondingly, this act specifies that the corporations must spend 2 per cent of their average net profit on CSR activities. If they do not spend the fixed amount, the reason(s) must be highlighted in their annual report. This act also calls for setting up a board and a CSR committee which will be responsible for all CSR related activities.

An amendment made under the schedule VII in 2014 highlights the CSR initiatives. Some of them are (Bhusan, 2018):

- a) Eradicating extreme poverty and hunger;
- b) Promoting health care and sanitation including contribution to ‘Swachh Bharat Kosh’;
- c) Propelling education and employment enhancing skills;
- d) Promoting gender equality and empowerment of women;
e) Ensuring environmental sustainability and conservation of natural resources including contribution to the ‘clean ganga fund’;

f) Imparting training to promote certain categories of sport.

g) Contributing towards the Prime Minister’s National Relief or any other relief fund set up by the Central Government.

India has not only been the first but also the only country in the world which has made CSR spending mandatory following the Amendment Rules, 2014. The corporate sector thinks of the mandatory version of CSR as ‘taxation over taxation’ (Bhusan, 2018, p. 318). Though this act has rekindled a new hope regarding CSR in India, but the initial outcome was not satisfactory. The annual CSR report of 2014 has shown how various corporations, despite this act, contribute only a substantial amount (sometimes as low as 0.3 – 0.5 per cent) on CSR related activities. It occurs due to lack of punishment to the offenders which challenge the viability of this Act. Despite various short comings, this Act has been marked as the beginning of a new era in CSR related activities in India.

Implementing CSR: Role of the State

It is undeniable that the role of government is pivotal for nurturing an environment where private entities and government can discuss and deliberate over various CSR related activities. Over the last decade, the government continuously appeals and encourages the stakeholders along with the private and public sectors to take a positive role in CSR. Similarly, with the rising profile of CSR, it links government actions with other challenges brought out by globalisation and economic changes in the twenty-first century. In this globalised economy, with the emergence of good governance and corporate governance, CSR provides a platform and a framework where corporations, government, and civil society can find out the best possible answers for major social and political problems, like affordable health care, education, unemployment, environmental sustainability, rural development, etc. (Albereda, Lozano, Tencati, Midttun & Perrini, 2008). Both the government and corporations across the world started to apprehend CSR as a means of ensuring sustainable development. Likewise, as the number of corporations increases, corporations also look forward to using CSR as an advantage to draw more customers. The western states have already understood that in this changing political and economic scenario, in the era of increasing regional competitiveness, they must initiate pro-active CSR policies that will help them to achieve sustainable developmental goals. Some experts believe that the government requires to reinvent their role by enacting legislation that will offer a framework for ensuring business behaviour, and it will produce desired outcomes to meet the challenges confronted by contemporary society. In this neoliberal regime, the role and responsibilities of governments are multifaceted. Fox, Ward and Howard (2002) have proposed four important functions of the government in the CSR agenda, there are mandating, facilitating, partnering and endorsing, Table 1 below elaborates these functions.

<table>
<thead>
<tr>
<th>Mandating</th>
<th>“Command and control” legislation</th>
<th>Regulators and Inspectorates</th>
<th>Legal and fiscal penalties and rewards</th>
</tr>
</thead>
<tbody>
<tr>
<td>Facilitating</td>
<td>“Enabling” legislation</td>
<td>Creating incentives</td>
<td>Capacity building</td>
</tr>
<tr>
<td></td>
<td>Funding support</td>
<td>Raising awareness</td>
<td>Stimulating market</td>
</tr>
<tr>
<td>Partnering</td>
<td>Combining resources</td>
<td>Stakeholders engagement</td>
<td>Dialogue</td>
</tr>
<tr>
<td>Endorsing</td>
<td>Political support</td>
<td></td>
<td>Publicity and praise</td>
</tr>
</tbody>
</table>

Source: Fox et al. (2002)
According to Table 1, the government should have a clear and legal mandate regarding CSR. It includes legislating laws about CSR while it is the duty of the Government to regulate and inspect whether the laws are generally obeyed or not. There must be certain provisions for penalty for the offenders while encouraging others by providing them fiscal rewards. The task facilitating includes how government generates awareness regarding CSR among the corporations and also among the larger sections of society. The task of partnering, on the other hand, calls for Government’s active engagement with the various stakeholders of society in implementing CSR policy. Government should develop a platform where society and business entities will engage in dialogue and deliberations on various complex issues of society. Endorsing implies how Government provides political support to CSR initiatives. If certain sectors are doing very well in CSR then Government should promote and publicly praise them as it will boost up their enthusiasm.

The nature and role of the state have also been altered in the changing globalized economy. India has also not been an exception in this regard. The Nehruvian model of import led growth failed because India’s expected growth has not yet been achieved at the optimal level in comparison with China. In a poverty-stricken nation, it is necessary to bring the various corporate bodies to tackle the problem of poverty, which was emphasized during the Bombay plan in 1944. In that plan, G.D. Birla stated, ‘the people in this country should be ensured a minimum in respect of food, clothing, shelter, education, health and other social matters” (as cited in Chakrabarty, 2012, p. 13). Indian democracy, which is supposed to be the most vibrant and largest in the world, could not bring equitable distribution of resources within the society.

With the demise of M. K. Gandhi, the idea of trusteeship has also been wiped out from the Indian scenario. As a result, most of the business houses started to detach themselves from various societal activities. But the emergence of globalization and India’s new economic plan embraced in 1991 led Indian state to redefine itself. In this new setting three important points are worth mentioning which have a direct conceptualization on CSR in contemporary India. These are, Chakrabarty (2012) highlights, ‘first, the goal of planning needs to be reinvented; planning is not an instrument of state interference, but a facilitator of economic growth. Second, in the era of a globalizing world, the role of the private sector in economic growth is equally significant and must be recognized. Planning cannot be restraining but must encourage the private sector to participate in developmental activities. The government is supportive of the endeavours of the commercial sector, which is critical for an all-round development of the country. Third, the Eleventh Plan is also concerned with rural development focusing on health, education and infrastructure development. Here, too, the role of the private sector is also highlighted’ (pp. 14-15). In this changing era, government has started collaborating and making partnership with various corporations. Government has also taken bottom up approach of receiving inputs from civil society and corporate houses to frame developmental policies. Government has also started enforcing strict regulations upon the corporations for making them responsible towards the environmental sustainability in response to the pressure from below. This ‘counter-hegemonic legality’ involves various social groups and communities whose livelihood have been affected by the state and the corporations. People can fight for their justice by using this legal mechanism that found its full expression with the emergence of public interest litigation or PIL (Chakrabarty, 2012). So, the emergence of CSR as a developmental strategy has also found its expression in human development agenda that rejects development only in terms of economic growth and focuses on protecting and developing human capability to counter various social, political, economic issues. Thus, in this shifting context, the role of the Government is not only limited to legislate rather CSR provides a tri-junction relation among the government, civil society and corporations to take each other as partners to address the problems that Indian society faces.
It was from the late twentieth century, major financial institutions like the World Bank, IMF, etc. preferred minimalist state and insisted on market to allocate resources. The basic and generalized assumption was that the governments in the developing societies are not capable enough both structurally and resource wise to engage in various social welfare and developmental activities because they were supposed to be fragile as well as corrupted. However, the neoinstitutional understanding argues that the formal and informal institutional norms and practices are helpful to sustain a viable democracy and governance in the developing societies (Rakner & Randall, 2011). Neoinstitutional understanding of the state reinvented the state institutions in designing developmental programmes and for the promotions of developmental activities in the developing societies. Developing countries, like India, have a greater responsibility and accountability towards the least advantaged sections. In this context, CSR in India is taken as a separate model beyond the philanthropic and business strategy models. Thus, the role of state is imperative and practical as far as CSR is concerned. In developing societies, if the state does not directly engage in promoting CSR, formulate policies on CSR, and develop a legal framework on CSR, there would be a gap between the theory and practice in CSR.

**CSR in Contemporary India**

Before the Companies Act 2013, the corporations’ contributions were minimal in terms of the holistic development of society. The major trends observed before this Act were that it was mainly the biggest conglomerates who were actively engaged in CSR. Even their contributions were very minimal in terms of their revenues. Also, they often focused on improving a single sector of society, for example education. But today CSR in India focuses on holistic development by engaging not only corporates but also the members of society into CSR paradigm. Now if the significant trends in CSR paradigm in India before and after the Companies Act, 2013, are carefully analyzed it is observed that average CSR expenditure by domestic firms was ₹3.79 million and by foreign firms was ₹8.5 million in 2011-12. It increased to ₹22.6 million by domestic firms and ₹19.5 million by foreign firms in 2012-13 (Bansal & Rai, 2014). Considerably there was also significant rise in CSR disclosure over the years. In 2010-11, 336 firms disclosed their CSR expenditure; it rises to 1,470 in 2012-13 (Bansal & Rai, 2014). So, if figures, are considered it is undeniable that this act indeed ensures timely reporting and monitoring of CSR related activities from corporates’ end.

Here a comprehensive and detailed analysis of CSR through the lens of very recent data, we get some intriguing facts. In 2017-2018 financial year, prescribed CSR spending increased 6 per cent and actual CSR spending increased 8 per cent from previous financial year (Kuhad, Kangad, Sengupta & Garg, 2018). Healthcare, education, and skill development remained the top priority areas to spend on CSR activities. Table 2 below, shows the practical assessment of CSR in India in 2017-2018.

<table>
<thead>
<tr>
<th>Table 2. Prescribed and Actual Spending under CSR in the financial year 2017-2018</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Prescribed CSR Budget</strong></td>
</tr>
<tr>
<td><strong>Actual CSR Spend</strong></td>
</tr>
<tr>
<td><strong>Actual CSR to Prescribed CSR</strong></td>
</tr>
<tr>
<td><strong>Changes from the previous financial year</strong></td>
</tr>
</tbody>
</table>

Source: Kuhad et al. (2018).
*Amount converted from Crore to Million by the authors.*
Table 2 indicates that today while India is projected as emerging economy not only in Asia but in the world, India’s prescribed 2 per cent annual CSR spending is not only feasible but also not acceptable if the multitudes of various big conglomerates both Indian and foreign corporations operating in India. However, regrettably, Indian corporations even failed to contribute such prescribed amount. Now considering the argument that why there is a need for state intervention in CSR in India, it can be said that if companies fail to fulfill their responsibilities even after enacting the Companies Act, 2013, it can be easily assumed what would happen if there is no such legal framework on CSR. At the same time, the figures indicate a positive sign that there is a substantive growth in CSR activities in India over the years. A steady and continuous growth in CSR year by year gives some ray of hope. But the major task before the government is to incorporate and include diverse enterprises into the ambit of CSR and, at the same time, monitoring their activities by a strong legal framework is also essential.

An exhaustive depiction of sector wise spending on CSR in 2017-2018 is presented in Table 3.

**Table 3. Sector wise Prescribed and Actual CSR Spending in the financial year 2017-2018**

<table>
<thead>
<tr>
<th>Name of the Sector</th>
<th>Prescribed CSR amount (All figures are in ₹ Million)</th>
<th>Actual Spending (All figures are in ₹ Million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Healthcare</td>
<td>3780.0</td>
<td>2940.0</td>
</tr>
<tr>
<td>Auto and Ancillaries</td>
<td>5540.0</td>
<td>5600.0</td>
</tr>
<tr>
<td>Power and Heavy Engineering</td>
<td>6180.0</td>
<td>5990.0</td>
</tr>
<tr>
<td>Metals, Minings and Minerals</td>
<td>5420.0</td>
<td>7470.0</td>
</tr>
<tr>
<td>Information Technology</td>
<td>13620.0</td>
<td>12130.0</td>
</tr>
<tr>
<td>Banking and Finance</td>
<td>21290.0</td>
<td>16860.0</td>
</tr>
<tr>
<td>Oil, Drilling, Lubricants &amp; Petrochemicals</td>
<td>20070.0</td>
<td>20920.0</td>
</tr>
</tbody>
</table>

Source: Kuhad et al. (2018).
Amount converted from Crore to Million by the authors.

So, now considering the sector wise spending on CSR from the Table 3 above, it qualifies that despite India’s remarkable, respected position in software, information technology in the world, Indian information technology companies have not even been able to spend the desired amount in social welfare activities. Correspondingly India’s engagements with CSR in major sectors, like healthcare, power and heavy engineering, banking and finance, are also not up to the mark. Only metals, mining, and minerals; oil and petrochemicals; auto and ancillary’s sectors have been able to fulfill their responsibilities. Nonetheless, it is also not undeniable that today companies have become more or less aware to be engaged in CSR activities.

Now, after considering sector wise CSR contributions in India, a discussion on company wise contribution to CSR will be helpful to analyse which companies are active (or inactive) in CSR and how these corporations operate and regulate their activities as per the Companies Act, 2013. In the Table 4, Indian top companies’ contributions to CSR during the financial year 2017-18 are presented.
Table 4. Indian Big Companies’ Contribution to CSR during the financial year 2017-18

<table>
<thead>
<tr>
<th>Name of the Company</th>
<th>Average Net Profit (in ₹ Million)</th>
<th>CSR Prescribed Expenditure (in ₹ Million)</th>
<th>CSR Spent (in ₹ Million)</th>
<th>Development Areas where CSR amount have been utilised</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reliance Industries Limited</td>
<td>35,154.9</td>
<td>7030.8</td>
<td>7450.4</td>
<td>Health care, Education, Environmental sustainability, Rural development projects etc.</td>
</tr>
<tr>
<td>Tata Consultancy Services Limited</td>
<td>24,868.0</td>
<td>4973.6</td>
<td>4000.0</td>
<td>Poverty, Eradicating Hunger, Malnutrition etc.</td>
</tr>
<tr>
<td>HDFC Bank Limited</td>
<td>18,246.5</td>
<td>3649.3</td>
<td>3745.4</td>
<td>Health care, Education, Environmental sustainability etc.</td>
</tr>
<tr>
<td>Indian Oil Corporation Limited</td>
<td>16,397.1</td>
<td>3279.4</td>
<td>3310.1</td>
<td>Vocational skills, Sanitation, Safe drinking water etc.</td>
</tr>
<tr>
<td>Infosys Limited</td>
<td>15,513.0</td>
<td>3102.6</td>
<td>3126.0</td>
<td>Rural development, Poverty eradication, Art and culture, etc.</td>
</tr>
<tr>
<td>NTPC Limited</td>
<td>11,037.0</td>
<td>2207.5</td>
<td>2415.4</td>
<td>Health care, Rural development projects etc.</td>
</tr>
<tr>
<td>Wipro Limited</td>
<td>9,164.7</td>
<td>1833.0</td>
<td>1866.0</td>
<td>Health care, Education, Environmental sustainability etc.</td>
</tr>
<tr>
<td>NMDC Limited</td>
<td>6,050.9</td>
<td>1210.2</td>
<td>1693.7</td>
<td>Environmental sustainability, Gender equality, etc.</td>
</tr>
</tbody>
</table>

Source: Ministry of Corporate Affairs (2019).
Amount converted from Crore to Million by the authors.

The figures in Table 4 indicate that most of the big corporations, apart from Tata Consultancy Services, have been able to contribute their prescribed amounts. But what is interesting that not only the private corporations but also the public enterprises also started to consider CSR with utmost significance. Most of these big corporations presently have their own CSR team and also publish their annual CSR reports and circulate these reports in public forums. At the same time, each of these enterprises have their specific priority areas in CSR, for example Tata Consultancy is active in community development programs, while HDFC bank is focusing on environmental sustainability besides community development.

Now if we look on the contributions of Mid Corporations and SMEs to CSR during the financial year 2017-18 in the Table 5, another side of CSR in India is found.
Table 5. Indian Mid-Corporates and SMEs to CSR during the financial year 2017-18

<table>
<thead>
<tr>
<th>Name of the Company</th>
<th>Average Net Profit (in ₹ Million)</th>
<th>CSR Prescribed Expenditure (in ₹ Million)</th>
<th>CSR Spent (in ₹ Million)</th>
<th>Development Areas where CSR amount have been utilised</th>
</tr>
</thead>
<tbody>
<tr>
<td>UFO Moviez India Limited</td>
<td>679.8</td>
<td>13.6</td>
<td>21.8</td>
<td>Health care</td>
</tr>
<tr>
<td>Neelikon Food Dyes and Chemicals Limited</td>
<td>534.0</td>
<td>10.7</td>
<td>8.8</td>
<td>Animal Welfare, Livelihood enhancement Projects, etc.</td>
</tr>
<tr>
<td>ROOP Automotives Limited</td>
<td>321.0</td>
<td>6.4</td>
<td>6.1</td>
<td>Environmental Sustainability, Reducing Socio-Economic disparities</td>
</tr>
<tr>
<td>Sentiss Pharma Private Limited</td>
<td>292.7</td>
<td>5.9</td>
<td>5.6</td>
<td>Education, Healthcare</td>
</tr>
<tr>
<td>Aksharchem</td>
<td>402.8</td>
<td>8.1</td>
<td>3.9</td>
<td>Sanitation, Environmental sustainability, Health care etc.</td>
</tr>
<tr>
<td>Ankur Scientific Energy Technologies Pvt Ltd</td>
<td>93.0</td>
<td>1.9</td>
<td>1.7</td>
<td>Primary and secondary education</td>
</tr>
<tr>
<td>Kavin Engineering And Services Private Limited</td>
<td>102.7</td>
<td>2.1</td>
<td>0.4</td>
<td>Conservation of natural resources, Education</td>
</tr>
<tr>
<td>Express Global Logistics Private Limited</td>
<td>46.3</td>
<td>0.9</td>
<td>0.2</td>
<td>Health care</td>
</tr>
<tr>
<td>Capricorn Food Products India Limited</td>
<td>259.2</td>
<td>5.2</td>
<td>0.0</td>
<td>Health care</td>
</tr>
<tr>
<td>Eduspark International Private Limited</td>
<td>179.4</td>
<td>3.6</td>
<td>0.0</td>
<td>Training to promote sports, Education</td>
</tr>
</tbody>
</table>

Source: Ministry of Corporate Affairs (2019).  
Data compiled by the authors. Amount converted from Crore to Million by the authors

Table 5 shows that while the big corporations have more or less contributed their stipulated amount, even contributed far more than their prescribed share in some cases, the Mid Corporates and SMEs have failed to fulfill their shares in many cases, even some of them did not engage themselves in CSR. The success of CSR depends upon how these companies, Mid Corporates and SMEs, will engage themselves in CSR agenda. According to Misra (2017), ‘Overall, MSMEs account for an estimated 90% of all enterprises in India. In FY15, the sector accounted for 6% of the GDP, 33% of the manufacturing sector output and about 45% of the country’s exports’. So, it is obvious that these companies are the backbone of Indian economy. Now it becomes imperative for the government to adopt specific strategy by accepting the reality and engage in communication with this sector. It will make CSR a truly successful venture.

Recent Amendment in the Companies Act, 2013

With the increasing number of business bodies in India and due to the lack of punishment to the offenders, the Government of India brought out the Companies (Amendment) Act, 2019 by amending the section 135 of the Companies Act, 2013. This amendment act of 2019 made some significant and much needed changes in CSR provisions in India. The major changes brought by this Act are as follows:

a) If companies failed to spend the prescribed CSR amount, now these unspent amounts shall be transferred to one of the funds provided under Schedule VII, such as Prime Minister’s National Relief Fund, within a period of six months before the end of that financial year and also stated their reasons for not spending.
b) The unspent amount under sub-section (5) in relation to ongoing projects regarding CSR policy shall be transferred to a separate bank account within 30 days during that financial year and the company must utilize this amount within a period of 3 years from the date of transfer.

c) Also, this act provides penalty provisions for those companies who contravene provisions of sub section (5) and sub-section (6) of this Act. This Amendment Act thus makes the companies liable of monetary fine of ₹0.05 million to maximum ₹2.5 million. Likewise, every officer of that respective company will be responsible for defaulting and shall be punishable with maximum 3 years imprisonment or fine ranging from ₹0.05 million to ₹0.5 million or both.

These changes may appear as a burden over the companies and also over the officers. One may argue that the monetary penalty cannot ensure the ethical or moral stimulus for CSR spending. Responsibility is more moral than legal and what Carroll (1991) says, ‘social responsibility can only become reality if more managers become moral instead of amoral or immoral’. But the situation demands these changes. The state wants to build a collective venture to ensure social wellbeing. According to the Ministry of Corporate Affairs (2019), ‘Successful companies have a social responsibility to make the world a better place and not just take from it. CSR extends beyond Corporate Philanthropy: It is a collective responsibility to build a society which supplements Government’s efforts to achieve inclusive growth which includes broad-based benefits and ensures equality of opportunity for all’.

Impediments of Ensuring CSR: Challenges before the Indian State

Despite growing belief on Government that it must have to be pro-active, the present scenario of CSR related activities in the developing countries is to several extent disappointing. In the West from the mid-twentieth century, they have moved from philanthropic notion of CSR to mandatory acceptance of CSR, but in India government faces several hurdles in promoting CSR. Government does not involve these corporations in CSR related activities from time to time. On the other part, corporations hardly cooperate and believe in the importance and necessity to engage in CSR activities in spite of government mandates. There is a sheer discrepancy between accountability and transparency of corporations about CSR related activities in their annual CSR reports. The Companies Act 2013 is relatively weak due to the absence of a watchdog mechanism as a result there has been a gross discrepancy between theory and practice. It is undeniable that Indian Government must engage in serious dialogue with various business groups and NGOs to use their expertise and human and financial resources to solve various societal and environmental concerns. In India, there are several concerns to successful implementation of CSR. Though the Government has started corporate responsibility for environmental protection in 2003, there is no pressure to conform this mandate. Following Ray and Raju (2014), highlighted some major challenges about successful implementation of CSR in India.

Lack of Community Participation in CSR Activities

Communities, which are supposed to be benefitted from this CSR related activities, exhibit less interest in these activities. In the same way government also failed to develop consciousness regarding CSR related activities within the community.

Issues of Transparency and Accountability

One of the problems that hinders successful implantation of CSR related activities is that the corporations are not very clear in disclosing their CSR related activities in their annual CSR reports.
Failure to Interlink between Business and Society

The fundamental problem of Indian corporations is that they still understand CSR as something of a philanthropic venture, while the western countries have moved from philanthropic notion to mandatory acceptance of CSR. Indian corporations still failed to understand that their goals as a responsible entity will never be achieved without developing ties with the society.

Weak Regulatory Framework

Despite so many legislations from the Indian Companies Act, 1956 to the Companies Act, 2013, Indian state has failed to achieve desired outcomes in CSR related activities. The reasons seem to be simple. It is the failure and unwillingness of government to consider CSR as an important issue that prevents it from achieving desired outcomes. In contemporary times, there are proper regulatory institutions, may it be in procedural level, like the National Human Rights Commission, Green Tribunal, in order to address socio-political and environmental issues. However, in case of CSR there is no such state level regulatory institution.

Conclusion

Nevertheless, there is a general understanding to make corporations responsible and responsive towards the needs of society, there are several important reasons that can lead India to put CSR into a specific legal framework. Firstly, in this era of globalised economy and after India’s economic reform in the last decade of the twentieth century, the number of SMEs increased manifold. Today it is the largest sector contributing to India’s GDP. So, this 2013 Act brings not only the largest corporate, but also the idea was to put these diverse enterprises into a single legal regime. Secondly, despite several laws and regulations enacted primarily for corporate responsibility, like the Companies Act 1956, but most of these acts were vague and scattered or else failed to address the needs of the society. The 2013 Act is an attempt to make corporate responsibility a single and systematic venture. Thirdly, one of the major concerns was, obviously this act tries to address, to create awareness and active participations especially from corporations’ points of view. Before this act it was mainly NGOs (sometime government’s periodic initiatives) to take active participation in generating awareness in society. But the philosophy behind this act was not only to punish but it provides a platform and an opportunity of holding constructive and healthy discussions, deliberations among corporations, government, and other major stakeholders of the society.

This matter should be taken at policy level. Policies can be divided into two different levels – substantive and procedural level. If enactment of act falls under substantive level, the latter implies the implementation of the policies that are enacted. Despite many drawbacks, INC (Indian National Congress) led UPA (United Progressive Alliance)-II government made CSR from voluntary to obligatory by enacting the Companies Act, 2013. BJP (Bharatiya Janata Party) led NDA (National Democratic Alliance)-II government allegedly appears to be a pro-corporatist regime, but they amended the Companies Act, such as 2014, and 2019 respectably, because the Act could not ensure minimum stipulated contributions of corporations to CSR in many cases. The legitimacy of a state is subject to its credibility to proper implementation of policies that are framed. The primary tasks of any state are two – policy formulation and policy implementation. These two are primary because state is supposed to perform these tasks and based on these tasks state power is legitimized by the people. If CSR after enactment of the Companies Act 2013 is considered discrepancy is found between theory and practice. It is undeniable that if CSR is an obligatory action, then a state policy is important not only for promotion but for proper
monitoring also. Though there are many constraints and controversies regarding the Companies Act 2013 in India, like Bhusan (2018) argues ‘such activities need not be imposed from above but come from within’, yet the public consciousness, the possibility of state involvement, and the obligations of the corporations to pay something back to society from which they earn their profits – all are made possible through the legislation of the state.

References


Authors’ Profile

Souvik Chatterjee obtained his master degree in political science with specialization in international relations from Kazi Nazrul University, Asansol, West Bengal, India, and stood first in 2018. Currently he has been a junior research fellow in the Department of Politics and International Relations, Central University of Jharkhand, India. His area of interests includes political theory, political sociology, comparative politics, theories of public administration, theories of international relations, and public policy. Currently he is working on inner Asia Studies.

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