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# Statutory Frame Work of Corporate Social Responsibility in India

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## ABSTRACT

*In today's transnational corporate operation corporation is getting recognized worldwide, but the impact on the society and environment is depraved. The norm - corporate social responsibility grew out of such logical behavior of the transnational corporation. The concept of Social Responsibility (SR) can be traced back to the 1930s Chester Barnard's publication "The Functions of the Executive and Theodore Krep's "Measurement of the Social Performance of Business published in 1940. The 1950s saw the start of the modern era of Corporate Social Responsibility and later it was coined by Howard Bowen in 1953. India is the first country in the world Corporate Social Responsibility to make corporate social responsibility mandatory. In India The Companies Act 2013 for the first-time mandates that private corporations join public sector firms in annual donations for Corporate Social Responsibility. CSR can be termed as "Triple-Bottom-Line-Approach", which is meant to help the company promote its commercial interests along with the responsibilities it holds towards the society at large. The present research paper explores the extent of Corporate Social Responsibility and the development of CSR in India.*

**Keywords:** *Corporate Social Responsibility, transnational Corporation, Triple-Bottom-Line-Approach, commercial, Society.*

## I. HISTORY OF CORPORATE SOCIAL RESPONSIBILITY IN INDIA

The history of Corporate Social Responsibility dates back many years and in one instance can even be traced back 5000 years in Ancient Mesopotamia around 1700 BC, King Hammurabi introduced a code in which builders, innkeepers or farmers were put to death if their negligence caused the deaths of others, or major inconvenience to local citizens. In Ancient Rome senators grumbled about the failure of businesses to contribute sufficient taxes to fund their military campaigns, while in 1622 disgruntled shareholders in the Dutch East India Company started issuing pamphlets complaining about management secrecy and "self-enrichment". With industrialization, the impacts of business on society and the environment assumed an entirely

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new dimension. The “corporate paternalists” of the late nineteenth and early twentieth centuries used some of their wealth to support philanthropic ventures.

Wealthy businessman and philanthropist Andrew Carnegie challenged wealthy people to support social causes, following his belief in the Gospel of Wealth. In the late 1800s, John D. Rockefeller, taking inspiration from Carnegie, followed suit in donating more than half a billion dollars.

In 1914, Frederick Goff, a well-known banker in Cleveland, founded the Cleveland Foundation, a trustee of the Cleveland Trust Company. Its purpose was to give power to the community by accepting gifts from multiple donors rather than one fortune, who could collectively assess needs and respond to the community. This was the first community foundation. It wasn't until the 1940s, however, that businesses, and not their owners or shareholders, could support charities.

Howard Bowen, an American economist and Grinnell College president, is often cited as the “father of Corporate Social Responsibility.” He connected the responsibility of corporations to society and published a book in 1953, which advocated for business ethics and responsiveness to societal stakeholders called *Social Responsibilities of the Businessman*.

The first company to implement CSR was Shell in 1998. (Corporate watch report, 2006).

## **II. CORPORATE SOCIAL RESPONSIBILITY**

India is the first country in the world to make corporate social responsibility (CSR) mandatory, following an amendment to The Company Act, 2013 in April 2014. Businesses can invest their profits in areas such as education, poverty, gender equality, and hunger. The term "Corporate Social Responsibility (CSR)" can be referred as corporate initiative to assess and take responsibility for the company's effects on the environment and impact on social welfare. The term generally applies to companies' efforts that go beyond what may be required by regulators or environmental protection groups. Corporate Social Responsibility is the way companies manage their businesses to produce an overall positive impact on society through economic, environmental and social actions. Corporate social responsibility (CSR), also called corporate conscience, corporate citizenship, social performance, or sustainable responsible business. Business depends for its survival on long term prosperity of the society.

CSR can be termed as “Triple-Bottom-Line-Approach”, which is meant to help the company promote its commercial interests along with the responsibilities it holds towards the society at large. CSR is different and broader from acts of charities like sponsoring or any other

philanthropic activity as the latter is meant to be a superficial or surface level action as part of business strategy, but the former tries to go deep and address longstanding socio-economic and environmental issues.

The EC defines CSR as “the responsibility of enterprises for their impacts on society”. To completely meet their social responsibility, enterprises “should have in place a process to integrate social, environmental, ethical human rights and consumer concerns into their business operations and core strategy in close collaboration with their stakeholders”.

### **III. DEVELOPMENT OF CSR IN INDIA**

- The UN Conference on Human Environment and Development held at Stockholm and ‘Stockholm Declaration on the Human Environment’ 1972 was the first major UN Conference on the environment. It is widely recognized as the beginning of modern political and public awareness of global environmental problems. It brought Countries together in proclaiming that the preservation of the environment is essential to the continued enjoyment of life itself. The Declaration contains 26 principles concerning the environment and development; an Action Plan with 109 recommendations, and a Resolution.
- 42nd amendment to the Constitution of India incorporated Article 48-A and Article 51-A in the Constitution. According to Article 48-A (Directive Principles of State) the states are under the ‘active obligation’ to make all endeavour to protect and improve the environment. It provides that “The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country”. On the other hand, according to Article 51-A(g) (Fundamental Duties of citizen of India) it is the duty of every citizen of India to protect and improve the environment.
- After the 1972 proclamation there were several legislations introduced for protection of environment and planet which includes Water (Prevention and Control of Pollution) Act, 1974; Air (Prevention and Control of Pollution) Act, 1981; Environment Protection Act, 1986; The Public Liability Insurance Act, 1991; The National Green Tribunal Act, 2010, etc.
- The term “Sustainable Development” became prominent after the Rio Earth Summit in 1992 which prioritized global environmental discussions and improved upon the initial framework introduced at the United Nations Conference on the Human Environment, Stockholm in 1972. Sustainable development in this Summit was defined as

“Development which meets the needs of current generations without compromising the ability of future generations to meet their own needs”.

The Government of India took up major initiatives for the development of CSR in India. The Government encouraged society to make a larger contribution towards welfare, Education, Research and development. Keeping in mind the need for development, the Ministry of Corporate Affairs, Govt. of India had notified the Corporate Social Responsibility Voluntary Guidelines 2009 on 21st November 2009 to be followed by the corporate. The corporate was required therein to formulate a CSR Policy according to Voluntary Guidelines 2009 as an integral part of the overall business policy in order to provide a road map for the CSR initiatives and efforts and guide to its strategic planning.

#### **IV. APPLICABILITY**

The companies on whom the provisions of the CSR shall be applicable are contained in Sub Section 1 of Section 135 of the Companies Act, 2013. As per the said section, the companies having Net worth of INR 500 crore or more; or Turnover of INR 1000 crore or more; or Net Profit of INR 5 crore or more during any financial year shall be required to constitute a Corporate Social Responsibility Committee of the Board "hereinafter CSR Committee" with effect from 1st April, 2014. The Act encouraged companies to spend at least 2% of their average net profit in the previous three years on CSR activities.

The ministry's draft rules, that have been put up for public comment, define net profit as the profit before tax as per the books of accounts, excluding profits arising from branches outside India. Promotion of education, Gender equity and women empowerment, Eradication of extreme hunger and poverty, Reducing child mortality and improving maternal health, Combating HIV-AIDS, malaria and other diseases Environmental sustainability Employment enhancing vocational skills Contribution to Prime Minister's relief fund and other such state and central funds Social business projects And such other matters as may be prescribed in the List of activities under Schedule VII.

Activities which may be included by companies in their Corporate Social Responsibility Policies Activities relating to: —

- (i) Eradicating extreme hunger and poverty;
- (ii) Promotion of education;
- (iii) Promoting gender equality and empowering women;
- (iv) Reducing child mortality and improving maternal health;

- (v) Combating human immunodeficiency virus, acquired immune deficiency syndrome, malaria and other diseases;
- (vi) Ensuring environmental sustainability;
- (vii) Employment enhancing vocational skills;
- (viii) Social business projects;
- (ix) Contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government or the State Governments for socio-economic development and relief and funds for the welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women; and
- (x) Such other matters as may be prescribed.

## **V. INDIAN COMPANIES UNDER CSR**

### **(A) Tata Group**

The Tata Group carries out CSR activities extensively which is largely on community improvement, and poverty alleviation programs. It is engaged in women empowerment activities, rural development and many other social welfare programs. TATA Group provides scholarship in the field of education. It strives to work on the health development in the rural sectors by the way of educating and by creating awareness and providing immunization facilities. The other area includes agriculture, environment protection, sports scholarships, infrastructure development.

### **(B) Mahindra and Mahindra**

Indian automobile manufacturer established the K. C. Mahindra Education Trust in 1954, followed by Mahindra Foundation in 1969 with the purpose of promoting education. The company primarily focuses on education programs to aid economically and socially disadvantaged communities. CSR programs such as invest in scholarships and grants, healthcare for remote areas, water conservation, and disaster relief programs. Nali Kali has been introduced focusing on girl education, Mahindra Pride Schools for industrial training, and Lifeline Express for healthcare services in remote areas.

### **(C) Ultra Tech Cement**

India's biggest cement company is involved in social work across 407 villages in the country aiming to create sustainability and self-reliance. Its CSR activities focus on healthcare and family welfare programs, education, infrastructure, environment, social welfare, and

sustainable livelihood.

#### **(D) L&T**

Key CSR Areas: Water and sanitation, education, healthcare and skill building. L&T partners with local governments on health programs focused on reproductive health, tuberculosis & leprosy control, integrated counseling & testing centres for HIV/ AIDS. L&T's community health centres are located at Mumbai, Thane, Ahmednagar, Hazira, Vadodara, Coimbatore, Chennai, Lonavala and Kansbahal. L&T's Construction Skills Training Institutes (CSTIs), established in 1994 provide skills to rural youth.

#### **(E) Infosys**

Infosys Foundation, headed by Sudha Murty, towards removing malnutrition, improving healthcare infrastructure, supporting primary education, rehabilitating abandoned women and children and preserving Indian art and culture. Infosys Foundation USA is focused on bridging the digital divide in America by supporting computer science education and training in underrepresented communities. The Infosys Foundation mid-day meal program, an initiative in partnership with the Akshaya Patra Foundation, spans several states across India.

In India several companies have started realizing that it is a sensible move to take up CSR activities and integrate it with their business process. The basic objective of CSR in these days is to maximize the company's overall impact on the society and stakeholders. Corporations are becoming increasingly aware of their role towards the society. They are responsible bodies that feel a sense of duty towards the common welfare and the environment. Companies now are setting up specific departments and teams that develop policies, strategies and goals which are for their CSR programs and allocate separate budgets to support them. These programs are based on well-defined social beliefs or are carefully aligned with the companies' business domain. The programs are put into practice by the employees who are crucial to this process. CSR programs ranges from community development to development in education, environment, and healthcare and so on.

## **VI. CHALLENGES OF CSR IN INDIA**

There is a lack of interest of the general public in participating and contributing to CSR activities of companies. This is because of the fact that there exists little or no knowledge about CSR. The situation is further aggravated by a lack of communication between the companies involved in CSR and the general public at the grassroots. CSR activities carried out by companies often clash with their commercial and other vested interest which are prioritized

over serving the society. Furthermore, it is also claimed by scholars that social issues often cannot be solved by money alone and most corporates do not want to look beyond fiscal measures to help the society. They also do not realize that money can often worsen existing problems. As per section 135 of the Companies Act, 2013, CSR efforts will be equated with the money spent- which should be at least 2 percent of the net profit. However, companies are not very transparent in declaring their CSR income. Companies have engaged in selective CSR tasks that ultimately benefit their brand value and help them prosper rather than activities that genuinely help the society at large. Non-governmental organizations and Government agencies usually possess a narrow outlook towards the CSR initiatives of companies, often defining CSR initiatives more as donor-driven. As a result, corporates find it hard to decide whether they should participate in such activities at all in medium and long run.

## **VII. PENALTY**

Although the compliance of Section 135 is mandatory in nature, there are no specific penalties stipulated under Companies Act 2013 for non-compliance. The company is required to submit the report recording the reasons for failure of implementation in the report by the Board of Directors. The CEO or managing director or director as the case may be, the chairman of the CSR committee, and in case of foreign companies, the authorized person to accept court notices, has to sign the report. The noncompliance of Section 134 attracts a fine which shall not be less than fifty thousand rupees but which may extend to twenty five lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees or with both. Furthermore, the implementation of CSR being a board function reckons that any non-compliance with the provision should attract the penalties provided for breach of director's duties.

## **VIII. CSR EXPENDITURE: DATA**

### **(A) CSR expenditure for the three Financial Years**

<b>Sl. No.</b>	<b>Company Type</b>	<b>F Y 14-15</b>	<b>F Y 15-16</b>	<b>F Y 16 -17</b>
<b>1</b>	<b>PSUs</b>	<b>2673.85</b>	<b>4163.09</b>	<b>1325.83</b>
<b>2</b>	<b>Private Sector</b>	<b>6890.92</b>	<b>9664.77</b>	<b>3393.17</b>



	<b>Companies</b>			
	<b>Total</b>	<b>9564.77</b>	<b>13827.86</b>	<b>4719.00</b>

## **(B) Case Law Related to CSR**

### **1. The Goa Foundation vs M/S Sesa Sterlite Ltd. And Ors.**

Notwithstanding this serious indictment of the pre-existing „policy“ for mining natural resources in Goa, the Mineral Policy did not address itself to the allocation or distribution of the natural resources in any of its 20 paragraphs and many sub-paragraphs. The topics dealt with in the Mineral Policy include objectives and parameters, sustainable mining and mineral conservation, mineral administration, regulation of mines and minerals, pollution and its social impact, and policy highlights. Some of the other topics dealt with in the Mineral Policy include capping, based on carrying capacity of public roads and to protect inter-generational equity, mines safety and rehabilitation of affected people, stakeholder participation (including corporate social responsibility), welfare and social responsibilities and establishment of the Goa Minerals Development Fund etc.

### **2. Bhopal Gas Tragedy: WRT to CSR**

The Supreme Court order dated July 19, 2004, ordering relief for Bhopal gas victims is a case of the long arm of justice 20 years after the event. The leakage of a poisonous gas, Methyl Isocyanate (MIC) from the pesticide plant of Union Carbide India Ltd, Bhopal, on December 3, 1984, resulted in a loss of 10,000 lives and permanently disabled nearly 50,000 people. This tragedy raises some serious corporate social responsibility issues to be addressed by manufacturing Companies, in their responsibility towards the community and environment. This Case examines the Bhopal Gas Tragedy and explains what happened and why: The economic, legal and environmental aspects and addresses the wider issues facing the stakeholders and the players.

## **IX. CONCLUSION**

CSR has come a long way from moral duty to statutory mandate since the theory of corporate social responsibility revolves around the discretionary, ethical, legal and economic expectations placed on businesses by society, Ethics, in this case, pertains to the perceived duty of businesses to adhere faithfully to law and avoid activity that undermines the welfare of

investors, consumers, employees and citizens in the pursuit of profit. To some it conveys the idea of legal responsibility or liability; to others, it means socially responsible behavior in the ethical sense. Today the concept of corporate social responsibility is firmly rooted on the global business agenda. But in order to move from theory to concrete action, many obstacles need to be overcome. It is found that the degree of CSR activities of companies should depend upon their business size and profile. In other words, the bigger the company, the bigger is its CSR program. Non-governmental organizations and Government agencies generally possess a constricted viewpoint towards the CSR activities of companies. As a result, they find it hard to decide whether they should contribute in such activities at all in medium and long range. Lack of transparency is another issue which needs focus. This is mainly due to the fact that there is little or no knowledge about CSR within the local communities since no sincere efforts have been made to create awareness about CSR and win the confidence of local communities. There is a need to increase the understanding and active participation of business in equitable social development as an integral part of good business practice.

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