

CORPORATE SOCIAL RESPONSIBILITY (CSR) AND ENVIRONMENTAL PROTECTION- THE WAY FORWARD

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Abstract:

Corporate Social Responsibility is not a common term. It is a container concept which encompasses many different ecological, social and economic issues. Some large companies prefer sustainable development or sustainable business. Several Indian companies mention responsible business or Triple P (People, Planet and Profit). Indian companies and stake holders give a broader definition of CSR than Western companies and stake holders. According to Indian companies sustainable development implies optimizing financial position while not depleting social and environmental aspects and CSR implies issues related to children, women and environment. In the Western context community development is often seen as charity. In the Indian context it is seen as a primary responsibility of a company, not only by stake holders, but also by the local Indian management. Many international companies leave room to their Indian daughter company to develop initiatives in this field; sometimes they even have a special fund. All kinds of initiatives are developed by Indian companies, many times bottom up initiated by the employees. The purpose of these principles are to act as guidelines for companies, nationally and not the least, globally, referring to Trans National Companies outsourcing, relocating or establishing local branches in developing countries. At this scenario first part of this paper concentrates on definition of corporate social responsibility, second part deals with Indian judiciary on CSR and environmental protection, third part exclusively deals with relevant Indian laws on CSR, and fourth part deals with CSR the way forward and finally ends with conclusion.

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Introduction

The relationship between corporations and the environment is complex and detailed. The impacts of corporation on the environment include the use of primary resources to make products; the use of energy and water and the production of waste and emissions. There is also the impact of the use of these products on the environment. The impact of corporations on the environment is enormous. The environment has an enormous impact on corporations. Some examples include the impact of the drought, the effects of climate change, the loss of resources such as fish, the loss of our coral reefs affecting tourism, the restrictions placed on development due to the protection of threatened species and heritage listings, and the restricted use of water and energy in industry. Recently, the role of international business in the development of society has been widely debated and many companies are formalizing and expanding the scope of their voluntary environmental and social activities. In developing countries, such as India, many responsibilities previously carried out by the state have been shifted to the corporate sector. In India, this shift is partly due to the failure of the state to handle the emerging social and environmental problems.¹ Furthermore, India's recent economic progress has not only increased pressure on the environment, but also generated social tension by increasing the gap between India's middle class and the poor. Consequently, it has become even more important for corporations to consider their broader impact on society.² Failure to handle social and environmental problems will threaten the long-term stability and sustainability of India.³ More over decisions made by companies, which are regulated by corporate law, are responsible for a large part of all environmental impacts. Over more than 50 years since the actions of corporations were recognized as being potential threats to the environment, there has been a significant shift in thinking. Initially the focus was on pollution and end-of-pipe technology.⁴ Environmental legislation which prohibited, or at least controlled the levels of pollution, was passed. Now there is recognition of the systemic nature of the threat to the environment posed by

¹ Rowe, J, 2005. "Corporate Social Responsibility as Business Strategy", *Center for Global, International and Regional Studies*, Reprint Series. Accessed from the web site: <http://repositories.cdlib.org/cgirs/reprint/CGIRS-Reprint-2005-08>, Last visited on 14-May-14, p. 2

²Balasubraminian, N.K, Kimber, D and Siemensma, F, 2005. "Emerging Opportunities or Traditions Reinforced? An Analysis of the Attitudes towards CSR, and Trends and Thinking about CSR, in India", *The Journal of Corporate Citizenship*, Vol. 17, pp. 79-92.

³Lovins, A.B, Hunter, L and Hawken, P. 1999. "A Road Map for Natural Capitalism", *Harvard Business Review*, Vol 77, Issue 3, pp. 145-158.

⁴ 'Corporate Social Responsibility: An Overview. in C. Hartley, "The International Directory of Corporate Philanthropy. London and New York", *Europe Publications*, pp. 3-14.

human production and consumption and the focus is rapidly moving back up the production chain to the design of products and processes. Environmental law⁵ can only go so far - it cannot, and should not, prescribe every decision taken by every business. Rather, consideration of environmental issues - the direct and indirect environmental impacts of the business, the environmental issues of concern to the wider community, and the risks and opportunities associated with them, should be part of good business practice.

At this scenario first part of this paper concentrates on definition of corporate social responsibility, second part deals with Indian judiciary on CSR and Environmental Protection, third part exclusively deals with relevant Indian laws on CSR, and fourth part deals with CSR the way forward and finally ends with conclusion.

1. Definition of Corporate Social Responsibility (CSR):

Corporate Social responsibility is defined by the World Business Council as “The continuing commitment by business to behave ethically and contribute to economic development while improving the quality of life of the workforce and their families as well as of the local community and society at large”.⁶ Being socially responsible means not only fulfilling legal expectations, but also going beyond compliance and investing more into human capital, the environment and relations with stakeholders (Commission of European Communities, 2004). Traditionally, CSR has been defined much more in terms of a philanthropic model. Companies make profits, unhindered except by fulfilling their duty to pay taxes. Then they donate a certain share of the profits to charitable causes. It is seen as tainting the act for the company to receive any benefit from the giving. As Professor David Engel noted, “the people who say they are discussing corporate social responsibility are by no means all interested in the same questions, and they often seem to be talking past each other.”⁷ CSR refers to conducting philanthropic activities at the expense of profits.

The definition of CSR, as Jill Fisch has noted, is “characterized by its view that corporations have obligations to non-shareholder stakeholders and the public generally, and that these

⁵Luken, R., and Stares, R. 2005, “Small Business Responsibility in Developing Countries: A Threat or an Opportunity?” *Business Strategy and the Environment*, Vol. 14, pp 38–53.

⁶ World Business Council for Sustainable Development, Accessed from the web site: www.wbcsd.org, 14-May-14, p. 2

⁷David L. Engel (1979), “An Approach to Corporate Social Responsibility”, 32 *Stanford Law Review*, pp 9-10.

obligations include duties of fairness and morality that extend beyond legal and contractual rules.”⁸

The concept of corporate social responsibility is based on the idea that not only public policy but companies, too, should take responsibility for social issues. In more recent approaches, CSR is seen as a concept in which companies voluntarily integrate social and environmental concerns into their business operations and into the interaction with their stakeholders. The idea of being a socially responsible company means doing more than comply with the law when investing in human resources and the environment.⁹

Among the business community, the denotation of the “Triple Bottom Line” or “Triple p – people, planet and profit” constitutes a popular reference to the concept of CSR and recognizes the integration of the economic, societal and environmental responsibilities into the business strategy of modern companies.¹⁰ It can also be seen as a reference to CSR as an integral part of the business strategy of contemporary international corporations. CSR is often identified as the social and environmental care that constitutes an integral part of the business strategy and cooperation that goes *beyond* compliance with the existing legislation in the home location and the host country of operation. How a company chooses to define its stakeholders is crucial for the direction of the CSR strategy and determines the beneficiaries of CSR.¹¹

The Green paper defined CSR as “a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis” as they are increasingly aware that responsible behavior leads to sustainable business success.¹²

⁸ Jill E. Fisch (2006), The “Bad Man Goes To Washington: The Effect of Political Influence on Corporate Duty”, 75 *Fordham Law Review*, pp 1593-1601.

⁹ The EU has a similar definition. It adds that “the experience with investment in environmentally responsible technologies and business practice suggests that going beyond legal compliance can contribute to a company’s competitiveness. Going beyond basic legal obligations in the social area, for example, training, working conditions, management employee relations, can also have a direct impact on productivity. It opens a way of managing change and of reconciling social development with improved competitiveness. Corporate social responsibility should nevertheless not be seen as a substitute to regulation or legislation concerning social rights or environmental standards, including the development of new appropriate legislation.” (EU Commission 2001, 5)

¹⁰ Husted, B. W. and J. de Jesus Salazar (2006); “Taking Friedman Seriously: Maximizing Profits and Social Performance”, *Journal of Management Studies*, Vol: 43:1, pp: 75-91.

¹¹ Lund-Thomsen, P. 2004. ‘Towards a Critical Framework on Corporate Social and Environmental Responsibility in the South: The Case of Pakistan’. *Development*, 47(3): pp 106–113.

¹² EU Green Paper (2001), Promoting a European Framework for Corporate Social Responsibility, Brussels, Commission of the European Communities, Accessed from the web site:

INDIA AND CSR

The importance of businesses in improving the quality of life is well recognized by Indian companies. However, there is growing awareness that in an increasingly complex world, businesses also have significant and long-lasting impacts on people, our planet and our ability to sustain the levels of holistic development that we all aspire to. This realization has also brought an increasing concern amongst all stakeholders, who are demanding that businesses of all types and sizes need to function with fairness and responsibility.¹³ Specifically, this calls for businesses being thoroughly aware and conscious of their social, environmental and economic responsibilities, and balance these different considerations in an ethical manner. When businesses are supported by appropriate Government policy regime that encourages systematic movement towards responsible thinking, decision-making, and a progressive movement towards sustainability,¹⁴ the trajectory of overall growth and development takes a positive turn. Such a responsible approach on part of the business duly supported by the Government alone would secure our future and ensure that wholesome benefits accrue to people, and our planet; even as businesses continue to make surpluses that can be re-invested for the growth of the economy. To understand the current state of Indian CSR, its political and economic history, in which four phases, can be distinguished:

During the *first phase* (1850-1914) CSR activities were mainly undertaken outside companies and included donations to temples and various social welfare causes.

The *second phase* (1914-1960) was largely influenced by Mahatma Gandhi's theory of trusteeship, the aim of which was to consolidate and amplify social development. The reform programmes included activities geared particularly to abolishing untouchability, empowering women and developing rural areas.

The *third phase* (1960-1980) was dominated by the paradigm of the "mixed economy". In this context, CSR largely took the form of the legal regulation of business activities and/or the promotion of public-sector undertakings (PSUs).

www.btplc.com/Societyandenvironment/Reports/GreenpaperonCSR.pdf, <http://www.csmworld.org>, 14-May-2014, p. 2

¹³ Arora, B., and Puranik, R. 2004. 'A Review of Corporate Social Responsibility in India', *Development*, 47(3): pp93-100.

¹⁴ The outcome achieved by balancing the social, environmental and economic impacts of business. It is the process that ensures that business goals are pursued without compromising any of the three elements.

The *fourth phase* (1980 until the present) is characterized partly by traditional philanthropic engagement and partly by steps taken to integrate CSR into a sustainable business strategy. Contrary to various expectations that India would follow the global agenda, its current approach still largely maintains its own features, elements of the global CSR mainstream being only marginally integrated. Specifically, the philanthropic approach is still widespread: ‘while the Indian understanding of CSR shows a slight shift from traditional philanthropy to sustainable business, philanthropic CSR patterns are still apparent in many Indian companies. In addition, the imbalance between the internal and external CSR dimensions is still huge.’¹⁵ The Indian CSR agenda continues to be dominated by community development activities, particularly in the areas of health and education. While most Indian companies view their community development projects as important contributions to the existing development challenges in their region of operation, many stakeholders are more critical of this approach.¹⁶

2. Indian Judiciary on CSR and Environmental Protection:

We can proudly proclaim that Judiciary in India has been ahead of the pack having played a pro-active role in the matters involving environment for over two decades now. The Supreme Court has read the right to life enshrined in Article 21 as inclusive of right to clean environment.

In the early days of development of jurisprudence on the subject, in February 1986, the Supreme Court in *MC Mehta’s case* struck the realistic note by opinion to the effect that there was a need to strike a balance between progress & development and hazard or risk to the community. It said that: -

“.....when science and technology are increasingly employed in producing goods and services calculated to improve the quality of life, there is a certain element of hazard or risk inherent in the very use of science and technology and it is not possible to totally eliminate such hazard or risk altogether. We cannot possibly adopt a policy of not having any chemical or other hazardous industries merely because they pose hazard or risk to the community. If such a policy were adopted,

¹⁵Chapple, W., and Moon, J. 2005. ‘Corporate Social Responsibility in Asia: A Seven-Country Study of CSR Web Site Reporting’. *Business & Society*, 44(4):pp 415–41.

¹⁶ Kumar, Ritu and Viraal Balsari (2004); “Corporate Responsibility in India: A Changing Agenda?” pp: 25-31, from editor: Singh-Sengupta, Sunita (2004); “Partnerships for Development – Business, NGOs and Sustainable Development”, Sonali Publications, New Delhi.

it would mean the end of all progress and development. Such industries, even if hazardous, have to be set up since they are essential for economic development and advancement of well-being of the people. We can only hope to reduce the element of hazard or risk to the community by taking all necessary steps for locating such industries in a manner which would pose least risk of danger to the community and maximising safety requirements in such industries. We would therefore like to impress upon the Government of India to evolve a national policy for location of chemical and other hazardous industries in areas where population is scarce and there is little hazard or risk to the community, and when hazardous industries are located in such areas, every care must be taken to see that large human habitation does not grow around them. There should preferably be a green belt of 1 to 5 km width around such hazardous industries.”

In *Indian Council for Enviro-Legal Action v. Union of India*¹⁷ Supreme Court found “Polluter Pays Principle” to be a sound rule, since it was “simple, practical and suited to the conditions obtaining in this country”. It was held that:

“... once the activity carried on is hazardous or inherently dangerous, the person carrying on such activity is liable to make good the loss caused to any other person by his activity irrespective of the fact whether he took reasonable care while carrying on his activity. The rule is premised upon the very nature of the activity carried on”.

In *Vellore Citizens' Welfare Forum v. Union of India*¹⁸ the Supreme Court referred to the Brundtland Report and other international documents in addition to Articles 21, 47, 48-A and 51-A (g) of the Constitution of India besides the legislative mandate “to protect and improve the environment” as found in enactments like the Water (Prevention and Control of Pollution) Act, 1974 (the **Water Act**), the Air (Prevention and Control of Pollution) Act, 1981 (the **Air Act**) and the Environment (Protection) Act, 1986 (the **Environment Act**) and held that the “Precautionary Principle” and “Polluter Pays Principle” form “part of the law of the land” and are the essential features of “Sustainable Development”. The Court explained that the concept of “Precautionary Principle” in the context of the municipal law obliged the State to “anticipate,

¹⁷ (1996) 3 SCC 212

¹⁸ (1996) 5 SCC 647

prevent and attack the causes of environmental degradation”and where there are threats of serious and irreversible damage, “lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation”,the “onus of proof” always being “on the actor or the developer/industrialist to show that his action is environmentally benign”.The “Polluter Pays Principle” was interpreted to mean that “the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation”. Remediation of the damaged environment was held to be part of the process of “Sustainable Development” and as such the polluter was found liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology. In developing this jurisprudence, the Supreme Court has applied the doctrine of public trust based on the legal theory of the ancient Roman Empire which renders common natural resources to be properties held by the Government in trusteeship for the free and unimpeded use of the general public.

The above views were reiterated in a number of cases that followed including *M.C. Mehta v. Kamal Nath*, [(1997) 1 SCC 388]; *S. Jagannath v. Union of India*, [(1997) 2 SCC 87]; *M.C. Mehta (Taj Trapezium Matter) v. Union of India*, [(1997) 2 SCC 353]; *M.C. Mehta (Calcutta Tanneries' Matter) v. Union of India*, [(1997) 2 SCC 411]; *M.C. Mehta (Badkhal and Surajkund Lakes Matter) v. Union of India* [(1997) 3 SCC 715]; *Bittu Sehgal v. Union of India*, [(2001) 9 SCC 181] and *M.C. Mehta v. Union of India*, [(2002) 4 SCC 356].

In *M.C. Mehta v. Union of India*¹⁹ the Supreme Court found the State responsible on account of “lack of effort on the part of the enforcement agencies, notwithstanding adequate laws being in place.”

Virtually leading the International judicial trends on the subject, Indian Judiciary has consistently refused to be the prisoner of the strict jurisdictional rule of “recognized legal interest” by going beyond the traditional concept of *locus standi* and has encouraged environment issues concerning the community as a whole to be raised for judicial redress through the mechanism of public interest litigation. Supreme Court rather gave a clarion call to the other branches of the State to lend a helping hand to the Court to meet the challenge by setting up an Environment Court and making available expert advice on the issues being

¹⁹(2002) 4 SCC 356

increasingly raised concerning environmental pollution and ecological destruction having a bearing on the material basis of livelihood of millions of poor people.

While underscoring the fact that in dealing with such litigation the courts “require expertise at a high level of scientific and technical sophistication” and pointing out the fact that “there is at present no independent and competent machinery to generate, gather and make available the necessary scientific and technical information”, Government of India was urged upon by the Court “to set up an Ecological Sciences Research Group consisting of independent, professionally competent experts in different branches of science and technology, who would act as an information bank for the court and the government departments”. In the wake of increasing institution of cases “involving issues of environmental pollution, ecological destruction and conflicts over natural resources” necessitating “assessment and evolution of scientific and technical data”, the Court also mooted the idea of setting up “Environment Courts on the regional basis with one professional Judge and two experts drawn from the Ecological Sciences Research Group”, with “a right of appeal” to the Supreme Court.

In India, sustainable development is generally perceived as rooted in the firm realization on the part of the judiciary that the bounties of nature, liable to be tapped for purposes of present needs for development and growth, have to be protected at the same time against permanent damage for the sake of posterity. This is a challenge and yet an opportunity. It requires besides appropriate legislation an effective enforcement and generation of public awareness through various agencies including educational institutions, NGOs and local bodies that can bring about community participation.

We have plethora of laws governing the subject. What seems to be lacking is, however, proper enforcement of various laws. The responsibility of enforcement of these laws made for the welfare of the future of the community is not that of the State agencies alone. It is here that the community participation becomes important. It is here where the industry, in particular the private sector, has a larger role to play. It is now universally recognized that it is possible to make development and environment protection compatible by following certain sustainable strategies which steadfastly avoid use of such technology, or engagement in such activity, as cause's permanent damage to the environment. In evolving sustainable strategies, care is required to be taken to bring about, amongst others, population stabilization, efficient use of natural resources, waste reduction, pollution prevention, integrated environmental systems

management, determining environmental limits perception and attitudinal changes at social and cultural levels etc. Since, 'Sustainable Development' would always require integration of social, ecological and economic objectives, each player in the economic activity will have to address him to the concerns. Industry is one of the most important players in this activity.

Since private sector is a major partner in the development & growth of almost every sector of the economy including energy, organizations like CII (Confederation of Indian Industry) have even a greater role to play, given the fact that their activities involve advisory and consultative processes, in which effort, they are advised by bodies such as SILF (Society of Indian Law Firms). In this view, I find it appropriate to refer here to the "Business Charter for Sustainable Development" launched in April 1991 by the ICC (International Chamber of Commerce). The Charter proclaimed three specific aims viz. providing common guidance on environmental management to all types of businesses and enterprises; stimulating companies to commit themselves to continued improvement in their environmental performance; and to demonstrate, amongst others, to Governments, that the business houses take their environmental responsibilities seriously so as to reduce the pressure on the former to over-legislate and to strengthen the voice of the business fraternity in debates on public policy. The Charter dealt with various issues concerning "Sustainable development" including corporate priority for conducting operations in environmentally sound manner; integrated management so as to show concerns about environment in all vocations; continuity of process of improvement by taking into account technical developments so as to apply the environmental criteria with legal regulations as the starting point; to assess environmental impacts in advance of commencement of new projects; to develop, design & operate facilities and conduct activities taking into consideration the efficient use of energy in materials so as to minimize adverse environmental impact and waste generation; to foster openness to concerns about potential hazards by showing ever-readiness for compliance and audit etc.

The salient features of "Sustainable Development" include the concept of inter-generational equity; responsible use and conservation of natural resources; environmental protection; precautionary principle and the principle of "Polluter Pays" which envisage the obligation to assist and cooperate.

The concept of sustainable development has thus evolved into a legal term that refers to process, principles & objectives as well as to a large body of International Agreements on

Environment Economics and Civil & Political Rights. Supreme Court of India in recent years has been adopting a holistic approach towards environmental matters. For this, it would issue detailed orders or directions and appoint committees to monitor the enforcement thereof. It has applied the principle of “Polluter Pays” by interpreting it as the absolute liability for harm to environment extending not only to compensate the victims of pollution but also the cost of environmental degradation.

National Textile Worker’s Union vs. P.R. Ramakrishnan²⁰

It was held by the Apex Court in this case that the traditional view that a company is the property of the shareholders is an exploded myth. According to the new socio-economic thinking, a company is a social institution having duties and responsibilities towards the community in which it functions. Obviously the Hon’ble Supreme Court of India is referring to CSR, when it talks of ‘duties and responsibilities’ towards the community. The generally accepted view is that if a company has the resources and has come a long way in its progress, it owes a debt to the society and the community in which it has progressed. Also, it is agreed that if a company has caused some loss to its surrounding areas, it is its obligation to make up for that loss, whether technical or environmental, as a part of its CSR.

Panchmahals Steel Ltd. vs. Universal Steel Traders²¹

In this case, the Gujarat High Court has pointed out that a company has three-fold reality:

- Economic reality
- Human reality, and
- Public reality

It also noted that keeping the environment clean is a sentiment gaining momentum after the Bhopal Gas Tragedy of 1984.

Birla Zauri Agro Chemical Ltd.²²

In this case, the Goa High Court ordered the closure of the company’s operations because the effluents of the company were polluting the sea causing large-scale deaths of fish and also polluting the wells of villagers and damaging the crops. Here the company was obviously violating the environment laws. The company has a statutory duty in such cases to take care of the pollutants and maintain the environmental balance. It follows the principle that the polluter

²⁰ MANU/SC/0025/1982

²¹ 1976 46 CompCas 706 Guj

²² (1975) GLR 942

pays. As a responsible corporate citizen, the company should have set up an effluent treatment plant not only as a part of its statutory obligations but also in fulfillment of its CSR objectives.

3. Indian Laws and regulations enforcing CSR for Environmental Protection:

Indian government has initiated 'The Corporate Responsibility for Environmental Protection (CREP)' in the year 2003. In this a guidelines for a set of non-mandatory norms for 17 polluting industrial sectors has been set but there is no real pressure for implementation or internalization. An ethical being which claims to respect the earth cannot have discontinuities in its practices. Ethical practices have to place in an integrity framework, and that implies at the very least a lack of multiple ways of being.²³ Besides individual efforts India also joined international CSR standards and guidelines these include the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy, OECD Guidelines for Multinational Enterprises, UN Global Compact and The Universal Declaration of Human Rights.²⁴

The Global Compact in India

The United Nations Global Compact (UNGC) is a voluntary, value-based initiative, complementing regulation and other, voluntary initiatives. Its main objective is to mainstream the ten CSR principles in business activities throughout the world and to catalyse actions in support of UN goals. The UNGC seeks to achieve these objectives through a multi stakeholder network, which supports the development of CSR with collective learning, policy dialogue and partnership projects. Its basis is formed by ten principles relating to human rights, labour, the environment and anti-corruption which companies are expected to adopt within their sphere of influence. In India, the UNGC is characterized by a high participation rate, although not all intended stakeholder groups, especially labour organizations, are represented. According to the empirical findings,²⁵ companies and stakeholders operating in India join the UNGC mainly to benefit from knowledge-sharing and networking. However, the CSR approach of the UNGC has not yet realized its full potential in India. Many companies therefore expressed the hope of receiving more support and benefits by joining the UNGC.

²³ Accessed from the web site: www.legalserviceindia.com/.../1362-Corporate-Social-Responsibility.html, Last visited :14-May-14, p. 21

²⁴ Philip Kotler and Nancy Lee, "Corporate Social Responsibility: Doing the most Good for Your Company," *John Wiley and Sons, Inc.* New Jersey, 2005

²⁵ Accessed from the web site: www.karmayoga.ac.in, Last visited 14-May-14, p. 2

The ten principles forming the basis

Companies which join the UNGC are asked “to embrace, support and enact, within their sphere of influence, a set of core values in the areas of human rights, labour standards, environment, and anti-corruption” (GCO 2004a), which are set out in ten principles. These principles are related to the Universal Declaration of Human Rights, the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work, the Rio Declaration on Environment and Development and the United Nations Convention against Corruption. As they were negotiated by the governments of the UN member states, they have the backing of a universal consensus.

After discussing UN Global Compact’s and CSR in India following section will throw some light on voluntary guidelines issued by Ministry of Corporate Affairs on CSR.

CSR and Indian Companies Act:

As far as Indian Companies Act, 1956 is concerned it does not contain any provision regarding corporate social responsibility till recently as in Companies Bill 2009 twenty first report by ministry of corporate affairs contained special provision for corporate social responsibility as it clearly specifies that “There was no mention in the earlier Companies Act about corporate social responsibility. We are just mentioning that there will be a Corporate Social Responsibility Policy in each and every company beyond a certain limit, which are profitable companies and which are of certain size”.²⁶ It was found that the Bill may include provisions to mandate that every company having net worth of Rs. 500 crore or more, or turnover of Rs. 1000 crore or more or a net profit of Rs. 5 crore or more during a year shall be required to formulate a CSR policy to ensure that every year at least 2% of its average net profits during the three immediately preceding financial years shall be spent on CSR activities as may be approved and specified by the company. The directors shall be required to make suitable disclosures in this regard in their report to members.²⁷

Recently the Ministry of Corporate Affairs had released Voluntary Guidelines on CSR in 2009 as the first step towards mainstreaming the concept of Business Responsibilities. Keeping in view the feedback from stakeholders, it was decided to revise the same with a more comprehensive set of guidelines that encompasses social, environmental and economical responsibilities of business. The Guidelines emphasize that businesses have to endeavour to

²⁶ Companies bill 2009, twenty first report by ministry of corporate affairs, Accessed from the web site: www.tpcc.in/Downloads/company%20bill.htm, Last visited 14-May-14, p. 2

²⁷ Ibid.,

become responsible actors in society, so that their every action leads to sustainable growth and economic development. Accordingly, the Guidelines use the terms 'Responsible Business' instead of Corporate Social Responsibility (CSR) as the term 'Responsible Business' encompasses the limited scope and understanding of the term CSR.

The Guidelines take into account the learnings from various international and national good practices, norms and frameworks and provide a distinctively 'Indian' approach, which will enable businesses to balance and work through the many unique requirements of our land. By virtue of these Guidelines being derived out of the unique challenges of the Indian economy and the Indian nation, they take cognizance of the fact that all agencies need to collaborate together, to ensure that businesses flourish, even as they contribute to the wholesome and inclusive development of the country. The Guidelines emphasize that responsible businesses alone will be able to help India meet its ambitious goal of inclusive and sustainable all round development, while becoming a powerful global economy by 2020.

Salient Features of National Voluntary Guidelines on Social Environmental and Economic Responsibilities of Businesses includes:

- Business should respect, protect, and make efforts to restore the environment.
- Environmental responsibility is a prerequisite for sustainable economic growth and for the well being of society.
- Environmental issues are interconnected at the local, regional and global levels which make it imperative for businesses to address issues such as global warming, biodiversity conservation and climate change in a comprehensive and systematic manner.²⁸

This principle encourages businesses to understand and be accountable for direct and indirect environmental impacts of their operations, products and services and to strive to make them more environmental friendly. The Principle urges businesses to follow the precautionary principle and not go ahead with a particular action if it is unsure of its adverse impacts.

Besides this following principles aims at prevention of pollution they includes:

²⁸ For details see Principle 6 of the “National Voluntary Guidelines on Social Environmental and Economic Responsibilities of Business” accessed from the web site: www.ministryofcorporategovernance.nic, Last visited 14-May-14, p. 2

- Businesses should utilize natural and manmade resources in an optimal and responsible manner and ensure the sustainability of resources by reducing, reusing, recycling and managing waste.
- Businesses should take measures to check and prevent pollution. They should assess the environmental damage and bear the cost of pollution abatement with due regard to public interest.
- Businesses should ensure that benefits arising out of access and commercialization of biological and other natural resources and associated traditional knowledge are shared equitably.
- Businesses should continuously seek to improve their environmental performance by adopting cleaner production methods, promoting use of energy efficiently and environment friendly technologies and use of renewable energy
- Businesses should develop Environment Management Systems (EMS) and contingency plans and processes that help them in preventing, mitigating and controlling environmental damages and disasters, which may be caused due to their operations or that of a member of its value chain
- Businesses should report their environmental performance, including the assessment of potential environmental risks associated with their operations, to the stakeholders in a fair and transparent manner.
- Businesses should proactively persuade and support its value chain to adopt this principle.

Example 1:

A cement manufacturing company in the country initiated the salinity mitigation programme in coastal regions of Gujarat to improve the condition of the natural resources available. Under this project, the community members were mobilized for innovative water conservation projects by the company. This jointly conceptualized and implemented project and also received funding assistance from the state government and other funding NGOs. The company dealt with the problem from many angles. In areas where a seasonal river flowed, check dams were built to allow water to percolate down. The bottoms of fresh water wells were sealed so that saline water does not mix with fresh water. Modifications in agriculture, like growing of less water intensive crops, use of drip irrigation, promotion of horticulture were

encouraged. For provision of drinking water, roof rain water harvesting structures were built. The highlight of the project was in using simple, relatively inexpensive technology along with direct people's participation to solve a serious socio economic and environmental problem. The project has benefited a total of 2181 households across 15 villages by raising the ground water levels in project villages by nearly 30 feet, interlinking water bodies/ ponds, greater ground water recharge, increased agricultural productivity as well.

Example No.2:

A globally recognized integrated pharmaceutical (pharma) company based in Maharashtra with core competencies in the development and manufacture of APIs (active pharmaceutical ingredients) and finished dosage forms, as well as in drug discovery has been working towards making its process more energy efficient and reducing their environmental impacts. As a part of its commitment towards sustainable development and conservation of the environment, the company has undertaken remarkable initiatives for effective utilization of energy resources and minimization & control of waste.

The company, through strategic process innovation in the manufacturing process of Cephalosporin, has achieved

- 40% reduction in the generation of hazardous waste; 25% reduction in the effluent generated;
- Reduced furnace oil consumption leading to reduction in sulphur emission;
- Reduced electricity consumption by 95%;
- Complete elimination of unrecoverable metals.
- The total savings per annum have been calculated to the tune of INR 2.1 million, improving productivity by 55%.

Example No.3:

There are many Companies which have been implementing CSR for the benefit of society and also for the benefit of their organization. In this context we will see the social activities which were performed by Ashok Leyland in terms of many factors like environment, Safety and health, life cycle assessment and society.²⁹

²⁹For details see: Ashok Leyland Report on CSR, 2005-06, accessed from the web site: www.ashokleyland.org, Last visited 14-May-14, p. 2

As a practice, rainwater-harvesting projects have been implemented extensively to improve the ground water table in Bhandara and the saved water is used during summer to prevent depletion of ground water. Over the years, two artificial ponds with 40,000 KL and 10,000 KL capacities and a check dam of 30,000 KL capacity have been created at the Bhandara (Maharashtra) unit. As water is available round the year in these water bodies, a rich variety of flora and fauna flourish around these ponds. During the heavy downpours in end-2005, the ponds filled up and overflowed. After the rains, the living organisms in the ponds, including the fish, were found to be dying in large numbers. Extensive analysis of the reasons was carried out in coordination with a few Governmental agencies. The root cause was found to be an increase in the 'Biological Oxygen' demand due to sudden changes in atmospheric conditions accompanying the downpours - a serious threat to the living organisms in the water. As a solution, a chemical called Nualgi was used to increase the Oxygen content in the water and the problem was solved.

4. CSR the Way Forward:

CSR has a long way to travel. Today it operates in an environment, which is politically unfavorably balanced for the consumer, and corporates have a larger say in how things are. Even though CSR relates to ethics in business, at this time it seems that this is more a socially and legally enforced practice.³⁰ It does not as yet emerge from an internalized position of a respect of people, nature and the environment. It plays out not as a self-willed moral and ethical self-realized way of being of the kind Gandhi might have envisaged, but rather more as a practice which may have to socially and legally enforce from the outside, as acceptable behavior.

There is a need to develop a more coherent and ethically-driven discourse on corporate social responsibility. CSR is still sometimes seen as "green wash" to clean the sins of pollution, or "white wash" to provide a facelift to the company's public image. It is often seen as old wine in a new bottle -- just another trendy name for good old philanthropic initiatives by companies. There is need to move beyond such transitory illusions about corporate social responsibility.

Corporate social responsibility offers a two-way street to companies, on the one hand stimulating innovative business and technological initiatives which would open up new avenues

³⁰ Fernando, M. 2007. "Corporate Social Responsibility in the Wake of the Asian Tsunami: A Comparative Case Study of Two Sri Lankan Companies." *European Management Journal*, 25(1): pp1-10.

for company operations and focus on the prospect of touching new market zones. On the other hand, it would give a cleaner societal reputation and socially responsible identity to companies, involving the companies and their employees in the long-term process of positive social transition.

A multiple discourse on the nature of corporate social responsibility and its diverse practices and possibilities is urgently needed in the country.

- We can no longer be blinkered about the earth's resources, or ignore the fact that the economy is constructed on the foundation of natural resources.
- Green-washing should go beyond tokenism to an imperative priority in industrial and technological futures.
- The human rights perspective should be integrated in the very core of corporate social responsibility. The emerging role of civil society in governance cannot be wished away. Corporations are meant to derive profits out of services they provide to consumer-citizens and they must see themselves as private institutions for public good.
- All public institutions need to be accountable to the people at large, especially in the context of health hazards, radiation, and genetically modified food, the chemicalization of the food processing industry and of agriculture.

5. Conclusion:

In India, till very recently, the focus was on charity, which is not really CSR. Sustainable CSR programmes mean a cohesive mix of economic, legal, ethical and philanthropic tenets. In today's changed business scenario, there is an increased focus on giving back to society and creating a model which works long term and is sustainable and it is imperative that the best practices for inclusive growth are shared with the stakeholders. Getting multinationals to comply with local laws is not an easy task. Many countries, north and south, do not direct sufficient resources to enforcement of CSR. Management practices that evade regulations persist. Furthermore, environmental laws can indeed be difficult to interpret.³¹ But suppliers, companies, and countries can't point to these difficulties to elude legal accountability. Legal compliance will be hard to achieve, whether within the CSR rubric or not, but extracting legal compliance from CSR has the advantage of bringing to light a range of environmental issues that companies are required by law to attend to. The million-dollar question as of now is whether CSR has been or should be mandated or not. As of now, there is no law that recognizes or enforces the concept of CSR, but still companies do comply with their responsibilities, which may be for their personal gains to their reputation, name or even profits. Finally the author of this paper hopes that the companies' attitude towards CSR is more on transformation rather than giving information in web sites. Thus, it is concluded that CSR has a significant role to play in controlling the perils of uncontrolled development, satisfying the needs of the present generation and at the same time ensuring that the resources of future generations is not jeopardized.

³¹Ite, U. E. 2004. "Multinationals and Corporate Social Responsibility in Developing Countries: A Case Study of Nigeria." *Corporate Social Responsibility and Environmental Management*, 11(1): pp1-11.