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Examining CSR Practices in India and the United States

SHIVANGI SHARMA

Research Scholar, Centre for Canadian, United States and Latin American Studies, Jawaharlal Nehru University, New Delhi

Abstract: **Historically, the concept of Corporate Social Responsibility (CSR) has been associated with corporate philanthropy. However, the current definitions of CSR advocate that the firm should engage with stakeholders for long-term value creation not only for the purpose of business. In response to various developments in the globalised world, CSR has evolved into a global phenomenon spanning both developed and developing economies. The present paper examines the role of government policy framework in India in the background of mandatory CSR guidelines provided in the Companies Act, 2013. The paper aims to explore the evolution of corporate governance practices and their implementation in India and the United States, given that the one has mandatory CSR guidelines and the other follows the voluntary practice of reporting, respectively. Finally, the paper will attempt to offer an assessment of the contemporary attitudes towards CSR in these two countries and debates concerning them.**

Keywords: **Corporate Social Responsibility, CSR, Companies Act, Corporate Governance, CSR- US.**

I. INTRODUCTION

Corporate Social Responsibility (CSR) is not a new concept. Many corporations around the world have been showing such acts of responsibility towards the society, though the term CSR did not emerge back then. Recently, CSR has gained renewed importance as a result of its integration into the everyday business practices of many corporations around the globe. In the past, various acts of charity, fairness, and stewardship had been initiated by ‘benevolent’ and ‘paternalistic’ industrialists in the early 20th century not only in the developed world but also in the developing countries like India.

Historically, the concept of CSR has been associated with corporate philanthropy. Well-known entrepreneurs have comprehended the need of getting involved with the community, and contributing to its welfare, by building schools, parks, hospitals, and making huge donations to social causes (Carroll, 2008). Since the mid- the 1990s, CSR has come to be associated with ideas of ‘corporate citizenship’ (Matten and Crane, 2004) ‘corporate responsibility’ and ‘triple bottom line.' Nowadays, the discourse emphasizes that firms should engage with stakeholders for long-term value creation through CSR that extends its scope and rationale from the most limited acts of charity and philanthropy.

The concept of CSR has often traced back to Howard Bowen’s work *Social Responsibilities of the Businessman* (1953). However, the academic debate picked up strength when Milton Friedman contributed to it, through his influential theorization on social responsibilities of business. Friedman’s position towards corporate responsibilities was first stated in *Capitalism and Freedom* (1962) where he argues that the one and only obligation of business is to maximize its profits while engaging in "open and free competition without deception or fraud.”[1]

Today, there exist various definitions of CSR, given its ever-changing, dynamic character and adaptability of its innovative practices towards social and developmental needs of society. Despite any concrete definition, there are ways in

[1]In Capitalism and Freedom, p. 133.

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which these CSR practices are defined. They are shaped by the economic, social, environmental aspects, and impact of business operations and their responses towards consumers, stakeholders, investors, employees and company shareholders' expectations. Essentially, CSR recognizes that corporations are not only responsible to their shareholders, but owe, or should owe, special duties to persons or communities directly or indirectly affected by their operations; matters or communities comprise a corporation's "stakeholders.[2]

The currently most cited definition, as formulated by the European Commission describes CSR as "a concept whereby companies integrate social and environmental concerns in their business operations and their interaction with their stakeholders on a voluntary basis; it is about managing companies in a socially responsible manner"[3] (European Commission, 2001).

Corporations in today's time are not only under pressure from governments, but are also pushed by non-governmental organizations (NGOs), social activists, communities, media and other institutional forces to act more responsibly. Demands of these groups are based on what they consider to be responsible corporate practices. Interventions of this nature are impacting businesses worldwide including India and the United States of America. Here it becomes relevant that we look at an area that is one of the least researched, yet strategically important in the emerging field of Corporate Social Responsibility (CSR) - the relationship between CSR and public policy frameworks of governance and the context within which these companies are operating locally, as well as globally.

II. THE ROLE OF GOVERNMENTS AND CSR

One of the vital contributions of government driven policy in a market-based system is to create an enabling environment for entrepreneurship, thereby making an active contribution to generating employment, and economic development. At the same time, the state also has an important regulatory function to ensure that business operates within rules that seek to encourage and promote enterprise while also protecting interests of the society and the public good. Establishing an appropriate balance between these has been the subject of considerable debate in market economies.

Although there is broad consensus that Corporate Social Responsibility (CSR) has a business-driven approach with a direct focus on the business sector, attention must also be paid to the increasing role of other stakeholders involved in the development of CSR. Over the last decade, the role of governments has assumed high relevance as one of the drivers of CSR (Moon, 2004).

It seems fair to argue that emphasis on the role of CSR in government policy framework is not a new issue. At different points in history, various social movements have questioned and sought a social response from businesses to which governments have responded by providing legal mechanisms. It is also important to note here, that companies and countries have different understandings and approaches in developing their CSR initiatives which are moulded by their variety of social values and cultures (Maignan and Ralston, 2002). For example, in the UK, France, and Denmark, CSR operates under the liberal, regulatory and partnership-based model. In the USA, the model of CSR implementation is traditional and self-regulatory. In India, CSR is being implemented through regulatory measures provided in the Companies Act 2013.

Time and again, many groups of stakeholders have also been questioning, the motivation and effectiveness behind the traditional self-regulative CSR measures, adopted by corporations and have, thus, started calling upon governments to impose regulatory obligations and binding codes of conduct on corporations.

CSR is essentially about businesses going voluntarily beyond legislative requirements to contribute more to societal welfare according to their activities, resources, and context; stakeholders are increasingly calling for the regulatory imposition of CSR obligations and corporate codes of conduct (Robins, 2008). As a result, governments and intergovernmental organizations have actively started to step into the area of CSR, initiating discussions, debates and, in some cases, formulating their CSR agendas and policies. Moreover, in addition to domestic policy frameworks, there exist various intergovernmental frameworks for socially and environmentally responsible businesses such as the (OECD) Guidelines for Multinational Enterprises, International Labour Organisation (ILO) Tripartite Declaration on Multinational

[2] OECD Principles of Corporate Governance Principle III, Organisation for Economic Co-Operation and Development (OECD) Doc. SG/CG(99)5 (1999), available at http://www.worldbank.org/html/fpd/privatesector/cg/docs/oecd-principles. pdf

[3] European Commission (2001) Green Paper: Promoting a European Framework for Corporate Social Responsibility, COM (2001) 366 Final

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Enterprises and Social Policy, the Millennium Development Goals (MDGs), the Global Reporting Initiative (GRI) and the UN Global Compact (UNGC) that testify to the global dimension of CSR.

At the World Economic Forum, 2008, known Philanthropist and Businessmen, Bill Gates, equally appreciated and called businessmen to employ their capabilities towards society and also asked the governments to implore and facilitate the contribution of businesses in this direction to ultimately contribute to an overall economic and social development of the countries.

"The world is getting better, but it's not getting better fast enough, and it's not getting better for everyone. The great advances in the world have often aggravated the inequities in the world. The least needy see the most improvement, and the neediest get the least—in particular, the billion people who live on less than a dollar a day." [4]

Mr. Gates further stressed on the fact that corporations need not be heartless towards the people who cannot pay for innovation, and so governments and companies must work together to create the right mix of regulatory, economic, and reputational incentives to make the industry work for everyone and not just the wealthy. Mr. Gates intervention has pushed the debate on the role of government in fostering CSR to the next level.

In the early days, the debate centered on the question of the role of governments in regulating CSR activities, amidst concerns over the intervention of the state in the arena of business. Today, the debate has evolved, to question the nature of such regulations, i.e. whether governments should enact legislations to make CSR activities compulsory for corporations, or, allow them to be performed voluntarily. Here, most authors conclude that CSR public policies must use soft forms of government intervention to shape the voluntary behavior of companies (European Commission, 2002; Fox *et al*., 2002).

CSR IMPLEMENTATION IN INDIA:

In India also, till recently, the general understanding of CSR, had been limited to the acts of philanthropy and charity (Arora and Puranik, 2004). Corporate philanthropy practices in India are believed that they got inspiration from Mahatma Gandhi and his theory of the "trusteeship" of wealth (Narayan, 1966). Consequently, Indian business houses emulated and achieved reasoning of trusteeship. In the post-independence years, government-owned enterprises and private sector businesses committed to the advancement of fundamental social necessities incorporating instruction and wellbeing through the adoption of a mixed economy.

Nowadays, however, trends in CSR practices in India are undergoing a significant change. Here, it's crucial to note, that from being premised on the charitable notion of trusteeship (as was the case in the past); corporations now understand the vast scope of impact of such initiatives and are therefore concentrating on the qualitative aspect of CSR.

A much more nuanced formulation of the concept began gaining importance in India, in the wake of economic reforms during the 1990s. Interestingly, a discernible shift in the approach towards CSR practices amongst Indian corporate may also be a result of the realization that besides growing their businesses, the socially responsible face of the organizations is also vital for building true and sustainable relationships with the community as a whole.

In India, focus on CSR, at the policy level formally started in April 1998, when the Confederation of Indian Industry (CII) came up with, perhaps the first, voluntary guidelines regarding the best-in-class practices of corporate governance for listed companies in the form of "Desirable Corporate Governance: A Code."5 Moreover, the CII code was the first and probably a single instance where an industry association took the lead in prescribing corporate governance standards. Since then forms of CSR practices have evolved over the years in the country.

Meanwhile, some important voluntary guidelines were also brought out by the Ministry of Corporate Affairs of India (MCA) in December 20096 in its report entitled "Corporate Social Responsibility Voluntary Guidelines 2009". The report fundamentally stressed on the matter of responsibilities of business the sector. Ministry stated, CSR "will add value to the

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[4] William H. Gates, Chairman, Microsoft Corp., Remarks at the World Economic Forum 2008: A New Approach to Capitalism in the 21st Century (Jan. 24, 2008), http://www.microsoft.com/presspass/exec/billg/speeches/2008/0124wefdavos .mspx.

[5] http://www.cii.in/PolicyAdvocacyDetails.aspx?enc=tY9RauqVx47h7V4G1rU6/jmCHSML2OwpVJtbLaE2vPFukhx566abX9jYjSpP+zUObymFCsRSpFalMSkgUR0vKQ==

[6] http://www.mca.gov.in/Ministry/latestnews/CSR_Voluntary_Guidelines_24dec2009.pdf

operations and contribute towards the long-term sustainability of the business. These guidelines will also enable the business to focus as well as contribute towards the interests of the stakeholders and the society" (MCA, 2009).

The document is considered the first step towards mainstreaming the concept of 'Business Responsibilities' in India. Also, keeping in view the feedback from stakeholders, it was decided to revise the report by bringing in a more comprehensive set of guidelines that would encompass social, environmental and economic responsibilities of business. As a result, another set of guidelines was released by MCA in 2011, in the form of the document titled "National Voluntary Guidelines on Social, Environment and Economic Responsibilities of Business".[7] These guidelines finally culminated in the enactment of Section 135 of the Companies Act of 2013.

The Indian government, after the promulgation of the Companies Act 2013, shared the fact that it is the first time in history that a government anywhere in the world had put forth the idea of 'mandatory CSR spending' for the majority of companies. There are some governments in developed countries (like Sweden, Norway, the Netherlands, Denmark, France, and Australia) that have only gone to the extent of institutionalizing 'mandatory CSR Reporting.' The Companies Act, 2013 mandated that company, with a net worth of Rs. 500 Crores or more, or an annual turnover of over Rs. 1,000 Crores or more, or annual net profit of Rs. 5 Crores or more during any financial year should constitute a CSR Committee of the Board and formulate their own CSR Policy. The Board should ensure that every fiscal year, the company spends, at least two percent of its average net profits made during the three immediately preceding fiscal years, on CSR activities.

Documents of Ministry of Corporate Affairs (MCA) giving an insight into its government's views on 'CSR Reporting,' content that the corporate growth is sometimes seen as widening the gap between, India and Bharat (rural India) through its income-skewing capability. Additionally, it talks about the role of the government in undertaking extensive developmental initiatives through a series of targeted programs, and in doing so, also urges the business sector to take the responsibility of exhibiting socially responsible business practices that ensure a more equitable distribution of wealth, and well-being of the communities in which the businesses operates. Through its strategic thinking, human resources, and financial strength, corporate sector can enable social transformation in a major way. Operational partnerships between corporations, NGOs, and the government institutions that would make India's economic growth and social development more inclusive. Therefore, the inclusion of the CSR mandate by the Indian government in its policy framework can be seen as an attempt to supplement the government's direct efforts of delivering the benefits of growth equally to the people with a nudge to the corporate sector to align its activities with the country's development agenda.

So, as stated in the introduction of the Companies Act 2013, Section 135 has made 'CSR Spending' as well as 'CSR Reporting' a mandatory practice for the very first time in India. In doing so, the act has also brought the CSR activities of many Indian corporations under the purview of Corporate Law. Hence it is seen that what began as a voluntary effort, sparked by CII guidelines of 2009, soon acquired a mandatory status with the enactment and enforcement of the Companies Act 2013. The Rules framed under Section 135 of the Act, came into force on April 1, 2014.

The practice of CSR is certainly not new to India, but as an institutional response from the business community, CSR is in its nascent stage (Mukherjee and Ghosh, 2004). There are various viewpoints regarding regulated CSR in India. Critics of mandatory CSR feel that it amounts to an unwarranted intrusion into corporate affairs and would further lead to harassment by the government on the pretext of verification of compliance and operation of the law. Moreover, the government's regulation on CSR is also being criticized for having shifted and government's responsibility towards the society and its people, to the private sector and making the latter pay for the failures of the former. Regulatory burdens can affect the development of all businesses; it can specifically discourage a business during its start-up period when entrepreneurs face many other demands with the scarcity of resources.

On the other hand, proponents of regulated CSR argue that individual businesses may benefit from regulatory interventions and for a developing country like India, mandatory CSR may be an instrument to pursue a 'middle path' between the goals of neo- liberal and a regulatory state, so as to balance growth with social stability. Further, government intervention has been lauded in policy circles as a path-breaking step that could be a 'game changer' for India, where corporate sector would work for hand- in- hand with the government and civil society to bring about 'national regeneration' through sustainable development.

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[7]http://www.mca.gov.in/Ministry/latestnews/National_Voluntary_Guidelines_2011_12jul2011.pdf

Mandatory CSR Disclosure in India has many supporters despite its criticism, is evident from the fact that since the early 2000s, the governments and stock exchanges through various laws and regulations have progressively mandated CSR disclosures to be made by corporations without impairing in any way the voluntary nature of CSR activities.

CSR IMPLEMENTATION IN THE UNITED STATES:

Although CSR is usually considered to be a construct that evolved and developed in the United States, the influence of CSR has not remained territorially limited to that country. The notion of corporate social responsibility made its appearance almost a hundred and fifty years ago when it emerged in the U.S. as a social and political reaction to the rapid growth of capitalism during the thirty years following the American civil war. Post-war years, in as early as the 1890s, the American government assumed responsibility for correcting the social behaviour of big corporations, and it passed laws on child labour, safety at industrial sites, on workers' rights to form trusts, etc. (Farmer and Hogue, 1973).

Nader *et al*. (1997) assert that American corporations became more aware of their public responsibilities after the U.S. Supreme Court judgment in 1906 which observed that "the corporation is a creature of the state. It is presumed to be incorporated for the benefit of the public. It receives certain special privileges and franchises, and holds them subject to proper government supervision".

Due to the social and environmental concerns that arose in the late 1960s and early 1970s in the U.S., its government began passing laws to address the issues. The legislations focused on matters of Pollution and Hazardous waste control (e.g. Federal Water Pollution Control Act, The Clean Air Act Amendments of 1977), safety concerns at the workplace (e.g. The Occupational Safety and Health Act of 1970, The Equal Employment Opportunity Act of 1972), and consumer protection (e.g. The Consumer Product Safety Act, The Federal Hazardous Substances Act) (Hess, 2001). CSR took roots in countries and periods that were dominated by neo- liberal rather than welfare state policies, for example in the U.S. under Ronald Reagan and the U.K. under Margret Thatcher.

As CSR reporting is presently voluntary in the U.S., a legal framework for it does not currently exist. In the U.S., sustainability reporting on CSR is not required, although many voluntary efforts are made by the companies and the industries, and the local governments to evaluate environmental, social, and governance issues. Consequently, the voluntary efforts of reporting on CSR activities get broadened, to include in its arena many different types and names of reports that exist under the umbrella of CSR reporting, such as environmental reports, social reports, climate change reports, carbon reports and sustainability reports, etc.

However, the major role of CSR in the U.S. is shaped and ascertained in the context of the minimal legislative control of the government, as desired by the business sector. As a result, corporations actions for CSR are based on their preference for corporate self-governance rather than on forceful, compelling legislations which are an ecological factor affecting the conception of CSR in the U.S. (Gutierrez & Jones, 2005). In addition to the existence of minimal legislative mechanism and self-regulatory framework, the Clinton Administration, in 1996, adopted a "US Model Business Principles" as a set of voluntary guidelines for companies after extensive consultations with business enterprises, labour leaders and members of non-governmental organization community. This document has taken guidance from the principles laid down in the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, and the OECD Guidelines for Multinational Enterprises.

The Sarbanes-Oxley Act (SOX), 2002 was signed into law by the U.S. President on 30th July 2002. The Sarbanes-Oxley Act, also known as the 'Public Company Accounting Reform and Investor Protection Act of 2002', brought with it fundamental changes in virtually every area of corporate governance, and particularly in areas of auditor independence, conflicts of interest, corporate responsibility, enhanced financial disclosures, and severe penalties, both fines and imprisonment for wilful default by managers and auditors.

In the U.S., Securities and Exchange Commission (SEC) is one of the most powerful machinery for exerting pressure on behalf of Federal Government on the companies. It regulates many activities that affect the companies, stakeholders, and the market. There are elaborate and important rules on disclosures and equally crucial procedures of compliance. SEC regulations are, a vital part of the U.S. corporate governance as it mostly controls information. Additionally, New York Stock Exchange (NYSE) Listing Rules Companies listed on the New York Stock Exchange are required to comply with certain standards regarding corporate governance NYSE Listing Rules.

Lately, it has been observed that the limit of regulation is increasing dramatically over the decades in the U.S., as evidenced by the expanding number of pages in the Code of Federal Regulations (CFR), which compiles all federal regulations in effect each year. Besides, the wave of regulations, brought by President Barack Obama's Administration, especially in the areas of health care, energy, and finance, provides further evidence that the regulatory state is well and alive in the U.S. too.

To this, there are concerns from Conservatives in the U.S. that over-regulation can have a negative impact on financial markets, and that, therefore, voluntary disclosure is the best option. The United States appears to be lagging behind other countries in bringing out 'CSR Reports.' This may be attributed to the lack of formal requirements to disclose nonfinancial data or issue CSR reports. The U.S. does not want additional constraints on their companies unless all companies are playing on a level playing field. They believe that circumstances differ from country to country, and such official and unofficial regulatory actions could restrict the scope for mutually beneficial trade and investment flows. Nevertheless, activists seeking for state intervention in the free market have been steadily campaigning for more and stronger CSR regulations, both in the U.S. and globally.

III. CONCLUSION

CSR is an important business strategy for corporations today. Because, these days conscious consumers want to buy products from companies they can trust; suppliers want to form business partnerships with companies that they can rely on; employees want to work for companies that they respect; and NGOs, increasingly, want to work together with companies seeking feasible solutions and innovations in areas of common concern. CSR is no more an expenditure but an investment for future longevity and sustainability of the enterprise. Moreover, there is a growing recognition among researchers and policy makers that CSR issues in developing and emerging countries like India are somewhat distinct from those in developed countries like the United States of America.

The transition from a voluntary to a mandatory regime, concerning 'CSR Reporting' is most evident in the Indian scenario. Some consider the present regulatory framework, in the form of the Companies Act, 2013, to be a remarkable effort to promote CSR nationally. Whereas in the case of the U.S., self-regulations on the part of corporations is more emphasized, and legislative frameworks are kept minimal. The only point of convergence in case of CSR practices in these two countries is that both have had long traditions of corporate philanthropy.

Today, American environmental policies are being criticized, and its ethical standards are being questioned. As an economic leader, the U.S. should be setting a precedent. To advance global progress on sustainability, the U.S. must move towards mandating environmental disclosure and sustainability reporting.

Compared to regulations on CSR in India, regulations in the U.S. are internally driven, based on self-driven policies, programs, and strategies of the corporations. In the U.S. corporations explicitly address issues of CSR in their corporate policies and programs, whereas the responsibility for these issues in India remains implicit in the formal or informal institutional environment of business.

REFERENCES

[1] Arora, B., and Puranik, R. (2004). A Review of Corporate Social Responsibility in India. *Development*, Vol. 47 No. 3, pp. 93-100.

[2] Baron, Richard. (2014). The Evolution of Corporate Reporting for Integrated Performance. Organization for Economic Co-operation and Development (OECD)

[3] Crane, A. and Matten, D. (2004). *Business Ethics. A European Perspective. Managing Corporate Citizenship and Sustainability in the Age of Globalization.* Oxford: Oxford University Press.

[4] European Commission. (2001). Promoting a European Framework for Corporate Social Responsibility; Green paper

[5] Farmer R, Hogue D. (1973). *Corporate Social Responsibility*. USA: Social Research Associates Inc.

[6] Fox, T. Ward, H. and Howard, B. (2002). Public Sector Roles in Strengthening Corporate Social Responsibility: a Baseline Study. Washington, DC: World Bank.

[7] Hess, D. (2001). Regulating Corporate Social Performance: a new look at Social Accounting, Auditing, and Reporting. *Business Ethics Quarterly*, 11(2): 307–330.

[8] Maignan, Isabelle, and Ralston, David A. (2002). Corporate Social Responsibility in Europe and the U.S.: Insights from Businesses' Self-Presentations. *Journal of International Business Studies*, Volume 33, Number 3, pp. 49-514.

[9] MCA (2009) Corporate Social Responsibility Voluntary Guidelines in 2009 by the Ministry of Corporate Affairs, Government of India.

[10] MCA, 2011, The National Voluntary Guidelines on Socio-Economic and Environmental Responsibilities of Business, Ministry of Corporate Affairs, Government of India, New Delhi.

[11] Matten, D., and Moon, J. (2008). 'Implicit' and 'explicit' CSR: A conceptual framework for a comparative understanding of Corporate Social Responsibility. Academy of Management Review, Vol. 33 No. 2, pp. 404-424.

[12] Moon, J. (2004). Government as a Driver of Corporate Social Responsibility: the UK in Comparative Perspective. ICCSR Research Paper Series, 20-2004. ICSSR, University of Nottingham.

[13] Nader R, Green M, Seligman J. (1997). *The Corporate Impact, Issues in Business and Society*. New York: Random House.

[14] Narayan, J P. (1966). *Social Responsibility of Business*. Bombay: Manakatlas.

[15] Robins, Fred. (2008). Corporate Governance. *The International Journal of Business in Society*, Vol. 8 No. (3), 330-341