OBSERVATION

Corporate Social Responsibility: A Critical Examination

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Abstract

The way firms are governed and operated has changed dramatically during the last two decades. Profit maximization is no longer the primary goal of companies. As a result of the turn of events, businesses are being pushed to invest more heavily in a wide range of social responsibility activities, shifting their corporate goals away from maximizing shareholder value and toward the well-being of all stakeholders. Using a survey tool, the current study reveals significant CSR aspects that may influence commercial and strategic decisions for Indian firms.

Keywords: Corporate Social Responsibility, Critical analysis of CSR, CSR Challenges.

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Introduction

Enterprises increasingly realize that long-term success and shareholder value cannot be attained merely by maximizing short-term profits but through market-oriented yet responsible, sensitive human behavior. Companies are conscious that they may contribute to long-term development by managing their operations in a way that promotes economic growth and competitiveness while also protecting the environment and promoting social responsibility, including consumer interests. With mandated Corporate Social Responsibility requirements in Indian laws, there is a higher need to focus and analyze different essential components of Corporate Social Responsibility and its rules. Corporate social responsibility is a developing notion with no commonly accepted definition at this time. Corporate Citizenship or Corporate Responsibility are other terms for the same thing. CSR is defined as a company's transparent and accountable integration of social, environmental, and economic concerns into its principles, culture, decision-making, strategy, and operations to improve internal processes, produce wealth, and improve society.

The following are some definitions of corporate social responsibility:

- Corporate – A well-organized business.
- Social – Everything involving individuals.
- Responsibility – The two parties' accountability.

In 2009, a group of five motivated young people in Coimbatore, Tamil Nadu, decided to form a Non-Profit Organization with specific and revolutionary intentions to contribute to society. Before attempting to form a social service organization, young people between the ages of 19 and 20 gained the requisite experience working with one. They contacted document writers at the local Registrar's Office when they decided to start the legal process of turning their wish into a legal body. When a team member who had little experience with India's governmental system inquired about creating a "Trust Deed," the broker responded, "One need not prepare!" The kids were perplexed and could not understand what the broker had just said. The kids wanted a detailed agenda included in the document that listed their organization's primary activities, but the broker just mocked them. The broker then patiently explained that such agreements are "ready-made" and that the same contents are used in over 90% of Trust Deeds, except the parties' names and addresses. The teenagers had first-hand experience with bureaucracy, and the rest of the story is unrelated to our topic. Now, the setup in India is so lax that a Trust, Society, or Section 25 Company1 can incorporate a Non-profit Organization. No one can deny that there are legitimate groups that have made significant contributions to nation-building.

Similarly, it is impossible to deny the existence of thousands of letter-pad organizations that operate solely for nefarious motives. There is no structure in place in India to regulate non-profit organizations. There is no authority to regulate and streamline the thousands of crores that these organizations spend. The response would be the same old annoying noise in the ears. "Controlling and monitoring companies in a country the size of India is impossible." We, the Indians, are accustomed to this thinking, and any attempt to change it will be seen as foolish, stupid, and a waste of time.

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When I first read the Draft Schedule VII of the Proposed Draft Corporate Social Responsibility Rules under Section 135 of the Companies Act, 2013, I remembered the typical procedure for registering Non-Profit Organizations in India as Trusts. (The author also questions whether this Draft Schedule replicates some typical Trust Deed operating format).

Schedule VII goes on to say

Companies' Corporate Social Responsibility Policies may involve the following Activities linked to:

- Putting an end to acute hunger and poverty.
- Educational advancement.
- Advancing gender equality and women's empowerment.
- Reducing child mortality and enhancing mother health are two of the most important goals.
- Combating diseases such as the human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), malaria, and others.
- Assuring the long-term viability of the environment.
- Enhancement of occupational skills through work.
- Projects involving social enterprise.
- Contributions to the Prime Minister's National Relief Fund or any other state-run fund
- Governments for socio-economic development and alleviation and funding for the welfare of Scheduled Castes, Scheduled Tribes, other underprivileged groups, minorities, and women.
- Other matters as determined by the court.

Policymakers' intentions may be excellent to report the business community's contribution to social, environmental, and economic responsibilities. At the same time, when giving back to the community is a worthy goal, the lack of a precise mechanism makes it vulnerable to shady newcomers.

Companies Act of 2013 Mandating Corporate Social Responsibility (CSR)

According to the new Enterprises Act, for-profit companies with profits of Rs.5 crore or more in the previous three years must devote at least 2% of their average income to CSR. India could become the first country to have a statutory requirement for CSR spending due to the new legislation.

The Ministry of Company Affairs has issued a draught CSR policy guiding principle that reads as follows:

"Corporate social responsibility (CSR) is the process through which a company considers and evolves its connections with stakeholders for the greater good, and then shows its commitment by implementing suitable business processes and strategies. As a result, corporate social responsibility (CSR) is not the same as charity or philanthropy. CSR is a method of doing business in which corporations make a visible contribution to the greater good. Socially responsible companies do not limit their use of resources to initiatives that increase earnings solely. They use CSR to align its operations and growth with economic, environmental, and social goals."

Estimates of annual spending under mandatory CSR vary: Rs.6,500 crore is the estimate by Business Standard from companies that sit on the BSE 500. Rs.12,000–15,000 crore is the Centre for Ethical Life and Leadership (CELL) estimate, a new 'Section 25' entity led by Former Chief Election Commissioner SY Quraishi. The ambit for this figure covers 8,000 companies, who will have to conform to the new 2% rule.2 In short, the expected pool of Rs.15,000/- crores would be allocated in the 10 activities mentioned above.

The new Companies Act allows businesses unlimited autonomy in determining how they want to contribute to society. The Act does not mention any strict monitoring procedures for maintaining tabs on their actions, instead of requiring the company to provide Reports3 on their CSR activities. However, the new Indian Companies Act 20134 mandates that every such business establish a Corporate Social Responsibility Committee under its separate Boards. The committee's composition must be disclosed in the Board's Report. The committee is responsible for formulating policy that includes the activities listed in Schedule VII. The content of the policy shall be disclosed in the Board's report and posted on the company's website if one exists. When left unchecked, the internal mechanism cannot be trusted, and it is impossible to expect it, to be honest.

Anyone familiar with corporate matters would think this is just another routine executed without any thought or emotion. There are numerous loopholes available, and these methods are insensitive and thus unrelated to the concerns at hand. One of the most significant changes is that the Act allows firms to engage in CSR activities with the help of a third-party NGO.5 The only requirement for becoming a claimant for CSR projects is to have a track record of at least three years of carrying out operations in related sectors.6 Again, there is no definition of "established track record," and the ambiguity in the terms left for us to analyze and interpret would lead to endless debates.

This clause will now allow for the proliferation of dormant NGOs to suck up the large sums of money collected to be siphoned off, resulting in significant misappropriation of cash that could otherwise be better streamlined and utilized. The provisions would also encourage unethical behavior, which will go unnoticed due to the lack of monitoring systems. Hundreds of organizations have been seen spending large quantities of money on marketing and PR but very little on true social causes. A CSR campaign under the guise of reducing poverty might waste thousands of colorful brochures, invite celebrities, and employ unnecessary PR marketing strategies, all for the benefit of a single square meal to a specific orphanage or old age home.

Closing the Gap

The road of Chhattisgarh taking advantage of a loophole in the new law7 that states, "Contribution to the Prime Minister's National Relief Fund or any other fund established by the Central Government or State Governments for socio-economic development and relief, and funds for the welfare of the Scheduled Castes, Scheduled Tribes, other backward classes, minorities, and women." The Chhattisgarh government has imposed a unique and potentially illegal interpretation of the new Companies Act's mandatory Corporate Social Responsibility (CSR) provision on private sector players in the state, requiring them to deposit their contributions in the Chief Minister Community Development Fund rather than implementing their CSR projects. Under the policy Corporate Social Responsibility Policy 2013, which was issued in the Gazette of Chhattisgarh on May 3, 2013[8], the Chhattisgarh government established this Fund "for the aim of holistic development of impacted districts/districts associated to industries." Every state government, and even the federal government, might make such an endeavor, undermining the fundamental concept of corporate social responsibility. The Act does not appear to provide any legal protection against this type of abuse. Even though it can be disputed, the Act allows the Courts of Law to intervene when situations warrant a judicial interpretation. The main causes of this shortfall are inadequate provisions and a lack of true out-of-the-box thinking in the development of CSR legislation.

The first CSR Index in India

BSE (previously Bombay Stock Exchange Ltd.) and the Indian Institute of Corporate Affairs (IICA) signed a Memorandum of Understanding to collaborate on the establishment of a CSR index and to raise awareness about CSR.9 IICA-BSE will concentrate on capacity building to help businesses accomplish their CSR goals and undertake CSR awareness activities. Again, such advancements and methods with no ground-level awareness of social services are like someone addressing grassroots shortcomings from the comfort of their couch in a 7 Star Hotel about alleviating poverty in the country's most distant areas.

Conclusion

When it is unrealistic to anticipate an excellent method to oversee the movement of this real money to the tune of Rs.15,000 crores, the response is always the same: "It is difficult to regulate or monitor organizations in a country as large as India." Friedman's dictum that "the business of business is business" has outlived its usefulness, and today's buzzwords are social responsibility and being a good corporate citizen. Those organizations or groups of people that do not exert power in a way that society considers appropriate will lose power in the long term. Now, statutory rules requiring such mandatory spending combined with a lack of a heart of spending mechanism will only result in a sad failure. Any endeavor that does not have its heart in the appropriate place will fail to produce results. The Indian political class has failed again in what may be a game-changer for developing companies' social contributions and upliftment of the poor, this time at a hefty cost.

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