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CSR: An Indian Perspective To Voluntary V Mandatory Debate

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Abstract

An attempt has been made by the researcher to study and understand the important facets of corporate governance and corporate social responsibility in a comprehensive way and to achieve new insights into it. In doing so the researcher has undertaken this particular topic as it has very much relevance in today's context. Emphasis is given on how CSR has become the linchpin for the development of any corporate organizations in the current era. The project will try to bring out in detail how corporate governance and CSR are related and hence why there is a need for Voluntary CSR in India. Also, the researcher will analyse to ascertain whether or not mandating CSR would help in the growth of the Indian Corporate Sector or will it be more beneficial for the Indian economy to have Voluntary CSR. The study will focus on the salient features of CSR Provisions in the new Bill and will also discuss the need for CSR in today's globalized world.

Keywords: Corporate Social Responsibility , Mandatory CSR, Social Responsibility, Globalized world

Introduction

The emergence of CSR has increased largely in the last decade. With time CSR has expanded and broadened to include both economic and societal interests. Companies became more transparent and accountable due to various pressures from stakeholders. CSR activities basically encompass companies to behave in a responsible, ethical and environment-friendly manner towards the consumers, employees, communities and stakeholders.

India is a nation of a bundle of inconsistencies. From one viewpoint, it has become one of the biggest and emerging economies on the planet, and an inexorable imperative player in the developing economies worldwide then again, it is still home to the largest number of individuals living in absolute poverty and the majority of children being undernourished.

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What emerges is a picture of uneven distribution of benefits of development which many accept, as the main driver for social agitation. Companies too have been at the head of organizations who are bothered by this uneven distribution and thus, their commitments to society are under extreme examination.

With expanding familiarity with this hole between the wealthy and the poor, this investigation will just increment after some time and societal desires will be on the ascent. Numerous organizations have rushed to sense this improvement, and have reacted proactively while others have done as such just when pushed. The verbal confrontation lies here just whether that social obligation of organizations towards the welfare of the general population can be commanded or not? Here lies the debate where the Indian government's proposal of mandating 2 per cent of corporate earning towards corporate social responsibility (CSR) spending has stirred arguments both in the business and social sectors.

Corporate India sees it as "unnecessary, unfair and impractical, "and wants it voluntary. It fears it would quite possibly allow meddling by implementing officers and become a tool in the hands of politicians to develop their constituencies or for funding their parties. CSR is a contentious issue for another reason: diversity of views about what the role of corporates should be towards society and stakeholders.[1]

India: Welfare State

India being a welfare state has a long rich history of close business involvement in social causes for national development. I mean the first half of our independence the government dint even allow private sectors to come in business because the government thought their only motive was profit. But times have changed now, CSR activities are seen as a social duty or charity, which is now changing in nature and has a broader aspect.

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[1] JE Parkinson, *Corporate Power and Responsibility: Issues on the Theory of Company Law* at page *24-25* (Clarendon Press, Oxford, 1993).

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From the origin of business, which leads towards excess wealth, social and environmental issues have deep roots in the history of the business. ***India has had a long tradition of corporate philanthropy and industrial welfare*** has been put to practice since the late 1800s.

Historically, the philanthropy of businesspeople in India has resembled western philanthropy in being rooted in religious belief. Business practices in the 1900s that could be termed socially responsible took different forms: philanthropic donations to charity, service to the community, enhancing employee welfare and promoting religious conduct. Corporations may give funds to charitable or educational institutions and may argue for them as great humanitarian deeds, when in fact they are simply trying to buy community goodwill. The ideology of CSR in the 1950s was primarily based on an assumption of the obligation of business to society.

In initial years there was little documentation of social responsibility initiatives in India. Since then there is a growing realization towards contribution to social activities globally with a desire to improve the immediate environment. It has also been found that to growing degree companies that pay genuine attention to the principles of socially responsible behaviour are also favoured by the public and preferred for their goods and services. This has given rise to the concept of CSR.

After Independence, **JRD Tata** who always laid a great deal of emphasis to go beyond conducting themselves as honest citizens pointed out that there were many ways in which industrial and business enterprises can contribute to public welfare beyond the scope of their normal activities. He advised that apart from the obvious one of donating funds to good causes which have been their normal practice for years; they could have used their own financial, managerial and human resourced to provide task forces for undertaking direct relief and reconstruction measures. Slowly, it began to be accepted, at least in theory that business had to share a part of the social overhead costs of.[2]

Traditionally, it had discharged its responsibility to society through benefactions for education, medical facilities, and scientific research among other objects. The important change at that time was that industry accepted social responsibility as part of the management of the enterprise itself.

[2]Available at :http://indiacorplaw.blogspot.in/2011/12/companies-bill-2011-csr.html (last visited on January 29, 2016)

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The community development and social welfare program of the premier Tata Company, Tata Iron and Steel Company has started the concepts of "Social Responsibility."[3]

As here the author could see even when in India the concept of CSR did not even emerge there had been companies being socially responsible giving back to the society without the government even mandating CSR.

How CSR came into being?

India has one of the oldest traditions for CSR, but CSR practices here in India practices are not regularly used under name of CSR especially by MNCs with no cultural and emotional attachments to India. Much was done to make Indian Entrepreneurs aware of social responsibility and their responsibilities towards public welfare.

Practically in the first phase, ***charity and philanthropy*** were the main criteria for CSR initiatives taken up by corporate people. Like in the pre-industrialization period rich entrepreneurs used to spend on making religious monuments. But with time the concept changed towards economic and social considerations.

MNCs like TATA, GODREJ, and BAJAJ etc were inclined towards more of economic development since India was under the nascent stage of Industrialization. Moreover, Gandhi advocated a policy of trusteeship was there according to which Industrial leaders needed to really manage their wealth keeping in minds the welfare of the country too.

Before becoming mandatory, CSR activities were still taken up by MNCs. For eg:

"*Tata Group in India has a range of CSR projects, most of which are community improvement programs. For example, it is a leading provider of maternal and child health services, family planning, and has provided 98 per cent immunization in Jamshedpur. The company also endorses sports as a way of life. It has established a football academy, archery academy, and*

[3] *Ibid.*

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promotes sports among employees. It offers healthcare services all over the country with programs like rural health development."[4]

Tata Group also had started and organized relief programs for emergencies like natural disasters, including long-term treatment and rebuilding efforts. It did a huge and impressive amount of work during the Gujarat earthquakes and Orissa floods. It also supports education for children, with over 500 schools, and also is a benefactor of the arts and culture. It has done abundant work in improving the environment and local populations around its industries.[5]

So the author can easily say that mandating CSR is not a required policy. CSR in its basic inherent concept is voluntary charitable and philanthropic work which cannot be mandated. You can never ask MNCs to build world-class schools for poor and commit themselves entirely to bring quality education. If our government itself could not bring this change in a span of almost 70 years, it's hard, not wrong to say I cannot expect the same from the corporate world.

In India, as in the rest of the world, there is a growing realization that business cannot succeed in a society which fails. An ideal CSR has both ethical and philosophical dimensions, particularly in India where there exists a wide parity between people in terms of income and standards as Ill as socioeconomic status.

"CSR has now become a very common term and many people in the corporate world are trying to help the poor and less privileged human beings in India and abroad".

Associations in India have been entirely sensible in taking up CSR activities and coordinating them in their business forms. It has turned out to be continuously anticipated in the Indian corporate setting since associations have perceived that other than developing their organizations, it is additionally essential to shaping mindful and supportable associations with the group on the loose. Organizations now have particular divisions and groups that create particular approaches, methodologies and objectives for their CSR projects and set separate spending plans to bolster them. More often than not, these projects depend on very much characterized social convictions or are precisely adjusted to the organizations' business area.

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[4] India Briefing from Dezan Shira & Associates, India, available at: http://www.india-briefing.com/news/corporate-social-responsibility-india-5511.html/ (last visited on January 29,2016)
[5] *Ibid.*

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They should likewise show their conduct with regards to groups who are worried about their exercises in the nations where they have workplaces. They should clarify the routes in which their sub-temporary workers regard International Labor Organization agreements. They should likewise provide details regarding biological issues, for example, the measure of advancement as far as vitality adequacy and plunging ecological effects; conditions on the utilization of area, air and water; and documentation got in the region of natural security.

According to ***Infosys founder, Narayan Murthy***, "**social responsibility is to create maximum shareholders value working under the circumstances, where it is fair to all its stakeholders, workers, consumers, the community, government and the environment**."[6]

Commission of the European Communities 2001 had stated that: "Being socially responsible means not only fulfilling legal expectations, but also going beyond compliance and investing 'more' into human capital, the environment and the relation with stakeholders."[7] The 2001 State of Corporate Responsibility in India Poll, a survey conducted by Tata Energy Research Institute (TERI), the evolution of CSR in India has followed a chronological evolution of thinking approaches:[8]

Is mandating CSR posing threat to Development?

India amended its Companies Act 2013[9] (the Act) for the first time in fifty years. Within 'the Act' there is now a mandatory requirement a corporation must set up a CSR Board Committee consisting of at least three directors of which one must be independent.[10]

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[6] Matten, D. and J. Moon: 2008, "'Implicit and "Explicit" CSR: A Conceptual Framework for a Comparative Understanding of Corporate Social Responsibility', Academy of Management Review 33(2), 404-424.

[7] The European Commission, 'Communication from the Commission to the European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions: A renewed EU strategy 2011-14 for Corporate Social Responsibility,' Brussels, 25.10.2011, COM(2011) 681 final, Introduction, 3 para 1: 'a concept whereby companies integrate social and environmental concerns in their business operations and in their interactions with stakeholders on a voluntary basis.'
Available at:http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0681:FIN:EN:PDF(last accessed 14 April 2019).

[8] 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),
available at :http://www.microsoft.com/presspass/exec/billg/speeches/2008/0124Ifdavos.mspx.(last visited on February 1,2019)

[9] The Companies Act 2013, (No. 18 of 2013) India,
Available at: http://www.mca.gov.in/Ministry/pdf/CompaniesAct2013.pdf(accessed 15 March, 2019).

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Additionally, the corporation's committee must ensure the corporation spends at 'at least 2 per cent of the average net profits of the company made during the three immediately preceding financial years'[11] on CSR activities[12]. Failure by the corporation to spend this amount will need justification through the disclosure within the CSR Board Annual Report.[13] Amid other requirements, this corporate law amendment affects any company Incorporated in India whether domestic or a foreign subsidiary.

Meaningfully, these additional CSR activities have come on the thirtieth anniversary of the cataclysmic Bhopal industrial disaster which killed over five thousand of India's citizens with an estimated further two million injured:[14] Debatably, Union Carbide was neither prosecuted nor convicted of any corporate negligence after reaching a settlement with India's government.

Nonetheless, India's CSR inroads will fuel the debates of mounting concern of the increasing pressure upon all governments, especially within developing countries, to replace voluntary CSR for mandatory regulation.

There is clear support for such corporate mandatory regulation progression, like India, on the grounds it is in 'our collective interest'. In opposition, the claim is 'the greatest potential for harm is to regulate the world as a whole…It is liable to hold back the development of poor countries through the suppression of employment opportunities within them.'[15]

Therefore the academic debate seems polarised between two points of the issue; firstly, whether corporations should continue with voluntary CSR and self-regulation whilst pursuing their economic goals without independent scrutiny; or secondly, should corporations be made more accountable through legislative requirements so to curtail individual profit-making without individual responsibility. Thus the sum and substance of the debate ostensibly fall on who is best

[10] The Companies Act 2013 (India), Part II Sec.135 (1).
[11] Ibid Sec.135 (5).
[12] Ibid Part II Sec1 schedule VII: Lists ten CSR activities for example; eradicating hunger and poverty; gender equality and empowering women; promote vocational skills; reduce child mortality and environmental sustainability.
[13] The Companies Act 2013 (India), Part II Sec.135 (5).
[14] BBC "1984: Hundreds die in Bhopal chemical accident" (*BBC NEWS*, 03 December 1984) Available at: http://news.bbc.co.uk/onthisday/hi/dates/stories/december/3/newsid_2698000/2698709.stm (last visited on 12 march, 2019).
[15] D Henderson, *Misguided Virtues: False Notions of Corporate Social Responsibility* (1st edn, Institute of Economic Affairs 2001) 17.

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placed to enforce CSR's incorporation so capitalism is capable of having a caring face whilst pursuing self-interest.

State of CSR in India

CSR is a highly falsified and miscalculated term in India. Some Indian companies believe that mere compliance with laws and regulations provided by the Indian government is sufficient without actually going into the essence of what corporate social responsibility demands.

A responsible corporate organization needs to take into consideration its CSR activities will have a wider impact on society rather than just mere compliance. What the author is trying to say that CSR in India being a welfare state would demand a sense of welfare responsibility from corporates side towards its activities. CSR shouldn't be just a tool to deepen the pockets of stakeholders.

For eg: if you claim to make a school in the name of CSR for privileged kids, how would it help in the social welfare of the country? You don't need to help the people already born with a silver spoon? This is the basic concern of mandating CSR.

CSR in India has traditionally been seen as a philanthropic activity. And in keeping with the Indian tradition, it was an activity that was performed but not deliberated. As a result, there is limited documentation of specific activities related to this concept. However, what was clearly evident that much of this had a national character encapsulated within it, whether it was endowing institutions to actively participating in India's freedom movement, and embedded in the idea of trusteeship.

As I have observed that the practice of CSR in India still remains within the philanthropic space, but has moved from an institutional building (educational, research and cultural) to community development through various projects.

Also, with globalization and its influences and with national communities becoming more active and demanding, there appears to be an appreciable trend, that while CSR remains mostly

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restricted to community development, it is getting more strategic in nature (that is, getting linked with business) than philanthropic, and many companies are reporting their activities that they are undertaking on their official websites, annual reports, sustainability reports and even publishing CSR reports.

The Companies Act, 2013 has introduced the idea of CSR to the forefront and through its **disclose-or-explain mandate**, has promoted greater transparency and disclosure on one hand but are forcing corporations to take up CSR activities. Schedule VII of the Act has a list of certain activities that can be taken up and it's not an exhaustive list. And in keeping with the Indian tradition, it was an activity that was performed but not deliberated. As a result, there is limited documentation of specific activities related to this concept.

Although India is an encouraging business destination for westerly investors. It is to be exceedingly challenging for any business enterprise to remain competitive here for the long run. Until and unless downtrodden and poor people of India have even-handedness in the growth of the economy, India can never achieve the title of the matchless economy.

Here lies the importance of corporations. Corporate social responsibility is one such hollow and contentious area of corporate behaviour and governance that needs to get attacked aggressively and implemented cautiously in the organizations. Also, CSR is one powerful tool that unites the efforts of corporate and the social welfare agencies towards sustainable growth and development for the societal objectives at large.

Business houses and corporations have been taking up social welfare activities since the beginning. Recently, the priority of business is getting widened to include ***people, planet and profit***. Short-term, philanthropy based welfare interventions are being supplanted by long term and empowering CSR objectives.

Taking into account this realization that business can't succeed in a general public that fails, CSR is being considered as a basis for carrying on business in the general public instead of as philanthropy. While CSR is relevant in business for all societies, it is particularly significant for

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developing countries like India, where there are limited resources for meeting the never-ending and ever-growing aspirations and diversity of a pluralistic society, invite more competition and makes this process of sustainable development more challenging.

CSR interventions-based on commitment, mobilization of employees-voluntarism, innovative approaches, appropriate technology and continuing partnership-have been making lasting differences in the life of the disadvantaged. Further, a synergy of corporate action with the government and the civil society are making the CSR interventions more effective and facilitating the corporate carrying on business in the society.[16]

CSR within itself carries responsibility and is mostly based on the concept of corporations' moral and societal obligations towards the people of the country. In this context, it is noteworthy that the incorporation of "local area where it operates" ascribes the responsibility to select practices such as extreme hunger and poverty, promotion of education, gender equality and women empowerment, child mortality, etc.

Bill Gates paid a much-anticipated visit to New Delhi, India, to speak with some of the country's richest corporate entrepreneurs.

Gates expressed that, "***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."[17]***

This particular speech gives us a clear direction to come to a conclusion that though corporations have started doing Ill, but the overall effect of such development is limited to very few hands. CSR activities will help in distributing these positive effects to a larger and much needier group

[16] Moses L. Pava and Joshua Krausz, Criteria for Evaluating the Legitimacy of Corporate Social Responsibility, Journal of Business Ethics, Vol. 16, No. 3, Feb 1997

[17] 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),
Available at: http://www.microsoft.com/presspass/exec/billg/speeches/2008/0124Ifdavos.mspx. (last visited on 27 March 2016)

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or section of people. That becomes the ultimate aim of CSR and that cannot be caused by enforcing it on corporations, it has to come voluntarily.

Gates then called governments and entrepreneurs to action. He exhorted business leaders to apply their innovative capacities to problems in developing countries like malaria and lack of infrastructure.[18]

He implored governments to facilitate business contributions by granting companies economic and regulatory incentives to contribute to development.[19] Moreover, he asked companies and governments to work together to harness the power of the market to produce goods for those who cannot pay.

In doing so, he echoed Adam Smith's observation that "there are evidently some principles in [man's] nature, which interest him in the fortunes of others, and render their happiness necessary to him, though he derives nothing from it, except the pleasure of seeing it."[20]

Corporations according to Gates need not be heartless; subsequent to the poor regularly can't pay for advancement, however, governments and organizations must cooperate to make the right blend of administrative, financial, and reputational motivating forces to make industry work for everybody, not just the rich.

<u>Why did the government feel the need to bring mandatory CSR?</u>

The notion of government towards CSR is that in India through so many years the government perspective has always been about increasing shareholders Wealth but they had this realization to change that because the country continued to be a poverty-stricken country with malnourished and uneducated kids everywhere.

18*Ibid.*

19*Ibid.*

20 Adam Smith, *The Theory of Moral Sentiments* 27 (D.D. Raphael & A.L. Macfie eds., Oxford Univ. Press 1976) (1759).

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I can see corporate growth as sometimes a widening symbol towards BHARAT and INDIA: where BHARAT is representing the poverty-stricken people who strive each day to meet their basic necessities and INDIA is representing the developing people who are using or are at the crux of the development policies of India. These people are taking the benefits of the development policies which are not reaching the poor. There is an urgent requirement to bridge this gap.

Though the government is trying to take their individual steps to bridge this gap according to the corporate arena also has to take responsibilities in their hands, but is forcing their hands for social welfare programs a solution to the problem? According to the author, no this cannot be the answer.

Dr Manmohan Singh or former Prime Minister had a said:

"*In a country with extreme poverty, the industry needs to be moderate in the emolument levels it adopts… The electronic media carries the lifestyles of the rich and famous into every village and slum. Media often highlights the vulgar display of their wealth…. An area of great concern is the level of ostentatious expenditure on weddings and other family events. Such vulgarity insults the poverty of the less privileged, it is socially wasteful and it plants the seeds of resentment in the minds of the have-nots*".

Companies all over the world are being held under severe pressure to become responsible citizens with around about 70 per cent of companies in Europe and America still doing good with their respective CSR initiatives, and these are the countries with no mandatory CSR provisions.

So doesn't the debate ***actually head up to what mandatory CSR activities could bring that voluntary CSR couldn't***?

In India though there is a feeling that the high GDP growth rate in the past decade has reached only the urban population and poor section are still left to serve for themselves.

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Corporate structure author agrees though have the know-how, strategic thinking, manpower, and financial strength to enable widespread social welfare transformation. Partnerships between the corporations, NGOs and the government will definitely place India's economic growth and social development at seemingly great heights.

Though the concept of CSR is still not defined properly anywhere, but from basic understanding and reading the concept of CSR is Voluntary in nature and many academicians and international organizations support this view. They contend that CSR should be voluntary. Business scholars as Ill as international agencies such as the UN, ILO or World Bank also favor treatment of CSR through soft laws, rather than non-negotiable statutory laws.

What are the views against mandatory CSR in Indian government?

- ***Mandatory CSR is Like "Privatizing Taxation" – Montek Singh Ahluwalia***

  - ✓ The Planning Commission of India was of the view that CSR should not be made mandatory; rather companies should take up CSR voluntarily.
  - ✓ The making of CSR mandatory would ultimately lead to entailing of corrupt practices and the meddling by highhanded implementing and regulatory authorities which would in turn lead to more corruption.
  - ✓ It would also encourage companies to reduce wages, fudge accounts, or indulge in unfair practices.
  - ✓ The then Planning Commission Deputy Chairman Montek Singh Ahluwalia had said that while making CSR mandatory would amount to "***privatizing taxation***." He said if the Government wants it can increase the rate of corporate tax to 32 per cent from the current 30 per cent rather than making it mandatory for companies to spend 2 per cent on CSR and add complications.

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- Sachin Pilot, the then India's minister of corporate affairs had said that the aim of CSR was that:
  "***firms to undertake social welfare voluntarily instead of imposing that through 'inspector raj' and [to] make India an attractive and safe investment destination." There, of course, is nothing voluntary about this. Continuing in a contradictory manner, Pilot also said that India would become the first country to mandate CSR through a statutory provision***."[21]

- A report in June 2014[22] issued a joint declaration while stating that the government bill though was welcomed but the 2% ruling could lead to a particular situation where corporate people might recognize it as **forced philanthropy**, and then to I are not even sure that this will have a beneficial impact on the BHARAT section of people in India. If the government policies which are drafted through so much of negotiations and thought put to bring out better-living standards and philanthropic needs for the poor could not bring out the expected changes, what help would a mandated scheme of CSR activities be good for who are done by corporate enthusiast whose main idea are profit and then secondary arena comes around for philanthropic needs for poor.

- Ratan Tata, the former chairman of Tata Sons, the holding company of the $100bn Tata group, has said:[23]
  "I have a phenomenon which is meant to be good but is going to be somewhat chaotic ... I don't as yet know what kind of monitoring there'll be in terms of how Ill this money is used." Again hinting at the corruption tendencies of the country.

- Azim Premji, the philanthropist and head of the £3.4bn IT services firm Wipro, part of the global Dow Jones Sustainability Indexhe said:[24]

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21 Availaible at: http://ssir.org/articles/entry/mandatory_csr_in_india_a_bad_proposal#sthash.hKb6Sd1l.dpuf (last visited on 27 march 2019)
22 Global Reporting Initiative's (GRI) Sustainability Reporting for Sustainable Development held in June 2014
23 Availaible at: http://www.theguardian.com/sustainable-business/india-csr-law-debate-business-ngo (last visited on 27 march 2019)
24 Ibid.

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> "My worry is the stipulation should not become a tax at a later stage ... Spending 2% on CSR is a lot, especially for companies that are trying to scale up in these difficult times. It must not be imposed."

The question really arises that can country which is struggling with its own government welfare initiatives where though 900 million population in India has internet connection but only 600milliom which accounts for 36 per cent of the population have access to clean toilets?

Corporate India feels that it would mean vexatious interruption into the corporate affairs and prompt badgering through a vexatious request by government controllers and regulatory authorities to confirm the mode and degree of consistency with the law. It has been vociferously asserting the privilege to choose its CSR for itself and as per its own particular edified self-hobby and still, small voice.

The general corporate assessment on the issue is perfectly summed up by a conspicuous corporate figure who called this procurement "**corporate social compulsion**."

Wipro Chairman Azim Premji protested on behalf of the India Inc "the people on the board are sufficiently conscious regarding the matter and corporate social responsibility cannot be created with statutory requirements." [25]

Author's Arguments against Mandatory CSR Policy

- The most predominant argument would be that mandatory spending on CSR activities will put India at a Competitive Disadvantage in the global market place and in doing so will inevitably slow the economic growth of the country. Even if I put the blame that the current market inequality that is the division between INDIA and BHARAT is due to market imperfections in the country, but is India actually ready to face such challenges. I have yet not attained enough wealth to in any way have any such policies to discourage

[25] Matten, D. and J. Moon: 2008, '"Implicit and "Explicit" CSR: A Conceptual Framework for a Comparative Understanding of Corporate Social Responsibility', Academy of Management Review 33(2), 404-424

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foreign investors stepping in India. Moreover, at this juncture where our economic market scenario is booming, I need to be more pro investors.

- Also, let's say I have these laws made for CSR to bridge the gap between the poor and the Ill to do, but with so many shortcomings in the act itself, how can there be efficient compliance for the same. The act is ambiguous and does not clearly provide for penalties and leaves a lot of room for arbitrariness and corruption at the hands of the regulatory authorities. I cannot afford to have another law in the pool of already inefficient laws with no coercive mechanism or authority to see through the compliance of the legal provisions.

- The particular aforementioned legal provisions are vague and do not even have a proper review mechanism and add to the already inefficient scenario state's regulatory incapacity and illegitimacy.

- Issuing of mandatory sustainability reports like in Denmark. "In Denmark companies are not forced to dedicate a certain quantity of their profits for CSR actions. There are other countries, such as the UK or France, **where sustainability reporting is mandatory for listed companies."**[26]

But, "is this a guarantee that companies in these countries are more socially responsible than in other countries where CSR is voluntary?" "Spain is a country where it's the corporate world who is taking the lead, partly due to the inactivity of the government. There are some initiatives from regional governments in order to promote CSR among small and medium companies, but they do not pursue mandatory CSR or reporting for private owned companies." According to the ranking "Global 100 Sustainable

[26] Matten, D. and J. Moon: 2008, '"Implicit and "Explicit" CSR: A Conceptual Framework for a Comparative Understanding of Corporate Social Responsibility', Academy of Management Review 33(2), 404-424

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Performance Leader", of the 1000 more sustainable companies, 11 are Spanish. The Spanish, voluntary CSR approach does seem to work, then. And let's say even if I need to mandate something wouldn't mandating sustainability report a better option than mandating CSR activities.

- The law should promote CSR activities rather than imposing

"CSR is deeply connected with values, not with laws." Values cannot be forced, they can be promoted, taught or awaken. Besides, who is going to define what CSR is? Is it going to be the government? And how can the government decide that such values have a morally higher standard than others to be incorporated as CSR activities by a particular company.

- Where there comes a legal enactment, the chances of corruption and fraud increases.

If someone is obligated to do something, there will always be an enticement to skip the particular legal rules and especially for small companies which may meet the threshold but are not that financially well stabled and there can be companies which even below their 2% mark, could provide for CSR activities. Sometimes fraud cannot be discovered so easily. [27]Like so many tax evasions and avoidance techniques. However, if a company decides not to be socially responsible, it's more likely that its stakeholders will end up unveiling it and punishing its behaviour.[28]

- CSR as a soft power tool

The author is fully convinced that a "soft CSR approach (voluntary CSR plus public promotion)" is far more effective than a "hard CSR approach (mandatory regulation)". Soft power is in the very soul of corporate sustainability.

- Convictions, not impositions

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[27] Angus-Leppan, T., L. Metcalf and S. Benn: 2010, 'Leadership Styles and CRC Practice: An Examination of Sensemaking, Institutional Drivers and CSR Leadership', Journal of Business Ethics 93, 189-213

[28]Angus-Leppan, T., L. Metcalf and S. Benn: 2010, 'Leadership Styles and CRC Practice: An Examination of Sensemaking, Institutional Drivers and CSR Leadership', Journal of Business Ethics 93, 189-213

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Voluntary CSR is connected to convictions and commitment. "It's something that comes from inside the company, with a desire to change things and create value. It has a psychological explanation: Mandatory CSR is imposed from outside the company and it may not be perceived as own."

- CSR for competitiveness

Companies have to be able to decide which way they want to go in order to improve their competitiveness. Voluntary CSR is one of the ways. I know that socially responsible companies are more competitive than the ones who are not. One of the examples being L'Oreal taking over body shop to improve its brand image towards CSR activities. L'Oreal wouldn't have acquired The Body Shop, which was a pioneer in the field of CSR, in 2006 to save their reputation.

- After all these reasons going against mandatory CSR the other issues like the concept of CSR being a controversial one and experts have yet no agreed to define it before making a law on it, hence both critics and the author agree that CSR should remain voluntary by nature. The British government also defines "CSR as 'voluntary actions that business can take, over and above compliance with minimum legal requirements'." Because CSR is voluntary, it precludes a legislative agenda by definition. Seeking to encourage and promote CSR, the British government in 2000 set up a new position, minister for CSR.

- Another point of controversy is "whether companies should be legally required to report on their CSR activities." There already are mandatory CSR reporting requirements in several countries, including Sweden, Norway, the Netherlands, Denmark, France, and Australia.[29]The author feels that instead of having made CSR mandatory, the government of India should have Sustainability reporting as one of the main ways for a company to determine its impact on the environment and society. It is the best strategy to find out

[29]Trends in Corporate Social Responsibility Disclosure: How are countries incorporating sustainability reporting?, Tom Harrisson, Outreach magazine
Available at: http://stakeholderforum.org/sf/outreach/index.php/int3day2home/84inf1day3/671-ifn1day3item2 (last visited on 29 March 2019)

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where the company stands compared to competitors, to measure the effectiveness of its management and to understand the attitude of stakeholders towards it. Presenting information on achievements in the field of sustainable development in society increases transparency and therefore the confidence of stakeholders in the company.

- Mandatory CSR is intrinsically contradictory. CSR is essentially an inspirational exercise, and it is very difficult to legislate aspirations. Laws only set minimum standards, but do not create an incentive for positive action. For example, "it would be difficult to mandate that companies 'build excellent schools' or be 'generous to the community'".

- The proposed law can be attacked on the basis of "pragmatism as being ineffective." The proposed law does not even discuss, let alone define, an enforcement mechanism or penalties for non-compliance. The law would be an enforcement nightmare, aggravating an already bad situation where many laws are poorly enforced in India and further undermining respect for the law. Curiously, the law even includes a loophole. If the 2 per cent allocation is not made in a given fiscal year, the CSR committee has to submit an explanation to avoid being penalized. There is no discussion of what explanations would be legally valid, opening up much room for corruption and extortion.

- "Given the controversy surrounding the concept of CSR, it is not surprising that the proposed law does not define CSR for the purposes of expenditures. The law lists only a few genres of CSR activities: 'eradicating extreme hunger and poverty', 'promotion of education', and 'ensuring environmental sustainability'. This is much too vague to work as a legal definition."

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- This increase in government regulation and taxation is bound to make India less attractive to foreign investors and large national companies. The proposed law and the implicit tax will put India at a competitive disadvantage in the global marketplace and slow its growth rate.

- A mandatory expenditure is a kind of a tax. A required consumption is a sort of an expense. The proposed law basically forces an extra 2 per cent charge on organizations secured by the bill. This is a secondary passage approach to increment corporate expenses without a straightforward political level headed discussion. "The corporate assessment rate in India is 32.45 per cent—officially one of the most elevated, contrasted with a worldwide normal of 24.09 per cent, as per KPMG, a review and counselling organization. Expanding the corporate assessment rate will absolutely not prompt making India a more 'appealing venture destination', as Pilot cases. Given the accentuation on financial liberalization and monetary development, it is impossible that the Indian nation covets an expansion in the corporate tax rate."

- "While India has experienced rapid economic growth, the benefits of this growth have not been distributed equitably. Inequality, which was already high, has increased even more. India's Gini coefficient, the official measure of income inequality, has gone up from 0.32 to 0.38 in the last two decades. For example, about 50 per cent of children in India are malnourished due to pervasive poverty. Trickle-down economics is not working. The proposed law does not go far enough in reducing inequality and helping the disadvantaged." Without a coercive enforcement mechanism, it is unlikely that the law will result in widespread compliance. In other words, 'mandatory' CSR will remain largely voluntary."

- Many activities that companies undertake are both profitable and good for society. Companies would undertake these activities regardless of the law since they are profitable activities. Under the new law, they will be able to classify these activities as CSR with no real change in social welfare. Would a corporate training program qualify as

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'promotion of education'? Would making a profitable investment in an energy-efficient machine qualify as 'ensuring environmental sustainability', even if the firm made that investment on purely financial grounds? This is what is often derisively referred to as 'greenwashing'. The proposed law would likely increase greenwashing with no real increase in green activities.

- "Even to the extent that there would be a real increase in socially beneficial activities, the spending would not go to democratically determined priorities, but rather to whatever the companies prefer to emphasize. It is the government's responsibility to determine high-priority needs of society and target public expenditures in these areas. With the proposed law, the government is abdicating one of its primary functions. It would be preferable for the government to impose a tax on companies and use the additional funds to provide public goods and reduce inequality in a systematic and democratic manner."

- There is always a question to the positive effects of this provision and it is stated that there is always a doubt that mandatory CSR could be a global solution. After all, isn't a way to manage a company and its affairs and also it defines your dialogue with the stakeholders.[30] "Whether companies choose to be responsible or not, has to be left to their discretion."

- "In the author's opinion, by definition, CSR must be something that is linked to a company's core activities. "Putting money in a jar that can be used for anything is in no way linked to what a company actually does, and is therefore not CSR. Most of the largest companies in the world easily make that 2%, by renaming some things. A lot of new business ventures can be dubbed CSR as Ill. "Opening an oil-Ill in Nigeria" no, let's call it "creating job opportunities to battle poverty in rural Nigeria". Pointless. Who says this is not CSR? Build a school next to Ill and you can be sure that the entire business can be called CSR, and you'll be considered "good practice" as Ill, and use this CSR-sort of

[30] W B Werther Jr., and D Chandler, Strategic Corporation Social Responsibility: Stakeholders in a Global Environment, (2nd edn, Sage Publications, 2011) 7

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thing as a marketing tool. And what about the actual influence on the world? Let's say a gun-maker makes the 2% CSR mark. And the company that makes all organic clothes (without using child labour or underpaid workers) does not. So the organic company would have to pay a fine and the killers do not?"

- "The new law not only mandates minimum spending on CSR activities but also limits the activities for which CSR funds could be used. More specifically, as per the new law, any spending on social causes that are related to the company's core business or which directly benefit its stakeholders will not be treated as CSR spending.[31] This clause of the law goes counter to implications of prior research that has suggested strategic benefits accruing to companies that invest in CSR activities related to their businesses. The results of the study cited earlier indicate that it could be counter-productive for CSR. Initiatives like Project Shakti (by Hindustan Unilever or HUL) illustrate this argument. A recent article in Harvard Business Review by professor Kasturi Rangan and others say that this project has led to increased sales for HUL while providing a sustained livelihood to more than 65,000 households. The article suggests that the goal of CSR activities is to "align a company's social and environmental activities with its business purpose and values".

Conclusion and Recommendations

One of the most significant and contentious corporate trends of the last decade is the growth of corporate social responsibility (CSR). Although CSR activities have received substantial attention from media and academics, the fundamental rationale behind firms' engagement in CSR still remains a puzzle. In essence, CSR can be viewed as an extension of firms' efforts to maximize shareholders' wealth but also conformed to the basic rules of society. In general, CSR describes how firms manage the business processes to produce an overall positive impact on society and refer to serving people, communities, and the environment in ways that go above and beyond what is legally and financially required of a firm. Prior to the acceleration of CSR activities, there has been a remarkable discussion over the last two decades among scholars and practitioners on what constitutes the best corporate governance practices. The recent financial

[31] Angus-Leppan, T., L. Metcalf and S. Benn: 2010, 'Leadership Styles and CRC Practice: An Examination of Sensemaking, Institutional Drivers and CSR Leadership', Journal of Business Ethics 93, 189-213

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crisis of many firms has not only proven to be a watershed momentum in U.S. corporate governance, but it also has highlighted the importance of CSR. The World Bank report, suggests that there is increasing advocacy of a broader and more inclusive concept of corporate governance that extends to CSR. Despite the pivotal roles played by CSR and corporate governance in current financial markets, the relationship among CSR, corporate governance and financial performance are still unclear. Though nothing is debatable on the fact that how huge CSR initiatives have built up in the world.

Corporate Social Responsibility (CSR) is expected to be integral to business today. It has also become the password to not only overcome competition but to ensure sustainable growth. It has been supported by the shareholders and stakeholders, by and large, encompassing the whole community. CSR, in reality, is the alignment of business operations with social values. It takes into account the interests of stakeholders in the company's business policies and actions. It focuses on the social, environmental, and financial success of a company - the so-called "triple bottom line" - with the aim to achieve social development while achieving business success. More importantly, CSR is the point of convergence of various initiatives aimed at ensuring the socio-economic development of the community as a whole incredible and sustainable manner.

Individual efforts and even just government effort are not enough to bring changes at a pace that it is actually needed. Fortunately, with the popularity of CSR, more and more companies now perform in non-financial areas such as human rights, business ethics, environmental policies, community development, corporate governance, and workplace issues. Now, social and environmental performances are considered side by side with financial performance. From local economic development concerns to international human rights policies, companies are being held accountable for their actions and their impacts. Companies are also more transparent in disclosing and communicating their policies and practices as these impact employees, communities, and the environment as per global reporting norms. The belief among the companies is that every aspect of a corporation's CSR should be linked to corporate strategy byConnecting it as tightly as possible to the company's unique capabilities and competitive context. Infosys is an interesting example of this new-age CSR. The company is utilising its core competence in the area of technology to bring larger good to the community. We also have the

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ITC group whose socio forestry initiative and e-choupal is an excellent paradigm where CSR and business have created harmonious associations. The cynic would, however, argue that 70% of ITC's revenues still come from tobacco and wonder whether its CSR is just a smokescreen. Some companies, though fewer in number, are realising the advantages of linking corporate strategy with CSR. In order to work out a comprehensive plan for its not-for-profit initiatives, the Tata group has instituted the Tata Council for Community Initiatives? a central body that acts as a facilitator for the entire group's social initiatives. While the Tata group companies may continue to provide health services, education and other tangible benefits, its focus is more on building self-reliant communities and working towards sustainable livelihoods. However, after Singur and Kalinganagar even the fair name of the Tata group is sometimes controversial. Mahindra & Mahindra is one such company that decided in its 60th year to donate 1 % of profits after tax(around Rs 1.3 crore as per figures have shown) into CSR. Its activities include the K.C. Mahindra Education Trust, which promotes education at various levels and Nanhi Kali, a programme aimed at helping the underprivileged girl child at the Mahindra Foundation, the midday meal program in AP and Rajasthan, and Affirmative Action through Mahindra Pride Schools. The Foundation has constituted a CSR Council, with members being the heads of all its businesses from tractors to holiday homes. It has also the ESOPS program -"Employee Social Options" and not just a stock option - promotes volunteering and works in partnership with Naandi Foundation and other organizations. For all these current initiatives Mahindras were awarded the FICCI -SEDF award 2007, one of the first CSR awards in the country that includes a 360-degree reality check by the civil society who meet up with trade unions, Government representatives, employees etc before presenting its findings to an eminent jury.

CSR has moved from being a public relations tool or a feel-good factor to a key parameter to keep companies open and transparent thus establishing the fact that voluntary CSR is working. CSR has moved from being a public relations tool or a feel-good factor to a key parameter to keep companies open and transparent. It now no longer stands in isolation but has become a part of good Corporate Governance policies. The reality today is that companies are taking the issues of 'reputational risk' very seriously and it is no longer seen as an option. Most CSR models are

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based on the principle that goodwill earned from the stakeholders leads to benefits to the corporation. This, in turn, enables the corporation to further enhance stakeholder value.

Triple Bottom Line The oft-quoted concept of triple bottom line reporting of CSR suggests that there are three separate and distinct bottom lines - each of equivalent standing. It is believed that in the context of sustainable development, it's impossible to consider the economic dimension in isolation from the social or the environmental, and vice versa. To be a truly sustainable organization, in the broadest definition of the terms, an organization must perform well across all three dimensions. Corporate social responsibility is also seen as basically a new business strategy to reduce investment risks and maximise profits by taking all the key stakeholders into confidence. The proponents of this perspective often include corporate social responsibility in their advertising and marketing initiatives.

There is also the eco-social perspective. The proponents of this perspective are the new generation of corporations and the new-economy entrepreneurs who created a tremendous amount of wealth in a relatively short span of time. They recognise the fact that social and environmental stability and sustainability are two important prerequisites for the sustainability of the market in the long run. They also recognize the fact that increasing poverty can lead to social and political instability. Such socio-political instability can, in turn, be detrimental to business, which operates from a variety of socio-political and cultural backgrounds. Seen from the eco-social perspective, corporate social responsibility is both a value and a strategy for ensuring the sustainability of the business. It is a value because it stresses the fact that business and markets are essentially aimed at the well-being of society. It is a strategy because it helps reduce social tensions and facilitate markets.

For the new generation of corporate leaders, optimisation of profits is the key, rather than the maximisation of profit. Hence there is a shift from accountability to shareholders to accountability to stakeholders (including employees, consumers and affected communities). There is a growing realisation that long term business success can only be achieved by companies that recognise that the economy is an "open subsystem of the earth's ecosystem, which is finite, non-growing and materially closed". There is a third and growing perspective

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that shapes the new principles and practice of corporate social responsibility. This is a rights-based perspective on corporate responsibility. This perspective stresses that consumers, employees, affected communities and shareholders have a right to know about corporations and their businesses. Corporations are private initiatives, true, but increasingly they are becoming public institutions whose survival depends on the consumers who buy their products and shareholders who invest in their stocks. This perspective stresses accountability, transparency and social and environmental investment as the key aspects of corporate social responsibility.

Successful experiments are as yet few far between in India. As the saying goes "In the land of the blind, the one-eyed is the king": so are the few examples of good CSR. Companies tend to pay lip service or remain in the philanthropic model. Writing away cheques to 'soft issues' such as children issues, disability, health checkups, blood donations and building temples tend to remain the most favoured while questions remain on " how the money" was made, official issues around responsible business practice remain completely unanswered.

Companies tend to give away financial resources to NGOs or organizations or charities and this continues to be the favoured route. Others set up their own in-house foundations such as Infosys and Wipro. India evolved a tradition trusteeship' propounded by Mahatma Gandhi and this was later adopted by corporate leaders such as GD Birla and Jamnalal Bajaj. These were initiatives pre-independence. Some of these CSR experiments have succeeded in the establishment of excellent institutions such as Indian Institute of Science, TIFR, TISS by the Tatas, BITS Pilani by Birla's, and the Jamnalal Bajaj Institute by Bajaj. GlaxoSmithKline Consumer Healthcare works to support a large number of partnerships spread across the country with issues such as reducing of infant & maternal mortality, access to health care for tribal communities, breast cancer awareness for low-income communities, school education dropouts, etc. During Emergencies such as Tsunami and the recent Bihar floods it distributed material in kind such as Crocin, biscuits as well as the donation of office infrastructure. It recognizes that NGOs and local partners are some of the best ways of quickly reaching the affected communities and has worked with a large number of respected organizations including Gandhian ones.

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The Reddy's "LABS" experiment has created thousands of new livelihoods and the Byrraju Foundation established by Satyam group has created rural jobs, rural BPO's in Bhimavaram, Godavari District in Andhra Pradesh, apart from the establishment of EMRI and HMRI. It makes drinking water available to families at subsidized costs and has pioneered the concept of rural BPOs. It is an amazing sight to see young men and women cycle down to work in a serene rural environment rather than migrate in search of opportunities. The Eicher Group has also transformed the primary education scenario in Harchandpur Block of Uttar Pradesh, without any publicity of any sort. The Mahindras have set up a foundation called Nanni Kali Trust, which is carrying out primary education work focusing on girl children in Udaipur, where the company has no factory. Mindtree closely works with Spastics Society of Karnataka having their logo itself designed by them, volunteering programs, etc. Kinetic Engineering's support to "Dreamland" an NGO in its formation and thereafter in its response to the farmer's suicide is exemplary. It's outsourcing to leprosy-affected communities has led to their empowerment. The Janaki Bajaj Gram Vikas Sansthan has worked extensively towards rural education and information in the villages of Maharashtra with clear cut exit strategies once basic indicators have been met.

In the traditional paradigm, most corporate bodies viewed CSR as the extension of a financial input for a humanitarian cause. However, the contemporary context is more complex. A company that undertakes activities aimed at communities (be they philanthropic, social investment or commercial initiatives) but does not comply with ethical business practice cannot be termed socially responsible. Corporate Responsibility is increasingly becoming an important aspect of corporate behaviour. Corporate contribution to society, environment and business when guided by enlightened self-interest improves quality of life for all. Effective corporate responsibility requires a good level of commitment from the entire organisation and especially the top management who can ensure that not only is CSR practised but also that it is practised well. Godrej Industries Ltd, one of the largest industrial groups in India, has not only integrated conservation of natural resources in its business operations but has also diversified into renewable to minimize its carbon footprint. The company's windmills have brought down carbon emissions, earning it carbon credits. A recent Green Business Survey released by Financial

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Express and Emergent Ventures India (FE - EVI Survey 2008) revealed that senior managements have realized various risks related to climate change and are putting pressure on their companies to manage climate change risks. Financial companies (67%) acknowledge this risk before others and put pressure on borrowers to come up with mitigation plans. To create synergy, leaders from corporates, international agencies and governments should come together to assess the contribution businesses have made, can make. And like Nelson Mandela once said, "Without question, businesses must respond for its own good, and what is good for them is invariably good for the community."

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