

From Philanthropy to Mandatory CSR: A Journey towards Mandatory Corporate Social Responsibility in India

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Abstract

India is a country of myriad contradictions. On the one hand, it has grown to be one of the largest economies in the world, and an increasingly important player in the emerging global order, on the other hand, it is still home to the largest number of people living in absolute poverty (even if the proportion of poor people has decreased) and the largest number of undernourished children. What emerges is a picture of uneven distribution of the benefits of growth which many believe, is the root cause of social unrest. Companies too have been the target of those perturbed by this uneven development and as a result, their contributions to society are under severe scrutiny. With increasing awareness of this gap between the haves and the have-nots, this scrutiny will only increase over time and societal expectations will be on the rise. Many companies have been quick to sense this development, and have responded proactively while others have done so only when pushed.

This paper attempts to present the picture of transformation of corporate social responsibility (CSR) from philanthropy to mandatory corporate social responsibility (MCSR) in India. It aims also at analyzing that why CSR spending must be regulatory in the country like India.

Keywords: Philanthropy, CSR, MCSR, Company Act 2013, India

1. Introduction

While the progress of a society depends on the businesses that thrive in its environment, the success of a business too depends on the stability of that society. The well being of one depends directly on the well being of the other. Thus, corporates need to understand and redefine their roles in order to fulfill their social responsibilities. They need to look beyond government-initiated development programs and take charge of directing initiatives aimed towards improving the health and standard of living of their community.

According to World Business Council for Sustainable Development, 2001, CSR is “the commitment of business to contribute to sustainable economic development, working with employees, their families, and the local communities.”

Something that comes from the people should go back to the people (Arup et al., 2013). This is necessary to complete the cycle which perhaps the only way of sustainable development.

The emerging concept of Corporate Social Responsibility (CSR) goes beyond charity and requires the company to act beyond its legal obligations and to integrated social, environmental and ethical concerns into company’s business process. Indian companies have made their way into the business boom and are today globally acknowledged as major players. India is currently amongst the fastest growing countries in the world. The globalization and liberalization of the Indian economy has helped in stepping up growth rates. Integration of the Indian with the global economy has also resulted in Indian businesses opening up to international competition and thereby increasing their operations.

In the current scheme of things, business enterprises are no longer expected to play their traditional role of mere profit making enterprises. The ever-increasing role of civil society has started to put pressure on companies to act in an economically, socially and environmentally sustainable way.

2. The Objective of the Study

The main objective of the study is to study the evolution of corporate social responsibility (CSR) from philanthropy to mandatory corporate social responsibility (MCSR) in India and also study the rationale behind making CSR spending mandatory in the country like India.

3. Data Collection & Research Methodology

This paper is conceptual in nature. The approach adopted is analytical and based on extensive literature review on CSR. The sources of data are research papers, news paper articles, magazines, and internet etc.

4. Corporate Social Responsibility in Global Context

While there may be no single universally accepted definition of CSR, each definition that currently exists underpins the impact that businesses have on society at large and the societal expectations of them. Although the roots of CSR lie in philanthropic activities (such as donations, charity, relief work, etc.) of corporations, globally, the concept of CSR has evolved and now encompasses all related concepts such as triple bottom line, corporate citizenship, philanthropy, strategic philanthropy, shared value, corporate sustainability and business responsibility. This is evident in some of the definitions presented below:

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

The WBCSD defines CSR as “the continuing commitment by business to contribute to economic development while improving the quality of life of the workforce and their families as well as of the community and society at large.”

According to the UNIDO, “Corporate social responsibility is a management concept whereby companies integrate social and environmental concerns in their business operations and interactions with their stakeholders. CSR is generally understood as being the way through which a company achieves a balance of economic, environmental and social imperatives (Triple-Bottom-Line Approach), while at the same time addressing the expectations of shareholders and stakeholders. In this sense it is important to draw a distinction between CSR, which can be a strategic business management concept, and charity, sponsorships or philanthropy. Even though the latter can also make a valuable contribution to poverty reduction, will directly enhance the reputation of a company and strengthen its brand, the concept of CSR clearly goes beyond that.”

From the above definitions, it is clear that:

- ❖ The CSR approach is holistic and integrated with the core business strategy for addressing social and environmental impacts of businesses.
- ❖ CSR needs to address the well-being of all stakeholders and not just the company’s shareholders.
- ❖ Philanthropic activities are only a part of CSR, which otherwise constitutes a much larger set of activities entailing strategic business benefits.

5. Corporate Social Responsibility in India

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 on 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 some observers have pointed out, the practice of CSR in India still remains within the philanthropic space, but has moved from institutional building (educational, research and cultural) to community development through various projects. Also, with global influences and with communities becoming more active and demanding, there appears to be a discernible trend, that while CSR remains largely restricted to community development, it is getting more strategic in nature (that is, getting linked with business) than philanthropic, and a large number of companies are reporting the activities they are undertaking in this space in 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, is promoting greater transparency and disclosure. Schedule VII of the Act, in which 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 on 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.

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to its stakeholders and integrating CSR into its core operations, the draft rules suggest that CSR needs to go beyond communities and beyond the concept of philanthropy. It will be interesting to observe the ways in which this will translate into action at the ground level, and how the understanding of CSR is set to undergo a change.

5.1 Evolution of corporate social responsibility in India

The evolution of corporate social responsibility in India refers to changes over time in India of the cultural norms of corporations' engagement of corporate social responsibility (CSR), with CSR referring to way that businesses are managed to bring about an overall positive impact on the communities, cultures, societies and environments in which they operate. The fundamentals of CSR rest on the fact that not only public policy but even corporates should be responsible enough to address social issues. Thus companies should deal with the challenges and issues looked after to a certain extent by the states.

Among other countries India has one of the richest traditions of CSR. Much has been done in recent years to make Indian Entrepreneurs aware of social responsibility as an important segment of their business activity but CSR in India has yet to receive widespread recognition. If this goal has to be realized then the CSR approach of corporates has to be in line with their attitudes towards mainstream business- companies setting clear objectives, undertaking potential investments, measuring and reporting performance publicly.

To describe the current state and future prospects of CSR in India, Sundar (2000) divided the development of CSR into four phases based on country's political and economic background. Later on, Chahoud et al. (2007) reinforce him (2000) saying that different CSR practices moved on parallel with India's historical development. As government of India (GOI) has introduced mandatory CSR into Company Act 2013, hence authors have added fifth stage as compulsory CSR into the CSR evolution phases in India. The five phases are as follows:

Table 1: Phases of CSR practices in India

| Phases | Key Thrust | Key Strategies |
|---------------------------------------|---|--|
| Phase I(Till 1914) | CSR motivated by charity & philanthropy | The oldest form of CSR was motivated by charity and philanthropy with direct influence from culture , religion, family tradition, and industrialization process |
| Phase II(1914-1960) | CSR for India's social development | Dominated by the country's struggle for independence and influence fundamentally by Gandhi's theory of trusteeship for consolidation and amplification of social development. Gandhi's reform programs which included activities that sought in particular the abolition of untouchability, women's empowerment and rural development. |
| Phase III(1960-1980) | CSR under paradigm of mixed economy | The paradigm of 'mixed economy' with emergence of legislation on labor and environmental standards, affected the third phase of Indian CSR. This phase is also characterized by a shift from corporate self reputation to strict legal and public regulation of business activities. |
| Phase IV(1980-28th August 2013) | CSR at interface between philanthropic and business approaches | Indian companies and stakeholder began abandoning traditional philanthropic engagement and, to some extent, integrated CSR into a coherent and sustainable business strategy, partly adopting the multistake holder approach. |
| Phase V(29th August 2013 and onwards) | Government of India made CSR spending mandatory for sizable firms | India made CSR spending mandatory for the firms having an annual turn over of \$ 166 million and more or a net worth of \$83 million and more or net profit of \$ 833,333 and more to spend at least 2% of their average net profit over three previous yaers on CSR activities(@1 USD= 60 INR & company Act, 2013). |

Source: Authors' survey of literature on CSR

The concept of corporate social responsibility is not new to the India, it started long ago as depicted in the **table 1:** in its very beginning, it was treated as charity and philanthropy. But due to change in the perception of different stakeholders about firms' responsibility towards environment and society, the meaning and definitions

of CSR has got charge over different time period. Table 1, takes us to the different phases of CSR practices in India.

5.2 Mandatory Corporate Social Responsibility (MCSR) & The company Act, 2013

In India, the concept of CSR is governed by clause 135 of the Companies Act, 2013, which was passed by both Houses of the Parliament, and had received the assent of the President of India on 29 August 2013. The CSR provisions within the Act is applicable to companies with an annual turnover of 1,000 crore INR (\$166 million) and more, or a net worth of 500 crore INR (\$83 million) and more, or a net profit of five crore INR (\$ 833, 333) and more. The new rules, which will be applicable from the fiscal year 2014-15 onwards, also require companies to set-up a CSR committee consisting of their board members, including at least one independent director.

The Act encourages companies to spend at least 2% of their average net profit in the previous three years on CSR activities. The ministry's draft rules, that have been put up for public comment, define net profit as the profit before tax as per the books of accounts, excluding profits arising from branches outside India.

5.2.1 CSR activities as per Schedule VII

The Act lists out a set of activities eligible under CSR. Companies may implement these activities taking into account the local conditions after seeking board approval. The indicative activities which can be undertaken by a company under CSR have been specified under Schedule VII of the Act.

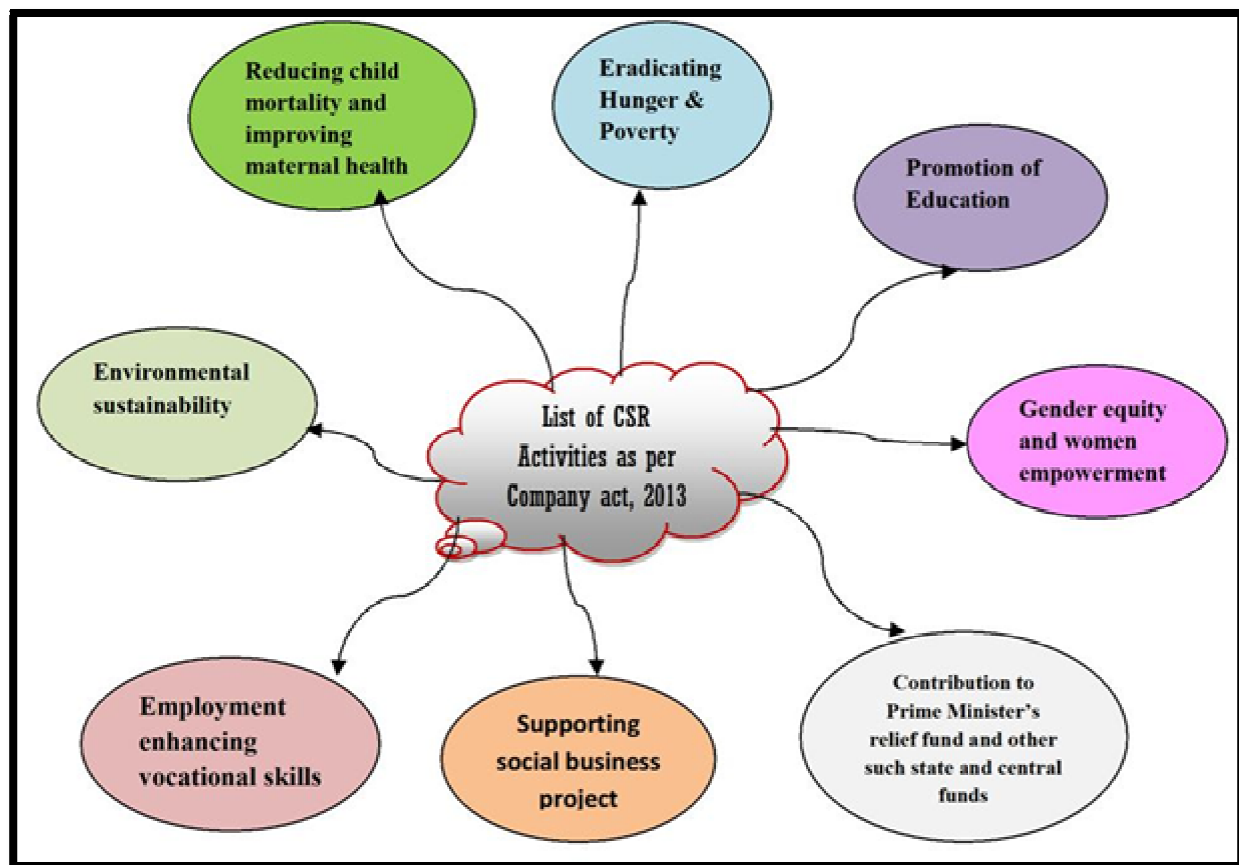


Figure 1: List of activities under Schedule VII of company act, 2013

Source: Authors' figurative representation on list of CSR activities as per company Act, 2013

The company can implement its CSR activities through the following methods:

- Directly on its own
- Through its own non-profit foundation set-up so as to facilitate this initiative
- Through independently registered non-profit organizations that have a record of at least three years in similar such related activities
- Collaborating or pooling their resources with other companies

5.2.2 Responsibility of the Board

The Board of every company referred to above shall after taking into account the recommendations made by CSR Committee:

-approve the CSR Policy for the company and disclose contents of such Policy in its report and also place it on the company's website, and

- ensure that the activities as are included in CSR Policy of the company are undertaken by the company, and
- ensure that the company spends, in every financial year, at least two per cent of the average net profits
- If the Company fails to spend such amount, the Board shall, in its report specify the reasons for not spending the amount.
- “Average net profit” shall be calculated in accordance with the provisions of section 198 of the 2013 Act.

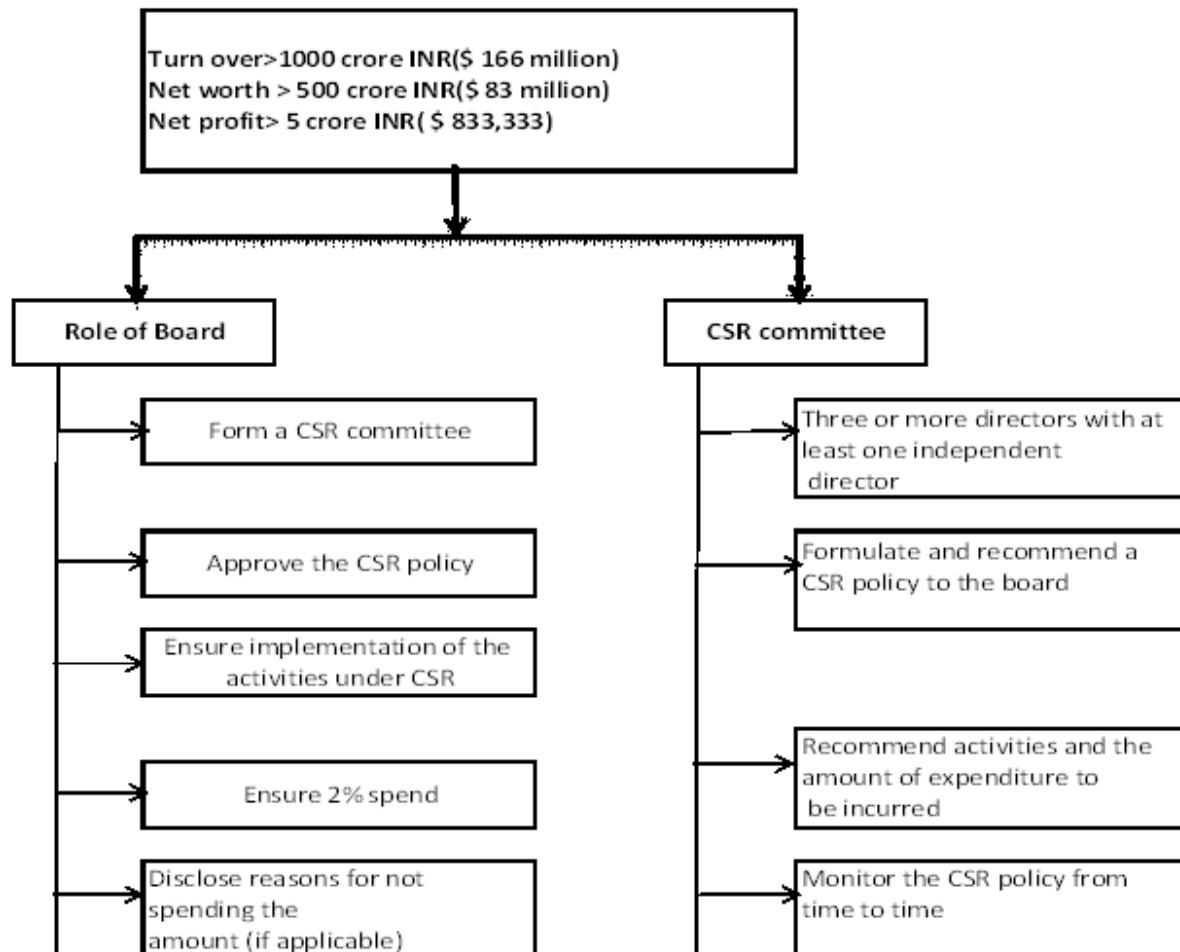


Figure 2: Role of the board and the CSR committee

Source: Authors’ figurative representation role board & CSR committee as per company Act, 2013

Figure 2, represents the major role of board & CSR committee stipulated by ministry of corporate affairs in the company act, 2013.

6. Rationale behind making CSR mandatory in India

The government perspective on CSR has been that though India's business sector has generated wealth for shareholders for decades, the country continues to grapple with problems of poverty, unemployment, illiteracy and malnutrition. Corporate growth is sometimes seen as widening the gap between India and Bharat (rural India) through its income-skewing capability. This gap needs to be bridged. While the government undertakes extensive developmental initiatives through a series of sectoral programs, the business sector also needs to take the responsibility of exhibiting socially responsible business practices that ensure the distribution of wealth and the well-being of the communities in which the business operates.

With the implementation of the new company law from April 1, 2014, India has become the only country in the world with legislated corporate social responsibility (CSR) and a spending threshold of up to \$2.5 billion (Rs15,000 crore).

The new law mandates that all companies, including foreign firms, with a minimum net worth of Rs 500 crore (\$83 million), turnover of Rs1, 000 crore (\$166 million) and net profit of at least Rs 5 crore (approx \$800,000), spend at least 2% of their profit on CSR.

According to industry estimates, around 8,000 companies will fall into the ambit of the CSR provisions and this would translate into an estimated CSR spend of \$1.95 billion to \$2.44 billion. With higher economic growth and

increase in companies' profits, this mandatory spending will go up.

"Many big companies have been actively engaged in the CSR activities, but the number is low. The new law will lead to a significant increase in the numbers," said Venkateshwaran (Business Standard, May 11, 2014).

Dr Manmohan Singh (Prime Minister of India) has advised the corporate to heed Mahatma Gandhi and look upon themselves as trustees of the people, and warned of social unrest:

"In a country with extreme poverty, 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..."

Presently in India, there is a widespread feeling that the high GDP growth rate of past decade has remained confined to urban areas only and has not reached the rural India, particularly to the poor section of the society. Corporates have the know-how, strategic thinking, manpower, and financial strength to enable widespread social transformation. Operational partnerships between corporations, NGOs and the government will place India's economic growth and social development more inclusive.

7. Limitations & Future Research

This study is purely conceptual in nature. It aims at presenting the ever changing definitions of corporate social responsibility in India, particularly. Since, mandatory concept of CSR is very new in India and is at the nascent stage and lacks in several aspects, thereby, it requires much development & amendments in the CSR policy. The future research could be in the direction of, role of various agencies (NGO, consulting firms etc) in formulating & implementing CSR policies for the Indian firms. Secondly, research should also be towards developing effective CSR Indexing for Indian firms for measuring their social performance as there is dearth of such study in developing countries.

8. Conclusion

Business is about balancing the economic, social and environmental issues over the short and longer-term. It is a core human activity and is at its best when it has clear goals and practical targets. The role of the private sector has seen tremendous changes all over the world. These changes are very significant for a developing country like India. Micro finance and new business models have made the developing countries on the road to development in a big way.

The business of 21st century will have no choice but to implement CSR. The corporate & government should try to build up a relationship between the business and society.

The concept of mandatory CSR spending and reporting has been criticized by many industrialists and does not confirm to the many economists like Friedman, Hannsman or Mecey.

The proposed mandatory 2 percent CSR spending is actually unattractive for two reasons: one, its proper implementation is impractical and two, social pressures and adoption of voluntary operational norms are more effective. International bodies also prophesize "soft norm" rather than legal binding "hard" rules.

In order to make mandatory CSR acceptable to Indian business community, firstly, Government of India (GOI) should be able to convince companies that it is not any other sort of tax on the companies; instead, companies who deliberately follow mandatory CSR norm would be duly recognized and there would be reduction on the tax burden for such companies as well.

Secondly, industries should be assured by Government of India (GOI) that there would not be any political pressure or interruptions in their policy formulation and implementation.

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