

Position and technology of Corporate Social Responsibility in company management

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Abstract: When we say a “corporate entity”, we imply a fairly large corporation which strives for profit-maximisation, leaving an impact of a social, economical and environmental nature. In every form of exploitation of natural resources, there is an underlying human need and therefore we take it as social cost. Sometimes, the need could be the justification for excessive exploitation with greed and such exploitation could affect the society in very many ways. This is when the concept of CSR provides a way of justice to the society.

Keywords: Corporate Social Responsibility, Company management

Introduction

The responsibility goes beyond what normally expected of the Board of Directors and it extends to protecting not only the consumers, employees, shareholders, the government and the stakeholders but also towards the society and environment. An entity must realize its social responsibility. Profit making, no doubt, would be goal; but companies must certainly do their business in a socially responsible manner and thereby be inherently proud to be a company that has made profits in righteous and ethical manner. If an entity indulges in trade and commerce by adopting unethical ways or when an entity indulges tax evasion, it can be said that it has failed to discharge its social responsibility. Even if an entity retains huge distributable profits without declaring dividend, it creates unutilized cash assets which if released will boost economic development and taxes could lead to more spending by the Government on social welfare schemes. CSR activities could divert the attention of the common man from various other practices in which the company that does laudable works through its CSR activities to win the confidence of the people around the areas in which it operates. There is a definite possibility of people not attending to environmental exploitation by the corporate if the corporate does something that people need. Corrupt politicians might hide their corrupt activities by doling out freebies and keeping the vote bank happy. The legislature has thought it fit to introduce, through the Companies Act, 2013 (the 2013 Act), a provision for requiring a company to spend a portion of its net profits on activities that fulfill its social responsibility. In fact, irrespective of the type of company, if a company has a net worth of five hundred crore rupees or more, or turnover of one thousand crore rupees or more or a net profit of rupees five crore rupees or more during any financial year, the provisions of section 135 of the 2013. Act and the Companies (Corporate Social Responsibility Policy) Rules, 2014 (CSR Policy Rules) will apply.

Business Dictionary defines CSR as “A company’s sense of responsibility towards the community and

environment (both ecological and social) in which it operates. Companies express this citizenship (1) through their waste and pollution reduction processes, (2) by contributing educational and social programs and (3) by earning adequate returns on the employed resources”.¹

The Economist, way back in January 20, 2005, stated that “Corporate social responsibility is now an industry in its own right, and a flourishing profession as well. Consultancies have sprung up to advise companies on how to do CSR, and how to let it be known that they doing it. The big auditing and general-practice consulting firms offer clients CSR advice (while conspicuously striving to be exemplary corporate citizens themselves). Most multinationals now have a senior executive, often with a staff at his disposal, explicitly charged with developing and coordinating the CSR function. In some cases, these executives have been recruited from NGOs. There are executive-education programmes in CSR, business-school chairs in CSR, CSR professional organizations, CSR websites, CSR newsletters.

The first step towards the concept of Business Responsibility was taken by the Ministry of Corporate Social Responsibility”. Later, in 2011, in furtherance of this step, the “National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business” was issued by the Institute of Corporate Affairs. The nine (9) principle that emphasized the need for doing business in a fair manner promoting governance and ethics and the core elements that come under those principles constitute the basis for doing business in a responsible manner. Adhering to these nine (9) principles would certainly constitute the social responsibility of a company.

National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business

Principle 1-“Businesses should conduct and govern themselves with Ethics, Transparency and Accountability”

The core elements being:

- Businesses should develop governance structures, procedures and practices that ensure ethical conduct at

¹ Available at [http://www.businessdictionary.com/definition/corporate-](http://www.businessdictionary.com/definition/corporate-social-responsibility.html#zz4DMjhrX5E)

[socialresponsibility. html#zz4DMjhrX5E](http://www.businessdictionary.com/definition/corporate-social-responsibility.html#zz4DMjhrX5E), Lastaccessed in July, 2016.

- all levels; and promote the adoption of this principle across its value chain.
- Businesses should communicate transparently and assure access to information about their decisions that impact relevant stakeholders.
- Businesses should not engage in practices that are abusive, corrupt, or anti-competition.
- Businesses should truthfully discharge their responsibility on financial and other mandatory disclosures.
- Businesses should report on the status of their adoption of these Guidelines as suggested in the reporting framework in this document.
- Businesses should avoid complicity with the actions of any third party that violates any of the principles contained in these guidelines.

Principle 2-“Businesses should provide goods and services that are safe and contribute to sustainability throughout their life cycle”

The core elements being:

- Businesses should assure safety and optimal resource use over the life-cycle of the product-from design to disposal-and ensure that everyone connected with it-designers, producers, value chain members, customers and recyclers are aware of their responsibilities.
- Businesses should raise the consumer’s awareness of their rights through education, product labeling, appropriate and helpful marketing communication, full details of contents and composition and promotion of safe usage and disposal of their products and services.
- In designing the product, businesses should ensure that the manufacturing processes and technologies required to produce it are resource efficient and sustainable.
- Businesses should regularly review and improve upon the process of new technology development, deployment and commercialization, incorporating social, ethical, and environmental considerations.
- Businesses should recognize and respect the rights of people who may be owners of traditional knowledge, and other forms of intellectual property.
- Businesses should recognize that over-consumption results in unsustainable exploitation of our planet’s resources, and should therefore promote sustainable consumption, including recycling of resources.

Principle 3- “Businesses should promote the well being of all employees”

The core elements being :

- Businesses should respect the right to freedom of association, participation, collective bargaining, and provide access to appropriate grievance redressal mechanisms.
- Businesses should provide and maintain equal opportunities at the time of recruitment as well as during the course of employment irrespective of caste, creed, gender, race, religion, disability or sexual orientation.

- Businesses should not use child labour, forced labour or any form of involuntary labour, paid or unpaid.
- Businesses should take cognizance of the work life balance of its employees, especially that of women.
- Businesses should provide facilities for the wellbeing of its employees including those with special needs, They should ensure timely payment of fair living wages to meet basic needs and economic security of the employees.
- Businesses should provide a workplace environment that is safe, hygienic humane, and which upholds the dignity of the employees. Business should communicate this provision to their employees and train them on a regular basis.
- Businesses should ensure continuous skill and competence upgrading of all employees by providing access to necessary learning opportunities, on an equal and non-discriminatory basis. They should promote employee morale and career development through enlightened human resource interventions.
- Businesses should create systems and practices to ensure a harassment free workplace where employees feel safe and secure in discharging their responsibilities.

The corporations simply seem to have been engaged in unethical practices by evading compliances in order to make profit. Workforce is being neglected and they are usually treated in an undignified manner.

For instance, even simple provisions relating to the payment of wages to the employees are not being properly complied with. The Contract Labour (Regulation and Abolition) Central (Amendment) Rules, 2016, states that the rates of minimum wages payable to workmen by the contractor shall not be less than-

- (a) The rates prescribed under the Minimum Wages Act, 1948 (II of 1948) for such employment where applicable; or
- (b) The rates, if any, fixed by agreement, settlement or award; or
- (c) Ten thousand rupees, Whichever is higher”.

It was widely felt that though the amendment introduces a worker friendly regulation, it may affect industrial establishments in view of the steep increase in the cost per contract labour. The study by ASSOCHAM, India states that based on 26 days working in a month, currently the workers are paid Rs. 6973/- per month, when employed by the Contractors in the Union Territory of Dadra and Nagar Haveli. The situation is similar in other States also. There are also several big corporations that employ workmen in the name of apprentices to train and utilize them for a short period of time such as 18 to 36 months. Those workmen are not really apprentices though styled as such. In most of the cases, workmen are actually employed as casual workers without giving any benefit of provident fund and without being

enrolment under the Employees State Insurance Schemes. These are common practices across the country.

In fact, as a matter of public policy, in order to protect the welfare of the workmen, there are numerous laws that provide for matters such as remuneration, dispute resolution, social security, safety, health and overall well being of workmen.

The following laws are some of the laws that aim to take care of well being of workmen:

1. The Employees Provident Fund Act, 1952 and the Employee's Pension Scheme, 1955
2. The Employees State Insurance Scheme (ESIC), 1948
3. The Contract Labour (Regulation and Abolition) Act, 1970
4. The Payment of Bonus Act, 1948
5. The Payment of Gratuity Act, 1972
6. The Workmen Compensation Act, 1923
7. The Payment of Wages Act, 1936
8. The Minimum Wages Act, 1948
9. The Maternity Benefit Act, 1948
10. The Factories Act, 1948
11. The Apprentices Act, 1961
12. The Equal Remuneration Act, 1976
13. The Motor Transport Workers Act, 1961
14. The Employment Exchanges (Compulsory Notification Vocancies) Act, 1959

Principle 5-“businesses should respect and promote human rights’

The core elements being:

- Businesses should understand the human rights content of the Constitution of India, national laws and policies and the content of International Bill of Human rights are inherent, universal, indivisible and interdependent in nature.
- Businesses should integrate respect for human rights in management systems, in particular through assessing and managing human rights impacts of operations, and ensuring all individuals impacted by the business have access to grievance mechanisms.
- Businesses should recognize and respect the human rights of all relevant stakeholders and groups within and beyond the workplace, including that of communities, consumers and vulnerable and marginalized groups.
- Businesses should, within their sphere of influence, promote the awareness and realization of human rights across their value chain.
- Businesses should not be complicit with human rights abuses by a third party.

Principle 6-“Businesses should respect, protect, and make efforts to restore the environment”

The core elements being.

- Businesses should utilize natural and manmade resources in an optional and responsible manner and ensure the sustainability of resources by reducing, reusing, recycling and managing waste.
- Businesses should take measures to check and prevent pollution. They should assess the environmental damage and bear the cost of pollution abatement with due regard to public interest.
- Businesses should ensure that benefits arising out of access and commercialization of biological and other

natural resources and associated traditional knowledge are shared equitably.

- Businesses should develop Environment Management Systems (EMS) and contingency plans and processes that help them in preventing, mitigating and controlling environmental damages and disasters, which may be caused due to their operations or that of a member of its value chain.
- Businesses should report their environmental performance, including the assessment of potential environmental risks associated with their operations, to the stakeholders in a fair and transparent manner.
- Businesses should proactively persuade and support its value chain to adopt this principle.

Important Environmental Laws that prevail in India striving to preserve and protect the environment and seeking to achieve ecological balance are as follows;

1. The Environment protection Act, 1986
2. The Water (prevention and Control of Pollution) Act, 1974
3. The Air (Prevention and Control of Pollution) Act, 1981
4. The River Boards Act, 1956
5. The Water (prevention and Control of pollution) Cess Act, 1977
6. The Mines and Minerals (Regulation and Development) Act, 1947
7. The Atomic Energy Act, 1962
8. The Radiation protection Rules, 1971 issued under the Atomic Energy Act, 1962
9. The plastic Waste (Management and Handling) Rules, 2011 issued under the Environment protection Act, 1986
10. The ozone Depleting Substances (Regulations and Control) Rules, 2000 issued under the Environment Protection Act, 1986
11. The Indian Fisheries Act, 1897
12. The Indian Forest Act, 1927
13. The insecticides Act, 1968
14. The Wildlife (Protection) Act, 1972
15. The Noise Pollution (Regulation and Control) Rules, 2000 issued under the Environment Protection Act, 1986
16. The hazardous Wastes (management, handling, Trans-boundary Movement) Rules, 2008 issued under the Environment Protection Act, 1986
17. The E Wastes (Management and Handling) Rules, 2010 issued under the Environment Protection Act, 1986.
18. The Batteries (Management and Handling) Rules, 2001 issued under the Environment Protection Act, 1986
19. Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 issued under the Environment Protection Act, 1986
20. The Forest (Conservation) Act, 1980

Principle -7 “Businesses, when engaged in influencing public and regulatory policy, should be so in a responsible manner”

The core elements being:

- Businesses, while pursuing policy advocacy, must ensure that their advocacy positions are consistent with the Principles and Core Elements contained in these Guidelines
- To the extent possible, businesses should utilize the trade and industry chambers and associations and other such collective platforms to undertake such policy advocacy.

OECD Principles on CSR

The OECD Guidelines for multi-national Corporation 2011² states that the following are the General principles:

- Enterprises should take fully take into account established policies in the countries in which they operate, and consider the views of other stakeholders.
- Enterprises should;
- Contribute to economic, environmental and social progress with a view to achieving sustainable development.
- Respect the internationally recognized human rights of those affected by their activities.
- Encourage local capacity building through close co-operation with the local community, including business interests, as well as developing the enterprise's activities in domestic and foreign markets, consistent with the need for sound commercial practice.
- Encourage human capital formation, in particular by creating employment opportunities and facilitating training opportunities for employees.
- Refrain from seeking or accepting exemptions not contemplated in the statutory or regulatory framework related to human rights, environmental; health, safety, labour, taxation, financial incentives or other issues.
- Support and uphold good corporate governance principles and develop and apply good corporate governance practices, including throughout enterprise groups.
- Develop and apply effective self-regulatory practices and management systems that foster a relationship of confidence and mutual trust between enterprises and the societies in which they operate.
- Promote awareness of and compliance by workers employed by multinational enterprises with respect to company policies through appropriate dissemination of these policies, including through training programmes.
- Refrain from discriminatory or disciplinary action against workers who make bonafide reports to management or, as appropriate, to the competent public authorities, on practices that contravene the law, the Guidelines or the enterprise's policies.
- Carry out risk-based due diligence, for example by incorporating it into their enterprise risk management systems, to identify, prevent and mitigate actual and

potential adverse impacts as described in paragraphs 11 and 12, and account for these impacts are addressed. The nature and extent of due diligence depend on the circumstances of a particular situation.

- Avoid causing or contributing to adverse impacts on matters covered by the Guidelines, through their own activities, and address such impacts when they occur.
- Seek to prevent or mitigate an adverse impact where they have not contributed to that impact, when the impact is nevertheless directly linked to their operations, products or services by a business relationship.
- This is not intended to shift responsibility from the entity causing an adverse impact to the enterprise with which it has a business relationship. In addition to addressing adverse impacts in relation to matters covered by the Guidelines, encourage, where practicable, business partners, including suppliers and sub-contractors, to apply principles of responsible business conduct compatible with the Guidelines.
- Engage with relevant stakeholders in order to provide meaningful opportunities for their views to be taken into account in relation to planning and decision making for projects or other activities that may significantly impact local communities.
- Abstain from any improper involvement in local political activities.

Securities and Exchange Board of India Listing Regulations

Pursuant to the Notification of the Securities and Exchange Board of India (Listing obligations and Disclosure Requirements) Regulations, 2015 ("listing Regulations") 34 of the Listing Regulations, the Annual Report shall contain a Business Responsibility Report describing the initiatives taken by the listed entity from an environmental, social and governance perspective, in the format as specified by the board. In fact, the business Responsibility Report covers basically the nine major principles and their core elements as set out in the 'National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of business.' On the basis of these principles, SEBI mandates that listed entities which, fall within top five hundred companies, on the basis of market capitalization as at 31st March of every financial year, have to answer certain mandatory questions, some of which are set out below;

01. Does the policy relating to ethics, bribery and corruption cover only the company? Does it extend to the Group/Joint Ventures/suppliers/Contractors/NGOs/Others?
02. List up to three of thur products or services whose design has incorporated social or environmental concerns, risks and/or opportunities.

² Available at

<http://www.oecd.org/daf/inv/mme/48004323.pdf>.last accessed in July 2016

03. For each such product, provide the following details in respect of resource use (energy, water, raw material etc.) per unit of product (optional):
04. Reduction during sourcing/production/distribution achieved since the previous year throughout the value chain?
05. Reduction during usage by consumers (energy, water) has been achieved since the previous year?
06. Does the company have procedures in place for sustainable sourcing (including transportation)?
07. If yes, what percentage of your inputs was sourced sustainably? Also, provide details thereof, in about 50 words or so.
08. Has the company taken any steps to procure goods and services from local & small producers, including communities surrounding their place of work?
09. If yes, what steps have been taken to improve their capacity and capability of local and small vendors.
10. Does the company have a mechanism to recycle products and waste? If yes, what is the percentage of recycling of products and waste and provide details thereof in brief.
11. Please indicate the Number of complaints relating to child labour, forced labour, involuntary labour, sexual harassment, discriminatory employment in the last financial year and pending, as on the end of the financial year.
12. What percentage of your under mentioned employees were given safety & skill up-gradation training in the last year?
13. Permanent-Employees
14. Permanent Women Employees
15. Casual/Temporary/Contractual Employees
16. Employees with Disabilities.
17. Has the company mapped its internal and external stakeholders/
18. Out of the above, has the company identified the disadvantaged, vulnerable & marginalized stakeholders.
19. Are there any special initiatives taken by the company to engage with the disadvantaged, vulnerable and marginalized stakeholders. If so, provide details thereof, in about 50 words or so.
20. Does the policy of the company on human rights cover only the company or extend to the Group/Joint Ventures/Suppliers/Contractors/NGOs/ Others?
21. How many stakeholder complaints have been received in the past financial year and what percent was satisfactorily resolved by the management?
22. Does the policy related to Principle 6 cover only the company or extends to the Group/Joint Ventures/Suppliers/Contractor/NGOs/ others.
23. Does the company have strategies/initiatives to address global environmental issues such as climate change, global warming, etc.? If yes, please give hyperlink for webpage etc.
24. Does the company have strategies/initiatives to address global environmental issues such as climate change, global warning, etc? If yes, please give hyperlink for webpage etc.
25. Does the company have any project related to Clean Development Mechanism/ If so, provide details thereof, in about 50 words or so. Also, if yes, whether any environmental compliance report is filed?
26. Has the company undertaken any other initiatives on-clean technology, energy efficiency, renewable energy, etc. If yes, please give hyperlink for web page etc.
27. Are the Emissions/Waste generated by the company within the permissible limits given by CPCB/SPCB for the financial year being reported?
28. Number of show case/legal notices received from CPCB/SPCB which is pending (i.e. not resolved to satisfaction) as on end of Financial Year.

In order to be a responsible corporate citizen, the Board of Directors must evolve thorough practices supported by reliable board process and unimpeachable integrity. The entire Board will be deemed to be making misrepresentation if the answers to these questions are incorrectly or misleadingly furnished. Further regulation 34 of the Listing Regulations recommends other listed entities too to voluntarily furnish Business Responsibility Report.

CSR does not merely mean allocating funds for certain social activities and to gain some mileage and use the activities as a tool to build the brand of the company. Companies must follow governance and ethical norms, so as to live upto the expectation of the society. CSR is not at all a "Rob Paul to Pay Peter" concept. It has got deeper connotations and it cannot be understood only within the confines and boundaries of the statute, i.e., the 2013 Act that prescribes certain stipulations on this subject.

The Board of the Directors of a company owes certain responsibility to the stakeholders and the society. Section 134 of the 2013 Act requires the Board of Directors of every company to make a statement in the Board's Report to the members issued under that section declaring that the directors had devised proper systems to ensure compliance with the provisions of all applicable laws and that such systems were adequate and operating effectively. But the CSR as described and envisaged in the Companies Act is far too different from the issued described above.

Every director of a company owes a statutory duty to act in good faith in order to promote the objects of the company for the benefit of its members as a whole, and in the best interests of the company, its employees, shareholders, community and for the protection of environment as provided under section 166 of the 2013 Act. This a heavy burden which the statute has cast upon every individual director of a company. Acting in the best interests of the community and to protect the environment are two larger aspects that transcend beyond the boundaries of the company and a director must take care of those aspects of public interest too. These are important aspects of CSR.

Individually, directors of companies are duty bound to ensure the same. Collectively, while functioning as a Board too, they owe collective responsibility.

Conclusion

The concept of CSR involves a never ending commitment to behave in a responsible manner by pursuing fair and ethical business practices, ensuring that activities do

not degrade the environment, or cause harm to animals, human beings, plants and other living beings, but to protect that ecological system, preserve natural resources and strive for augmentation of natural resources, respect the labour and ensue human rights and an ultimate aim to attain sustainable development could be followed to ensure responsibility

towards the society. It goes without saying there must be sufficient number of awareness programmes on what is actually expected from large enterprises whose environmental foot print is also large and whose operations involve the exploitation of human and natural resources.

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