

## Legal Measures of Corporate Social Responsibility Initiatives in India: An Overview



### Commerce

**KEYWORDS:** CSR, Legal measures, Companies Act, NVGs, SEBI

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### ABSTRACT

In today's business scenario, Corporate Social Responsibility (CSR) Policies and Practices has become an inevitable priority for business leaders across the world particularly in India. The revised Companies Act 2013 has paved an avenue for the CSR practices of certain industries compulsorily in India. It is interesting to know the various legal measures taken up so far by the government to make the CSR practices compulsorily by the industries in India. Therefore, this paper is aimed to identify the various legal measures relating to the CSR practices in India.

#### 1.1. Introduction

One does not need to look far to find the term "Corporate Social Responsibility" in the literature today. (Robert L Engle, 2007) In recent years the concept of Corporate Social Responsibility is receiving spectacular attention both from business practitioners as well as academicians in different parts of the world. (Dentchev, N. 2005; Rajasekhara Mouly Potluri, et al., 2010) Business houses embedded the CSR practice under different names such as Corporate Citizenship, Social Responsibility, Business Social Responsibility, Social Responsible Investment and the like. However, a widely quoted definition by the World Business Council for Sustainable Development (WBCSD) states, "Corporate Social Responsibility is the continuing commitment by a business to behave ethically and contribute to economic development while improving the quality of life of the workforce and their families as well as of the local community and society at large." The father of modern CSR is H.R. Bowen. In 1953 he initially proposed the term CSR, suggesting that business should take into accordance the objectives and values of the society (Wartick & Cochran, 1985). Since the introduction of the term CSR in the 1950s and onwards, the concept has gained considerable acceptance and broader meaning (Carroll, 1989). However, it was in the United States (US) which experienced the growing interest in CSR in the 1960s and 1970s (Vogel, 2005). Initially the concept includes the responsibility to deliver social services such as pensions and medical are primarily performed by corporate sector. Later the scope of CSR was widened in the 1980s towards environment and employees without compromising in making of good profits. The new global economy has further highlighted the importance of CSR in other developed countries of the world.

#### 1.1.1. Historical Perspective of CSR in India

The concept of CSR in India is not new but the term may be. The process, though acclaimed recently, has been followed since ancient times albeit informally. Philosophers like Kautilya from India and pre-Christian era philosophers in the west preached and prompted ethical principles while doing businesses (A White Paper, 2008). The concept of helping the poor and the disadvantaged was cited in most of ancient literature. The idea was also supported by several religions where it has been entwined with religious laws. "Zakaat", followed by Muslims, is a donation from one's earnings, which is specifically given to the poor and the disadvantaged. Similarly, Hindus follow the principle of "Dharmada" and Sikhs the "Daashaant". In the pre independence era, businesses which pioneered industrialization along with fighting for independence also followed it. They put the idea into action by setting up charitable foundations, educational and healthcare institutions and trusts for community development. The term CSR itself came into common use in the early 1970's, although it was seldom abbreviated. By the late 1990's, the concept was fully recognized; people and institutions across all sections of society started supporting it. This can be corroborated by the fact that, while in 1977, less than half of the Fortune 500 firms even mentioned it in their annual reports, by the end of 1990; approximately 90 percent of Fortune 500 firms embraced CSR as an

essential element in their organizational goals, and actively promoted their CSR activities in their annual reports (Boli and Hartsuiker, 2001).

#### 1.1.2. CSR in the Contemporary period

In India, companies like Tata and Birla have been practicing the Corporate Social Responsibility (CSR) for decades, long before CSR even became popular. In spite of having such good glorious examples, in India, CSR is in the budding stage. A lack of understanding, inadequately trained personnel, coverage, policy and the likes, further a large number of companies are undertaking these activities superficially and promoting the activities in the media.

CSR is not a new term in India. As far back as in 1965, the then Prime Minister of India, Lal Bahadur Shastri, presided over a national meeting that issued the following declaration on the Social Responsibility of Businesses: "Business has responsibility to itself, to its customers, workers, shareholders and the community. Every enterprise, no matter how large or small, must, if it is to enjoy confidence and respect, seek actively to discharge its responsibilities in all directions, and not to one or two groups, such as shareholders or workers, at the expense of the community and the consumer. Businesses must be just and humane, as well as efficient and dynamic." "Business cannot succeed in a society that fails". CSR is being considered an imperative for carrying on businesses in society rather than as a charity. While CSR is relevant for business in all societies, it is particularly significant for developing countries like India, where limited resources for meeting the ever growing aspirations and diversity of a pluralistic society, make the process of sustainable development more challenging (Sanjay Kumar Panda, 2008).

Although many companies, NGOs and trade unions are aware of CSR practices, the concepts are yet to become a part of core business strategy in most companies in India. Almost all companies, irrespective of size and sector have some awareness of corporate responsibility and its potential benefits. While most companies also have policies in place related to labour issues, community relations and environmental practices, they are for most part, not backed up by comprehensive implementation and monitoring systems. Community programmes or social development initiatives, in most cases, were philanthropic and/or adhoc in nature and not integrated into core business activities. Indian Corporate Social Responsibility has traditionally been a matter of classical paternalistic philanthropy, financially supporting schools, hospitals and culture institutions. However, far from being an add-on motivated by altruism and personal glory, the philanthropic drive has been driven by business necessity. With minimal state welfare and infrastructure provision in many areas, companies had to ensure that their workforce had adequate housing, healthcare and education, and simultaneously keeping up with the country's growth at a fast pace. According to a report by the Centre for Social Markets for the International Finance Corporation (IFC), many leading foreign

Multinational Companies and domestic titans, pre-eminently members of the Tata Group, have been standard-setters on core CSR issues such as labour conditions, health and safety, environmental management, corporate governance and integrity. India has a venerable tradition of philanthropy, both individual and business, and Indian legend and history is replete with instances of generosity from both sources. But, unlike individual and religious charity which has gone mostly towards immediate relief of distress, business philanthropy has provided secular funds on a significant scale to bring progress to society. Modern India owes much to the vision of the founding fathers of India's business and industry who endowed many educational and welfare institutions and funded many a worthy cause, including social reform. Indian families such as Tata and Godrej have a significant industry presence and reputation for social responsibility. One of the Tata Group of companies, Tata Steel, is the first in the country to produce a corporate sustainability report and it administers the only industry town in the world, Jamshedpur, which has received the ISO14001 environmental quality certification (Michael Hopling, 2008). Other companies have followed Tata's lead, such as Infosys, Ballarpur industries Limited, Paharpur Business Park, Ford India, Samsung India Electronics and Cadbury's India. They have all produced environmental and social reports.

Corporate social responsibility is one such niche area of Corporate Behaviour and Governance that needs to get aggressively addressed and implemented tactfully in organizations. At the same time Corporate Social Responsibility is one such effective tool that synergises the efforts of Corporate and the social sector agencies towards sustainable growth and development of societal objectives at large. India is a fast growing economy and is booming with national and multinational firms. At the same time, it also faces social challenges like poverty, population growth, corruption, and illiteracy just to name a few. Therefore it becomes more imperative for Indian companies to be sensitized to Corporate Social Responsibility with the right perspective, in order to facilitate and create an environment that enables partnership between the society and business.

## 1.2. Methodology

The study has been undertaken to identify the various legal measures of government towards CSR practices of companies in India. Government's role towards CSR practices has been studied with the help of various rules, regulations and laws relating to the CSR established by the Government so far in India. The list of legal measures includes Environmental Act 1986, National Voluntary Guidelines 2009, Companies Act 2013 and Securities Exchange Board of India Rule 2014. The required data relating to the study have been extracted from the respective laws and/ rules.

## 2. Legal Measures of Corporate Social Responsibility Initiatives in India

The legal measures of various CSR initiatives taken in India has been presented in the Table 1

**TABLE 1**  
**Legal Aspects of CSR in India**

Year	Regulations	Provisions relating to the Regulation
2014	SEBI	mandate greater voting data transparency and at least one female director on their board for listed firms
2013	Companies Act 2013	<p>mandatory for certain class of profitable enterprises to spend 2% on profit on CSR practices</p> <p>Mandatory for companies with net worth of more than Rs 500 crore, or turnover of Rs 1,000 crore, to adopt a CSR policy. This includes CSR committee with 3 members.</p>

2009	Ministry of Corporate Affairs issues National Voluntary Guidelines (NVGs)	9 principles for Social, Environmental and Economic Responsibilities
2008	Companies Act 2008 (u/s 217)	Disclosure and reporting on various aspects of company operations. the BoDs Report shall contain information on conservation of Energy
1986	Environmental Protection Act 1986	Submit an annual environmental audit report, to include water and raw material consumption, to the State Pollution Control Board (SPCB)

Source: Own Elaboration

### 2.1. Environmental Protection Act 1986

The Ministry of Environment & Forests (MoEF) is the nodal agency for the planning, promotion, co-ordination and overseeing the implementation of environmental and forestry programmes in India. It is also the Nodal agency in the country for the United Nations Environment Programme (UNEP). The principal activities undertaken by MoEF consist of conservation & survey of flora, fauna, forests and wildlife, prevention & control of pollution, afforestation & regeneration of degraded areas and protection of environment, in the framework of legislations. The MoEF has, under the Environmental Protection Act 1986, ensures the Companies to submit an annual environmental audit report to the State Pollution Control Board (SPCB)

### 2.2. National Voluntary Guidelines of Ministry of Corporate Affairs

National Voluntary Guidelines (NVGs) on Social, Environmental and Economic responsibilities of Businesses in India brought out by the Ministry of Corporate Affairs (MCA) in the year 2009. The NVGs has been introduced with the aim to provide measures legally for the Corporate Social Responsibility practices of Companies in India, which has been presented in Table 2 given below.

**TABLE 2**  
**National Voluntary Guidelines**

Principle Number	Name of the Principle	Area of Principle
1	To conduct and govern themselves with ethics, transparency and Accountability	Ethics
2	To provide goods and services that are safe and contribute to sustainability throughout their life cycle	Sustainability
3	To promote well-being of all employees	Employees
4	To respect the interest of and be responsive towards all stakeholders, especially those who are disadvantaged, vulnerable and marginalized	Stakeholders' Interest
5	To respect and promote human rights	Human Rights
6	To respect and protect, and make efforts to restore the environment	Environment
7	Businesses, when engaged in influencing public and regulatory policy, should do so in a responsible manner	Public Interest
8	Businesses should support inclusive growth and equitable development	Inclusiveness
9	Businesses should engage with and provide value to their customers and consumers in a responsible manner	Customers and Consumers

Source: Own elaboration

### 2.3. Companies Act 2013

Even though Environmental Protection Act 1986 and MCA's National Voluntary Guidelines (NVGs) 2009 provides necessary legal measures for CSR activities of the companies in India. India is the

first country in the world to give legal shape to the CSR practices of companies. The provisions relating to the CSR incorporated in the Companies Act 2013. Clause 134 and 135 of the Act specifies that companies with net worth more than Rs.500 crore or turnover more than Rs.1000 crore or net profit more than Rs.5 crore are required to constitute a CSR committee to formulate CSR policy for the company. Companies are now obliged to spend a minimum of two percent of average net profit earned during preceding three years before formulations of the policy (Singh and Agarwal, 2013). As per Schedule VII of the Act, the activities relating to the following area may be included by companies in their Corporate Social Responsibility Policies:

1. Eradicating Extreme hunger and poverty
2. Promotion of education
3. Promoting gender equality and empowering women
4. Reducing child mortality and improving maternal health
5. Combating human immunodeficiency virus, acquired immune deficiency syndrome, malaria and other diseases;
6. Ensuring environmental sustainability;
7. Employment enhancing vocational skills;
8. Social business projects
9. Contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government or the State Governments for socio-economic development and relief and funds for the welfare of the SC, ST, OBC, minorities and women;
10. Such other matters as may be prescribed.

#### 2.4. Securities Exchange Board of India

The Securities Exchange Board of India has introduced new regulations 2014, which has paved a way to women talents in companies to participate in the top level management. The new rule has ensured greater voting data transparency and at least one female director on their board for listed firms.

#### 3. Conclusion

After introducing the CSR related provisions in Companies Act 2013, Companies in India particularly large scale companies have attempted to disclose their CSR practices in the websites, in fact their performance relating to the CSR has been improved. Accordingly government's initiatives in the form of National voluntary Guidelines, Environmental Protection Act, and SEBI Rule have played a significant role towards CSR practices of companies in India.

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