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Issue and Challenges in Effective Policy Implementation of Corporate Social Responsibility: A Comparative Analysis of India and United Kingdom with Special Reference to Indian Companies Act 2013 and the Uk Companies Act 2006

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ABSTRACT
In this modern era, organizations are required to be conscious of what they are doing and how they are doing their businesses. Corporate Social Responsibility (CSR) is a proposed action undertaken by companies to not just focus on growths, but also take an active and positive social participation in the world around them. According to UNIDO, CSR is basically based on economic, environmental and social perspectives called "Triple Bottom Line Approach" which a company achieves while at the same time addressing the expectations of the shareholders. Corporate Social Responsibility has been proven to be a paramount business method and has attained much recognition from the administration of multinational companies. It promotes the idea of business performance with public welfare. The idea of Corporate Social Responsibility has been introduced with an aim to ensure economical development of the society. Inculcating the view that accepting Corporate Social Responsibility into businesses could be contributory in delivering societal value, especially in a developing country like India. Business Sustainability in India is certain as the Indian government embraced the legislative perspective to remodel the business and society nexus in form of requisite CSR activities with the Companies Act 2013.In United Kingdom business sustainability or CSR is considered as the 'volitional activity businesses take over and above lawful requisite to control, manage and enhance economic, environmental and societal impacts.' The UK Companies Act 2006 provides the roadmap of CSR related laws in UK. This paper makes an attempt to understand the concept of Corporate Social Responsibility, and analyze its overall development in India and U.K. It gives prominence to the policies governing it in India and U.K and look forward to study the issues and challenges in its implementation.

Keywords: Corporate Social Responsibility, Social Welfare, Triple Bottom Line Approach, Business Sustainability.

Introduction

The notion of social responsibility has been entwined into the fabric of Indian business for centuries, anticipating the formalization of Corporate Social Responsibility in the post medieval era. Long time before the expression "Corporate Social Responsibility" was coined in the 1970s; the ideology of businesses performing nobly and pitching into public's welfare was strongly implanted in India. From the teaching of philosophicalspeculators like Kautilya in the Vedic age to the prominence on good act in prehistoric literature, the fundamentals for Corporate Social Responsibility was laid ages ago. By 1990s, a large segment of society recognition ensures solidification of this concept by religious and legal principles. Less than half of Fortune 500 companies even mentioned CSR in their annual reports in the late 1970s and by the end of the 1990s, this number had increased to nearly 90%, illustrating a marked change in corporate precedence. This major trend reflects the thriving significance of Corporate Social Responsibility, but India's diverse culture prioritizes social responsibility which provides a breeding ground for this idea to thrive for ages. Corporate Social Responsibility goes beyond just corporate participation in India. It encourages a tradition where business activities are considered contented by its pragmatic effect on the society. This collective accost, involving commitment from both public policy and corporations, securessocietal necessitates are efficaciously addressed. The origin of Corporate Social Responsibility in India is deep-rooted, retracing back to the Vedic era. The sacred text like Srimad Bhagavad Gita, Mahabharata, the Vedas, Ramayana, and Arthashastras, all intertwine moral conduct and social responsibility into the very fabric of the Indian Value System. The rise of globalization and corporatization has helped to evolve the age-old conceptof moral business practices which is known as Corporate Social Responsibility. Endless efforts are taken to nurture a deep sense of social responsibility among companies, incorporating Corporate Social Responsibility schemes smoothly into their all-embracing business plan[1]. By the following four phase's one can understand India's rich history when it comes to Corporate Social Responsibility. These phases are:

- **First Phase of CSR:** The first phase mainly focuses on charity and philanthropy principles. It marked a deep emphasis on charitable sense of giving, motivated by a fusion of social customs, religion and growing industrial interests.
- **Second Phase of CSR:** The second phase was marked as the new era of Corporate Social Responsibility as India witnessed Independence and it was inspired by Gandhi's theory of trusteeship. The theory of trusteeship simply states that the rich people should help the poor with the property that the god has blessed them with. In simple terms it focused on the social welfare as a duty, inspired by Gandhi's perception of business performance serving the country and its citizens.
- **Third Phase of CSR:**The third phase was the era of "mixed economy" which marked the emergence of Public Sector Undertakings and policies which are centric to environment and labour. By establishing ironclad regulations for the private sector it paved an era of "direct and regulate", so that Corporate Social Responsibility can be promoted.Regardless of such efforts the Corporate Social Responsibility failed to achieve the required goal.
- **Fourth Phase of CSR:** The fourth phase marked the strategic Corporate Social Responsibility integration. The Indian companies engaged themselves into sustainable business schemes. The first steps towards India's economic liberalization and globalization were initiated. Economy was at boost because of licensing and controlling system. India has become a manufacturing hub for multinational

[1] CA. Neha Verma, Corporate Social Responsibility: Global Evolution and Challenges in India, 4 IJRSI 79, 81-82 (2017)

corporations after globalization. They have started to meet the international standards and focused to bring a sustainable growth in CSR[2].

The United Kingdom has engraved an idiosyncratic path in Corporate Social Responsibility, amalgamating elements of European and American models. The new technique has nurtured strong fundamentals for acknowledgement and implementation. About 90% of United Kingdom companies account for environmental and social issues, and when it comes to social responsibility a third of the population prioritizes it when making purchasing decision.UK CSR policy prioritizes social, economic and environmental well-being which is a three –pronged approach championed by Fairbrass (2008).

- The Environmental aspects includes our actions interactions with the environment, driving us to minimize our waste and aim to practice positive impacts like carbon reduction, conserve water, biodiversity protection and waste elimination.
- Governments, corporations, NGOs, laws work together to tackle issues like child labour, low wages, etc.
- Focus on sustainable products and services to reduce waste and inculcate eco-friendly practices
- Equal opportunities to be given regardless of age, gender, race, e.t.c. It is bolstered by new equality policy requiring every employer to report on gender pay gaps, ensuring equal remuneration.

What is Corporate Social Responsibility?

The basic idea of Corporate Social Responsibility has been initiated from countless angles, guiding to a rich amalgams of specification. A simplified explanation can be offered by a single universally accepted definition that is:

"*the continuing commitment by business to behave ethically and contribute to economic development while improving the quality of life of the workforce and their families as well as the local community and society at large*[3]*.*"

The notion of CSR enjoys widespread recognition even without a common definition. This given concept is mostly based on two pillars:

- **The Philanthropic concept:**

The Philanthropic concept basically incorporates multinational company's commitment to societal welfare. It encourages businesses to proactively participate in social initiatives within the society without directly thinking about financial gain.

- **The Trusteeship concept:**

The Trusteeship concept incorporates the company's director's duty as the captain of the ship. They are considered responsible for their creditors, employees, consumers, community and stakeholders. It considers directors best suits as trustees for these group of people.

Why corporate social responsibility?

Corporate Social Responsibility has become a vital precept for many businesses, conclusively entwined into their moral, conduct and overall strategies[4]. However, there are a lot of queries, such as:

- Do these transcontinental or foreign companies often convert their actions into results?

[2] Sawati Nagwan, Evolution of Corporate Social Responsibility in India, 3 IJLTEMAS 164, 164-165 (2014)
[3] Richard Holme And Phil Watts, Corporate Social Responsibility: Making Good Business Sense (2002)
[4] Melikyan, H., Corporate Social Responsibility: A Fashion Trend or a Serious Approach. Sci. Pap. Univ. Rousse, 49, 312-317 (2010)

- Do they really follow the code of conduct perfectly?
- Do the CSR practices really manifest the same outcome by following sustainability principles, ten principles and employee's rights given in the UN Global Compact Principles defined in CSR documents?
- Do these companies really work according to their country's legal framework?
- Are multinational companies really countable for the well-being of the societies in which they operate?

Globalization has observed a sudden rise in companies control over industries and services which was formerly run by governments. However, this change does not reduce the government's key responsibility towards public interests such as healthcare, environment, education, and rural development. For decades, a big challenge has been how to tackle the drive of globalization to support sustainable development. Corporate Social Responsibility originates as a company's going on oath to ethical and accountable conduct. This responsibility expand beyond profit, embodying contributions to economic growth, better quality of life for employees and their loved ones, and pragmatic impacts on the local community and the world at large. The absence of such comprehensive Corporate Social Responsibility approach can lead to critical gap in the fundamentals of sustainable growth. Also, the recent wave of high profile scandals of corporate and fall over has raised the need for reexamination of corporate governance practices. This is evident by the increase in shareholder activism. These investors are insistent that the corporation focus more on social responsibilities[5]. From the business perspectives, the basic outlook is that implementing answerable business methods helps a company to achieve:

- Long-term loyalty, foster professional growth and development of employees;
- Improvement in quality, streamline operations and reduce waste;
- Unlock new opportunities for financing and enhance risk management;
- Encourage groundbreaking innovation;
- Foster social stability and encourage economic development.

Legal Framework for Corporate Social Responsibility in India:

Corporate Social Responsibility started as a deliberate gesture by multinational companies, but its significance has grown enormously. India has become the first nation in the world to make Corporate Social Responsibility spending mandatory under the Companies Act, 2013.CSR is mandatory for all the companies under Section 135 of the Companies Act[6], 2013 who satisfy the given criteria:

- These companies are the ones having net worth of Rs.500 crore or more.
- Turnover of these companies must be Rs. 1000 crore or more.
- Companies' annual net-profit must be of Rs. 5crore or more.

Companies are required to form a CSR committee consisting of 3 or more directors with at least one director acting independently for monitoring and regulating CSR activities in the company. Such a company is needed to contribute at least 2% of their average net profit made during the three immediately preceding financial years on Corporate Social Responsibility activities. To ensure effective Corporate Social Responsibility, the CSR committee must gather for at least twice a year. This committee member serves as an important task force, scrupulously reviewing and assessing the

[5] World Bank Group, http://www.worldbank.org (last visited May 22, 2024)
[6] Companies Act, 2013, No. 135, Acts of Parliament, 1949 (India)

company's Corporate Social Responsibility initiatives. The committee meetings require at least two members of committee for a valid quorum. Corporate Social Responsibility committee initiates a detailed CSR strategy, budgeting, implementing and monitoring the CSR policy. Schedule 7 talks about advancement of health, education, and other social concerns which must be directly addressed by the CSR activities. CSR aims to align the company's social responsibility with the government's national goals. The Ministry of Corporate Affairs (MCA) anticipated lucidity on CSR regulations to reorganize regulations. In first instance, it was clarified by MCA that, the costs incurred by a multinational company for non-violation of any other statutes does not count as CSR contribution. Next, it emphasized that the companies must initiate CSR activities on a regular basis rather than having one-time events or one-time expenditure. Further, it clarified that, the expenses incurred in CSR employees would fall under the CSR's expenditure. For Corporate Social Responsibility purposes,a foreign holding multinational company's investments shall be invested through Indian subsidiary to make it counted as the subsidiary for CSR expenditure. Section 8 companies or contributions to NGOs qualify as CSR expenditure if they achieve their CSR goals[7]. The Ministry of Corporate Affairs emphasizes that a company's CSR initiatives must be different from the company's core business activities.

In order to strengthen Corporate Social Responsibility practices, the MCA issued the Companies (CSR Policy) Amendment Rules, on January 22nd, 2021. The amendment of 2021 refines the Companies (CSR Policy) Rules, 2014. Some definitions were amended in the new Rules. They are:

- **Administrative Overheads**:- It refers to those company's expenses which are incurred for managing and overseeing its Corporate Social Responsibility functions.
  Nonetheless, direct expenses incurred for implementing,evaluating, controlling, or designing a specific Corporate Social Responsibility activity is excluded.
- **Corporate Social Responsibility**:- These are those activities which a company is expected to perform in agreement with the legal liability given under Section 135 of the Companies Act, 2013. But it shall not include :
  Corporate Social Responsibility activities which are similar to the company's core business. However, there is an exception to this. If a company's core business is related to research and development still it can get associated with it and count it as Corporate Social Responsibility expenditure.
- **Corporate Social Responsibility Policy**: - It simply means a statement of command and the perspectives accepted by the board after taking advice of the CSR committee. This policy incorporates the implementation of frameworks, guiding principles, as well as regulation for selecting and managing annual Corporate Social Responsibility plan.
- **Net Profit**: - It refers to the company's profit as reflected in its financial statements according to the Companies Act, 2013. It does not include:

1. Profits from overseas branches even if it is a separate company are excluded from CSR calculations.
2. Dividend income generated from other company in India that is covered under Section 135 of the Act is excluded from CSR calculations.

- **Ongoing Project**: - An ongoing Corporate Social Responsibility project is a multi-year initiative designed to meet social responsibility goals of a company within three years.

[7] Siragapoor Sahil Reddy, Comparing the CSR Regulation in India and the UK, Legal Maxim (2022)

Corporate Social Responsibility Implementation Amendments:

The Board of the company is responsible for ensuring that CSR activities are conducted either directly by the company or through some specific entities. The entities include:

1. Companies that are formed u/s 8 of the Act or is a registered society or trust that is established by the central or state government[8].
2. Companies that are set up u/s 8 of the Act, or a registered society or trust u/s 12A[9] and 80G[10] of the Income Tax Act, 1961, with a track record of similar activities for at least 3 years.
3. Companies established u/s 8 of the Act, or a registered society or trust u/s 12A and 80G of the Income Tax Act, 1961, created by the company alone or in collaboration with other companies.
4. Entities constituted under a State Legislature or an Act of Parliament.

All these entities are required to be registered with the Central Government by submitting Form CSR-1 to the Registrar starting from April 1 2021. The form must be submitted electronically and be digitally verified by a practicing Company Secretary, Chartered Accountant or a Cost Accountant. A unique CSR Registration Number will be generated by the system upon submission.

A company is allowed to seek the help of international organizations to regulate, design, and assess CSR activities in line with its CSR policy and for capacity building of its personnel. The Board has the duty to ensure that disbursed funds are used appropriately according to the approval given. This must be certified by the Chief Financial Officer or financial manager. The Board has the duty to also monitor the progress of ongoing projects according to the set timelines and annual allocations, making necessary adjustments for smooth implementation within the allocated time.

The CSR committee has the duty to recommend and formulate an annual action plan to the board, in accordance with the company's CSR policy. The plan must include:

1. A list of approved CSR activities in the areas specified under Schedule 7 of the Act.
2. The execution method for CSR programs and projects as outlined in these rules.
3. Provide Modalities of implementation schedules and utilization of the funds for the activities and programmes.
4. Provide Reporting and monitoring mechanisms for the Projects and activities.
5. Details of the Impact assessment and any necessary evaluations for the projects undertaken by the company.

Amendments to CSR Expenditure Regulations

The board has to ensure that the administrative overheads do not exceed 5% of the total CSR expenditure for the financial year. The surplus generated from CSR activities must not be considered business profit and must be transferred to the Unspent CSR Account or reinvested in the same project. The said amount must be utilised in accordance with the Annual action plan and, if not, then it must be transferred to a Fund specified in Schedule VII of the Act within a period of six months after the end of the financial year.

In case the company spends more than the required amount u/s 135(5) of the Act, then the excess can be carried forward and set off against the CSR obligations for the next 3 financial years. However, it is to

[8] Companies Act, 2013, No. 8, Acts of Parliament, 1949 (India)
[9] Income Tax, 1961, No. 12A, Acts of Parliament, 1949 (India)
[10] Income Tax, 1961, No. 80G, Acts of Parliament, 1949 (India)

be noted that this excess amount doesn't include surpluses from the CSR activities, and the Board must pass a resolution to this effect.

CSR funds can be used for acquiring or creating a capital asset, which must be held by:

1. Beneficiaries of the CSR project, including collectives, self-help groups, and similar entities.
2. Public Authorities.
3. Companies established u/s 8 of the Act, or a registered society or public trust having charitable objectives and a CSR Registration Number.

Corporate Social Responsibility Reporting Amendments

Companies exceeding an average annual Corporate Social Responsibility spends of Rs 10 crore must engage in independent impact assessments for those projects which are completed and exceeds Rs 1 crore in a year. The above mentioned reports are presented to the board and attached to the annual report of CSR. The approximation of cost, limited at 5% of total Corporate Social Responsibility spend or Rs 50 Lakh whichever is less, can be in that year's Corporate Social Responsibility expenditure[11].

Legal Framework for Corporate Social Responsibility in United Kingdom

The notion of Corporate Social Responsibility has its origins in the 19th century British Isles. While the term itself was not developed at that time, some employers took trailblazing steps to establish social security and standard of living for their workers. This revolves around employee well-being, with the purpose of improving productivity, laid the foundation for the modern concept of Corporate Social Responsibility.

The United Kingdom adopts a voluntary perspective in terms of Corporate Social Responsibility. There's no broad legislation governing CSR schemes. However, the UK Companies Act 2006 states that it is the duty of the directors of the company to consider the interests of employees, environment and social impacts of their core business activities.

Various other regulations concomitantly nudge companies towards CSR contributions. The Accounts Modernisation Directive requires multi-national companies to prepare report on environmental and social inclined issues. Some other laws are: The Working Time Regulations (2001), and The Health and Safety at Work Act (1974) set minimum requirement for employee welfare. The Confederation of Business Industry accentuates this voluntary perspective. Multi-national companies in the UK contribute in CSR based on their business capacity. According to CBI regulating CSR practices won't necessarily increase CSR expenditure; it could unreasonably burden small and medium-sized enterprises.

Interestingly, UK became the first nation to appoint a dedicated minister within the Trade and Industry Department under the Tony Blair government. This gesture reflected a drive for more draconian CSR practices in government departments. The UK Companies Act (2006) marked a remarkable shift. It narrowed the ambit of purely voluntary CSR expenditure by company boards. Legal responsibility is established on directors to address the social and environmental impacts of their core businesses. This has arguably transformed CSR into form of public relation exercise. The focus on internalizing a company's societal impact has further narrowed down the scope of CSR, leading to limit its effectiveness.

[11] CSR Amendment Rules 2021, http://cleartax.com (Apr. 14, 2022)

There is no mandatory regulation for CSR in UK but legal landscape around CSR is tapestry woven with fine guidelines and judiciary decisions. Court has recognized the broad stakeholder responsibility of company directors, even though there is no mandatory CSR expenditure. The first ever case of Smith vs. Barlow established the principle that companies have a certain duty to fulfill both social and private shareholder responsibilities[12]. MORI study of 2006 found that social responsibility is the main driver for British consumers (83%), giving multinational companies a mandate for ethical practices. This "license to operate" depends on strong ethical values, which reflects as a compass for employees navigating the tough situations[13].

Issues related to Corporate Social Responsibility

Strategic management often neglects Corporate Social Responsibility, impeding its effectiveness. Amalgamating all CSR facet promote a robust structure, boosting its effect on stakeholders and driving companies towards deep-rooted sustainability, fulfilling the global objectives. Corporate Social Responsibility surpass legal mandate, encouraging ethical methods, humanitarianism, and lucidity for stakeholders. Sustainable advancement needs weaving deep-rooted social and economic aims together, promoting collaboration for combined effect among stakeholders. This collectiveperspective accredits stakeholders, encouraging sustainable development. Some parameters in terms of Corporate Social Responsibility initiatives are:

- **Strengthening of Civil Society:**
  Strong community involvement is pivotal for sustainable social change. Civil society, a global influence for positive development, promotes impartiality and equity[14]. However, often their effectiveness is affected by Human management, advocacy skills and scaling successful perspectives.
- **Management of Social Impact:**
  Sustainable development transcends poverty reduction. It basically addresses the issues of equity by leveling the performance field and providing opportunities for all.
- **Implementing Strategic Planning:**
  The cornerstones of impactful development work are clear vision, mission and strategy. A strategic approach is required to change the landscapes from fragile state to globalization. To stay relevant and effective the development agencies must adapt strategies to focus, foster collaborations and embrace the new learning's. Effective sector strategies like health, education, governance, and etc, require collaborative planning with the governments, and stakeholders to ensure the desired outcomes.
- **Performance Monitoring:**
  It is important to measure the outcomes to differentiate between success and failure. Sturdy performance monitoring systems helps in refining strategies, enhances communication with stakeholder, and promotes accountability for impactful development work.
- **Programme Assessment:**

It is the cornerstone for accountability, strategic focus and learning. It helps in analyzing the relevance,

[12] Reddy, supra note 1.

[13] Clayton Fonceca,, &" A. Umesh Samuel Jebaseelan, CSR in UK and in Indian- An Overview, 1 AARJSH 336,339 (2013)

[14] Berad, D. N., Corporate Social Responsibility-- issues and challenges in India, Journal of Modern Accounting and Auditing, ISSN, 1548-6583 (2011)

effectiveness, and efficiency to ensure development activities are performing to meet the needs. This allows the organization to improvise, adapt, and maximize their influence positively.

Challenges related to Corporate Social Responsibility

Despite gaining importance, Corporate Social Responsibility in both India and United Kingdom faces hurdles. Lack of reliable data on CSR schemes, policies, and activities, lack of understanding the concept, and not well trained staff to implement the CSR policies impede the impact of Corporate Social Responsibility initiatives[15].

- **Lack of active participation of community in CSR activities:**
  Lack of community engagement narrows the outcomes of CSR activities as they are not well aware with the CSR initiatives and its benefits. Effective communication at the grassroots level is essential to fill the gap and help in building the trust for successful CSR partnerships.
- **Lack of Transparency:**
  Multinational companies report a lack of information sharing on programs, audits, and fund allocation. This secrecy erodes trust between business and communities, hindering the success of local Corporate Social Responsibility initiatives that rely on strong participation.
- **Narrow perception towards CSR activities:**
  Government agencies and NGOs may view Corporate Social Responsibility initiatives with narrow perspectives, perceiving them as donor-driven rather than cooperative. This misconception creates uncertainty about long-term performance, hindering the potential effect of CSR partnerships.
- **Factor of Visibility:**
  The role of media plays a very important role in showcasing the positive and successful CSR initiatives. This approach to influence people helps in gaining visibility which leads to many non-governmental organizations to involve them in the event based programmes. In the above process, they often tend to miss out the sense of grassroots work.
- **Lack of dealing strategy on implementing Corporate Social Responsibility issues:**
  Approaches by local agencies in Corporate Social Responsibility are inconsistent which lead to duplication of efforts and competition instead of contribution. This disintegrated landscape impedes company's ability to efficiently measure the effect of their initiatives.

Conclusion

Corporate Social Responsibility has evolved significantly; transcend reactive steps to embrace deep-rooted sustainability. Companies are now prosperously consolidating social inclusion and environment sustainability into their basic business activities. This conveyance depicts the power of the corporate sector to create positive society welfare and enhance quality of life.

Strong partnerships between NGOs, government, and business companies can place both India and United Kingdom's social development on a fast track mode. By working as a team, these stakeholders can initiate a more deep-rooted and sustainable future for all.

[15] Dr. Reena Shyam , An Analysis of Corporate Social Responsibility in India, International Journal of Research Granthaalayah, ISSN, 2394-3629 (2016)