Corporate Social Responsibility and Right to Education

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I. Introduction:

A very simple understanding of the word "Corporate Social Responsibility" (CSR) is that it is a relationship between business organization and the society with which they interact. Under CSR, business organizations voluntarily embark on various development activities for the welfare of the society which give these organizations additional impetus to get involved in such activities. These are nothing but advantages which every company derive i.e. creation of goodwill, branding, risk minimization, consumer and employment satisfaction, etc. Currently business organizations are involved in different CSR activities like, fostering the growth of education, health care, environment protection, rural development, women empowerment, labour welfare, anti corruption, etc.

Now, the million dollar question is: **Why business organizations should invest in CSR activities?** The answer to this question is that the stakeholders¹ expect business organizations to do something more than just earning profit. A notable mention can be taken from the statement of Mr. Dave Packard, a Co-founder, Hewlett-Packard when he said:

"I think that many people assume, wrongly, that a company exists purely to make money. While this is an important result of a company's existence, we have to go deeper and find the real reasons for our being. As we investigate this, we inevitably conclude that a group of people get together and exist as an institution that we call a company so that they are able to accomplish something collectively that they could not accomplish separately- they make a contribution to society, a phrase which sounds trite but is fundamental."

But there is another side of this concept also. There is a lobby against the concept of Corporate Social Responsibility, as this concept is entirely a myopic one. It is still believed that the first priority of the companies is doing profit. Corporations are not responsive to any needs of the society. Consumers get the worse treatment from the hands of these giant corporations; they generally are against poor. In spite of this negative aspect, it can still be said that CSR is and is becoming a determining factor in consumer and client choice which companies cannot afford to ignore and if they dare to do it, they can even be boycotted in the market if they don't behave in a socially responsible manner.

The principles of CSR can also be gathered from the Constitution as it is a reservoir of supreme values of the political, economic and social system. Public trust and other endowment laws enable systematic philanthropic works on the part of the corporate bodies. By using such opportunities, philanthropic acts such as protection of heritage buildings, promotion of culture, feeding of students, and infrastructural support to schools have been launched. The encouragement given in tax and funding law to charitable and educational activities has also enabled the corporate bodies to involve in general welfare activities.

Here, the researcher has primarily relied on the **doctrinal method** of research. The research is based on comprehensive study of sources which are primarily Legislative Bills, National and International Guidelines, Textbooks, Journals, Annual Reports and various websites. For the purpose of the project, the researcher has divided the project into **five** headings. They are briefly discussed below:

¹ Bryan Horrigan, Corporate Social Responsibility in the 21st Century: Debates, Models and Practices Across Government, Law and Business 44(Edward Elgar Publishing, 2010) Stakeholders may include anyone and everyone who has more than a passing interest in the company's activities, typically they include: employees, outsourced workers, suppliers, shareholders, communities within which the firm and its suppliers operate, customers, Non-governmental Agencies, governments, media, creditors, major donors, joint venture partners)

² William B. Werther Jr and David B. Chandler, *Strategic Corporate Social Responsibility: Stakeholders in a Global Environment* 5 (Sage Publication, 2006)

II. Different Definitions Of Corporate Social Responsibility (CSR)

CSR is massively debated notion, easy to understand but hard to define. Its definition is very broad, dynamic and subject to change depending upon the perspective. Despite that, several attempts have been made to give a particular definition on CSR.

In **layman's language,** CSR aims to strike a balance between profit maximization motives of the companies and their role as agents for social change and development.³ **Carroll and Buchholtz** define CSR as the "economic, legal, ethical, and discretionary expectations that society has of organizations at a given point of time." This definition is one of the widely expected definitions of CSR and can be traced in various CSR debates and disclosures.⁴

According to the **International Organization for Standardization (ISO)**, CSR is "responsibility of an organization for the impacts of its decisions and activities on society and the environment, through transparent and ethical behavior that contributes to sustainable development, including health and the welfare of society; takes into account the expectations of stakeholders; is in compliance with applicable law and consistent with international norms of behavior; and is integrated throughout the organization."

According to Indian Guidelines on Corporate Social Responsibility for Central Public Sector Enterprises March 2010: "CSR is a concept whereby organizations serve the interests of society by taking responsibility for the impact of their activities on customers, employees, shareholders, communities and the environment in all aspects of their operations."

The following are some **key concepts** which are generally used in the context of CSR practices-

- Sustainability -- a goal for society as a whole where economic development environmental impact and quality of life are balanced.⁷
- Sustainable Development the activities across society aimed at achieving sustainability. 8
- Corporate Responsibility the contribution of a company can be made through responsible business practices to sustainable development.⁹
- **Corporate Community Investment** the support, financial or otherwise, provided by companies to projects aimed at improving the quality of life of sections of society. ¹⁰
- **Corporate Philanthropy** contributions by firms that benefit all the stakeholders and the community usually through financial or in-kind donations to non-profit organizations.¹¹

The above terms/definitions present a glimpse of all the essential components of CSR.

III. Historical Background Of Corporate Social Responsibility

The concept of corporate social responsibility among the business communities is a phenomenon that can be traced back to the ancient Chinese, Egyptians and Sumerians. As a matter of fact, it has been discovered

⁹ Id at 3

³ Boeger Nina, Rachel Murry & Villers Charlotte, *Perspective on Corporate Social Responsibility* 9 (Edward Elgar Publishing, 2008); Krishna C. Gopala, *Corporate Social Responsibility in India* 58-63 (Mittal Publication, 1992)

⁴Sobon Janusz, *Corporate Social Responsibility: As a New Ethical Management Formula* (March 28-30, 2011) available at http://www.nbuv.gov.ua/portal/Soc_Gum/Vamsu_du/2010_2/Sobon.htm

⁵ C.P.A.Australia, *Submission to Corporations and Markets Advisory Committee* (March 29-30, 2011) available at http://www.camac.gov.au/camac/camac.nsf/byHeadline/PDFSubmissions 2/\$file/CPA CSR.pdf

⁶ Guidelines on Corporate Social Responsibility for Central Public Sector Enterprises (March 2010) http://dpn.nic.in/sites/upload files/dpe/files/glch1223.pdf

⁷ John Hancock, *Investing in Corporate Social Responsibility: A Guide of Best Practices, Business Planning and the UK Leading Companies* 111 (Kogan Page India, New Delhi, 2007)

⁸ Id

¹⁰ John Hancock, supra note 7

¹¹ William B. Werther Jr, supra note 2

that these societies delineated rules for commerce to smooth the progress of trade and ensure that the wider goal of public interest was valued during the course of business transactions. ¹²

CSR is a western concept that finds its origin in the 19th century. However, the essential features of it can be easily traced back to ancient religious texts too. One such example is the **Rig Veda.** There is a particular verse (5-60.6), which says that affluent people in the society should share their wealth with poor for social development.¹³ **Manu Smriti** also leads us to one of the most important principle which says that- "A person should never seek to earn or secure wealth through pursuits which are forbidden or illegal or immoral (IV – 15)¹⁴ It also talks in details about the nature of work to be done by persons, including business organizations. Moving on to **Hindu religious texts**, if we refer to **Vedic literatures**, we find the notable mention of important terms like 'Sarva Loka Hitam' which means 'well-being of stakeholders'. Kautilya in 'Arthasatra' also stated that happiness cannot be obtained by wealth and profit. Kautilya also maintained that a leader (king) should have no self-interest, happiness and joy for himself. His satisfaction lies in the welfare (happiness) of his people.

According to **Christian Theology**, where "**Man is Angel**" could use business to serve a social purpose whereas "**Man as Devil**" could misuse corporate power and responsibility. ¹⁵ **Jesus** taught that wealth encourages greed and selfishness and does not lead to true happiness. ¹⁶

We also find consistent stress on the principle of **CSR** in Islam as well. In the Quran, we do not find the mention of the word 'corporate' or 'company', but Islam talks about responsibility in general to be followed by every person following Islam including corporations. Islam lays down the business principles like fair Trade, fulfilling covenants and free competition clearly. ¹⁷ Zakah (Al Zakah) is one of the five fundamental pillars of Islam, which a Muslim follows when he has enough to cover the essential needs for himself and his family over a year; he is in possession of Nisab. ¹⁸ If he has more assets, then he has to pay Zakah. If we go further, we can also see that CSR is pronounced by the concept of Sadaqah. Allah encourages every Islamic follower to give Sadaqah ¹⁹ and there is no fixed amount for it. The money raised by Al Zakah and Sadaqah is used to feed the poor, donate clothes and many other activities. A large amount of money raised fron Al Zakah is used to manage Madrasa, which provides free Education to millions of Muslim students.

To conclude, we can say that, the concepts of CSR have shown its significant presence in the old religious text of almost all the religions. But these terms are not explicitly mentioned, but appear in a subtle and indirect manner.

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¹² Mriganka Shekhar Dutta & Rashmi Bothra, *Striving towards a Green India INC: A Critical Essay on the Environment Policies of Indian Corporations* 2 NUJS L. REV. 248(2009)

¹³ K.M. Mittal, *Elementary Education and Vocational Training: An Indian Perspective, CSR*(March 28- 30, 2011) available at www.trikal.org/ictbm.11/pdf/csr/D1320 - done.pdf

¹⁴ Justice M. Rama Jois, *Ancient Indian Law: Eternal Values in Manu Smriti* 18(Universal Law Publishing Co. Pvt. Ltd. 2002)

¹⁵ Subharata Bobby Banerjee, *Corporate Social Responsibility the Good, the Bad and the Ugly* 15 (Edward Elgar Publishing Limited, 2007)

¹⁶ Christian Beliefs on Religion, Wealth and Poverty, available at: http://www.123helpme.com/view.asp?id =122236

¹⁷ "O, you who believe, do not eat up each other's properties I vanities, but let there be amongst you traffic and trade by mutual consent, or kill or destroy yourselves, verily God has been most merciful to you." Quran(4:29)

¹⁸ Salma Taman, *The concept of Corporate Social Responsibility in Islamic Law*, 21 Ind. Int'L & Comp.L.Rev. 481, 488(2011)

¹⁹ According to Ouran, "Sadagah" can be defined as a small daily act of charity.

²⁰ Christopher M. Blanchard, *Islamic Religious Schools*, *Madrasas: Background*, http://theroadtoemmaus.org/RdLb/33Rlg/Islm/Madrasas.htm

IV. Reasons To Take Up Csr

CSR is the responsibility of the businessmen towards society, but a company whose main purpose is to make profit; can it invest for a charity purpose? The answer must be in negative. Even if it is positive, there must be some concrete reasons. They are:

a) Ethical considerations:

Religion and philosophy play a significant role in the development of human values and behavior having great impact on business and corporate management. One such example is the principle of Zakah in Islam. Importance of Dharma, says that persons following this path will always remain close to God. Thus, ethical considerations are no doubt one of the push factors for a company to get involved in the activities of CSR

b) Employee Motivation:

Companies with better and strong CSR commitments often find it easier to recruit and retain employees, which results in the reduction of the costs of recruitment and training. Employees with high motivation level have much improved productivity. This increases the chance of disputes arising between the employee and the employer.

c) Risk management or Risk Reduction:

CSR activities help the companies to reduce the risk of dwindling. We have leading example of Enron, WorldCom, Satyam Scam, etc. when business organizations dwindle all their resources, due to their activities. Companies are always under risk if they become part of any anti-social activity. Thus, when a company is engaged in CSR activities, the risk of its downfall and its share value decreases.

d) Effect on consumer demand:

CSR activities have a direct impact on the consumer demands for any product. When a company shows that they are not interested about any CSR activities, they meet with a difference in purchasing decision by the consumers. Consumers try to find products which offer the best quality, but they are sometimes concerned about the ethicalness of those products.²¹ CSR helps any corporate to gain consumer's trust.

Thus, we can say that CSR activities create a cohesive society and a sustainable economy, where markets, labour and communities work in hand in hand.

I) Csr And Right To Education

Though there are many areas in which business organization take up CSR activities like labour welfare, employment, rural development, health care, providing shelter, education, vocational training etc. The researcher will focus in this project only on **CSR and right to Education.** Before explaining this point, the researcher takes the opportunity of explaining the term "**Education**".

"Education for all is important for three reasons; first education is a right, second education enhances individual freedom, and third education yields important development benefits."²²

- John Daniel, UNESCO's Assistant Director General Education-

'Right to Education' is a vast area and generally covers a large number of issues and aspects. Several documents have recognized the right to education as a human right.²³ Article 26 of the Universal Declaration of Human Rights, ²⁴ which was one of the first documents to give due recognition to this right, provides that, 'Everyone has the right to Education. Education shall be free at least in the elementary and fundamental stages. Elementary Education shall be compulsory.....²⁵

²¹ The consumer role in CSR does not end with the decision to purchase (or not to purchase) a product or service. Communicating with manufactures, merchants and service producers can have a significant influence. Make your opinions known and encourage CSR by noting responsible business practices. For example, if you dislike a company's use of a particular component in their products, encourage them to eliminate it and congratulate them when they do. Putting your thoughts in writing can make even more of a difference.

²² John Daniel's UNESCO's Assistant Director General for Education

²³ The following international legal authorities provides for the right to education. Article 26 of Universal Declaration of Human Rights; Article 18 of International Covenant on Civil and Political Rights; Act 2 Protocol No.1 European Convention on Human Rights; Article 12, 30, 31 of the American Declaration on the Rights and Duties of man; and many more...

²⁴ There are several persons who argue that the Declaration has ever since its adoption becomes a part of International Law. In fact many opine that the Declaration now possesses the characteristics of *Jus Cogens*, peremptory norms from which no derogation is permitted.

²⁵Education shall be directed to the full development of human personality and the strengthening of respect for human rights and Fundamental Freedoms. It shall promote understanding, tolerance and friendship among all

It also finds place under the **Indian Constitution.** The Supreme Court played an important role and **interpreted Article 21 of the Constitution to include right to Education**. This issue was considered by the Apex Court in **Mohini Jain vs. State of Karnataka.** Reading the Preamble of the Constitution which promises to secure to all citizens of India "justice, social, economic and political; liberty of thought, expression, faith, belief and worship; equality of status and opportunity assuring the dignity of the individual" cumulatively with Articles 21, 38, 39(a) and (f), 41 and 45 of the Constitution, the Court observed as under:

It is no doubt correct that "right to education" as such has not been guaranteed as fundamental right under Part III of the Constitution but reading the above quoted provision cumulatively it becomes clear that the framers of the Constitution made it obligatory for the State to provide education for all citizens.²⁷ After explaining the definition of Education, we now try to see how companies relate this education with their CSR activities.

CSR and education is an area which is very less researched. Education through CSR is nothing new to the society. "Give a hungry man fish for a day, he will eat it and the next day, he would be hungry again. Instead if you teach him how to fish, he would be able to feed himself and his family for a lifetime" Thus, education in the only activity which can help an individual have a wholesome growth in his life.

Companies get involved in education for a number of reasons. They are:

- Building a positive reputation and goodwill among the consumers, employees, investors and other stakeholders.
- Developing brand recognition to increase consumer loyalty, boost sales, or to establish the company as an industry leader.
- Building a more educated workforce.

But we have to accept the fact that neither the companies nor the Government will alone be able to provide education in India; there is a need of collaboration between the government and the companies including the stakeholders. Some well-known companies, which are continuing their CSR activities and educating millions, are:

- Akshaya Patra Foundation which claims to provide food to 1.3 million children in India who are studying in different government schools and completing their elementary education. ²⁹ This organization/foundation started its work with the primary vision of "No child in India shall be deprived of education because of hunger". ³⁰
- **Vedanta Aluminum Limited (VAL)**, which has collaborated with the Government of Odisha and Naandi Foundation, set up a hi-tech centralized mid-day meal kitchen in Lanjigarh which will provide mid-day meal to almost thirty thousand students. VAL's attempt to provide nutritious and hygienic food to the children of Lanjigarh area is highly appreciated and this has also increased the attendance of the students. ³¹
- ITC shows a great effort towards providing education to students in India (especially to Elementary education). Its main saying is that once the children go to schools they can learn more and more hygiene and can also become responsible citizens towards the community at large. ITC has given infrastructural support to 918 Government schools, covering almost 2, 66, 000 students. ITC has also started 2, 579 Supplementary Learning Centre's till date. 32 ITC's Supplementary Learning Centre's offer some additional coaching that backs up school learning, stemming drop-out and enabling more children to complete their basic primary reading which is the

nations, social or religious groups and shall further the activities for maintenance of peace. The parent has a prior right to choose the kind of education that shall be given to their children.

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²⁶ AIR 1992 SC 1858

²⁷ Ibid., at 1863

Corporate Social Responsibility Activities by Aditya Birla Group, http://www.adityabirla.com/social_projects/overview.htm

²⁹ Akshaya Patra, Impact, http://www.akshayapatra.org/impact

³⁰ Akshaya Patra, History of Akshaya Patra Foundation, http://www.akshayapatra.org/history

³¹ Vedanta Aluminium Limited, Jharsuguda, http://www.vadantaaluminium.com/empowering-jharsuguda-education.htm

³² Itcportal.com, http://www.itcportal.com/sustainability/lets-put-india-first/primary-education.aspx

main idea behind Right to Education. It also provides laptops to do project. Thus, we can see that ITC is actively involved in its commitment to extend its helping hand to the government in providing education.

- TATA is known to do a lot of CSR activities in the field of education. Its founding fathers were generally social-helping people. A notable work which TATA did was tying up with "Pratham" to improve mathematics and language skills of over 3, 500 primary schools in Maithon (Jharkhand). ³³ TATA still plans to support higher education and technical education and it have recently proposed to open a 400 acre Knowledge City Project of worth of \$ 90 billion in Jharkhand.³⁴
- Steel Authority of India Limited (SAIL) is a public sector enterprise and it also has shown a long term interest to uplift or upgrade the education in India. Special schools are run at the integrated steel plant locations exclusively for the poor people, underprivileged children who are below the poverty line. These schools are providing education free of cost to the children, providing mid-day meals to the children, giving them uniforms for their schools, water bottles, school bags, and lot more. SAIL also provides a number of benefits to the children from ST/SC communities, such as scholarships to the deserving undergraduate students belonging to the above mentioned category.

After going through the above discussions, it is quite evident that the different companies take up different CSR activities. There are still lots of companies who are doing a commendable job and are supplementing the Government. In a famous case Chiranjit Lal Chowdhuri vs. Union of India 35 it was seen that the Supreme Court of India stated that according to the new socio-economic thinking, corporations are social institutions having duties and liabilities towards the communities in which they function. Thus, CSR activities in the field of education allows a business organization to do a sustainable business by providing better employees which is needed for a long run success of any business organization.

International Laws Dealing With Csr

There are no formal laws on international laws dealing with CSR. However there are number of guidelines, and principles adopted by the international organizations. For the brevity of the research work I would like to mention three important guidelines on international law which throws some light on CSR. They are discussed under the following heads:

The Ilo Tripartite Declaration Of Principles³⁶

This declaration was adopted with the main motive of providing social policy guidelines in a vulnerable and extremely complex area of activities. It encourages the positive contribution of the multinational enterprises to minimize and resolve the difficulties keeping in mind the United Nations principles on policy building. The norms of this organization also emphasizes on security of employment, wage benefits, settlement of industrial disputes, promotion of education, and conservation of environment.

The Oecd Guidelines For Multinational Enterprises³⁷

This is considered as one the guideline which focuses on some CSR activities. The overall focus of these guidelines is to make a societal welfare which may include environmental protection, social justice, maintenance of respect of Human Rights, promotion of education among the underprivileged, etc. The OECD Guidelines expressly talks about education and emphasize that it is important to acknowledge and encourage the role of business enterprises in contributing and raise the standards of education for children living in host countries.38

³³ Tata Affirmative Action Programme

³⁴ Amit Gupta, Tatas ready to partner state on road to future (The Telegraph, 3rd March 2012) http://www.telegraphindia.com/1120303/jsp/frontpage/story 15206290.jsp

³⁵ 1950, S. C. R. 869

³⁶ Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy, International Labour Office, Geneva (2001)

³⁷ OECD Guidelines for Multinational Enterprises (2011), http://www.oecd.org/dataoecd/43/29/48004323

³⁸ OECD Guidelines for Multinational Enterprises (2011), http://www.oecd.org/dataoecd/43/29/48004323

• The Voluntary Principles On Security And Human Rights³⁹

The voluntary Principles provides guidelines for companies working in zones of conflict and weak states and concentrates on fundamental freedoms of the people who violate basic human rights. The role of companies in conflict affected areas is to ensure that they do not cause, contribute to, of benefit from human rights abuses in any way.

Having gone through the guidelines as discussed above, we can clearly observe that there are number of norms at the international level which clearly points out the CSR activities done by the corporate entities.

Indian Laws Dealing With CSR

In India also there are no hard and fast rule dealing with CSR activities, however there are few guidelines which govern the Corporate Social Responsibility in the Indian context. They are:

• Companies Act, 2012 And 2013

Under Section 135 of the Companies Act 2012, it has been said that a corporate that makes an average profit of atleast Rs 5 crore or have a worth exceeding Rs 500 crore, or their turn over exceeds Rs 1000 crore in the last 3 years, will have to mandatorily allocate funds to spend 2 percent of their profits on social welfare

The 2013 Act makes an effort to introduce the concept of Corporate Social Responsibility in Indian Corporate by requiring companies to formulate a corporate social responsibility policy and incur a given minimum expenditure on social activities.

• Voluntary Guidelines, 2009

The Ministry of Corporate Affairs has issued Voluntary Guidelines and emphasized that a business entity should formulate a CSR policy to guide its strategic planning and provide a map for its CSR activities. All companies should take care of the following issues while performing their business practices. – Ethical functioning, respect for workers rights and welfare, respect for human rights, respect for the environment, care for all stakeholders, and promoting education among the underprivileged.

Although, India has a few guidelines which specifically deal with corporate social Responsibility, they all are persuasive in nature but are not binding on any companies.

VI. Conclusion

To summarize, it can be said that the concept of CSR is now firmly rooted on the global business agenda. But in order to move from theory to concrete action, many obstacles need to overcome. A key challenge facing business is the need for more reliable indicators of progress in the field of CSR, along with dissemination of CSR strategies. Some of the positive benefits that can arise when businesses adopt a policy of social responsibilities include: improved financial performance; lower operating costs; enhanced brand image and reputation; increased sales and customer loyalty; greater productivity and quality; more ability to attract and retain employees; reduced regulatory oversight; access to capital; workforce diversity; charitable contributions; greater use of renewable resources; corporate involvement in community, education, employment and homelessness programs, etc.

Education is an umbrella term and it includes adult education, vocational training, higher education, elementary education etc. Education is the second most sought out CSR activity after Environment and different companies and corporate sectors are involved in providing education to sustain their business for a long time and, therefore, become more socially acceptable. Providing education puts companies directly into the social domain and their social reputation increases leaps and bounds. In this way they can develop a better working force for themselves which increases their production and profitability. Providing mid-day meals, clothes, computers, stationery, etc. can help in facilitating the growth of education among all sections of the society.

VII. Suggestions

There are various ways in which corporate entities may support the education system in India. In my opinion they can do the following work:

- Provide books and uniform to the children of their employees;
- Construct schools for them;
- Give them food in the schools;
- Provide better teachers to provide education;
- Make education more attractive by giving them computer toys, educational games, etc.

Thus, if the companies follow the above mentioned suggestions, they can develop a better CSR regime for India which would promote education and will try to remove the problem of illiteracy.

39	The	Voluntary	Principles	of	Security	and	Human	Rights
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