

Corporate Social Responsibility and Legal Obligation

Rubi Talukdar

Assistant Professor, SNIL (Faculty of Legal Studies),

SOA Deemed to be University, Bhubaneswar

Prabir Kumar Pattnaik

Professor, SNIL (Faculty of Legal Studies),

SOA Deemed to be University, Bhubaneswar

Abstract:

Corporate Social Responsibility is focusing on both environmental and social dimensions. Throughout the discussion it was confirmed that Corporate Social Responsibility is doing more than the law requires. It was also argued that corporate social responsibility functions are informal law and these principles of law function as a set of values which guides the action of corporate social responsibility. It is also argued that legal aspects as well as statutory sense and self regulation control the implementation and communication of corporate social responsibility. Presently the regulation of corporate social responsibility may constitute pre formal law on multinational corporations in conditions of demand.

Keywords: Corporate Social Responsibility (CSR), Multinational Enterprise (MNE), National Contact Points (NCP), Non-Government Organizations (NGO), Organization for Economic Co-operation and Development (OECD)

Introduction:

Corporate Social Responsibility (CSR) has become a well known concept over the last decade. Laws have been drafted that promote socially responsible behavior by companies. Now the Companies have adopted contemporary CSR mission statements and many more programs, and are distribute their efforts through sustainability reports. Also the NGOs have contacted different companies and showing them how they can operate it in a different responsible way. And the academics have analyzed all these. CSR is a theme which has many more links with different discipline of law, including international law and European law, corporate law and also corporate governance, tort law and contract law,

procedural law, labour law and environmental law, and criminal law. All of this discipline contributes highly to the development of CSR. And CSR is also ready to respond to the serious challenges whatever the world faces. If we are looking towards to the global challenges, international (and European) law is particularly indispensable. It is the backbone of the vision which is stated by the Earth Charter quoted above that ‘we must recognize that we are one Earth community with a common destiny.’ In this 21st Century the Earth Charter is a modern declaration of fundamental ethical principles which helps to build a sustainable and peaceful global society.

In the current situation, every modern state wants to build a civic society and improves their citizen’s welfare. It is very helpful to solve these tasks without operating the power of state. In the modern world, corporations should not worry for taxation and new jobs. The economic and legal corporate policy of the 20th century proves that the social component of corporate activity is an addition to its main function, means profit-making. Corporations are only the strategic internal partner of the state for giving the stable economic development.

Legal component of CSR

Nowadays, legal component is extremely significant in corporate social responsibilities. By focusing the definition of CSR process, it is required to accept the opinion which is given by M Friedman. M Friedman believed that civil society was not efficient to control the social activities of business and could not make them implement efficiently. We consider that CSR has joint effects upon different types of responsibility: whereas, law defines rules of behavior that the corporations have to comply with basic norms. On the other hand, legal standards are used to ensure the productivity of the corporation, and establish healthy environmental and basic ethical norms. There is no law can enforce any corporations to undertake charitable trust but law can encourage them to do so nicely.

The size and the nature of the company have some impact on this process. Especially in micro and mini and small or medium-scale industries, the CSR process is informal and sensitive. But in Public companies the regulation of CSR is very formal. The legal strategy for CSR may take place on three levels.

- a. Governmental – approval of CSR programs and laws, as well as permission for the future adoption of multifaceted law on CSR;
- b. Public – introduction of public supervision, control, regulation for CSR. This means that both NGOs and stock exchanges may act as the system;
- c. Entrepreneurial – large scale industries have to be active and start CSR measures.

Presently for economic development of the society, there must be a survey for the ethical legitimization of late capitalism through ‘moral capitalism’ principle. Henceforth, as J.

Elkington explains, ‘businessmen all over the world acknowledge the fact that the key markets are on the verge of rapid changes conditioned by new environmental standards and connected to consumer demands. This results in the new bottom lines being deployed along the old “profit-loss” constants’. The situations are recognized by the researcher that, for establishing of any corporation is required for environmental, economic and social responsibility where the turns into a social factor.

Scott Robinson identifies a current issue in the CSR discourse. The concept of his study is based on the OECD Guidelines. All the member of OECD believe that there must be a ‘National Contact Points’ (NCPs) within its domestic structure. NCP is measured ‘state-based non-judicial grievance mechanisms’. In different states the NCPs are required to cooperate in any issues and report it on regularly basis. NCP helps to resolve the problems which are arise from OECD guidelines and also it is responsible for promoting Multinational enterprises (MNE) guidelines. Stakeholders of the corporation can claim about any violations of the OECD guideline.

Again Robinson diagnosis’s the legal structure to establish a NCP under international law. He means that NCP concerns for Sate obligation. Subsequently he reviews various ways by NGO to watch the functions of NCPs and he concludes that this is not success concept to watch the functions of corporations. Lastly Robinson confirms that States should institute very effective and efficient access to managerial and both judicial and non-judicial procedures. Also including some remedies and have some right for environmental and human (the Earth Charter urges this in provision 13.d)

Rhuks Akostudy the book ‘Corporate Social Responsibility of Multinational Corporations in Developing Countries: Perspectives on Anti-Corruption’ written by Adefolake O. Adeyeye. Rhuks explains that Adefolake takes a position that a CSR movement should be acceptable particularly in developing countries to restrain the participation of MNEs in fraudulent practices. Corruption is measured in CSR issue which should be operated in an effectual manner.

Conclusion:

Corporate social responsibility takes social responsibility of corporation beyond the legal requirements. Corporation values already treat as the source of for normative substance of CSR as informal law. In this way value as an important ingredient of law which is fraction of normative foundations of Company. It is also argued that legal aspects as well as statutory sense and self regulation control the implementation and communication of corporate social responsibility. Presently the regulation of corporate social responsibility may constitute pre formal law on multinational corporations in conditions of demand. And it has been found that human rights can be observed in CSR by the principles of law. As human right is the principle of law is basic foundation for international and national standards. In numerous ways, law in the conceptual as well as the legislative logic informs the matter of CSR, and implementation and communication of CSR: Principles of law strengthen the substance of CSR.

References:

Adams, C. A. (2002). Internal organisational factors influencing corporate social and ethical reporting. *Accounting, Auditing & Accountability Journal*.

Adeyeye, A. O. (2012). *Corporate social responsibility of multinational corporations in developing countries: Perspectives on anti-corruption*. Cambridge University Press.

Ako, R. T. (2009). Nigeria's Land Use Act: an anti-thesis to environmental justice. *Journal of African Law*, 53(2), 289-304.

Friedman, M. (2007). The social responsibility of business is to increase its profits. In *Corporate ethics and corporate governance* (pp. 173-178). Springer, Berlin, Heidelberg.

Robinson, S. (2014). International obligations, state responsibility and judicial review under the OECD guidelines for multinational enterprises regime. *Utrecht J. Int'l & Eur. L.*, 30, 68.

Ward, H. (2004). *Public sector roles in strengthening corporate social responsibility: taking stock*. Washington, DC: World Bank.

Watch, O. E. C. D. (2009). The OECD Guidelines for MNEs: Are they 'fit for the job'. OECD Watch 2009 submission to the Annual Meeting of the National Contact Points. http://oecdwatch.org/publications-en/Publication_3201 (Zugriff am 18.05. 2011).

Zumbansen, P. C. (2006). The conundrum of corporate social responsibility: reflections on the changing nature of firms and states. *CLPE Research Paper*, (01-3).