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DISSERTATION

**A COMPARATIVE ANALYSIS OF CORPORATE SOCIAL
RESPONSIBILITY REGIMES IN THE UNITED KINGDOM AND
INDIA?**

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CHAPTER 1:

INTRODUCTION

1. HISTORICAL DEVELOPMENT

A corporation uses different methods and structures to act, administer and control their operations in order to achieve the common goals. It develops and manages the relationship between the stakeholders such as board of directors and shareholders which determine the corporation direction and performance.¹ However, the Corporate Social Responsibility (the “CSR”) is a practice adopted by corporations to dialogue and to engage its stakeholders in respect of ethical and transparent relationships.² The concept of the CSR has recently grown about 60 years ago. Prior to this period, a corporation had different standards and regulations in the areas of the Corporate Governance (the “CG”) corporate ethics, and relationships with competitors, responsibilities towards the society and the country.³ From the late 60s and 70s, the leading US and the European corporations started to come to understand the needs to unite different elements of corporation policies related to the relationship of the corporation with the environment in order to develop the single integrated approach to interact the society. Such policy meeting the expectation would be associated with the corporation.⁴ There were two main reasons for rapid development of the CSR in these countries, one consumers refused to purchase goods and services of irresponsible corporations, and secondly, the growth of the trade union movement. At the same time, both continents also formulated the labour and environmental legislation aiming to develop the

¹ Humera Khan, A Literature Review of Corporate Governance (International Conference on E-business, Management and Economics, IPEDR Vol. 25, IACSIT Press, Singapore, 2011).

² Humphry Hung, A Typology of the Theories of the Roles of Governing Boards (Scholarly Research and Theory Papers, Volume 6, Issue 2, April 1998), pp.101 - 111.

³ Firuza Madrakhimova, History of Development of Corporate Social Responsibility (Journal of Business and Economics, Vol 4, No. 6, June 2013), pp. 509 – 520.

⁴ Ibid.

CSR in respect t of public policy.⁵ However, the history of the CSR in the United Kingdom (UK) and the India is very new as the UK created the CSR strategy in the year 2014 aim to put together and recognise the ethical and sustainable activities such as environment by actively managing waste, emissions and consumption of natural resources, people by encouraging diversity and equal opportunities to all, procurement route for the life of a project, and lastly, community by building a culture that promotes employees volunteering, skills matching and fundraising.⁶ On the other hand, the Indian defines the CSR as responsibility of the corporations operating within society to contribute towards economic, social and environmental development that creates positive impact on society at large.⁷ No doubt the India is new and it is the first country to make the CSR as mandatory through the Companies Act 2013 (the “Act 2013”) enforced in April 2014. According to which the corporations can invest their profit in areas such as education, poverty, gender equality, and hunger as part of any CSR compliance.⁸ Prior to the CSR clause in the Act 2013, it was voluntary for the Indian corporations.⁹ However, after the promulgation of the Act 2013, the Indian corporations’ spending on the CSR has increased significantly in which the education sector received 38% of the total spending followed by hunger, poverty and healthcare by 25%, environmental sustainability by 12% and rural area development by 11% whereas, the programs such as technology incubators, sports and armed forces has been

⁵ Richard Stekel, Robin Simons, Jeffrey Simons and Norman Tanen, *Making Money While Making A Difference: How to Profit with a Nonprofit Partner* (High Trade Press, 1999).

⁶ Companies House, *Our Commitment to Corporate Responsibility (CSR): How We Support the Planet, our Employees, Customers and Communities* <<https://www.gov.uk/government/news/our-commitment-to-corporate-social-responsibility-csr>> accessed 19 September 2019.

⁷ CSR in India, *Corporate Social Responsibility in India* <<http://www.fiinnovation.co.in/corporate-social-responsibility/>> accessed 20 September 2019.

⁸ Dezan Shira, *Corporate Social Responsibility in India* (India Briefing, 22 August 2019) <<https://www.india-briefing.com/news/corporate-social-responsibility-india-5511.html/>> accessed 8 September 2019.

⁹ Ibid.

neglected so far. The biggest Indian corporations initiated the CSR are Tata Group, Ultratech Cement, Mahindra & Mahindra, and ITC Group.¹⁰

2. DEFINITIONS OF THE CORPORATE SOCIAL RESPONSIBILITY

The corporations are not informal organisations or assemblies, it means the same must be authorized by national laws of that country under which the corporations are run by specific set of rules or laws which can be different in each country that how a corporation shall be created, managed, taxed, sold, transferred, how employees of that corporation shall be treated or the ownership of that corporation can be brought.¹¹ Therefore, the dilemma with respect to the CSR in corporate activity is inextricably linked with defining the scope of the CSR for a corporation. The existing literature shows that there is diversity of opinions and ambiguity on the elements that constitute socially responsible behavior.¹² The different countries and scholars define the CSR from different point of views but undoubtedly agreed to set the policies in order to promote the society. For instance, the developed countries such as USA defines the CSR is about to take personal responsibility for your actions and the impacts that you have on society. Companies and employees must undergo a personal transformation, re-examine their roles, their responsibilities and increase their level of accountability.¹³ The European countries define the CSR is about making a leadership commitment to core values and recognising local and cultural differences when

¹⁰ Ibid.

¹¹ Good Corporation, Bad Corporation: Corporate Social Responsibility in the Global Economy <<https://milnepublishing.geneseo.edu/good-corporation-bad-corporation/chapter/1-corporations-and-their-social-responsibility/>> accessed 10 September 2019.

¹² Robert N. Stavins, Forest L. Reinhardt and Richard Vietor, Corporate Social Responsibility through an Economic Lens (SSRN Electronic Journal, HKS Working Paper No. RWP 08-023, FEEM Working Paper No. 84, April 2008), pp. 1 – 26.

¹³ Jayati Sarkar and Subrata Sarkar, Corporate Social Responsibility in India: An Effort to Bridge the Welfare Gap (Review of Market Integration, Vol. 7, Issue 1, January 2016), pp. 1 - 36.

implementing global policies in accordance with the Universal Declaration of Human Rights¹⁴ and the ILO Declaration on Fundamental Principles and Rights at work.¹⁵ The Indian urges the corporations to embrace the “triple bottom-line” approach whereby, its financial performance can be harmonised with expectations of the society, the environment and the stakeholders interface within a sustainable manner.¹⁶ Friedman defines the CSR that in a free society there is one and only one social responsibility of business that is to use its resource and engage in activities designed to increase its profit so long as it stays within the rules of the game, which is to say, engage in open and free competition without deception or fraud.¹⁷ Carroll defines that the social responsibility of business encompasses the economic, legal, ethical and discretionary expectations that society has of organizations at a given point in time.¹⁸ Freeman and Amir defines the CSR as aspects of any workable definition of corporate social responsibility is that the behavior of the firms must be voluntary.¹⁹ Davis defines the CSR as consideration and response to issues related to social benefits beyond the corporate’s economic gains.²⁰ Michael Hopkins defines the CSR as ethical treatment of the stakeholders or in a socially responsible manner.²¹ Votaw said that “corporate social responsibility means something but not always the same thing”. The

¹⁴ Universal Declaration Of Human Rights, (Un.org, 2019) <<https://www.un.org/en/universal-declaration-human-rights/>> accessed 14 July 2019.

¹⁵ ILO Declaration On Fundamental Principles And Rights At Work (DECLARATION), (Ilo.org, 2019) <<https://www.ilo.org/declaration/lang--en/index.htm>> accessed 14 July 2019.

¹⁶ Jayati Sarkar and Subrata Sarkar, Corporate Social Responsibility in India: An Effort to Bridge the Welfare Gap (Review of Market Integration, Vol. 7, Issue 1, January 2016), pp. 1 - 36.

¹⁷ Milton Friedman, The Social Responsibility of Business is to Increase its Profits (The New York Times Magazine, Vol. 13, September 1970), pp. 32 - 33.

¹⁸ Archie B. Carroll, A Three-Dimensional Conceptual Model of Corporate Performance (Academy of Management Review, Vol. 4, Issue 4, 1979), pp. 497 - 505.

¹⁹ Ina Freeman and Amir Hasnaoui, The Meaning of Corporate Social Responsibility: The Vision of Four Nations (*Journal of Business Ethics*, Vol. 100, No. 3, May 2011), pp. 419 - 443.

²⁰ Jelena Nikolic and Dejana Zlatanovic, Corporate Governance and Corporate Social Responsibility Synergies: A Systemic Approach (Our Economy, Vol. 64, Issue 3, 2018), pp. 36-46.

²¹ Michael Hopkins, Corporate Social Responsibility: An Issue Paper (Working Paper No. 27, Policy Integration Department, World Commission on Social Dimension of Globalisation, 2004) <http://www.ilo.org/integration/resources/papers/lang--en/docName--WCMS_079130/index.htm> accessed 7 June 2019.

World Businesses Council for Sustainable defines that a corporation under the CSR engages to sustain economic development work with its employees, their families, local community and the society to improve quality of life.²² Therefore, the CSR is a major tool for success of a corporation which engage the stakeholders but not only the shareholders. Under the CSR engagement, a corporation is responsible for its actions and impacts towards its stakeholders such as shareholders and consumers as well as the society.²³ Although, there are no consensus among theorists regarding its meaning and definition but it is rapidly grown by various theories combine different approaches and techniques.²⁴ In broader sense, it is about the impact of business on society and narrowly, it may be defined to the extent to which and the way, a corporation is responsible for its actions and the impact on its shareholders.²⁵ Therefore, different people at different places have their own unique way to define the CSR but commonly it is taken as beneficial for social cause and welfare for the society. The CSR has been conceptualised in terms of wide range of corporate behavior which at the extent starting with maximisation of shareholders' profit with the rules of the game.²⁶ These different meanings and definitions are classifying into four groups; instrumental theory, political theory, integrate theory and ethical theory.²⁷ In the instrumental theory, the corporate is responsible to generate profits. It has only economic interactions with the society. The political theory is about the powers of the corporation in

²² Thais Furtado, Ramon Araujo and Rafeal de Lacenda Moreira, Relationship between Corporate Governance and Corporate Social Responsibility Disclosures in Brazilian Companies (ANFECA) <<http://congreso.investiga.fca.unam.mx/docs/xxi/docs/5.09.pdf> > accessed 5 August 2019.

²³ Nada K Kakabadse, Cecile Rozuel and Linda Lee-Davies, Corporate Social Responsibility and Stakeholder Approach: A Conceptual Review (International Journal of Business Governance and Ethics, Vol. 1, Issue 4, 2005), pp. 277.

²⁴ Elizabet Garrign and Domenee Mele, Corporate Social Responsibility Theories: Mapping the Territory (Journal of Business Ethics, Volume 53, Issue 1-2, August 2004), pp. 51-71.

²⁵ Archie Carroll, 'Corporate Social Responsibility: Evolution of a Definitional Construct' (Business and Society 38(3), 1999), p. 268.

²⁶ Ibid.

²⁷ Elizabet Garrign and Domenee Mele, Corporate Social Responsibility Theories: Mapping the Territory (Journal of Business Ethics, Vol. 53, Issue 1 - 2, August 2004), pp. 51-71.

respect of its duties and rights towards society. In integrate theory, the corporation depends on society for its continuity and growth whereas, in the ethical theory, the corporation is responsible for society well-being and growth.²⁸

3. AIM AND PURPOSE OF RESEARCH

Despite the growing prominence the meaning attached to the idea of the CSR has varied quite significantly over time and different contexts which will be surely evident from the later part in the context. Particularly there is no particular definition of the CSR which can commonly be accepted linking to meaning or entails.²⁹ Therefore, the development of idea of the CSR has positive mark in the corporate market in all over the world including UK and India as developing country and the ultimate goal is to set the corporate policies for the beneficial of the society in common. Therefore, the basic idea of the CSR is to adopt the socially responsible manners in corporation behavior.³⁰

In the era of Financial crises, income difference is widening besides the environmental loss and other calamities that are linked to few corporations, this calls for the CSR which is increasing rapidly. This paper states about the history, nature, importance, development and effects with the stakeholders of a corporation and case laws. In the later part of the paper we will discuss about the CSR development and implementation in India. The main emphasis of the CSR is believed to be ruled in the US and the European Union (UN) which

²⁸ Ibid.

²⁹ De George, The Relevance of Philosophy to Business Ethics: A Response to Rorty's: Is Philosophy Relevant to Applied Ethics? (Business Ethics Quarterly, Vol. 16, Issue 3, 2006), pp. 381 - 389.

³⁰ Ibid.

are the major players in the corporate global arena especially.³¹ Most importantly, the CSR has widespread the approaches of voluntary adoption, though there is difference which can be relatable in the developing countries³² than the developed countries especially who are pinned with the CSR,³³ but the India being a developing country holding world's second highest population gets harder though to control and the enactment takes time due to its democracy. India has chosen to pursue a mandatory CSR approach,³⁴ later in this work the emerging regimes and potential strengths besides the weakness will also be briefed. We will later talk about the positive aspect of the CSR and how the approach of the CSR can positively be brought into the Indian market more effectively. The CSR has no definite definition as it is believed to be derived from the Greek and can be termed as "view of the corporation as well as its role in society that assumes a responsibility among firms to pursue goals in addition to profit maximization and a responsibility among a firm's stakeholders to hold the firm accountable for its actions".³⁵ Therefore, due to the uneven economic development and growth in India has resulted in a marked increase in corporate profits as well as the number of millionaires or even billionaires, while the significant portions of the society are still living in poverty, leading to indefinite. This unrest has been negative feeling provided by front-page news about corporate corruption and corporate governance scandals. The scandals like the fall of the Satyam Computer Services is one of them.³⁶ The CSR has

³¹ L. Hartman, Robin S. Rubin, and Kathy Dhanda, *The Communication of Corporate Social Responsibility: United States and European Union Multinational Corporations* (Journal of Business Ethics, Vol 74, Issue 4, 2007), pp. 373 - 389.

³² Andrew Crane, Abigail McWilliams, Dirk Matten, Jeremy Moon and Donald Seigel, *The Oxford Handbook of Corporate Social Responsibility* (Oxford University Press, 2008).

³³ Wayne Visser, *Corporate Social Responsibility in Developing Countries: In The Oxford Handbook of Corporate Social Responsibility* (Oxford University Press, 2008), p. 473.

³⁴ G.K. Kapoor and Sanjay Dhamija, *Mandatory CSR Spending – Indian Experience* (Emerging Economy Studies, Vol. 3, Issue 1, April 2017), pp. 98 - 112.

³⁵ Wan Saiful Wan Jan, *Defining Corporate Social Responsibility* (Journal of Public Affairs: An International Journal, Vol. 6, Issue 3 & 4, August 2006), pp. 176 - 184.

³⁶ Madan Lal Bhasin, *Corporate Accounting Fraud: A Case Study of Satyam Computers Limited* (Open Journal of Accounting, Vol. 2, 2013), pp. 26 - 38.

drawn increasing scrutiny in the wake of the financial crises, rising consumer and employee safety concerns, and natural disasters publicly linked to corporations. Whereas, In the developed world the CSR has penetrated the mainstream literature and multinational practices³⁷. The paper contains the various explanation of the corporate social responsibility, the link with the capitalization, development besides how the CSR is coming in the Indian market and how it can be developed more for wellbeing. In the UK, US and Europe the economic crisis has called upon for more seriousness in regard to the CSR.

The basic aim to write this paper is integration of historical reasoning focusing on India and the UK that the CSR has gain remarkable cross-disciplinary attention by business historian and the CSR scholars. During the research, it has been evident that the CSR has been the subject for so many books, articles, journals, reports and countless conferences although little of it dealt with the subject matter of the CSR in the developing world. Only the India has recognised and understand the need of the CSR and has formulated a legal framework to make its implementation mandatory on the corporations. Despite growing prominence of the idea and its lengthy provenance, the meaning attached to the idea of the CSR has varied quite significantly over time and in different contexts, which is explained later under the Tab history that how the CSR was explained by different people and even now there are no commonly accepted definition for CSR.³⁸ Therefore, the research work is divided into four chapters, the first chapter contains the historical development of the CSR especially in the UK and the India and definitions.

The scope also extended to provide the basic aim and purpose of writing this research

³⁷ Afra Afsharipour, Shruti Rana, The Emergence of New Corporate Social Responsibility Regimes China and in India (UC Davis Business Law Journal, Vol. 14, 2014), p. 175.

³⁸ D Votaw, Genius Became Rare: A Comment on the Doctrine of Social Responsibility (California Management Review, Pt. 1, Vol. 15, Issue 2, 1972), p. 25.

paper as well as its structure. The chapter 2 provides the synergies between the CSR and the CG whereas, the chapter 3 provides positiveness of the CSR inclusive of work model and the actual meaning of the term CSR. The discussion will be more from the lens of the states like the UK and USA being the developed nations. The chapter 4 will constitute the effectiveness of the CSR in developing countries taking India in the context as the example and the development of the CSR in India. How the Indian Companies Act, 2013 defines the act and how the companies are incorporating the CSR as it is known that the CSR is a mandate after the incorporation of the Act 2013 as said above. At the beginning we will discuss about the nature of the CSR and compare it a bit with the capitalization.

The topic is really interesting, it has very good positive prospects if can be incorporated, about which we will discuss later in the work. The CSR can be seen as the way firms integrate social, environmental and economic concerns into their values, culture, decision making strategy and operations. All these are followed in transparent and accountable manner and thereby establish better practices within the company which create wealth and improve society.

CHAPTER 2:

THE CORPORATE SOCIAL RESPONSIBILITY AND THE CORPORATE GOVERNANCE

1. GROWTH OF THE CORPORATE SOCIAL RESPONSIBILITY

The CSR has a very broad concept in the society, it has a long and varied past. It is possible to trace the evidence in subject to business community's concern for societies for centuries. The footprints of the CSR can be mostly traced back in the developed countries, the formal writings are most evident in the United States.³⁹ When the CSR began in the era of 1950's, it was not recognised as it is now, then it was termed to be a social responsibility and another great reason was that the modern corporation's dominance and prominence in the business sector. The great landmark at such stage was the publication of social responsibilities of the Businessman by Howard R. Bowen.⁴⁰ In his book of context, there were many questions which held relevance to the accurate circle and one of them is "What responsibilities to society may businessman reasonably be expected to assume?". He set a definition for the social behavior and social duty for a businessman, it refers to the obligation for a businessman. It is believed that the businessman can have a huge impact on the line of action, which is desirable in terms of objectives as well as values of the society. Thus, accordingly it can be concluded that Bowen is father of the Corporate Social Responsibility as this was laid down in his work.⁴¹ Bowen argued that the CSR is no magic bullet instead

³⁹ Archie B. Carroll, Corporate Social Responsibility: Evolution of a Definitional Construct (Business & Society, Vol. 38, Issue 3, 1999), pp. 268 - 295.

⁴⁰ Howard R. Bowen & Johnson Matthey, Rediscovering Howard R. Bowen's Legacy: The Unachieved Agenda and Continuing Relevance of Social Responsibilities of the Businessman (Business & Society, Vol. 50, Issue 4, December 2011), pp. 607 - 646.

⁴¹ Ibid.

it contains an important truth that must guide business in future. The work which he presented gave the upliftment being the literature of the CSR from the 1950's.⁴² Later in the 1960's, the CSR started to formalise, or it was stated more accurately by many like William C. Frederick, Joseph W. McGuire,⁴³ one of the most prominent writers who initiated was Keith Davis who later extensively wrote about the CSR in his *Business and Society*,⁴⁴ whereas, he urged to state the definition of the CSR in his *Business and environment* textbook which was by Keith Davis and Robert Blomstrom in the year 1966.⁴⁵ There were different forms of definitions by different researchers in articles and textbooks. Keith Davis stated the views on relation between social responsibility and business power in the article, he argued on the businessmen's decisions and actions taken for reasons at least partially beyond the firm's direct economic or technical interest. He even argued and stated that the idea of the CSR is not clear thereby stating it as a nebulous idea, but he also mentioned that it can be seen in the managerial context.⁴⁶ The above mentioned, view later became well popular and later Keith Davis set forth his 'Iron Law of Responsibility' in a Journal in the year 1973,⁴⁷ which contains that the social responsibilities of a businessman should be in proportion with their social power.⁴⁸ Furthermore, he initiated a research which relates to the position that if social responsibility and power were to be relatively equal then the avoidance of social responsibility leads to gradual erosion of social power on the part of the business.⁴⁹ The CSR has been defined by many till date but there has been a lacking in all which does not completely draw the original line that is required and still like it has been

⁴² Ibid.

⁴³ Joseph William *McGuire*, *Business and Society* (New York: McGraw-Hill, 1963).

⁴⁴ Keith Davis, *Understanding the Social Responsibility Puzzle* (*Business Horizons*, Vol. 10, Issue 4, 1967), pp. 45 - 50.

⁴⁵ Keith Davis, *Business and its environment* / K. Davis and R.L. Blomstrom (New York: McGraw-Hill, 1966).

⁴⁶ Ibid.

⁴⁷ Keith Davis, *The Case for and against Business Assumption of Social Responsibilities* (*Academy of Management Journal*, Vol. 16, 1973), pp. 312 - 322.

⁴⁸ Ibid.

⁴⁹ Ibid.

before the governments are finding ways to implement it in whole. The unilateral trade is benefitted by the companies in the developed countries as to implement the standards which are originally required to benefit the life as well as the wellbeing of individuals which we will be discussing about this later in the research structure.⁵⁰

1.1 GROWTH OF THE CSR IN INDIA

In the recent years, the idea of the CSR has grown rapidly, for example with the advent of the Companies Act 2013 (the Act 2013),⁵¹ soon the CSR has been made mandatory under the dominance of the act for the social general benefit. The Indian now being one of the main players in the economy and holder of the huge population mass of the world the development in the enacting of CSR, shows the growth in the field.⁵² Whereas, it was long back done in the European Union and before that it was followed in the United States. Crucially, it was touted as a potentially effective means of delivering sustainable developmental outcomes. Increasing hopes are counted on it for the development of the world which includes the wellbeing of the human race by economic social development.⁵³ In such an optimistic climate, one cannot help but the CSR can bear the weight of the increasing expectations being heaped on its shoulders this is what we will see later in the research paper work in particular countries.

⁵⁰ Ibid.

⁵¹ The Companies Act, 2013 passed by the Parliament has received the assent of the President of India on 29th August, 2013. The Act 2013 consolidates and amends the law relating to companies. The Act 2013 has been notified in the Official Gazette on 30th August, 2013.

⁵² Harpal Singh, (Pwc.in, 2013) <<https://www.pwc.in/assets/pdfs/publications/2013/handbook-on-corporate-social-responsibility-in-india.pdf>> accessed 7 July 2019.

⁵³ Ibid.

2. SYNERGIES BETWEEN THE CSR AND THE CG

The CSR is an important tool for success of a corporation. The idea of it is to benefit business and society as well as minimizing the negative impact.⁵⁴ This means the unethical and socially irresponsible corporations causes to reduce reputation, high-costing and reduce shareholders value so, the corporations need to develop more plans to engage the CSR approach within their corporate governance system.⁵⁵ The *World Economic Forum* defines the CSR as follows:

*“To do business in a manner that obeys the law, produces safe and cost-effective products and services, creates jobs and wealth, supports training and technology cooperation and reflects international standards and values in areas such as the environment, ethics labour and human rights. To make every effort to enhance the positive multipliers of our activities and to minimize any negative impacts on people and the environment, everywhere we invest and operate. A key element of this is recognizing that the frameworks we adopt for being a responsible business must move beyond philanthropy and be integrated into core business strategy and practice”.*⁵⁶

According to the definition, the CSR is a behavioural issue so, whatever, a corporation does, it has positive and negative effects on the society.⁵⁷ Generally, the CSR concerns the

⁵⁴ European Commission, Green Paper: Promoting a European Framework for Corporate Social Responsibility (2001) <www.europa.eu.int> accessed 8 August 2019.

⁵⁵ Jelena Nikolic and Dejana Zlatanovic, Corporate Governance and Corporate Social Responsibility Synergies: A Systemic Approach (Our Economy Volume 64, Issue 3, 2018), pp. 36 - 46.

⁵⁶ World Economic Forum, ‘Global Corporate Citizen: The Leadership Challenge for CEOs and Boards’ (2002) <http://www.weforum.org/pdf/GCCI/GCC_CEOstatement.pdf> accessed 8 August 2019.

⁵⁷ Chris Marsden, The Role of Public Authorities in Corporate Social Responsibility (2001) in Alexander Dahlsrud, How Corporate Social Responsibility Is Defined: An Analysis of 37 Definitions’ (Corporate Social Responsibility and Environmental Management, Vol. 15, Issue 1, 2008).

corporation's acts towards society and environment apart from its legal obligations.⁵⁸ The CG and the CSR are interlinked and interdependent which means the corporate governance can run without engaging the CSR because it is governed by the developed legal and regulatory frameworks of that country where such corporation is registered or have a registered place of business, but the latter cannot workable without the CG. The CSR approaches need a good corporate governance system.⁵⁹ The corporate is improving if it has adopted the responsible manners in respect of respecting the society as a whole. It is on the corporations to develop the mechanism to implement it, but such formation is based on the corporate ownership structure as well the use of voting rights especially when the corporations make decisions regarding investments. It depends whether the owner encouraged enough to make investments in socially responsible activities for moral and economic reasons and whether the owner takes these investments as a cost or investment or their decisions are coloured with political objectives.⁶⁰ Furthermore, what if a corporation adopts the CSR just to become a part and parcel of the international community. Second, a corporation just pretends its engagement in social activities. Third, a corporation engages for its employees. Fourth, a corporation uses its engagement to promote its products and services so, more clients can be attracted. Fifth, a corporation engages it to reduce its production cost and finally, a corporation engages it as an integral part of its policies as well as its risk management operations.⁶¹ However, corporations by adopting the CSR can maximise its profits without disturbing the society or breaking laws

⁵⁸ Jelena Nikolic and Dejana Zlatanovic, Corporate Governance and Corporate Social Responsibility Synergies: A Systemic Approach (Our Economy Volume 64, Issue 3, 2018), pp. 36 - 46.

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ Thais Furtado, Ramon Araujo and Rafeal de Lacenda Moreira, Relationship between Corporate Governance and Corporate Social Responsibility Disclosures in Brazilian Companies (ANFECA) <<http://congreso.investiga.fca.unam.mx/docs/xxi/docs/5.09.pdf>> accessed 8 August 2019.

or ethics.⁶² Both the corporate governance and the corporate social responsibility can focus on the ethical practices in the business as well as in other stakeholders. Therefore, both have many similarities in relation to their objectives and benefits, which as follows:⁶³

- Both works to build the trust and confidence by increasing transparency as well as by increasing shareholder value;
- Both have common goal as to establish reputation of the corporation;
- Both works to improve relationships with its different stakeholders;
- Both contribute in the development of the region and society as well as its area of operation; and
- Both keep its stakeholders on board while maintaining the strong position in the market.

Therefore, it is evident that the corporate governance and the corporate social responsibility are interlinked as well as independent.

2.1 APPLICABLE THEORIES

Generally, two theories i.e. stakeholder's theory and agency theory, apply to the relationship of the corporate governance and the corporate social responsibility. The stakeholder's theory demands to the company to work ethically which means the managers have to show ethics by their acts and they will be responsible for their acts.

Wood said that the managers are required to perform their functions and decision-

⁶² Ibid.

⁶³ Dr. D.P. Verma and Raj Kumar, Relationship between Corporate Social Responsibility and Corporate Governance (IOSR Journal of Business and Management, Volume 2, Issue 3, August 2012), pp. 24 - 26.

making in order to achieve the socially responsible results. They have to act as moral actors which will help enhance the reputation of the company.⁶⁴ On the other hand, in agency theory, it is a relationship between the managers and the shareholders.⁶⁵ Thus, the stakeholder system model is more formalized process of stakeholders' engagement. It allows the corporations to take stakeholder's inputs while applying corporate social responsibility activities. The greater involvement of the stakeholders allows the corporation to develop its stance regarding corporate social responsibility.⁶⁶ The corporations are more legitimate under the corporate social responsibility approach.⁶⁷ These corporations are paid greater in relation to their employees as well as quality of products and services. The engagement will also develop and improve the relationship among the communities and environmental concerns.⁶⁸ Thus, the corporate social responsibility is about contribution of the company's sustainable development. It is a procedure that how the companies can take into account their social, economic and environmental impacts to the society.⁶⁹

⁶⁴ Donna J. Wood, Toward Improving Corporate Social Performance (Business Horizons, August 1991) <<http://kantakji.com/media/3320/I150.pdf>> accessed 8 August 2019.

⁶⁵ Amir Barnea and Amir Rubin, Corporate Social Responsibility as a Conflict between Shareholders (Journal of Business Ethics, Volume 97, Issue 1, November 2010), pp. 71 - 86.

⁶⁶ Chris Mason and John Simmons, Embedding Corporate Social Responsibility in Corporate Governance: A Stakeholder Systems Approach (Journal of Business Ethics, January 2014) <<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.1029.5340&rep=rep1&type=pdf>> accessed 8 August 2019.

⁶⁷ Arifur Khan, Mohammad Badrul Muttakin and Javed Siddiqui, Corporate Governance and Corporate Social Responsibility Disclosures: Evidence from an Emerging Economy (Journal of Business Ethics, Volume 114, 2013), pp. 207 - 223.

⁶⁸ Hoje Jo and Maretno A. Harjoto, Corporate Governance and Firm Value: The Impact of Corporate Social Responsibility (Journal of Business Ethics, Volume 103, Issue 3, October 2011), pp. 351 - 383.

⁶⁹ Vision That Recognises the Interdependence between Business and Society (IPP Media, 9 December 2016) <<https://www.ippmedia.com/en/features/vision-recognises-interdependence-between-business-and-societ>> accessed 8 August 2019.

CHAPTER 3:

THE CSR IN DEVELOPMENT OF THE SOCIETY

1. THE CSR POLICY TOWARDS THE SOCIETY

There is a growing recognition among researchers and policy makers that the CSR issues in the developing countries are somewhat different than in the developed countries. Social, environmental and sustainable problems are more acute as believed in the developing countries, especially those impacted by investments, economic growth and the globalization.⁷⁰ In low income countries, the CSR is predominantly focused on socio-economic issues of poverty alleviation, health care provision, promoting education and infrastructure upliftment in contrast to that of the western countries such as issues related to fair trade, business ethics, green marketing, socially responsible investments and climate change taking from the context of Nigeria explained by *Amaeshi*.⁷¹ The CSR is for the benefit for the society maintained by the committee made by the corporations. It is maintained by the corporations and the firms by their funds for the cause which obtains the development in the society.⁷²

1.1 VOLUNTARISM

⁷⁰ Afra Afsharipour, Shruti Rana, The Emergence of New Corporate Social Responsibility Regimes China and in India (UC Davis Business Law Journal, Vol. 14, 2014), p. 175.

⁷¹ Kenneth M. Amaeshi, Oneyka Osuji and Paul Nnodim, Corporate Social Responsibility in Nigeria: Western Mimicry or Indigenous Practices? (Journal of Corporate Citizenship, January 2006).

⁷² Christine Furedy, Business Charter For Sustainable Development: Principles For Environmental Management (International Chamber of Commerce, Vol. 20, Issue 1, Spring 1993), pp. 82 – 83.

Explicit environmental objectives namely ‘green business networks’ were formed accelerating the development in the corporate environmental management in the Post-Earth Summit in 1992.⁷³ For example, in 1995 the Business Charter for Sustainable Development (the “BCSD”) merged with the World Industry Council for the Environment (the “WICE”) which is a part of the International Criminal Court (the “ICC”) that formed the World Business Council for Sustainable Development (the “WBCSD”), aim to making the business associations stronger for initiating protection of the environment while fulfilling the traditional economic goals, profit-making.⁷⁴ In the post era, there were various voluntary initiatives taken by the individual companies, several institutions and by the industry associations. These were all self-regulatory and initiatives taken executed voluntarily.⁷⁵ Corporate self-regulation was initiated for encouraging business and in cooperation with government in negotiating and implementing mutually agreed standards.⁷⁶ Several codes that emerged was encouraged which were established by national and International associations such as ‘Responsible Care’.⁷⁷ Keidanren forward in 1991, which motivates the business organizations in Japan to work towards healthy human, ecological and economic upgradation.⁷⁸ There were several inter-governmental organizations which came in, for instance the UN Intergovernmental Working Group of Experts on the International Standards of Accounting and Reporting (the “ISAR”), which established the first guide on the

⁷³ John Robinson, Squaring the Circle? Some Thoughts on the Idea of Sustainable Development (Ecological Economics, Vol. 48, Issue 4, 2014), pp. 369 - 384.

⁷⁴ Renginee Pillay, The Changing Nature Of Corporate Social Responsibility (ROUTLEDGE, edn 1st, 2015).

⁷⁵ Ibid.

⁷⁶ Ibid.

⁷⁷ Debora Spar and David Yoffie, Multinational Enterprises and the Prospects for Justice (Journal of International Affairs, Vol. 52, No. 2, Spring 1999), pp. 557 - 581.

⁷⁸ Keiderman Global Environmental Charter (Keidanren.or.jp, April 1991) <<http://www.keidanren.or.jp/english/speech/spe001/s01001/s01b.html>> accessed 2 September 2019.

environmental reporting.⁷⁹ The most significant recommendations have been the ISAR's paper on 'Accounting and Financial Reporting for Environmental Costs and Liabilities' published in 1998 and was further revised in 2000.⁸⁰ Following the pathway linking to the above stated paper as the United Nations Convention on Trade And Development (the "UNCTAD") released a line of rules on corporate environmental accounting in the form of a manual.⁸¹ Several other initiatives were taken such as the European Union's Eco-Management and Audit Scheme (the "EMAS"), the North American Free Trade Agreement (the "NAFTA"), Central American Council for sustainable Development were introduced for the development of the trade and build a good as well as strong business interest.⁸² The International Organisation for Standardization 14000 (ISO 14000) agreed on set of generic standards for corporate environmental management systems.⁸³ The ISO 14001 specifies the requirement for the Environmental Management System (the "EMS") that can be objectively audited for self-declaration or third-party certification/registration purposes.⁸⁴

1.2 IDEA OF PARTNERSHIP

The corporate self-regulatory initiatives came to be seen by many and they were always the topic for criticism as they lacked independent monitoring and verification.⁸⁵ The

⁷⁹ Ibid.

⁸⁰ Ibid.

⁸¹ United Nations Conference on Trade and Development, A Manual for the Preparers and Users of Eco-Efficiency Indicators (UNCTAD New York and Geneva, 2004) <https://unctad.org/en/Docs/iteipc20037_en.pdf> accessed 12 July 2019.

⁸² Ibid.

⁸³ Ibid.

⁸⁴ R. Krut and H. Gleckman, ISO 14001: A Missed Opportunity for Sustainable Global Industrial Development (Routledge, 2013).

⁸⁵ Kemp Little, Corporate Social Responsibility in Indonesia: Quixotic Dream or Confident Expectation? (2001) <<https://www.kemplittle.com/about/csr/>> accessed 25 July 2019.

result was that voluntary and self-regulatory initiatives came to be supplemented by multi-stakeholder's initiatives or partnerships as they are referred to.⁸⁶ These are believed to create chances for the NGO's and other organizations to link directly with the companies also allow them to have some influence over the companies activities. These are done on the mutual trust for a common purpose and no fundamental conflicts stay between the different actors affected by corporate activities.⁸⁷

1.3 THE CONTEMPORARY CSR

The contemporary CSR, like the environmental initiatives that adjoins are voluntary and self-regulatory in nature, depending on the code of conduct, standard, social reporting, support for community projects and philanthropy. It deploys the strategic and economic benefits to the corporation of embracing by engaging with CSR agenda, boosting a company's competitive advantage creating new markets and, in some instance even reducing costs.⁸⁸ The proper example that we can talk about is the BUSCO which was the first initiative believed to taken by social corporate part. The BUSCO presented the statement of principles and a 16 points of action program to which the companies were called upon to implement to intensity their participation to social progress at the World Summit for Social Development (the "WSSD") 2012 in Copenhagen.⁸⁹ A wider dimension was launched named the UN Global Compact which works with the five UN agencies namely International Labour Organization (ILO), The

⁸⁶ Ibid.

⁸⁷ Ibid.

⁸⁸ Oliver Giscard d'Estaing, *Evolution of the Market Economy: The Responsibility and Contribution of Business* (Science Direct, Vol. 27, Issue 2, March 1995), pp. 246 – 252.

⁸⁹ Oliver Giscard d'Estaing, *Evolution of the Market Economy: The Responsibility and Contribution of Business* (Science Direct, Vol. 27, Issue 2, March 1995), pp. 246 – 252.

United Nations Development Programme (UNEP), United Nations Industrial Development Organization (UNIDO) and UN Office of the High Commissioner of Human Rights (OHCHR).⁹⁰ The purpose of the GC is to uphold the ten principles of the CSR relating to observance of human rights, establishment and upholding of labor standards and, protection of the environment as well as upholding the anti-corruption practices.⁹¹ There were several initiatives taken which are the Ethical Trade Initiative (ETI) in the UK and the Global Reporting Initiative (GRI). Besides all the CSR has been well whole-heartedly embraced by the corporate sector.⁹²

2. MODELS OF THE CORPORATIONS

2.1 THE SHARE HOLDER VALUE CORPORATION

There is negligible or can be said no place for social responsibility in this traditional model of the corporation. On contrary, the CSR is a fundamentally subversive doctrine whose widespread application ‘would destroy a free society’.⁹³ Theodore Levitt, argued that the CSR was nothing more than a form of ‘self-flattery practiced at an occasional community chest banquet or a news conference celebrating a selfless example of corporate giving to some little college’.⁹⁴ He even argued at that point that the main function of a free market economy was profit maximization there were no benefits to

⁹⁰ G. Kell and D. Levin, *The Global Compact Network: An historic experiment in learning and action* (Business and Society Review, Vol. 108, Issue 2, 2003), p. 151.

⁹¹ *Ibid.* p. 100.

⁹² David L Levy, H. S. Brown and M. De Jong, *The Contested politics of corporate governance: the case of the global reporting initiative* (Business & Society, Vol. 49, Issue 1, 2010), p. 88.

⁹³ Renginee Pillay, *The Changing Nature Of Corporate Social Responsibility* (ROUTLEDGE, edn 1st 2015), p. 62.

⁹⁴ T. Levitt, *The dangers of social responsibility* (Harvard Business Law Review, Vol. 36, (Issue 5, 1958), p. 41.

be derived from engaging in allegedly socially responsible behavior. He warned the corporate involvement in the social issues in that, he believed all will turn into the medieval church. The corporation would eventually invest itself with all-embracing duties, powers and finally obligations.⁹⁵ *Levitt* believed that the promotion of the CSR would unveil ‘uncontrollable’ powers to fall into the hands of the management defeating the actual purpose of creation of the company, in real the share-holders invests a lot of capital so that they have profitable returns on that investment, with the never changing nature which is risk always there behind every investment made.⁹⁶ From the research work of Milton Friedman which, the executive would be failing to act in the interest of the owners of the firm, for whom he is supposed to be an agent, on a concluding note it can be seen that CSR thus entails a breach of trust.⁹⁷ According to Friedman, a manager when diverts the profits into social causes he is guilty of taxation without proper representation which is the share-holder is, in effect, being taxed through the diminished returns on his investments and the consumer is being charged the higher price for the company’s product, goods, or services. As quasi-governmental powers were effectively being invested in business executives, who had not been given those powers through any legitimate political process thus it’s undemocratic as per Friedman.⁹⁸ He also believed that it’s not futile as corporate managers are unlikely to know what they are doing as they do not have the necessary knowledge or skills to realize the sort of changes that they are supposedly aiming at.⁹⁹ Even Friedrich Hayek also echoed what Friedman said, he had a view that if managers were allowed to use

⁹⁵ Ibid.

⁹⁶ Ibid.

⁹⁷ Milton Friedman, The Social Responsibility of Business is to Increase its Profits (The New York Times Magazine, Vol. 13, September 1970), pp. 32 - 33.

⁹⁸ Ibid.

⁹⁹ Ibid.

funds other than materially productive use it would create center of uncontrollable power which the ones who provided the capital would never think off.¹⁰⁰ Hayek had that unless the corporations cannot be believed on the serving on the public interest by devoting their resources to the single aim of securing the largest return of long-term profits, the case for free enterprise breaks down.¹⁰¹ The other law ensures that managers by the corporate law to abide by the principal of share-holder primacy, thus promoting productive efficiency for the benefit of the society as a whole. The price tag has been set to expel the inefficient rather than irresponsible company according to the advocacy of Easterbrook and Fischel.¹⁰² Later, all the arguments in the International level was share-holder oriented embraced by the principles. In the contractualists, approach to the CSR, in which the CSR is imposed on the corporations from the outside rather than which is by default by the corporation is by the way of OECD¹⁰³ principles.¹⁰⁴ To add on the disclaimer, this suggests that the interests of stakeholder are protected by the corporate law but the add on to this is certain rights of stake-holders are established by law like labour, business, insolvency and business laws which is whole is external to corporate law and external rather than internal, as a conclusive state on this we can see that the shareholder-oriented model of corporation has place for the CSR.¹⁰⁵ This has sought be the Anglo-American, share-holder oriented stock-market based corporation better known as the share-holder value model of corporation.¹⁰⁶

¹⁰⁰ S. Kusunoki, 'Hayek on Corporate Social Responsibility' *Constitutional Political Economy* (2016) 27(1), pg 93-110.

¹⁰¹ R. Hay and Ed Gray, 'Social responsibilities of business managers' (*Academy of Management Journal*, Vol. 17, 1974), pp. 135 & 136.

¹⁰² I. Ayres, 'Making a difference: the contractual contributions of Easterbrook and Fischel' (1992).

¹⁰³ OECD – Organisation de coopération et de développement économiques.

¹⁰⁴ K. Gordon, 'The OECD guidelines and other corporate responsibility instruments' (2001).

¹⁰⁵ *Ibid.* p. 66.

¹⁰⁶ *Ibid.*

2.2 STAKEHOLDER MODEL OF CORPORATION

There are many similarities between the share-holder primacy and the stake-holder primacy of the CSR, but we will talk about the lines. The SRC¹⁰⁷ developed in 1950's from the idea of social institution is the 1920's and 1930's.¹⁰⁸ It argues that the idea of SRC was transformative in aspiration, advocating and the abandonment of share-holder primacy in favor of a conception of the corporation in which a range of different stakeholder interests had to be balanced. The stake-holder model of corporation that have developed, especially in the post second world war era in Japan that's the fiduciary model and Germany a representative model had faced intense problems which put them under pressure to embrace a more share-holder oriented approach¹⁰⁹. Later in 1990's the above-mentioned countries faced tremendous economic pressure to embrace a more share-holder oriented approach. A new shareholder-oriented model has emerged leaving room of consideration for the stake-holder approach, which we will be discussing about. This type of model of corporation is markedly less radical than that which under-pinned the idea of the SRC, is exemplified by the bright thought of ESV¹¹⁰ developed by the CLR¹¹¹ in the United Kingdom as labelled by R. Pillay¹¹². It is argued which has been shown by the Pillay that ESV model is effective but slow in process taking the long process retaining the principle of share-holder primacy. Now, further understanding the models of the share-holder model.

¹⁰⁷ SRC – Socially Responsible Corporation

¹⁰⁸ Ibid.

¹⁰⁹ Henry Hansmann and Reinier H. Kraakman, 'The End Of History For Corporate Law' (nellco.org, 2017) https://lsr.nellco.org/cgi/viewcontent.cgi?referer=https://scholar.google.com/scholar?hl=en&as_sdt=0%2C5&q=Hansman+and+Kraakman+%27The+end+of+history+of+corporate+law+&btnG=&httpsredir=1&article=1068&context=harvard_olin accessed 1 August 2019.

¹¹⁰ ESV – Enlightened Shareholder Value

¹¹¹ CLR – Company Law Review

¹¹² Ibid 86

The CSR though is believed to take the back seat in the Anglo-American Jurisdictions, more stake-holder friendly models of the corporations had always been popular in continental Europe and Japan. These jurisdictions are commonly contrasted with Anglo-American ones not only in corporate governance circle but also in varieties of capitalism literature¹¹³. The capitalism literature basically differentiates¹¹⁴ the ‘liberal market economies’ and ‘Coordinated market economies’¹¹⁵.

The Rhenish capitalism is associated with having a stakeholder economy which can be defined as “one which derives competitive strength from a cohesive culture, in which the exercise of property rights is conditioned by shared values and cooperative behavior...The stake-holding solution offers a means of legitimizing the tempestuous mechanics of capitalism and of preserving human and social capital in the interests of competitive advantage”¹¹⁶. The German and Japanese companies do not refer to their corporations as stake-holder companies even in the main land of Europe they are labelled as fiduciary¹¹⁷ or trusteeship.¹¹⁸

2.3 THE FIDUCIARY MODEL OF STAKEHOLDER COMPANY

The model follows the board of directors, functions as a neutral coordinator of the contributions of and return to all stakeholders in the firm. The investors are especially

¹¹³ P.A. Hall, D. Soskice, ‘Varieties of capitalism: The Institutional foundations of comparative advantage’ (2001), pg 137-138

¹¹⁴ M. Albert and R. Gonenc, ‘The future of Rhenish capitalism’ *The Political Quarterly* 67(3), pg 184-192.

¹¹⁵ M. Albert, *Capitalism against capitalism* (Vol. 1, John Wiley & Sons Incorporated).

¹¹⁶ *Ibid* 86, pg 83.

¹¹⁷ *Ibid* 103, pg 439, 447.

¹¹⁸ John Kay and Aubrey Silberston, *Corporate Governance*’ (1953) 153 *National Institute Economic Review*.

briefed on the corporate board but protection to the interests of the other stake-holders are provided through a relaxation of the board's duty or incentive to represent only the interests of shareholders. As a result of the above mentioned the board is given the greater discretion to look after other stakeholder interests¹¹⁹. Japanese companies often envy the fiduciary stakeholder model of company. In the study of the Japanese Corporate Governance 'Charkham'¹²⁰ asserted that the concepts are of 'obligation', 'family' and 'consensus'. They believe company is maintained by relationships, that can be between company and suppliers or customers and most importantly relations with the bank and the employees¹²¹ hence they seek for long term preservation and prosperity not short time shareholders immediate values or profit maximization¹²². The example of Company who followed this type of system is Sony, they had the principle of eliminating any untoward profit seeking instead emphasized more on real substance as well as they did not go for expansion of size for just the sake.¹²³

2.4 THE REPRESENTATIVE MODEL OF THE STAKEHOLDER COMPANY

This type of model was followed particularly more in Europe. After the second world war especially in the 1950's and 1960's the idea about worker participation and industrial democracy gained in prominence. The expression of Industrial democracy in the early 20th century was coined to indicate the presence within industrial companies of an organized trade union which through the process of collective bargaining which

¹¹⁹ Ibid 103

¹²⁰ J. Charkham, 'Keeping better company: Corporate Governance ten years on' (OUP Oxford) 108.

¹²¹ M.J. Loewenstein, 'What can we Learn from Foreign systems?: Stakeholder Protection in Germany and Japan.' (2002) Tul. L. Rev.76: 1673-1674.

¹²² J.P. Charkham, Keeping Good Company: A study of corporate governance in five countries (1995, Oxford University Press)

¹²³ Ibid 112

could contribute to extending democratic participation. Industrial democracy was suggested to be genuinely controlled by the people¹²⁴. The idea was central to the development in continental Europe specifically in Germany where a corporate model with marked differences from the share-holder focused models found in Anglo-American jurisdictions. It is argued in Germany, that the company is more of an institution which is a community in itself¹²⁵, It's been argued by Gunther Teubner that 'Social substratum to be personified is not simply a static social structure'¹²⁶. Instead, it is an internal dynamics system, with selections of its own, and with a capacity for self-organisation and self-reproduction'¹²⁷. Thus, it signifies the company to be a distinct separate legal entity from that of its shareholders, as such it serves its own interest as a separate productive enterprise. It's also argued that it compels the managers to take account of the interests of various stakeholder in the firm, one of these are the shareholders to be played alongside customers, creditors, employees and suppliers. The concern at the end is the overall wellbeing of the company as an enterprise. It is better known as the German model of stake-holding¹²⁸, the German Co-determination has been cited widely, it's the right to participate in decisions about matters that affects employees and obtaining crucial background information about the enterprise, it also promotes trust, co-operation and harmony¹²⁹. The two key elements linking to co-determination are employee representation on the supervisory board of companies and employee representation on work councils¹³⁰. The benefits to the society of the well-

¹²⁴ S. Webb and B. Webb, *Industrial democracy* (1897, Longmans, green and Company) Vol 2.

¹²⁵ *Ibid* 112

¹²⁶ *IBID* 86

¹²⁷ Gunther Teubner, 'Enterprise corporatism: new industrial policy and the "essence" of the legal person' (1988) *The American Journal of Comparative Law* 36, no. 1, pg 130-155.

¹²⁸ *Ibid* 116

¹²⁹ *Ibid* 116

¹³⁰ M.O. Sullivan, 'Variety and change in the role of employees in corporate governance' (2000).

organized structure is massive and the policies are elaborated by the board that maximize the welfare of the stake-holders, subject to the bargaining leverage that each group brings to the boardroom table. Even the backbone of the Rhenish model of capitalism as discussed above is associated with the German Co-determination which ensures that shareholder and employee interests are taken into account together in a framework of stable and long-term relations between the two parties.¹³¹

3. THE CSR AND THE STAKE-HOLDING

At the root of the stake-holding models of the corporations, is the idea that the corporation is a social constitution and thus it has to contribute and live up to the social obligations. It also needs to evaluate the interests of all the stake-holders affected by its operation, which is suggested to be the managerial fiduciary duty¹³². It is a note that, in case of corporate decision making the involvement of stake-holders are advised, most notably in the above-mentioned German model. Most importantly, the more one moves along the spectrum of corporate models toward the stake-holding end, the more CSR is intrinsic to the corporation. In case of Anglo-American model, where the objective is profit maximization the CSR has to be externally imposed on the corporation. Whereas, in traditional stake-holder models of corporation CSR is key respect built into it, as its conceptualized as social or quasi-social institution.

In the stake-holding corporations one might reasonably expect the management culture, structured by a specific conception of corporation. Its nature and purpose not only more

¹³¹ Ibid 103.

¹³² Ibid 86.

stake-holder oriented but more socially responsible. For example: The company is seen as a community within a community and the goal is likely to be profit per se and more likely to be the consideration for growth of the company itself as a productive organization. In these circumstances the managers are expected to take account of interests other than those of share-holders where the determining policies for good running of the corporation as a matter of course, in this context the socially responsible practices might not be tagged as the term is seen as usual one that comes usually in business. The place of the CSR in Anglo-American model is much different than the stake-holder model, CSR is imposed from outside in the Anglo-American model¹³³, In contrast to the Anglo-American model of the corporation the radical stake-holder models of corporation, in theoretical aspect CSR is built in. The goal of the shareholder value pervades managerial culture, the value that spread throughout the radical stakeholder models of the corporation reflects notions such as cooperation, consensus and community¹³⁴. The board generally in such situation are made to resolve the problem occurring within¹³⁵ in the radical stake-holding model.¹³⁶

According to David Coates, “Behind... the euphoric descriptions of the ‘trust’ relationships linking Japanese companies and Japanese workers lies the appalling social reality of long working hours, intensive work routines, constant managerial pressure to meet corporate goals and the orchestration of a national culture of social unity by and in which labour resistance was (and is) minimized”¹³⁷. Putting the disclaimer ahead that it has been noticed in the international journals and from the online articles, there has been deaths due to

¹³³ H. Ploix and J. Charkham, ‘Keeping Better Company’ (2005) Corporate Governance Ten Years On.

¹³⁴ Ibid

¹³⁵ R.H. Schmidt and G. Spindler, ‘Path dependence, corporate governance and complementarity’ (2002) International Finance, 5(3), pg 311-333.

¹³⁶ J. Robert Branston, Keith Cowling and Roger Sugden, ‘Corporate Governance And The Public Interest’ (2006) 20 International Review of Applied Economics.

¹³⁷ David Coates, Models Of Capitalism (Polity Press in association with Blackwell 2000).

overwork in Japan even though the system is so well planned and harassment at work is also common feature in the system as mentioned.¹³⁸ Taking a quote made by Demise in the context, he exclaimed “many top managers were once low-level employees, who were willing to sacrifice in order to be promoted. Hard work and personal sacrifices guaranteed them promotion, and they now expect similar behavior for their subordinates”¹³⁹. But later this was argued and it was rectified as “the Japanese ... see the roots of CSR in the traditions of Japanese business, such as Shobaido (the way of doing business) and Shonindo (the way of the merchant) and Japanese firms pay a lot of attention to the environment and to relations with local communities”¹⁴⁰. From this we can see that the Japanese companies maintain the social responsibility and does take care of their employees even though this is true that all the companies cannot be same, different company with different people working in them has somewhat different way of thinking and different way of dealing with the responsibilities. In terms of CSR it’s actually hard to assess in the context that how far the German the Japanese actually engage in the CSR, partly because of the constituents of the CSR and partly because of the empirical work in the area is non-existent¹⁴¹. The CSR in business will be discussed later, but it is important to underline that as compared to the traditional Anglo-American model, where CSR was coming to be seen imposed from outside that is radically from external source rather than the company law whereas, the ESV model of corporation in advocating the managers should focus on long-term share-holder value rather than the short-term maximization of profits, it creates the place for CSR in the board of the company. Hence, the ESV model of corporation and ameliorative CSR are

¹³⁸ Nobuyuki Demise, ‘Business Ethics And Corporate Governance in Japan’ (2005) 44 *Business & Society*.

¹³⁹ *Ibid*

¹⁴⁰ Daniel Franklin, ‘Going Global’ (The Economist, 2008) https://www.economist.com/node/10491136/print?story_id=10491136 accessed 5 August 2019.

¹⁴¹ *Ibid* 86

many ways natural allies¹⁴². CSR even though do not fundamentally challenge primarily the share-holder primacy.¹⁴³

4. CSR FRAMEWORK IN THE DEVELOPMENTAL CONTEXT

South and South-East Asian countries have seen many changes in regard to the institutions, particularly in connection to the economic sector¹⁴⁴. This has been initiated by the free market policies introduced in by the U.S and some multinational financial institutions, the fall of the communist reforms in the Eastern Europe as well as the internal dynamics of these economies. Now, the corporate led globalization has led the state to move out of productive sphere into protective sphere in terms of labor and other important social factors related to the business¹⁴⁵. As the substantial outcomes having very severe effects on the poor for example when a company is making profits involving communities, labor, environment, investors, consumers, competitors, business partners the impacts on poor are such in case of displacements due to acquisition of lands or due to operations impacting on livelihoods and means of survival, pollution of water/land/air in terms of environment or exploitation of resources, work and wage condition of contract of daily labors. In case of Investors and consumers insensitive to the poor pressurizing the business for maximizing their returns which impact poor who are unorganized and possess low bargaining power.

¹⁴² DTI, 'Companies Act 2006, Ministerial Statements' (webarchive.nationalarchives.gov.uk, June 2007) <https://webarchive.nationalarchives.gov.uk/20070628230000/http://www.dti.gov.uk/files/file41039.pdf> accessed 6 August 2019.

¹⁴³ Ibid 86, pg 111

¹⁴⁴ S.K. Goyal, 'Political economy of India's economic reforms' Institute for studies in Industrial Development (ISID) New Delhi, India, Working Paper, 4.

¹⁴⁵ B. Arora and R. Puranik, 'A Review of Corporate Responsibility in India' (2004) 47 Development.

There are several draw backs which previously the framework contained. The functions like distributing profits, Institutionalizing responsible behavior within business and engaging with state to lobby for business gains has severe effects on the poor.¹⁴⁶

¹⁴⁶ Ibid

CHAPTER 4:

HISTORY OF ASPECTS OF CSR IN INDIA & COLONISATION

In Asia unlike the Western Capitalism, the businesses are part of the social welfare philosophy embedded in corporate philanthropy¹⁴⁷. In India, traditional merchant families that pioneered indigenous industrialization from India always had a development plan for India from and after India got freedom. They not only took part in the freedom struggle, but they also had part in the nation-building process after the independence¹⁴⁸. For example, a set of industrialists' in the year 1944 came out with a development idea known as the 'Bombay Plan'¹⁴⁹. As the Indian Economy moved from agrarian to industrial, concerns were raised about the consequences of economic growth with an innate nature to be imbalanced¹⁵⁰. The importance of businesses' social responsibility to multi-stake holders were emphasized at a high-profile seminar in Delhi and a declaration adopted stated that social responsibility of an enterprise is responsibility to itself, its customers, workers, share-holders and the community¹⁵¹. The new businesses also got an increase in trusts and the changes significantly affected the corporate sector bringing freedom from controls and increased roles. Most corporations started agreeing that the social responsibility is carried out in freedom from controls in the corporate sector¹⁵². A researched project was commissioned in the year 2003 by the ICN¹⁵³ which was contemplated by the

¹⁴⁷ A. Mohan, 'Corporate citizenship: Perspectives from India' Greenleaf Publishing: Sheffield.

¹⁴⁸ Ibid

¹⁴⁹ T.N. Srinivasan and S.D. Tendulkar, 'Reintegrating India with the world Economy' Washington D.C.: Institute for International Economics.

¹⁵⁰ Ibid 30

¹⁵¹ Ibid 26

¹⁵² H. Shrivastava and S. Venkateswaran, Business of social Responsibility – The why, what and How of corporate social Responsibility in India, [2000] Bangalore: Books for change.

¹⁵³ ICN – Indian Committee of the Netherlands

CREM¹⁵⁴ interviewed that the Dutch companies and their Indian counterparts along with some stakeholders, concluded that the Dutch companies operating in India practice CSR only partially. Although, they have a policy for CSR, but their Indian daughter companies were not engaged in developing CSR policy which was monitored to bring under control¹⁵⁵, it was all before the Indian Companies Act which was amended with all the necessary was in force until 2013.¹⁵⁶

1. PROBLEMS RELATING TO ECONOMIC AND SOCIAL DEVELOPMENT IN INDIA

India's foreign exchange coffers passed U.S \$1 billion mark in the year 2003 with the ambitious target of double-digit growth of GDP¹⁵⁷ and the second generation of economic reforms underway. The Corporate India did start its journey long time back from now and has been pretty much successful since then, which can be said from the obtained digits from business¹⁵⁸ made. The most advantageous part about Indian companies are they are very professional in their approach, follow best practices and keep a global outlook, hence can be taken as the competitor in the global market¹⁵⁹. It has been remarked by the Asian Development Bank's about India Country Strategy Programme 2003 – 2006¹⁶⁰ stated that India is a quick growing economy and the poverty incidence in India decline from 36 percent of the population in 1993-1994 to 26 per cent in 1999-2000.¹⁶¹

¹⁵⁴ CREM – Consultancy and Research for Environmental Management

¹⁵⁵ Ibid 26

¹⁵⁶ The Companies Act, 2013.

¹⁵⁷ GDP – Gross Domestic product

¹⁵⁸ A. Shourie, 'Required: A new form of governance for a new economy', (2004) Indian Express Newspaper Article Series – Our Brave New Industry, India, Part III April.

¹⁵⁹ Ibid 26, pg 95.

¹⁶⁰ Ibid 26

¹⁶¹ ADB, 'Country Strategy Program 2003-2006' (2003) Asian Development Bank, India.

It was been an arguable matter that as being the subject matter mentioned in the said (ADB 2003), poverty is multi-dimensional and the data on income-poverty does not capture trends in human-poverty which reflects deprivation in other dimension of the quality of life¹⁶². The human poverty level indicator back in 2003 said that India stands 124 out of 173 countries and now the recent report says that India climbed up to the rank of 130 out of 189 in September 2018 released by the UNDP¹⁶³ of ¹⁶⁴HDI¹⁶⁵. The Gender Inequality in India has been improved but still its lagging behind by the inequalities in the caste and the gender. The education rate has gone up since 2000 but still that's not impressive, India's performance is attaining the MDG's¹⁶⁶ while the country lagging behind for the targets¹⁶⁷. High unemployment and inequity in distribution of wealth is another major problem for the public and an issue regards to, the corporate social responsibility¹⁶⁸. In the above cited article, the Economic Reforms by the Government of India has been criticized and the analysts of the economic reforms in India argue that the expectations from economic reform have not had much success as decline in incomes and employment continues unabated and corruption beside that¹⁶⁹, the largest employer which is the agriculture is not been fared well, there is structural deficiency in the organized manufacturing which is the transformation without addition of extra posts for the process of hiring new employees. The BPO industry has made significant contributions toward alleviating Indian Unemployment with

¹⁶² Ibid 26.

¹⁶³ UNDP – United Nations Development Programme

¹⁶⁴ HDI – Human Development Index

¹⁶⁵ 'India Ranks 130 In UN's Human Development Index' (The Economic Times, 2018) <https://economictimes.indiatimes.com/news/economy/indicators/india-ranks-130-in-uns-human-development-index/articleshow/65812719.cms> accessed 21 July 2019.

¹⁶⁶ MDG – Millennium Development Goals

¹⁶⁷ Ibid 32

¹⁶⁸ S. Chaudhuri, 'Production and Employment Growth and Decline in Organized Manufacturing in India Since 1991' (2001) In International Conference, Beyond the Washington Consensus-Governance and the public Domain in Contrasting Economies: The cases of India and Canada, pg 12-14

¹⁶⁹ Ibid

significant amount of worker exploitation¹⁷⁰. India, on the positive side is upgrading, but without jobs thus can be termed it as the jobless growth inclusive of the Government and the public sector.

2. GENERAL CSR IN INDIA AND THE UK

CSR being a management concept whereby companies enhance social and environmental concerns within their business operations and interactions with the stake-holders in the board. In India the concept of CSR is governed by the section 135 of the companies Act 2013. The mandatory rules require the companies to set-up a CSR committee consisting of their board members, including at least one independent director encouraging the company to spend their 2% net profit from average last three years in CSR activities. They are also required to approve a CSR policy and disclose that to the companies official web page (if existing)¹⁷¹. Any failure to complying with any of the rule shall subject the board to further explanation as they are sole responsible¹⁷². On the other hand, the Companies Act, 2006 which is abided by the United Kingdom introduced a mandatory requirement for a business review in the director's report and applies all companies except which comes under the small companies regime. The statute contains the duty to promote the company's success for the benefit of the company's shareholder as a whole , that alters the duty to act in the best interests of the company. Assigned to these are the requirements that the companies are subject to rather than the small companies are, the companies must include their business review in their annual director's report which shall inform the shareholders which will

¹⁷⁰ S. Dzever, B. Gupta, 'Business process outsourcing industry in India: Additional benefits of a CSR approach' (2012) *Asian Business & Management*, 11(3), pg 273-289

¹⁷¹ Companies Act 2013, sec 135 (4).

¹⁷² Ibid

enable them to access to the information on the performance of the directors under section 172 of the Companies Act¹⁷³. The Companies Act 2006 requires the directors to deal in problems regards to the environment and community for promotion of their company which shall have traces in the Business Review about disclosures¹⁷⁴. A CSP website is sponsored by the U.K.¹⁷⁵ Government which says that “ an ambitious vision for UK business to consider the economic, social and environmental impacts of their activities, wherever they operate in the world”.¹⁷⁶

3. MANAGERIAL ATTITUDES TO CSR IN INDIA AND THE UK

In a survey done (A. Farooq and Adrian Atkinson)¹⁷⁷ several questionnaires were developed and, forwarded to functional companies in U.K. and India. It was sent to 200 companies in both the countries and the return percentage was 32.5% in U.K. and 10% in India.¹⁷⁸

After Analyzing the survey:

RELEVANCE OF CSR – According to the surveys 94% of the British executives and 98% of the Indian executives indicated that social responsibility has relevance to the business but there was relative decrease in the importance of the social goals to economic goals¹⁷⁹. Keim

¹⁷³ Companies Act 2006, Section 172.

¹⁷⁴ D.R.K. Agrawal, ‘A Comparative Study of UK Companies Act, 2006 And Indian Companies Act, 2013’ (2015) International Education & Research Journal [IERJ], Research Paper E-ISSN, (2454-9916).

¹⁷⁵ U.K. – United Kingdom

¹⁷⁶ ‘Our Commitment To Corporate Social Responsibility (CSR)’ (GOV.UK, 2018) <https://www.gov.uk/government/news/our-commitment-to-corporate-social-responsibility-csr> accessed 25 August 2019.

¹⁷⁷ A. Farooq Khan and Adrian Atkinson, ‘Managerial Attitudes To Social Responsibility: A Comparative Study In India And Britain’ (1987) 6 Journal of Business Ethics.

¹⁷⁸ Ibid

¹⁷⁹ Ibid

(1978) has already pointed out the difference between constraints of the business and goals of the business¹⁸⁰. There was not much contradiction of thoughts in a whole, it has already been stated by Keim¹⁸¹ in his research that rules might change over time, but the object remains similar¹⁸².

DEVELOPMENT FROM CSR – The potential gain in terms of Business even after the implementation of the CSR was believed by 85% of the business executives whereas, nearly 70% of the executives from U.K believed in potential gain from CSR. According to the discussion in the paper leaving the agreed, the rest executives from U.K. believed that the overall gains from corporate social involvement are likely to be very little instead they are negative in terms of business¹⁸³.

EFFECT OF LEGISLATION - The executives from both the nations doesn't differ in thoughts in much as the law is the supreme. The surveys convey that by the percentile of thoughts which is 81% in India and 85% in the U.K. The main problem that has been encountered and which can be evaluated from the paper is 'time', we all know time is an important factor for business and it incurs heavy cost as per the executives¹⁸⁴. The focus of the legislation is extensive on consumers, employees and the environment which at times is difficult to abide with the business¹⁸⁵. This is same in the field of the code of ethics which was not much supported in the said field either¹⁸⁶. Followed by the actions it was further

¹⁸⁰ G.D. Keim, 'Managerial Behaviour and the Social Responsibility Debate, Goals versus Constraints' Academy of Management Journal 21(1), pg 57-68.

¹⁸¹ Ibid

¹⁸² A. Werner and S. Webley, 'Corporate codes of Ethics: Necessary but not Sufficient' (2008) Business Ethics: A European Review 17(4), pg 405-415.

¹⁸³ Ibid 171, pg 422.

¹⁸⁴ J. Woodman and I. Kverndal, Towards social responsibility: Company codes ethics and practice (Surveys and Publications Department 1976) Bim.

¹⁸⁵ Ibid 171

¹⁸⁶ Ibid 171

found that several companies amounting to forty-one Indian firms and Forty-eight of the British firms were involved in CSR and the rest were developing initiatives to make it a mandate¹⁸⁷.

3.1 BRIDGE TO THE WELFARE GAP IN INDIA

The figure on the existing theoretical and empirical literature on the rationale behind CSR, is discussed under with the analysis of the potential implications of mandated CSR under the Indian Companies Act, 2013 on firm incentives, likely responses of corporates that come under the ambit of the law as the conditions mentioned below makes CSR a mandate as stated by Section 135 (1) of the ICA is every Company having net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more or a net profit of rupees five crore or more during immediately preceding financial year thus comes under the ambit of the law¹⁸⁸. The provisions of the new act have been designed to balance the objectives of the corporation and its shareholders, on one hand and that of the society and its stakeholders on the other. It has been seen in India that, the domain of CSR in India as outlined in several public policy documents as well as in the initiatives of corporates and various Industry associates is defined around socio-economic activities initiated towards meeting the development objectives of the country, while not necessarily sacrificing the economic objective of the corporates.¹⁸⁹

¹⁸⁷ H. Eilbirt and I.R. Parket, 'Current Status of Social Responsibility', Business Horizons (1973), pg 5-14.

¹⁸⁸ Section 135, Indian Companies Act 2013.

¹⁸⁹ Ibid 38

3.2 MANDATED CSR IN INDIA

The CSR in India is Governed by the section 135 of the India's Companies Act of 2013 which requires the firm satisfying specific size or profit thresholds undertake CSR activity¹⁹⁰. The section requires that firms satisfying certain size or profit threshold spend at least 2% of the average of their profit over their previous 3 years on CSR activity¹⁹¹. The schedule VII of the Act 2013 provides a wide idea of activities qualifying for CSR status for purposes of the mandate. The law requires the firms or the companies to establish a CSR committee of Board of directors after qualifying the conditions stated under section 135 of the ICA, 2013.¹⁹²

The committee is responsible for formulating the firms performance with firm's CSR policy, thereby ensuring 2% profits spent on CSR activity at the applicable fields which are also mentioned under the Schedule VII of the Act, 2013 and ensure the compliance of the objectives filled and, if not then find the reason for that. The net worth threshold is set to INR¹⁹³ 500 crores, the sales threshold at INR 10 billion and the net profit worth of INR 50 million, any firm meeting any of these are subject to the CSR in India¹⁹⁴. The India's Companies Act 2013 provides the only example to date of a legislative mandate to engage in CSR activity, and its threshold for applicability provide an extremely rare instance of quasi-experimental variation in CSR expenditures¹⁹⁵. These are not linked with any other sections rather than section 135 and apply to this particular

¹⁹⁰ (Gtw3.grantthornton.in) http://gtw3.grantthornton.in/assets/Companies_Act-CSR.pdf accessed 2 September 2019.

¹⁹¹ Ibid

¹⁹² Indian Companies Act 2013, Section 135.

¹⁹³ INR – (The currency for India) Indian National Rupee

¹⁹⁴ Ibid 186

¹⁹⁵ C. Flammer, 'Does Social responsibility lead to superior financial performance? A regression discontinuity approach' (2015) *Management Science*, 61(11), pg 2549-2568.

section . The net worth and sales threshold is fixed to a level that applies to around quarter of the Indian companies, while the net profit threshold is settled around the profits of the medium firms.

The Companies Act 2013 was launched on 29 August 2013 and, came in on 2015 fiscal year (fiscal year ending on March 31, 2015). The proposal was made on December 2009, later in the year 2010 the parliamentary standing committee recommended the mandatory CSR requirements, In August 2012 the bill was passed by the Lok Sabha in India which is the lower house of the parliament¹⁹⁶. Leaving this, there are several other steps which were linked and processed for the development of the mandated CSR even though it went through extensive debate over a number of years. India being the first country mandating the firms to spend over a percentage on socially responsible activities and if they fail, thereby requiring an explanation regarding the issue of failure to comply with the mandate. This being a part of the section 135 of the India's Companies Act 2013, which specifies the approach to CSR in two parts, first confirming firms are subject to section 135 and secondly the obligations of the firms¹⁹⁷. There has been new set of rules promulgated by the Ministry of Corporate Affairs (MCA) in 2014 which provides the list that satisfies the CSR spending's¹⁹⁸. The penalty for any firm and the responsible in connection with the firm in breach of section 135 has to bear INR 10,000 for the first day and additional INR 1000 per day if the violation continues¹⁹⁹. If the rules are violated twice within the period of three year's then the fine can be doubled²⁰⁰. Now, talking about the schedule VII of the ICA, 2013 there are

¹⁹⁶ A.R. Mukherjea, Parliamentary procedure in India (Oxford University Press 1958), pg 45.

¹⁹⁷ See Indian Companies Act 2013, Section 135.

¹⁹⁸ Schedule VII, Indian Companies Act, 2013.

¹⁹⁹ Indian Companies Act 2013, Section 450.

²⁰⁰ Indian Companies Act 2013, Section 451.

several rules and information stated under the schedule which clearly holds the clear view of the activities listed under the said schedule VII. The listed activities that can come under CSR in India, anything apart from these are not considered under CSR Span.

As discussed about the spending on CSR of the 2% of their average 3 years net profit, It is important to note that every year many companies give the reason for not spending money on CSR activities as being the reason CSR committee was not yet or still mentions to be in process of formation, therefore it can be considered as one of the loop hole which can be evaluated from this. The companies that comes under CSR in India can be any company incorporated in India including its holding or subsidiary. A foreign company having its branch office or project office in India are also liable for CSR activity. It is also important to note that the CSR fund can be utilized within the territory of India all the spending beyond the territory of India are not accounted as the CSR spending. The CSR projects or program that benefit only employees of the company and the employees of the company and their families and events like marathon, awards, charitable-contributions, advertisement, sponsorship, TV programs, etc are not considered as CSR expenditure or these does not qualify for CSR in India. Expenses incurred by companies for fulling other acts like labour laws and acquisition Act 2013, Apprentice Act 1961, etc are also not considered as CSR expenditure. Activities undertaken in pursuance of normal course of business and projects or program's undertaken outside the territory of the country does not get the recognition of the CSR expenditure. It is important to note that there is no tax benefit for CSR spending as per the rule in India but as per the direction by the Honorable Court of India to the MCA to treat medicine donations by drug maker to poor patient to mark as a CSR spending. The

Indian Government does not favor the tax benefits on the expenditures for CSR, as it can be termed as subsidy for the said company or the firm. Subsidy and CSR is not the same, yet the contribution to prime minister relief fund receives 100% tax benefit.²⁰¹

3.3 COMPANIES FOLLOWING CSR

Indian Corporate World in April 2014 woke up to a new reality spending time, money and efforts for the betterment of the societies which was made compulsory for some companies in the form of CSR. In the sense the companies were asked to share the burden of social development, the text shall deal with the act that enables CSR in India. CSR relates to the responsibility of the corporates or business houses, especially the bigger ones to engage bigger part of the wealth in philanthropic or charitable activities. On the lines of giving back to the societies, India is as mentioned perhaps the first country and single country to mandate CSR and the purpose behind it which can be concluded is the social development. The views of few big companies in India towards CSR are, Tata Motors has the corporate social initiative which are focused on improving the quality of life of underprivileged communities neighboring.

3.4 THE CSR ACTIVITIES

The possible CSR spending that are considered under the Schedule VII of the Indian Companies Act, 2013 are the slum area development, (Swacch Bharat Abhiyan) clean

²⁰¹ L. Jain, 'Corporate Social Responsibility' 2013, pg 19.

India, Clean Ganga Mission, etc. There are other activities which are in general considered in the radar of the Corporate Social Responsibility are:²⁰²

- Eradicating hunger, eradicating poverty, eradicating malnutrition, promoting health care
- Promoting education, employment enhancing vocation skills, livelihood enhancement projects
- Empowering women, setting up old age homes and hostels for women and orphans, setting up old age homes and day care centers.
- Animal welfare, agro-forestry, conservation of natural resources, etc.
- Training to promote rural sports nationally, recognized sports, Olympics and para-Olympic sports.
- Contribution to Prime Minister national relief fund or any other fund set up by the Central Government for Socio economic development and relief & Welfare.
- Rural development projects
- Contributions or funds provided to technology incubators located within academic institutions which are approved by the central Government of India.

[Contributions made to the political parties are not considered as CSR spending, but they can be assigned or get tax benefits from].

- Social business projects.²⁰³

4. SCOPE OF THE CSR IN THE UK

²⁰² Indian Companies Act 2013, Schedule VII.

²⁰³ Indian Companies Act 2013, Schedule VII.

The CSR has effectively been reduced to either a marketing or defensive exercise, and cannot become either a comprehensive mechanism for governing externalities or even a credible means of legitimating corporate capitalism in the face of its impacts on society in the UK.²⁰⁴ Under current political economic conditions such as quantitative easing, zero interest rate policy, household indebtedness, large pension fund liabilities and activist shareholders, the companies will not voluntarily take decisions which further sustainability. Hence, there is a pressing need to identify the “countervailing forces” that will create pressure for true social responsibility.²⁰⁵ A broader mandate to consider sustainability in decision-making, coupled with wider powers of appointment and representation on corporate boards, would be one way of steering companies towards taking account of the social and environmental costs of their activities. Until recently, there was little likelihood of such a change, with the “classic argument” for single constituency accountability holding a firm grip on policymakers, despite its “bracketing” effects. However, tentative signs of change in the wake of the UK’s referendum decision to leave the European Union. Surprisingly, given its historical opposition to the EU’s attempts to widen the scope of corporate governance, the UK is now considering far-reaching changes to corporate governance, including the reconstitution of boards and remuneration committees to include employee representatives. During her campaign to become Prime Minister in the aftermath of Brexit, Theresa May stated, “I want to see changes in the way that big business is governed So if I’m Prime Minister, we’re going to change that system—and we’re going to have not just consumers represented on company boards, but employees as

²⁰⁴ Andrew Johnston, *The Shrinking Scope of CSR in UK Corporate Law* (Washington and Lee Law Review, Vol. 74, Issue 2, Article 16, 2017), pp. 1001 – 1042.

²⁰⁵ *Ibid.* p. 1040.

well.”²⁰⁶ An initial Parliamentary inquiry was launched in September 2016, and the new Prime Minister announced that plans to put both consumers and workers on boards would be published before the end of the year. However, this commitment was withdrawn shortly afterwards.²⁰⁷ A Green Paper on Corporate Governance Reform followed in November 2016, canvassing, among other things, different possibilities for the representation of stakeholder interests within corporate governance, including “stakeholder advisory panels,” designating non-executive directors “to ensure that the voices of key interested groups, especially that of employees, is being heard at board level,” and strengthening reporting requirements.²⁰⁸ However, direct stakeholder representation on boards would remain a voluntary matter, with the Government “not proposing mandate the direct appointment of employees or other interested parties to company boards.” In brief, post-Brexit, and following other recent scandals that have undermined public trust in the way large companies are governed, UK corporate governance policy is now highly unpredictable. The current status quo is unlikely to persist, and limited reforms that broaden the scope of corporate law now look possible.²⁰⁹ Reforms that embed wider social responsibilities in law would represent a marked improvement on the current constrained voluntarist approach to CSR. They would make it more likely that companies will take greater responsibility for the impacts on society, reversing some of the legal changes that, since 1948, have greatly reduced the scope of CSR.²¹⁰

²⁰⁶ Theresa May, Member of Parliament, HOUSE OF COMMONS, We Can Make Britain a Country that Works for Everyone (July 11, 2016) (on file with the Washington and Lee Law Review).

²⁰⁷ *Ibid.*

²⁰⁸ Andrew Johnston, The Shrinking Scope of CSR in UK Corporate Law (Washington and Lee Law Review, Vol. 74, Issue 2, Article 16, 2017), pp. 1001 – 1042.

²⁰⁹ *Ibid.* p. 1042.

²¹⁰ *Ibid.*

CHAPTER 5:

CONCLUSION

In the end, the corporate governance is defined in various ways in accordance with its use and purpose. The researchers categorise its meanings and definitions by their perspectives which the corporations use to gain the benefits. Within the company, the agency and stewardship theories are considered whereas, external theories are managerial hegemony, resources dependency and stakeholders' theory. Generally, the corporate governance means procedures adopted by a company to control its management activities as well as it develops the relationship between board of directors and its shareholders. On the other hand, the corporate social responsibility is a relationship with the corporate governance system under which the company can achieve its economic, social, ethical and environmental objectives. The theorists by meanings and definitions, classify it into four groups; instrumental theory, political theory, integrate theory and ethical theory. Though, the theorists are failed to develop consensus regarding setting out the rules or parameters of its applicability, but they consider it a major tool of the company's success. Therefore, the both are interlinked and interdependent because corporate governance can work independently but the corporate social responsibility requires a good governance system within the corporation. It is a procedure, a strategy that a company can adopt in order to respond socially, ethically and environmentally to the society. However, it depends on the companies that how they perceive it. The companies can increase their profitability by incorporating the social responsibility principles into the governance system. Such engagement will increase the quality of the company's products and services which will attract more customers and overall build the image of the company. Both have numerous similarities to each other. The engagement in the social responsibility by a company make the managers being delegatee

of powers by the board of directors, liable to act and behave transparently and ethically towards the shareholders of the company.

Therefore, the CSR is a major tool for success of a corporation which engage the stakeholders but not only the shareholders. Under the CSR engagement, a corporation is responsible for its actions and impacts towards its stakeholders such as shareholders and consumers as well as the society.²¹¹ Although, there are no consensus among theorists regarding its meaning and definition but it is rapidly grown by various theories combine different approaches and techniques.²¹² In broader sense, it is about the impact of business on society and narrowly, it may be defined to the extent to which and the way, a corporation is responsible for its actions and the impact on its shareholders.²¹³ Therefore, different people at different places have their own unique way to define the CSR but commonly it is taken as beneficial for social cause and welfare for the society. The CSR has been conceptualised in terms of wide range of corporate behavior which at the extent starting with maximisation of shareholders' profit with the rules of the game.²¹⁴ These different meanings and definitions are classifying into four groups; instrumental theory, political theory, integrate theory and ethical theory.²¹⁵ In the instrumental theory, the corporate is responsible to generate profits. It has only economic interactions with the society. The political theory is about the powers of the corporation in respect of its duties and rights towards society. In integrate theory, the

²¹¹ Nada K Kakabadse, Cecile Rozuel and Linda Lee-Davies, *Corporate Social Responsibility and Stakeholder Approach: A Conceptual Review* (International Journal of Business Governance and Ethics, Vol. 1, Issue 4, 2005), pp. 277.

²¹² Elizabet Garrign and Domenee Mele, *Corporate Social Responsibility Theories: Mapping the Territory* (Journal of Business Ethics, Volume 53, Issue 1-2, August 2004), pp. 51-71.

²¹³ Archie Carroll, 'Corporate Social Responsibility: Evolution of a Definitional Construct' (Business and Society 38(3), 1999), p. 268.

²¹⁴ Ibid.

²¹⁵ Elizabet Garrign and Domenee Mele, *Corporate Social Responsibility Theories: Mapping the Territory* (Journal of Business Ethics, Vol. 53, Issue 1 - 2, August 2004), pp. 51-71.

corporation depends on society for its continuity and growth whereas, in the ethical theory, the corporation is responsible for society well-being and growth.²¹⁶ The model follows the board of directors, functions as a neutral coordinator of the contributions of and return to all stakeholders in the firm. The investors are especially briefed on the corporate board but protection to the interests of the other stake-holders are provided through a relaxation of the board's duty or incentive to represent only the interests of shareholders. As a result of the above mentioned the board is given the greater discretion to look after other stakeholder interests²¹⁷. Japanese companies often envy the fiduciary stakeholder model of company. In the study of the Japanese Corporate Governance 'Charkham'²¹⁸ asserted that the concepts are of 'obligation', 'family' and 'consensus'. They believe company is maintained by relationships, that can be between company and suppliers or customers and most importantly relations with the bank and the employees²¹⁹ hence they seek for long term preservation and prosperity not short time shareholders immediate values or profit maximization²²⁰. The example of Company who followed this type of system is Sony, they had the principle of eliminating any untoward profit seeking instead emphasized more on real substance as well as they did not go for expansion of size for just the sake.²²¹

Lastly, the CSR being a management concept whereby companies enhance social and environmental concerns within their business operations and interactions with the

²¹⁶ Ibid.

²¹⁷ Ibid 103

²¹⁸ J. Charkham, 'Keeping better company: Corporate Governance ten years on' (OUP Oxford) 108.

²¹⁹ M.J. Loewenstein, 'What can we Learn from Foreign systems?: Stakeholder Protection in Germany and Japan.' (2002) Tul. L. Rev.76: 1673-1674.

²²⁰ J.P. Charkham, Keeping Good Company: A study of corporate governance in five countries (1995, Oxford University Press)

²²¹ Ibid 112

stake-holders in the board. In India the concept of CSR is governed by the section 135 of the companies Act 2013. The mandatory rules require the companies to set-up a CSR committee consisting of their board members, including at least one independent director encouraging the company to spend their 2% net profit from average last three years in CSR activities. They are also required to approve a CSR policy and disclose that to the companies official web page (if existing)²²². Any failure to complying with any of the rule shall subject the board to further explanation as they are sole responsible²²³. On the other hand, the Companies Act, 2006 which is abided by the United Kingdom introduced a mandatory requirement for a business review in the director's report and applies all companies except which comes under the small companies regime. The statute contains the duty to promote the company's success for the benefit of the company's shareholder as a whole , that alters the duty to act in the best interests of the company. Assigned to these are the requirements that the companies are subject to rather than the small companies are, the companies must include their business review in their annual director's report which shall inform the shareholders which will enable them to access to the information on the performance of the directors under section 172 of the Companies Act²²⁴. The Companies Act 2006 requires the directors to deal in problems regards to the environment and community for promotion of their company which shall have traces in the Business Review about disclosures²²⁵. A CSP website is sponsored by the U.K.²²⁶ Government which says that “ an ambitious vision for UK business to consider the economic, social and environmental impacts of

²²² Companies Act 2013, sec 135 (4).

²²³ Ibid

²²⁴ Companies Act 2006, Section 172.

²²⁵ D.R.K. Agrawal, 'A Comparative Study of UK Companies Act, 2006 And Indian Companies Act, 2013' (2015) International Education & Research Journal [IERJ], Research Paper E-ISSN, (2454-9916).

²²⁶ U.K. – United Kingdom

their activities, wherever they operate in the world”.²²⁷ The CSR has effectively been reduced to either a marketing or defensive exercise, and cannot become either a comprehensive mechanism for governing externalities or even a credible means of legitimating corporate capitalism in the face of its impacts on society in the UK.²²⁸ Under current political economic conditions such as quantitative easing, zero interest rate policy, household indebtedness, large pension fund liabilities and activist shareholders, the companies will not voluntarily take decisions which further sustainability. Hence, there is a pressing need to identify the “countervailing forces” that will create pressure for true social responsibility.²²⁹ A broader mandate to consider sustainability in decision-making, coupled with wider powers of appointment and representation on corporate boards, would be one way of steering companies towards taking account of the social and environmental costs of their activities.

²²⁷ ‘Our Commitment To Corporate Social Responsibility (CSR)’ (GOV.UK, 2018) <https://www.gov.uk/government/news/our-commitment-to-corporate-social-responsibility-csr> accessed 25 August 2019.

²²⁸ Andrew Johnston, The Shrinking Scope of CSR in UK Corporate Law (Washington and Lee Law Review, Vol. 74, Issue 2, Article 16, 2017), pp. 1001 – 1042.

²²⁹ Ibid. p. 1040.

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