Corporate Social Responsibility and Environmental Ethics: The Indian Context

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Abstract

Corporates are traditionally known as engines for driving the economic performance of an entity, its success being measured in terms of high returns on equity at individual plane and its contribution to the nation's economic growth on a collective plane. Do they have any social or environmental responsibility? This paper begins with an attempt to define the concept of Corporate Social Responsibility (CSR) with relation to the newer concept of environmental ethics and extending to the boundaries of corporates involving themselves in the international carbon trading market. The paper would give reasons as to how exactly Carbon trading is an excellent answer to the prevailing disrespect shown by the Corporates against the Environment. Having defined the concept as it is commonly understood or as propounded by the theoreticians of CSR as an applied concept in the context of the environment, the paper seeks to examine the position in the Indian context, with some historical background, and the current practices, including the setting up of the National Authority, under the provisions of the Kyoto Protocol, laid down by the UNFCCC, and its compliance. The sustenance of these expanding environmental operations doesn't hold a future promise without adherence to the OECD principles, UN millennium development goals and the concept of CSR, which repeatedly are laying stress on realisation of the losses caused to the environment and the responsibility of corporates towards these losses. The generally accepted principle is that if a company has caused some damage to the environment, be it in the form of air or water pollution, it owes a debt to the society to make up for it. The issue is as to whether the march towards becoming environment conscious and socially responsible is how to chalk out a peaceful way of harmonizing the corporate world with ecology and environment.

Introduction

The Indian economy has been on a growth trajectory and recorded an annual growth rate of about 8% for the third year in succession. Post-liberalisation policies of 1991 have a significant visible impact. Further, the corporate sector accounts for a major part of this growth story by way of its contribution to the secondary and the tertiary sectors of the economy. Indian markets offer vast business opportunities for the international business and this interest is visible from the investment coming from overseas corporate world. The Indian corporates are also increasingly acquiring an important role in international operations as can be seen from the acquisitions of overseas businesses by the Indian companies and their role with respect to their environmental responsibilities.

The United Nations Framework Convention on Climate Change (UNFCCC) was adopted in June 1992 by over 180 countries at the .Earth Summit in Rio de Janeiro and came into force on 21 March 1994.[1] The UNFCCC provides a legal framework that enables Parties to the Convention to start the process of stabilising Greenhouse Gases (GHG) in the atmosphere. The Kyoto Protocol adopted under the UNFCCC in December 1997, came into force on 16 February 2005.[2] The Kyoto Protocol commits industrialised signatory countries (.Annex I. countries) to reduce their GHG emissions by an average of 5.2%, compared with 1990 emissions during the period 2008-2012 (often referred to as the first commitment period).[3] Under the Kyoto Protocol, Annex I countries may achieve these emission reductions either domestically or by supplementing their domestic efforts through three international market-based or flexible mechanisms which will be discussed later. The Kyoto Protocol sets targets for industrialised countries to cut their GHG emissions like carbon dioxide, methane, hydroflurocarbons, perflurocarbons and sulphur hexafluoride, nitrous oxide. These gases are mainly responsible for global warming, the rise in global temperature, which may have catastrophic consequences for life on earth. The targets for reducing emissions then become binding on all the Annex 1 countries, which have ratified the Protocol. The two main industrialized countries, which have not ratified the protocol, are Australia and United States.[4]

The agreement acknowledges that developing countries contribute least to climate change but will quite likely suffer most from its ill-effects. These countries do not have to commit to specific targets, but have to report their emissions levels and develop national climate mitigation programmes. China and India, potential major polluters with huge populations and growing economies, have both ratified the Protocol. As of now, 165 countries have ratified the Protocol.[5]

The paper attempts to combine the concepts of CSR and environmental degradation, with special emphasis on carbon trading and the role of corporates to comply with their CSR y involving themselves in the carbon trading market and in this way, have a profitable business and a reputation of being socially responsible at the same time. The first section of the paper defines the concept of CSR, with special emphasis on CSR in the Indian Context. The second section describes the environmental degradation and the role of corporates to counter the same.

Corporate Social Responsibility (CSR)

There is no universally accepted definition of CSR. There are varied views on what CSR is and what it is not. Having become a buzzword in boardrooms and the media, CSR is more often misunderstood as giving back to the society and considered to be synonymous with philanthropy. The dominant school of thought is that CSR is no philanthropic activity and a business must earn for what it invests. The company does it for its own long term good. Drawing a parallel with 'Publicity' and 'Public Relations', it is argued that philanthropy could earn 'publicity' but CSR, like 'Public Relations' is a long term investment with assured returns. It advocates that *CSR constitutes a series of initiatives taken by a company in its enlightened self-interest.*

Definition of CSR

It would be interesting to derive a meaning of the concept with the dissection of each of the words. CSR is not a difficult concept and can be explained as[6]:

- Corporate – means organised business;
- Social – means everything dealing with people, the society at large;
- Responsibility – means accountability between the two.

From the above, CSR could be defined as the process of business operations carried out while ensuring compliance with legal requirements, as also linked to ethical values, to an extent. 'CSR means open and transparent business practices that are based on ethical values and respect for employees, communities and the environment. It is designed to deliver sustainable value to the society at large as well as to the shareholders'[7].

Now, there is no single, commonly accepted definition of CSR, even across global corporate bodies. It refers to business decision making linked to ethical values, compliance with legal requirements, and respect for people, communities and their environments.[8] CSR is seen as more than a collection of discrete practices and occasional gestures or initiatives motivated by marketing, public relations or other business benefits. Rather, it is viewed as a comprehensive set of policies, practices and programmes that are integrated throughout business operations and decision-making processes.[9]

The concept of CSR is based on the idea that besides public authorities, companies also should take on responsibilities of social issues. According to more recent approaches, CSR is seen as a concept whereby on a voluntary basis social and environmental concerns are integrated in the companies' business operations and in the interaction with their stakeholders.[10] The idea of being a socially responsible company means to go beyond legal compliance and to invest in *human resources and the environment*.

An external programme of good deeds will not protect a firm whose actual operations harm its surrounding society.[11] Thus, being purely philanthropic externally is not enough. Also, at the same time, complying with the law is the minimum behaviour to legally stay in business and has nothing to do with the society's expectations, which are essential for the word 'social' to have any meaning in CSR.

The Indian perspective

Broadly speaking, there are two views with regard to the CSR in India. The first view, considered to be more conservative, is that if a company is legally compliant and has been equitable in terms of (i) distribution of income and surplus, (ii) truthful and transparent in its disclosures, (iii) provision of a safe and healthy environment for its workers, (iv) payment of timely dividend to shareholders, (v) takes care of the qualitative and service aspects of its business with regard to their customers, and (vi) prompt in after-sale services, it is compliant with the principles and tenets of CSR, which it owes to all its stakeholders in some way or the other.

However, the other school of thought takes its operations beyond the narrow confines and believes that this is not CSR, but this is the point where CSR begins. According to this view, a company simply becomes a good corporate citizen by doing all this but it still has a long way to comply with its CSR. Here, CSR is loosely referred to what a company does, apart from its obligations, for example, development of surrounding areas like parks, roads, hospitals, day-to-day services; taking care of the interests of people who are connected with the company, e.g. shareholders, people living in surrounding areas who suffer because of the company's day-to-day activities like degradation of environment in terms of pollution, deforestation, etc. In all such cases, the company owes a duty to the society to make up for the damage caused by them and also to provide them better conditions for living, as they have been an important part of the growth of the company.

CSR does not mean that the company has to indulge in philanthropic activities. There is a thin line of distinction between CSR and Philanthropy. What we are talking about here is CSR, and certainly not philanthropy, a concept which does not entail any legal obligation or pressure.

A further insight into the concept of CSR takes us to the two broad approaches to CSR. The first approach is the *Traditional Approach*. The basic theme of this approach is "doing good to look good". Basically, this approach was followed for a long time, till recently, and the companies following this approach undertook to perform their CSR only for the sake of it, only because it would fetch them recognition in the market. It did not practice these activities because it was genuinely interested in the well being of the society. The mere reason behind it was to build its corporate image. Commitments were short term, allowing the organization to spread the wealth over a variety of organizations and issues through the years.[12]

The new approach or the *Modern Approach* has its underlying objective, "doing all that we can to do the most good, not just some good". It supports corporate objectives as well. This is a win-win situation for all because when a particular company does well to the society genuinely and for a cause, it has to be good, and along with this process, it succeeds in building a name for itself.

The million-dollar question as of now is whether CSR has been or should be mandated or not. As of now, there is no law that recognizes or enforces the concept of CSR, but still companies do comply with their responsibilities, which may be for their personal gains to their reputation, name or even profits. The debate as to whether there should be a law to enforce the concept of CSR has recently arisen and with the passing of various judgements by various courts in India, including the Supreme Court of India, precedents have been set which go in favour of CSR acquiring the statutory backing and are in specific reference to the environment. Following cases deserve a mention:

- **National Textile Worker's Union Vs. P.R. Ramakrishnan**[13]

It was held by the Apex Court in this case that the traditional view that a company is the property of the shareholders is an exploded myth. According to the new socio-economic thinking, a company is a social institution having duties and responsibilities towards the community in which it functions. Obviously the Hon'ble Supreme Court of India is referring to CSR, when it talks of 'duties and responsibilities' towards the community. The generally accepted view is that if a company has the resources and has come a long way in its progress, it owes a debt to the society and the community in which it has progressed. Also, it is agreed that if a company has caused some loss to its surrounding areas, it is its obligation to make up for that loss, whether technical or environmental, as a part of its CSR.

- **Panchmahals Steel Ltd. Vs. Universal Steel Traders**

In this case, the Gujarat High Court has pointed out that a company has three-fold reality:

- Economic reality
- Human reality, and
- Public reality

It also noted that keeping the environment clean is a sentiment gaining momentum after the Bhopal Gas Tragedy of 1984.

- **Birla Zauri Agro Chemical Ltd., Goa Case (April 1975):**

In this case, the Goa High Court ordered the closure of the company's operations because the effluents of the company were polluting the sea causing large-scale deaths of fish and also polluting the wells of villagers and damaging the crops. Here the company was obviously violating the environment laws. The company has a statutory duty in such cases to take care of the pollutants and maintain the environmental balance. It follows the principle that the polluter pays. As a responsible corporate citizen, the company should have set up an effluent treatment plant not only as a part of its statutory obligations but also in fulfillment of its CSR objectives.

Now, since this paper discusses the role of corporates towards their CSR and especially towards the environment, further emphasis is being laid on CSR and the novice concept of carbon trading, in the wake of the recent problems arising out of global warming and the awareness in this respect, especially in India.

Environmental degradation by Corporates in India

One of the major provisions of Indian State Policy is to maintain environmental standards along with promoting economic growth. However, the same becomes difficult, as it has to be implemented through the archaic bureaucratic lines that still haunt the country's basic political and civil system.

Indian Corporates in the contemporary times have taken full advantage of this 'not so strict' environmental control by the government and have been successful in maximizing profits for themselves. However, over the last few years the Indian Corporates are realizing that it is in their favour that they adhere to their social responsibility and grow in a manner that is more sustainable. Indian Industries have opened up post 1991 reforms that took place in the country allowing freedom from strict rules and regulations that had made working of Indian Industries very difficult. In this post reform scenario, Indian industries have widely increased the production capacities and basic infrastructure leading to increasing amount of pollution." With the increasing liberalization and globalization of the Indian Economy it seemed almost axiomatic to assume that the greening of India would only be successful if it was made into a paying proposition in commercial terms".[14]

Indian Companies like Reliance group of Industies, Tata Steel Group and other big corporations have created a lot of hassle and trouble in the environment over the post 1991 scenario. Therefore, it is imperative for such corporations to pay back to the community as a whole in order to compensate for there activities. E.g. The Indian Oil Corporation refinery at Vadinar in Gujarat has been a cause for huge marine pollution over the past years.[15] The refinery has polluted the Western Coast of Indian through Oil spillages, oily wastage etc.

Carbon Trading at the Indian Level

Carbon trading is an umbrella term that includes the trading of GHG reduction credits that were defined in the 1997 Kyoto Protocol of the Climate Change Convention, first drawn up in 1992. The key idea behind carbon trading is that, from a global point of view, where carbon dioxide comes from is far less important than total amounts. The carbon market which enables emissions to be cut with the minimum price tag creates a choice: either spend the money to cover the costs of cutting pollution (emissions), or else continue polluting (emitting), and pay someone else to cut their pollution.

There are two main ways to exchange carbon. The first is the cap-and-trade scheme whereby emissions are limited and can then be traded. Under Kyoto Protocol Annex I countries can trade between each other. The European Trading Scheme is a cap-and-trade scheme and the largest companies-based scheme around. It is mandatory and includes 12,000 sites across the 25 European Union member states. The compliance is critical and under Kyoto obligations, industrialised countries have 100 days after final annual assessments to pay for any shortfall- by buying credits or more allowances via emissions trading. Failure to do so leads to further penalties.[16] There are also some voluntary cap and- trade schemes. The Chicago Climate Exchange is such a scheme. Interest in carbon trading at regional level is increasing in America, even though the US Government has decided not to ratify Kyoto Protocol. In voluntary schemes, there is no provision of a penalty.[17]

The Kyoto Protocol laid down the excellent idea of Carbon Trading at the Global level with various countries having specified amount of Carbon Emissions Limit.[18] Presently, various Indian Companies are practicing carbon trading, but the same is being done at the international level. Although India has no commitments to fulfill as it is a part of the Non annex – I countries in the Kyoto Protocol but a system which can actually replicate the international system of carbon trading at the domestic level would give India the first mover advantage. Due to the same, India would solve, in advance, the problem of fulfilling the commitments raised by Environmental protocols in the future and at the same time; the Indian Industries would be able to sell off the surplus carbon credits to countries outside.

It is obvious and definite that with India coming up as an international hub for trade and commerce, the pollution levels of the country would rise. In that case, there would be protocols on the international level that would restrict Indian activities to curb emission outburst. Therefore, if India can actually learn something from the contemporary system of carbon trading then India would not have to face the issue and its implications in the future.

The concept of Carbon Trading can be used at the domestic level within India where the large corporates can be given a certain amount of carbon credits and whoever exceeds the same can be penalized. This plan should be restricted only to the bigger corporates in the first phase and the smaller corporates in the second phase. The Indian corporates shall be divided on the basis of their production levels calculated in terms of the net worth of production in Indian Rupees. Further, the Corporates shall be assigned with carbon credits based on their net worth production. This is imperative because there is a direct relation between their Corporate Social Responsibility and their contribution to the economy of the country. The amount of credits shall be revised after every five years through a survey conducted by the national authority setup under this plan.

It is obvious that the bigger players would be in the need of larger amount of carbon credits as compared to the smaller players within this large industry group. Therefore it is imperative that sale and purchase of carbon credits is also allowed at the national level. The same is again a reiteration of the concept as mentioned under the Kyoto Protocol. The benefits of such a plan on the domestic level would be immense, if and only if the plan is executed at the grass root level through a very efficient and able national authority, to be setup under this plan. The industries would now refrain from exceeding their carbon-emitting limit, as it would act as an automatic deterrent on their profits. The plan would benefit the smaller players and would encourage them to reduce their carbon emissions so that they can sell off their excessive carbon credits.

It is imperative that the carbon trading being done at the domestic level has a completely different and separate system so that the national carbon units and the international carbon units are not combined and confused, which would otherwise lead to a mockery of the trading system. The fundamental thought behind this is that trading would take place at two parallel levels that do not intersect or interfere with each other. It can be reasonably approximated that a system of sale and purchase of carbon credits would actually incite the Indian Corporates to reduce pollution and start taking up jobs that would further help the environment. Companies all over the world are doing the same but the important thing is that at this stage and for the Indian companies, it is not mandatory, as India is a non-Annexure 1 country.

Two Indian refrigerant companies, one from Gujarat and the other from Haryana are leaders in global carbon trading. Vadodra-based Gujarat Fluorochemicals Ltd (GFL) is likely to see its bottomlines grow more by selling carbon credits, a waste product, than their main business, refrigerants. In the last quarter, Gurgaon-based SRF made Rs 149 Crore from the transfer of CERs; its net profit stood at Rs 89 crore. GFL was the first Indian company to get registered for a CDM project in March 2005 for 3 million CERs. Out of the total CERs issued by the *National CDM Authority*, SRF and GFL have close to 40 percent between them. India alone has 59 % of the world total.[19] It is a reflection of the preparedness Indian enterprises have shown in exploiting a new opportunity. *The Energy and Resources Institute*, or TERI, a nonprofit group in India has partnered with the Chicago Climate Exchange to help South Asian Countries reduce greenhouse gases while selling carbon credits to polluting companies in the United States. The project will offset 1.5 million tons of carbon dioxide emissions over 18 months.[20]

In fact the G-8 summit being held at Berlin this year from 6-8 June, 2007 is mainly for the purpose of discussing climatic change due to the greenhouse gas emissions and the role of countries in this regard. Only time will tell whether such talks are useful in persuading the 8 most industrialised nations to reduce their economic expansion activities and care a little more for mother nature.

Conclusion

As of now, India is still not ready for a substantive law for the enforcement of CSR. However, certain judicial pronouncements are a positive indication that the country is slowly getting ready for such a law. India is coming out of the traditional view of '*doing for the sake of it*' and coming forward and realising their responsibilities. When the concept of CSR begins to be understood as a business oriented concept, without which the business would become difficult, it will be the time when India may be ready for statutory backing to the CSR. Notwithstanding the above and any amount of sermonising on the CSR platform, ultimately we have to remember Milton Friedman's famous quote that *"the business of business is business"*. It reinforces the view that all CSR is driven by business interests and it is best left to the judgement of a corporate as to what makes good business.

Globalization has been a force that has been all-pervasive and has impacted India in a great way. It has led to a new global order and the success of a country lies in its ability to face the upcoming challenges, and to emerge in the global order with a winning outlook. The way India has responded to the Kyoto Protocol has been commendable and it has created a lion's share for itself in the global carbon trading market. This is a perfect example of India's resilience and its capability to modulate its policies in a changing world arena. It is also very crucial for India to capitalize on this success and to further consolidate its market share. It will face a lot of competition from countries like China and Brazil in the carbon market in the near future. It will ask for great foresight and management skills of the Indian companies to fend off such competition in carbon trading.

India should also try to develop industrial techniques and production methods, which utilize renewable sources of energy. The best technique to match up to the challenges brought about by globalization is to anticipate the future commitments under international treaties and obligations. India will have to cut its GHG emissions under the second commitment period of the Kyoto Protocol, which starts from 2012. India should try to frontload its preparations to meet its commitment under the Kyoto Protocol and concentrate on harnessing renewable sources of energy. The right approach is to understand that the environmental problems should not be read in isolation, they have a direct impact on the economic condition and human development in a country. India should frame its environmental policies and legislations keeping this aspect in mind. The United Nations Millennium Development Goals should be the leading light in any such exercise, which are strived for by all the member-nations of the United Nations.

[1] 'The United Nations Framework Convention on Climate Change' *available at* <http://unfccc.int/essential_background/convention/items/2627.php> as visited on 21 October at 1640 hrs.

[2] .Q&A: The Kyoto Protocol. *available at* <http://news.bbc.co.uk/2/hi/science/nature/4269921.stm> as visited on 23 October 2006

[3] The Kyoto Protocol sets targets for industrialised countries to cut their GHG emissions like carbon dioxide, methane, hydroflurocarbons, perflurocarbons and sulphur hexafluoride, nitrous oxide.

[4] The adoption of a pro-active approach has been suggested in the Montreal Climate Change Conference 2005 to engage other main actors, notably the US. See .Montreal Climate Change Conference 2005.*available at* < http://www.bbc.co.uk/climate/policies/climate-conference.shtml > as visited on 23 October 2006.

[5] 'Kyoto Protocol', *available at* < http://unfccc.int/kyoto_protocol/items/2830.php > as visited on 25October 2006

[6] ICSI, "Corporate Governance", 4th ed., 2006, p. 299

[7] Ibid.

[8] Partners in change, "making corporate social responsibility your business", slide 1.

[9] Ibid.

[10] Tatjana Chahoud, Johannes Emmerling, (et. al), 'Corporate Social and Environmental Responsibility in India- Assessing the UN Global Compact's Role" May, 2006, p.12

[11] UNCTAD'S 1999 report on The Social Responsibility of Transnational Corporations

[12] Philip Kotler and Nancy Lee, "Corporate Social Responsibility", 1st ed. at p. 8.

[13] AIR 1983 SC 759

[14] "India`s Environmental Concerns", Process of greening by the Indian Industries, by Kamal Nath, Pg. 21.

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[15] Report published by Paryavaran Mitra : Friends of Environment, http://paryavaranmitra.org.in/misc/marine%20pollution.doc, as last visited on 21/5/2007.

[16] The non-complying Party is to make up the difference between its emissions and its assigned amount during the second commitment period, plus an additional deduction of 30%. In addition, it shall require the Party to submit a compliance action plan and suspend the eligibility of the Party to make transfer under emission trading until the Party is reinstated

[17] Q&A: The Carbon Trade. *available at* < http://news.bbc.co.uk/2/hi/business/4919848.stm > as visited on 23 October 2006

[18] "Documents in International Environmental Law", by Philippe Sands & Paolo Galizzi, Second Edition.

[19] Abhishek Kapoor, .Green to black: India Inc tops carbon trading, firms cash in. *available at* <http://www.indianexpress.com/story/15354.html >as visited on 24 October 2006 at 1200 hrs.

[20] 'New fund-raising route for clean tech projects'. *available at* <http://www.thehindubusinessline.com/2006/08/23/stories/2006082303030900.htm> as visited on 14 October 2006.