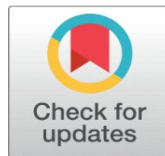
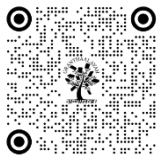


IMPLEMENTATION OF CORPORATE ENVIRONMENTAL RESPONSIBILITY IN INDIA: A POSITIVE STEP TOWARDS FULFILLING NATIONAL OBLIGATION OF THE SUSTAINABLE DEVELOPMENT GOALS

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ABSTRACT

The environment is a global disquiet in the twenty-first century. Its amelioration has become the responsibility of the individuals, governmental and non-governmental organisations. In this context, corporate establishments also play a significant role as one of the world's important stakeholders. To encourage the corporate sector to prioritise environmental improvement, the concept of 'corporate environmental responsibility' has been established. It is an advanced concept of corporate social responsibility, having relevance for the environment in India. It encompasses several environmental and societal factors that align with the United Nations' Sustainable Development Goals. Considering the role of corporate environmental responsibility, this paper attempts to assess the sustainability of the initiative in India. Besides this, previous directives in this motion have been analysed to identify gaps and covering factors in this regard. This comes with several scopes of action and presents challenges in its implementation. Accordingly, several gaps in the existing directives and the Indian form of corporate environmental responsibility, as well as inconsistencies, have been identified, which need to be addressed to achieve better results.

Keywords: Corporate Environmental Responsibility, Corporate Social Responsibility, Sustainable Development Goal

1. INTRODUCTION

In the present scenario, India has emerged as one of the thriving markets, as well as a suitable economy for businesses to flourish. Governments in the country have encouraged the entrepreneurial interests of the people and attracted external business interests. This provided the bulk of the establishment of companies in India. More than 24.2 lakh companies have been registered in India, and 62% of these registered companies are actively engaged in business (Ministry of Corporate Affairs, 2023). The total paid-up capital of these companies is almost Rupees 50 lakh crores. According to the financial year 2022-2023, only 24,392 companies have contributed almost 29,988 crores rupees to corporate social responsibility mentioned under Section 135 of the Companies Act, 2013 (Ministry of Corporate Affairs, 2023). Education and the environment were among the primary sectors of interest for companies in India. However, the damage caused by corporate business practices is so substantial that the entire amount of contribution under corporate social responsibility is measurably inadequate. Besides this, one of the significant factors is that only companies that

fulfil the economic threshold according to the legal provision are allowed to perform corporate social responsibility as well as environmental responsibility (Samantara & Dhawan, 2020, p. 97). Such companies must also be profitable enterprises. In recent scenarios, several companies have been observed that are utilising all environmental resources and fulfilling the interests of their stakeholders. Still, in the report for the financial year, those companies could not be profitable or have yet to earn profits, and escaped responsibility for the environment and other sectors mentioned under corporate social responsibility. The gap has been pointed out by the Ministry of Environment, Forests, and Climate Change, Government of India, and the concept of corporate environmental responsibility has been borrowed (Ministry of Environment, Forests & Climate Change, 2018). Through this initiative, all companies in India have been targeted, and a policy has been framed to ensure that companies cannot escape their environmental responsibilities in India.

2. CORPORATE ENVIRONMENTAL RESPONSIBILITY- MEANING

According to T. P. Lyon and J. W. Maxwell, the term 'corporate environmental responsibility' can be defined as, "environmentally friendly actions not required by law, also referred to as going beyond compliance, the private provision of public goods, or voluntarily internalising externalities" (Lyon & Maxwell, 2008, p. 2). The literal spirit of responsibility allows or encourages achieving anything beyond the periphery of interest. It begins with a smaller mission and gradually develops with morality. The environment requires a similar notion from all, including artificial identities like companies. An identical explanation of the term can be a voluntary function of corporations to upscale the environment, reduce ecological dependence for wealth gain, and mitigate pollution. None of the defining organisations has formally defined the term. However, in India, a specific office memorandum has been published mentioning the term. According to the office memorandum, corporate environmental responsibility encompasses pollution control, environmental protection and conservation, R&R, wildlife and forest conservation or protection, among other aspects (Ministry of Environment, Forest & Climate Change, 2018). To establish the economic threshold for prescribing contributions to fulfil environmental responsibility, the office memorandum mentioned the amount of capital investment and the additional capital investment of the company.

3. CORPORATE SOCIAL RESPONSIBILITY IN THE INDIAN CONTEXT: LEGAL SHORTCOMINGS

Section 135 of the Companies Act provides for corporate social responsibility. The provision filters companies by setting specific standards depending on various factors. According to the provision, companies with a net worth of ₹500 crores or more, a turnover of ₹1,000 crores or more, or a net profit of ₹5 crores or more in the last financial year will be required to adopt corporate social responsibility. The amount of corporate social responsibility must be at least 2% of the average net profit gained in the last three financial years or from the date of incorporation, whichever is earlier. The provision strictly clarifies the exclusion of companies that do not meet the above-mentioned net worth, turnover, or net profit requirements. Schedule VII of the Companies Act 2013 mentions various activities for environmental betterment as corporate social responsibility-related activities. Apart from this, the provision on corporate social responsibility unfortunately leaves an option of escape for companies that fulfil the mentioned economic standard but are unprofitable in the last three financial years or from the date of incorporation. Although it is a fact that legal provisions enforcing corporate social responsibility policies open a window for environmental improvement, they limit the scope due to the various economic thresholds that companies face.

4. CORPORATE ENVIRONMENTAL RESPONSIBILITY IN INDIA AND ITS EXECUTION

Corporate environmental responsibility has been enforced through an office memorandum issued by the Ministry of Environment, Forests, and Climate Change, Government of India. Paragraph 3 of the office memorandum issued by the mentioned ministry on corporate environmental responsibility addressed the issue. It also mentioned that a company, after incorporation, generally requests environmental clearance from the relevant authority, and the environmental responsibility of companies begins with the capital investment. Paragraph 6 of the 2018 office memorandum provided detailed guidelines for implementing corporate environmental responsibility. It was mentioned that the cost of corporate environmental responsibility is envisaged for the implementation of the environmental impact assessment or environmental management plan. The purpose of the initiative encompasses pollution control, environmental protection, environmental conservation, rehabilitation, resettlement, wildlife protection, wildlife conservation, forest

protection, forest conservation, calculated value-based afforestation, compensatory afforestation, and any other activities identified in the environmental impact assessment process. As mentioned in the memorandum, various activities can be carried out in fulfilment of corporate environmental responsibility. Those are, drinking water supply related installation or infrastructure, sanitation, health, education, skill development, roads, cross drainage, rain water harvesting, solar power installation and electrification, solid waste management infrastructure, scientific support to the farmers and awareness to generate more crops and fodder, soil moisture conservation works, avenue plantation, plantation in community areas, etc. In the office memorandum, the maximum percentage for corporate environmental responsibility has been specified, depending on the level of capital investment. A company that invested rupees one hundred crores or less can spend a maximum of two per cent of the capital investment in a greenfield project and one per cent of the additional capital investment in a brownfield project. A company that invested more than rupees one hundred crores to five hundred crores or less can spend a maximum of 1.5 per cent of the capital investment in the greenfield project and 0.75 per cent of the additional capital investment in the brownfield project. A company that invested more than five hundred crores to one thousand crores or less can spend one per cent of the capital investment in the greenfield project and 0.5 per cent of the additional capital investment in the brownfield project. Companies that invested between one thousand crores and ten thousand crores can spend 0.5 per cent of their capital investment in the greenfield project and 0.25 per cent of the additional capital investment in the brownfield project. A company that invested more than ten thousand crores can spend 0.25 per cent of the capital investment in a greenfield project and 0.125 per cent of the additional capital investment in a brownfield project. (Ministry of Environment, Forest and Climate Change, 2018).

The 2018 office memorandum enforced corporate environmental responsibility on all companies, including those not obligated to comply with corporate social responsibility. In 2020, the office memorandum was challenged before the Delhi High Court in the CREDAI v. Union of India (WP(C) No. 13252/2019). The administrative growth and the legal questions raised relevant questions regarding the enforceability of corporate environmental responsibility in India and other related matters.

5. CORPORATE ENVIRONMENTAL RESPONSIBILITY VIS-À-VIS SUSTAINABLE DEVELOPMENT GOALS: EXISTING SCENARIO

The environmental initiatives prescribed for companies in India also correlate with several international guidelines. The goals set for sustainable development in 2015 at the United Nations Summit are binding on India and its various frameworks, which are working collectively to fulfil national obligations. Sustainable development goals have been established through the voluntary interest of nations and various stakeholders worldwide. Nations are also taking steps forward with directives and other measures to fulfil the goals within the accepted timeframe. The initiative of corporate environmental responsibility also aligns with several key goals of sustainable development outlined in the Sustainable Development Agenda. The 3rd goal of the Sustainable Development Goals is good health and well-being, which can be partially fulfilled through the performance of corporate environmental responsibility. The 6th goal of the Sustainable Development Goals is clean water and sanitation, which can also be fulfilled through activities under the initiative of corporate environmental responsibility. The 9th goal of the Sustainable Development Goals is to build an environment of resilient infrastructure and sustainable industrialisation, requiring innovation. All the factors mentioned in the 9th goal of the Sustainable Development Goals align with corporate environmental responsibility initiatives. The other goals mentioned under the agenda include climate change and its impacts, the conservation and sustainable use of marine resources, the sustainable use of terrestrial ecosystems, the sustainable management of forests, and action against desertification and biodiversity loss, among others, which also directly or indirectly relate to the activities mentioned as corporate environmental responsibility. (Bexell & Jonsson, 2017)

The 17th goal of the Sustainable Development Goals was mentioned as 'partnership for the goal'. It includes partnerships with governments, non-governmental organisations, private institutions, corporate organisations, and any other organisation or individual required for achieving the Sustainable Development Goals. This encourages governments of the countries to obligate corporate establishments or work collectively as partners towards the goal. Corporate environmental responsibility fulfils the collective approach as well as voluntary action towards achieving the Sustainable Development Goals mentioned by the United Nations. (Anyachebelu et al., 2021).

6. CHALLENGES AND OPPORTUNITIES IN THE IMPLEMENTATION OF CORPORATE ENVIRONMENTAL RESPONSIBILITY IN INDIA

Companies in India perform to fulfil specific interests mentioned in the documents and legal provisions. In the event of any additional directions, companies generally resist performing the same unless they have been enforced through the competent authority or the directions of competent stakeholders. In this regard, implementing corporate environmental responsibility in India may be achieved by addressing several challenges, which are discussed below. Apart from this, when a company chooses to use environmentally friendly energy and works towards this goal, it fulfils its environmental responsibility and takes a step towards achieving the 7th goal under the Sustainable Development Agenda.

1) Corporate Resistance

Companies will have to bear an additional burden to fulfil environmental responsibility by sharing a portion of the profit earned from the capital and additional investment. Further stakeholders need to be acknowledged and consented to establish a parallel mechanism that fulfils environmental responsibility. Such an additional task would require human resources and skills. Regular operational methods and supply chain mechanisms can be impacted by such additional effort (Liu et al., 2023).

2) Market Disruption

Companies would bear the cost of environmental responsibility and surely try to gain additional profit to offset the expenditure and fulfil their environmental obligations. This will increase the cost of production, and consumption may be affected due to cost sensitivity among consumers. In this scenario, sustainable and cost-effective alternatives must be sought, and further investment in research and development is necessary, which cannot guarantee an immediate or effective solution (Liu et al., 2023).

3) Lack of Established Regulatory Mechanism

According to the office memorandum, various competent authorities have been mentioned that were supposed to regulate the process. However, these authorities have been granted only limited powers but not provided adequate resources to oversee the process. The issue may have arisen because these authorities lacked sufficient expertise in addressing environmental factors. It can also be observed that in the case of any dispute relating to policy implementation, no authorities have been mentioned as the institution for resolving the issue. (Alsayegh et al., 2020).

4) Issues Relating to Non-compliance

If any company fails to uphold corporate environmental responsibility, it will not face consequences, as no mention has been made in any memorandum regarding this matter. In this manner, companies that are not obligated to perform corporate social responsibility would enjoy non-compliance. In this manner, the responsibility is not strongly obligatory but rather voluntary, which can be neglected (McBarnet et al., 2008, p. 497).

Besides the aforementioned challenges to implementing corporate environmental responsibility, companies, governments, and individuals have various opportunities for its implementation in India. These have been discussed as follows.

1) Corporate Green Image Development

India is at a stage of development that relies on various cost-effective activities, although they are not environmentally friendly. Primarily, traditional work procedures are also responsible for various forms of environmental pollution. In this scenario, a large number of consumers have become interested in choosing environmentally friendly products. They also enquire about the manufacturing process and supply chain. For this purpose, several companies have adopted environmentally friendly manufacturing processes and supply chains, which have helped build a green image in consumers' minds and attract them. If a company demonstrates corporate environmental responsibility, it also helps in developing a positive green image of the company (Widyastuti et al., 2019, p. 296).

2) Environmental Burden Sharing

In India, governments, non-governmental organisations, and various other institutions are working tirelessly to improve the environment. However, such a massive improvement can only be achieved when each sector takes responsibility for making India a better environment than the present scenario. Companies in India have the potential to share some of the burden, as it is also part of the nation's growth. Companies have various important resources which is required for environmental betterment. Firstly, corporate firms operate within a formal framework that includes checks and balances in the process of directing and executing work. Secondly, it has adequate human resources with the necessary knowledge and skills. Thirdly, companies with adequate economic resources, a portion of which can be utilised for environmental improvement, research, and development. Fourthly, Companies are among the major polluters of various environmental factors, having an accountability to reduce or neutralise pollution, restore all affected environmental parts, and compensate when restoration is impossible (Zhou & Jin, 2023, p. 14).

3) Environmental Betterment

India is at a stage of development characterised by a high dependence on fossil fuels, advanced economic machinery, and polluting manufacturing processes. There is great importance in working for environmental betterment. Various steps can be taken in different spheres, such as the use of renewable energy, pollution control and neutralisation, water treatment, water conservation and management, biodiversity conservation, forest conservation, and afforestation. However, the 2018 office memorandum on corporate environmental responsibility mentions various dimensions, encompassing the environment and related spheres. (Anyachebelu et al., 2021).

4) Innovation and Development of Eco-Friendly Products and Supply Chain

If companies are committed to fulfilling their environmental responsibilities, they may also seek various alternatives to reduce and neutralise pollution arising from the company's regular activities. Such activities include manufacturing, distribution through the supply chain, and the entire product life cycle, with scope to do the same without affecting the environment. For this purpose, companies must seek environmentally friendly alternatives, which will undoubtedly encourage research and innovation. The demand for environmentally friendly materials, machinery, and innovative processes leads to the development of greener mechanisms, resulting in environmental improvement (Liu et al., 2022).

5) Public Awareness and Community Engagement

One of the best opportunities is to raise public awareness, including stakeholders and other people in India. People with an interest in the company can be aware of the activities and conduct that affect the environment, as well as alternatives that can be taken to minimise or mitigate the impact on the environment. Additionally, other individuals witnessing the environmental activities of companies will also become aware of their environmental responsibilities. Corporate environmental activities also encourage business communities, as well as other communities with responsibilities, to make a better environment (Zeng et al., 2019, p. 18).

7. CONCLUSION AND SUGGESTIONS

The directive enforcing corporate environmental responsibility is likely a substitute mechanism for companies in India that are not obligated to adhere to corporate social responsibility. It also covers companies that have a corporate social responsibility policy, as outlined in Section 135 of the Companies Act. The concept of corporate environmental responsibility has been enlightened by the Ministry of Environment, Forest and Climate Change of the Government of India through several office memoranda in 2018 and 2020. The directive focuses on all companies and divides corporate environmental responsibility according to an economic threshold, depending on the initial capital investment and any subsequent investments. However, companies that invest less have been burdened more compared to those that invest more. Such a type of unjust directive on the part of companies can be marked as discriminatory. Apart from this, the establishment of an effective mechanism comprising effective regulatory bodies and dispute redressal is yet to be developed. The sectors mentioned in the 2018 office memorandum relating to corporate environmental responsibility not only cover all environmental factors but also other sectors that fall under corporate social responsibility. It is also evident that various sectors have been overlapping with initiatives under corporate social responsibility, which may lead to constant confusion and legal disputes regarding both responsibilities. However, corporate environmental responsibility may have a separate area of work, but it also fulfils the role of corporate social responsibility. From this perspective, it can be stated that the implementation of corporate environmental responsibility can serve more than as a substitute for corporate social responsibility. Additionally, corporate environmental responsibility.

In the assessment of the sustainability of the corporate environmental responsibility with the analysis of the directives in India, several gaps have been found with respect to the specificity of the different initiatives, legal provisions, the regulatory mechanism, and dispute redressal. Along with these factors, several steps can also be taken to strengthen corporate environmental responsibility initiatives, aligning with the Sustainable Development Goals. The author hereby suggests some of the steps to the concerned stakeholders for the better implementation of the initiative.

- 1) The Office Memorandum, which mentioned the amount to be used as corporate environmental responsibility, is clearly discriminatory as it directed a higher amount to be expensed by the companies investing less as compared to the larger investing companies. This should be re-evaluated, and a suitable percentage of the investment shall be prescribed. Such an amount should cover the total yearly environmental damage caused by the company's operations.
- 2) The directive must be specific, crystal clear and must be legislated within the company laws through the parliamentary process. Such a directive should ensure that sectors covered under one initiative do not overlap with the other initiatives. The legal provisions must contain a framework that regulates the initiative and works jointly with companies to execute directives. Apart from this, a dispute redressal shall be established or delegated to any of the quasi-judicial bodies.
- 3) Companies shall be obligated to perform corporate environmental responsibility of a minimum sum of their investment and should be acknowledged with certification. In case of more expenditure in the initiative, companies must get some relaxation in the commercial taxation as an encouragement.
- 4) In case of non-fulfilment of the environmental responsibility, such a company should be directed to perform under civil liability within a specified period of time or property of the said company shall be attached to recover the sum of the environmental responsibility.

CONFLICT OF INTERESTS

None.

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