

STATE, MARKET AND CIVIL SOCIETY IN THE PROCESS OF DEVELOPMENT: EVALUATION OF THE CORPORATE SOCIAL RESPONSIBILITY PROJECTS IN INDIA

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Abstract:

This paper intends to critically evaluate the development initiatives under the gambit of Corporate Social Responsibility (CSR) in India. The transforming nature of state, market and civil society relationship in the light of evolving regulatory and institutional aspects pertaining to CSR claims to rest on the tenets of development goals. It is being assumed as one of the assertive steps towards the involvement of market actors in the development discourse of the country. India, through Section 135 of the Company's Act 2013, promoted the dialectic of CSR with an affirmation that it aids development goals. However, the dynamics behind the same, as explored through this paper have many other socio-political and economic underpinnings. Through the exploration incorporated in an analytical reasoning mode, the retrospect and prospects of development initiatives through CSR is aimed at. The paper would intend to assess the characteristics and prioritization of growth of CSR in the contemporary development discourse. In a critical overview, this paper examines the burgeoning issues surrounding the development approaches through CSR.

Key Words: Corporate Social Responsibility, Companies Act 2013, Development, Globalization

Introduction

Subsumed under the gambit of Corporate Social Responsibility (CSR), the assumed roles of state, corporate sector and civil society have been under speculation in the academic debate and practicing field of the contemporary times (Kakabadse and Morsing 2006). The concept of CSR has an evolutionary history and architecture built on the signals of the market (Mares 2008). The contemporary account of CSR is associated with the globalization debate and the trajectory built on the neoliberal paradigm.¹ The definitional domain of CSR has

¹ A detailed discussion on Neoliberalism is beyond the scope of this paper. It is set out in brief here. *See*(Harvey 2005). The decade of 1970's witnessed emphatic turns towards the neoliberal ideals globally. The political-economic practices started to be based on the features of deregulation, state's withdrawal from areas of welfare provisions and privatization. In the due course, almost all states and the newly formed ones after the collapse of Soviet Union embraced the neoliberal framework to operate. The developments are marked by voluntary

witnessed wavering situations. Encapsulating the framework of evolution, it has been observed that the growth of corporations has yielded long winding debates pertaining to the contested meanings of profitability Vs responsibility in the CSR domain (Ward 2004).

An enquiry into CSR and development paradigm in India requires aiming at exploring the answers that are far more pertinent than rather only focussing on the factors of economic value creation. An analysis of role of state actions, corporate strategies and civil society initiatives with respect to CSR delves deeper into the dynamics interplaying between different actors of governance archetype and tries to find answers of the transforming relationship between state, market, civil society and citizenry. Investigation of such nature would attempt to aim at providing a framework which could positively explore main issues for addressing the conundrum which exists in the Case of CSR projects in India while being popularly claimed to undertake development initiatives.

This paper is divided into three sections. The first section attempts to provide a brief account of the socio-economic and regulatory changes pertaining to CSR, assessing its place in the contemporary development discourse. The next section puts emphasis on providing an empirical account of the actors and funds involved in CSR after the enactment of Section 135 of the Companies Act, 2013. Third section attempts to provide a critical analysis of the development initiatives of CSR before the enactment of law and the drivers for the same, in the wake of two case studies. The argument is summed up by assessing the envisaged endeavours post Section 135 vis-à-vis analysing the political and strategic implications. In a critical overview, examining the inherent shortcomings of development approaches through CSR in the wake of the new legal mandate, a collegial methodology to address the same could be looked into.

CSR and the Contemporary Development Discourse

An enquiry into CSR and contemporary development paradigm in India requires aiming at exploring the answers that are far more pertinent than rather only

decisions by the states at many instances and as a result of global pressures at many others. Furthermore, the proponents of neoliberal way gradually started to occupy influential positions in the key policy making bodies internationally and within the countries. The international institutions such as International Monetary Funds (IMF), World Bank, The World Trade Organization, United Nations Organization (UN) evolved to work with the neoliberal underpinnings. Neoliberalism gradually has become pervasive and 'hegemonic as a mode of discourse'. The process of neoliberalism has transformed existing constructs related to division of labour, welfare provisions, technological perspectives, social relations and overall way of life. The logic of neoliberalism by valuing market exchange as 'ethic in itself' has the ubiquitous capabilities to mentor actions of the governance participants. The ideals of neoliberalism hold that social good is maximized by maximizing the interplay of market actors at a greater rate.

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Backed by the neoliberal ideals, contemporary developments in the field of CSR urge research to delve deeper into the aspects of emerging role of corporate sector in the public domain and the strategic role of the state in transplanting CSR into its policies and law (Gunningham 2008). There have been arguments and deliberations from the proponents as well as the opponents that the corporations have both pressures and incentives from multiple quarters that translate into self-regulatory attributes of CSR (Parker 2002). Such attributes are based on the voluntary schemes. The recent development in this arena showcases a shift in the self-regulatory behaviour that aims towards an enhanced public role of the corporations in social development endeavours.

The current international governance arrangements have led to the enhanced recognition of the corporations in the global economic activities (Cerny 1995). The states play hosts to operational activities of the corporations. Such activities, on one hand are claimed to augment growth potential and technological advancement for the host states, whereas on the other hand it has been witnessed as well as argued that the unfettered corporate actions pose significant threat to the communities, resources and larger development aspects (Banerjee 2007). Therefore, state and supra-state² associations globally co-operate to facilitate the self-regulatory corporate behaviour through the promulgation of international frameworks on CSR applicable to corporations operating across nations.

The support to the corporations from the state and supra-state forums could be understood as an outcome of the ever growing stature of corporations in global trade, investment and economic arena (Scherer and Palazzo 2011). The responsive roles of the state and supra-state forums have led to the increased focus in the role of corporations in global business regulation and global development discourse through inclusion of the social responsibility paradigm. As a result, the contemporary scenario of global governance exhibits the process of delineating and implementing multiple frameworks pertaining to public

² Post globalization discourse has focussed on deploying a barrage of distinctly geographical prefixes such as “sub”, “supra”, “trans”, “meso” and “inter” to describe multiple emergent social processes that appear to operate below, above, beyond or between entrenched geopolitical boundaries (Brenner 1999). As the ‘denationalization of state’ facilitated by globalization has significantly decentred the role of the national scale as a self-enclosed container of socio-economic relations, a wide range of supra-state forms of territorial collaboration came into being (Jessop 1997)

goods, economic aspects and development approaches (Cutler, Haufler and Porter 1999). This is carried out through multilateral and polycentric groundwork with multiplicity of actors and systems and most prominent being the states, the corporations, international institutions, civil society actors³ and citizenry (Braithwaite and Drahos 2000). The novel forms of global governance framework from above and beyond the state have led to the decline in state centred governance mechanisms which were earlier based on command and control regulatory paradigm.

India got exposed to the new global order in the decade of 1990s. The advent of globalization was marked in the country through the structural adjustment policies and resultant liberalization of economy (Gupta, Basu and Chattarji 2009). The implication of globalization could be assessed at multiple junctures in the country. One such vantage point is the renewed interest in CSR that was seen through a strategic attribute of state-corporate-civil society relationship. Corporate entities in the present times have evolved to be important actors of economic growth. State claims that it cannot apprehend its survival in the competitive global milieu without the operations of market actors creating avenues for economic growth (Donaldson and Dunfee 1994). The proliferation of corporations is a result of such dependence of nation- state as well as international governance architecture on the market actors that create wealth, maximize profits and cater to the employment and consumer needs.

The operations of the corporations in the era of globalization are fraught with the ideas of costs, benefits, transactions and competition. Due to the burgeoning controls of corporate sector in economic growth arena, the adoption of CSR as a necessary practice was carried out primarily to neutralize the negative impacts of corporations and brand building (Banerjee 2007). As a result, CSR emerged as persistent 'management fashion keyword'. However, due to the growing inconsistencies and aberrations in the corporate conduct and states' duties, the international governance arena changed in the realm of corporate responsibility. The greater state control over private corporations could not be a reality in the neoliberal paradigm and thus states had to create an environment where

³ As per Edward Shils "Latterly the term 'civil society' has come to be used very loosely as equivalent to 'liberal democratic society'. They are not entirely the same and the difference between them is significant. In civility lies the difference between a well-ordered and a disordered liberal democracy" (L.Cohen 1994).

Civil society, in the context of this research work could be interpreted as "a sphere of social interaction between economy and state." The civil society is institutionalized through subjective rights, self-constitution and self mobilization with a goal of stabilizing social differences. Non-Profit sector especially international non-government organizations (NGOs), domestic NGOs, grass-root organization etc are included in the concept of civil society with respect to this paper.

corporations could operate freely. The demands of a globalised environment require a commitment from the states to ratify corporate behaviour and create avenues for corporate legitimacy in the communities and markets they are operating. Therefore CSR witnessed a transformation primarily in the era where the international avenue was swarming with the stories of state incapability, corporate misconduct and market failures.

Indian story narrates the similar illustration, as prominent at the global level. The CSR practices in the current socio-economic and political milieu is considered as a strong strategic instrument which has manifold advantage for corporations and in terms the state wherein civil society emerge as a third sector (Fennel 2007). The issues of economic frailty are dealt with by creating space for CSR in policies, programmes and legislations and providing consensual legitimacy for corporate sustainable wealth maximization. This leads to corporations create market transactions in the state resulting in profit and economic growth. The transplantation of international CSR in the India's structural and regulatory framework, however, is confronted with many paradoxes.

The Indian example of has traversed into a new schema wherein the state has taken cognizance of the fact that social responsibility from the side of corporations could be better harnessed through the action-oriented approach as the state brings out legal provision and regulatory transformation to streamline CSR practices for development agenda. The results of such actions of the state in India has been brought out in the form of CSR regulatory provisions in the newly enacted Companies Law (Section 135 of the Companies Act 2013) which replaced the 56 years old Companies Law.⁴

Contextualizing CSR in India

Corporate Social Responsibility (CSR) has gained momentum amidst accelerated processes of liberalization wherein the role of corporate actors increased and the state's role diminished in the governance arena. At this vantage point, multiple factors have led to a requirement for revamp in the business attitude towards social development goals, responsible use of profits and accountability (Idowu and Filho 2009). As per UN Industrial Development Organization (UNIDO), CSR is a mechanism to strike a balance between economic, environmental and social imperatives which are more popularly known as "Triple Bottom Line".⁵ The

⁴ The Companies Act 1956 is an act of Parliament that dealt with various aspects of the companies operating in India. This Act is now in the process of being replaced by Companies Act 2013 passed in the Parliament on 29 August 2013.

⁵ 'Triple Bottom Line' is a phrase first coined by John Elkington in 1994, which was later used in his book *"Cannibals With Forks: The Triple Bottom Line Of 21st Century Business"* directing towards a new approach of businesses taking into consideration social, economic and environmental accountability

main aim of CSR is mostly discussed to be of addressing the expectations of both direct and indirect stakeholders. This is how CSR strategically goes beyond business management, charity, philanthropy or social marketing in present times (UNIDO 2013).

The Companies Act 2013 which is said to be a reformed version of the Companies Act 1956, got accent of the Indian Parliament on August 29, 2013 and notified in the Official Gazette on August 30, 2013. The preceding Companies Bill 2012 was formulated with an aspiration of elucidating aspects of governance, disclosures, compliance and audits along with the new additions like small company, one person company, dormant company etc. got passed in Lok Sabha as of December 18, 2012 as Companies Bill, 2012. In a marked advancement from the existing Companies Act 1956, the new Companies Act, 2013 focuses on the provisions of corporate governance and brings forth the concept of CSR into the legal regime through section 135 of the Companies Act 2013 (Ministry of Corporate Affairs 2013).

Section 135 of the Companies Act 2013 seeks to provide that every company having net worth of Indian Rupees (INR) five hundred crore or more or a turnover of INR one thousand crore INR or more, or a net profit of INR five crore or more, during any financial year shall constitute the corporate social responsibility committee of the Board of the company. This committee has the basic requirement to comprise of three or more directors, out of which, at least one director should be an independent director. The composition of the committee shall be included in the Board's report. The committee is also expected to recommend the amount of expenditure to be incurred and monitor the policy from a time-to-time (Pricewaterhousecoopers Pvt. Ltd. 2013). The Board is also guided to disclose the contents of the policy in its report, and place it on the website, if any, of the company. The provision explains that the companies would be required to spend at least 2% of the average net profits⁶ of the immediately preceding three years on CSR activities, and if not spent, explanation for the reasons thereof would need to be given in the annual report. The committee shall formulate the policy, getting inspirations from the activities specified in Schedule VII of the Companies Act 2013.

The decision making capabilities on the CSR spend being essentially engendered with the corporate entity is a vital point of deliberation in the contemporary development. The guiding principles to CSR are being observed to come into foray at multiple avenues and most dominantly corporate actors are playing all

⁶ Part I Section 3 (d) of the Draft CSR Rules explains 'Net Profit' for the section 135 and these rules shall mean, net profit before tax as per books of accounts and shall not include profits arising from branches outside India. that was later changed in the Final CSR (Policy) Rules Section 2 (l) of mentioning that "Net Profits" means net profit of a company as per its financial statement prepared in accordance with the applicable provisions of the Act.

the essential roles of planning, implementing and monitoring. The law focuses on two aspects of CSR which gives essentially 'soft law' feature to the legislative fabric. First, the minimum 2 % spend on CSR clause also mentions, if the company is not able to spend on CSR activities despite of qualifying into the category of companies who should take up CSR, they can explain the reason in the annual report (Section 135 a). Secondly, there is a provision of mandatory disclosure of CSR spend in the annual report of the company but not on how the activities should be formulated and put into practice.⁷ This aspect shows a shift of the regulatory provision to 'comply or explain' model. It can also be argued while witnessing such developments in the state-corporate-civil society dynamics, that CSR is based on the values prepared by businesses to be acceptable and negotiable and state needs to facilitate a hybridized regulatory framework that essentially provides visibility and recognition to the corporate actors as one of the vital participant in the governance framework portraying them as development partners (Braithwaite and Drahos 2000).

Explaining cotemporary picture of CSR in regulatory and development parlance, one of the important features is the transcendence of the public/private divide through multi-stakeholder task-sharing development initiatives. The basic organizing principles of this framework consist of the governance set up having increased participation of non-state actors in shaping public policy, public-private collaboration, the interaction of multiple spheres of authority (Rosenau 2007). This facet aims towards more decentred space; showcasing the permeability of both state and corporate actors convoluting with each other (Black 2007). The newer forms of development agenda encompass noteworthy changes from the authoritative position of law to more facilitative one. The mentioned aspects of the CSR in India set out a tone of discursive changes within the development discourse.

The Need for CSR Development Projects: A Retrospective Analysis

The purpose of CSR rule-making needs to be understood within the analogue of the historical progression of the CSR discourse in India (Crowther and Nicolas 2008). The new era of CSR denominate its visitation after the nefarious instances

⁷ Intriguing structural development in the CSR regulatory space can be marked by the launch of BSE - Corporate Social Responsibility Index. An outcome of the Memorandum of Understanding (MoU) between BSE and IICA on September 23, 2013, BSE- CSR index is designed and rolled out to measure the CSR performance of the companies. The launch of S&P BSE Greenex and Carbonex indices are introduced for corporate reporting on non-financial governance and performance. *See* India Corporate Responsibility Reporting Survey 2013 (KPMG) and Corporate Social Responsibility in India Potential to contribute towards inclusive social development Global CSR Summit 2013 An Agenda for Inclusive Growth (EY).

of corporate irresponsibility in the decades of 1990s and 2000s. The origin of CSR rulemaking could be observed during 2008 and succeeding years when the impact of market failure and global slow-down were witnessed. The role of state in reforming corporate imagery becomes an important point of deliberation while analysing CSR paradigm shift. All such advancements in the CSR space has been a result of gradual worldwide movement towards the socially responsible behaviour emanating out of charity, philanthropy, trusteeship, reduction of state control, fall of welfarism and corporate misconduct. Most recently, concerning the empirical evidence of decentred regulation accelerating the pace towards superior efficacy of state-corporate synergy, the purpose of state ratified CSR has been to build a structurally responsive market for the overall growth and development impact on state through hybrid regulatory frameworks (Black 2007). In the next sub-section, a retrospective analysis of the emergence of CSR as a development alternative in the wake of two case studies of corporate violations have been set out, in order to assess resultant CSR projects and the requirement of the same.

History of the Emergent Need for CSR: Impacts of Corporate Actions

Corporations' capricious actions being more focussed in creation of wealth and not on sustainable methods to operate led to violations pertaining to social and environmental issues. The maleficent issues related to procurements, market competition, depletion of resources began causing social upsurge from multiple quarters globally. Whether business behaves responsibly while creating wealth, using resources, managing supply chain gradually became a part of larger global scrutiny. In 1990s when India adopted Liberalization, Privatization Globalization model (LPG), the uncontrolled behaviour of corporations started coming into public eye globally. Such incidents led to massive unrest from the side of communities, consumers and other stakeholders leading to an attempt of transformation in corporate behaviour from wealth maximization to sustainable wealth creation in a fiercely competitive environment (Campbell 2007). In order to understand the corporations' transformation towards socially responsible behaviour, it is worthwhile to analyse selected examples of the socio-economic and environmental violations inflicted by leading multinational corporations operating in India. The succeeding two case studies of the corporate non-compliances and conflict attempt to understand the implications of maleficent actions of the corporations and how it has led to the present day framework of CSR.

A. The Case of Coca-Cola India

The analysis of the case The Coca-Cola Company ground water pollution and depletion in Kerala reveals the fact that irresponsible corporate behaviour has caused mass unrest leading to financial implications and international shaming

to the firm. In 2007 the state government of Kerala issued a show-cause notice to the company asking why the criminal case should not be filed against them. The Pollution Control Board (PCB) found out the issues of gross environmental non-compliances with large amounts of cadmium in the industrial sludge of the processes, that was contaminating groundwater and making it unfit for human consumption (Torres, et al. 2012). The tests by the British Broadcasting Corporation (BBC) as well as Outlook magazine confirmed the pollution by the Coca-Cola Company in Plachimada, Kerala. The violation resulted into massive social turbulence leading to closure of the Plachimada bottling plant. The closure caused considerable financial losses and brought bad reputation to the company. Another such incident took place in the Uttar Pradesh where the Coca-Cola Company had located its bottling plant in Mehdiganj, a rural and agrarian area. Coca-Cola's bottling plant, which was in operation since 1999, caused severe damage to the groundwater resources in the area – both through over-exploitation as well as pollution of groundwater and the soil. The company faced farce globally as well as mass social unrest locally. The news reports on 20 June 2014 stated:

Authorities in northern India have ordered the closure of a Coca-Cola bottling plant at the centre of protests that it is extracting too much groundwater. [...] An anti-pollution official said the Mehdiganj plant in Varanasi in the state of Uttar Pradesh had breached the conditions of its operating licence, prompting the order of closure earlier this month (The Guardian 2014)

The plant however, was given permission to resume the operations with a condition from National Green Tribunal (NGT) that the stay will be effective if the company keeps its production up to 600 bottles per minute. The company will not be able to increase production capacity till it gets a clearance from the Central Ground Water Authority (CGWA). Otherwise, the stay will not be effective (Business Standard 2014).

B. The Case of Vedanta

The multinational firms setting up their business operations in the country have been observed to have gotten into conflicts and violations of human rights and environmental regulations (Banerjee 2007). The stories of mining sector in India resound with this narrative. The case of bauxite mining by Vedanta in the tribal terrains of Rayagada and Kalahandi districts of Orissa led to conflicts in the land rights of the forest communities which caused heavy discontent among indigenous population (Sahu 2008). There have been media reports pertaining to possible collusive practices between multinational companies and the state representatives coming to limelight. Such stories insinuate instances at corruption, kickbacks and malpractices from the side of corporations, non-

government actors and state. One such news report from BBC South Asia as cited below reads:

Investigations have shown that while the government receives paltry royalties from private mining companies, a few influential oligarchs in collusion with politicians have made massive profits. No wonder that for many in India, mining has come to epitomise the ugly underbelly of economic liberalisation - crony capitalism and rampant loot of natural resources. The mines ministry now admits that mining activities have resulted in little local benefit and, in fact, has been at the cost of environmental degradation. [...] Now the government plans to amend a 54-year-old law to make it mandatory for mining companies to put in place rehabilitation and resettlement programmes for the people affected by their activities and protect the environment. Otherwise, as the government itself concedes, mining will continue to contribute to social dissatisfaction and unrest. India cannot afford to stop mining if its economy has to grow. But it needs stronger regulation and a fair deal to the communities that live on lands rich in minerals (Thakurta 2011)

The role of media in broadcasting the news of corporate wrongdoing has been witnessed at many instances. The public revelation of such incidents results into global embarrassment and disgrace (Hill 2005). Thus the dynamics of interconnectedness to be understood in this example makes it clear that the issue of non-compliance and violations of basic rights of the communities in which the corporation is operating is no longer a local issue, rather it has global implications on the financial as well as non-financial aspects of a corporate actor. The incidents like such reiterate the corporations to take up CSR as a corrective tool in a self-regulatory manner, voluntarily taking up socially responsible behaviour.

The foregoing examples suggest that the case of CSR in India and the renewed development interest has a vital connect to the multiple stories of violation and non-compliances by the corporations that were noticed in the country. The instances did produce disrepute to the corporations globally. Examining the current scenario, CSR of both the firms - Coca-Cola Company and Vedanta, in the present times showcase adoption of development projects that primarily match their business case and covers up the wrongdoings of the past. While Coca-Cola India largely exhibits its involvement in 'Water Stewardship' and 'Environmental Management' through community engagement projects; Vedanta essentially focuses on showcasing the projects that have been taken up in area of operation with attention on improving health and livelihoods of the neighbouring communities.

Prospective Consolidation of CSR: Development Alternative or Corporate Legitimization?

Indian example of development and CSR directs towards the analysis of contemporary scenario to understand the entanglement that exists at multilevel frameworks (Gjølberg 2011). It is calculated that approximately 16000 companies would be influenced by the CSR legal provision. It has been widely discussed by the policymakers that the main aim to make CSR a part of legal provision is to build a forum where one has a unified format and equal level of interactions for companies (Better Healthcare Through CSR: Partnerships and Innovations 2013). Dr. Bhaskar Chatterjee, Head of Indian Institute of Corporate Affairs (IICA) argues that the legislation framework of India concentrates on the main aim to concretize the initiatives so that they are more projects based and have a partnership model wherein if one participant has put in money into a project, more money could flow from other partners and the project goals become easier to attain.⁸

The structural features of the Indian state post liberalization has been ever changing, however, the primary *modus operandi* of the state remains of a provider of public goods and services but at the same time it is expected to provide a feasible environment to operate for the market actors too. The past experience of Indian case shows that the state naturally plays an important role in the functioning and development. State's intent in formulating a precise legal provision of CSR clearly aims at providing the corporations with a legal structure in the form of the corporate law by ensuring self-regulatory rights. This is assured through the responsive regulatory attributes to perform the function of furnishing the economy with legislation, regulation and structural changes.

The experience of the past with the previous CSR Guidelines has not been as envisaged. Although it was said that the DPE Guidelines⁹ and National Voluntary Guidelines¹⁰ would essentially be dealing with CSR provision and there would not be any case of corruption as such but the desired results of development impact could not be witnessed. Citing an interview with a CSR representative of a Public Sector Undertaking (PSU) revealed that the money of CSR provisions were used by the involvement of political parties into the same.

⁸ Based on the keynote address by Dr. Bhaskar Chatterjee in the Conference "Better Healthcare through CSR: Partnerships and Innovations" held at India International Centre on September 24, 2014 (Better Healthcare Through CSR: Partnerships and Innovations 2013)

⁹ Department of Public Enterprise Guideline on Corporate Social Responsibility and Sustainability for Central Public Sector Enterprises, April 2013 (http://www.dpemou.nic.in/MOUFiles/Revised_CSR_Guidelines.pdf)

¹⁰ National Voluntary Guidelines on Social, Environmental & Economic Responsibilities of Business 2009 (http://bcsd.teri.res.in/index.php?option=com_project&pid=5&Itemid=493)

The PSUs faced oversight by elected officials as well as the political processes.¹¹ The respondent was of the opinion that the DPE Guideline, although, set up in the year 2010 did not prove to be a successful innovation as it was envisaged to be and faced political overshadows. Citing an anecdotal instance during interactions, a representative from IICA¹² stated, “PSUs have involvement of government at all levels and they do not face pricing processes and system of the market. There has been little competitive pressure and thus the influence of voter support; election results and political collusion were faced leading CSR provisions not making any tangible and remarkable achievements post DPE regulatory guidelines.” It was often accused that the CSR funds were misappropriated by the political fountainheads for the purposes as desired by them (Maira 2013). The apprehension which the new CSR and development setup brings in, is the risk of political capture or collusive practices by the actors of the tree sector economy in the country to the CSR endeavours.

It could be seen that the decentred regulatory space is spreading rapidly in different sectors. Regulatory institutions have initially started in the country in a more centralized form like SEBI and moved to infrastructure, telecom and power sector etc. The new form of regulatory structure that has been evolving in case of CSR, however, differs from its predecessors (Dubash and Morgan 2012). From the experiences in the past and assessment of the new CSR space, it could be argued that the main ambition of the set of responsibilities being assigned to the new institutions from state and civil society, CSR specific role of existing regulator such as SEBI, role of credit rating body to be played by BSE and enhanced CSR regulatory role of coming up with codes and guidelines to confederations like FICCI and CII is to fortify decentred regulatory space which aids larger market oriented interactions legitimizing corporations as development partners. The measurability of the CSR projects, their consolidation to policy framework and their contribution to holistic socio-economic development, however, still remains a major concern.

The Way Forward

The main challenge of the new CSR structure though based on the novel intertwining of the self-regulation, responsive state strategies and contemporary development aspects; face challenges of decision making that should be on techno-economic grounds and insulated from being politicised. In practice we are yet to observe how operations of such regulatory decisions remain techno-economic and not influenced by political content (Dubash and Morgan 2012).

¹¹ Based on the interview held with a CSR representative of a leading PSU on October 18, 2013

¹² Based on interaction held with a representative of School of Corporate Law, IICA on February 14, 2014

CSR in India required a deliberative, incorporative way of setting up the structures aiming at democratic participation through the expressive facet of law, reflecting or changing the social meaning concerned with CSR and development (Fennel 2007). The retrospective analysis of the past experience has set out a trajectory wherein the structural innovations planned in case of CSR could not yield desired and tangible results and are replete with the instances of political capture and project failures with no or negligible positive social-economic impact in development (Banerjee 2007).

To sum up, it could be argued that the expressive aspect of legal provision has reconciled with the autonomy of the corporate actors allowing them to impact the decision of law to stimulate social meaning of CSR. Similarly, on the other side of the conundrum the risk of political capture to the legal regime remains. This could adversely impact the illustrative and co-operative features recently added to the CSR and development parlance that could otherwise have led to fructifying results on attitudes and behaviours (Engle 2004). Through this paper, it was observed that the issues of fraud and non-compliance of the corporations has been there in the Indian case. The situation wherein state agents are in position to carry forward political capture on CSR initiatives, they have managed to do so. Similarly, the corporations, at many instances have influenced the state and civil society actors to circumvent mandatory requirements, offer kickbacks or initiate collusive practices in the name of development. Therefore, it is argued; the states as well as the corporate actors, at many instances have misused their power, economic autonomy and privilege positions to misappropriate CSR for their respective vested interests.

The collegial methodology to the implement successful development projects through CSR could only be achieved if a consolidated framework is attained ensuring the new regulatory regime to be free from political overshadows and through co-ordinated support of all the actors in the three sector economy (Donaldson and Dunfee 1994). The present step of consolidating CSR through a legal mandate and bringing the same to a time bound project mode still faces issues of planning and implementation. It's neither practical nor logical for state, corporate and civil society actors to work at differential tangents to engage in the types of CSR projects that does not match the business case of corporate, does not provide tangible impact to country's welfare goals and does not involve people's participation through civil society actors. The so called best-practices of CSR could only be collegial if development endeavours are coordinated through interdependent programs free from arbitrariness, cross cutting the goals and portfolios of state, corporate as well as civil society.

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