



Human Rights and Corporate Social Responsibility: A Need to Develop Mandatory Approach.

Abstract

The Protection and promotion of Human Rights has traditionally been regarded as the responsibility of State. However, in the recent past, due to increasing role of business in the age of privatized and globalised market economy, the concern for human rights protection by corporate world is gradually gaining importance and becoming a necessity. Under the broad framework of charity and philanthropy, business houses have been performing some social responsibilities in a very voluntary basis in a random and unaccountable manner. However, this paper argues that there is a need to make business legally accountable to protect and promote human rights in their corporate social responsibility (CSR) which can be developed by adopting a Legal and mandatory approach.

Keywords: Human rights, Corporate Social Responsibility, Mandatory Approach, Voluntary Approach, Business.

Introduction

The idea of co-relationship between human rights and business, though not new to this world, has been increasingly in focus in the wake of the changing economic scenario of rapid liberalization, privatization and globalization and their ensuing impact on the social, cultural and economic fabric of the society at large. Mainstreaming human rights in the corporate social responsibilities at the conceptual, theoretical and practical level is at a nascent stage and still evolving. The protection and promotion of human rights through good practices of CSR is a very recent phenomenon which came into debate only after the criticism of unsustainable and unethical corporate practices following globalization and its negative ramifications.

The protection and promotion of human rights since its inception through Universal Declaration of Human Rights, 1948, are considered to be the primary duty of the state. However, ironically state is often involved in the violation of human rights of the citizens. Therefore, the concept of 'Human Rights' came into prominence against the violation of human rights by the state machineries. The corporate world was outside the ambit of any accountability or responsibility, self-imposed or otherwise, either for the violation or protection and promotion of human rights in any society. However, companies influenced by a sense of charity and religiosity, have traditionally been involved in discharging some philanthropic and charitable activities for the promotion of social welfare.

The present globalization has changed the corporate world and citizen relationships and the entire perception towards the duties and responsibilities of companies including MNCs. With the rise of globalised market economy and decline of the role of states (Fifka, 2013), corporations (both domestic and MNCs) or private companies are no longer considered as simply the provider of goods

and services but they now go beyond business to enter society, culture and environment (Crifo and Forget, 2015). The power and operational jurisdictions of private enterprises are extending beyond economic life to political, social and cultural life. Big private companies and particularly the MNCs are emerging as powerful determining actors in the formulation and implementation of major public policies of the state (Scherer and Palazzo, 2008). As an obvious product of the above process it is frequently observed today that business corporations including MNCs/TNCs are involved in various kinds of human rights abuses. Their business activities have a bearing not only on the human rights of their employees but, going beyond, affect other sections of the society including the environment. Therefore, unlike the past, now it is legally as well as morally argued that they should be held responsible not only for the violation of human rights but also for their protection.

The above mentioned debate carries special significance in the context of poor and developing countries. The corporate social responsibility in these countries is addressing wider issues and deals with more stakeholders in comparison to the developed countries. The CSR initiatives encompasses various issues like, education, health, employment, poverty, human rights, human security, and many other issues related to the promotion of social justice and an egalitarian society; the area of activities that used to be under the ambit of state obligations. Such agenda of CSR brings the disadvantaged section of the society like, poor, women, children, disabled, laborers, farmers, local communities, marginalized communities, low-income consumers, etc. into the center of CSR activities (Bond, 2008) (Campbell, 2012) (Khavul & Bruton, 2013). The CSR strategy and their implementation in the developing countries are different from developed countries because of the factors like poverty, illiteracy, underdevelopment, corruption and weaker legal and institutional framework associated with the former (Jamali and Mirshak, 2007) (Subramaniam, Kansal, & Babu, 2015) (Valente and Crane, 2010).

Business and Human Rights

The corporate human rights obligation is recently emerging in the backdrop of large scale human rights abuses by companies and MNCs/TNCs and secondly the moral argument in favour of transferring some social responsibility to the corporate world which gets flourished and benefited by the society in a time when State's capacity to promote human rights of everybody is declining under present globalization. On the other hand, MNCs/TNCs including the domestic private enterprises are considered to be responsible for the protection and promotion of human rights of both their employees and general citizens of the nation besides checking human rights abuses arising out of their policies and activities. They should and they can play a major role in promoting the socio-economic rights though the state is the primary protector of civil and political rights.

The private companies, most importantly the MNCs/TNCs are alleged of severe human rights abuses by harming indigenous people, disrespecting local culture, polluting environment, following discriminatory practices, by not following the standards of labour, providing unsafe working condition, giving below subsistence compensation, and ignoring host nation's laws and not respecting the rights of the workers, displaced people, etc. The MNCs/TNCs are considered as bigger threats to human rights than the domestic companies because; (i) they operate beyond national boundaries, (ii) they are relatively free from the control of nation states, (iii) they are even more powerful than small and medium scale states and (iv) they work in different socio-cultural settings.

The central question is how to integrate human rights into the CSR in the present day of globalised competitive market economy. Firstly, human rights should be placed as one of the primary agenda of CSR of both domestic companies and MNCs/TNCs. Secondly, there is a need to shift from the

philanthropic or voluntary to legal or mandatory approach. It is observed that moral or charitable consideration, though promotes some sense of social obligation of business entities, is not adequate to make every corporations and companies to follow the human rights standard while formulating and implementing their CSR strategies. Therefore, there is a consensus emerging world over to make CSR a legal obligation for the companies.

Meaning of CSR

The corporate social responsibility is a multidimensional organizational phenomenon, asking the business enterprises to develop a culture of responsibility for its actions and their impacts on various stakeholders and society as a whole (Zhao, 2016). The central issue in the discourse of CSR is related to the responsibilities and duties of the company and its executives towards the society, environment and all stakeholders like consumers, employees, local communities and society at large (Zhao, 2016). The present day notion of CSR wants companies to go beyond charity and philanthropy and work in the interest of the society within the broad framework of 'triple bottom line': people, planet and profit (3Ps). The increasing importance of CSR in the last two decades and its multi-faceted nature has resulted into the development of a large number of definitions of CSR describing the concept from various points of view (Crifo and Forget, 2015). Dahlsrud (2008) in his analysis of definitions, identified five dimensions- environmental, social, economic, stakeholders and voluntariness- of the CSR which are addressed in different proportion in various definitions. In addition to this, human rights dimension is gradually becoming an integral part of the CSR strategy in the last decade (Arnold, 2010) (Kinley, Nolan, and Zerial, 2007) (McCorquodale, 2009). These dimensions-environmental, social, economic, human rights, stakeholders and voluntariness- give a comprehensive understanding of the meaning of CSR. The six core subjects of corporate social responsibility are:

- (1) Consumer issues
- (2) Fair operating practices
- (3) Labour practices
- (4) Environment
- (5) Community involvement and development
- (6) Human rights**

Mainstreaming Human Rights in CSR

The global initiatives in the recent past have played a crucial role in integrating human rights to CSR of MNCs and corporate world as a whole. The UN Global Compact that was signed by thousands of companies including multinationals across the world advocates "Business should support and respect the protection of internationally proclaimed human rights within their sphere of influence; and make sure that they are not complicit in human rights abuses". This global Compact suggests that companies should follow a series of practical steps for the integration of human rights into their corporate strategy. In the similar line many other efforts like UN guiding principles on business and human rights, ILO tri-partite declaration of principles on multinational enterprises and social policy, OECD CSR Policy Tool, etc have imposed at least a moral obligation on the MNCs and other corporate players to take steps to protect human rights through their CSR activities.

The major question is how to make them accountable for the said task. It is argued that it can be made possible by putting human rights in the agenda of the Corporate Social Responsibility (CSR) of MNCs and domestic companies. They are expected to adopt human rights approach while designing their

CSR strategies. It has to be ensured that they maintain the human rights standards set by the global human rights communities including UN, World Bank, and IMF.

The above discussed initiatives at international level are to be supported by steps and actions at nation-state level in the right directions. Every state has to start taking initiatives to supplement the global initiatives. This is more important in the case of poor and less developed countries where human rights violation by both domestic companies and MNCs are very often noticed because of their specific socio-economic condition, lack of human rights culture in general and relatively less stringent legal system. Basic human rights like rights to life, food, shelter, education, etc. which are still to be protected, needs to be given top priority in the agenda of the social responsibilities of the private companies.

CSR Approach: From Voluntary to Mandatory

Traditionally, corporate social responsibility (CSR) or corporate citizenship (CC) has been regarded as a voluntary responsibility of the business organizations towards the society and various stakeholders; which firms have been doing on a voluntary basis since centuries. The drivers to contribute to the society voluntarily come from the principles of morality, ethics and philanthropy. Business organizations carry out CSR activities as a moral or ethical obligation towards the society and all stakeholders (Freeman, 2010) (Garriga and Melé, 2013) (Subramaniam et al., 2015). Normative considerations like high sense of duty and obligations, stewardship and morality motivate the business enterprises to be engaged in CSR activities (Aguilera, et al, 2007) (Bansal and Roth, 2000). The basic ethical consideration behind the CSR is that business organizations have to return to the society in which they operate and get all financial benefits. In addition to economic objectives, they have to work towards wider goal that is the general good of the society by adopting socially responsible behaviour (Zhao, 2016).

But now considering the present situation of human rights violation by private companies and the limitations of voluntary approach (Waagstein, 2011) to address these issues, efforts are made to make it mandatory by integrating human rights aspect to it. The central focus of the present global debate and discourse of business and human rights is, therefore, reoriented towards a shift from voluntary obligation to a mandatory obligation (Bendell, 2004). The supporters of human rights approach advocate 'mandatory approach' in place of 'voluntary approach' in CSR practices. Under the legal framework, CSR is being linked to corporate law with the belief that the later will play a critical role in promoting more effective and socially responsible behavior among the private companies (McConvill & Joy, 2003) (Stout, 2012).

Human rights norms and standards are not a matter of voluntary compliances for business. Therefore, CSR law makes CSR universal and uniform to all corporations so that not a single company suffers or will be at a disadvantage position in the market competition. The State regulation of CSR promotes accountability and the provision of punishment in the regulatory framework secures better compliance (Zhao, 2016). The mandatory CSR not only ensures its reception and implementation, but also encourages the society at the grassroots level to be more engaged in monitoring the corporate social behavior. This approach expects CSR to address the rights and well-being of all and not just few stakeholders.

The debate on the effectiveness of moral Vs legal or mandatory Vs voluntary corporate human rights obligation can only be addressed on the basis of the findings of the ongoing empirical research on CSR practices all over the world. But at this point it might be argued that the recent global efforts, unless

supported by national law, is not going to serve the ultimate purpose because of the competitive global economic market. Therefore, to supplement the international endeavor, there is a need to develop law by the nation-states at the domestic level that will make CSR mandatory for all companies including MNCs. However, little effort is being made in this direction. All most all the developed countries which home big MNCs don't have law regulating CSR. The corporate human rights obligations and CSR are mainly grounded on moral principles or on the international soft laws. Only few countries of the world like India, Mauritius and Indonesia have developed law regulating CSR.

Conclusion

In the present situation when the protection and promotion of human rights is emerging as the prime agenda of global governance and the expectation of the active and rights conscious people and other stakeholders are constantly increasing, putting human rights in the agenda of CSR and following the human rights standards in the practice of CSR will be beneficial for companies (both domestic and multinational), people and society as a whole.

The impact of voluntary initiatives by companies including MNCs to respect, protect and promote human rights under the present international soft instruments which only imposes a moral obligation, will remain insignificant or marginal unless some mandatory obligations are set through law by the nation-state and applied to all companies/MNCs in a global competitive market economy. By making human rights standards (developed by UN, World Bank, WTO and others) mandatory and holding companies liable for human rights abuses, the violation of human rights by these actors can be better checked though not completely stopped.

In a society where community, civil society, NGOs and enlightened individuals are sensitive and active and put necessary pressures on companies and MNCs, the 'moral obligation' or 'voluntary approach' are likely to be effective while the 'legal obligation' and 'mandatory approach' is more effective in a society which lacks the above features. However it can be concluded that both voluntary and moral approach have their merits and in practice both morality and legality are complementary to each other and together can provide a strong foundation for corporate human rights obligations.

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