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**“EVALUATING AND REFOCUSING CORPORATE SOCIAL RESPONSIBILITY IN
THE ERA OF CLIMATE CHANGE”**

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ABSTRACT

Corporate Social Responsibility (hereafter known as “CSR”) in India is based on the idea that the company must fulfil its responsibilities towards the society in which it operates. Being the first country to mandate CSR, this concept holds particular importance for India. Corporations do not exist in a vacuum nor can their actions be seen in isolation from the environments in which they operate in. The sharp increase in corporate activities starting from the emergence of the industrial revolution till present have significantly increased global temperatures and greenhouse gas emissions. The worsening global warming, which occurred as a result of this industrialisation, has disproportionately affected developing countries, like India, thereby pressurising nations, including India, to assess their response to climate emergency. It therefore follows that climate change is an inescapable reality in this century with economic and social implications on corporate operations. The process of climate change has disastrous consequences on the natural environment leading to a depletion of resources that creates scarcity and increases costs of production. Moreover, business operations are disrupted due to experiencing both, a loss of employees who are forced to migrate, and a destruction of

infrastructure due to the natural calamities. Accordingly, it is argued in this paper, that CSR poses as a viable way out to realise the goal of climate change mitigation. In response to this, the paper explores the gaps that exist in the application of the current CSR framework, including the mismatch between the negative consequences of corporate activities and their CSR endeavours. It further explores whether CSR may be re-focused, specifically for eligible companies who are directly responsible for worsening climate problems, in order for them to be more ecologically responsible and accountable.

INTRODUCTION

Companies are accountable for their actions in the socio-political environments that they operate in, and this is the rationale behind Corporate Social Responsibility (hereafter known as “CSR”). CSR is a legal mandate for companies in India, where companies have the freedom to choose where they may direct their CSR endeavours, as long as it does not fall in prohibited domains laid down in Companies Act, 2013. Several studies and reports have shown, however, that there is a mismatch between the companies’ ordinary business activities and their CSR projects, with the former offsetting any positive change brought about by the latter due to the negative externalities as a consequence of such business activities. A prime example of this would be the increase in global temperatures brought about ever since the industrial revolution began. Moreover, the brunt of climate change disproportionately affects developing countries, like India. Keeping this in focus, it can be argued that companies, especially those that contribute significantly to climate change or leave a significant carbon footprint behind, have a collective responsibility to remedy the same. This paper argues how CSR has the potential to become the tool that remedies the effects of climate change caused by business activities. In the process of doing this, the paper will also highlight the shortcomings of the current CSR model and assess the need for re-evaluation of the framework of CSR in light of the climate change era.

CORPORATE SOCIAL RESPONSIBILITY

Corporate Social Responsibility can be defined as a practice that incorporates policies in business activities that are desirable to society;¹ as a form of governance that makes the company ethically responsible and beneficial to society;² or a theory that incorporates environmental and/or social factors into business activities while maintaining the expectations of various stakeholders.³ Different authors may provide their own understanding of CSR, but it essentially implies a series of tools and practices that account for more than just profitable business transactions; such that the socio-environmental needs of a plethora of stakeholders that the company is connected with, are accounted for. With this understanding of CSR, the company is made accountable for its actions that may have externalities-either positive or negative-in the larger social and environmental context. But this is not the only way to understand CSR. CSR can be classified into two broad theoretical frameworks: one where CSR is seen as a social good that balances multiple stakeholders' interests (which is what the aforementioned definitions hint towards), and the other where CSR is an economic activity that holds a corporate value rather than a social one.⁴ What counts as CSR is, therefore, debatable. For example, the ISO 26000 provides for six domains that fall under the concept of CSR, that is, community development, human rights, environment, consumer issues, labour practices, and operating practices.⁵ Other literature may argue that CSR should entail three aspects only: philanthropy, transformation of the business model, and operational improvements.⁶ Likewise, there are several other ways to define the parameters of CSR. With multiple ways to conceptualise CSR, the effectiveness of CSR activities may sometimes be called into question

¹ Archie B. Carroll, *Corporate Social Responsibility: Evolution of a Definitional Construct*, 38 BUS. & SOC. 268, 270 (1999).

² *Corporate Social Responsibility (CSR)*, CORPORATE FINANCE INSTITUTE, <https://corporatefinanceinstitute.com/resources/knowledge/other/corporate-social-responsibility-csr/> (last visited Mar. 12, 2021).

³ *What is CSR?*, UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANISATION, <https://www.unido.org/our-focus/advancing-economic-competitiveness/competitive-trade-capacities-and-corporate-responsibility/corporate-social-responsibility-market-integration/what-csr> (last visited Mar. 12, 2021).

⁴ Myria W. Allen & Christopher A. Craig, *Rethinking corporate social responsibility in the age of climate change: a communication perspective*, 1 INT'L JOUR. OF CORP. SOC. RESP'Y. 1, 3-6 (2016).

⁵ *Discovering ISO 26000: Guidance on Social Responsibility*, INTERNATIONAL ORGANISATION FOR STANDARDIZATION (2018), <https://www.iso.org/files/live/sites/isoorg/files/store/en/PUB100258.pdf>.

⁶ V. Kasturi Rangan, Lisa Chase, & Sohel Karim, *The Truth About CSR*, HARVARD BUSINESS REVIEW (Jan-Feb., 2015), <https://hbr.org/2015/01/the-truth-about-csr>.

due to multiple reasons such as complacency of the company in conducting relevant or meaningful CSR activities, lack of thorough research into where to apply the funds, or simply due to a mismatch between CSR activities and negative externalities arising out of the normal business operations.

CSR PRACTICE IN INDIA

The introduction of the Gandhian concept of ‘Trusteeship’-where a corporate is the trustee of the resources that it draws from society and consequently, has a duty to discharge its social obligations for the welfare of the society-in the early 1990s, is considered to be foundational to the concept of CSR in India; which prior to 2013, was limited to philanthropic acts of corporations driven by family values, moral responsibility, religion, and culture.⁷ With the enactment of the Companies Act, 2013 (hereafter known as “Companies Act”), and the accompanying Companies (Corporate Social Responsibility Policy) Rules, 2014, India became the first country to legally mandate CSR. Under Section 135 of the Companies Act, it is mandatory for prescribed classes of companies to incur a CSR expenditure of at least 2% of its average net profits usually realized over the three immediately preceding financial years; constitute a CSR Committee; and annually report the details of the composition of the CSR Committee constituted, the content of the CSR policy, the prescribed CSR expenditure, and in case of failure to spend the mandated amount, the reasons for such failure. On the other hand, any excess CSR expenditure incurred by the company can be set off in the succeeding year following a Board resolution to that effect.⁸ Section 135 of the Companies Act also specifies the duties of the CSR Committee while Schedule VII to the Companies Act specifies the focus areas in which CSR activities may be undertaken. The present legal framework on CSR mandates that the CSR activity must be in a “Project/Program” mode as opposed to a one off event.⁹ Furthermore, to qualify as CSR, these projects have to mandatorily be undertaken within India and cannot be undertaken in the normal course of business, for fulfillment of legal obligations, to the sole benefit of employees and their families, for deriving marketing benefits,

⁷ Rabindra Kumar, *Gandhi and Corporate Social Responsibility: Challenging Aspects*, TAXGURU (Aug. 15, 2019), <https://taxguru.in/corporate-law/gandhi-corporate-social-responsibility-challenging-aspects.html>.

⁸ Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021, Rule 7.

⁹ Ministry of Corporate Affairs, General Circular No. 21/2014 (Issued on June 18, 2014).

or as contribution to any political party.¹⁰ While this limits the scope of CSR activities, it ensures that the CSR objective remains socially relevant rather than becoming a means to further purely capitalistic or politically motivated goals. Moreover, the companies are required to give preference to the local areas and those where it undertakes its operations while formulating and implementing their CSR policies.¹¹ Furthermore, in the event that a company fails to spend the mandated amount, the amended Companies Act requires the company to transfer twice the amount originally required to be spent or Rs. 1 Crore, whichever is lesser, to a Fund specified in Schedule VII of the Companies Act or the Unspent CSR Account.¹² It also imposes liabilities on every officer in default to the extent of 1/10th of the original CSR amount required to be spent or Rs. 2 lakhs, whichever is lesser.¹³ With respect to monitoring mechanisms, the Ministry of Corporate Affairs (hereafter known as “MCA”) has expressly clarified that the CSR Committee and Board would be responsible for formulating mechanisms to ensure that the CSR mandate is met and that the Government has no role to play in monitoring the implementation of CSR.¹⁴ CSR thereby becomes a self-regulatory activity with complete onus on the company to ensure that it meets the criteria laid down in the Companies Act. It becomes increasingly imperative that improper business activities should not defeat or cancel the intentions of CSR. Nor should CSR be used to merely fulfill the legal mandates while in reality, creating more social and environmental problems, such as those which will be explained further.

MISMATCH BETWEEN CSR INITIATIVES AND BUSINESS PRACTICES

As mentioned earlier, in India, CSR compliances are self-regulatory in nature. The duty of ensuring that the CSR obligations are met lie upon the CSR Committee and Board of the company. The implication of this is that it can leave room for non-compliance of the provisions of the Companies Act. For example, in the financial year 2015-16, 2692 (approximately 47.2%) of the total 5097 companies that submitted their Director’s Report of the Company had not

¹⁰ Companies (Corporate Social Responsibility Policy) Rules, 2014.

¹¹ Companies Act, 2013, No. 18, Acts of Parliament, 2013, § 135.

¹² Companies (Amendment) Act, 2020, No. 29, Acts of Parliament, 2020, §.27.

¹³ *Id.*

¹⁴ Ministry of Corporate Affairs, General Circular No. 01/2016, (Issued on Jan. 12, 2016).

made any CSR expenditure.¹⁵ In the preceding financial year, only 3139 (approximately 57.2%) of the total of 7334 companies that submitted a Director's Report to the MCA made any CSR expenditure.¹⁶ Lack of clarity on how to fulfill the CSR requirements, delay on the Board's part to approve CSR expenditure, and delay in completing the CSR project's requirements, etcetera, were part of the reasons provided for the lack of CSR expenditure of these companies.¹⁷ There is no data on the financial years from 2016 onwards till present on the MCA website, which additionally highlights an urgent need to address this lack of reporting in order to determine whether similar trends of CSR expenditure persisted in the previous years. The National CSR Portal has also collated the data regarding CSR expenditure, with a comparative data set available from the financial year of 2014-2015 to 2019-2020. In *Figure 1.0*, the outermost concentric circle represents the financial year of 2019-2020 while the innermost concentric circle represents the financial year of 2014-2015. It is only in 2019-2020 that a majority of the companies complied with the minimum CSR expenditure by spending more than required, while in the previous years, a significant amount of almost more than half did not spend on it at all. Here, the 2021 CSR Amendment Rules allowing a carry forward of excess CSR expenditure by way of a Board Resolution was not yet in effect when this data sheet had been compiled, indicating that the original provisions mandating an annual expenditure were being ignored.

¹⁵ MINISTRY OF CORPORATE AFFAIRS, <https://www.mca.gov.in/MinistryV2/csrdatasummary.html> (last visited Mar, 28, 2021).

¹⁶ *Id.*

¹⁷ *Id.*

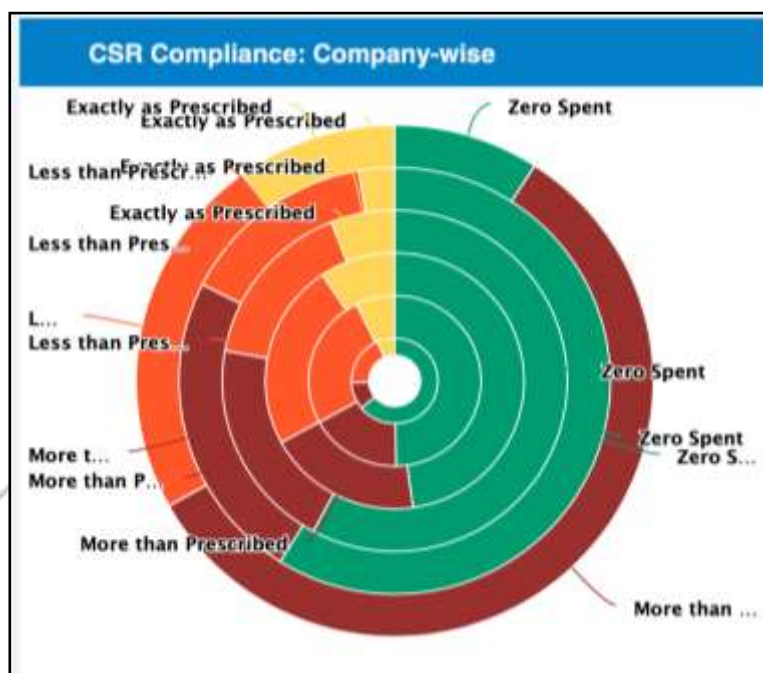


Figure 1.0¹⁸

Further, if it is not for the corporation's inability to decide which project they should contribute their CSR-mandated funds to, a reason cited for by the companies in the MCA report of 2014-2015 which follows one year after the CSR Rules were notified, the problem also lies in choosing whether the funds allocated are going in the 'right' place. For example, Kaku Nakhate, the Indian head of the Bank of America, revealed a trend where all the major multinational corporations would consecutively fund the same social enterprises that they deemed to be 'blue-chip NGOs', rather than periodically look for newer and upcoming social sector organisations.¹⁹ This trend possibly implies that the decision to fund this supposedly fixed set of NGOs does not involve much research, else so many companies would not be donating to the same set of social sector organisations. This may also imply that the companies engage in CSR expenditure under the pretence of being socially responsible, as it is a mandatory procedure for all eligible companies, rather than truly assessing where CSR funds may be diverted to according to need rather than normative preferences.

¹⁸ NATIONAL CSR DATA PORTAL, MINISTRY OF CORPORATE AFFAIRS

https://www.csr.gov.in/index_across.php (last visited Apr. 15, 2021).

¹⁹ Masoom Gupte, *Not the blue-chips, but we nurture the younger batch of NGOs: BofA's Kaku Nakhate*, THE ECONOMIC TIMES (Jul 27, 2017, 10:49 AM), <https://economictimes.indiatimes.com/magazines/panache/not-the-blue-chips-but-we-nurture-the-younger-batch-of-ngos-bofas-kaku-nakhate/articleshow/59785419.cms>.

In addition to this, CSR is often associated with short term, isolated, and sporadic expenditures.²⁰ As a result of which, most companies do not focus on creating sustainable CSR plans. For example, easy investment avenues set up by the Government of India such as the Prime Minister's National Relief Fund, Swachh Bharat Abhiyan, and Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund provide corporations with an easy solution to meeting the CSR legal mandate rather than encouraging investment in sustainable business practices or personalised CSR projects. In 2016, a survey was done by the Federation of Indian Chambers of Commerce & Industry (FICCI) that gathered 160 responses from companies across a plethora of sectors in India, where it was reported that 95% of CSR activities went towards the Indian Government's Swachh Bharat Mission, the National Health Mission, and the Skill India and National Health Mission.²¹ The companies also reported that reasons such as "lack of CSR professionals for project implementation" or even "availability of good and suitable NGOs" prevented them from implementing CSR projects.²² Such reasonings fall short as companies who are eligible for the CSR requirement would be reasonably expected to be able to locate the necessary individuals and organisations required to conduct the CSR activities, considering the scale of the corporations' business activities and profit turnout. Lastly, the mechanism for mandatory transfer of funds allocated for CSR to a government fund, arising out of non-compliance with the CSR mandate, has reduced CSR obligations to a mere legal obligation, like corporate tax, with no real social responsibility arising out of such monetary allocation.

CLIMATE CHANGE - AN INEVITABLE REALITY?

Climate change is a global challenge that transcends national borders, yet different regions experience its consequences differently; with developing countries, particularly, being disproportionately affected. Out of "The 10 most affected countries in 2019" in terms of economic losses and fatalities as ranked by The Global Climate Risk Index 2021, 8 are

²⁰ Allen & Craig, *supra* note 4, at 3.

²¹ *FICCI Corporate Social Responsibility Survey*, FICCI SURVEYS (Mar. 2016), http://ficci.in/Sedocument/20361/csr_survey_ficci.pdf.

²²*Id.*

developing countries with India ranked 7th.²³ In 2020 alone, India ‘survived’ or rather, suffered through devastating cyclones, floods, landslides, plagues, droughts, glacial meltdowns, and industrial disasters amidst a global pandemic; with disastrous impacts on lives, livelihood, ecology, national security, and economy. According to the Intergovernmental Panel on Climate Change, the rising global average sea levels, increased global average ocean and air temperatures, increase in concentrations of greenhouse gases, and the large-scale glacial meltdowns can majorly be attributed to the warming of our climate system most likely caused by human activity.²⁴ Human activities like cement making, or even burning oil and coal during the Industrial Revolution, have left ‘human fingerprints’ in the environment that directly lead to an increase in greenhouse gases.²⁵ With the Earth’s temperature presently having increased by about 1° C above pre-industrial temperatures,²⁶ nation states, including India, were compelled to ratify the Paris Agreement to the United Nations Framework Convention on Climate Change which provides for limiting the global temperature to 1.5 °C (or alternatively well below 2 °C) above pre-industrial temperatures by reducing emission for climate change mitigation.²⁷

CLIMATE CHANGE AND BUSINESS ACTIVITIES

As previously argued, it is important for corporations, whether private or public, to understand the impact of their business operations. The existence and danger of climate change has already been proved and discussed by multiple scientific experts and is a fact. Apart from being a danger to the environment and life on earth through increased droughts, heat waves,

²³ DAVID ECKSTEIN, VERA KÜNZEL, & LAURA SCHÄFER, GLOBAL CLIMATE RISK INDEX 2021: WHO SUFFERS MOST FROM EXTREME WEATHER EVENTS? WEATHER-RELATED LOSS EVENTS IN 2019 AND 2000-2019 8 (GermanWatch, 2021).

²⁴ *Headline Statements from the Summary for the Policymakers*, INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE (Jan. 30, 2014), https://www.ipcc.ch/site/assets/uploads/2018/03/ar5_wg1_headlines.pdf.

²⁵ Doyle Rice, *CSI Earth: Human 'fingerprints' detected in Earth's seasonal temperature changes*, USA TODAY (Jul. 19, 2018, 3:45 PM), <https://www.usatoday.com/story/news/2018/07/19/global-warming-human-fingerprints-detected-temperature-changes-seasons/801351002/>.

²⁶ Earl J. Ritchie, *Exactly How Much Has the Earth Warmed? And Does It Matter?*, FORBES (Sept. 7, 2018), <https://www.forbes.com/sites/uhenergy/2018/09/07/exactly-how-much-has-the-earth-warmed-and-does-it-matter/?sh=50a42b8c5c22>.

²⁷ Paris Agreement to the United Nations Framework Convention on Climate Change, Dec. 12, 2015, T.I.A.S. No. 16-1104.

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cyclones, increasing sea levels etcetera, climate change also poses a threat to business activities. But the effects of global warming and climate change are not a one-way street for the environment only. For example, with the increasing carbon emissions, many governments resort to imposing carbon credits on private and public sector companies in order to limit how much of a carbon footprint they may leave behind. Carbon credits can be traded amongst companies for a certain price, which often fluctuate due to the limited number of credits available in the market.²⁸ Moreover, businesses not only suffer from scarcity when they lose their natural resource supplies due to increased carbon emissions but their business operations are also disrupted due to the loss of both, infrastructure through its destruction as well as employees who are forced to uproot their lives and move when their homes and families are disrupted by natural disasters.²⁹ Climate change has the ability and an immense (negative) potential to economically affect businesses as well. In 2015, CEOs from 75 different companies that operated from 150 countries across the globe signed a collective open letter that acknowledged the role of private enterprises in remedying climate change. They acknowledged that “the private sector has a responsibility to actively engage in global efforts to reduce greenhouse gas emissions, and to help lead the global transition to a low-carbon, climate-resilient economy”.³⁰ But curbing greenhouse gases and other carbon emissions is not necessarily enough. Critics have observed that at least half of carbon emissions present today will not leave the atmosphere even 1000 years from now,³¹ implying that reduction in carbon emissions will do little good if that is the only recourse adopted. Businesses would only benefit in the long run if they were to invest in global security by mitigating the effects of climate change with the help of CSR. Therefore, CSR plays a vital role in ensuring that large national and multinational corporations, who have a significantly greater impact than singular and individual citizens, obligatorily work towards creating a sustainable environment. CSR directed towards combating climate change would be rendered ineffective if enough companies do not participate in the initiative, owing to the severity of climate change.

²⁸Carbon Credit, CORPORATE FINANCE INSTITUTE
<https://corporatefinanceinstitute.com/resources/knowledge/other/carbon-credit/> (last visited May 1, 2021).

²⁹ Allen & Craig, *supra* note 4, at 2.

³⁰ Alliance of CEO Climate Leaders, *These 79 CEOs believe in global climate action*, WORLD ECONOMIC FORUM (Mar. 28, 2021, 4:33 PM) <https://www.weforum.org/agenda/2015/11/open-letter-from-ceos-to-world-leaders-urging-climate-action/>.

³¹ Elizabeth Woyke, *Curbing emissions isn't enough- we need emergency solutions for climate change*, MIT TECHNOLOGY REVIEW (Sept. 12, 2018), <https://www.technologyreview.com/2018/09/12/2081/curbing-emissions-isnt-enough-we-need-emergency-solutions-for-climate-change/>.

LINKING CLIMATE CHANGE TO CSR

There is an agreement amongst virtually all experts in the field of climate change that reducing the concentration of greenhouse gases like carbon-dioxide and methane plays a significant role in reversing the dooming effects of global warming in India.³² As noted earlier, however, the mere reduction of greenhouse gases would fall short if it is not accompanied by a proactive shift by corporations to sustainable business practices. Thus, one of the biggest challenges before corporations and policy-makers in the 21st century is the conceptualisation of CSR in light of climate change. Currently, the focus of CSR in India is what to do with the profits after they are made rather than how to conduct business sustainably and responsibly, as is evident by the 2% profit mandate under the Companies Act. Moreover, there is a mismatch between the CSR activities undertaken by corporations and the negative externalities caused by its business activities. Hindustan Unilever Limited (HUL), for instance, has been criticised for its 2001 act of dumping toxic mercury at scrap yards in Kodaikanal, traces of which continued to be found in the water bodies almost two decades later, despite its highly publicized CSR commitments.³³ It took 15 years for those affected adversely by the mercury to receive any sort of ‘settlement’ from HUL.³⁴ Further, there is a tendency among corporations to brand commercial CSR programmes as environment-friendly and sustainable. Paper manufacturing companies, for instance, engage in environmental CSR by increasing the green cover through tree plantations, usually of eucalyptus or jatropa.³⁵ However, these CSR activities have been criticised for using green coverage as a veil to mask the fact that such plantations are in reality

³² GUILLERMO C. JIMENEZ & ELIZABETH PULOS, GOOD CORPORATION, BAD CORPORATION: CORPORATE SOCIAL RESPONSIBILITY IN THE GLOBAL ECONOMY 39-49 (2016).

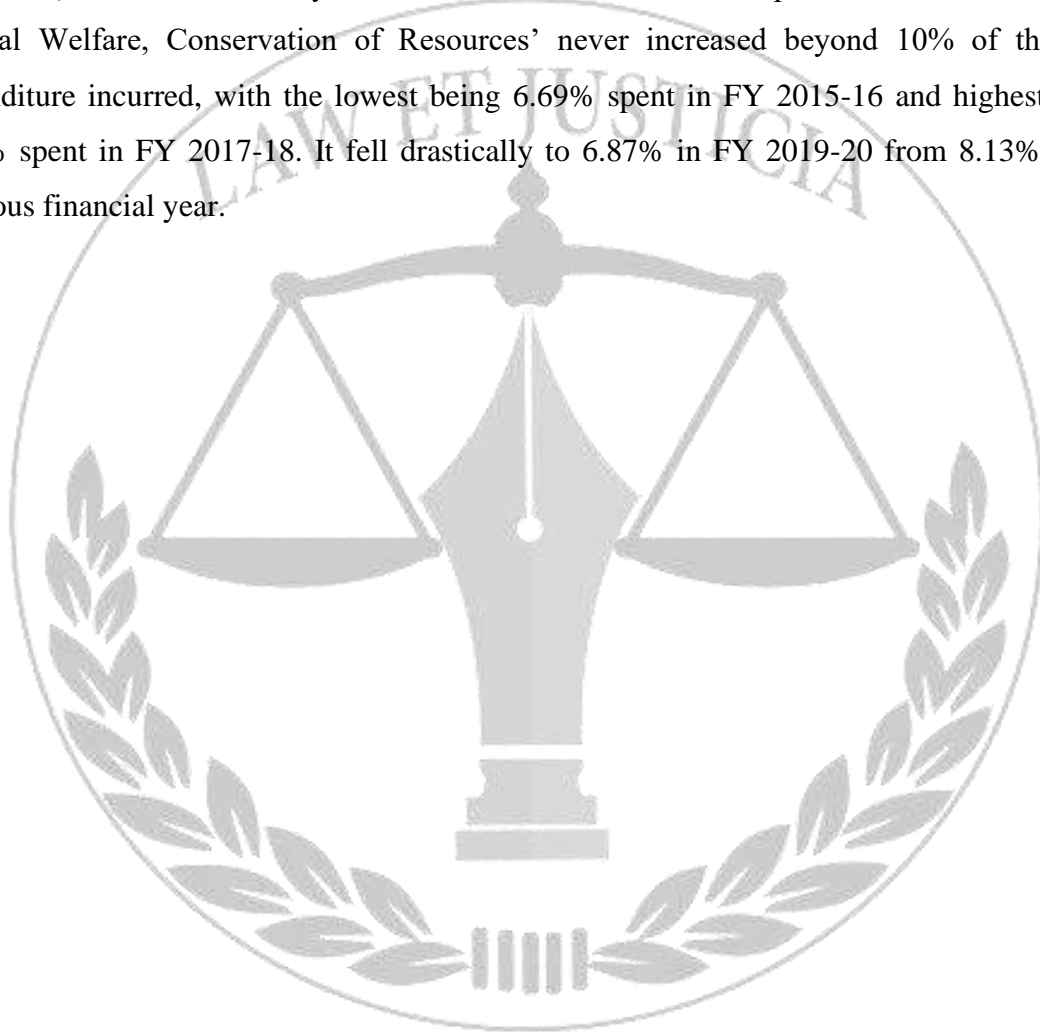
³³ Sanjana Agnihotri, *Kodaikanal mercury contamination: Why Unilever is paying settlement to its 591 workers*, *INDIATODAY*, Mar. 9, 2016, <https://www.indiatoday.in/fyi/story/kodaikanal-mercury-contamination-unilever-pays-settlement-workers-312550-2016-03-09>; Hunter O Lin, *Mercury Pollution in Kodaikanal Caused by a Thermometer Factory Spill in 2001*, *BIOLOGY IN SOUTH INDIA* A6, A6-A11 (2016); *Social Review 2000: Unilever’s approach to corporate social responsibility*, UNILEVER, https://www.unilever.com/Images/2000-social-review-of-1999-data_tcm244-409696_en.pdf (last visited Apr. 6, 2021).

³⁴ Sanjana Agnihotri, *Kodaikanal mercury contamination: Why Unilever is paying settlement to its 591 workers*, *INDIATODAY*, Mar. 9, 2016, <https://www.indiatoday.in/fyi/story/kodaikanal-mercury-contamination-unilever-pays-settlement-workers-312550-2016-03-09>.

³⁵ Raimi L, Akosile O K, & Adebaw A, *Corporate Social Responsibility and Climate Change*, *GEOGRAPHY AND YOU* (Oct. 6, 2016), <https://geographyandyou.com/corporate-social-responsibility-climate-change/>.

monoculture projects that are environmentally unsustainable and adversely impact groundwater levels, food cycle, and food security.³⁶

According to a study conducted by NextGen, for the financial year 2015-16, environmental CSR accounted only for 10% of the total CSR projects undertaken.³⁷ It was further found that only around a third of the top 100 companies in India shelled out a major portion of their allocated CSR budget on environmental activities.³⁸ As can be observed from *Figure 2.0*, between financial years 2014-2020 the annual CSR expenditure on ‘Environment, Animal Welfare, Conservation of Resources’ never increased beyond 10% of the total expenditure incurred, with the lowest being 6.69% spent in FY 2015-16 and highest being 9.85% spent in FY 2017-18. It fell drastically to 6.87% in FY 2019-20 from 8.13% in the previous financial year.



³⁶ *Id.*

³⁷ Goodera, *CSR and sustainable development: Do Indian companies care about the environment?*, FORBES INDIA (Jan. 5, 2017), <https://www.forbesindia.com/blog/life/csr-and-sustainable-development-do-indian-companies-care-about-the-environment/>.

³⁸ Goodera, *supra* note 37.

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Development Sectors		Amount Spent FY 2014-15 (INR Cr.)	Amount Spent FY 2015-16 (INR Cr.)	Amount Spent FY 2016-17 (INR Cr.)	Amount Spent FY 2017-18 (INR Cr.)	Amount Spent FY 2018-19 (INR Cr.)	Amount Spent FY 2019-20 (INR Cr.)
1	Clean Ganga Fund	5.47	32.82	24.37	4.54	5.41	0.40
2	Education, Differently Aabled, Livelihood	3,188.09	4,921.06	5,559.13	5,960.17	7,499.81	3,582.33
3	Encouraging Sports	57.81	140.11	180.32	227.75	295.10	98.97
4	Environment, Animal Welfare, Conservation Of Resources	853.99	971.06	1,317.70	1,368.36	1,516.83	537.34
5	Gender Equality , Women Empowerment , Old Age Homes , Reducing Inequalities	189.92	342.67	468.74	301.23	517.88	176.48
6	Health, Eradicating Hunger, Poverty And Malnutrition, Safe Drinking Water , Sanitation	2,525.92	4,633.48	3,667.14	3,339.07	4,959.23	1,811.27
7	Heritage Art And Culture	117.37	119.16	305.37	294.05	189.89	48.07
8	Other Sectors (Technology Incubator And Benefits To Armed Forces And Admin Overheads)	9.50	37.48	60.95	43.33	119.71	16.02
9	Prime Minister's National Relief Fund	228.18	218.04	158.80	175.84	300.52	164.67
10	Rural Development	1,059.34	1,376.16	1,554.77	1,479.80	2,308.83	971.43
11	Slum Area Development	101.14	14.09	51.49	35.10	50.23	1.29
12	Swachh Bharat Kosh	113.86	325.52	184.06	213.67	83.80	6.15
13	Any Other Fund	277.09	334.34	419.98	255.82	710.59	402.50
14	NEC/ Not Mentioned	1,338.39	1,051.15	388.95	1.04	87.54	5.51
Grand Total (in Cr.)		10,095.99	14,517.21	14,342.04	13,889.86	18,654.82	7,822.50

*Figure 2.0*³⁹

WHAT NEXT? THE WAY FORWARD

While the choice of CSR projects would vary from one industrial sector to another, there is a need to evaluate how climate change mitigation actions by corporations, especially through adoption of sustainable business practices, can be integrated within the framework of CSR. Given the present self-regulatory nature of CSR in India and the recognition of the business risks posed by climate change, corporate leaders play a major role in encouraging the shift to sustainable business strategies and practices with long term impacts. There are some corporations that are already moving forward in the right direction. For instance, the CSR Committee set up by ITC is called the ‘CSR and Sustainability Committee’.⁴⁰ Furthermore, for

³⁹ *Development Sector-Wise*, NATIONAL CSR DATA PORTAL, <https://www.csr.gov.in/developmentlist.php> (last visited Mar. 10, 2021).

⁴⁰ *Corporate Social Responsibility*, ITC PORTAL, <https://www.itcportal.com/about-itc/policies/corporate-social-responsibility-policy.aspx#:~:text=It%20is%20ITC's%20Policy%20to,water%3B%20ensuring%20environmental%20sustainability%3B%20enabling> (last visited Apr. 24, 2021).

about 15 years, ITC is believed to be a ‘carbon positive’ company, i.e., it sequesters more carbon dioxide than it releases into the atmosphere.⁴¹ In addition to this, it is also considered to be ‘water positive’ and ‘solid waste recycling positive’.⁴² Similarly, Axis Bank has also set up a ‘Sustainability & CSR Department’ for the implementation of its CSR projects.⁴³ Infosys Ltd has been ranked as the leader of sustainable CSR practices for the year 2020 and was also the recipient of the UN Global Climate Action Award (‘Climate Neutral Now’ category) in 2019 for its commitment to carbon neutrality and investment in local carbon offsetting projects.⁴⁴ However, while the practices of such corporate leaders might influence other corporations to shift towards sustainability, presently, these are isolated examples with sustainability and climate change mitigation still not at the forefront of mainstream CSR practices in India.

Apart from the need for sustainable business practices, lies the need to assess the CSR model itself, as laid down by the legal framework in India. The current model as discussed in Section III of this paper, does not completely restrict the methods in which the company may decide on its CSR expenditure. The free rein given to companies to choose CSR projects accompanied with the opportunity to instead transfer the unspent CSR budget to a government fund, however, is what seems to be the problem. Instead, a refocus of CSR activities is what is needed. This means that the company’s CSR activities should not be likely to create problems and negative externalities, or worsen the environment under the pretence of fulfilling the legal mandate of CSR. Instead, there should be an active focus on directing CSR endeavours, either through incentives or legal mandates, to solving climate change and protecting the environment, especially for companies whose business activities harm the environment and

⁴¹ *Sustainability Report 2006*, ITC PORTAL (2006), [https://www.itcportal.com/sustainability/sustainability-report-2006/html/carbon-positive-corporation.aspx#:~:text=Total%20Green%20House%20Gas%20\(GHG,kilotonnes%20in%2004%2D05\).&text=The%20total%20area%20under%20ITC%27s,amounts%20to%20nearly%2041%2C000%20hectares](https://www.itcportal.com/sustainability/sustainability-report-2006/html/carbon-positive-corporation.aspx#:~:text=Total%20Green%20House%20Gas%20(GHG,kilotonnes%20in%2004%2D05).&text=The%20total%20area%20under%20ITC%27s,amounts%20to%20nearly%2041%2C000%20hectares).

⁴² *ITC will continue to be carbon, water and waste recycling positive despite its fast paced growth*, SUSTAINABLE DEVELOPMENT GOALS PARTNERSHIP PLATFORM <https://sustainabledevelopment.un.org/partnership/?p=865> (last visited Apr. 24, 2021)

⁴³ *Corporate Social Responsibility Policy of Axis Bank Limited*, AXIS BANK (Oct., 2020), <https://www.axisbank.com/docs/default-source/default-document-library/board-approved-csr-policy-2020-21.pdf>.

⁴⁴ Utkarsh Majmudar & Namrata Rana, *Responsible Business Rankings: India’s Top Companies for Sustainability and CSR 2020*, FUTURESCAPE, <https://www.futureescape.in/responsible-business-rankings/> (last visited Apr. 24, 2021); Bonn, *Winners of the 2019 UN Global Climate Action Awards Announced*, UNITED NATIONS CLIMATE CHANGE (Sept. 26, 2019), <https://unfccc.int/news/winners-of-the-2019-un-global-climate-action-awards-announced>.

leave a significant carbon footprint. Take the example of the paper companies given in Section VII. Although the company increased the green cover by planting eucalyptus and jatropha plants, it was in effect, destroying the natural environment due to the water leaching properties of the plants. If we were to apply the idea put forth in this paper, the company would be compelled to engage in CSR that ensured sustainability, implying better research into what kind of green cover would be suitable that did not run the groundwater dry nor destroy the natural food cycle. That being said, further in-depth and up-to-date research would need to be done to analyse how many CSR projects are actually aimed towards sustainability and correcting any harmful externality to the environment incurred during business operations. Policymakers would also be required to gauge how to ensure that the proposed refocusing of CSR endeavours are done in conjunction with multiple other stakeholders like other corporate bodies, governments, climate and business experts, local communities and social sector organisations to provide synergistic results that sustain over a long-term period.

CONCLUSION

To summarise, CSR is a self-regulatory mechanism in India that allows the businesses to be ethically and socially responsible towards its multiple stakeholders. While many companies do adhere to the legal mandate, there are instances where the corporation has not engaged with its CSR responsibilities and where they do, it often ends up being isolated, uninspired, and unsustainable. When one looks at the larger ramifications of business activities of corporations, most particularly that which affects climate emergency, there is a clear link that corporations do in fact contribute to it. Simultaneously, actions by corporations have the immense potential to mitigate climate change but only if it is collective and sustainable. With this in mind, policymakers should shift the focus and mandate of CSR to empower corporations to adopt sustainable and responsible business practices rather than just using it as a tool for symbolic compensation for the collateral damage caused. Measures should be adopted to further encourage corporations to conceptualise CSR as a tool for mitigating climate change, reducing carbon footprint, and minimising negative externalities of business practices, rather than a mere legal mandate to be fulfilled. It should be mandated that the CSR activities engaged by a corporation should not be likely to produce negative externalities or offset the CSR practice owing to poorly designed or under-researched programmes that in reality harm or

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further degrade the ecosystems. With the repeated climate assaults that India has faced in 2020 alone, companies ought to be made accountable, directly, for their impact on the ecology that threatens to worsen the situation.

