

Corporate Social Responsibility and Sustainable Development in Sikkim: A Critical Analysis

A Dissertation Submitted

To

Sikkim University



In Partial Fulfilment of the Requirement for the

Degree of Master of Philosophy

By

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Date: _____

DECLARATION

I declare that the dissertation entitled “**Corporate Social Responsibility and Sustainable Development in Sikkim: Critical Analysis**” submitted to Sikkim University for the award of the degree of **Master of Philosophy** is my original work. This dissertation has not been submitted for any other degree of this University or any other university.

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CERTIFICATE

This is to certify that the dissertation entitled “**Corporate Social Responsibility and Sustainable Development in Sikkim: Critical Analysis**” submitted to the **SIKKIM UNIVERSITY** in partial fulfilment of the requirements for the degree of **Master of Philosophy in Law** embodies the results of *bonafide* research work carried out by **Ms. Rita Devi Niroula** under my guidance and supervision. All the assistance and help received during the course of the investigation have been duly acknowledged by her.

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Corporate Social Responsibility and Sustainable Development in Sikkim: A Critical Analysis

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- **Rita Devi Niroula**

Preface

The purpose of this dissertation is to look at the inter-relations between Corporate Social Responsibility and Sustainable Development and try to prevent the future environmental degradation, which will be caused by various corporations. The basic concepts of CSR, its effect in the society, various International Conventions and precedents have been discussed. The scholar also discussed the evolution of CSR and Sustainable Development in India as well United Kingdom and United State of America. International Codes, Standards and Principles relating to CSR have been discussed. Various International norms and guidelines regarding CSR such as International Labor Organization (ILO), Declaration on Fundamental Principles and Rights at Work (ILO), The Multinational Enterprise (MNE) Declaration, and The United Nations' Global Compact has been dealt in depth.

Constitutional framework pertaining to Corporate Social Responsibility, Legal Position of Corporate Social Responsibility in India has been discussed. A depth study on the CSR activates performed by various Hydroproject Companies, Pharmaceuticals Companies and Tourism Sector of the State of Sikkim has been discussed and analyzed and concluded with suggestions.

The scholar has made liberal use of material available on the research topics and referred to a number of standard books, journals websites etc. and tried to assimilate the texts with a view to presenting it in a lucid and orderly manner.

- **Rita Devi Niroula**

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Abbreviations

1. BIAC	Business and Industry Advisory Committee
2. BITC	Business in the Community
3. CSR	Corporate Social Responsibility
4. CSP	Corporate Social Performance
5. CERES	Coalition for Environmentally Responsible Economics
6. DIIME	Declaration on International Investment and Multinational Enterprises
7. DTI	Department of Trade and Industry
8. DFID	Department for International Development
9. ETI	Ethical Trading Initiative
10. EU	European Union
11. GMP	Good Manufacturing Practice
12. GRI	Global Reporting Initiative
13. ILO	International Labor Organization
14. ICT	Information Communication Technology
15. MNE	Multinational Enterprise
16. NEIIP	North East Industrial and Investment Policy
17. NCP	National Contact Point
18. OECD	Organization for Economic Co-operation and Development
19. TUAC	Trade Union Advisory Committee
20. Uk	United Kingdom
21. UNCHE	United Nations Conference on Human Environment
22. UNEP	United Nations Environment Programme
23. UNCSD	United Nations Commission for Sustainable Development
24. USTR	U.S Trade Representatives
25. UNHCHR	United Nations High Commission on Human Rights
26. UNODC	United Nations Office on Drugs and Crime
27. UNDP	United Nations Development Programme
28. UNIDO	United Nations Industrial Development Organization
29. USA	United State of America
30. WCED	World Commission on Environment and Development
31. WTO	World Trade Organization

CHAPTER I

INTRODUCTION

1.1 Statement of Problem

Corporate Social Responsibility (hereafter referred to as CSR) has emerged as an important aspect of the corporate world. The CSR is a widely accepted concept in the globalised world. The role of business in the development of a society has undergone a transformation in the last few years and business is no longer just focused on profit maximization or increasing the market share¹. Companies have to take responsibility for the impact of its activities and formalize and expand their scope of voluntary environmental and social activities. Increased awareness of corporate practices together with the rise in media exposure had led to growing expectations in this field. CSR is a concept by which companies integrate social and environmental concerns into their business operations on a voluntary basis. Contributions undertaken by companies to society through their business activities and social investments are the voluntary aspect².

The fundamentals of CSR rest on the fact that not only public policy but even corporate should be responsible enough to handle social issues. Thus companies should deal with the challenges and issues looked after to a certain amount by the states. CSR can be defined as a situation where corporate dedicates and act towards the economic and social development of community in which they operate. CSR today has become integral part of a corporate strategy crossing the boundary of simply charity and donation. Now-a-days companies have dedicated team for formulating policies, strategies and goals for the CSR program and separate budget is set aside for its implementation³.

¹ Stephen Bramer, Gregory Jakson, et al., CORPORATE SOCIAL RESPONSIBILITY AND INSTITUTIONAL THEORY: NEW PERSPECTIVES ON PRIVATE GOVERNANCE, (2012)10 Socio-Economic Review, 3-28, 2012

² Ilaria Bissacco, Paolo Maccarrone, et al., THE STRATEGIC APPROACHES TO CSR BY LARGE COMPANIES: A CONTINGENT MODEL, Politecnico di Milano, (sept 05, 2016, 10:10 am), http://www.crrconference.org/Previous_conferences/downloads/bissacco.pdf

³ Richa Goutam & Anju Singh, CORPORATE SOCIAL RESPONSIBILITY PRACTICES IN INDIA: A STUDY OF TOP 500 COMPANIES, Global Business and Management Research: An International Journal (Sept 05, 2016, 01:30 PM), [https://www.gbmr.ioksp.com/pdf/Gautam %20&%20Singh,%202010.pdf](https://www.gbmr.ioksp.com/pdf/Gautam%20&%20Singh,%202010.pdf)

Nature has provides human societies with a complex life support system like air, water, food and suitable climate for survival manly called the basic necessities for survival. It also provides the natural resources that are necessary for the sustenance of economic development. Nature has supported and maintained life on earth since time immemorial and should continue in future. This is known as the sustainability of nature or ecosystem or the environment. The term Sustainable Development is a very broad concept and defined in many ways. The World Commission on Environment and Development (WCED) define sustainable development as the meeting of the needs of the present without compromising the need of the future generations in order to meet own needs. Sustainable development is a way of brings together social, environmental and economic objectives⁴.

The World Conservation Union has defined Sustainable Development as maintenance of essential ecological processes and life support systems the preservation of genetic diversity and the sustainable utilization of species and ecosystem.

CSR and Sustainable Development comprises of economic and social development that protect and enhance the natural environment and social equality. CSR and Sustainable Development focuses upon a relationship between humans and their environment and warnings the humans that cannot push development which is against nature and encourages the conservation and preservation of natural resources and of the environment and the management of energy, waste and transportation⁵. CSR connected with the principal of sustainability which argues that enterprises should make decisions based not only on financial factors such as profits or dividends but also based on the direct and long term social and environmental consequences of their activities. CSR is the responsibility of an every organization for the impact of its decisions and activities on society the environment and its own prosperity known as the triple-bottom-line of people, planet and profit⁶. The triple-bottom-line approach is grounded in the simple realization that

⁴A.S. Narang, INTRODUCTION TO SUSTAINABLE DEVELOPMENT: ISSUES AND CHALLENGES, (Aug 18, 2016 (10:30 AM), [http:// www.ignour.ac.in](http://www.ignour.ac.in)).

⁵ Bissacco supra note 2, at 2.

⁶ Ram Singh, CORPORATE SOCIAL RESPONSIBILITY PRACTICES IN INDIA, 4 (6) IJSSIR, 50, 50-55 (2015).

corporations can add value and should publicly account along three drivers, namely the economic, the environmental and the social drivers.

India has a long rich history of business involvement in social factor for national development from the origin the concept of business, which leads towards excess wealth, social and environmental issues have deep roots in the history of business. Our country has a long tradition of corporate philanthropy and industrial welfare has been put to practice since 1800s century. The business practice of philanthropic donations to charity, service to the community, enhancing employee welfare and promoting religious conduct. Sometimes corporations give funds to charitable or educational institutions and may argue for them as great humanitarian deeds. The ideology of CSR in the 1950s was primarily based on an assumption of the obligation of business to society⁷. It has also been found that to a growing degree companies that pay genuine attention to the principles of socially responsible behavior are also favored by the public and preferred for their goods and services. This has given rise to the concept of CSR⁸.

When the world was awakening for the protection of sustainability, many countries took part in the Stockholm Declaration of 1972⁹. India also participated and discussed about the Sustainable Development at the UN Conference on Human Environment, where it focused on poverty and it was the main caused for environmental issues in developing countries and one cannot be solved without solving the other. Since livelihood at the grass-hood level depends on natural resources, improving natural resource management practices is key to poverty elimination and improving life conditions of the poor is central in improving environmental conditions. Hunger, malnutrition, access to common land and food security has to be looked. Market based economies often replace multi-cropping land with single crops not only robbing soil of its vitality but depriving the poor of their traditional source of nutrition. This also calls for strengthening existing institutional mechanisms of food delivery like the public distribution system and prevent leakage and

⁷ Babita Kundu & Dayalbagh, AN EMPIRICAL STUDY OF CORPORATE SOCIAL RESPONSIBILITY PRACTICES IN INDIA IN CHANGING GLOBAL SCENARIO AND ITS IMPACT ON COMPANIES' PROFITABILITY, (Sept 2013)

⁸ Pankaj Dodh, Sarbjeet Singh, et at., CORPORATE SOCIAL RESPONSIBILITY AND SUSTAINABLE DEVELOPMENT IN INDIA, 3 GJMBS, 681, 681-688 (2013)

⁹ Declaration of the United Nations Conference on the Human Environment, UNEP (Aug 13, 2016, 11:30 AM), <http://www.unep.org/documents.multilingual/default.asp?documentid=97&articleid=1503>

wastage. Conventional economic development like large-scale industrialization leads to loss of land as well as traditional occupation putting particular stress on women and children.

Economic and social development in India has to come in the context of natural resource management and all policies need to show the linkage and primacy of environment for Sustainable Development. This would require recognition and mapping of all stakeholders involved in environmental management and ensuring their participation in policies related to distribution of natural resource like water or minerals.

The corporate sector have realized that CSR is one of the important factor which helps to all round development of the society as well as country to attain sustainable development that is why CSR has played an important role. To fulfill the needs of the society these are the main key drivers of CSR: CSR have been lessening the role of government, demands for greater disclosure, increased customer interest, growing investor pressure, competitive labor markets, and supplier relations. The companies enjoy several benefits like improved financial performance, lower operating costs, enhanced brand image and reputation, increased sales and customer loyalty, product safety, material recyclability, and greater use of renewable resources¹⁰.

Looking upon the growing needs of sustainability slowly all countries of the world included sustainable development in their educational institution to fulfill the gap between ecology and human beings. Its main aim is to aware people from grass-hood level and helps to maintain the world ecological system. People are the creator and destroyer of the ecological system; to look upon this many international agencies were taken steps for the protection of environmental, social and economic factor of the world. Due to rapid growth of industrialization and urbanization in the world, it is necessary to make laws for controlling their activities.

¹⁰ Richa Goutam & Anju Singh, CORPORATE SOCIAL RESPONSIBILITY PRACTICES IN INDIA: A STUDY OF TOP 500 COMPANIES, Global Business and Management Research: An International Journal (Sept 05, 2016, 01:30 PM), [https://www.gbmr.ioksp.com/pdf/Gautam %20&%20Singh,%202010.pdf](https://www.gbmr.ioksp.com/pdf/Gautam%20&%20Singh,%202010.pdf)

CSR is based on the principle of transparency or openness of companies to attain the Sustainable Development as well as taking into consideration the will and expectations of their stakeholders. Social responsibility means a doctrine that claims that an entity whether it is Government, Private Corporation or Public Organization has a responsibility towards society. Through CSR, companies reduce their costs and risks, increase the brand value and reputation of the company, effectiveness and the efficiency of employees, improve transparency, and clarity in the working environment.

Sikkim became the 22nd state of the Indian Union after 16th May 1975. It has a land area of 7096 sq.km and 75% of which is covered by forest and Himalayas. It has a natural unpolluted beauty with many varieties of flora and fauna. Sikkim was one of the least industrially developed in India. Slowly the trend has changed as the Central Government has taken initiatives for development of North-East-Region and North East Industrial and Investment Policy (NEIIP), 2007 has become a boon for these initiatives. Now Sikkim has become the hub of many pharmaceutical companies, hydro power plants and tourism, which have made significant investments in the State.

With the approval and implementation of North East Industrial and Investment Policy (NEIIP), 2007¹¹ incentive like 100% Excise Duty Exemption, 100% Income Tax Exemption, Capital Investment Subsidy, Interest Subsidy and so on were accorded to the Industries/Companies established in the states of north east resulting in mushrooming growth of Industries and Companies (Hydro Companies, Pharma Companies and Tourism) in the state of Sikkim.

Sikkim has become a host to many pharmaceutical companies, hydropower companies and tourism industries, which have made significant investments in the state. The NEIIP, 2007 is highly beneficial for investments in Sikkim. The pollution free atmosphere is absolutely favorable to a company's investment. The big advantages are that companies are inclined toward investment in Sikkim complying with Good Manufacturing Practice (GMP). The design concepts for GMP can be incorporated with the latest technology and

¹¹North East Industrial and Investment Policy (NEIIP), 2007, Government of India (Aug 18, 2016 (01:30 PM), http://dipp.nic.in/English/Policies/NEIIPP_2007.pdf)

equipment in the beginning itself, thus avoiding the problem of trying to change the traditional plant design.

In pursuance of the NEIIP, 2007, various incentives are available to all industrial units; new as well as existing on their substantial expansion, located anywhere in the North Eastern Region. The Government of India has makes following Scheme of Capital Investment Subsidy for industrial units in the North Eastern. This Scheme called the 'Central Capital Investment Subsidy Scheme, 2007'.It came into effect from the 1st April, 2007 and remain in force up to and inclusive of 31.3.2017. A new industrial unit as well as existing units desiring substantial expansion and located anywhere in North Eastern Region is eligible for capital investment subsidy under this Scheme.

Here in Sikkim many companies both large and small comes under the purview of Section 135 of Companies Act and contribute in the sustainable development of the State through Corporate Social Responsibility (CSR). The following are the few names of Pharmaceuticals Companies, Hydro power Companies and Eco-tourism industries established in Sikkim: STP pharmaceuticals Pvt. Ltd., Sun Pharma Drugs Pvt. Ltd., Micro labs Ltd., M/S Cipla Ltd., Golden cross Pharma Pvt. Ltd., Glenmark Pharmaceuticals Ltd., Zydus Healthcare, Intas Pharmaceuticals., Torrent Pvt. Ltd., Lanco, Gati hydro power, NHPC Teesta stage IV-V, Rangit, Madhya Bharat Power Corporation Limited and Mayfair Hotel & Spa Resort Gangtok, Royal Plaza Gangtok etc¹².

Prior to the implementation of NEIIP 2007, Sikkim was an agricultural state where main source of livelihood of the people were agriculture and government employment. With the advent of the many companies in the state, it has provided employment and generated revenue but it also has a negative effect on the ecological system. The corporations are utilizing the natural resources to make the end products but in return giving back the environment waste and emission. Due to this many species of plants are becoming extinct and it also has adverse affects on flora and fauna. Extensive tunneling in geologically fragile areas, dumping of excavated debris into the surrounding landscape

¹² Industries and Companies in Sikkim, Government of Sikkim (Aug 20, 2016 (10:30 AM), <http://www.sikkimindustries.in/IndustriesAndCompaniesSikkim.aspx>.

and unevaluated social and environmental impacts, apart from the loss of culturally significant ecologies, make threats to the local communities and their way of life.

1.2 Literature Review

Shahid Jan, Mian Muhammad Zahid, et al., THE THEME OF CORPORATE SOCIAL RESPONSIBILITY WITHIN & OUTSIDE ORGANIZATIONAL ACTIVITIES: A THEORETICAL APPROACH, Vol 1 Issue 6, IRSS, 65-71(2013).

This paper analyzes the internal and external role of the CSR within the organization and further explain about that what an organization can contribute for the benefits of society. It also covers the core activities of an organization like production & manufacturing, marketing, corporate governance, investments etc., but does not deals with the environmental aspects.

Ilaria Bissacco, Paolo Maccarrone, et al., THE STRATEGIC APPROACHES TO CSR BY LARGE COMPANIES: A CONTINGENT MODEL, Politecnico di Milano, (sept 05, 2016, 10:10 am), http://www.crrconference.org/Previous_conferences/downloads/bissacco.pdf

This paper analyzes the different dimensions of company's approaches to CSR, internal dimension includes human resource management, health and safety at workplace and external dimension includes local communities, business partners, suppliers and customers, human rights and global environment concerns.

Stephen Bramer, Gregory Jakson, et al., CORPORATE SOCIAL RESPONSIBILITY AND INSTITUTIONAL THEORY: NEW PERSPECTIVES ON PRIVATE GOVERNANCE, (2012)10 Socio-Economic Review, 3-28, 2012.

In this article the issue of socio-economic conditions in a society or the institutions and their contributions to understanding CSR as a mode of governance and CSR activities in the voluntary basis in companies has been analyzed .

Jenny Fairbrass, Linda O'Riordan, et al., CORPORATE SOCIAL RESPONSIBILITY DIFFERNG DEFINITIONS AND PRACTICES, CRS Conference, (sept 05, 2016, 10:10 am), http://www.crrconference.org/Previous_conferences/downloads/fairbrass.pdf.

This paper contributes to explain the different CSR definitions and practices of CSR adopted by selected firms located within the Europe, namely pharmaceutical firms registered in the United Kingdom, Germany and Switzerland.

Babalola, Yisau Abiodun, THE IMPACT OF CORPORATE SOCIAL RESPONSIBILITY ON FIRM'S PROFITABILITY IN NIGERIA, 45 EJEFAS, 41,41-50 (2012).

The relationship between Corporate Social Responsibility and Firm's in Nigeria. Has been discussed in the paper. Further it also gives emphasis to CSR's role to meet the needs of the present generations without compromising and secure the next generations to meet their own needs and how organizations take responsibility for the way their operations impact societies and the natural environment.

Babita Kundu & Dayalbagh, AN EMPIRICAL STUDY OF CORPORATE SOCIAL RESPONSIBILITY PRACTICES IN INDIA IN CHANGING GLOBAL SCENARIO AND ITS IMPACT ON COMPANIES' PROFITABILITY, (Sept 2013)

This article has analyzed in India how the CSR plays a role to contribute to make a better society and a cleaner environment and companies integrate social and environmental concerns into their business operations and interaction with stakeholders on a voluntary basis.

Richa Goutam & Anju Singh, CORPORATE SOCIAL RESPONSIBILITY PRACTICES IN INDIA: A STUDY OF TOP 500 COMPANIES, Global Business and Management Research: An International Journal (Sept 05, 2016, 01:30 PM), [https://www.gbmr.ioksp.com/pdf/Gautam %20&%20Singh,%202010.pdf](https://www.gbmr.ioksp.com/pdf/Gautam%20&%20Singh,%202010.pdf)

This paper analyzes the how CSR policies of different companies in India vary with their turnover and profits. Every company defines CSR in their own ways as per their needs and mainly CSR activity based on the concept of philanthropy (charity, donation etc) but it does not deal with the environmental aspects in India.

A.S. Narang, INTRODUCTION TO SUSTAINABLE DEVELOPMENT: ISSUES AND CHALLENGES, (Aug 18, 2016 (10:30 AM), [http:// www.ignour.ac.in](http://www.ignour.ac.in)

This book deals with the different meaning and definition of sustainable development, how did the concept emerge and what are the various dimensions of sustainable development.

Ram Singh, CORPORATE SOCIAL RESPONSIBILITY PRACTICES IN INDIA, 4 (6) IJSSIR, 50, 50-55 (2015).

This article analyzes the different dimension of CSR i.e. three Ps, triple-bottom-line approach that includes people, plant and profit. India is a land of ethics and values. These ethics and values are set in business sector. It has seen that most of the companies in India have strongly been adopting CSR in their corporate policy to accomplish competitive advantage, profitability and performance. But this article also does not cover the area of environmental protection in India.

Pankaj Dodh, Sarbjeet Singh, et at., CORPORATE SOCIAL RESPONSIBILITY AND SUSTAINABLE DEVELOPMENT IN INDIA, 3 GJMBS, 681, 681-688 (2013)

This paper analyzes the importance of CSR in India as a tool to ensure greater participation of companies toward protecting the natural eco-system and enhancing the quality of living standard of people.

Jayati Sarkar & Subrata Sarkar, CORPORATE SOCIAL RESPONSIBILITY IN INDIA- AN EFFORTS OF BRIDGE THE WELFARE GAP, (Sept 05, 2016, 02:00 PM),<http://www.igidr.ac.in/pdf/publication/WP-2015-023.pdf>

This research paper deals with the various definition of CSR and its implication is mandatory under the Companies Act, 2013. The provisions of the new Act are designed thoroughly to balance the objectives of the corporation and its stakeholders on the one side and of the society and its stakeholders on the other side. But does not deal with the environmental protection.

N.V. Paranjape, THE NEW COMPANY LAW, 2013

This book analyzes about the provisions under the companies Act which deals with CSR in India, Sec-135 and Schedule VII of New Act 2013, three slabs of the Company i.e. net

worth of five hundred crore rupees or more, or turn-over of the thousand crore rupees or more or net profit of five crore of rupees or more. Through this it is clear to understand about the CSR strategies in India. Because all the companies do not come under the purview of section 135, but still they were doing CSR activities in the country.

Anupam Sharma, Ravi Kiran, CORPORATE SOCIAL RESPONSIBILITY INITIATIVES OF MAJOR COMPANIES OF INDIA WITH FOCUS ON HEALTH, EDUCATION AND ENVIRONMENT, 4(3) AFBAS, 95, 95-105 (2012).

This article analyzes the status, progress and initiatives made by large firms of India in context to CSR policy framing and implementation. Due to the need of the time and development, India has taken a transformational change by involving into new CSR initiatives and whether companies fall under section 135 or no but still doing a CSR activities, and put some suggestion that still a lot emphasis has to be given in this area.

1.3 Hypothesis

Under Corporate Social Responsibility the activities carried on and the duties performed by the companies are not consistent with the Sustainable Development in Sikkim and its environment.

1.4 Research Objective

The objective of this paper is to look at the inter-relations between Corporate Social Responsibility and Sustainable Development and try to prevent the future environmental degradation, which will be caused by various corporations.

1. To study the inter-relation of CSR and Sustainable Development in India.
2. To study the efforts of Indian companies in CSR field and their impacts on Sustainable Development.
3. To find out the socio-environmental effects of the activities undertaken by the Company.

4. To study the initiatives taken by the Companies for the protection of environment and prevention of environment degradation in Sikkim.

1.5 Research Questions

1. Is CSR accountable to attain Sustainable Development?
2. To what extent CSR plays a role to reduce risks of environmental issues in the State?
3. What kind of CSR activities is undertaken by the different companies in the state to attain Sustainable Development?

1.6 Research Methodology

The methodology adopted for the present study is doctrinal as well as empirical. Both primary as well as secondary data has been taken into consideration for the completion of this research work. Primary data has been collected through interview method. The companies established in the state were visited and individual interview of the officials about the CSR initiatives taken by the companies were discussed. Secondary data has been collected mainly from books, journals, various articles, handbooks, news paper, reports and publications of various associations, websites, annual reports of selected companies etc.

1.7 Chapterization

This dissertation is organized into 6 (six) Chapters.

Chapter I- Introduction

In this chapter the basic concepts of CSR, its effect in the society, various International Conventions and precedents have been discussed. Further, Hypothesis, Objective, Research questions and methodology has been framed.

Chapter II- Evolution of Corporate Social Responsibility and Sustainable Development

This Chapter discusses the evolution of CSR and Sustainable Development in Sikkim as well United Kingdom and United State of America.

Chapter III- International Instruments for Corporate Social Responsibility

In this chapter the International Codes, Standards and Principles relating to CSR have been discussed. Various International norms and guidelines regarding CSR such as International Labor Organization (ILO), Declaration on Fundamental Principles and Rights at Work (ILO), The Multinational Enterprise (MNE) Declaration, and The United Nations' Global Compact has been dealt in depth.

Chapter IV- Constitutional Mandate for Corporate Social Responsibility

In this chapter various Constitutional framework pertaining to Corporate Social Responsibility, Legal Position of Corporate Social Responsibility in India has been discussed.

Chapter V – Corporate Social Responsibility and Sustainable Development in Sikkim

In this chapter in-depth study on the CSR activates performed by various Hydro project Plant, Pharmaceuticals Companies and Tourism Sector has been discussed and analyzed.

Chapter VI- Conclusion and Suggestion

This chapter summarizes the issues discussed in previous chapters and concludes the dissertation with suggestion.

CHAPTER II

EVOLUTION OF CORPORATE SOCIAL RESPONSIBILITY AND SUSTAINABLE DEVELOPMENT

2.1 Evolution of CSR and Sustainable Development

Corporate Social Responsibility is a company's dedication to operating in an economically, socially and environmentally sustainable manner that is transparent and more beneficial to stakeholders. Stakeholders include investors, customers, employees, business partners, local communities, the environment and society. The concept of CSR has continued to grow its importance and significance. It has been the matter of discussing the commentary theory building and research. The idea that business enterprises have some responsibilities to society beyond that of making profits for the shareholders has been around for centuries. However, all the practical purposes, it is largely a post World War II phenomenon and did not flow in importance until the 1960s and beyond. Therefore, it is largely a product of the past half century¹³.

The core principle that the corporation has responsibilities to society beyond the profit maximization objectives has long historical roots. J.M.Clark in 1916, in his writing in the journal of "Political Economy", noted that "if men are responsible for the known results of their actions, business responsibilities must include the known results of business dealings, whether these have been recognized by law or not". Professor Theodore Kreps introduced the subject of Business and social welfare to Stanford in 1931 and used the term "Social Audit" for the first time in relation to companies reporting on their social responsibilities. Later in 1942, Peter Drucker argued that companies have a social

¹³Archie B. Carroll, Corporate Social Responsibility: evolution of a definitional construct, 38 (3) BS, 268–295 (1999).

dimension as well as economic purpose in his second book, "The Future of Industrial Man"¹⁴.

Bowen, defined CSR in 1953 as "the obligations of businessmen to pursue those policies, to make those decisions, or to follow those lines of action which are desirable in terms of the objectives and values of our society." At the time, corporate social obligation was linked to the power that business holds in society¹⁵. This point was stressed by K Davis who in 1960, described business social responsibilities as "the businessman's decisions and actions taken for reasons at least partially beyond the firm's direct economic or technical interest. Which need to be adequate with the company's social power?"¹⁶

The first situation addressing particularly in social auditing was around 1960's in a book by G Goyder called "The Responsible Company". Goyder referred to various activities in the mid and late 1950s and suggested that social audit could provide a management tool and could offer stakeholders a platform for challenging and influencing companies. Opponent to the notion that companies have social responsibilities has been prevalent on the grounds that it will distract attention from the primary economic objectives. In 1962 Milton Friedman stated that "Few trends could so thoroughly undermine the very foundations of our free society as the acceptance by corporate officials of a social responsibility other than to make as much money for their stockholders as possible"¹⁷.

A balanced view of CSR is expressed by D Voge in "The Market for Virtue: The Potential and Limits of Corporate Social Responsibility. He was suggesting that CSR is not a precondition for business success but a dimension of corporate strategy: "Just as firms that spend more on marketing are not necessarily more profitable than those that spend less, there is no reason to expect more responsible firms to outperform less

¹⁴ Strategic CSR Corporate Responsibility & Sustainability, CSR Quest (Sept 17, 2016, 10:30 AM), <http://www.csrquest.net/default.aspx?articleID=13113&heading>.

¹⁵ H. Bowen, *Social Responsibilities of the Businessman*, 54-68 (University of Iowa Press) (1953).

¹⁶ Davis & Keith, *Can Business Afford to Ignore Social Responsibilities?*, 2 CMR 70,70-76 (1960)

¹⁷ Milton Friedman, *Capitalism and Freedom* 112-113 (The University of Chicago Press, Chicago 60637) (1962).

responsible ones. In other words, the risks associated with CSR are not different from those associated with any other business strategy; sometimes investments in CSR make business sense and sometimes they do not." Voge also highlights that "Surveys of the world's top brands rarely cite CSR as an issue associated with a given brand. And companies that make most admired lists do so by virtue of other factor financial performance, customer satisfaction, innovation, and so on.¹⁸" Present day's people cannot pick up a newspaper, magazine or journal without knowing some facts or issues, relating to the recent development of what business are thinking or doing about CSR. Specific journals, news magazines, books, dictionaries, encyclopedias, websites, discussion lists and blogs treat the concept on a regular basis. The business community has formed its own organizations specializing in the topic. Business for Social Responsibility (BSR) is a business association founded in 1992 to provide corporations with expertise on the subject and an opportunity for business executives to advance the field and learn from one another. There has been an explosion of interest in CSR in the European Union and around the world. The London-based Ethical Corporation is another organization that stages high profile conferences addressing CSR, business ethics and sustainability concerns¹⁹.

Ethical Corporation is an independent media firm, launched in 2001, to encourage debate and discussion on responsible business practices. However, CSR was once regarded as largely a domestic business issue in leading countries of origin, in recent years its popularity has spread into the world scene, at present seen CSR initiatives in almost all the developed nations, and initial thinking and development taking place in emerging nations also. The term CSR is even though competing, complementary and overlapping concepts such as corporate citizenship, business ethics, stakeholder management and sustainability are all became the most accepted and widespread in the field of business. At the same time, the concept of Corporate Social Performance (CSP) has become an established umbrella term which embraces both the descriptive and normative aspects of

¹⁸ David Vogel, *The Market for Virtue: The Potential and Limits of Corporate Social Responsibility* 53-55 (Brookings Institution Press) (Sept 2005).

¹⁹ Berger, Ida E., et al., *Mainstreaming corporate social responsibility: developing markets for virtue*, 73 *CMR* 132, 132–157 (2007).

the field, as well as placing an emphasis on all that firms are achieving in the area of social responsibility policies, practices and results. However, all these concepts are related to each other, in that they are integrated by key, underlying themes such as value, balance and accountability and CSR remains a dominant²⁰.

Sustainability means everything that humans require for their survival and well-being depends, directly or indirectly, on the natural environment²¹. The environment provides the air we breathe, the water we drink, and the food we eat. It defines in fundamental ways the communities in which we live and is the source for renewable and non-renewable resources on which civilization depends. Our health and well being, our economy, and our security all require a high quality environment²². This is known as the sustainability of nature or ecosystem or the environment. Sustainable Development is a concept which refers to the process of socio-economic development through the judicious utilization of the natural resources, which needs in the future generations. Considering that socio-economic development for the societal development, the element of 'sustainability' comes from the initiatives of environmental protection. Therefore, the concept of sustainable development needs to be incorporated in each and every developmental policy framework of the national and international governments and agencies²³.

The term Sustainable Development is a very broad concept and defines in different ways. The United Nations Conference on Human Environment (UNCHE) was organized in Stockholm in 1972. The idea of environment protection was placed on the international agenda for the first time in 1972. It led to the establishment of United Nations Environment Programme (UNEP). The first Director of UNEP, Maurice Strong coined the term 'eco development' which integrated development with environment protection.

²⁰ Schwartz, M. & Carroll, A.B., Integrating and unifying competing and complimentary frameworks: the search for a common core in the business and society field, 47 B&S 148, 148–186, (2008).

²¹ George Perkins Marsh., Man & Nature, Powel City of Books (Aug 20, 2016 (02:30 PM), <http://www.powells.com/book/man-nature-9780295983165>).

²² Nicholas A. Ashford & C.C. Caldart., Environmental and Occupational health protection law, 2 Elsevier , 390-401 (2008).

²³ Reid & David, Sustainable Development: An Introductory Guide 239-254 (EarthScan, London) (1995)

Since then the journey begins towards the Sustainable Development. The concept of ‘Sustainable Society’ emerged when conference on Science and technology for human development, convened by the World Council of Churches 1972. This concept did not deal with the environmental conditions but started with the principle of equitable distribution, later became the part of Brundtland report 1987. ‘Sustainable Society’ involved the concept of democratic participation, which became important after twenty years at the Rio earth Summit 1992²⁴.

By 2000, the concept of Sustainable Development became firmly settled as a guiding document in all international and national organizations. The UN member states have been publishing reports on the national status of Sustainable Development program and submitting them to the UN Commission for Sustainable Development (UNCSD). The term is modified for different user groups as ‘sustainable human development’, ‘sustainable economic growth’, ‘sustainable socio-economic development’ and ‘sustainable local governance’ and recently in 2004, Information Communication Technology (ICT) for Sustainable Development²⁵.

2.2 In United States of America

Since the late 80’s of the 20th century in many Western countries, the companies received broad support and development in the philosophy of CSR. But the concept of CSR formed in the whole world recently 60 years ago. Prior to this, there were different standards and regulations in the areas of corporate governance, corporate ethics, and relationships with competitors, responsibilities towards the society and the country. Social policy rules and standards have not been developed from the late 1960s-1970s leading U.S. and European companies have started to come to an understanding of the need to unite different elements of corporate policies related to the relationship of the company with the environment, and to the development of a single integrated approach to interaction with society. Such a policy would have to be associated with the philosophy

²⁴ Methuen, Sustainable Development; Exploring the Contradictions, 23 Community Dev 130, 130-131 (1987)

²⁵ Global Environment Outlook, UNEP (Aug 28, 2016 (12:30 PM)),<http://www.grida.no/geo2000/English/0027.htm>

of the company, its marketing strategy, and it should meet the expectations of society. The main reasons for the intensive development of CSR in 1970s, in developed countries was because of the failure of consumers to purchase goods and services of irresponsible companies, as well as the growth of the trade union movement²⁶.

In 1950s, many entrepreneurs started a limited discussion about the concept of CSR. Frank Abrams, a former executive with Standard Oil Company, New Jersey, introduced concerns about management's broader responsibilities in a complex world²⁷. Abrams argued that, as management was professionalizing, companies had to think not just about profits but also about their employees, customers and the public at large. Thereafter Howard R. Bowen published his seminal book, *Social Responsibilities of the Businessman* in 1953. Bowen's book was noticeably ahead of its time, by at least a decade, but it came to shape significantly future thought on the subject²⁸. William C. Frederick, a noted contributor to the CSR literature, argued that there were three core ideas abducts that stood out in the 1950s²⁹. These included the idea of the manager as public trustee, the balancing of competing claims to corporate resources, and corporate philanthropy.

During 1950s, there were limited discussion between CSR and its benefits for businesses. That time the primary focus was on business responsibilities to society and doing good works for society. Theodore Levitt closed out the 1950s by warning the business world about the dangers of social responsibility. Gradually CSR would grow in popularity and take shape during the 1960s, driven largely by the social movements that defined the times, mainly in the US, academics who were attempting to explain what CSR really meant and implied for business³⁰.

²⁶ Parsons T., *the System of Modern Societies*, 230 (Moscow: Economics 1997).

²⁷ Abrams, F.K, *Management's responsibilities in a complex world*. 39 *Harvard Business Review*, 29, 29–34 (1951).

²⁸ Howard Rothmann Bowen, *Social Responsibilities of the Businessman*. (New York: Harper 1953) (2007).

²⁹ William C Frederick, *The growing concern over social responsibility*. 2 *CMR*, 54, 54–61 (1960).

³⁰ Theodore Levitt, *The dangers of Social Responsibility*, *HBR* 41, 41-50 (1958).

History shows that in US, the most important social movements during 60's were civil rights, women's rights, consumers' rights and the environmental movement. Most important, people and ideas in these movements were instrumental in characterizing the social changes introduced in 60's. In each of these arenas, business perceived expectations being communicated which eventually had to be addressed. Thus, the foundation for CSR was being developed by a quickly changing social environment and pressures from others, especially activists, to adopt CSR perspectives, attitudes, practices and policies. In the 1960s, companies initially did not perceive a 'social' environment in the way that what people do today. However, slowly-slowly the overall social environment was being constructed by these movements, and the result would be a noticeably different, in which business would then have to operate. Though the 1960s seemed ready for advances in social responsibility thought, the decade was reeling from Professor Theodore Levitt's admonitions about 'the dangers of social responsibility'. Levitt thought that social concerns and the general welfare were not the responsibility of business, but of government, and that business's job was to 'take care of the more material aspects of welfare'. Levitt feared that attention to social responsibilities would detract from the profit motive that was so essential for business success. But, there were also positive voices advocating the social responsibility movement.

The American model of CSR has a history of the 19th century. Because of the nature of American entrepreneurship based on the maximum freedom of subjects, many spheres of social relations are still very controlled. In particular, the employment relationship is employer-employee bilateral agreement, voluntary health insurance etc. At the same time, America has developed numerous mechanisms for the participation of business in social support society through corporate funds aimed at addressing various social issues through business sponsorship of professional education, pension, and protection of environment and insurance sectors for the staff. The responsible social behavior and corporate philanthropy encouraged by the relevant tax exemptions and offsets enshrined in law. Thus, the American model of CSR is initiated by the companies and provides for maximum autonomy in determining their corporations of the Public input, but the

legislation promotes social investment in areas favorable to society through appropriate tax incentives and credits, with minimal government regulation of CSR³¹.

The American model of CSR is different from the European model: first, the American approach to enforcement is based on the principles of common law, while in European countries the legislation more codified, secondly; for many years the social program of the American business sold through charitable foundations; in Europe targeted social programs and business projects; thirdly, the U.S attitude in the workplace based on the principles of individualism, whereas in Europe is dominated by the principle of collective solidarity; fourth, the methods of information support of CSR activities in the United States are more diverse than in Europe.

Together the American and European models of CSR have common origins, i.e., environmental issues or opposition to plans for business by the environmental movement. Presently, two models are developed in the direction of expansion of social programs as significant financial costs on both sides of the ocean, an important role in the growth of which was played by oil prices and the need to subsidize certain industries and spheres of life, forced the government to address the business with a request for possible assistance in implementation of social programs. Another important aspect of combining the two approaches is the location of production in developing countries, where the problems of implementing CSR are similar for both systems. To conclude, the need to reduce the tax as a form of stimulating economic growth is an additional factor for the cultivation of social responsibility among the business community.

The ratio of American companies to CSR, the dividing line between the perceptions of social programs in business, economics professor from the Ohio State University, Richard Steckel expressed: “For companies who want to do only the production and marketing of its products, social responsibility is difficult to achieve. Those who did not cope with it, lose the competition. The same companies that seek to resolve it through a

³¹ Firuza Madrakhimova, History of development of corporate social responsibility, 4 JBE, 509-520 (2013)

strategic partnership with non-profit organizations will gain a powerful tool to ensure cost-effectiveness and viability of the business for the long term”³².

In America social protection of the employed population is defined more broadly as part of the general system of social protection of the population. On the other hand, the leading U.S corporations in contrast to Europe, proponents of CSR activities, prefer philanthropic involvement in charitable funds targeted social support. The implementation of CSR is through charitable foundations, which are now having an increasing impact on social programs of large corporations. The main part of measures to introduce CSR rests on the shoulders of corporations, as the government prefers a minimal intervention in the private sector in America. Although in America addition to general measures for the social protection of the population, implementing programs of excellence quality and healthy workplace. The list of activities includes the fight against industrial accidents and occupational diseases, protection of workers’ health, the fight against unemployment by reducing staff turnover in a particular enterprise³³. The American pharmaceutical firms wrote the first codes of conduct in the 19th century. In 1977 an American minister, the Reverend Leon Sullivan, developed a set of principles for business behavior for firms operating in South Africa during the last years of apartheid. It became a global model guiding firms from around the world. Socially responsible investing also grew rapidly in the America. By the 1980s, the United States had more than 100 mutual and investment funds that screened investments based on companies’ human rights or environmental performance. According to the Social Investment Forum’s 2001

³² Richard Stekel, Robin Simons, et al., *Making Money While Making a Difference: How to Profit with a Nonprofit Partner*, (High Trade Press) (1999).

³³ D. Corbett., *Building sustainable value trust: Canadian excellence framework*, *Pre-Conference: EFQM Learning Edge: Social Dimensions Organizational Excellence*, June (2003).

Report on Socially Responsible Investing, \$1 out of every \$8 in professional investments such as pension funds, mutual funds, and foundations are in socially responsible investment vehicles. (In 1995, it was \$1 out of \$10.)³⁴

In present position, U.S. policymakers have done little to encourage global CSR. While U.S. policymakers frequently talk about “partnerships” with business to promote global sustainable development or human rights, the U.S. often sends conflicting market signals to business regarding ethical behavior. This is ironic, because the U.S. was the first nation to force its firms to act ethically overseas.

The Department of State leads America’s foreign policy activities and thus it takes a substantive and coordinative role in promoting global corporate responsibility. Hence, State must balance many foreign policy objectives, from advancing U.S. security interests to advancing U.S. economic interests. Thus, its policies on global corporate responsibility can appear disorganized or inconsistent. According to Lorne Craner, Assistant Secretary of State for Democracy, Human Rights and Labor Rights, the Department supports corporate responsibility, to promote trade and business, and to promote “legal and ethical behavior as well as respect for human rights and labor rights³⁵.” Further he insists, “We believe that voluntary guidelines and public private partnerships are the best ways to encourage corporate responsibility.

The Bureau of Democracy, Human Rights and Labor Rights is responsible for the Voluntary Principles on Security and Human Rights. But neither the Voluntary Principles nor the OECD Guidelines appears to truly influence how the Department interacts with the business. The Bureau of Economic and Business Affairs also has several CSR initiatives. The Undersecretary of State for Economic and Business Affairs makes an award every year for exemplary international corporate citizenship. This Bureau also has responsibility for international trade and investment. As the OECD Guidelines are a

³⁴ Statistics on social investment, USSIF (Sept 19, 2016 (02:30 PM), <http://www.socialinvest.org>

³⁵ Lorne W. Craner, Assistant Secretary of State for Democracy, Human Rights and Labor (Sept 19, 2016 (03:00 PM), http://www.multinationalguidelines.org/csr/craner_speech.htm.

mechanism to facilitate investment, this Bureau has the responsibility of promoting the Guidelines.

The Economic Bureau has established a National Contact Point; its duty is to inform the public about the business or corporate sector. In addition to this the NCP is made up solely of several government officials. This narrowness indicates a lack of commitment by the State Department to the Guidelines as a tool to promote global CSR. The federal government does more to encourage multinationals to adhere to the Guidelines and tells corporate stakeholders about these Guidelines³⁶.

The State Department has intervened in important cases, which involving human rights and extractive industries. The most important case was, Doe et al. vs. Exxon Mobil et al., remains before the U.S. District Court in Washington, D.C. The plaintiffs claimed that Exxon Mobil, which operates a natural gas field in Indonesia, paid and directed Indonesian security forces. In the course of protecting the company's operations, the plaintiffs alleged that these security forces carried out murder, torture, and rape³⁷. Exxon Mobil has denied the allegations and a company spokesman said the charges were "completely without merit." On May 31, five human rights groups asked the State Department not to intervene in Doe vs. Exxon Mobil. The writers expressed concern that multinational companies accused of complicity in human rights violations "may now view the State Department as their court of last resort." Finally, they warned that "the human rights objectives of the State Department may be overwhelmed by the political pressures brought to bear by powerful companies³⁸."

This case mainly concerned about the human rights activists because it followed another law suit involving a mining company's impact upon human rights. The Rio Tinto case

³⁶ Ann McConnell, Economic Bureau-Department of State, US Department of State (23 Sept,2016 (10:11 AM),[http:// www.state.gov/g/rls/rm/2002/10073.htm](http://www.state.gov/g/rls/rm/2002/10073.htm).

³⁷ Alien Tort, Claims Act, Harvard University (Sept 25, 2016, 11:30 AM), [http:// cyber.law.harvard.edu/torts36/readings/update-a-02.html](http://cyber.law.harvard.edu/torts36/readings/update-a-02.html).

³⁸ Alexandra Arriaga, Amnesty International (Oct 1, 2016, 02:30 PM), www.laborrights.org/projects/corporate/exxon/stateexxonmobil.pdf.

involving human rights violations in New Guinea. The Department asked that it be dismissed and the judge agreed³⁹. While this case was quite different, it also raises the question of how the State Department can both promote the Voluntary Principles as a tool to help multinationals operate in nations where human rights has not been well respected, and at the same time, undermine this same tool by thwarting discussion in the courts of such issues. In America, prior to Clinton and Bush administration does not see global CSR strategies as complements to trade policy tools. Though, because other nations are increasingly linking CSR and trade, the U.S. government starts to give importance to CSR. One important tool of U.S. trade policy can be used to help firms operating overseas improve labor standards. The Generalized System of Preferences (GSP) was begun in the 1970s to offer trade preferences to developing countries. In 2001, the U.S. offered nonreciprocal trade preferences to 151 countries and territories.

Under the GSP in present position, any interested party may petition the committee monitoring GSP, the Trade Policy Staff Committee, to review the eligibility status of any country designated for benefits. If a country is selected for review, the committee then conducts its own investigation of labor conditions and decides whether the country will continue to receive GSP benefits. Several recent trade agreements actually do encourage greater corporate responsibility. The Cambodia bilateral textile agreement says the Cambodians will get an increase in their textile quotas if they work in concert with the International Labor Organization to ensure labor rights are protected in Cambodian textile factories. Thus, U.S. government sanctioned workers rights strategy may be an inducement for firms to locate production in Cambodia, for the costs and responsibility of inspection are done by the government with the help of the International Labor Organization, not the private sector⁴⁰.

Although the U.S Trade Representatives (USTR) has some understanding of how trade and CSR are being linked, it has not developed a position on the relationship of

³⁹ Greg Roberts, Australia Tries to Thwart Bougainville Class Action, Sydney Morning Herald (Oct 1, 2016, 11:30 AM), <http://www.smh.com.au/articles2002/03/22/australia.htm>

⁴⁰ Mamta Singh, India: Government Seeks Accountability from Foreign Corporation, Government of India (Oct 1, 2016, 11:30 AM), <http://www.globalpolicy.org/reform/business/2002/bizstandard.htm>.

investment policy to CSR. As of February 2003, the U.S. government has yet to develop a position on investment. Investment was identified as an area for discussion under the WTO⁴¹. India, China, and other developing countries sponsored a paper for the WTO's working group on investment which linked CSR strategies and international investment rules. Many activists and policymakers in the U.S. and abroad are concerned about embedding investment rules within trade agreements. USTR has also not seen CSR strategies such as the OECD Guidelines as tools to clarify the responsibilities as well as the rights of investors in countries where governance is inadequate⁴².

Agencies such as the Commerce and Treasury Departments are responsible for promoting international trade and investment in US. The Ex-Im Bank helps U.S. firms finance exports. In 1992, Ex-Im's charter was revised to require the bank to establish environmental review procedures consistent with the bank's overall export promotion objectives. The charter also authorizes the Board of Directors of Ex-Im to grant or withhold financing support after taking into account the beneficial and adverse environmental effects of proposed transactions. OPIC mobilizes and facilitates the participation of U.S. private capital and skills in the economic and social development of less developed countries and areas and countries in transition from nonmarket to market economies. OPIC is supposed to "assure that the projects it supports are consistent with sound environmental and worker rights standards⁴³." Since 1985, OPIC has been required by statute to assess the environmental impacts of projects under consideration for insurance and financing. While these agencies have environmental review policies, they have no clear procedures in place to support workers rights. With or without intent, with

⁴¹ Edward M. Graham, *Fighting the Wrong Enemy: Antiglobal Activists and Multinational Enterprises* (Institute for International Economics, 2000).

⁴² United State Trade Representative, USTR on investment 2001 Annual Report (Oct 2, 2016, 11:00 AM), <http://www.ustr.gov>.

⁴³ OPIC Environmental Handbook (Oct 3, 2016, 02:30 PM), <http://www.opic.gov/Publications/envbook.htm>.

these programs the U.S. government is telling business that how workers and communities are treated is less important than how companies treat the environment⁴⁴.

2.3 In United Kingdom

The history of CSR highlights the ways in which business leaders and scholars have struggled to define and conceptualize CSR. As in America and Europe emerged from the World War II and confronted the emerging Cold War tensions, thinking about business and the future course of the economic system in the West intensified. The preliminary research for the envisioned project exposed a range of opinion and ongoing efforts to clear business responsibilities, to provide a philosophical foundation for those responsibilities, and to develop effective ways of responding to or implementing those responsibilities⁴⁵. The 60-years period from 1945 to 2004 has seen profound changes in global political and economic arrangements. A world in which communism was arrayed against an alliance of capitalism and various socialistic governments in Western Europe has now been transformed into a world in which the principal tensions in political economy are between American-style global capitalism and more socially self-protective economies in the European Union, Latin America, and Asia⁴⁶.

The CSR concept found in the business practices of successful companies in 18th century. The Cadbury Chocolate makers in the U.K in 1870s and in 1879 a “Greenfield” site which called Bournville. By 1899, the Bournville factory had expand its size with more than 2600 employees and was managed scientifically with analytical laboratories, advertising and cost offices, a sales department, pension funds, education and training for employees. In 1900 George Cadbury established the Bournville village to promote housing reform and green environment and demonstrating today’s CSR message “Successful business in successful communities.”

⁴⁴ EXIM Bank of United State, Speeches/Testimonies (Oct 3, 2016, 03:00 PM), <http://www.exim.gov/speeches/may0202.html>.

⁴⁵ Ackerman, Robert W., How Companies Respond to Social Demands, 51 Harvard Business Review, 88–98, (1973).

⁴⁶ Corporate Social Responsibility, A Shape of a history 1945 to2004, centre for ethical business culture (Sept 13, 2016, 10:30 AM), [http:// www.cebcglobal.org](http://www.cebcglobal.org).

The rise of the European Union in Europe has influenced expectations in the realm of corporate responsibility or corporate social responsibility. The fall of the Berlin Wall led the Western alliance to a new appreciation of internal differences that had been suppressed in a culture preoccupied with the Soviet threat. One internal difference between America and Europe has to do with social attitudes toward private vs. public institutions. At the risk of some exaggeration, Europeans are instinctively more trusting towards government and distrustful toward corporations. Americans, on the other hand, seem to trust corporations more than they trust government institutions. These social attitudes have given rise to contrasting approaches to government regulation of the private sector. Employment protection against layoffs and privacy protection surrounding personal information are just two areas in which European attitudes seem to favor stronger public sector interventions than in the America⁴⁷.

The U.K government has promoting global CSR a foreign policy priority. While no other government's has made an all-out effort, the British have been leaders in promoting the OECD Guidelines, the one internationally accepted code of conduct. The Guidelines were designed by the OECD as part of its Declaration on International Investment and Multinational Enterprises (DIIME). Today a number of 36 nations, including non-members of the OECD Argentina, Brazil, and Chile, have signed on to the Guidelines. Thus, the OECD Guidelines are the most global code signed by governments⁴⁸.

In Britain, the National Contact Point (NCP) is in the Department of Trade and Industry (DTI) and is composed solely of DTI officials. The British have done more than any other government we examined to promote the Guidelines. The UK NCP website is user friendly and unusually detailed. It answers many people's questions about how and when to contact the NCP and what the NCP will do. The British NCP was the first to produce a

⁴⁷ Aaronson & Susan Ariel, Corporate Responsibility in the Global Village: the British Role Model and the American Laggard., 108 Business & Society Review,309–38 (2003).

⁴⁸ OECD, Responsible Business Conduct (Sept 12, 2016, 11:30 AM), <http://mneguidelines.oecd.org/guidelines/>.

booklet for its citizens on the Guidelines. It was also the first government to put its NCP report on the web (2002)⁴⁹.

The British government promotes another code of conduct, jointly developed with the U.S. government, for the extractive industry. The “Voluntary Principles on Security and Human Rights” were designed in concert with executives from extractive industry companies, unions, and civil society groups. The code governs business operations in conflict-prone countries such as Nigeria and Indonesia. Companies signing the statement agree to report “credible allegations of human rights abuses by government authorities and press for “proper resolutions.” These principles are a good example of how government can use its convening power to deal with sector-specific problems.

In 1997 British Department for International Development (DFID) created an innovative new strategy, the Ethical Trading Initiative (ETI), to help improve global working conditions. The ETI is an alliance of companies, NGOs, and trade unions that works to improve labor conditions in the supply chains of corporate members. The employment standards adopted by ETI members come from ILO Core Conventions. ETI members visit their suppliers, identify conditions that do not meet the ETI base code, and then plan improvements. ETI has successfully implemented the base codes in projects in the wine industry of South Africa and horticulture in Zimbabwe. ETI members include government agencies, companies such as Levi-Strauss, Safeway, and Marks and Spencer; NGOs such as Oxfam and Christian Aid; and the New Economics Foundation. If members do not honor their commitments under the ETI they lose their membership status. The Initiative thus uses shame rather than sanctions to induce changes to corporate behavior. Although the ETI receives support from the Department for International Development as well as the Department for Trade and Industry (DTI), the ETI is an independent organization⁵⁰.

⁴⁹ Department for Business, Energy & Industrial Strategy, Government of United Kingdom (Sept 12, 2016, 11:30 AM), <http://www.dti.gov.uk/worldtrade/craig/report.htm>.

⁵⁰ Business and Society, Ethical Training Initiative (ETI) (Oct 1, 2016, 01:30 PM), <http://www.ethicaltrade.org>.

The British government has developed a wide range of other strategies to link development efforts and CSR strategies. The DFID created a Business Partnerships Department in 1998, to foster partnerships with socially responsible firms and to “improve the enabling environment for productive investment overseas.” In 2001 the Department set up a team to facilitate best practice for CSR that incorporates the needs of the global poor.

Even today’s the British government has sponsored several conferences on CSR as well as a seminar on the European Communities; attempt to develop European-wide global CSR strategies. Working with the governments of Ireland, the Netherlands, and Denmark, ministers and civil servants created an informal government network on social responsibility to share best practices and experiences. Government officials also speak and publish frequently on the links between CSR and globalization and on the potential and importance of CSR⁵¹.

In the year 2000, Business in the Community (BITC), a British organization that promotes CSR established an all-party parliamentary group on CSR, which has had growing attendance and the active involvement of a number of MPs and elite peoples. Its success reflects the interest in CSR in Britain both as a management strategy and as a globalization tool.

The International NGOs Amnesty International, the New Economics Foundation, and other groups are urging a bill to require disclosure of the environmental, social, economic, and financial impact of international operations to the British Government. British officials openly state that they have not done enough to make CSR a reality both domestically and internationally. In the 2002 report on CSR, Douglas Alexander noted, “within Government, Departments need to work more closely together and apply internally more of the CSR good practices.” In the U.K. annual National Contact Point Report on the OECD Guidelines, the government explains that it must find ways to establish where the Guidelines “fit in with other national and international initiatives.”

⁵¹ U.K. Minister for Corporate Social Responsibility Opens European Expo, (Oct 7, 2016, 11:40 AM),<http://www.accounting.education.com/news/news1360.html>.

This report also notes that the government has found areas where the Guidelines need to be revised and it promises to press for such changes⁵².

To conclude, the British government is taking various initiatives to promote CSR in global manner. It proves that more interests to improve business than other nations and to experiment with public policies. The focus on promoting global CSR is possible to continue, even as market conditions, policies etc.

2.4 In India

India has a long rich history of business involvement in social factor for national development from the origin the concept of business, which leads towards excess wealth, social and environmental issues have deep roots in the history of business. Our country has a long tradition of corporate philanthropy and industrial welfare has been put to practice since 1800s century⁵³. The business practice of philanthropic donations to charity, service to the community, enhancing employee welfare and promoting religious conduct. Sometimes corporations give funds to charitable or educational institutions and may argue for them as great humanitarian deeds. The ideology of CSR in the 1950s was primarily based on an assumption of the obligation of business to society. It has also been found that to a growing degree companies that pay genuine attention to the principles of socially responsible behavior are also favored by the public and preferred for their goods and services. This has given rise to the concept of CSR⁵⁴.

India after Independence, JRD Tata laid a great emphasis on conducting the many innovative works for the development of industrial and business sectors. He advised that apart from the obvious one of donating funds to good causes which has been their normal practice for years; they could have used their own financial, managerial and human

⁵² Business & Society, Corporate Social Responsibility Report (Oct 7, 2016, 03:30 PM), <http://www.dti.gov.uk/sustainability/sus/corp.htm>. (Assessed on 7th oct 2016).

⁵³ Gautam Richa and Singh Anju, Corporate Social Responsibility Practices in India: A Study of Top 500 Companies, 2 GBMR,41, 41-56 (2010)

⁵⁴ Shinde, S, Social Responsibility Corporate Style (Oct 10, 2016, 11:30AM), <http://www.expresscomputeronline.com/20050502/technologylike01.shtml>)

resourced to provide task forces for undertaking direct relief and reconstruction measures. Gradually, it began to be accepted, at least in theory that business had to share a part of the social overhead costs of. Traditionally, it had discharged its responsibility to society through benefactions for education, medical facilities, and scientific research among other objects. The important change at that time was that industry accepted social responsibility as part of the management of the enterprise itself. The community development and social welfare program of the premier Tata Company, Tata Iron and Steel Company was started the concepts of “Social Responsibility⁵⁵.”

CSR is based on the principle of transparency or openness of companies to attain the Sustainable Development as well as taking into consideration the will and expectations of their stakeholders. Social responsibility means a doctrine that claims that an entity whether it is Government, Private Corporation or Public Organization has a responsibility towards society. Through CSR, companies reduces their costs and risks increase the brand value and reputation of the company, effectiveness and the efficiency of employees, improves transparency, and clarity in the working environment.

Later on in 2013, Amendment of old Companies Law 1956 and Constituted a New Company Law 2013 in India, where inserted the concept of CSR and it is governed by section 135 of the Companies Act, 2013, which was passed by both Houses of the Parliament, and had received the assent of the President of India on 29 August 2013. The Act makes the provision to constitute a CSR Committee of the Board for Companies with having a specific profit layer. The Committee consist of three or more directors, out of which at least one director shall be an independent director. The board’s report under Sub-section (3) of section 134 shall disclose the composition of the CSR Committee. Sections 135 of the Act specifies that companies with net worth more than Rs 500 crores, or turn over more than Rs 1000 crores, or net profit more than Rs 5 crores. Now it is mandatory to spent 2% of average net profit. Further, Schedule VII widened the ambit of CSR activities in India, which includes: poverty eradication, promotion of education,

⁵⁵ Aruna Das Gupta, Social responsibility in India towards global compact approach, 34 IJSE, 637-663 (2007).

gender equality and women empowerment, reducing child mortality and improving maternal health, combating AIDS/HIV, malaria and other diseases, ensuring environmental sustainability, employment- enhancing vocational skills and social business projects, relief and funds for socio-economic development such as for welfare of SC/ST, OBCs, minorities and women⁵⁶.

2.4.1 New Trends in CSR Activates in India Corporate Sector

In India, different organizations are following charity, philanthropic, social initiative based CSR approach. Thus in a globalised time, Indian CSR must focus beyond health and education scheme. Companies should work for propagating renewable sources of energy. The severe problem of power shortage can be overcome by encouraging renewable resources. Pollution is another important area. Pollution damages human health as well as plants life. Organization should take initiative to reduce this problem. Since industrialization has caused proliferation of weak eco-system, companies should focus on creating and sustaining bio-diversity. Various organizations through the CSR should focus to protect the bio-diversity so that the variety of plants & animal life can be preserved. Few other areas like poverty alleviation, infrastructure development along with education, health, and environment should also be the focus areas of CSR in our Nation.

2.5 In Sikkim

The State of Sikkim had a long history of agro-based culture society, mostly people were doing agriculture and lead their life, but situation has changed slowly. With the growing need of the socio-political aspect and demands of new generation of the society, the growth of industry in Sikkim has been great success. To look upon the interests of the state, the Central Government takes initiatives for the development of North-East-Region, after Sikkim integrated into North-East-Region and became the eight states in 2002. Later on in 2003, Sikkim Industrial Policy has taken many big steps for the establishments of

⁵⁶ Paranjape N.V, The New Company Law (Central Law agency, 6th ed., 2014) (2014)

Companies in the State. Ministry of Commerce and Industry, Department of Industrial Policy and Promotion, Government of India, approving a special package of incentives for the development of Industries in the State of Sikkim on Dec 23rd 2002⁵⁷. Keeping in view the fact that the state of Sikkim lags behind in industrial development the new initiatives would provide the required incentives as well as an enabling environment for industrial development, improve availability of capital and increase market access. Fiscal incentive to new Industrial Units 100percent income tax and excise duty exemption for a period of 10 years from the date of commencement of commercial production. All new industries would be eligible for capital investment subsidy @15 percent of their investment in plant and machinery, subject to a ceiling of Rs 30 lakh. The existing units will be entitled to this subsidy on substantial expansion. The insurance premium to the extent of 100 percent on capital investment for a period of 10 years would be extended by the Central Government to all new units and to existing units on their substantial expansion.

With these benefits and subsidies provided to companies, it has resulted in major investment by pharmaceutical companies, hydropower companies and tourism industries in the state. These companies have engaged itself in philanthropic activities for the benefit of the society and the villages located near to these companies even though it was not mandatory for these companies to engage itself in CSR activities. With the enactment of the Companies Act, 2013 the said Act was extended to the state of Sikkim and thereby repealing the former Sikkim Registration of Companies Act, 1962. The Companies Act 2013 now governs the companies registered under the old Act and the provision pertaining to CSR are applicable to such companies. The CSR activities undertaken by the companies established in Sikkim are providing free medical camps, free medicine distribution, construction of roads, scholarships to the meritorious students, construction of schools, disaster relief and so on.

⁵⁷ Wikipedia, (Oct 10, 2016, 11:30 AM),https://en.wikipedia.org/wiki/Northeast_India

CHAPTER III

INTERNATIONAL INSTRUMENTS FOR CORPORATE SOCIAL RESPONSIBILITY

3.1 International Instruments for Corporate Social Responsibility

The internationalization and growing interconnectedness of markets has redefined the role of the standards or the improvement of negative externalities on the environment are issues which used to be dealt by the national governments however such a centralized approach is no longer feasible where firms increasingly operate across borders, often in territories where regulatory competition or lacking financial and human resources discourage national governments from implementing strict regulatory standards⁵⁸. The development of Corporate Social Responsibility (CSR) in discourse and practice has been a response to the multiple governance gaps that exist in the global marketplace. The CSR or alternative expressions such as corporate accountability, corporate responsibility or corporate citizenship have been theorized in multiple ways; however there is still a lack of agreement on a single, all-encompassing definition. In his seminal work on the pyramid of CSR, regards CSR as the economic, legal, ethical and discretionary expectations that society has of organizations at a given point of time⁵⁹.

In International level there are many Codes, Standards and Principles which looks upon the activities of CSR to attain sustainability. Following are the important international norms or guidelines regarding the CSR.

⁵⁸ S. Tamer Cavusgil, Pervez N. Ghauri, et al., *Doing Business in Emerging Markets* (Sage Publications, Inc., 2002) (2014).

⁵⁹ Archie B. Carroll, A three-dimensional conceptual model of corporate performance, 4 *AMR* 497, 497-505 (1979).

3.2 International Labor Organization (ILO) and CSR

The International Labor Organization is a specialized agency of the United Nations, which seeks to promote social justice and internationally recognized human and labor rights⁶⁰. It was founded in 1919 and today it has 179 member States⁶¹. The ILO has four planned objectives: to promote and realize standards and fundamental principles and rights at work; to create greater opportunities for women and men to secure decent employment and income; to enhance the coverage and effectiveness of social protection for all; to strengthen tripartism and social dialogue.

The ILO is unique in the United Nations system because of its tripartite structure in which employers' and workers' representatives have an equal voice with those of governments in all discussions and decision-making processes⁶². The main function of the ILO is to formulate international labor standards in the form of Conventions and Recommendations, and to supervise their application in all member States. Conventions are international treaties subject to ratification by ILO member States. Through ratification, a member State formally accepts the Convention as a legally binding instrument, which implies that it cannot adopt national legislation setting standards below those established by the Convention. In contrast, Recommendations are non-binding instruments. They often deal with the same subjects as Conventions and set out additional guidelines for national policy and action. ILO Conventions and Recommendations are characterized by their tripartite and universal character. They are the outcome of social dialogue, which involves governments, trade unions and employers in the formulation, adoption, and supervision of the implementation of international standards at the national

⁶⁰ List of specialized agencies of the United Nations, Wikipedia (Aug 16, 2016, 11:45 AM) <https://en.wikipedia.org>

⁶¹ George Alexander Johnston., *The International Labor Organization: It's Work for Social and Economic Progress* (Europa Publications 1970) (1970).

⁶² International Labor Standards on Tripartite Consultation, International Labor Organization (July 16, 2016, 11:30 AM),<http://www.ilo.org/global/about-the-ilo>.

level. They have a universal application, which means that they apply to all people in all States, regardless of the level of social and economic development⁶³.

The ILO plays an important role in CSR because labor standards and social dialogue are key aspects of CSR. Most CSR initiatives, including codes of conduct, refer to the principles deriving from international labor standards. In addition to this ILO's unique tripartite structure and its efforts to promote social dialogue are means to facilitating the involvement of all relevant stakeholders in the distribution of CSR. ILO Conventions, when ratified, become binding for governments, which have to adopt legislation to implement them. On the other hand, the principles derived from ILO Conventions can guide enterprises' behavior as well as governments that have not ratified them. ILO's work on helping governments to acquire the capacity to effectively enforce national labor legislation and regulations contributes to create an enabling environment for CSR initiatives. Given its tripartite character and global mandate in the field of labor standards, the ILO also plays a critical role in CSR by helping to promote dialogue between governments, workers' and employers' organizations and by providing assistance and tools to better understand the labor dimension of CSR.

CSR initiatives refer to the Declaration on Fundamental Principles and Rights at Work. However, the point of reference for the ILO's work on CSR is the Multinational Enterprise (MNE) Declaration, which was adopted by the ILO Governing Body in 1975 as a result of discussions among ILO constituents about the social impact of business. Since then, the ILO has been carrying out research and developments on the subject. At the end of the 1990s, the ILO

Governing Body defined the ILO's mandate on CSR as to continue research and circulate information without taking a position, respecting the voluntary nature of CSR. With the increasing importance of the CSR debate in the new millennium, ILO's involvement has been growing as well. In 2000, the Organization accepted the invitation of the UN Secretary General to participate in an initiative to promote good corporate citizenship: the

⁶³ ILO Conventions and Recommendations, ILO (Aug 17, 2016, 11:30 AM),<http://www.ilo.org/ilolex/index.htm>.

UN Global Compact. In 2004 the report of the World Commission on the Social Dimension of Globalization highlighted the ILO's work on CSR related issues and encouraged the organization to continue undertaking research and to develop an agenda on the business contribution to the social dimension of globalization. Finally, in 2006, the ILO started implementing an In-Focus Initiative on CSR, which seeks to advance the ILO's leadership in this area by promoting the principles laid down in the MNE Declaration as the foundation for good CSR policy and practice. This initiative builds on and complements the ILO's role with respect to governments of member States, setting, implementing and supervising labor standards, promoting social dialogue and assisting countries in implementing good policies.

3.3 Declaration on Fundamental Principles and Rights at Work (ILO)

In 1998 the International Labor Conference adopted the Declaration on Fundamental Principles and Rights at Work (Fundamental Declaration) at the 86th International Labor Conference⁶⁴. Its origins are to be found at the UN World Summit for Social Development in 1995 held in Copenhagen. On that occasion, the chiefs of State and Government from around the world adopted a Program of Action relating to "basic workers' rights", namely: the prohibition of forced labor and child labor, freedom of association, the right to organize and collective bargaining, equal remuneration for work of equal value, and the elimination of discrimination in employment. In 1996, during the World Trade Organization (WTO) Ministerial conference held in Singapore, States renewed their commitment to observe internationally recognized core labor standards, identified the ILO as the competent body to deal with those standards, and reaffirmed their support for its work in promoting them. The Fundamental Declaration declares that all Member States, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization to respect, to promote and to realize the principles concerning the fundamental rights which are the subject of those Conventions. It represents an expression of the commitment by

⁶⁴ ILO Declaration on Fundamental Principles and Rights at work, International Labor Organization (Aug 16, 2016, 10:30 AM), [http://: www.ilo.org/declaration/lang--en/](http://www.ilo.org/declaration/lang--en/).

governments and employers' and workers' organizations to recognize that such fundamental principles and rights are universal, as they are a requirement for social justice, which is the main objective of the ILO.

The principles objective included in the Declaration are:

- a) Freedom of association and the effective recognition of the right to collective bargaining;
- b) The elimination of all forms of forced or compulsory labor;
- c) The effective abolition of child labor; and
- d) The elimination of discrimination in respect of employment and occupation.

These principles are the subject of the eight fundamental Conventions in the international debate on CSR; these principles are considered essential as far as labor is concerned. Since its foundation in 1919, the ILO has adopted 187 Conventions and 198 Recommendations covering a broad range of subjects related to the world of work including human rights at work, occupational safety and health, employment policy and human resources development. Among the Conventions on human rights, eight have been identified by member States as fundamental⁶⁵:

1. Freedom of Association and Protection of the Right to Organize Convention (No. 87), 1948
2. Right to Organize and Collective Bargaining Convention (No. 98), 1949
3. Forced Labor Convention (No. 29), 1930
4. Abolition of Forced Labor Convention (No. 105), 1957
5. Minimum Age Convention (No. 138), 1973
6. Worst Forms of Child Labor Convention (No. 182), 1999

⁶⁵ Judith Blau & Louis Edgar Esparza, *Human Rights: A Primer* 34 (Paradigm Publication 2009) (2016).

7. Equal Remuneration Convention (No. 100), 1951

8. Discrimination (Employment and Occupation) Convention (No. 111), 1958.

3.4 The Multinational Enterprise (MNE) Declaration

The MNE Declaration is the only ILO instrument that contains recommendations for enterprises in addition to governments and employers' and workers' organizations. In the context of CSR, its added value resides in the fact that it was adopted with the agreement of governments and employers' and workers' organizations⁶⁶. Today, it is seen as the main voluntary instrument as regards the labor dimension of CSR. The objective of the MNE Declaration is to encourage the positive contribution that multinationals can make to economic and social progress and to minimize and resolve the difficulties to which their various operations may give rise. It provides guidelines on how enterprises should apply principles deriving from international labor standards concerning employment, training, conditions of work and life, and industrial relations. They are intended to guide multinational enterprises whether they are public, mixed or private ownership, governments, and organizations of employers and workers in home countries as well as in host countries. The principles laid down in the Declaration reflect good practices that all enterprises- multinational as well as national should try to adopt. Both should be subject to the same expectations in respect of their conduct in general and their social practices in particular.

3.5 The United Nations' Global Compact

The UN Global Compact is an international multi-constituent initiative based on internationally accepted ten principles. These ten principles cover human rights, forced labor, child labor, environmental challenges and responsibility, non-discrimination, freedom of associations, collective bargaining and corruption. The idea of the Global Compact was launched in an address to the World Economic Forum on 31 January 1999 when the United Nations' Secretary-General Kofi Annan challenged

⁶⁶ Multinational Enterprise-ILO, International Labor Organization (Aug 21,2016, 03:30 PM), <http://www.ilo.org/empent/units/multinational.-enterprise/lang-en>.

business leaders to join an international initiative that would bring companies together with UN agencies, labor and civil society to support universal social and environmental principles⁶⁷.

The international reaction to that speech was extremely positive, and the Office of the Secretary General decided to convene the three UN Agencies responsible for the principles and values promoted by the initiative the International Labor Organization, the Office of the High Commissioner on Human Rights and the United Nations Environment Program to discuss on how to create a system to involve companies in the promotion of universal principles and values. The Global Compact's operational phase was launched at UN Headquarters in New York on 26 July 2000⁶⁸.

The Global Compact is a voluntary international corporate citizenship network initiated to support the participation of the private sector and other social sectors to advance responsible corporate citizenship and universal social and environmental principles to meet challenges of globalization. In another term, the Global Compact is a network. At the core of the network are the Global Compact Office and six UN agencies:

1. United Nations High Commission on Human Rights (UNHCHR)
2. International Labor Organization (ILO)
3. United Nations Environment Programme (UNEP)
4. United Nations Office on Drugs and Crime (UNODC)
5. United Nations Development Programme (UNDP)
6. United Nations Industrial Development Organization (UNIDO).

It involves all the relevant social actors: companies, whose actions it seeks to influence; governments, who defined the principles upon which the initiative is based; employers'

⁶⁷ The Global Compact: Corporate Leadership in the World Economy (Aug 12, 2016, 12:30 PM), <https://www.unimib.it/upload/annaninglese>.

⁶⁸ United Nation Global Compact (Aug 21, 2016, 11:00 AM),<http://www.unglobalcompact.org>.

and workers' organizations as well as NGOs, which represent the wider community of stakeholders where the companies operate. Academic institutions, development agencies, municipalities and other organizations dealing with CSR also participate in the network.

In another words Global Compact is an initiative based on the voluntary choice of companies to commit themselves in real terms to a responsible mode of conducting business; an initiative that relies on public accountability and transparency; and an initiative that involves all social actors.

The Global Compact asks companies to embrace, support and enacts, within their sphere of influence, a set of core values in the areas of human rights, labor standards, environmental protection and the fight against corruption, and to undertake partnership projects in support of the United Nations Millennium Development Goals (MDGs)⁶⁹. The ten principles of the Global Compact enjoy universal consensus and are derived from widely accepted international instruments:

1. The Universal Declaration of Human Rights, adopted by the United Nations General Assembly in 1948.
2. The ILO Declaration on Fundamental Principles and Rights at Work, adopted by the International Labor Conference in 1998
3. The Rio Declaration on Environment and Development, approved during the United Nations Conference on Environment and Development held in Rio de Janeiro in 1992
4. The United Nations Convention against Corruption, adopted by the United Nations General Assembly in 2003

The 10 principles of the Global Compact are applicable in all of the 191 UN member States, including countries where the legislation concerning human rights, labor, environment protection and fight against corruption. These 10 principles concerning to the fight against corruption, was introduced during the Global Compact Leaders' Summit held in New York in June 2004.

⁶⁹ United Nations Millennium Development Goals, End Poverty (Aug 22, 2016, 10:30 AM), <http://www.un.org/millenniumgoals/bkgd.shtml>.

The Global Compact deals in the field of:

Human rights

1. To support and respect the protection of internationally proclaimed human rights.
2. To make sure that they are not complicit in human rights abuse

Labor

3. To uphold freedom of association and the effective recognition of the right to collective bargaining.
4. To uphold the elimination of all forms of forced and compulsory labor.
5. To uphold the effective abolition of child labor.
6. To uphold the elimination of discrimination in respect of employment and occupation.

Environment

7. To support a precautionary approach to environmental challenges.
8. Undertake initiatives to promote greater environmental responsibility.
9. To encourage the development and diffusion of environmentally friendly technologies.

Anti-corruption

10. Work against all forms of corruption, including extortion and bribery.

To participate in the Global Compact, a company sends a letter from the Chief Executive Officer(CEO) and endorsed by the board to the United Nations Secretary-General expressing support for the Global Compact and its principles; it sets in motion changes to business operations so that the Global Compact and its principles become part of strategy, culture and day-to-day operations; is expected to publicly advocate the Global Compact and its principles through communications such as press releases, speeches, etc.; and is expected to publish in its annual report a description of the ways in which it is supporting the Global Compact and its ten principles⁷⁰.

January 2003, the Global Compact Office introduced a new policy on communicating progress. This policy asks participants to communicate with their stakeholders on an

⁷⁰ 10 Principles of the Un Global Compact-CSR Hub (Aug 22, 2016, 10:30 AM), [http:// www.csrhub.ie/standards /10-principles-of-the-united-nations -Global-Compact.html](http://www.csrhub.ie/standards/10-principles-of-the-united-nations-global-compact.html).

annual basis about progress in implementing the Global Compact principles through their financial reports, sustainability reports, other prominent public reports, websites and other communication channels. A communication on progress should include the following three elements: statement of continued support for the Global Compact in the opening letter, statement or message from the Chief Executive Officer, Chairman or other senior executive; description of practical actions that participants have taken to implement the Global Compact principles during the previous fiscal year; measurement of outcomes or expected outcomes using, as much as possible, indicators or metrics such as the Global Reporting Initiative Guidelines⁷¹.

To improve the credibility and ensure the integrity of the Global Compact, a policy on communications on progress was included in the Global Compact integrity measures adopted on 15 June 2004. These measures determine that companies which fail to send their communication on progress two years after joining the Global Compact will be labeled “inactive” on the Global Compact website until they send the communication. Inactive companies will not be permitted to participate in Global Compact events, including local networks’ activities. Local Networks, the Global Compact office encourages the creation of national, regional and local networks to increase the initiative’s sustainability. Networks are suddenly created by actors willing to support the Global Compact and its principles within their own sphere of influence. They operate in strict collaboration with the Global Compact office and in accordance with its guidelines. The Global Compact networks act as national, regional or local engagement platforms for participants is it for moving innovative solutions upstream for global imitation and multiplication, or for taking global dialogue issues down to the level of implementation. They also contribute to increasing the number of companies engaging in the initiative. Their activities can have strong impact since their members are familiar with the country or regional culture(s) and language(s).

⁷¹ Supra note 67.

3.6 The Organization for Economic Cooperation and Development guidelines for Multinational Enterprise (OECD)

The OECD Guidelines, first adopted in 1976, were significantly improved in 2000 and 2004, the most recent update is in 25th May 2011, through: reference to internationally recognized standards; inclusion of a new human rights chapter; adoption of a general recommendation to conduct due diligence to avoid and adverse impacts; clarification that the Guidelines apply to supply chains and other business relationships; broadening of the scope of the employment chapter to include workers in indirect employment relationships, as well as employees; and strengthening the government backed complaints mechanism. They set out voluntary principles and standards for responsible business conduct consistent with applicable laws.

The 2011major Update includes: increased significantly the responsibility of MNEs under the Guidelines. However, the steps taken to strengthen the complaints mechanism fell far short of trade union and NGO demands.

The OECD Guidelines are aimed at ensuring that the operations of multinational enterprises are in harmony with governmental policies; to strengthening the basis of mutual confidence between enterprises and the societies in which they operate; helping improve the foreign investment climate; to enhancing the contribution to sustainable development made by multinational enterprises⁷². The OECD Guidelines are part of a broader instrument, the OECD Declaration on International Investment and Multinational Enterprises which promotes a comprehensive, interlinked and balanced approach for governments' treatment of Foreign Direct Investment (FDI) and for enterprises' activities in adhering countries. In addition to the Guidelines, this Declaration includes sections relating to national treatment of foreign enterprises, conflicting requirements on enterprises, and international investment incentives and disincentives.

Objectives of the Organization for Economic Cooperation and Development (OECD)

⁷² Thomas, Terry, "Why an Ethical Business is Not an Altruistic Business" in *Visions of Ethical Business, No. 1*, Financial Times Management, Oct. 1998.

The OECD is an inter-governmental organization that deals with important economic and social issues. Its main objectives are: to fostering economic growth, employment and prosperity while maintaining financial stability; contributing to sound economic development in member and non-member countries through technical assistance; helping to ensure the expansion of global trade on a multilateral and non-discriminatory basis and to reduce and eliminate obstacles to international trade. Presently the OECD has 30 member countries, to become a member; a State needs to fulfill two conditions: a market economy and a democratic government. The OECD works closely with some 70 non-member countries as well as NGOs and civil society⁷³.

Employers are represented by the Business and Industry Advisory Committee (BIAC) to the OECD and workers, by the Trade Union Advisory Committee (TUAC) to the OECD. Its decision-making power is vested in the OECD Council. It is made up of one representative per member country, plus a representative of the European Commission. The Council meets regularly at the level of Ambassadors to the OECD and decisions are taken by consensus. The Council meets at ministerial level once a year to discuss key issues and set priorities for OECD work. The work mandated by the Council is carried out by the OECD secretariat, which is in Paris. The OECD Council regularly consults the Business and Industry Advisory Committee (BIAC) and the Trade Union Advisory Committee (TUAC).

Activities of OECD include data collection and harmonization; undertaking research and studies; providing a forum where governments of member countries can discuss and develop economic and social policies; defining common principles to ensure better coordination of national and international policies; and adopting various kinds of international instruments such as agreements, decisions and recommendations⁷⁴.

⁷³ Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, UNECE (Aug 22, 2016, 11:30 AM)<http://www.unece.org/env/download/cep43e.pdf>.

⁷⁴ OECD Guidelines for Multinational Enterprises, TUAC Guidelines (Aug 26, 2016 10:30 AM), <https://www.tuacoecdmguidelines.org>.

3.6.1 Content of the OECD Guidelines

The OECD Guidelines deal with the entire universe of business activities and relations. They are divided into nine chapters covering the following issues: general policies, disclosure, employment and industrial relations, environment, combating bribery, consumer interests, science and technology, competition and taxation.

- Concepts and Principles: the Guidelines comprise principles and standards consistent with applicable laws and internationally recognized standards. They apply to multinational enterprises (MNEs) in all sectors wherever they operate. Enterprises should obey domestic laws. In countries where domestic laws conflict with the Guidelines, enterprises should seek ways to honor the Guidelines to the fullest extent, which does not place them in violation of domestic law⁷⁵.
- General Policies: enterprises should contribute to sustainable development, respect human rights, abstain from improper involvement in local political activities and refrain from retaliating against workers who report practices that contravene the law, the Guidelines or the enterprise's policies. Enterprises should conduct due diligence to avoid being involved in adverse impacts on matters covered by the Guidelines, including through their supply chain and business relationships, and to address such impacts when they occur, including using their leverage so that business partners address their adverse impacts. Enterprises should engage with stakeholders to provide meaningful opportunities for their views to be taken into account in relation to planning and decision making on activities that may significantly impact local communities.
- Disclosure: enterprises should disclose information on material matters regarding their activities, structure, financial situation, performance, ownership and governance and workers, and should apply high quality standards to financial and non-financial reporting.
- Human Rights: enterprises should respect human rights, which mean they should avoid infringing on the rights of others, through their own activities and

⁷⁵ Supra note 74

relationships, and address such impacts when they occur, including using their leverage so that business partners address their adverse human rights impacts. Enterprises should have a human rights policy, conduct human rights due diligence and have legitimate processes in place for remedying actual adverse impacts where they have caused or contributed to those impacts⁷⁶.

- Employment and Industrial Relations: enterprises should respect the right to form or join a trade union and to bargain collectively, contribute to the effective abolition of child labor and the elimination of all forms of forced or compulsory labor, and respect the right to non-discrimination in employment and occupation. Enterprises should provide information to workers' representatives, who is needed for meaningful negotiations on conditions of employment and provide information to workers and their representatives which enables them to obtain a true and fair view of the performance of the entity, or the enterprise as a whole. Enterprises should provide the best possible wages, ensure occupational health and safety, provide reasonable notice to workers of restructuring or closures and not threaten to transfer operations in response to negotiations on employment conditions, or workers forming or joining a union⁷⁷.
- Environment: enterprises should maintain environmental management system to collect and evaluate information on their environmental, health and safety impacts, provide timely information to the public and workers on potential impacts, communicate and consult with affected communities, and provide adequate education and training to workers in environmental health and safety.
- Combating Bribery, Bribe Solicitation and Extortion: enterprises should not offer, give or demand a bribe to or from a public or private official, to obtain or retain an improper advantage, nor use intermediaries, such as agents, for this purpose. Enterprises should prohibit or discourage the payment of facilitation payments and should ensure that political contributions comply fully with public disclosure requirements and are reported to senior management.

⁷⁶ Ibid footnote 75

⁷⁷ Ibid footnote 76

- Consumer Interests: enterprises should meet all legally required health and safety standards, provide consumers with sufficient information to make informed decisions, provide access to non-judicial dispute resolution and redress mechanisms, not make misrepresentations or omissions nor otherwise engage in misleading, fraudulent or unfair practices, and should cooperate with public authorities to address serious threats to public health and safety or to the environment with which they are involved.
- Science and Technology: enterprises should adopt practices to support technology transfer in a way that contributes to sustainable development and, where relevant, develop ties with local public research institutions⁷⁸.
- Competition: Enterprises should carry out their activities in a way that is consistent with applicable competition laws and regulations and refrain from price fixing, bid rigging, or dividing up markets.
- Taxation: Enterprises should contribute to the public finances of host countries by making timely payment of their tax liabilities, complying with both the letter and the spirit of the tax laws and regulations of host countries, providing timely information to public authorities, including in the context of requests from other countries, and applying the arm's length principle in transfer pricing practices to avoid shifting of profits or losses to reduce the tax burden.

Who are responsible to follow OECD Guidelines?

There are two bodies which are responsible for the OECD Guidelines follow-up: National Contact Points (NCP) and the OECD Investment Committee.

1. National Contact Points (NCP)

Every country adhering to the OECD Guidelines must set up a National Contact Point (NCP) that performs the following tasks: to promoting and disseminating the Guidelines among interested parties and potential investors, including making them available in national languages; to raising awareness of the Guidelines in cooperation, where appropriate, with employers' and workers' organizations, NGOs and other interested parties; responding to requests for information from other NCPs, employers' and

⁷⁸ Ibid footnote 77

workers' organizations, NGOs, non-adhering governments and other interested parties; and to settling disputes that arise from alleged non-compliance with the Guidelines⁷⁹.

2. OECD Investment Committee

The OECD Investment Committee is the body responsible for overseeing the Declaration on International Investment and Multinational Enterprises. Regarding the Guidelines, the tasks of the Committee include: organizing exchanges of points of views on matters covered by the Guidelines, including the advisory bodies BIAC and TUAC as well as non-members; examining requests for assistance by NCPs, particularly in cases of doubts about the interpretation of the Guidelines; studying the annual reports of NCPs; examining requests from adhering countries, BIAC or TUAC whether an NCP is complying with its responsibilities in relation to the implementation of the Guidelines; providing clarifications, where necessary; organizing exchanges of views on the activities of NCPs; and reporting to the OECD Council on issues regarding the Guidelines.

3.7 The Global Reporting Initiative (GRI)

The Global Reporting Initiative (GRI) is an independent institution established in 1997 with the mission to develop and disseminate globally applicable sustainability reporting guidelines that help organizations to report on the economic, environmental, and social dimensions of their activities, products, and services⁸⁰. The GRI is convened by CERES (Coalition for Environmentally Responsible Economics) incorporates the active participation of corporations, non-governmental organizations, international organizations, United Nations agencies, consultants, accountancy organizations, business associations, universities, and other stakeholders from around the world. The GRI's vision is that reporting on economic, environmental, and social performance by all organizations becomes as routine and comparable as financial reporting. GRI

⁷⁹ NCP, National Contact Point OECD Guidelines (Aug 27, 2016, 11:30 AM), <https://www.oecdguidelines.nl/ncp>.

⁸⁰GRI, Empowering Sustainable Development (Aug 30, 2016, 03:30 PM), <https://www.globalreporting.org>

accomplishes this vision by developing, continually improving, and building capacity around the use of its Sustainability Reporting framework⁸¹.

In 2006 the GRI published Version 3.0 (G3) of its Sustainability Reporting Guidelines emphasizing performance indicators which contain a separate section “Human Rights” with nine performance indicators. It is an international multi-stakeholder effort to create a common framework for voluntary reporting of the economic, environment and social impact of organizational activities. Its mission is to improve the comparability of sustainability reporting worldwide.

Key elements of the (Global Reporting Initiative) GRI

GRI is now the most widely used sustainability reporting framework. There are four key elements in the framework:

- Sustainability reporting guidelines (the Guidelines) are the cornerstone of the framework. These consist of Principles for defining report content and ensuring the quality of reported information. They also include Standard Disclosures made up of performance indicators and other disclosure items, as well as guidance on specific technical topics in reporting. The third edition of the Guidelines the G3 was published in 2006.
- Indicator protocols exist for each of the performance indicators contained in the Guidelines. These protocols provide definitions, compilation guidance, and other information to assist report preparers and to ensure consistency in the interpretation of the performance indicators. Users of the Guidelines should also use the Indicator Protocols.
- Sector supplements complement the Guidelines with interpretations and guidance on how to apply them in a given sector, and include sector-specific performance indicators. Applicable sector supplements should be used in addition to rather than in place of the Guidelines.

⁸¹ Obada S. Zeidan & Simon G. Fauser, Corporate governance and corporate social responsibility, 13 PPM, 183, 183-192 (2015).

- Technical protocols are created to provide guidance on issues in reporting, such as setting the report boundary. They are designed to be used in conjunction with the Guidelines and sector supplements and cover issues that face most organizations during the reporting process.

The Global Reporting Initiative (GRI) Sustainability Reporting Guidelines- G4

The GRI is the most widely used sustainability reporting framework in the world enables all companies and organizations to report on their economic, environmental, and social and governance performance. The fourth generation of GRI Guidelines- G4- was launched in May 2013 and has been revised and enhanced to reflect important current and future trends in sustainability reporting⁸².

The GRI Guidelines are developed through a global multi-stakeholder process involving representatives from business, labor, civil society, financial markets, as well as auditors and experts in various fields; and in close dialogue with regulators and governmental agencies in several countries.

3.8 Accountability 1000 (AA1000) Framework

Accountability Framework Standard launched in 1999. During the consultations for the development of the first edition of the AA1000 Assurance Standard, which was published in 2003, the principles underwent significant debate and revision⁸³. The result was the Commitment to Inclusivity supported by the three principles of Materiality, Completeness and Responsiveness. These principles were at the heart of the AA1000 Assurance Standard published in 2003, AA1000AS (2003), and the AA1000 Stakeholder Engagement Standard published in 2005, AA1000SES (2005). They were further clarified in a Guidance Note on the application of the principles in relation to AA1000AS

⁸² Principles for Defining Report Content, G4-Implementation Manual (Aug 30, 2016, 04:30 PM), <https://www.globalreporting.org> (Assessed on 30th Aug 2013)

⁸³ O'Dwyer, B.. "Conceptions of corporate social responsibility: The nature of managerial capture." 16(4) Accounting, Auditing and Accountability Journal, 523-557 (2002).

(2003) published in 2006. The AA1000 AccountAbility Principles in this standard supersede all previous versions published by AccountAbility.

The purpose of the AA1000APS (2008); is to provide organizations with an internationally accepted, freely available set of principles to frame and structure the way in which they understand, govern, administer, implement, evaluate and communicate their accountability. The AA1000 AccountAbility Principles are primarily intended for use by organizations developing an accountable and strategic approach to sustainability. They will help such an organization understand, manage and improve its sustainability performance⁸⁴.

3.9 The European Union and CSR (EU and CSR)

Planned and important goal adopted at the European Summit of Lisbon in March 2000 of becoming by 2010 “the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion”, the European Union has adopted a policy to promote CSR. Different steps of this process, which started in 2001 with the adoption by the European Commission of a Green Paper on CSR.

3.9.1 Green Paper

CSR Definition and its importance; The European Commission’s Green Paper⁸⁵ “Promoting a European Framework for Corporate Social Responsibility” defines CSR as “a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis”. The Green Paper also identifies some distinctive features of CSR; it is three-dimensional

⁸⁴ D.P.Verma1 Raj Kumar, Relationship between CSR and Corporate Governance, 2 IOSRJBM 24, 24-26 (2012).

⁸⁵ EU Commission Green Paper - Promoting a European framework for Corporate Social Responsibility, Commission of European Communities (Aug 21, 2016 04:30 PM), http://europa.eu/rapid/press-release_DOC-01-9_en.pdf.

because it can exist within the enterprise as well as at the community and global levels; it is voluntary; and it is linked to social quality.

At the enterprise level, the sectors in which CSR is relevant include human resources management, occupational safety and health, adapting to company restructuring, and managing the company's impact on the environment and natural resources. As regards the external aspects of CSR – related to commercial partners and suppliers, clients, public institutions and NGOs, the Green paper identifies the following areas: local communities, commercial partnerships with suppliers and consumers, human rights and global environmental concerns⁸⁶.

Strategy of European Union to promote CSR: The Communication concerning Corporate Social Responsibility: A business contribution to Sustainable Development (2002) presents the EU strategy to promote CSR⁸⁷. This strategy is based on the voluntary character of CSR, its credibility and transparency, SMEs (Small & Medium business) involvement and the support to the existing international instruments related to CSR (the OECD Guidelines for Multinational Enterprises and the international labor standards contained in the fundamental ILO Conventions).

The EU strategy actions in the following areas: improving knowledge on CSR's effects on profitability and competitiveness; disseminating knowledge through the exchange of good practice among SMEs (Small & Medium business) and States; promoting convergence and transparency of CSR practices and tools; integrating CSR in EU policies and benchmarking national policies to facilitate greater consistency and convergence at the European level; and creating a CSR multi-stakeholder forum at the European level involving all relevant stakeholders⁸⁸.

⁸⁶ Marc Orlitzky, Donald S. Siegel, et al. "Strategic corporate social responsibility and environmental sustainability." *Business & society*, July, 2015.

⁸⁷ Laura Albareda, Joshep. M. Lozano, et al. "Public policies on corporate social responsibility: The role of governments in Europe.", 74(4) *Journal of Business Ethics*, 391, 391-407 (2007).

⁸⁸ André Martinuzzi, Barbara Krumay, et al, *Focus CSR: The New Communication of the EU Commission on CSR and National CSR Strategies and Action Plans*, ESDN Quarterly Report N°23, December 2011.

3.10 Social Accountability 8000 Standard

SA8000 developed by an international coalition of business, trade unions and Non-Governmental Organization (NGOs) on the basis of International Labor organization (ILO) conventions, UDHR and the UN convention on the Rights of the Child. The SA8000 standard code of practice have its nine key areas are: child labor, forced or compulsory labor, health and safety, freedom of association and the right to collective bargaining, discrimination, disciplinary practices, working hours, compensation, management systems⁸⁹.

3.11 The Equator Principle

The Equator Principles (EPs), launched in 2003, it is a principle set of environmental and social benchmarks for managing environmental and social risks or issues in development of project finance globally⁹⁰. Equator Principles Financial Institutions (EPFIs) have increased from the original 10 founding members (i.e. in 2003) to 83 members (in 2015), which demonstrates that environmental and social assessment of projects is increasing in global adoption and scope⁹¹.

Hence, future sustainability risks associated with project finance are taking three forms. The first is the risk to the environment, society and particularly the communities in which the projects are situated (project impacts or inside-out connections). Second are the environmental, social and sustainability risks that impact the financial performance of projects (downside risks or outside-in connections). Third are reputational risks for the financiers that are associated with financed projects. These risks drive and dominate the

⁸⁹ Introduction to the SA8000:2014 Guidance Document, Social Accountability International(SAI), New York, NY 10036 (Sept 5, 2016, 11:30 AM), [http:// www.Sa-Intl.Org](http://www.Sa-Intl.Org)

⁹⁰ Environment & Social risk management for project, Equator Principles (Sept 5, 2016, 12:00 noon),<http://www.equator-principles.com>

⁹¹International Finance Corporation IFC Performance Standards on Environmental and Social Sustainability. Washington, D.C.: International Finance Corporation (Sept 5, 2016, 12:30 PM),<http://www.ifc.org>, (2012).

discussion agenda of EPFIs, Non-Governmental Organizations (NGOs) and other stakeholders⁹².

The EPs were developed by private sectors banks led by:

Founding Equator Banks	Country
ABN AMRO	Netherlands
Barclays	UK
Citigroup	US
WestLB	Germany
Credit Lyonnais (Calyon)	France
Credit Suisse	Switzerland
HypoVereinsbank (Unicredit)	Germany
Robobank	Netherland
Royal Bank of Scotland	UK
Westpac	Australia

Source: O’Sullivan & O’Dwyer (2009)

The EPs are based on the eight International Finance Corporation (IFC) Performance Standards on Environmental and Social Sustainability .These are following: assessment and management of environmental and social risks and impacts; labor and working conditions; resource efficiency and pollution prevention; community health, safety and security; land acquisition and involuntary resettlement; biodiversity conservation and sustainable management of living natural resources; indigenous peoples; and cultural heritage⁹³.

The principles are process-oriented and a guideline on how to assess environmental and social issues. They do not, regulate the outcomes of the assessment and do not provide

⁹² Michael L. Barnett & Andrew A. King, Good fences make good neighbors: a longitudinal analysis of an industry self-regulations institution, 51(6) Academy of Management Journal 1150, 1150-1170 (2008).

⁹³ Scholtens, B, Corporate Social Responsibility in the International Banking Industry, 86 JBE 159, 159-175 (2008).

any guidance on conditions that cause a rejection of finance because of environmental or societal issues⁹⁴. Following are the ten Equator Principles, 2013: review and categorization; environmental and social assessment; applicable environmental and social standards; environmental and social management system and EPS action plan; stakeholder engagement; grievance mechanism; independent review; covenants; independent monitoring and reporting; reporting and transparency⁹⁵.

3.12 ISO and COPOLCO Reports

In 1946, a meeting held in London to make the decision to create a new international organization whose purpose was to facilitate the international coordination and standardization of industrial standards. The new organization, ISO, launched in 23 February 1947. Now it has over 140 member countries. Past years different standards were developed and launched. In fact, the first generation of standards related to technical standards (maps, watt, etc.) and the second to management standards (ISO 9000, ISO 14 000). At present, the work of the ISO has resulted in the publication of some 13 000 international standards.

There are more and more consumers who are concerned about the social integrity of enterprises operating on the global market. The ISO international standards could play a useful role in the drawing up of guidelines or in the identifying of certain sectors in which defining a line of conduct would be of interest. Thus, according to ISO, a wide range of stakeholders, whether that be enterprises, consumers, employees and workers, or local communities, would have a lot to gain from the creation of a standard concerning management systems applicable to Corporate Social Responsibility, similar to standards ISO 9000 (management and quality) and ISO 14000 (environmental management) or

⁹⁴ Olaf Weber, The financial sector's impact on sustainable development, 4 JSFI 1, 1-8(2014).

⁹⁵ Oliver Balch, *Sustainable finance: how far have the Equator Principles gone?*, The Guardian. Nov 15, 2012.

other types of ISO instruments⁹⁶. In the eyes of the ISO, CSR concerns the general relationship between enterprises and all of its stakeholders i.e. clients, employees, communities, landowners/investors, governments, suppliers and competitors. As such, CSR is exercised in areas such as investment, community approach, relations with employees, job creation and stability, responsible environmental management and financial productivity (ISO, 2002). COPOLCO's (committee on consumer policy) protection group for consumers in the global market has been given the task, by the ISO, of producing a report on the desirability of drawing up a corporate social responsibility standard. The conclusions of this report entitled, 'The Desirability and Feasibility of ISO Corporate Social Responsibility Standards', takes into account the different opinions voiced at the discussion forum set up by the ISO, with a view to collect comments of those interested in CSR⁹⁷.

3.13 The EU Eco-Management and Audit Scheme (EMAS)

The EU Eco-Management and Audit Scheme (EMAS) set up in 1993; the EMAS represents a European point of reference. EMAS established a program of voluntary eco-management, based on lines and principles harmonized in the whole European Union and open to all enterprises or organizations operating in the EU regardless of their size or there sector of activity. Contrary to ISO 9000 or ISO 14 001, EMAS is based on European regulations and although these prevail over national law, the implementation of the eco-management scheme remains voluntary. EMAS is today applied in Germany, Austria, Denmark, Spain, France, the Netherlands, Portugal, Sweden, and the United Kingdom.

The aim or purpose of EMAS is to encourage the continued improvement of the performance in environmental matters of all enterprises by committing them to evaluate and improve their performance in relation to the environment and to provide relevant

⁹⁶ Ans Kolk, Rob van Tulder, et al., *International Codes of Conduct and Corporate Social responsibility: Can Transnational Corporations Regulate Themselves?*, Research Gate,143-180 (2000)

⁹⁷ International Organization for Standard (Sept 7, 2016, 03:30 PM)<http://www.iso.org>

information to the public residents, associations, representatives and corporate partners shareholders, insurers, bankers,

etc., EMAS does not replace the existing legislation or technical standards in environmental matters. In fact, signing up to the EMAS program requires that the enterprise or organization adopt a policy in relation to the environment containing commitments concerning, both the respect of all applicable environmental legislation and the carrying out of continued improvements in environmental performance.

3.14 ECS 2000: Japanese CSR Standard

Following a series of scandals relating to illegal or non-ethical practices in Japanese enterprises, the economic federation Kansei (Kankeiren), representing several Japanese enterprises, in 1997 decided to analyze the cause of these incidents and to put forward a plan of action to resolve them. After this research was completed, the economics research department of the university

Reitaku launched a research project on business ethics whose objective was to establish a standard for business ethics. It was in this way that the ECS 2000 standard was created in the hope of improving individuals working conditions while at the same time responding to the requirements of the international community. This management system established ‘a list of requirements that organizations were to meet’ in order to be considered ‘ethically respectable’

The structure of this standard was set up after some consultation with multiple stakeholders and the first version was diffused in May 1999. In 2000, several Japanese enterprises as well as a hundred or so financial institutes were using this standard⁹⁸.

ECS 2000 proposed four different levels of application:

Level first: a guide for the creation and establishing of a system of ethical compliance;

⁹⁸ Iwao Taka, A new business Ethics Standard, June 10, 2002 The 2nd ISBEE World Congress (July 19-23, 2000.).

Level second: a list of criteria to test the validity of the system already in place;

Level third: the means of self-accreditation for the existing system of ethical compliance;

Level fourth: this standard also offers the possibility of evaluation by a third party.

3.15 The Belgian label

In Europe a new social label was introduced. It was developed and promoted by the Belgian government. 'Promoting socially responsible production' is the objective the Belgian government set itself in adopting, on 27 February 2002, the law which created the social label. The bill was put forward by the Belgian MP, Dirk Van Der Maelen, under the authority of the Minister for Economic Affairs. Caught up between trades unions complaining about the working conditions of poor countries and NGOs opposed to any sanctions being imposed on these countries, Dirk Van Der Maelen set up legislation to allow the creation of a new social government label. By applying this seal to finished products, the Belgian government hopes to be able to reinforce international social measures by creating a demand for products which respect certain principles concerning the protection of workers and communities, particularly those of the ILO.

Even though in Belgium the social standard forms part of a legal framework, linkage to the Belgian label is entirely voluntary. All enterprises desiring to affix the seal which demonstrates compliance with ILO standards must make a request to the Belgian government. The voluntary nature of the label is an indispensable condition allowing legality to be retained internationally. In fact, a government cannot force an enterprise to affix a label in order to gain access to the market, which runs contrary to the WTO rules stipulating that discrimination on the grounds of manufacturing techniques is inadmissible. The law for that reason maintains a 'voluntary' character so that the Belgian government can pursue its activities without infringing any international principles and in this way promote the purchase of products of a social nature. Enterprises have the choice to take advantage of the potential benefits of the label, without being penalized if they decide otherwise.

In order to affix the Belgian social label on a finished product, all of the participants in the production process must prove that they uphold the ILO's principles. In this way, the Belgian government must make sure that all the stages involved in production and distribution have been evaluated by the enterprise requesting the seal. At the same time, in order to give credibility to the social label, the government is responsible for verifying that everything is in order. The

Committee for socially responsible production is also responsible for approving the independent social audit bodies, which will, according to the needs, verify on site and consult local authorities, trades unions, NGOs. These verifications will take place every three years; meanwhile, the enterprise is free to carry out its own checks⁹⁹.

3.16 The Guide SD 21 000

The Guide SD 21 000, the French Industrial Standards Authority (AFNOR) launched in May 2003 a guide for sustainable development and corporate social responsibility (SD 21 000). In 2001, AFNOR began a project on social ethics at the request of its consumer committee. This is first study, the interest raised in ethics-related issues as well as the necessity to standardize the existing tools led AFNOR to develop guide SD 21000 in order to help enterprises take their first steps towards sustainable development. French enterprises are increasingly called to consider the impact of their activities on the environment. The French government has just launched a strategy for sustainable development and since the introduction of the bill on new economic regulations large enterprises in France must publish annually a report on their actions in this matter. This law recommends that enterprises apply the indicators of sustainable development, drawn up by the Global Report Initiative (GRI). GRI has notably developed methods of calculating greenhouse gas emissions.

The Guide SD 21 0000, puts forward recommendations to help management systems to adopt both technically and culturally, so that the objectives of sustainable development are gradually integrated into the heart of the organization. Guide SD 21000 considers it

⁹⁹ Ibid footnote 89

essential that each enterprise, facing specific environmental constraints, adopts a specific procedure. Christian Brodagh, head of research at the Ecole des Mines de Saint Étienne and a member of the National Council of Sustainable Development explains that, two enterprises from the same region, one producing chocolate and the other caramel, will not have the same concerns: the first, which purchases cocoa beans, must take into consideration the manner in which it buys this produce from developing countries.

CHAPTER IV

CONSTITUTIONAL MANDATE FOR CORPORATE SOCIAL RESPONSIBILITY

The CSR may be define a business interests as well as community interests for social order and the actions of business and industries that impact the lives of citizens; both directly and indirectly. Therefore, the business and industry are expected to promise reasonable level of responsibilities towards the society in addition to their economic and legal obligations. Now-a-days, the Governments also take initiatives towards the welfare state concept due to this the Constitution of India lays down the desirable principle and guidelines in Part IV i.e., Directive Principle of State Policy under Article 36 to 51 of Indian Constitution. The Indian Constitution aims to establish political democracy as well as socio-economic justice to the citizen of India and to establish a welfare state. Since the increasing of socio-economic imbalances the Governments are encouraging companies to take up social responsibility for promoting the social structure by eradicating hunger, poverty and malnutrition, and to promote healthcare, education and gender equality. To look upon this, the Companies Act, 2013 inserted section 135 and schedule VII in the enacted Act, which provides guidelines and rules to implementation of CSR in India and mandates all the company's to spend 2% of their net profit towards CSR activities for welfare state¹⁰⁰.

Thus, CSR is an idea that looks at the social interest and the long run progressive self interest of business. It aims at integrating the business interest with that of community where it operates. The actions of business and industry impact the lives of citizens, both directly and indirectly. Hence the business and industry are likely to promise reasonable level of responsibilities towards the society in addition to their economic and legal obligations. Thus, the corporations have some obligations towards the society and are expected to be fair and good corporate citizens. CSR frequently begins with the general claim that business have not only a responsibility to generate economic returns for

¹⁰⁰Gyanendra Kumar Sahu, Corporate Social Responsibility in Perspective of Indian Constitution, 1(10) IJAR 801,801-803 (2015).

shareholders, but also a responsibility to the natural environment, as well as a social responsibility to other “stakeholders” including customers, employees, suppliers, creditors, and the community¹⁰¹.

According to Kotler & Lee the definition of CSR; “Corporate social responsibility is a commitment to improve community wellbeing through discretionary business practices and contributions of corporate resources¹⁰².” However, CSR is described as an idea where corporation or companies and other business entities are supposed to perform and contribute in social functions, and thus providing better welfare to the society. It is believed that the duty of CSR is neither against the very fundamental rule of game dealing with corporate functions, nor it violates freedom of market. Thus, CSR is not only good and ethical in terms of doing sound businesses but also propagates constitutional values.

4.1 Legal Position of Corporate Social Responsibility in India

India has a long tradition of corporate philanthropy and industrial welfare has been put to practice since 1800s century. Thus, the business practice of philanthropic donations to charity, service to the community, enhancing employee welfare and promoting religious conduct. The ideology of CSR in the 1950s was primarily based on an assumption of the obligation of business to society. It has also been found that to a growing degree companies that pay genuine attention to the principles of socially responsible behavior are also favored by the public and preferred for their goods and services. This has given rise to the concept of CSR.

Due to demands of new generation and advancements of new technology, business ideology has also changed that is why the new Company’s Act added the concept of CSR and its governed by section 135 of the Companies Act, 2013, which was passed by both Houses of the Parliament, and had received the assent of the President of India on 29 August 2013. Further the Act adds that certain companies are mandatory to spend 2% of

¹⁰¹ Ibid 100

¹⁰² Philip Kotler & Nancy Lee., *Corporate Social Responsibility: Doing the Most Good for Your Company and Your Cause*, (Wiley 2005)

their average net profit of previous three years on CSR activities. If the companies fail to spend 2%, furnishing reasons for the same in the Directors' Report under section 134 of the Companies Act 2013. The clause applies to three types of companies those with an annual turnover of Rs 1000 crore and more, or those net worth of Rs 500 crore and more, or a net profit of Rs 5 crore and more. The new rules, which will be applicable from the fiscal year 2014-15 onwards, also require companies to set-up a CSR committee consisting of their board members, including at least one independent director¹⁰³.

Before 2009 there was no existing legislation related to 'Corporate Social Responsibility' for the companies established in India. In the meantime of 2009, official notifications by the Government of India has released in the form of 'guidelines'. This notification titled 'Corporate Social Responsibility Voluntary Guidelines', which was issued in December 2009 by the Ministry of Corporate Affairs¹⁰⁴. The Ministry of Petroleum and Natural Gas first issued an official notification on CSR¹⁰⁵, whereby public sector oil companies had agreed to spend at least 2% of their net profits on CSR initiatives. Further guidelines were issued for Central Public Sector Enterprises (CPSEs) in April 2010, whereby the creation of a 'CSR Budget' was made mandatory. The Clause 135 of the Companies Act, 2013, is the first in India, and the second in the world after Indonesia, wherein a legal obligation will be imposed on companies to compulsorily spend 2% of their average profits on CSR initiatives.

4.2 Constitutional Framework and Corporate Social Responsibility in India

Constitution of India is the supreme law which guarantees and provides protection of basic liberties not only to the individuals but also to the groups. These liberties and protections are assured to both natural and non-natural persons equally. Indian Constitution is one of the few Constitutions in the World, which provides for specific

¹⁰³ PARANJAPÉ N.V, The New Company Law, (central Law Agency, 6 ed. 2013) (2014)

¹⁰⁴ Ministry of Corporate Affairs, Corporate Social Responsibility Voluntary Guidelines (Oct 8, 2016, 11:30 AM), http://www.mca.gov.in/Ministry/latestnews/CSR_Voluntary_Guidelines_24dec2009.pdf

¹⁰⁵ Press Information Bureau, Ministry of Petroleum & Natural Gas, Government of India (Oct 8,2016, 12:10 PM), <http://pib.nic.in/newsite/erelease.aspx?relid=47172>.

provision for the protection and improvement of the environment. Article; 21, 24, 39(a), (b), 48, 51A are significance. By the 42nd amendment of the constitution, Article 51A was inserted in Part IV A, and thereby fundamental duties were casted on citizens. This provides duties of every citizen of India ‘to abide by the Constitution and respect its ideals and institutions to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities, to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures,’ ‘to develop the scientific temper, humanism and the spirit of inquiry and reform’, and finally ‘to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavor and achievement.’ Constitution provides certain schemes under which ‘state’ and ‘individual’, both, are bound to do their duties¹⁰⁶.

Since 1972, India has been taking some strict steps towards protection of environment as a result environmental legislation has evolved. Some important legislation is: The Environment (Protection) Act 1986(EPA); Water (Prevention and Control of Pollution) Act, 1974; The Air (Prevention and Control of Pollution) Act, 1981; the Wildlife (Protection) Act, 1972; Hazardous Waste (Management, Handling and Trans-boundary Movement) Rules, 2008; The Public Liability Insurance Act, 1991; the Forest (Conservation) Act, 1927; National Green Tribunal Act 2010.

Now-a-days governments are also moving towards the welfare state concept. With this purpose, our Constitution lays down desirable principle and guidelines in Part IV of the Indian constitution. These provisions are known as the directive principle of state policy under Article 36-51 of Indian constitution. The Constitution of India aims to establish not only political democracy but also socio-economic justice to the people to establish a welfare state. Since the increasing of socio-economic imbalances the Governments are encouraging companies to take up social responsibility for changing the social structure by eradicating hunger, poverty and malnutrition, promoting preventive healthcare,

¹⁰⁶ M.P Jain, Indian Constitutional Law, PART IV A-Fundamental Duties (Article 51A, a to k), 1521-1523, (Economy Paper Back ed., 2011).

promoting education and promoting gender equality etc. For this purpose the Indian companies Act, 2013, section 135 and schedule VII provides guidelines on implementation of CSR and mandates the corporate to spend 2% of their profit towards CSR activities for welfare state and came into effect April 1, 2013¹⁰⁷.

Apart from these duties, the state is asked to create policy endeavoring to achieve various objectives laid down under part IV of the Constitution¹⁰⁸. Constitution mandates the 'state' to strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life. State is specifically asked to diminish the inequalities in income, and endeavor to eliminate inequalities in status, facilities and opportunities not only amongst individuals but also amongst groups of people residing in different areas or engaged in different occupations. Likewise, Constitution also promises that men and women equally have the right to an adequate means of livelihood the ownership and control of the material resources of the community are so distributed as best to sub-service the common good and finally it maintains that the operation of the economic system does not result in the concentration of wealth and means of production to the common benefit. Further State asked that it shall within the limits of its economic capacity and development; make effective provision for securing the right to work, right to education and right to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

The thought of right invites certain duty, and it is accepted philosophy that right of one comes with inseparable duty to recognize and respect the similar rights of others. This aspect goes further, and it is often argued that right of one should not be exercised in such a fashion that it may tend to violate rights of the others. Thus, if 'state' has guaranteed all individual fundamental right to freedom of trade and profession, the same should be subjected to overall economic social policies laid down in the constitution itself¹⁰⁹. In

¹⁰⁷ Supra footnote 106

¹⁰⁸ M.P Jain, Indian Constitutional Law, PART IV Directive Principles of State Policy 1485-1520 (Economy Paper Back 6 ed. 2011).

¹⁰⁹ M.P Jain, Indian Constitutional Law, PART III Fundamental Right. ((Economy Paper Back 6 ed, 2011).

fact, the whole idea of state and state sponsored welfare would be useless if individual, enjoying their social, economic and political liberties, fail to assist state in its attempt for greater societal welfare. In fact, the fundamental freedom of trade and profession itself has inbuilt restriction on the basis of interests of the general public. However, state is going to provide CSR in the form of compulsory and obligatory business model with the help of law, then such model may be said to be violation of freedom of trade and profession, and also may be said to be destructive of free market theory. It is with this idea that CSR may be helpful in only allowing the industries to participate in the developmental process but also such participation would be without any coercive mechanisms on part of state.

4.3 Corporate Social Responsibility conflict with Constitutional Provisions

Section 135 of Companies Act, 2013 violates Article 14 of the Constitution: Article 14 of the Indian Constitution guarantees to every person, equality before law and equal protection of law within the territory of India. Further, Article 14 allows reasonable classification of the legislation. In *Re: Special Courts Bill*¹¹⁰, the Supreme Court has consistently ruled that classification is valid only if;

1. It is founded on an intelligible differentia and
2. The differentia has a rational relation to the object sought to be achieved by the statute in question.

Though CSR spending is made mandatory to only company form of organization .CSR is not applicable to partnership firm or any other form of organization, even though it's net worth or profit or turnover is more than the prescribed limit. The explanation to Section 135 states that 'average net profits' shall be computed in accordance with the provisions of Section 198. Section 198 (4) (1) permits only accumulated losses incurred after the date of effectiveness of the said Section to be set-off against net profits for arriving at 'average net profits' for the purposes of Section 135. Thus, a company which has earned profits during the preceding three financial years but is yet to earn its carried forward losses

¹¹⁰ In *Re: Special Court Bill vs Unknown*, AIR 1979 SC 478.

relating to the period prior to effectiveness of Section 198 will be required to spend on CSR¹¹¹.

Section 135 of Companies act 2013, applies to those companies registered under Section 8 of the Act, which are statutorily obliged to apply their profits only for promoting their objects and net profit calculation for foreign company having subsidiary in India is not clear and it is ambiguous¹¹². Since, test for classification is not met, as Section 135 treats unequal's as equals is violates Article 14.

4.4 Section 135 of Companies Act, 2013 violates Article 19(1) (g) of the Constitution

Article 19(1) (g) of the Constitution of India provides the fundamental right to practice any profession, or to carry on any occupation, trade or business. The present provision of mandatory CSR affects the right of the corporation to freely carry on its business operation. The counter argument of the government on this would be the Clause (6) of the same article of the Constitution, which provides that reasonable restrictions can be imposed in the interest of the general public.

Here the question arise that whether these restrictions are reasonable at all; can the government on the corporations impose the burden of charity? The presence of a moral provision in a statute dealing with corporate affairs is highly questionable & raises doubts on reasonability of this restriction.

To answer this question; Section 135 constitutes such a restriction since it requires the company to divert the money which could have otherwise been reinvested into the company's business for incremental returns or paid as dividend to shareholder, for being spent on CSR activities. But CSR does not fall under reasonable restriction under Article 19(1) (g) of Indian Constitution, it is subject to the provisions of Article 19(2) to 19(6)

¹¹¹Amudha Murthy, Constitutional Validity of CSR, Journal Law Mantra (Oct 10, 2016, 10:30 AM), <https://shuklagirjesh.wordpress.com/2013/07/31/corporate-social-responsibility-a-constitutional-discourse/>

¹¹² Ibid footnote 111.

which permit the state to make laws which impose reasonable restrictions on the exercise of the right granted by Article 19(1) (g), in the interests of the general public¹¹³. The Supreme Court has, by and large, given an expanded meaning to the language of Article 19(6). The fundamental principle that the Supreme Court has enunciated in the matter of interpreting Article 19(6) is that the reasonableness of restriction is to be determined in an objective manner and from the standpoint of the interests of the general public and not from the standpoint of the persons upon whom the restrictions are imposed¹¹⁴.

It applies to companies carrying on all types of businesses and not necessarily those, which are harmful to the health, or well-being of the society. Section 135 is not intended to help achieve the full fulfillment of fundamental rights of citizens which, in the absence of it, would be defeated. Therefore CSR violates Article 19(1) (g) of the constitution.

4.5 Corporate Social Responsibility violates the democracy of people

All the shareholders are owners of the company. Management is entrusted to Board of Directors. By virtue of introduction of CSR, board of directors is given unrestricted power to decide the CSR expenditure, the CSR activity to be undertaken. Board of directors can spend company's money in a CSR activity for their own personal benefit. Example, a director can approve CSR activity, relating to construction of building in a school or college where he needs to get admission for his son. In such case, shareholders cannot prevent the action of director, to use company's fund for his personal benefit, as shareholders do not have say relating to CSR activity. In addition to this, each area has certain needs to be fulfilled if the nature of CSR activity is left to the board to be decided, it will neither benefit the society but shareholders fund will be misused thus, shareholders right is affected. Since shareholder do not have a say in CSR and board of directors have unrestricted power and there in no check and balance .Therefore shareholders rights are affected. Many Indian corporates has stated that the process should be more 'democratic'

¹¹³ M.P Jain, Indian Constitutional Law, Article 19 of the Indian Constitution 128-1133, (Economy Paper Back 6 ed. 2011).

¹¹⁴ Anubhav Kapoor, Corporate Governance through better HR practices, Legal Era (Oct 13, 2016, 11:00 AM), <http://www.legalera.in/legal-articles/item/14404-csr-and-the-constitution-of-india.html>

the CSR is essentially a 'voluntary' implement it is not within the scope of law to statutorily mandate positive action; it can only enforce minimum standards¹¹⁵. The decision regarding share of a public company's profits towards CSR should be subject to the shareholders' vote, not the government's legislative powers¹¹⁶. The Directive Principles of State Policy are non justifiable, as per Article 37¹¹⁷ of the Constitution i.e. they cannot be enforced in a Court of Law, because these Principles impose positive obligations on the State. Usually the Government imposes tax and that tax goes to the State, not directly to the community. Country like India, often money does not use to the grass root level due to various reasons such as corruption, bureaucracy, population etc, mere payment of taxes cannot be a means of ensuring that social good is being done. On the other hand, the measure under section 135 is much more effective than a tax, companies have full freedom to give priority to social causes they want to support, and because that money is directly used into CSR initiatives. Section 134 provides for mandatory disclosure of the implementation of the CSR Policy, and provides for penalty in case of failure to do the same. Hence, not only does the measure under section 135 not amount to a 'tax', it is also more effective than a taxation scheme. Thus, it is submitted that 'voluntary CSR' is no longer sufficient to ensure that companies realize their obligations towards various stakeholders both at a micro and macro level. It is only through 'mandatory CSR' that companies would take up CSR initiatives in a more streamlined manner¹¹⁸.

4.6 Cases where Corporate Social Responsibility implementing in India

Number of companies has started promoting their CSR strategies as the investors, customers and the public are demanding them to be more responsible in the field of

¹¹⁵ Aneel Karnani, Mandatory CSR in India: A Bad Proposal, Stanford Social Innovation Review Blog (Oct 13, 2016, 11:30 AM), http://www.ssireview.org/blog/entry/mandatory_csr_in_india_a_bad_proposal.

¹¹⁶ Azim Premji, *Against law on mandatory CSR spending by corporate*, The Economic Times, Mar 24, 2011.

¹¹⁷ M.P Jain, Indian Constitutional Law, DPSP part IV of the Indian Constitution (Economy Paper Back 6 ed. 2011).

¹¹⁸ Supra footnote 100

sustainability. It is true that in some cases CSR is the result of various social, economic and environmental pressures. CSR also take into account the climate change, sustainable management of natural resources and consumer protection along with fulfillment of human rights standards, labor and social security arrangements.

A number of famous environmental and human rights associated disasters have accompanied overseas investment and liberalization in India. Incidents that have made the public consider twice about welcoming further future investments and enterprise without imposing any additional regulations or obligations. These incidents, primarily the public health disaster at Bhopal and the human rights fiasco at Dabhol, the background for any debate of corporate social responsibility in India.

Bhopal Gas Tragedy in India, the Bhopal incident took place in 3rd December 1984, morning; a leak of methyl isocyanate gas from a tank in Union Carbide's pesticide plant in Bhopal spread a toxic cloud over several miles surrounding the company's urban industrial complex¹¹⁹. The gas was highly toxic, the leak killed around 3,000 residents of the Madhya Pradesh state in its immediate result; the long-term death fee is estimated at 20,000, with as many as 100,000 more suffering from crippling disabilities¹²⁰. The victims and their advocates allege that the disaster took place because India's Union Carbide subsidiary was storing large amounts of ultra-hazardous waste in bulk without the proper safety precautions or even a suitable emergency plan¹²¹. Union Carbide eventually agreed to pay a \$470 million settlement to the Indian government in 1989, although American executives continually refused to appear before Indian courts for criminal proceedings. The decision was appealed but made final in 1991.

¹¹⁹ Timothy H. Holtz, Tragedy Without End: The 1984 Bhopal Gas Disaster, in DYING FOR GROWTH: GLOBAL INEQUALITY AND THE HEALTH OF THE POOR 245, 257 (Jim Yong Kim et al. eds., 2000).

¹²⁰ Adrienne Margolis, Prioritising Profit Over People, 64(1) *INT'L BAR NEWS* 23 (2010).

¹²¹ Amnesty International, India: Clouds of Injustice: Bhopal Disaster 20 years on (Amnesty International Publication 2004)(2004).

Victims of the disaster remain unsatisfied with the legal outcome for several reasons. Ten years later, in 1993, Enron agreed to contract with the state government of Maharashtra to build a multimillion-dollar power plant in Dabhol; at the time, India was only able to provide power for 5% of its population¹²². The plant was set to be the largest Foreign Direct Investment in India at the time. Maharashtra initially negotiated the contract directly with Enron and its partners, General Electric and Bechtel, and kept the details secret, allegedly because the power situation posed a statewide emergency. When the Indian public finally learned about the deal, however, there was massive protesting over handing foreign companies such a profitable venture rather than using local labor. The BJP party made shutting the project down its major platform in Maharashtra, calling the project neo-colonial and the product of corruption. They claimed the project would cause the price of electricity to soar.

After the Enron disaster, Western companies have become more wary of the social and political risks involved with investment in India. The Indian public, too, is on guard and remains suspicious of major American investment¹²³. Dabhol and Bhopal have not prevented major companies like IBM and Coca-Cola from setting up operations in India. Both companies, however, maintain robust CSR initiatives as a form of social insurance, and India was careful to revise relevant law in the wake of the Enron crisis to regain some patina of regulatory legitimacy¹²⁴. Bhopal Gas Tragedy in India, demand proper execution of CSR policy and avails the responsibility on Corporations towards society and the whole world. Consequently, the idea of Corporate Environmental responsibility under the veil of CSR receives its inspiration from the principles of UN Global Compact for Corporate Sustainability¹²⁵.

¹²² Jeswald W. Salacuse, *Renegotiating International Project Agreements*, 24 FORDHAM INT'L L.J. 1319, 1343-47 (2001)

¹²³ Human Right Watch, ENRON: HISTORY OF HUMAN RIGHTS ABUSE IN INDIA (Oct 20, 2016, 04:30 PM), <https://www.hrw.org/news/2002/01/23/enron-history-human-rights-abuse-india>.

¹²⁴ Kaushik Basu, *India's Emerging Economy: performance and prospectis in the 1990s and beyond*, MIT Press 83-85 (Economy and Finance, 2004)

¹²⁵ Sukvinder Singh Dari, *A study of CSR, Mass Tort and Environment Protection*, 2 ARPN journal of science and technology, 222-235 (2012)

Chief Justice Bhagwati in *M.C. Mehta v. Union of India*¹²⁶, declared in unambiguous terms “we have to evolve new principles and lay down new norms, which would adequately deal with the new problems which arise in a highly industrialized economy. We no longer need the crutches of a foreign legal order”.

- Some of Such Principles and Doctrines Propounded by the Indian Judiciary are¹²⁷
 1. Principle of Absolute Liability
 2. Polluter Pays Principle
 3. Precautionary Principle
 4. Public Trust Doctrine
 5. Concept of Sustainable Development
 6. Inter-generational Equity

Thus, it is essential that the natural resources used in very wisely and sustainably manner. In *Vellore Citizen’s Welfare Forum v. Union of India and others*¹²⁸, it was held that the Precautionary Principle and the Polluter’s Pays Principle are essential features of Sustainable Development. Polluter Pays Principle as interpreted by the Supreme Court means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation.

The list of duties provided in the Indian Constitution would suggest that every citizen is under duty to observe with those pledges. In *National Textiles Workers’ Union etc. v. P.R. Ramkrishnan*¹²⁹, the constitution bench held that the socio-economic objectives set down in the directive principles of the Constitution should guide and shape the new corporate philosophy. The management of a private company should show profound concern for the workers. The socio-economic justice will inform all the institutions of textiles in the nation to promote fraternity and dignity of the individuals. Similarly, the

¹²⁶ *M.C. Mehta and Anr vs Union of India & Ors*, AIR 1987 SC 1086 at p 1089

¹²⁷ S. Santhakumar , *Introduction to Environmental Law*, (Lexis Nexis Publication, 2 ed.)(2005)

¹²⁸ *Vellore Citizens Welfare Forum vs Union of India & Ors.*, 1996, 5SCC 647-648

¹²⁹ *National Textiles Workers’ Union etc. v. P.R. Ramkrishnan* SCR 922, 1992 (3) SCC, 336,

apex court in *Consumer Education & Research Centre v. Union of India*¹³⁰, right of the management in asbestos industry to carry on its business is subject to their obligation to 'protect health of the workmen, preserve pollution free atmosphere, and to provide safe and healthy conditions of the workmen. Making an emphatic declaration about role and position of Directive Principles for State Policy, the apex court in *LIC of India v. Consumer Education and Research Centre Anr.*,¹³¹ has stated: that the authorities or a private persons or industry are bound by the directives contained in part IV, Part III and the Preamble of the Constitution. It would thus be clear that the right to carry on trade is subject to the directives containing the Constitution the Universal Declaration of Human Rights, European Convention of Social Economic and Cultural right and the Convention on Right to development for socio-economic justice. Social security is a facet of socio-economic justice to the people and a means to livelihood.

The meaning of word 'citizen' under Article 51A, does this word include companies and incorporated persons as well? Supreme Court of India has already make enquiries with this aspect, and has held that for the purpose of part III of the constitution and particularly Article 19, Citizen does not include incorporated or legal person¹³². *Banjamin Cardozo*¹³³ has stated in his "Judicial Process" that 'the great tides and currents which engulf the rest of men do not turn aside in their course and pass the Judges idle by'. Every action of the public authority or the person acting in public interest or its acts give rise to public element, should be guided by public interest. It is the exercise of the public power or action hedged with public element becomes open to challenge. If it is shown that the exercise of power is arbitrary, unjust, and unfair, it should be no answer for the 'states its instrumentality, public authority or person whose acts have the symbol of public element to say that their actions are in the field of private law and they are free to prescribe any conditions or limitations in their actions as private citizens, do in the field of private law. Its actions must be based on some rational and relevant principles. It must

¹³⁰ *Consumer Education & Research Centre v. Union of India*, JT 1995 (1) SC 637

¹³¹ *L.I.C. and Anr. vs. Consumer Education and Research Centre and Ors*, AIR 1995 SC 1811

¹³² *STC v. CTO*, AIR 1963 SC 1811

¹³³ *The Nature of Judicial Process* 1921

not be guided by irrational or irrelevant considerations. Every administrative decision must be hedged by reasons.

In *Dwarkadas Marfatia & Sons v. Board of Trustees of the Port of Bombay*¹³⁴, it was held that the Corporation must act in accordance with certain constitutional conscience, and whether they have so acted must be discernible from the conduct of such Corporations. In *Kumari Shrilekha Vidyarthi v. State of U.P.*¹³⁵, where Supreme Court has pointed out that the private parties are concerned only with their personal interest but the public authorities are expected to act for public good and in public interest. The impact of every action is also on public interest. It imposes public law obligation and impress with that character, the contracts made by the 'state', or its instrumentality. In fact, court tried to find out 'impact analysis' to define and limit the liabilities of state instrumentalities in public domain. In *Sterling Computers Ltd. v. M & N Publications Ltd*¹³⁶, it was held that even in commercial contracts where there is a public element, it is necessary that relevant considerations are taken into account and the irrelevant consideration discarded. In *Bears Cave Estate v. The Presiding Officer*¹³⁷ in which the Madras High Court had made direct observation that 'the principles behind suffering a person with disabilities are that providing equal opportunities cannot be left only for the mercy by the Government in relation to its servants alone. It is high time the principles behind the Disabilities Act, 1955 must be extended in relation to private employments also and it must be made as part of Corporate Social responsibility of every employee'.

¹³⁴ 1989(2) SCR 751

¹³⁵ 1991(1) SCC 212, para 22

¹³⁶ 1993(1) SCC 445 at page 464 para 28

¹³⁷ W.P.No.802 of 2009

CHAPTER V

CORPORATE SOCIAL RESPONSIBILITY AND SUSTAINABLE DEVELOPMENT IN SIKKIM

Sikkim constitutes part of Eastern Himalaya and is situated between 27°00'46" to 28°07'48" N latitude and 88°00'58" to 88°55'25"E longitude, with an area of 7096 sq km. The state is bounded in the north by the Tibetan plateau, on the north-east, by Pangolakha range of Bhutan on the south-east, by Darjeeling district of West Bengal on the south and Singalila range and Khanchendzonga on the west and north-west.

The state of Sikkim has been divided into four districts i.e., East, West, North and South Sikkim. The state capital is located at Gangtok in East Sikkim. Mainly people of Sikkim depend on agriculture and maize, large cardamom, rice and wheat are principal crops grown in the state.

Corporate social responsibility and sustainable development have emerged as an important and widely accepted concept in the world. The role of business in the development of a society has undergone a transformation in the last few years and business is no longer just focused on profit maximization but companies take responsibility for the protection of environmental sustainability. That is why CSR integrates with social and environmental concerns into their business operations and interactions with stakeholders on a voluntary basis. It is usually accepted that the sustainable development calls for a unification among the three pillars of social justice, economic growth, and environmental protection. Sustainable Development is a visionary development scheme of the government of Sikkim. In corporate sector civil society have accepted sustainable development as a guiding principle and made progress on sustainable development, and improved business and NGO participation in the sustainable development process. Still the concept remains unclear and implementation has proven difficult. Unsustainable trends continue and sustainable development has not found the political entry points to make real progress. As a result, climate change has become the real stand-in for the implementation of the sustainable development agenda;

but the framework of the climate change negotiations is not always the appropriate forum for planned discussions of sustainable development.

Hydropower projects and pharmaceuticals companies in Sikkim play a vital role in sustainable development of Sikkim by way of corporate social responsibility.

Hydro-power potential of the Sikkim was recognized in prior to seventies, before the state became part of Union of India in 1975. The River Teesta is one of the main Himalayan Rivers, which originates in the glaciers of Sikkim at an altitude of over 8,500 m above means sea level. The river rises in mountainous land and is formed mainly by the combination of two hill streams Lachen Chhu and Lachung Chhu at Chungthang in North Sikkim. After the meeting of Lachen Chhu and Lachung Chhu, the river gradually increases its width and takes a wide loop flowing down to Singhik, dropping in altitude in the process from 1550m to 750m¹³⁸.

At Singhik, the river receives one of its major tributaries, the Talung Chhu on its right. Talung Chhu originates from the Talung glacier, which is a part of the Khangchendzonga range. From Singhik, the river flows south towards Dikchu in a very deep valley and drops from 750 m to 550 m. From Dikchu the river flows in a big arc again down to Singtam with a drop of about 200 m. The Rongni Chhu, which drains the slopes of Tsomgo Lake, joins Teesta from left at Singtam and the river receives Rangpo Chhu at Rangpo. After Rangpo, Teesta starts widening rapidly and is joined by the Great Rangit River at Melli on Sikkim (West Bengal border). After flowing for a distance of about 40 km from Melli in hilly land, the river enters the plains of West Bengal at Sevoke.

The Rangit River and its tributaries originate from Talung glacier in West Sikkim and after flowing for about 60 km, join Teesta below Melli. River Rangit is a major tributary of river Teesta. Major tributaries of Rangit are Rathong Chhu, Rimbi Khola, Kalej Khola, Ramam Khola and the little Rangit. The Rangit River in its early reaches flows through very high valleys and steep slopes till it is joined by Rathong Chhu, which originates

¹³⁸ Water Resources, Sikkim Forest, Government of Sikkim (Nov 21, 2016, 11:30 AM), <http://www.sikkimforest.gov.in/soer/Water%20Resources.pdf>

from the Rathong glacier and is one of the major tributaries of River Rangit. The slope of Rangit River up to its meeting with Rathong Chhu is of the order of 1 in 25. After the meeting, the river enters into area with gentler slopes with a slope of 1 in 85. After joining Ramam Khola and little Rangit near Naya Bazaar (Jorthang) South Sikkim, the river enters the plains and widens out till it meets Teesta¹³⁹.

Pharmaceuticals companies play a very important role in providing local employment through employment generation and sustainable development of the State by way of Corporate Social Responsibility (CSR) in the State of Sikkim.

The tourism industry plays a very vital role as services provider in Sikkim. Local communities are benefited from these industries by way of getting employment and generating incomes through it. By increase in the inflow of the tourists in Sikkim economy has been increased in the State. Average small economy, in particular, has been advantaged by the Tourism. The hotel industry and other livelihoods of the people like handicraft industry are prospering in the region because of the increasing inflow of tourists' expenditure in the state.

History of Sikkim remarks that the foundation stone of power development in Sikkim was laid in 1927 with the commissioning of first Hydel Power Project of 50KW capacity at Lower Sichey Busty on the bank of river Rani khola near Gangtok. Till the year 1975, the state had a generation capacity of only 3 MW from its Small Hydel Projects (SHP) such as Jali Power House, Rimbi Micro Hydel, Rothak MicroHydel, and Manul Micro Hydel in Sikkim. Sikkim has number of streams & rivers flowing down the glaciers, which provide plentiful potential for hydro electric projects. This potential resource can be tapped effectively and efficiently for meeting the electricity demand of State.

To increasing the hydro power plant in Sikkim, Government of Sikkim has created its own hydro power development nodal agency "Sikkim Power Development Corporation" (SPDC). SPDC plays a critical role in encouraging independent power producers to

¹³⁹ Ibid footnote 138.

invest in hydro power development in Sikkim. This is further supported by a liberalized policy of the Government of Sikkim for hydro power.

In Sikkim River Teesta is the main and major river with great potential for planning and implementation of hydro power projects. A number of hydro projects are currently under development on Teesta by the private sector like NHPC. Rangit River second largest river, which is a tributary of Teesta, is in West Sikkim. A number of hydro projects are also currently under development by the private sector on this river also. A large hydro power potential is also available on the smaller rivers and streams of Sikkim. This is also being tapped by the private sector to accelerate hydro power development in the State¹⁴⁰.

Small to medium size hydro projects require reasonably less time for development and have smallest impact on environment as compared to large dam based hydro power projects.

In toto, there are number of other hydro power schemes in Sikkim for which Preliminary Feasibility Reports (PFRs) have been prepared under Hon'ble Prime Minister's 50,000 MW initiatives and self identified projects promoted by private developers. On 24th May, 2003, Hon'ble Prime Minister of India launched a scheme, formulated by Central Electricity Authority (CEA), for preparation of Preliminary Feasibility Report (PFRs) of 162 New Hydro Electric Schemes totaling to over 50,000 MW. All the PFRs were targeted to be completed by September, 2004. CEA was entrusted with the overall responsibility for the scheme. Preparation of PFRs involves conceptual planning, preparation of project and equipment layouts, infrastructure requirement, environmental and geological studies, power evacuation arrangement, cost estimates and economic evaluation. PFRs of all the 162 schemes have been prepared for the plan¹⁴¹.

Pharmaceuticals companies have become a boon to the State of Sikkim. They play a very important role in providing local employment through employment generation and

¹⁴⁰ RS Envirolink Technology Pvt. Ltd., RSET Environmental Consulting, (Nov 21, 2016, 12:30 PM), <http://www.rstechnologies.co.in>

¹⁴¹ Preliminary Feasibility Report (PFRs) of 162 New Hydro Electric Schemes totaling to over 50,000 MW (Nov 25, 2016, 11:30 AM), <http://www.nhpcindia.com/NewWebsite/initiatives-by-govt.htm>.

sustainable development of the State by way of Corporate Social Responsibility (CSR). The State Government considering the above facts welcomes the Pharmaceuticals Companies in the Sikkim and waves the income tax for the period for ten years from the date of establishment in the State.

Tourism is one of the fastest growing industries in the world. Its rapid growth and development contributed in the socio-economic development of the Nation. One of the chief reasons that governments support and promote tourism throughout the world is that it has positive impact upon economic growth and development. Tourism is one of the important services providing industry in Sikkim state. It is generating income and employment to the local community people in the region. The increase in inflow of tourists in Sikkim resulted in the economic advantage to the regional economy. Tourism, in particular, has contributed in several important ways to the positive performance of the average small economy. Increasing inflow results in more tourists' expenditure in the state. As a result of spending of tourists in Sikkim state, the hotel industry and other livelihoods of the people like handicraft industry are prospering in the region.

5.1 CSR activates of Hydropower Companies in Sikkim

5.1.1 Jorethang Loop Hydroelectric Project, Sikkim: The Jorethang Loop Hydroelectric project (JLHEP) is projected for development by DANS Energy Private Ltd (DANS Energy) on the River Rangit in the state of Sikkim. The River Rangit is a tributary of the River Teesta, which is the main river traversing the state of Sikkim. The project will have an installed capacity of 96 MW, and will generate approx. 444.03 gross per annum. The project will involve the construction of a change stream, 108 m in length and 13m in height, which will create a small reservoir of approx. 10.1 ha. in Jorethang¹⁴².

¹⁴² DANS Group, Jorethang loop hep, Dans Energy Pvt. Ltd (Nov 25, 2016, 11:30 AM), <http://www.dansenergy.com/jorethang-project-brief.html>,

The main rationale of this project is to use the hydro potential of the River Rangit to generate zero emission electricity. The electricity generated will be exported to the Eastern Regional grid through the Eastern Regional Load Dispatch Centre (ERLDC)¹⁴³.

The JLHEP till date played a very important role to attain the sustainable development of the region and surrounding areas of Jorethang. For example; electricity generated by this project yet not result in the emission of greenhouse gases to the surrounding atmosphere, the electricity to be generated displaces grid-sourced electricity that is dominated by non-renewable fossil fuel resources, thereby reducing the carbon intensity of the Eastern Regional grid, the project results in a reduction in air borne pollutants, such as oxides of nitrogen, oxides of sulphur, carbon monoxide and particulates, through a reduction in the combustion of fossil fuels, the project generates local employment, on a contract basis with more permanent on-going employment within the operational phase, the projects encourage the demand for materials, spare parts, equipment within the consumables periods, the projects still not compromise entry to the river resources for downstream users as the River Raman flows into the River Rangit approx. 4 kilometers downstream of the proposed diversion barrage, and two other streams, Ramam Khola and Chhoti Rangit flow into the River Rangit within this 4 kilometre stretch. A further provision has been made for approx. 0.3 cumecs of sacrificial discharge throughout the year. To ensure there is no negative impact on local fish populations, a hatchery (including hatchery, nursing ponds, rearing ponds and stocking ponds) is proposed to be built in the vicinity of River Rangit. A greenbelt of approximately 24.74 ha created around the reservoir, to mitigate soil erosion and prevent landslides¹⁴⁴. This project yet not involved the construction of any major roads, except for a small length and minor link of peripheries roads. The project carried out maintenance and upgrade of existing roads, which improves access to the area whilst limiting environmental disturbance. Twelve percent of the total electricity generated will be provided free to the Sikkim State Government as a royalty. Prior to this project in this area local villages were depends on firewood for their daily energy needs, which can lead to adverse ecological impacts, such as forest

¹⁴³ North East Regional Load Dispatch Centre, Black Start and Restoration Procedures of NER Grid 2015 · MePDCL, (Nov 25, 2016, 10:30 AM), <http://www.nerldc.org/>

¹⁴⁴ Supra footnote 141

degradation, soil erosion and reduction in soil fertility. Increased availability and reliability of power supply from this project to the villages reduced the need for firewood. This is the great initiatives and local people live a standard living life as compared to previous¹⁴⁵.

5.1.2 Madhya Bharat Power Corporation Ltd.

Madhya Bharat Power Corporation Limited (MBPCL) is implementing 96 MW Rongnichu Hydro Electric Project (HEP) near Gangtok in East Sikkim (it is a run of the river scheme). The civil works of the project is going on in full swing with above half of digging works of major underground tunnel completed. PFC, the lead lender and IDBI Bank has approved revised project cost and scheduled COD. The Project area extends from the barrage site at Namli, 9th Mile on NH-31A to the Power house site at Kumrek near Rangpo in East Sikkim. The power generated shall be evacuated by a 7.5Km long 220KV D/C line from kumrek generating substation to PGCIL's Rangpo pooling substation at Samardung. Some of the major CSR activity of Madhya Bharat Power Corporation Ltd. includes Construction of Nepali Museum at Aho Yangtham in the year 2011, Sponsorship for Football Tournament, Ranipool, Computer Training Programme to local youth at Gangtok and Assam Lingchey during the year 2011, Renovation of Mandir at Samsing, Duga in the year 2011, Donation for Promotion of Sports (Basket Ball, Volley Ball) Gangtok, Donation for publishing the Annual School Magazine of Duga for the year 2011, Donation of a sum of Rs. 10,000,000 Donation towards Earthquake victims in the Chief Minister Relief Fund, Donation for Welfare of Car Accident at Mangthang, Donated for construction of connecting road for villagers at Duga, Donation for Purchase of furniture for Kalian Samar at Summing, Donation of sum of Rs. 1,300,000/- only for construction of Bridha Ashram at Lower Samdong, Donation toward Social Welfare to Sikkim Police – Renovation of SDPO's Office at Mining, Rangpo, Donation of Household items for Surya Development Sangh, Namli, Donation for Construction of Temple at Zitlang, Sponsorship for anti-Drug abuse musical concert at Rangpo, Donation for Drinking water supply at Nimitar, donation of sum of Rs.

¹⁴⁵ Ibid footnote 144.

1,289,364/- Drinking water supply at Sumin, sum of Rs. 4,000,000/- contributed for Construction of Auditorium At Rangpo, Supply poly pipe at Nimitar for Drinking Water, Rs. 413,728 contributed toward plantation, contributed a sum of Rs. 543,153 /- for construction of Mid Day Meal Shed at Sumin, donation of GI PIPes Supply at Nimitar for Drinking water, contributed a sum of Rs. 24,800/- as Encouragement to Brilliant Student for Sumin, contributed a sum of Rs. 134,646/- for construction of Water Tank at Mangthang, Maintenance of approach road for BDO Office, Duga, Donation for construction of Hanuman Mandir at Patuk¹⁴⁶.

5.1.3 National Hydroelectric Power Corporation Limited (NHPC)

National Hydroelectric Power Corporation Limited (NHPC) has taken up initiatives for the development of State under its CSR activities to attain Sustainable development in Sikkim¹⁴⁷. Some of them are renovation works in Government Schools and construction of temporary sheds for the local areas schools. Providing vocational training to rural youth, scholarship to meritorious SC/ST students, distribution of computers, furniture, library books etc. Provide infrastructural community development works, rain shelters, water supply system and improvement of sanitation facility, construction of roads and up gradation of existing roads in the villages. Organized medical camps, up-gradation of dispensaries, establishment and up-gradation of maternity centers etc. providing relief material during the earthquake, contributing towards Chief Minister's Relief Fund for the earthquake victims, providing technical training assistance to farmers for improving agricultural productivity, promoting rural supports and local culture through sponsoring local festivals. Establishment of an ITI at Chandey, North Sikkim. NHPC Teesta Stage-IV Hydrel Project, as part of its CSR and Sustainable Development initiative for North Sikkim, has constructed a water supply scheme for Rangrang village and the Junior High School of the same village¹⁴⁸. NHPC Teesta-IV Project took up the said activity under CSR-SD for the (Financial Year 2013-14) and completed it in the first quarter of (2014-

¹⁴⁶ Source: Personal visit and Interviewing with General Manager, Madhya Bharati, Rongnichu Hydro Electric Project - 96MW

¹⁴⁷ Supra footnote 144.

¹⁴⁸ NHPC Teesta-IV sponsors rural water scheme, SIKKIM NOW, July 10th 2014

15) and hand over to the Rural Water Supply Scheme to Local Panchayat members and Rangrang villagers. NHPC has undertaken a number of Community Development Initiatives in the areas of Health, Education, Vocational Training Programme, Peripheral Development, Sports & Culture, Employment generation opportunities, Preservation of Nature etc. for the community living in and around the Power Stations and Construction Projects. Other Initiatives of NHPC has creating Herbal Parks with medicinal value in between of Khamdong and Depu-dara near Singtam, large scale Afforestation, Catchment Area Treatment (CAT). Constructed new houses in Khamdong with road for the people of peripheries of Dikchu and Lower Samdong. Further CSR initiatives by NHPC in between the years of 2014-2015 are training programme for farmers in organic farming and instrumentation support in Sikkim. Up-gradation of maternity & OPD cell of district hospital, Singtam (E- Sikkim). Construction of cold storage for keeping and securing the agro-products at Kamiray village, East Sikkim. 'Jal Hi Jiwan' a scheme to promote water scarcity and to fulfill the water requirements in the villages. NHPC under the scheme had made arrangement of drinking water supply line for Bor-Jhora to Sanu- Makum, Borboty & Jarayotar village in Darjeeling District and Rangrang village, in Sikkim benefiting 1700 households in these villages. Sponsorship of local festivals Namsong and Lho Rum Fat in Sikkim.

5.1.4 Gati Infrastructure Private Limited (GIPL)

Gati Infrastructure Private Limited (GIPL) is implementing 51MW Bhasmey Hydroelectric Power Project in Kamery Bhasmey block in the East District of Sikkim on the Rangpo river about 6km upstream of Rangpo Basar. The Rangpo river is a major tributary of the Teesta river which is the main river of the state of Sikkim. The Bhasmey Hydroelectric Power Project is based on the Run-of-the-River Hydroelectric Power plant with the installed capacity of 51MW. 110 MW Hydro Electric Power Project in Sikkim, first in the private sector in the North East has been commissioned in May 2013 at Chuzahen, East Sikkim.

The CSR activity of the above company includes; operating community education centre for the children of Makaibari Bungling [Rongli Dam Site] for standard 1 to 3 as well as

for the children under the age of 6. As informed Special emphasis is being given to motivate dropouts to enroll, fresh nutritious food are provided to for the children of Village Education Centre.

Gati Infrastructure Limited initiated winter course during winter vacation of the school in Rongli in which eighty students of Class VIII to Class X were enrolled. They promoted Self Help Groups in 21 villages of Rongli & Pakyong subdivisions. They are actively involved in community development & women empowerment programme in the project area. The members of the groups are engaged in goat & pig rearing, ginger, potato cultivation, Phenyl making, and in Bakery business, Catering business.

Gati Infrastructure Limited has been taking consistent steps towards creating awareness, curative and preventive health care services through organizing periodic Health Awareness Camp and Monthly Health Check-up Camp. Free medicines are distributed to the patients in the Health check up camp. Health Awareness Camp was organized at different location of Rongli Bhasmey. Awareness on basic health and hygiene and sanitation, regarding reproductive and child health is imparted in those awareness programme. Specialist doctors are invited for examining patients in addition to Medical Officer of Gati infrastructure Limited. 46 Health Check Up camps have been organized in different project site by Gati Infrastructure Limited and 4368 persons have been benefited from this programme so far.

One-day Sensitization Programme was organized for the staff of Social Welfare and Environment Health & Safety department under Capacity Building Programme. Resource Person for the said programme was Incharge of STD clinic, Singtam District Hospital.

GVS Football Academy, Pendam is sponsored by Gati Infrastructure Limited for running their coaching camp and hostel. 20 players are benefitted by jersey, track suits , boot and other accessories. Gati Infrastructure Limited also sponsoring an orphan girl by giving education in St. Joseph School of Rhenock.

Gati Infrastructure Limited has spent Rs. 41.00 lakhs since 2006 for improvement & development of community infrastructure works at various places in Chujachen Hydropower project region. Improvement and beautification of land at chujachen school entrance. They have constructed 2 unit staff toilet and safety tank at Govt. Sr. Secondary School, Chujachen, 8 No's Male urinals in Govt. Sr. Secondary School, Chujachen, Police checkpost at Rongli, foot path to Kerabari village, and water tank at primary health centre, Rongli. Gati has also done the Carpeting of approach road Rongli PHC. Construction of 1 Km length of Cement Concrete foot path from Lok dhara to Devi dhara, Chujachen GPU. Repair & Renovation of Krishna mandir near chujachen GPU. Construction of 300 mtr length of cement concrete foot path leading to lepcha cremation ground, Chujache GPU. Constructed 2 No's water storage tanks and installation of water supply line for chujachen school. Repair works to existing suspension bridge at bearing for sage crossing of Rangpo river by the local public. Providing fabrication and erection of structural steel roofing for assembly in Govtment. Junior High School, Rongli. Protection to the church at sungdung by construction of 60 mtr retaining wall. Improvement works to Shiv mandir on chujachen – valve house road. Installation of water supply line at Makaibari. Improvement works buddhist gumpa above right side abutment of Rongli Dam. Construction of storage and sedimentation tank at km 2.7 on chujachen rongli road¹⁴⁹.

5.2 CSR activities of Pharmaceuticals Companies of Sikkim

Pharmaceuticals Companies has become a boon to the State of Sikkim. They play a very important role in providing local employment through employment generation and sustainable development of the state by way of Corporate Social Responsibility (CSR). The State Government considering the above facts welcomes the pharmaceuticals companies in the Sikkim and waves the income tax for the period for ten years from the date of establishment in the State. Some of the pharmaceuticals companies of Sikkim are STP pharmaceuticals Pvt. Ltd., Sun Pharma Drugs Pvt. Ltd., Micro labs Ltd., M/S Cipla

¹⁴⁹ Gati Infrastructure, Sikkim (Dec 20, 2016, 11:30 AM), <http://gatiinfra.com/csr-activities/>

Ltd., Golden cross Pharma Pvt. Ltd., Glenmark Pharmaceuticals Ltd., Zydus Healthcare, Intas Pharmaceuticals., Torrent Pvt. Ltd.,

5.2.1 Sun Pharma Pvt Ltd. Ranipool, Sikkim Unit.

Sun Pharma located at Setipool Ranipool, East Sikkim established in the year 2009 is one of the largest pharmaceutical company of Sikkim. In order to accomplish the task of Corporate Social Responsibility (CSR) a Community Need Assessment and Baseline Surveys was conducted by SMHITA an NGO and based on the assessment report the CSR policies were framed and is being implemented in Sikkim¹⁵⁰.

Broadly, the activities of CSR are grouped in the many categories like, Curative Health Care, Preventive Health Care, Education, Employee Volunteers Programme, Community Drinking Water and Disaster Management.

As a part of curative health care services a Memorandum of Understanding (MoU) has been signed with HelpAge India for implementing mobile medical unit project at Sikkim. HelpAge India worked as implementing agency for mobile health care service. An independent mobile hospital has been set up for providing services to the people of the villages surrounding the Sun Pharma at East District, Gangtok¹⁵¹.

Mobile medical unit is implemented, supervised and monitored in association with HelpAge India, international NGO in Coordination with local Panchayat, Government Officials from Health Department, Health Minister and Primary Health Center (PHCs) for smooth operation of project.

As a part of mobile medical unit, 01 (one) Doctor, 01 (one) Pharmacist and Social are available for providing services to the people. Facilities available in this mobile unit are free medicine and lab test (blood test, sugar test). mobile medical unit covers 02 (two) villages in 01 (one) day and 10 (ten) villages are covered in 01 (one) week which same is done in rotational bases. Free medicines are distributed to the people as per the requirement and if there are any critical cases or further checkups are required they are

¹⁵⁰ Source: Personal Interview with Sr. Executive, CSR, Sun Pharma Pvt Ltd. Setipool, Ranipool East Sikkim.

¹⁵¹ Ibid footnote 150

referred to the Government Hospital i.e Sir Thutob Namgyal Memorial (STNM) Hospital. Free medical health camp is conducted periodically in surrounding villages wherein support through health checkup and medicines are provided to the villagers as a part of Corporate Social Responsibilities (CSR).

As a part of preventive health care services, Sun Pharma organized 1 to 2 hours community health awareness programme for which villages are selected on need basis wherein various health related awareness are imparted by Doctors through dialogue with the villages and through video presentation and so on. Health awareness programme are being organized in various surrounding schools wherein students are sensitized with the various diseases and health related problems like Tuberculosis (TB), Mental Health, etc.

Sun Pharma provides support to the Government agency on need basis. For example one MRI X-Ray machine worth Rs. 1.5 Crore was provided to STNM Hospital in the year 2012. Maintenance of the same is done by Sun Pharma. The above machine has been proved boon for the people of Sikkim wherein MRI is being done in very nominal rates as compared to the private clinics. Sun Pharma has successfully done two mega free health camps in rural areas of south Sikkim in the year 2016.

As a part of CSR in educational sector, fencing and retention walls are being constructed by the Sun Pharma. In this regard, fencing has been done in 02 (two) schools namely; Aho-Kishan School, Pakyong Block and Gowcharan School, Assam Lingey, East Sikkim. Retention wall has been constructed at Serwany School, Near Singtam, East Sikkim. Construction of fencing wall is under process in Tumblabung School. Further, no Tobacco day was celebrated in the surrounding Government Schools in year 2015 and 2016¹⁵². Sun Pharma celebrates 2nd October to 8th October every year as **“Joy of Giving days”** i.e., **Dhan Utsav** wherein the employees of the company contribute money, clothing materials, foods, other items and donate the same to the NGOs looking after the underprivileged people. As a part of CSR company has contributed water purifier, washing machine and bed sheet at Old Age Home located at Ranipool.

¹⁵² Supra footnote 150

Swachh Bharat Abhiyan was organized by Sun Pharma at Ranipool wherein more than 200 employees of the above company participated and blood donation camp was also organized by the Company wherein employees voluntarily participated and donated 100 units of blood on 2016. Sun Pharms works with local Panchayats, NGOs and Government of Sikkim for facilitation of drinking water. In this regard, construction of storage tanks, stand posts, pipe connections, distribution of storage units, water filter installation at schools are done, awareness on safe drinking water habits is also conducted. One of such tanks for storing water is constructed at Saramsa, East Sikkim.

As a part of Corporate Social Responsibility (CSR) relief materials in the form of free medicine and health services were provided to the earthquake victims of 2011 at Sikkim. A similar relief material was provided on April 2015 Nepal earthquake. Further, Sun Pharma has provided employment for local educated youths and help in the government in decreasing unemployment problem to the extend¹⁵³.

5.2.2 CIPLA LTD, Sikkim Unit

Cipla is located at Kumrek Rangpo East Sikkim was established in the year 2008. As a part of CSR, Cipla has identified the areas like Health & sanitation, education, environment & sustainability, rural development & creation of livelihood opportunities and others which addressing social inequality to make contribution to the society¹⁵⁴;

One of the key CSR missions of CIPLA is positive health for all. The company follows a pro-active, preventive and promotive approach that involves community as a whole. The focus remains, on promoting awareness and self- sufficiency, through community involvement, dissemination of information, health education and medical assistance. Cipla provides financial assistance to support healthcare to needy patients from underprivileged and economically challenged society.

Some of its activities include construction of sanitation blocks, detection and treatment of development disabilities, eye care camps, health services to the community, medical

¹⁵³ Ibid footnote 152

¹⁵⁴ Annual Report 2014-15, CIPLA (Dec 14, 2016, 02:30 PM),http://www.cipla.com/uploads/investor/1442817668_Cipla-Annual-Report-2014-15.pdf

support to individuals, mobile health care services, promoting health care including preventive healthcare & residential care and rehabilitation services.

Cipla has embarked on a journey to impart primary education to the under privileged, with a vision to improve access to and quality of education. Some of major initiative includes Education of underprivileged children's, Infrastructure support to the school, meritorious awards, promoting education in govt. schools, sponsorship to the economically weaker students, e-learning & pre-school education. Meritorious students from Sikkim were provided with sponsorship. Cipla has joined hands with NIIT foundation to achieve the common goal of improved outcomes of elementary education. Hole-in-the-wall learning stations make computer education accessible to government school students, spreading computer literacy, and improving quality of education at the grass root levels. The project has been making a remarkable effort to bridge the digital divide and encourage school going children, by providing a delightful learning environment in Schools. Setting up old age and community hall for socially and economically backward groups are some of the initiative for rural development projects¹⁵⁵.

5.2.3 Glenmark Pharmaceuticals Ltd

Glenmark Pharmaceuticals Ltd. is located at Samlik-Marchk, Ranipool, East Sikkim about 12 km before reaching Gangtok. Glenmark Pharmaceuticals Ltd. actively engaged in creating social impact through child health and sustainable livelihoods programs. Glenmark Foundation initiative 'Project Kavach' programme aimed at improving child health. The focus is to reducing malnutrition and under nutrition, increasing immunizations and inculcating better sanitation and hygiene practices.

The CSR activities of this Company includes, providing aids and appliances to the differently-able persons under health care including preventing health care for which sum of Rs. 5 lakhs has been invested. 20.02 lakhs donated to the State Government for promoting health care. They conducted a disability camp for fitment of prosthesis and

¹⁵⁵ Ibid footnote 154

orthosis reaching out to 190 beneficiaries in Sikkim. Rs. 4 lakhs invested for reducing child mortality and improving maternal health. Rs.4.3 lakhs for making available safe drinking water, Rs. 0.5 lakhs for promoting education in the State of Sikkim¹⁵⁶.

5.3 CSR activities of Tourism Industries of Sikkim

Tourism is one of the fastest growing industries in the world. Its rapid growth and development contributed in the socio-economic development of the Nation. One of the chief reasons that governments support and promote tourism throughout the world is that it has positive impact upon economic growth and development. Tourism is one of the important services providing industry in Sikkim state. It is generating income and employment to the local community people in the region. The increase in inflow of tourists in Sikkim resulted in the economic advantage to the regional economy. Tourism, in particular, has contributed in several important ways to the positive performance of the average small economy. Increasing inflow results in more tourists' expenditure in the state. As a result of spending of tourists in Sikkim state, the hotel industry and other livelihoods of the people like handicraft industry are prospering in the region.

Hotel Industries in Sikkim play a vital role in development of the State through is tourism services. There are numbers of hotels in the State which provided services to the tourists. Hotel Mayfair is one of the five star hotels located near Ranipool around 10 km meters before reaching Gangtok. The property is spread across a sprawling tract of 48 acres of prime forested land.

CSR activities of MAYFAIR includes donation of Music System to Swarwati Vidya Niketan School located at Ranipool, East Sikkim, donation of sum of Rs. 10,000/- for library in Adampool School, Rs. 30,000/- as a part of donation for organizing Sports Tournament at Ranipool for engaging youths in sports. Donated for organizing North East History Association Programme at Tadong Government College, Gangtok, East Sikkim. Rs. 50,000/- contributed to Thankur Bari Mandir, Gangtok, East Sikkim, prepared leaflet of clinic awareness for Gangtok Municipal Corporation (GMC), donation

¹⁵⁶ Annual Report 2014-15 and 15-16 , Glenmark Foundation Ltd. (Dec 14, 2016, 02:30 PM), http://www.glenmarkpharma.com/Glenmark-Online-AR-2015-16/pdf/Glenmark_Annual_Report_2015-16.pdf

to Badminton Association of Sikkim, donation to Sikkim State Karate-Do Association for organizing a tournament, donation to Press Club of Sikkim for upliftment of Journalism of Sikkim, donated to Tashi Namgyal Academy (TNA) for celebrating Silver Jubilee¹⁵⁷.

¹⁵⁷ Source: Interview with Manager (Human Resource), Mayfair Spa Resort & Casino, Sikkim

CHAPTER VI

CONCLUSION AND SUGGESTIONS

It is now recognized that government alone cannot achieve the target of poverty reduction and sustainable development, a potential partners are needed for achieving such objectives and for which policy makers are paying increasing attention toward the private sector as the potential contributor to achieve such policy objectives. CSR may be considered as businesses' contribution to sustainable development. The core issues of CSR agenda include labor standards, human rights, education, health, child labor, poverty reduction, conflict and environmental impacts.

It is evident from the study and survey that pharmaceutical companies used to discharge their chemical byproducts and wastes in the river and therefore creating potential threat to environment as the pollutant downstream not just spoils ecology, marine, wildlife of himalayan but also greatly hampers up to last drain mixed up with river Teesta by those toxins carried by tributaries and finally the rivers. The pollutants discharged from pharmaceutical company units have spoilt the drinking water sources of many villages, water is become unusable and not fit for drinking ultimately leaving people suffer from series of health problems due to pollution. It is reported by the locals that these companies discharge waste during night time and it is seen in maximum cases here, that the pharma companies are established at very close vicinity of river in order to disseminate their chemical waste in river tactfully making stealth outlets and drains.

The hydropower companies have also impacted life's of local people in negative ways. Environment are impacted, apart from the loss of significant ecologies due to extensive tunnelling in geologically fragile areas, dumping of excavated garbage into the surrounding landscape, making a threat to the local communities and their way of life. People are being homeless due to house crack as a result of dam construction. Farming activities were disrupted, and access to water suffered as sources have dried up. The incident of hunger strike by the local people has been reported in various local news against degradation of environment in north Sikkim due to hydropower companies.

From the study and overall analysis it is found that that concept of CSR is gaining prominence from all avenues in Sikkim. Contrary to this, many of the managers and executives of services/enterprises in Sikkim are not fully aware of CSR. Organizations must realize that government alone will not be able to get success in its endeavor to uplift the downtrodden of society. Many of the leading corporations across the world had realized the importance of being associated with socially relevant causes as a means of promoting their brands. CSR practice can have a financial impact on the service/enterprise and it is necessary for the managers/executives to understand the implications of CSR.

An organization has a responsibility towards the society and towards its people. Uplifting the people by providing basic facilities is the prime services to the society. Environmental-related CSR activities include treating factory waste properly to avoid harming the natural environment. It is also found that the large numbers of people are affected by environment impacts and therefore CSR activities should focus on environmental welfare. In Sikkim, treating factory waste is a major problem. In India legal system does not monitor whether waste are properly treated by factories or not. CSR activities inspired by Gandhi's concept of social trusteeship and thus focus on the well-being of employees and the common man. Sikkim lack the resources needed to treat their employees well; then carrying out CSR along is a difficult task for them. Indeed, it is evident from the study that western concepts of CSR do not necessarily translate to a developing country like India, which is currently struggling simply to meet economic, legal and ethical responsibilities.

This research tried to find out whether CSR accountable to attain Sustainable Development, what extent CSR plays a role to reduce risks of environmental issues in the state and what kind of CSR activities is undertaken by the different companies in the state to attain Sustainable Development. It has been found that companies are committed for sustainable development of the state by the way of CSR. However, CSR has not yet played any prominent role in preservation of environmental or reducing environmental hazardous. Disposal company wastes in waters, emission of poisonous gases,

deforestation are some of the issues that has not been cover under CSR and which need to be focused.

It is found that industries and companies established in Sikkim are to certain extend committed for CSR activities; however, the issue of prevention of environmental hazardous has not been a part of CSR activities till date in Sikkim. Drying out of rivers, disposal of companies' outputs and wastage in waters, emission of poisonous gases in the air from factories still exists in the Sikkim. Due to disposal of unwanted waste in the downstream, water has become polluted creating threat to the aquatic life. Diverting of the course of river for hydro power generation leads to the loss of biodiversity on those rivers. Frequent occurrences of landslide due to cutting downs of trees, creating tunnels for hydro projects, blasting of rocks have become menace to the people of the area. Floods and droughts, livestock and crops diseases, soil erosion and infertility are some of the environmental fears. Sikkim State Pollution Board was established for assess the status of pollution in the natural environment. However, neither the State Pollution Control Board nor the CSR activities has taken any effective steps to reduce risk of environmental issues in the State of Sikkim.

It is suggested that recycling products may be used in the companies so that instead of dumping output waste in the rivers they can be recycled and used again. Technology can be developed by the companies wherein all the unwanted wastage of the company can be recycled and used. Water recycling should be done so that waste chemical water can be used for some other purpose instead of disposing it in the river which adversely affects the biodiversity. Agricultural and forest land should not be allotted for construction of the companies since it leads to the deforestation which adversely effects the environments. There should be restriction in making tunnels which hampers the environments and leads to landslide and cracking of houses.

Companies should not be allowed in the vicinity of national parks and wildlife sanctuaries since the same may affect the life of inhabitant animals of that area. Hydropower companies should not be allowed to operate randomly; environment impact assessment should be done before allotting sites for construction of hydropower

companies. Recent landslide in north Sikkim wherein road and a bridge were damaged while five houses of Mantam village were submerged due to the landslide and the rain which shows the lack of assessment while allowing the entry of Hydropower companies in north Sikkim.

It is suggested that CSR should be more focused in reduction of environmental hazards than mere philanthropy. More awareness programme should be conducted regarding environmental values and motivate them to protect environment.

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