Case Study

Corporate Social Responsibility in India

Authors: Anna Becker, Madeline Dement and Georgia Thorne

Introduction

Corporate social responsibility (CSR) has received increasing attention in recent years as private businesses recognise its potential to drive positive social change using targeted philanthropy. Nowhere has the practice gained more traction than in India which, in 2013, passed the Companies Act and became the first country in the world to make CSR mandatory for businesses of a certain size. The law aimed to improve the country's poor performance on many social development metrics by capitalising on the profits accrued in its fast-growing economy (Guha, 2020). By institutionalising CSR, legislators intended to "leverage the corporate innovations and management skills" of businesses in a way that would help to solve a variety of India's development challenges (NGOBOX & CSRBOX, 2018). The programme has been successful at raising billions of dollars for development efforts in the country, however, if India's CSR mandate is to become a model for others around the world, certain challenges need to be addressed.

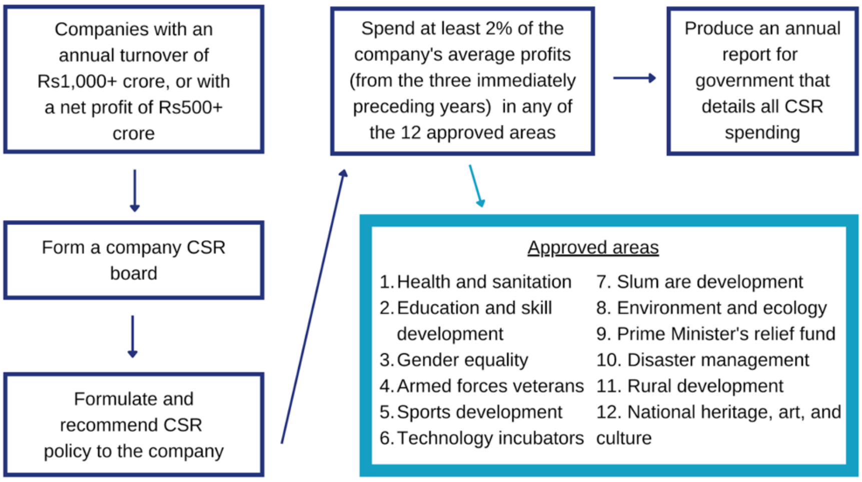
The Companies Act

Looking to capitalise on a rich tradition of CSR (Sharma, 2009; Kumar, 2017; Mitra, 2019), the Companies Act (2013) made it mandatory for any company located in India – be it domestic or a subsidiary of a foreign company – making a certain amount of money[1] to spend "at least two percent of the average net profits of the company made during the three immediately preceding financial years" (p. 87) on CSR activities in any of the 12 approved categories related to development (see Figure 1 below). These categories are "designed to reflect basic indicators of human development" (Jumde, 2020, p. 256) and include, among others, education, health, gender equality, rural development, slum development, and the environment (The Companies Act, 2013, Section 135). Coming into force on April 1, 2014, the Act additionally required that each eligible company form a CSR board tasked with formulating the business's CSR policy. Each CSR board is responsible for ensuring the company's implementation and compliance with the two percent target in addition to producing an annual report detailing the organisation's CSR spending. The structure of the Companies Act is illustrated in Figure 1 below.

[1] Eligible companies are those with a net worth of 500 crore or more, or turnover of 1,000 crore or more, or a net profit of 5 crore or more during any financial year.

Figure 1

The Companies Act structure



Source: The Companies Act, 2013.

Companies can implement CSR activities in two ways: through their own CSR departments, or by hiring third party implementing agencies (Jumde, 2020). While companies tend to engage in CSR activities related to their own sector, education received 37% of the total CSR expenditures from 2014-2018 (Chadha & Nandwani, 2020). This was concentrated in primary and secondary schools in and around companies' areas of operation (Jumde, 2020).

There are a variety of stakeholders involved in the CSR mandate in India. Table 1 presents these stakeholders and their engagement in CSR.

Table 1

Stakeholder engagement in CSR

Stakeholder	Engagement in CSR
Government of India	• Generate funds for development efforts in India • Institutionalise India's tradition of CSR
Large corporations	• Fulfil legal mandate to spend at least 2% of profits as required by Section 135 of the 2013 Companies Act • Invest in local communities in ways that create a positive reputation for the company and create positive social change in India
Non-Governmental Organisations (NGOs)	• Pursue achievement of their missions and visions by helping corporations distribute CSR funds when they are not capable of doing so themselves
Beneficiaries (education sector, health sector, the environment, etc.)	• Receive CSR funds that help improve development efforts and standards of living throughout India

Source: The Companies Act, 2013.

Promising results

Since the start of its implementation in 2014, the Companies Act has shown promising results, including:

- Increased and growing company spending on CSR
- Substantial generation of funds for human development in India
- Increased company compliance with the CSR mandate
- Improved transparency and accountability
- Increased spending on education and health

India's CSR mandate has been very successful for the stakeholders involved in it, including the government, eligible corporations, NGOs that help distribute funds, and beneficiaries. For the government, it has been an effective way to generate large sums of money for the country's social challenges: from 2014-2019, the top 100 companies in India generated over US$ 350 billion (INR 35,077 crore) in CSR spending. Many companies even go beyond the CSR spending requirement of the Companies Act: the Government of India reports that 30% of all eligible companies surpassed the minimum 2% CSR spending requirement in the financial year (FY) 2019-2020 (National CSR Portal, 2021). Nevertheless, 44.7% of eligible companies failed to spend any money on CSR in the same period (National CSR Portal, 2021).

The disclosure of additional data on CSR activities, such as how funds were spent and the impact it had, increased 325% from 2014-2019, representing a positive increase in transparency and accountability for involved corporations (KPMG, 2020). This data has also helped to show that the CSR mandate has been beneficial in generating more funds for education in India: the education and health sectors have by far received the largest share of CSR funds, accounting for 60% of all CSR spending between 2014 and 2019 (KPMG, 2020). Within this, India's "Big 500" companies have been major contributors to the increase in education spending (NGOBOX & CSRBOX, 2018). This money has helped to fund the expansion of companies' education projects, investments in digital classrooms, career counselling, teacher training, among other improvements (NGOBOX & CSRBOX, 2018).

General challenges

Despite its success in generating billions of dollars for development efforts, India's CSR mandate has a number of significant challenges worthy of consideration:

- Varying capacities of companies to successfully implement the Companies Act
- Lack of government guidance on how to distribute CSR funds
- Focus on the 2% spending target, often at the expense of achieving the lasting social impacts the CSR spending is meant to help achieve
- Lack of oversight and enforcement mechanisms, ultimately allowing companies to circumvent the law without penalty
- Unequal distribution of funding in regions with high economic activity
- Instances of misuse of funds by companies in the education sector

From the outset, there has been concern that the funds generated by the mandate would be used to replace (instead of complement) government funding (NGOBOX & CSRBOX, 2018), and that the government would thus be able to use the CSR mandate as a scapegoat for any development failures (Kansal et al., 2019). There was also recognition that implementing the mandate might be much more difficult for smaller corporations than for larger ones with previously established philanthropy efforts and thus more experience and resources (CII, 2018). That problem has become particularly acute since the Companies Act came into force. At its core, the CSR mandate is essentially a tax for corporations: instead of giving that tax directly to the government to disburse at its will, businesses are required to figure out where to direct the money themselves. As a result, some businesses have complained that they do not receive enough guidance from the government to effectively invest in the social sector (CRISIL, 2018).

Indeed, various corporations have reported that they would prefer to give their CSR money directly to the government (Kansal et al., 2019). Corporations without established traditions of philanthropy have had problems determining where to direct CSR funds, and as a consequence end up dumping the money in a relatively haphazard fashion that minimises the social impact that the funds could have (CII, 2018). This occurs because the companies are forced to focus on meeting the 2% minimum spend requirement so that they do not risk fines or jail time, although actual enforcement of those penalties does not seem to ever occur (CII, 2018). Additionally, the Companies Act places a 5% cap on overhead costs for corporations' CSR efforts, meaning that they are sometimes unable to hire teams that are big enough to effectively manage and distribute CSR funding in a way that maximises social impact (CRISIL, 2018). As a result, many companies (74% of them in 2017) have been forced to rely on NGOs to manage the distribution of their funds, creating potential problems for accountability and transparency (CRISIL, 2018).

Aside from the challenges faced by the corporations, the Act's success also faces compliance issues. In FY 2019-2020, 44.7% of eligible companies failed to spend any money on CSR, showing "a blatant disregard for the law and a serious lack of initiative by many Indian companies towards both CSR and the law" (Jumde, 2020, p. 13). This stems directly from one of the fundamental challenges of the Companies Act: the tension between the government and companies regarding the mandatory nature of CSR, and the resulting lack of oversight mechanisms in the law due to pressures from the corporate sector (Guha, 2020). Due to these tensions, the original 2013 iteration of The Companies Act was largely unenforceable, stipulating that companies could only be penalised for failing to explain the reasons why they did not engage in CSR spending, not for their non-spending on CSR itself. Consequently, the Companies Act was largely unenforceable and widely viewed as a rule that applied on a "comply or explain" basis, ultimately creating significant problems with accountability and compliance. To try to address these problems, in 2019, the Companies Act was amended to allow penalties of fines up to US$ 35,000 or even imprisonment of company officers (Guha & Roychowdhury, 2020). However, the implementation of those measures was ultimately put on hold by the Finance Minister, due to criticism from corporate actors (Jumde, 2021). Thus, CSR spending remains mostly unenforceable.

There is also concern about geographic inequity being exacerbated by CSR spending (Chadha & Nandwani, 2020). Because the Companies Act (2013) specifies that companies "shall give preference to the local area and areas around where it operates" (Section 135), CSR spending is heavily concentrated around areas of significant industry in India, which are often better developed as a result of greater economic activity and already high levels of government spending. As a result, almost 60% of CSR funding from the first five years of the mandate was invested in just 10 Indian states (NGOBOX & CSRBOX, 2018), while less-developed states received no CSR funding at all in some years (CII, 2018).

Education-related challenges

There are also a number of problems specifically related to CSR spending on education. There are significant disparities in the amount of funds generated by different companies: in 2015-2016, out of 7,612 companies, just 10 were responsible for 20% of overall spending on education (Chadha & Nandwani, 2020). With this, there have been instances of misuse of funds on for-profit activities under the guise of CSR. For instance, some companies have set up educational institutions as part of their CSR activities but charge high tuition fees. This ultimately makes the institutions inaccessible for a large part of the Indian population, while simultaneously allowing companies to gain profits from CSR activities, which goes directly against the spirit of the CSR mandate (Jumde, 2020).

The need for concrete results and corporations' desire to improve their reputation has also had negative impacts on the success of CSR spending on education. As a way to gain quick recognition and accolades for their CSR spending, companies have tended to focus their CSR spending on short-term projects rather than long-term ones that contribute to human development more sustainably (Jumde, 2020). This has occurred in all sectors benefitting from CSR funds, but is especially prevalent in the education sector, where the majority of CSR funds have gone to areas such as infrastructure projects (providing chairs, tables, blackboards, etc.), distributing school uniforms, providing meals, or scholarships for children of low-income families (Jumde, 2020). These activities are easier to plan, execute and evaluate, but may be less effective in achieving long-term sustainable impacts.

Conclusion

India's CSR mandate represents a truly innovative form of financing for development, creating a sustainable source of funding for social issues that capitalises on the use of private sector capital, management principles, and efficiency in a way that has never been done in such a large scale. While India's long history of CSR might have made businesses more receptive to the idea of government-mandated philanthropy, there is no reason to believe that this model could not be replicated in other countries with willing governments and relatively receptive private sectors.

However, India's implementation of the first mandatory CSR policy brings to light a number of issues that must be addressed when adopting such mechanisms. While mobilising corporate funding to address the financing gap in education has great potential, education CSR funding is still very small compared to government spending (Chadha & Nandwani, 2020). Therefore, it is important to remember that it cannot be used as a main source of revenue for any sector, but as a complement. In addition, there is a clear need for more structured and enforceable compliance mechanisms to prevent underspending or no spending on CSR, as well as a need for monitoring by the government or third parties to prevent the misuse of funds. Furthermore, since corporations themselves are solely responsible for carrying out their projects, many attempt to portray themselves in the most positive light possible through the achievement of quick results, at the expense of directing CSR funds toward projects that will achieve more sustainable results. With this, it is important to remark that there is limited evidence available on the impact achieved by CSR projects to show whether they are actually creating meaningful improvements in education (or other sectors of development) in India. Any replication of India's unprecedented experiment must be accompanied by rigorous oversight, compliance, monitoring, and transparency mechanisms in order to assess it effectively and make full use of its potential as a sustainable financing mechanism for human development.

References

Chadha, N., & Nandwani, B. (2020). Examining the role of corporate social responsibility funding in Indian education. *NORRAG Special Issue, (4), 102-105.*

Confederation of Indian Industry. (2018). *Annual CSR tracker 2017: From commitment to impact.* https://sustainabledevelopment.in/wp-content/uploads/2020/06/1523013020CSR-TRACKER-2017-FOR-WEB.pdf.

Credit Rating Information Services of India Limited. (2018). *Entrusted philanthropy implementing agencies are increasingly executing corporate mandates.* https://www.crisil.com/en/home/our-analysis/reports/2018/03/entrusted-philanthropy-implementing-agencies-are-increasingly-executing-corporate-mandates.html.

Guha, P. (2020). Why comply with an unenforced policy? The case of mandated corporate social responsibility in India. *Policy Design and Practice*, *3*(1). https://www.tandfonline.com/doi/full/10.1080/25741292.2020.1726592

Guha, S. K., & Roychowdhury, A. (2020). Corporate social responsibility in India: The saga continues. In B. Orlando (Ed.), *Corporate Social Responsibility* (pp. 1-8). IntechOpen. https://doi.org/10.5772/intechopen.94480

Jumde, A. (2020). The law on CSR in India: An analysis of its compliance by companies through corporate disclosures. *Journal of Corporate Law Studies*, *21*(1), 253-282. https://www.tandfonline.com/doi/abs/10.1080/14735970.2020.1834265?journalCode=rcls20

Kansal, M., Jain, A., Joshi, M., & Kumar Taneja, P. (2019, March 12). India's grand experiment in corporate social responsibility is heading for trouble. *The Conversation.* https://theconversation.com/indias-grand-experiment-in-corporate-social-responsibility-is-heading-for-trouble-106530.

KPMG (2020). *India's CSR reporting survey 2019.* https://assets.kpmg/content/dam/kpmg/in/pdf/2020/02/india-s-csr-reporting-survey-2019.pdf.

Kumar, S. V. (2017). Corporate social responsibility in India: An overview. *Journal of Asian Business Management*, *9*, 53-67.

Mitra, N. (2019). Strategic role of mandated corporate social responsibility: The India story. *Journal of Operations and Strategic Planning*, *2*(2), 132-162.

National CSR Portal. (2021). https://www.csr.gov.in/about-us.php

NGOBOX & CSRBOX (2018). *CSR in India: The numbers do add up.* https://csrbox.org/media/CSR%20in_India_Numbers_Do_Add_Up_Report-2018_Web-lite.pdf.

Sharma, S. G. (2009). Corporate social responsibility in India: An overview. *The International Lawyer*, *43*(4), 1515-1533. *https://www.jstor.org/stable/40708084*

The Companies Act, 2013. (2013). http://www.mca.gov.in/Ministry/pdf/CompaniesAct2013.pdf

Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Swiss Agency for Development and Cooperation SDC

This case description is a result of the Innovative Financing in Education to Leave No One Behind (IFE-2-Leave No One Behind) project, partially funded by the TRANSFORM research initiative of the Swiss Agency for Development and Cooperation (SDC). Please visit www.norrag.org/ife for more information and resources on the topic of Innovation Finance for Education.