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# **CORRELATION BETWEEN CORPORATE SOCIAL RESPONSIBILITY AND HUMAN RIGHTS IN COMPANIES: ANALYSIS OF THE INDIAN ASPECT**

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## **ABSTRACT**

“The business of the business should not be about money, it should be about responsibility, it should be about public good not private greed.”- Anita Roddick

The goal of this paper is to explore the relation between corporate respect for human rights and corporate social responsibility. The author contends that businesses have a responsibility to protect human rights as part of their corporate social responsibility. It should be emphasised that the phrase "responsibility" rather than "duty" is intended to indicate that respecting rights is not yet an obligation that international human rights legislation imposes directly on enterprises, though portions of it may be mirrored in domestic laws.

Over the last two to three years, there has been debate about mandatory CSR initiatives in India, and the Draft Companies Bill 2011 provides for the formation of a CSR Committee for companies with a net worth of Rs. 500 crore or more, a turnover of Rs. 1000 crore or more, or a net profit of Rs. 5 core or more. In 2009, the Ministry of Corporate Affairs issued the Corporate Social Responsibility Voluntary Guidelines, which later evolved into the "National Voluntary Guidelines on Social, Environmental, and Economic Responsibilities of Business (2011)," containing nine principles, out of which one principle states "Business should respect and promote human rights." The current paper would address these advancements and the concept's potential implementation in the Indian context, particularly in light of human rights violations.

**Introduction:**

It won't be incorrect to depict prior laws governing the companies as "oil" and the notion of human rights as "water" because it was impossible to discover the correlation between the two of them. Earlier, the sole aim of organizations, firm and businesses was to earn maximum profits as they can, which was fundamentally opposed to the human rights framework. However, after the twentieth century a wave of transformation occurred, prompting the defenders and promoters of human rights system to begin constructing a link between the two.

Since, society has always been the ultimate consumer of any corporate or business enterprise, the two are inextricably linked, or we can conclude that none is good without the other. Corporate have the responsibility to support the society and works for the better and safer world.

**Corporate Social Responsibility:**

There were several definitions for the concept of corporate social responsibility but, neither of them agreed to be the exhaustive one. According to Buhmann (2011) defines it as the companies of public and private sectors that take actions- to mitigate or avoid a detrimental social and environmental effect or to increase a positive impact, often beyond the responsibilities of immediately relevant statute legislation. A company entity's success is measured not only by its capacity to meet the needs of its consumers, but also by how it satisfies the needs of its workforce, non-governmental organizations, local community officials and so on.

To conduct business in India, each and every company or enterprise must be registered under the Companies Act 2013. Corporate Social Responsibility has been mandated under Section 135 of the Companies Act 2013. However, not every firm is subject to Corporate Social Responsibility. Small businesses with profits of less than five crores are not required to invest in corporate social responsibility. Nevertheless, every private or public limited firm with a net value of rupees five hundred crores or more, a turnover of rupees one thousand crores or more, or a net profit of rupees five crore or more in any fiscal year must spend a minimum of 2% of the average net profits produced in the three preceding fiscal years.

CSR has its own relevance in business management strategies since the notion has been proven to be advantageous in enhancing the financial performances of the business and more significantly, it assists in the creation of a brand image as well as a reputation of the company, which not only benefits the life of the company but also benefits in adhering with the statutory restrictions set forth by the government. Corporate Social Responsibility elicits the concept that tends to be opposed to the profit maximization since it offers a set of acts that are favourable to certain external stakeholders but may conflict the interest of shareholders.

**Business and Human Rights: -**

There isn't any uniform definition of human rights and yet, all agree that they emanate from human dignity. They all point out that human rights are interdependent, universal and indivisible. Even though a person's unique and collective character arises from their human rights, such rights are one of the essential methods of comprehending modern, economic, political and legal institutions as well as their procedures. When international human rights framework was established, nations were recognized as the exclusive responsibility bearers and the only subjects who may breach human rights law. As the result, the obligation to respect, preserve and fulfil human rights as outlined in international human rights treaties, applies solely to nations. This has evolved throughout time, and the subject of international human rights law is generally defined as everyone who bears rights and obligations in international law and is subject to the international legal system. Non-state entities including the corporate companies, now have obligations for human rights protection in addition to governments.

Corporate entities clearly have an indirect responsibility to protect human rights, because international law compels governments to enact necessary laws to ensure that non-state actors, including the corporate entities do not breach the established human rights, just as Ruggie contends that, while binding international legislation does not directly compel corporate enterprises to protect human rights, they do have a direct duty to do so.

Human rights are the worldwide phenomenon, as is the corporate social responsibility. Because business enterprises can have direct or indirect influence on nearly any human right, the obligation of business entities to protect human rights extends to all internationally recognised human rights. The majority of these rights are already incorporated in legislations in affluent countries, on the other hand, in developing countries these rights haven't been

adequately enacted. Corporate entities have a clear obligation to uphold human rights throughout their activities, independent of national legislation or enforcement of such law, because this is the necessary cost of doing business as Arnold states it. Enterprises are constantly being asked to contribute to social welfare and national development, be it in collaboration with or by taking over the function of governments. It is widely acknowledged that the major responsibility in prevention and response to corporate-related human rights violations is that of the state. Nonetheless, when confronted with private business players operating on a global scale, the State has a dilemma in carrying out its core functions.

### **CSR and Human Rights: -**

As aforementioned, CSR is the voluntary incorporation of social, environmental and ethical norms into company activities. Businesses are accountable for their societal repercussions and hence have a responsibility to address not only financial but also larger social aims. Human rights are established on the dignity and worth of every individual, they are the fundamental rights and liberties to which each and every individual is entitled. They are enshrined in globally recognised norms, such as Universal Declaration of Human Rights (UDHR). UDHR is supplemented by two major agreements on civil and political rights, as well as on social, economic and cultural rights. Rights against exploitation, consumer protection and awareness, the fair pricing idea, labour rights and protection, long-term progress of society and individuals and so on are the examples of social aspects. Economic considerations include charities, investments, the supply chain, subsidies, the production and consumption of commodities, and so on. Conflicting interests, bureaucracy, corruption, political pressure, leadership, governmental and non-governmental organisations, and so on are examples of political factors. Furthermore, environmental considerations such as safety, health, environmental protection, pollution control, waste management, global environmental crises, and climate change impact and minimize the operating mechanism of corporate social responsibility. A rising number of top corporations recognise the importance of equitable corporate opportunities and are dedicated to employing a human rights framework to help build more ethical and successful business behaviour.

Corporate and corporate entities view these human rights criteria (social and political rights, economic and cultural rights, rule of law and rights of communities) as milestones that must be met in order to pass the CSR test.

- **Individual (civil rights) and (political rights):** Civil and political rights are civil liberties that concern the safeguarding of an individual's right to life, liberty and dignity against the state, government or any private or public institution. These rights include the rights to bodily and mental integrity, life, liberty and safety and other freedoms. When it comes to the obligations of corporate organisations in guaranteeing the preservation of civil and political human rights, they focus solely on the right to life of every individual in society.
- **Economic and Social Right:** Social economic individual rights are positive rights that discuss the state's responsibility to fulfil educational and developmental rights, housing rights, right to a sufficient living-standards, rights of women and children and right to health and safety, and so on. The fundamental international legal source of social, economic, and cultural rights is the International Covenant on Economic, Social and Cultural Rights (ICESCR). The intended audience of enterprises prepared to adopt CRS as the primary obligation is those who want social and economic rights in a society. Furthermore, in general, all firms and corporate entities, on a smaller or larger scale, make efforts in the sphere of meeting the social and economic needs of society, which includes improving the society's sustained development.
- **Rule of Law:** The rule of law is essentially an ideology that supports the foundation pillars of justice and fairness throughout the society. Moreover, it has been defined in the Oxford Dictionary as "the limitation of the arbitrary use of authority by subordinating it to well-defined and established rules." Evidently, both India and worldwide forums concluded that without 'Rule of Law,' sustained growth is impossible. In current culture, 'justice' is seen more vital than 'bread and butter,' hence the idea of 'Rule of Law' should be valued by citizen governments along with corporate organisations in all their actions. Rule of law essentially refers to the norms that must be observed by the government and authorities in order to safeguard society at large from exploitation by the government or authorities. Corruption, bureaucracy, and endless arbitrary actions are only a few examples of such exploitation. Corporations with significant global impact come forth to speak out against such acts.
- **Right to communities:** The term "community" refers to a group of individuals that have a similar objective and are mostly reliant on the government and policymakers to

meet their expectations and requirements. From the foregoing discussion on CSR, it is clear that communities gain, either directly or indirectly, from the CSR practice, and as a consequence, it encourages enterprises and organisations to meet social responsibilities and create relationships with the larger community. CSR helps in several ways to the economic and social wellbeing of communities across the world. For instance, firms and organisations can use corporate social responsibility to reach prospective employers and bright applicants. When firms gain awareness about the ability and abilities of a given community, it boosts job prospects for members of that community.

- **Equality and human rights commission:** The Equality and Human Rights Commission published a study in which it discussed five stages that give a road for the corporation or company board to define the relationships between the two ideas.
  1. The first is to instil in every member of the firm the duty of promoting and protecting human rights through respecting human rights.
  2. The second step is to identify and comprehend the significant aspects that would jeopardise human rights.
  3. Third is, after anticipating such threats to human rights, implement appropriate solutions.
  4. Fourth is, address the individuals whose human rights are at risk or have been violated as a result of a corporate entity's ignorance or incompetence.
  5. And the last step is to develop a document on current conditions and future preventive actions that the firm will take to ensure the protection of the human rights that may be violated by the commercial activities.
- **The UN Guiding Principles:** The UN guiding principles published in 2011 on business and human rights, are the governing principles that give a set of recommendations for corporate enterprises as well as governments. Such standards function at both the global and regional scales to guarantee the seamless operation of Corporate Social Responsibilities activities by the world's corporate and commercial organisations.

**The situation in India:**

Respect for human rights has always been a component of the Indian culture as a part of its social philosophy. It is worth noting that, from its beginning, the Indian Constitution has included the majority of the rights specified in the UDHR in two portions, the Fundamental Rights and the Directive Principles of State Policy, which encompass practically the entire scope of the UDHR. This refers to the Ruggie Framework's first pillar, the State Responsibility to 'Protect' against human rights violations. In numerous cases, these constitutional protections have been used horizontally against businesses.

Regardless of these human rights endeavours, there are challenges in relation to companies and human rights that are visible from two significant events – the first is the terrible Bhopal Gas Leak tragedy of 1984, which clearly showed the limitations of legal standards in holding multinational corporations accountable for a number of human rights abuses but also sparked the revision of laws and the development of new legal principles via the court. Second instance was the implementation of the New Economic Policy in 1990, which resulted in a climate of liberalisation, privatisation, and disinvestment, allowing firms to exploit people and natural resources for economic benefit. In light of this, there was a continuing need felt for some method to hold these MNCs/TNCs accountable for violations of human rights. The following were the two efforts:

- 1. Corporate Social Responsibility Voluntary Guidelines 2011:** These recommendations have been refined from the 2009 Guidelines. The Guidelines are intended to be utilised by all organisations, regardless of size, industry, or location, and so touch on the essential qualities – the 'spirit' – of a firm. The fifth principle of these standards addresses “companies” obligation to promote and protect human rights. The core elements of the aforementioned principles are:
  - Companies should be aware of the human rights provisions of the constitution of India, policies and national law and the International Bill of human rights, Businesses must recognize that human rights are intrinsic, indivisible, interrelated and universal.
  - Corporations should include human rights respect into their management systems, particularly by monitoring and managing the human rights implications of their

operations and ensuring that all persons touched by the business have access to grievance processes.

- Corporations should promote human rights understanding and realisation across their value chain within their area of influence.

It should be underlined that the Ruggie Framework is explicitly mentioned in the concept. Furthermore, firms are encouraged to go above and beyond the standards' specified minimal provisions. Corporations are also advised to make sure that they not only abide by The rules in areas immediately under their control or influence, but that they also encourage and assist their vendors, distributors, partners, and other collaborators across their value chains to do so as well.

2. **Companies Bill 2011:** Over the previous two to three years, there has been a persistent dispute about the Companies Act's mandatory CSR rules. As a result, the proposed amendments Companies Bill includes a section on Corporate Social Responsibility (Clause 135 of the Bill). The clause requires the formation of a CSR Committee of Board of Directors comprised of three or more directors, and at least one of whom must be an independent director. The programme includes activities that promote various human rights; nevertheless, they are not the same as those proposed in the Ruggie Framework, namely "do no harm." Moreover, it requires every company's board of directors to strive to spend nearly 2% of the average of the company's net earnings produced during the three immediately previous fiscal years in accordance with its CSR Policy.

**Recent Amendments in CSR provisions in India:** On 22 January 2021, the government of India issued an official notification amending the CSR guidelines 2014 as well as the Companies Act 2013 under the particular provisions of Section 135.

- Activities that contribute to lowering the impact of COVID-19 and protecting patients lives by offering monetary assistance or aiding in the research and development of medical equipment, immunisation and so on.
- Formation or acquisition of capital assets controlled by public authorities, etc., for the purpose of aiding self-help organisations and public initiatives.



**Conclusion:**

After analysing the notion of Corporate Social Responsibility and its current situation, it is reasonable to conclude that the notion is spreading its wings around the world and that the procedure is being favourably accepted. What has to be improved is "correct concept implementation." It is just not enough to start the process; it must also face resistance and operate inside organizational rules. To run and continuing activities of CSRs, private corporations require a supporting infrastructure of the statutes and laws, as well as the permission of the authorities. As organisations confront themselves in the context of globalisation, they are becoming increasingly conscious that CSR may have direct economic benefit. While the primary purpose of a company is to earn profits, firms can also serve to social and environmental agendas by incorporating corporate social responsibility as a strategic investment into their business plan.

To make the society satisfied, corporate entities must labour from head to toe for the welfare and growth of the society's members. These efforts include defending and promoting their fundamental human rights. Corporate companies are now concentrating more on the human rights aspects of social needs, with beneficial needs.

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