



IIMC CASE RESEARCH CENTRE (IIMCCRC)

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JULY 2022

THE CURIOUS CASE OF MANDATORY CSR IN INDIA: INSTANCE OF A PARADIGM SHIFT OR AN INEFFECTUAL IMPOSITION?

“I do not think we should have a legal mandate for companies to do CSR, philanthropy or charity or contribution to society must come from within, and it cannot be mandated from outside. But that's my personal view. As of now, this is the law and all companies must follow it.”¹

– Azim Premji, IT tycoon and philanthropist, 2021.

“There was a concept that CSR is about the heart, the mind, the DNA (deoxyribonucleic acid), so what is money – all clad in a shroud of mystery! That is what I really wanted to penetrate. CSR, to me, must answer to the scientific rigor of research... So, that was the plank on which I began. And, then, of course, the outcry, ‘How can we measure it? It is not rupee measurable.’ This is hilarious! A company is spending a quantum of money from its budget on some activity and you say that it cannot be measured!”²

– Bhaskar Chatterjee, CEO, Indian Institute of Corporate Affairs, 2017.

¹Business Standard (20.2.2021). ‘CSR shouldn't be legally mandated, charity must come from within: Premji.’ https://www.business-standard.com/article/companies/csr-shouldn-t-be-legally-mandated-charity-must-come-from-within-premji-121022000647_1.html

²Chatterjee, Bhaskar (2017) ‘The Genesis of the CSR Mandate in India.’ In *Corporate Social Responsibility in India: Cases and Developments After the Legal Mandate*, edited by Nayan Mitra and Rene Schmidpeter. Springer.

Nisigandha Bhuyan of the Indian Institute of Management Calcutta and Arunima Chakraborty developed this case study as the basis for class discussion rather than to illustrate the effective or ineffective running of an organization.

It has been eight years since corporate social responsibility (CSR) became mandatory for eligible companies in India. The new Companies Act, 2013 which replaced the older Indian Companies Act of 1956, came into force on 1st April, 2014 and caused a furore by stating that it is “mandatory for all eligible companies to spend at least 2% of the average net profit of the three preceding years on CSR activities. The Act defines eligible companies as those with a net worth of ‘500 crores or more’ rupees, or a turnover of ‘1,000 crores or more’ or a net profit of ‘5 crores or more’” (Jangili 2020). Section 135 of the Act states that all companies eligible for the mandatory CSR expenditure “shall constitute a Corporate Social Responsibility Committee of the Board consisting of three or more directors, out of which at least one director shall be an independent director” (Companies Amendment Act, 2017). It is this provision of compulsory CSR which Azim Premji – who is as famous for his philanthropy as he is for being the founder-chairman of the Indian IT giant Wipro – regards as unnecessary, but which Bhaskar Chatterjee – one of the minds behind the new law – so vigorously defends. The provision of legally mandated CSR generated an intense debate when it was first announced and the debate still rages in many forms. The aim of this case study is to examine the arguments put forth by the defenders of mandatory CSR as well as its critics in order to understand if the law is a paradigm shift which enjoins corporations to contribute to the development of the nation or whether it is an ineffectual mechanism for making companies respect their social contract.

There has been a steady increase in the corporate sector spending on CSR projects following the implementation of compulsory CSR regulation but at the same time, the state, the civil society and eligible corporate firms themselves recognise that mandatory CSR expenditure alone does not suffice in enabling the companies to become good corporate citizens if not accompanied by a discursive consensus on what constitutes effective corporate social intervention, and further, on standardised tools for measuring impact of the CSR projects. It is this debate amongst concerned stakeholders which will illuminate the present limitations and suitable future pathways for effective CSR mechanisms.