LSE India Summit 2017 Working Paper #1

1. Does Forced Philanthropy Work? CSR in India
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Executive Summary

Since the new Companies Act (2013) was brought in three years ago, it is a legal requirement for businesses in India with annual revenues over INR ₹10 billion to spend two per cent of net profits on corporate social responsibility (CSR). Drawing on insights from business leaders and academics, the CSR session of India at 70: LSE India Summit 2017 explored the realities of this law at ground level: ranging from the possibilities of loophole exploitation; to choosing the right causes in the corporate sector. Panellists made recommendations including tighter policing of the law; longer term investment in communities; and public-private collaborations.

Panellists

Anu Aga Chairperson of the Teach for India campaign and former Chairperson of Thermax Ltd.
Mukund Govind Rajan, Member of the Group Executive Council at Tata Sons, Chief Ethics Officer, brand custodian and Group Spokesperson for the Tata Group, and Chairman of the Tata Council for Community Initiatives (TCCI)
Neeraj Kanwar, Managing Director and Vice Chairperson of Apollo Tyres Ltd.
Rahul Bajaj, Chairperson of the Bajaj Group, philanthropist, and Member of Parliament.

The Panel was moderated by **Harry Barkema**, Professor of Management and founding Director of the Innovation Co-Creation Lab at LSE.

Introduction

Professor Harry Barkema opened the panel by considering the strengths and weaknesses of mandatory corporate social responsibility (CSR). He raised the possibility that companies which were involved in philanthropic works before the law might be incentivised to reduce their expenditure. Furthermore, in lieu of worthy causes, the policy may also be producing “bad strategic CSR” as companies spend the earmarked cash on corporate aims, thereby contributing limited social impact.

With this in mind, the question of whether companies should aspire to or go beyond the minimum requirements was raised. One option might be for companies to adopt a ‘smart CSR’ approach – rather than duplicating projects or making low impact gestures (such as sending employees to repaint schools) there should be more emphasis on supporting existing initiatives. Schools, NGOs or even innovative business models could be sponsored to achieve this and partners including universities and incubators etc. could also be utilised. Employing such approaches will enable businesses and their partners to build a “stronger, better educated, more prosperous and better off work force” and subsequently “a better India”.

Assessing the positives

The Companies Act (2013) has brought philanthropy to the forefront of company discourse, where previously CSR managers only had a limited voice, and their budgets would vary considerably year on year. Since the Act, a CSR board committee (with an independent director) is now mandatory. As a result, the topic has become a necessary staple of boardroom discussion and arguably a part of company consciousness as a whole.

In addition to an improved knowledge of CSR-related operations by board members, company funds apportioned to CSR also mean that there is greater scrutiny on the efficacy of its delivery. Furthermore, this scrutiny extends to a number of external stakeholders, including NGOs and expert agencies, ensuring greater accountability and more effective delivery across the board. Another area of potential benefit could be the building of a collective social conscious, whereby business leaders would not only be more aware and sympathetic to issues ranging from climate change to social inequality, but would be better equipped and motivated to seek solutions to these.

Unethical behaviour and loopholes

According to Chief Ethics Officer and spokesman of the Tata group, Mukund Rajan, “Philanthropy has been a part of the Indian business landscape for centuries”. Yet its evolution into the field of employment law has met with a mixed reception, which has been reflected in the press but also in panellists’ responses. Chairman of the Bajaj group Rahul Bajaj, voiced his opposition to the law, although this was partly on the grounds that it does not go far enough. He suggested some companies were purportedly using CSR as a crutch or even as a form of appeasing the government which, Bajaj claimed simply encouraged the continuation of existing unethical practices. He warned that corporates should not “go to the temple to wash your sins during the day”, i.e. CSR should not be used as a counter to inappropriate corporate behaviour.

Whilst panellists both advocated and practiced CSR, there was an overall consensus that its state mandate was unnecessary. Rajan conceded “I don’t know the difference between the CSR mandated by Companies Act in 2013 and philanthropy we have done for decades”. He also added that there is potential for politicians to direct CSR money towards their own pet schemes and projects, echoing Bajaj’s concerns as to why the law received such unanimous and unopposed support in the Lok Sabha. Furthermore, the law has a loophole that allows companies to spend below the mandated two per cent providing they are able to report on why this was, allowing for the manipulation of the system.

Another issue raised by Bajaj was the propensity of and apparent pressure on companies to spend on CSR only in close proximity to their immediate areas of operation. One consequence of this location centric approach is that areas which have already experienced large-scale industrial and technological development will reap the benefits whilst more impoverished and undeveloped states will continue to be neglected, creating further geographies of disparity.

Engaging employees through volunteering

Considering the weaknesses outlined by panellists, it is hardly surprising that the central government is already considering new measures to ensure that businesses do not evade the law. A proposed audit of companies' CSR activities is one such counter measure that is on the agenda. Whilst the law can certainly be tightened, Professor Barkema acknowledged that there is the danger that more regulation will result in more loopholes. However, there are further areas of development which have been proposed by a number of stakeholders and companies themselves.

Another area under more serious consideration is the introduction of pro bono volunteering whereby time taken by executives coordinating CSR activities and strategy would be taken from the budget. Pro bono volunteering for all levels of staff could also strengthen CSR as it simultaneously provides a sense of trusteeship and integration between the work of an organisation and employees' own sense of purpose and commitment. Indeed, according to Rajan this shift is taking place generationally. Due scrutiny would be required to ensure that companies would not exploit this to their financial advantage by overbilling volunteering hours, or spending them on non-CSR related activities. Anu Aga also mentioned that the only drawback with volunteering was that workers would often only attend one-off events rather than building a lasting connection with the CSR beneficiaries. This would need to be taken into account when establishing pro bono schemes to ensure there was ongoing commitment.

Choosing the right cause and building partnerships

There are many concerns that companies could be addressing. Anu Aga identified three key challenges facing India today, namely child malnourishment; the lack of quality of education; and the inadequate skills development. She stressed that if these problems were not addressed they would severely impact the quality of human capital available to Indian companies in the future. At the same time, she argued 'corporate muscle' could be utilised in assisting the government to not only address failings, but also to innovate and create.

As Aga put it 'the challenge is to find the right cause and not to just write out a cheque'. Regardless of the issue they choose, it is imperative that companies concentrate on a small number of social causes rather than trying to spread themselves too thinly. They should commit themselves to projects on a long-term basis and not expect quick results. They should be aware of the limits of their expertise and, for example, recruit a credible NGO to advise on advocacy. Projects should be reviewed on a regular basis with the caveat that results do not come instantaneously but may take a number of years. Patience and perseverance is paramount – as is the inclusion of company employees.

Aga cited her previous company, Thermax, as an example of the benefits of long-term CSR investment and building NGO-government partnerships. The company ran a programme to install a new generation of teachers and establish model schools for impoverished children. Tata too have found public-private partnerships to be efficacious in their skills development programmes, which have developed new pedagogical tools and improve educational infrastructure. Such models can be scaled up once proven effective, creating a much wider and long-lasting impact over time. The significant space for collaboration between corporates, where in this case, experiences can be shared without fear of competition, may also lead to the establishment of such 'economies of scale' and a more efficacious utilisation of assets, according to Rajan.

For Apollo, like Tata and Thermax, the practice of CSR at ground level had also pre-dated the official act. In 2001 the company began an AIDS/HIV awareness initiative for its drivers. This led to the establishment of 25 health clinics across India which also offered check-ups and eye care, which according to Neeraj Kanwar was also a key requirement for the company's lorry drivers. This offered an example of how reflexive philanthropy within the workplace is an important aspect of effective CSR implementation. India has a vast number of workers employed across an array of sectors such as mining and construction, which generate vast profits but give workers no formal benefits. Providing services to promote the wellbeing of the employees seems to be an obvious and yet vital CSR opportunity.

Company traditions of CSR

Tata with its rich tradition of philanthropy is a more unconventional example of a company. Its code of ethics informed by a Gandhian philosophy has led to the subsequent evolution of trusteeship models whereby a mutually identifiable value should be established between the company and its stakeholders. This not only benefits the community but also ensures the sustainability of the business. Rajan claimed, "If the people who make up the community identify their interests with those of the business and have a shared interest in their success as those of the business it goes a long way in ensuring sustainable profitable growth for the business over a long term". Social and environmental principles are upheld in the company sustainability policy whilst CSR features heavily in Tata's code of conduct, with a mission to improving the quality of life of communities that they serve. Integrated reporting systems have recently been introduced so that all CSR activities are disclosed in a transparent nature, although Rajan emphasised there was already a long established and effective balance between approach and deployment predating the recent law.

As Apollo and Thermax have adopted similar principles and approaches, the mandate behind CSR was deemed unnecessary by all panellists. However, LSE South Asia Centre Director Dr Mukulika Banerjee raised the question of why the law was needed if the practice of philanthropy was so historically and nationally rooted? The fact that there has been a large number of companies that have underspent on the mandated two per cent (according to KPMG 52 out of India's top 100 companies in 2015) would also perhaps suggest it was necessary, although with limited data pre-dating the CSR law it is hard to reach a concrete conclusion regarding this.

Further, this led to some discussion of whether the law provided important incentives for companies which did not already have such effectively embedded CSR practices.

Despite the loopholes and need for further development and auditing, what was made clear in the discussion is that now CSR is mandatory, it must be executed effectively (although the issue of further regulation was a divisive one). As Rahul Bajaj concluded in his talk "Now [CSR] is the law of the land – let's do our best".

Recommendations

- Mandatory must mean mandatory for companies who are legally bound to undertake CSR. The loophole that allows companies to spend under two per cent on CSR activities providing they publish their reasons for doing so should be closed.

- Alternatively, companies that underspend should be penalised with fines. At the minimum, any underspend should be allocated to the next year's CSR expenditure with penalties in place if the company fails to reach the new target.

- More clarification is needed on what companies can spend their CSR budgets on – the law is currently very fluid and allows for unscrupulous practices of companies 'donating' to organisations that return their funds with commission or merely topping up government projects.

- Efforts by the Indian Institute of Corporate Affairs (IICA), which is creating a CSR Implementing Agency Hub to provide a database of potential implementation partners, should be continued and evolved.

- To encourage company-wide participation, companies should be allowed to allocate more of their staff's volunteering time on a pro bono basis. Upon joining a company, staff should be made aware of company CSR activities and the potential for involvement in these. However, due to the potential for exploitation, there may need to be a cap on hours.

- By collaborating with other companies, NGOs and various state institutions, innovative and successful models could be scaled up and replicated vastly improving the efficacy of state services such as education and health care and alleviating poverty. The central government should consider the ways in which it can work in tripartite groups with NGOs and businesses to achieve this.

- Companies that do not directly employ but that are essentially the employers of much of the unorganised sector should consider looking closer to home for CSR activities. Employees in areas such as the construction, mining, and agricultural sectors remain underpaid and without adequate housing, sanitation, health insurance, education or training opportunities. Focusing on any of these areas would also prove beneficial to companies themselves by decreasing labour force turnover and producing a healthier and therefore more productive workforce.

- There is a need to establish research centres for CSR to evaluate company spending and efficacy of activities sharing best practices. This could be set up in collaboration with a number of universities and education institutions across India.

- The law should be used to increase focus on environmental as well as social issues by establishing sustainability board committees.

- Companies must provide integrated reporting to allow critique and transparency for the government's auditing system.

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