

BEYOND 2%

Reclaiming Corporate Social Responsibility
For Community Empowerment



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Abbreviations

AA	Affirmative action
BRR	Business Responsibility Report
CII	Confederation of Indian Industry
CRW	Corporate Responsibility Watch
CSR	Corporate Social Responsibility
ESI	Employee State Insurance
EWD	Employees With Disability
FDI	Foreign Direct Investment
FPIC	Free, Prior and Informed Consent
FY	Financial Year
IRBI	India Responsible Business Index
MCA	Ministry of Corporate Affairs
MNC	Multinational Companies
MSME	Micro, Small and Medium Enterprises
NVG	National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business
PF	Provident Fund
PWD	Person with Disabilities
SC	Scheduled Caste
SDG	Sustainable Development Goals
SEBI	Securities and Exchange Board of India
SIA	Social Impact Assessment
ST	Scheduled Tribe

Foreword

India's growth story is being heralded the world over as an inspiring one for developing countries to adapt. But what is evident from a cursory look at data from the Human Development Report is that growth boosted by businesses has been at the cost of social development. There is a simultaneous increase in the gross domestic product and inequality. Business and social development have traditionally stood at loggerheads, resting on a belief that one succeeds at the cost of the other and India exemplifies this at multiple levels. If one takes a closer look at the corporate sector in India, there is no dearth of examples of business growth and success at the cost of people, regardless of which sector one looks at. In addition to this, a search for examples of ethical business practices largely draws a blank.

Success in business is often seen as maximisation of profits for promoters and shareholders in complete disregard of planet, people and principles of equitable distribution. This picture somehow doesn't add up and we know intuitively that it is not right, not just ethically, but economically as well. Businesses have the responsibility and the potential to promote sustainable and inclusive growth. The awareness that businesses may have dodged their responsibilities but should not evade the consequences of having done so has inspired citizens to participate in democratising economics and bringing back fair exchange as the fulcrum of economic thinking. Several government and civil society entities in India have ventured into the arena of unpacking and tracking corporate responsibility and pushed towards the concept of economic democracy. Corporate Responsibility Watch (CRW)¹ is one such entity that is using the Ministry of Corporate Affairs' visionary National Voluntary Guidelines (NVGs) as a starting point to move the discussion on business responsibility back to the wider realm of social, environmental and ethical practices, rather than limiting it to corporate social responsibility.

CRW has previously published analyses of Business Responsibility Reports through the series Disclosure Matters and created an India Responsible Business Index. This current piece scans the business environment from an equity lens across five community-focused parameters: Non-discrimination in the workplace, employee well-being, inclusiveness in supply chain, and the community affected by business, in addition to the community development covered by conventional CSR. This report aims to facilitate a discourse through which one can reclaim CSR to include the comprehensive rights and entitlements of communities, whether they are part of the formal workforce or supply chain or neighbourhood and displaced communities directly and indirectly affected by business operations. It is unfortunate that the Companies Act of 2013 looks at CSR with the narrow understanding of philanthropy by corporates from their profits.

The NVGs significantly promote inclusive growth, keeping in mind the disadvantaged communities and envision a scenario where companies are sensitive to issues faced by communities and proactively engage to bring about equitable development. They promote values of "no discrimination" and "no harm" in and owing to business operations; and also encourage businesses to contribute to local and national development priorities. The current report attempts to analyse these very quintessential elements based on public disclosure by companies. This is a analysis based on secondary data supplied by the companies on public forums and will serve as a precursor to a more rigorous business

¹ Corporate Responsibility Watch is a voluntary network of organisations and prominent independent consultants that has come together to analyse and watch the corporate environment in India from a civil society perspective. For more details, visit www.corporatewatch.in

responsibility report which CRW will bring out later in 2016.

Sections 1 and 2 of the report, 'Companies' Policies And Social Inclusion – An Analysis' and 'Make In India – The One-Sided Growth Story', have been put together by a Corporate Responsibility Watch (CRW) team comprising Pradeep Narayanan and Rohan Preece from Partners in Change, Anamika Dutt, Aruna Mohan Raj, Betsy Rajan, Deepti Menon, Dheeraj, Lorina Anal, Reena Cherian, Shireen Kurian and Sowmyaa Bharadwaj from Praxis Institute for Participatory Practices. Section 3 'Business and Inclusion – Key Insights' has been authored by CRW partner members Amita Joseph, Ashok Bharti, Pradeep Patra, Vikrant Wankhede and Viraf Mehta. Anusha Chandrasekharan and Urvashi Mitra have provided editorial and design support.

We hope this analysis will be a significant step in building awareness about making businesses adhere to ethical and responsible practices and eventually contribute to inclusive and equitable growth.

Tom Thomas
Convener
Corporate Responsibility Watch

Introduction

How should citizens engage with Corporations? What should we expect from them? In India, as elsewhere, consensus on what businesses are indeed responsible for has often proved elusive. Today, the terrain of business responsibility remains unfamiliar to many who are more used to holding the government accountable. At the same time, the sheer size and influence of businesses in India, their pervasiveness across multiple aspects of public life and their impact on so many aspects of our daily life, invite serious questions about what their role, functioning, purpose and contribution should be.

Within the Indian business context, one of the most progressive developments in recent times has been the formulation of the National Voluntary Guidelines (NVGs), a landmark coming together of business, government and civil society around responsible business values. The NVGs enshrine commitments to people, planet and profit and in doing so set some significant benchmarks for what we can expect of business in India. These benchmarks were given a much-needed boost in 2012 with the mandating, by the Securities and Exchange Board of India (SEBI), of NVG-based reporting for top 100 listed companies.

Corporate Responsibility Watch (CRW)², a consortium formed in 2013, aims to encourage a culture of disclosure, measure business' commitment to local people in their policies and in their consultations with them; and make corporate responsibility everyone's business. Everyone' here not only intends NGOs and other civil society groups, but every citizen within and outside businesses, who may be interested in using disclosed information in order to hold companies more accountable for their policies and practices. Over the past two years, CRW has measured the extent and quality of disclosure; and the alignment of policies to NVGs through the India Responsible Business Index (IRBI) and related studies.³

Also in 2013, the institution of the Companies Act had made it obligatory for all companies of sufficient size to donate 2 per cent of their profits to philanthropic causes. The uptake among companies has been encouraging, but its contribution to an improved public perception of large corporations and their contribution to the Indian development story should not obscure deeper questions about how businesses make their profits in the first place. Sadly, the trend since 2013 has been towards a reductionist discourse of Corporate Social Responsibility (CSR) in India, effectively equating it with acts of philanthropy or, at best, corporate-sponsored development work. While these projects may be well-intended, well-designed and even highly impactful, a holistic imagination is required to locate the proper role of business vis a vis people and the environment.

Ironically, the key to a more holistic reappraisal of CSR may lie in an interrogation of how the term itself has been understood in many contexts, notably in those outside India. The concept of CSR can trace its origins back, in the modern era, to at least the 1950s, when it was referred to more commonly as social responsibility. By the 1970s, multiple definitions abounded. Backman (1975) cited the following as examples of CSR:

Employment of minority groups, reduction in pollution, greater participation in programs to improve the community, improved medical care, improved industrial health and safety –

² www.corporatewatch.in

³ For the most recent CRW publication on Business Responsibility from a perspective of Inclusion, visit the India Responsible Business Forum website: http://responsiblebiz.org/r_bizimg/IRBF.pdf

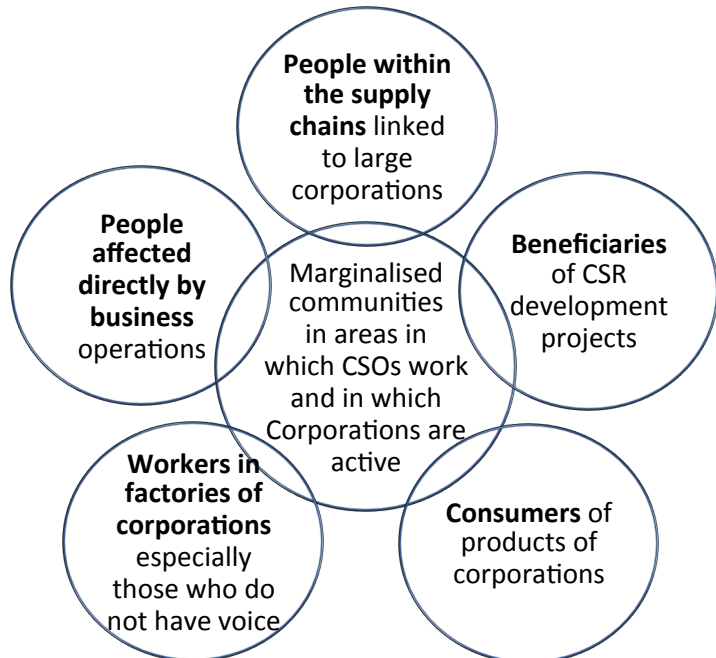
these and other programs designed to improve the quality of life are covered by the broad umbrella of social responsibility. (pp. 2-3, Backman 1975)⁴

In the 1980s, Carroll (1983) expressed a view of CSR as involving “the conduct of a business so that it is economically profitable, law-abiding, ethical and socially supportive... Thus, CSR is composed of four parts: economic, legal, ethical and voluntary or philanthropic” (Carroll, 1982, p. 604).⁵ More recently, the European Commission has neatly defined CSR as “the responsibility of enterprises for their impacts on society” and elaborated corresponding social, environmental, ethical, consumer, and human rights concerns.⁶ Meanwhile, the Canadian government has defined CSR as the voluntary activities undertaken by a company to operate in an economic, social and environmentally sustainable manner.⁷ Today, India’s general equation of CSR with philanthropy is at odds with many of the more far-reaching international articulations.

Setting the scene: social inclusion of people impacted by and who impact business

As represented in Figure 1, our focus in this report is on socio-economically marginalised communities. Of greatest concern from a social justice perspective would be those communities who fall into at least one of the categories represented by the outer circles. **People within the supply chains** linked to large corporations will include those who work for the corporations’ suppliers. Among the **beneficiaries** of CSR development projects would be those who are targeted by corporations for various kinds of CSR aid and whose lives CSR project planners hope to positively impact through their initiatives. These will include

Figure 1. Marginalised people impacted by corporate and business activities



people living in circumstances of extreme poverty and destitution, those from socially excluded scheduled tribe, scheduled caste and minority groups, victims of displacement, etc. They will include people of different ages and genders.

Consumers of products of corporations are obviously an enormously heterogeneous group, but here again our driving interest is in the poorest consumers, whose concerns are often

⁴ Backman, J. (Ed.), (1975), *Social Responsibility and Accountability*. New York: New York University Press

⁵ Carroll, A.B., (1983, July 15) Corporate social responsibility: Will industry respond to cutbacks in social program funding? *Vital Speeches of the Day*, 49, 604-608

⁶ European Commission on CSR: http://ec.europa.eu/growth/industry/corporate-social-responsibility/index_en.htm

⁷ Global Affairs of Canada <http://www.international.gc.ca/trade-agreements-accords-commerciaux/topics-domaines/other-autre/csr-rse.aspx?lang=eng>

left out of discourses on consumer rights. Also of interest here are blue-collar **workers** in factories of corporations, especially those not represented effectively by unions, including contractual workers, and others whose voices often go unheard. There is also attention given, more broadly, to the **well-being and rights of all who work** for companies. Lastly, but importantly, is those who are **directly affected by business operations**, whose land, for example, is the target of corporate interests; and others impacted by business activity and expansion within their immediate environments, especially those led, co-opted or threatened into displacement and relocation.

These different but overlapping groups provide us with different perspectives on the question of business and its social responsibilities. These perspectives form the organising principles of **section 1** and **section 3**, and are taken up thematically in each case. While section 1 contains six sub-sections, covering employee rights, non-discrimination in the workplace, community development, community and business stakeholder, inclusiveness in the supply chain and consumers; **section 3** contains 5 sub-sections only, around the 5 elements developed for the NVGs-based India Responsible Business Index outlined below:

Element	Expectation
1. Non-discrimination in the workplace	Business endorses non-discriminatory employment practices and promotes diversity in the workplace
2. Respecting employee dignity and human rights	Business recognises its responsibility towards creating an enabling environment for workers and prohibits any form of forced labour or child labour
3. Community development	Business recognises its role in fostering community development by addressing local priorities and respecting local concerns and knowledge
4. Inclusiveness in supply chain	Business recognises its role in creating an environment in which the rights of workers throughout the supply chain are respected
5. Community as business stakeholder	Business recognises vulnerable communities as stakeholders and is responsible and transparent about the impact of its processes on these communities

Section 2 highlights some of the threats that exist to workers and local communities in the context of the dilution of labour laws and the lack of clarity in the wider social impacts of campaigns such as ‘Make in India’. Standing testimony to this are examples of several companies that might have sound policy but flout human rights and other business operations norms, amounting to grave violations being committed against the local people, who, from a human rights perspective, should be among the primary stakeholders of any business. Thus, strengthening the regulatory environment and scrutiny by government, civil society and other stakeholders is an urgent requirement.

The attempt to rank companies on the crucial parameter of disclosures around inclusion is an important contribution in a context in which a number of governmental and judicial measures are being taken to build a business-friendly environment, without ensuring that business itself operates from a foundation of respect for social, environmental and economic concerns. Facing the stigma of being ranked 142nd among 189 countries on the World Bank’s ‘Ease of Doing Business’ index (2014), serious measures are being taken to enhance India’s perception and ranking - but at what cost to people and planet?

In this context, it would be helpful to envisage a multi-pronged approach for the way forward. The proactive role that businesses have lie not just in developing policies which

align with the NVGs, but also in inculcating a culture of compliance on all fronts such as inclusive growth, labour and environment laws, and mitigating risks related to bribery and corruption. In gauging businesses' readiness and willingness to formulate and disclose policies it becomes imperative to assess businesses disclosure within mandated reporting frameworks and discern whether companies go beyond the mandatory disclosure. Thus, within the framework of business responsibility, while every business *should* comply with mandatory operational norms, those that go beyond meeting statutory norms and compliance can become genuine leaders of industry.

1. Companies' policies and social inclusion – An analysis

Business policies of companies relating to six areas – non-discrimination in the workplace, employee wellbeing, community development projects as part of CSR, inclusive supply chain, community as a business stakeholder and consumers are analysed from the lens of social inclusion. The chapter takes each of these elements and analyses performance of the top 100 listed companies based on their disclosure in public platforms.

1.1 Non-discrimination at the workplace

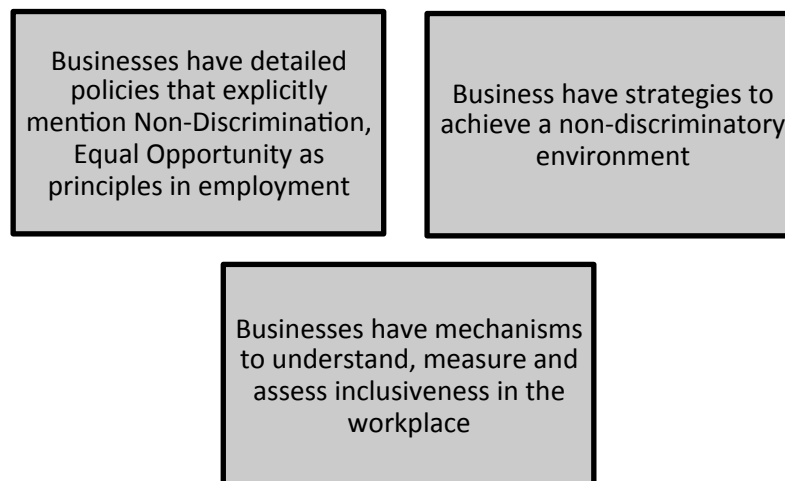
Background

The concept of equal opportunity and non-discrimination has been one of the bulwarks of the Constitution of India. This is rooted in the universal principles of human rights, fundamental freedoms and equality. In today's emerging markets, companies that aspire to be leaders and set high standards while building a productive and diverse workforce must address issues of discrimination in the workplace especially in a country like India, which boasts of immense diversity.

Relevant NVGs and Pertinent Sections

The NVGs were evolved to ensure sustainable and responsible business by the entities taking into concern the economy as well as the various stakeholders and the ecology. Principle 3 of the NVGs states, “**businesses should promote the well-being of all employees**”. The core elements of this principle call for an inclusive workspace, especially for women and the disabled and sees diversity in the workplace as an important outcome of non-discrimination.

Figure 1.1.1 NVGs' Expectations of Businesses on Non-Discrimination in the Workplace



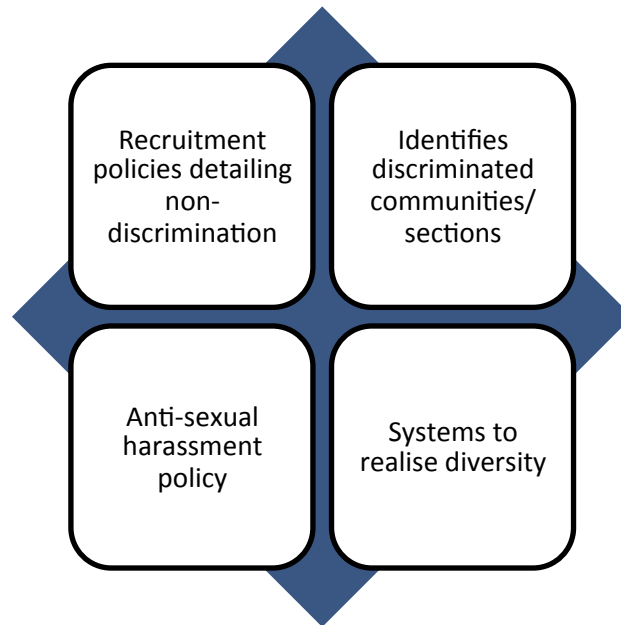
Business Responsibility Reporting

The detailed guidelines that SEBI recommends as part of its Business Responsibility Report (BRR)⁸ format primarily talk about the disclosure of responsible and sustainable practices followed by the business entities. The conceptualisation is considerably more holistic than corporate social responsibility, as it covers the pro-activeness from the side of the

⁸ SEBI issued a notification to the top 100 companies listed on the Bombay Stock Exchange to submit Business Responsibility Reports, a framework reflective of the NVGs.

companies to ensure employee rights, fair trade practices, environmental considerations and land acquisition. The relevant aspects for non-discrimination at the workplace are described below.

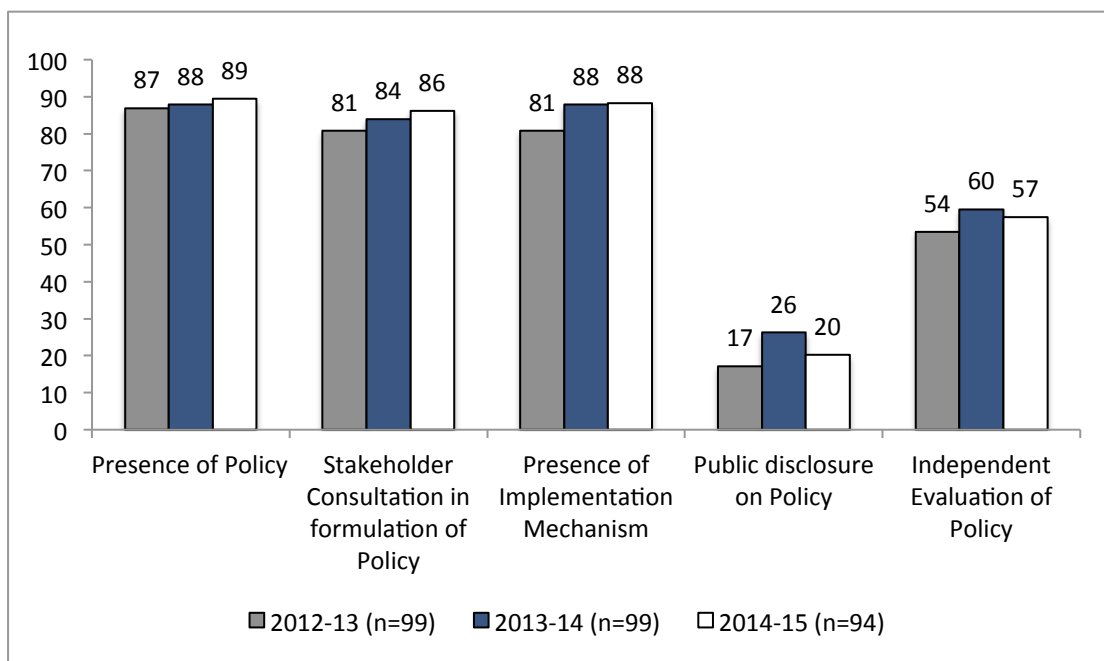
Figure 1.1.2 Key Components Of Non-Discrimination At The Workplace Expected In Policies Of Businesses



Analysis of Business Responsibility Reports of top 100 companies

Corporate Responsibility Watch analysed these reports for the years 2012-13, 2013-14 and 2014-15. The key findings are in Figure 1.3 below:

Figure 1.1.3 Percentage of companies with affirmative responses for existence of policy and implementation systems related to Non-Discrimination at the Workplace



India Responsible Business Index

The index is a composite reference derived from self-reported information from companies through questionnaires and review of secondary data.

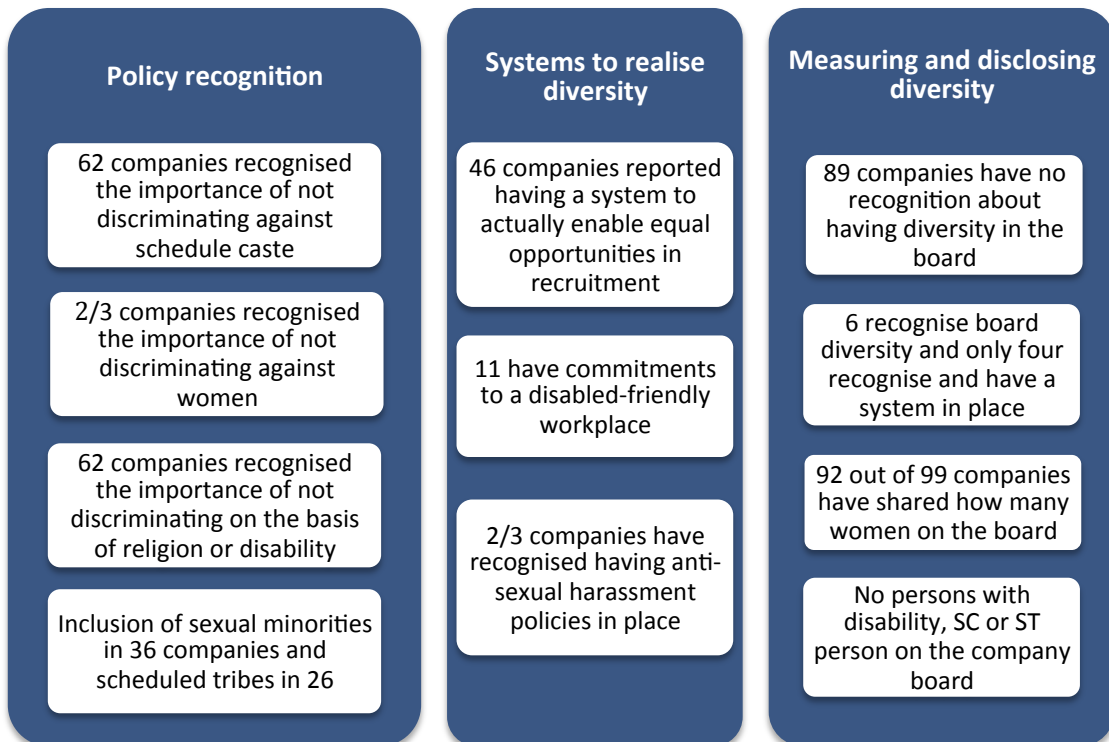
Expected policy disclosures by a business under non-discrimination at the workplace are seen in Figure 1.4 alongside.

Based on the information reported as being disclosed in the public domain, some findings related to non-discrimination at the workplace are detailed in Figure 1.5 below:

Figure 1.1.4 Policy Disclosure expectations on non-discrimination at the workplace



Figure 1.1.5 Disclosures On Non-Discrimination At The Workplace: Highlights From The Top-100 Companies



The IRBI scored companies on a scale of 0 to 1 based on disclosure and placed them across four bands. The number of companies in each band for non-discrimination at the workplace is alongside. It is significant to note that **there is only one company in the high band.**

LOW	AVERAGE	ABOVE AVERAGE	HIGH
6	51	41	1

Violations

Some known cases are listed below.

Human and Gender Rights Violation

Canara Bank has had to withdraw a recruitment form that had questions seeking health details of women candidates, including menstrual cycle and pregnancy. The form, which was to be furnished by the candidate before the selection, asked for details such as the date of the last menstrual period, evidence of pregnancy and history of diseases of uterus, cervix, ovaries and breasts.

(Source: Times of India, July 10, 2014)

Sexual Harassment

A group of women employees at Infosys in Bengaluru, brought charges of sexual harassment against a senior executive of the company. The women employees felt that their complaint was not taken seriously therefore they wrote an e-mail to Business Standard newspaper to take up the issue and give them justice. The company sprung into action, constituted a team and took appropriate action against the person involved.

(Source: Business Standard, November 6, 2015)

Points to Ponder

- *Should companies identify proactive ways of diversifying the workforce or retain a non-discrimination policy?*
- *What mechanisms can be brought into place to ensure that there is equity at all stages of employment - from recruitment to growth and promotions in the organisation, including, to management and board membership?*
- *The stratification of the labour force as per recent labour reforms has created scope for inequitable access to benefits.*

1.2 Respecting employee dignity and human rights

Background

Social responsibility of businesses is not just about doing welfare and charitable work but their priority is also their own workers. Workers in an institution are the foundation of productivity and despite the important role they play in the running of a company, they are often sidelined. The importance of business is well recognised and people are becoming aware of how it can play an important role in the betterment of the quality of life of employees.

Relevant NVGs and Pertinent Sections

Principle 3 of the NVGs states that “**businesses should promote the wellbeing of all employees**”. The core elements of this principle related to this aspect of employee wellbeing state that businesses should respect the right to form unions, have a process of negotiation between employers and a group of employees which is aimed at reaching agreements to regulate working conditions, and impart access to appropriate grievance redressal mechanisms. These are elaborated in Figure 1.2.1 below.

Figure 1.2.1 NVGs Expectations Of Businesses On Employee Wellbeing



Business Responsibility Reporting

The detailed guidelines that SEBI recommends primarily talk about the disclosure of responsible and sustainable practices followed by the business entities. The BRR conceptualisation covers the pro-activeness from the side of the companies to ensure different aspects of employee rights and fair trade practices. The relevant aspects for employee wellbeing include:

Figure 1.1.2 Key Components of Employee Wellbeing Expected in Policies of Businesses



Analysis of Business Responsibility Reports of top 100 companies

Corporate Responsibility Watch analysed the BRRs for the years 2012-13; 2013-14 and 2014-15. The key findings related to the element on employee wellbeing are listed in Figure 1.2.3 below:

Figure 1.2.3 Percentage of companies with affirmative responses for existence of policy and implementation systems related to employee wellbeing

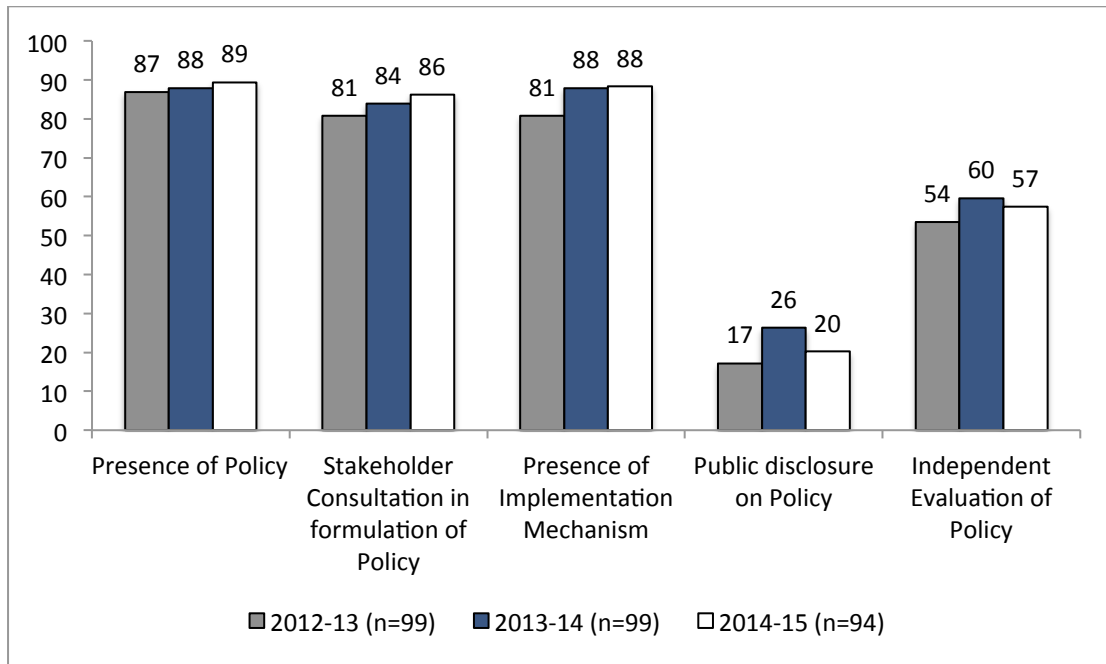
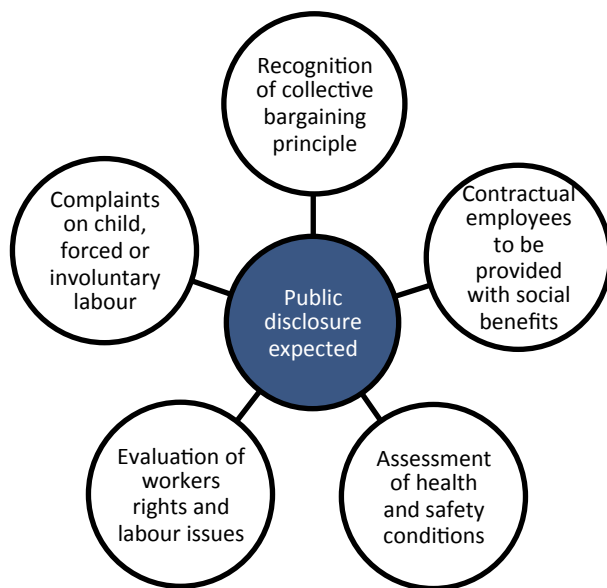


Figure 1.2.4 Policy Disclosure expectations on non-discrimination at the workplace



are detailed in Figure 1.2.5 below.

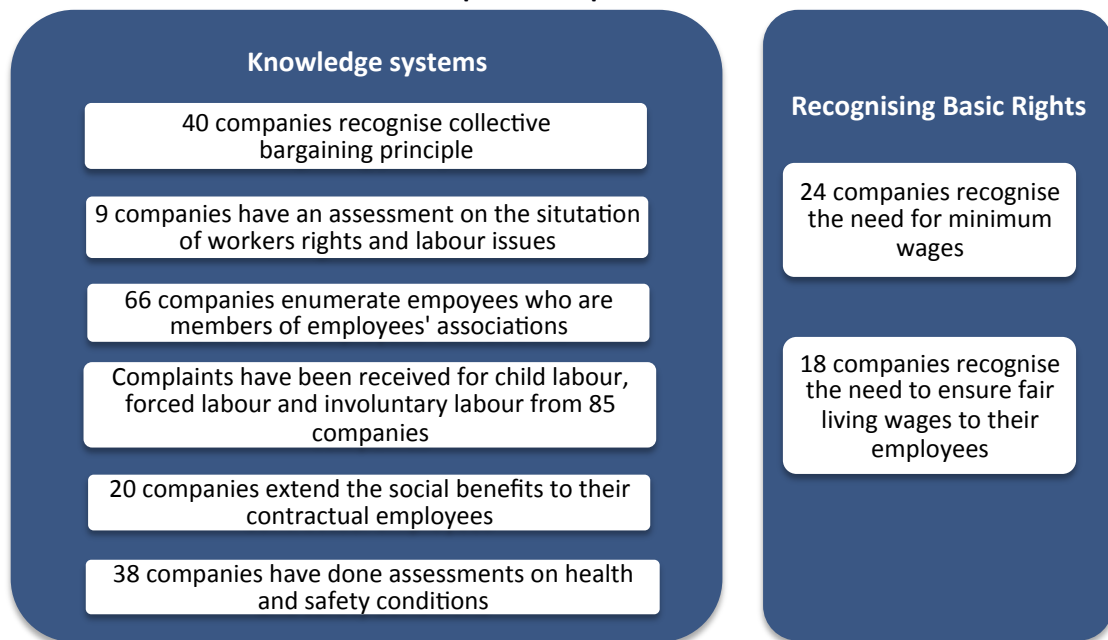
India Responsible Business Index

The index is a composite reference derived from the self-reported information from the companies through questionnaires and review of the secondary data.

Expected policy disclosures by a business under employee wellbeing are seen in Figure 1.2.4 alongside.

Based on the information reported as being disclosed in the public domain, some findings related to employee wellbeing

Figure 1.2.5: Disclosures on employee well-being at the workplace: Highlights from the top-100 companies



The IRBI scored companies on a scale of 0 to 1 based on disclosure and placed them across four bands. The number of companies in each band for employee well-being is in the table alongside. Significantly, **only two are in the high band.**

LOW	AVERAGE	ABOVE AVERAGE	HIGH
15	53	29	2

Violations

Some known cases include:

Violation of provision of minimum wages act

In March 2012, in Trichy, the delivery boys for Indian Oil Corporation Limited (IOCL), Hindustan Petroleum Corporation Limited (HPCL) and Bharat Petroleum Corporation Limited (BPCL) in Trichy district were being paid just Rs. 1,500 per month which was below the minimum wages prescribed under the Shops and Establishments Act of Tamil Nadu. (Source: The Indian Express, 21 November, 2015)

Labour strike

Bosch workers at the Adugodi plant in Bangalore went on a five week strike in October 2014. There are 2,300 permanent workers, 370 temporary workers and 1,000 contract workers. A permanent worker on an average was paid Rs 40,000 per month. New entrant workers and temporary workers were paid half and some young workers were paid Rs 13,00 per month, forced to work on all three shifts, and fired at any moment. (Source: <http://www.wsos.org/en/articles/2014/10/22/bosc-o22.html>)

Safety violations

Four people were killed and seven injured in a major fire in June 2013, at the information technology hub of IndusInd Bank. Fire officers said the building violated several safety norms. They said its riser system was not working which delayed fire fighting efforts. More than 50 people found themselves trapped as entry and exit to the bank is restricted by an automatic access card system. (Source: The Indian Express, 8 June, 2013)

Workers health and Safety

Hindustan UniLever found itself tangled in a controversy of mercury poisoning due to a breach of environmental operating guidelines at its former thermometer factor in Kodaikanal. The company announced that it continues to take the issue very seriously and it's keen to see it resolved. The company in its response has decided to clean up mercury contaminated soil in the factory premises (Source: The Indian Express, 30 June, 2015)

Points to ponder

- *While the right to freedom of association is a core part of Principle 3 of the NVGs, which protects the worker and helps them to participate in the key discussions affecting their lives, in a recent (April 2015) Code for Industrial Relations draft released by the Ministry of Labour and Employment, Government of India, there is a recommendation to combine the three major central government labour laws pertaining to industrial relations the **Trade Unions Act, 1926**, the **Industrial Employment (Standing Orders) Act, 1946** and the **Industrial Disputes 1947**. The new recommendations make formation of labour unions more difficult and undermine the right of a worker and his/her collective bargaining ability. India is also yet to ratify the International Labour Organization (ILO) Conventions 87 and 98, which deal with the right to organisation and collective bargaining.*
- *The recent proposed alteration to the understanding of family enterprise in the context of child labour is also being labelled as regressive from a child rights lens, and seen to negatively impact the wages of adults, who will be substituted for children and decrease labour standards for both, leading to new forms of exploitation.*

1.3 Community Development Projects as part of CSR

Background

The emphasis on Corporate Social Responsibility (CSR) transcends companies' core business to include "adopted" communities, who may be removed from the company setting but are still identified for community development. The principle emphasises the significant role that companies can play in overall development of the country whilst supporting the development of marginalised communities.

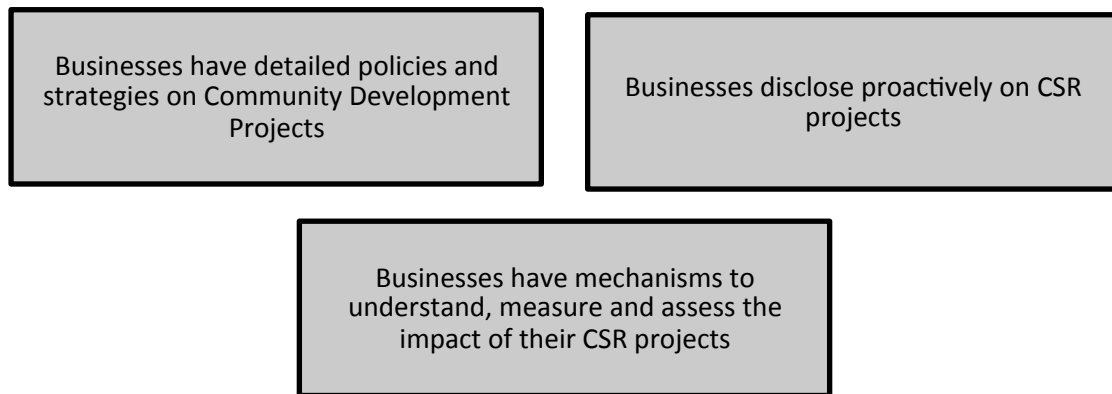
The Companies Act 2013 mandated "every company having a net worth of Rupees five hundred crore or more, or turnover of Rupees one thousand crore or more or a net profit of Rupees five crore or more during any financial year" to "ensure that the company spends, in every financial year, at least two per cent of the average net profits of the company made during the three immediately preceding financial years, in pursuance of its Corporate Social Responsibility Policy". For many corporates, this law has been most readily applied through commitment to community development projects.

While community development in one form or another may be a shared aspiration of many corporates' CSR policies, it is in many ways a hugely contested terrain and one that requires a firm commitment to social equity as well as an appreciation of the complexities of social exclusion in India.

Relevant NVGs and Pertinent Sections

The ethos of corporate contribution to community development finds expression in Principle 8 of the NVGs, which says, "**Businesses should support inclusive growth and equitable development**". It mandates, "Businesses should make efforts to complement and support the development priorities at local and national levels". It recognises the need for businesses to focus on "disadvantaged, vulnerable and marginalised sections of society". These are further detailed below.

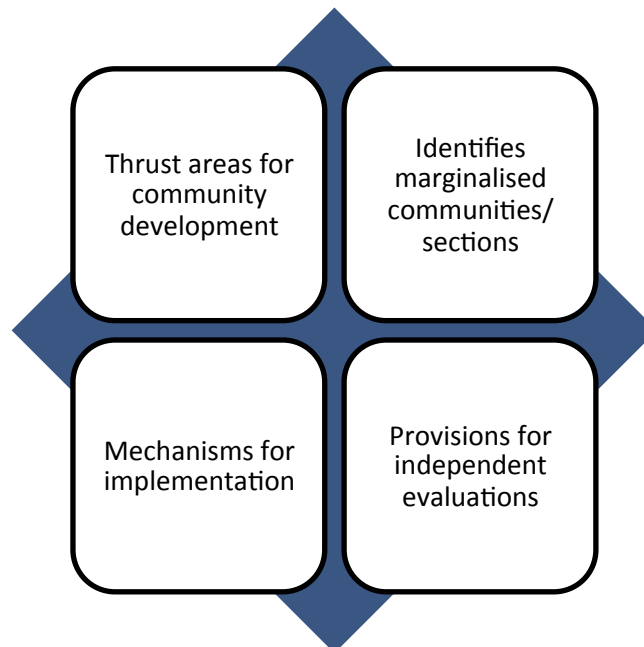
Figure 1.3.1 NVGs expectations of Businesses on Corporate Social Responsibility



Business Responsibility Reporting

The detailed guidelines that SEBI recommends primarily talk about the disclosure of responsible and sustainable practices followed by the business entities. The BRR conceptualisation is considerably more holistic than corporate responsibility, as it covers the pro-activeness from the side of the companies to ensure employee rights, fair trade practices, environmental considerations and land acquisition. The relevant aspects for corporate social responsibility include:

Figure 1.3.2 Key components of corporate social responsibility expected in policies of businesses



Analysis of Business Responsibility Reports of top 100 companies

SEBI issued a notification to the top 100 companies to submit BRRs, a reporting framework reflective of the NVGs. Corporate Responsibility Watch analysed these reports for the years 2012-13, 2013-14 and 2014-15. The key findings are in Figure 1.3.3 below:

Figure 1.3.3 Percentage of companies with affirmative responses for existence of policy and implementation systems related to Corporate Social Responsibility

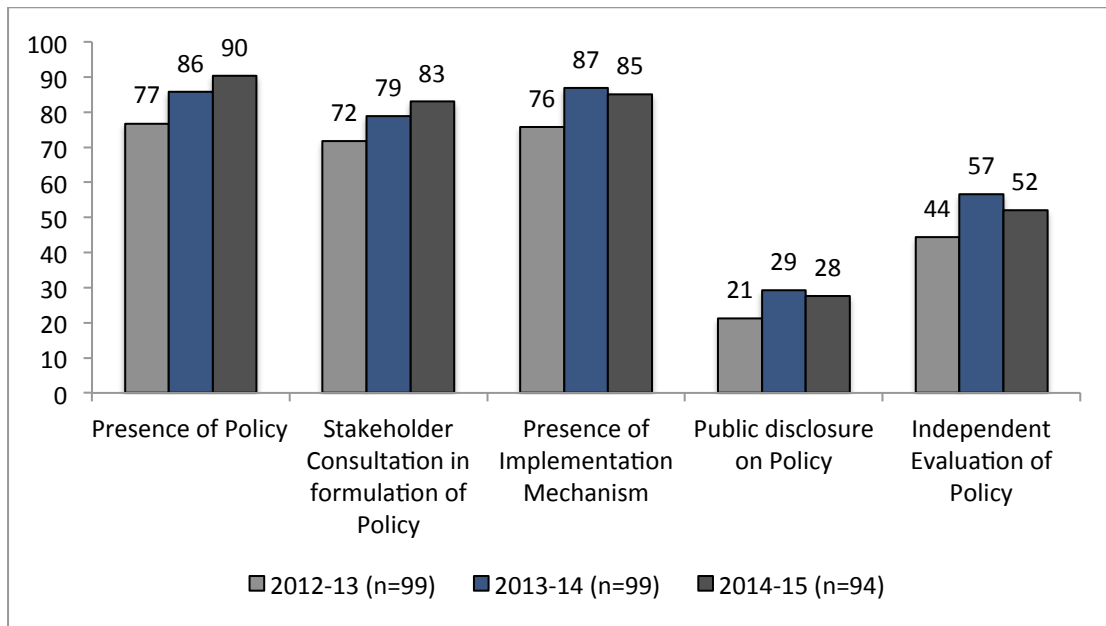
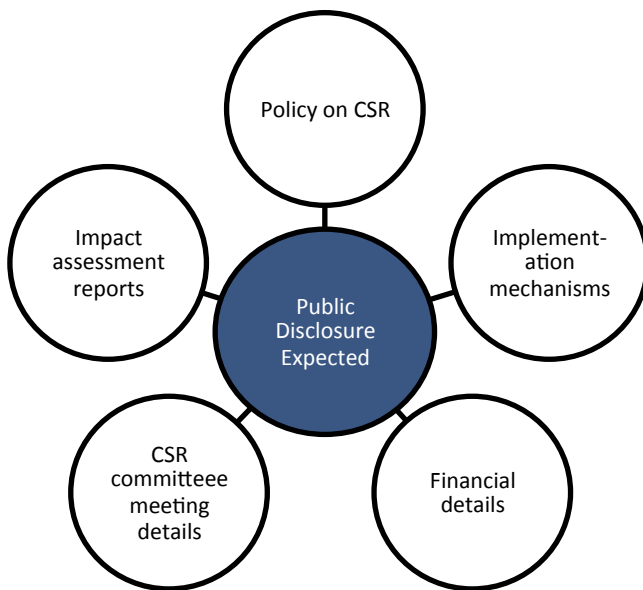


Figure 1.3.4 Policy disclosure expectations on corporate social responsibility



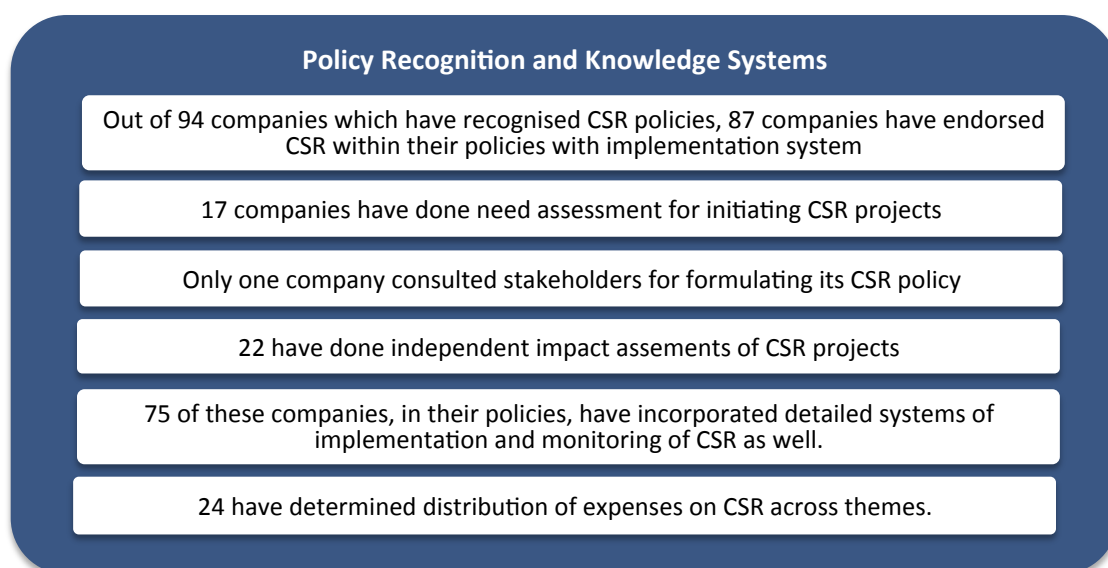
India Responsible Business Index

The index is a composite reference derived from the self – reported information from the companies through questionnaires and review of the secondary data.

Expected policy disclosures by a business under corporate social responsibility are seen in Figure 1.3.4 alongside.

Based on the information reported as being disclosed in the public domain, some findings related to corporate social responsibility are detailed in Figure 1.3.5 below.

Figure 1.3.5 Disclosures on CSR: Highlights from the top-100 companies



The IRBI scored companies on a scale of 0 to 1 based on disclosure and placed them across four bands. The number of companies in each band for corporate social responsibility is alongside. **No company has scored in the low band.**

LOW	AVERAGE	ABOVE AVERAGE	HIGH
0	19	60	20

Points to Ponder

- *The ambiguity on what qualifies as CSR spend might lead to large scale funding of political processes and parties, as was seen in the recent case of Kitex group, a textile company, which spent its CSR fund to woo voters during panchayat elections in Kerala.*
- *Only 7 companies spent a minimum 2 per cent of its profits on social responsibility activities in the fiscal year 2014-15⁹. The act states that companies are required to “comply or explain” the CSR spend, and use of “explain” provides an easy way out for those who do not want to comply as may have been the case with the remaining 93.*
- *With the recent trend of businesses spending CSR funds on supporting Government schemes such as Swachh Bharat Abhiyan, are corporations being forced to divert funds towards such causes, deepening the Government-corporate nexus?*
- *Should contributions of funds to corporate owned foundations be considered CSR and how will the non-utilisation of such funds for CSR implementation be accounted for?*
- *Can companies having mechanisms for creating a more enabling working environment such as the setting up of crèches, which it is required to do by law, be considered as CSR?*
- *CSR has given scope for companies to highlight their community development work as brand building exercise rather than focusing on inclusive and ethical practices within core business operations. Can we afford for CSR to act as a substitute for business responsibility?*

⁹ Sensex firms miss Corporate Social Responsibility threshold by 30 per cent; only 7 firms comply; Financial Express, August 30, 2015

1.4 Inclusive Supply Chain

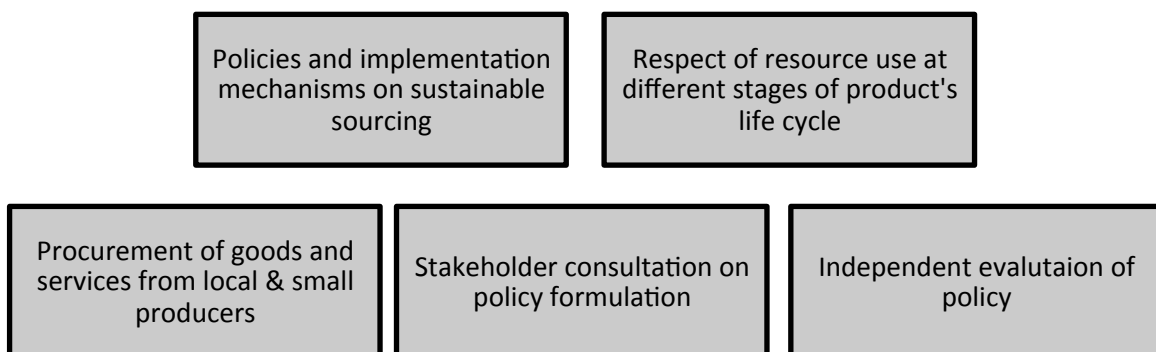
Background

An increasing number of corporates have expanded their conceptualisation of stakeholder to include supply chains. This realisation emanates from both the context of the labour reforms and from the units so as to maximise the output and service delivery. The aspects of accountability of the companies and corporate responsibility to supply chain units are also due to this reason. Supply chain and responsible business converge at two major aspects, namely, the labour regimes in the outsourced units and ensuring responsible business in an economy where a considerable part of production is through the unorganised sector. Supply chain postulates have been analysed from various points in this section. The supply chain refers to an umbrella of activities, including **product development and commercialisation, customer relations and procurement and logistics**, which the Global Supply Chain Finance recognises.

Relevant NVGs and Pertinent Sections

The National Voluntary Guidelines created by the Ministry of Corporate Affairs is mandated to ensure sustainable and responsible business by the entities taking into concern the economy as well as the various stakeholders and the ecology. Principle 2 states that “Business should provide goods and services that are safe and contribute to sustainability throughout their life cycle”, emphasising that this should be limited not only to the internal workspace but also extend to value chains. Principle 4 uses the term ‘stakeholders’ and directs business entities to work on the aspect of involving value chains as their stakeholders. Figure 1.4.1 below identifies the principles and core elements of the NVGs that address the aspects of supply chain management by the corporate.

Figure 1.4.1 NVGs’ expectations of Businesses on Inclusive Supply Chain



Business Responsibility Reporting

The detailed guidelines that SEBI recommends primarily talk about the disclosure of responsible and sustainable practices followed by the business entities. The BRR conceptualization is considerably more holistic than corporate responsibility, as it covers the pro-activeness from the side of the companies to ensure employee rights, fair trade practices, environmental considerations and land acquisition. The relevant aspects for supply chain include:

Figure 1.4.2 Key Components of Inclusive Supply Chain Expected in Policies of Businesses



Analysis of Business Responsibility Reports of top 100 companies

SEBI issued a notification to the top 100 companies to submit BRRs, a reporting framework reflective of the NVGs. Corporate Responsibility Watch analysed these reports for the years 2012-13, 2013-14 and 2014-15. The key findings are in Figure 1.4.3 below:

Figure 1.4.3 Percentage Of Companies With Affirmative Responses For Existence Of Policy And Implementation Systems Related To Strengthening Of Supply Chain

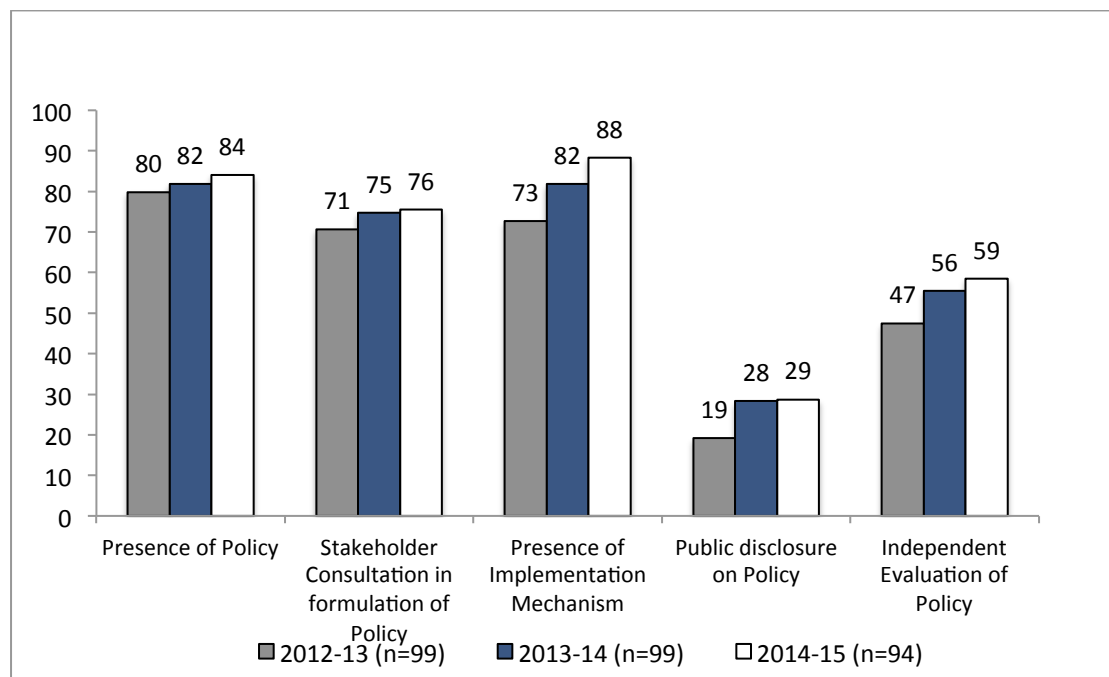
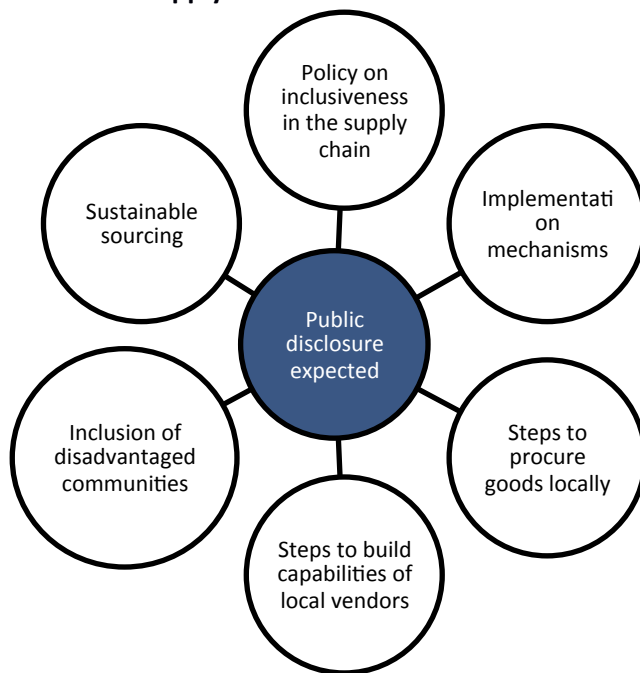


Figure 1.4.4 Policy Disclosure Expectations On Inclusive Supply Chain



India Responsible Business Index

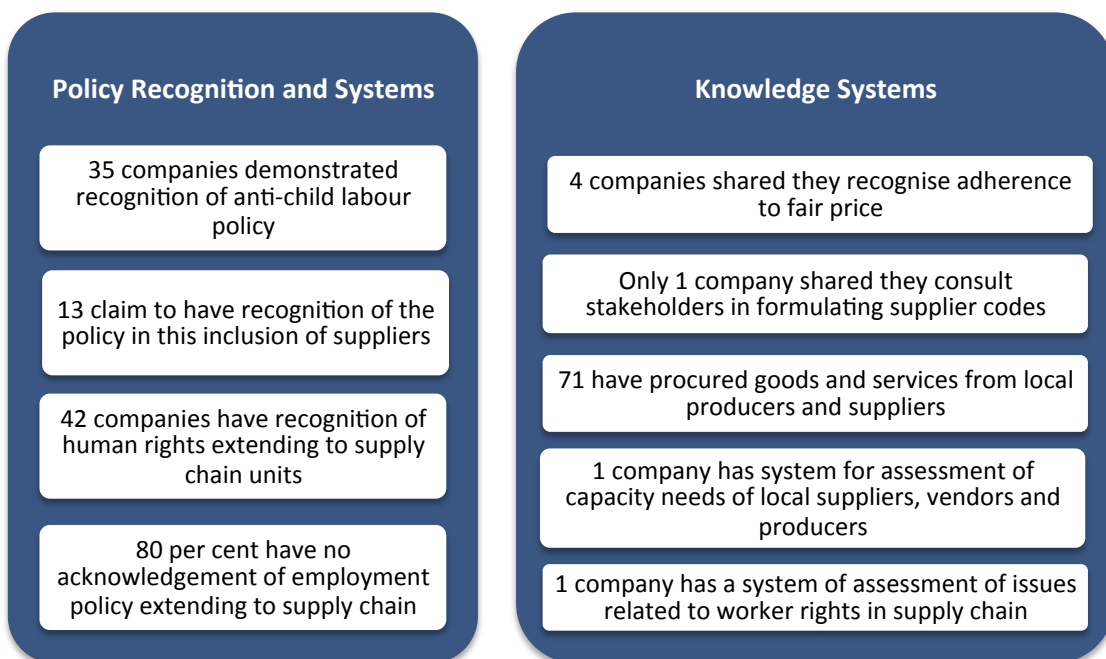
The index is a composite reference derived from the self – reported information from the companies through questionnaires and review of the secondary data.

Expected policy disclosures by a business under supply chain management are seen in Figure 1.4.4 alongside.

Based on the information reported as being disclosed in the public domain, some findings related to inclusive supply chain are detailed in

Figure 1.4.5 below.

Figure 1.4.5 Disclosures on inclusive supply chain: Highlights from the top-100 companies



The IRBI scored companies on a scale of 0 to 1 based on disclosure and placed them across four bands. The number of companies in each band for inclusive supply chain is alongside. It is significant to note that **there are no companies in the high band.**

LOW	AVERAGE	ABOVE AVERAGE	HIGH
32	52	15	0

Violations

Aggressive campaigns against well known companies by communities, civil society organisations and state interventions have led to enforce measures to ensure efficient supply chain management have led to several positive measures. The key types of violations have been summarised in Figure 1.4.6 alongside.

Figure 1.4.6 Key categories of violations related to inclusive supply chain

Manufacturing and Product Commercialisation

- Child Labour
- Cost Minimisation leads to low wages and Unfair Prices
- Poor Working Conditions

Customer Relations

- No Right for Collective Bargaining
- Strenuous Working Schedules

Some known cases include:

Child labour

Child labour in cottonseed farms in 6 Indian states that make up 95% of cottonseed production. The numbers of children working to produce cottonseed had, actually *risen* in real terms by as much as 25% - around 100,000 children – since 2007. Girls predominate among the child labourers employed. (Source: Cotton's Forgotten Children: Child Labour and Below Minimum Wages in Hybrid Cottonseed Production in India - Indian Committee of the Netherlands and the Stop Child Labour Coalition (July 2015) and Seeds of Child Labour - Signs of Hope: Child and Adult labour in Cottonseed production in India' (2010))

Automobile Industry

Also on predatory labour regimes are the supply chains of lead auto firms such as Chrysler, Ford, General Motors, Honda and Toyota, particularly, Ford India's ban on collective bargaining rights and participating in the trade union. Of late there are several action and pressure groups that have come to debate on the issues of sweatshop conditions and other unfavourable circumstances of the commodity chains of several lead firms Hope to Despair: The Experience of Organizing Indian Call Centre Employees, Premilla D'Cruz & Ernesto Noronha, The Indian Journal of Industrial Relations, Vol. 48, No. 3, Jan 2013

Violations in Customer Relations

The violations in the customer relations sector, which is a key component of the supply chain, could be illustrated with instances from the employee rights violations in Business Processing Organisations or call centres. Noronha and D'Cruz describe the generic situation of not allowing collective bargaining and formation in unions in the Indian BPOs and assert that the situation in Indian call centres are no less than the 'sweatshop' conditions considering the low payment of salaries and strenuous work schedules Nishith Desai, India: Trade Unions and Collective Bargaining, October, 2015

Points to Ponder

- *The Global Supply Chain Survey (2013)¹⁰ revealed that only 47 per cent of the companies acknowledge supply chain units as key stakeholders. It is important to explore whether companies extend employment policies and benefits to workers in the supply chain*
- *The cost minimisation policies of businesses often contradict and conflict with ideals of responsible and inclusive supply chain management, but is there a strong business case to invest in capacity building and safety of workers and vendors in the supply chain?*
- *Given that studies¹¹ have generated evidence to establish the economic and other costs of inequality, an investment in supply chains is an implied investment in the poor and*

¹⁰ Next-generation supply chains Efficient, fast and tailored, Global Supply Chain Survey (2013); Price Water House Coopers

¹¹ For further reading, see Even it Up: Time to End Extreme Inequality, Oxfam, 2014

disadvantaged and acts as a social equaliser. With supply chains mainstreamed, sidelining individuals in the supply chain from essential provisions risks creating unrest.

1.5 Community as a Business Stakeholder

Background

The definition of community according to the Oxford English dictionary involves a sharing of something common – this may be geography, identity, belief, nationalism, ownership or simply ideas. In this more specific context of business stakeholder, community may be seen as a group of people affected by business operations directly or indirectly, in a positive or a negative way¹². As a business stakeholder, the community is not merely seen as the recipient of the 2 per cent investment on corporate social responsibility. The focus should not be on development measures for the community such as building schools, organising vocational trainings and contributing amenities. Rather, it should be on issues more integrally linked to the community's survival – the impact of business activities, the use of local resources, the needs and local concerns as well as the participation of the community. Business itself is any profit-oriented venture. Any business is likely to leave behind an impact, positive or negative, on the community it comes into contact with.

Relevant NVGs and Pertinent Sections

The NVGs are mandated to ensure sustainable and responsible business by the entities taking into account the economy as well as the various stakeholders and the ecology. Principle 4 recognises that businesses have a responsibility to think and act beyond the interests of its shareholders to include all stakeholders, especially the vulnerable and marginalised, expecting that business recognise these stakeholder, analyse their concerns, mode of engaging with them and being transparent in its operations. Almost acknowledging the conflict impending between business and the community, the principle also seeks resolution of differences in a just and equitable manner. However, this principle does not create a space for the community to directly inform business actions or engage with its functioning in any way.

Figure 1.5.1 NVGs expectations of Businesses on Community as a Business Stakeholder

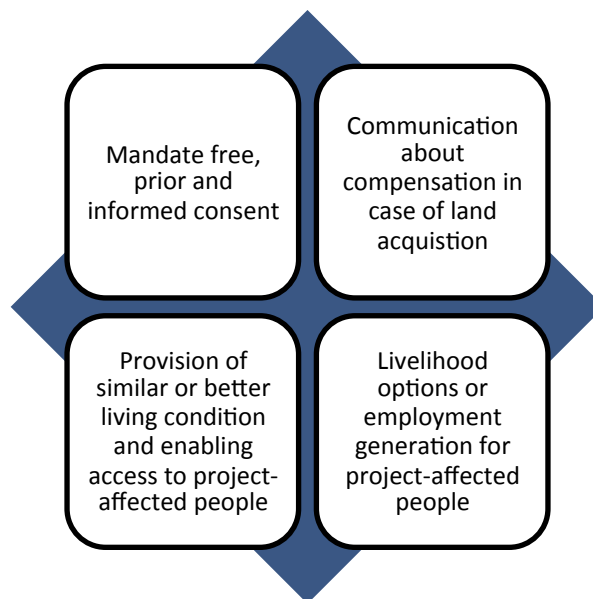


¹² Caroll, Archie and Buchholtz, Ann; Business and Society: Ethics, Sustainability, and Stakeholder Management; Centage Learning; 2014

Business Responsibility Reporting

The detailed guidelines that SEBI recommends primarily talk about the disclosure of responsible and sustainable practices followed by the business entities. The BRR conceptualisation is considerably more holistic than corporate responsibility, as it covers the pro-activeness from the side of the companies to ensure employee rights, fair trade practices, environmental considerations and land acquisition. The relevant aspects for community as business stakeholder include:

Figure 1.5.2 Key Components of Community as a Business Stakeholder Expected in Policies of Businesses



Analysis of Business Responsibility Reports of top 100 companies

SEBI issued a notification to the top 100 companies to submit BRRs, a reporting framework reflective of the NVGs. Corporate Responsibility Watch analysed these reports for the years 2012-13, 2013-14 and 2014-15. The key findings are in Figure 1.5.3 below:

Figure 1.5.3 Percentage Of Companies With Affirmative Responses For Existence Of Policy And Implementation Systems Related To Community As Business Stakeholder

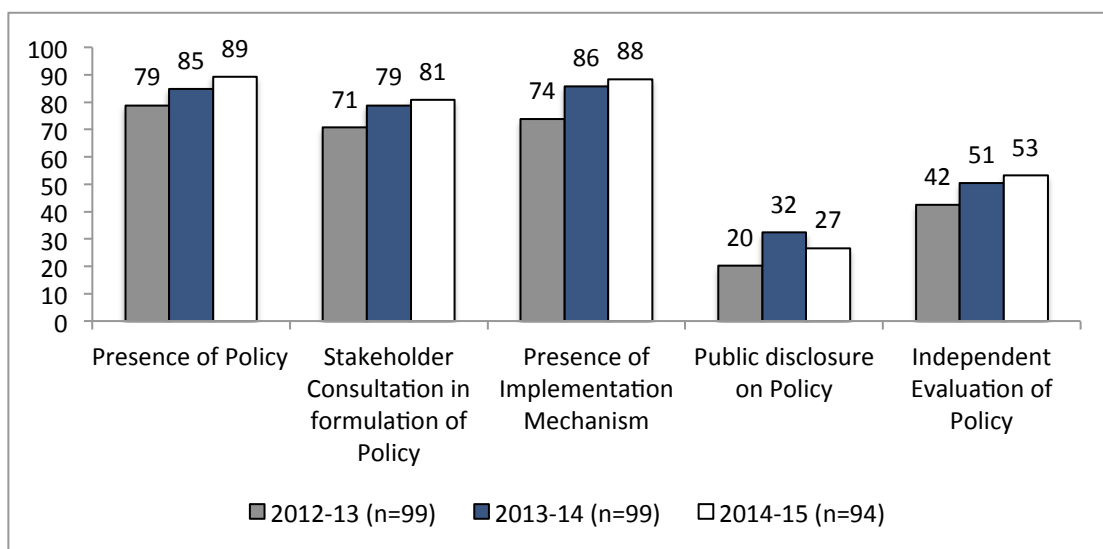


Figure 1.5.4: Policy Disclosure expectations on community as a business stakeholder



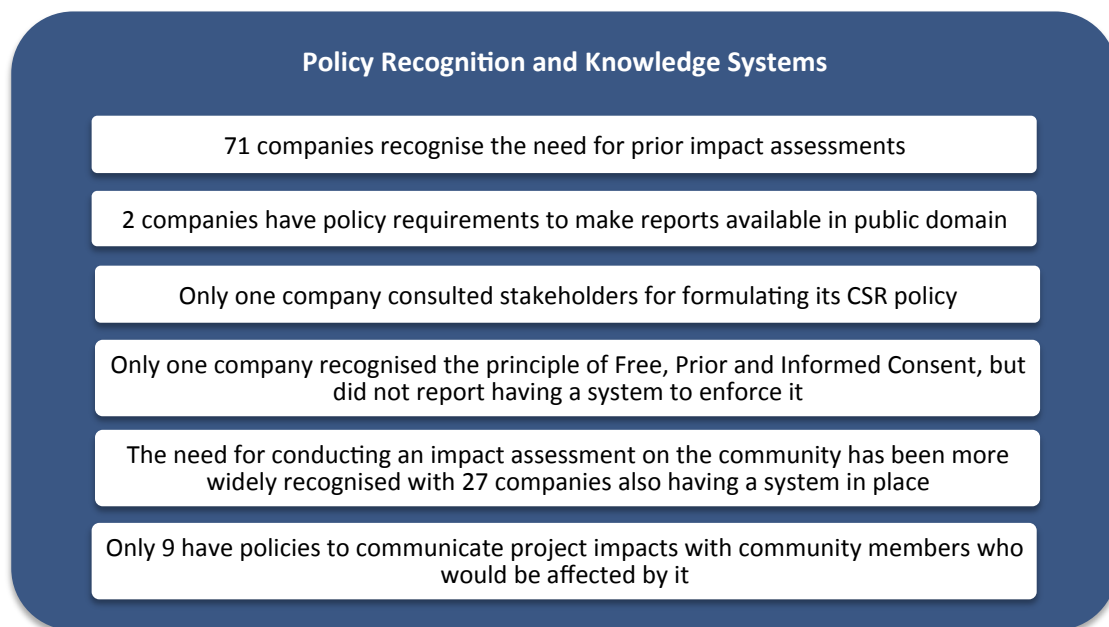
India Responsible Business Index

The index is a composite reference derived from the self – reported information from the companies through questionnaires and review of the secondary data.

Expected policy disclosures by a business under community as a business stakeholder are seen in figure 1.5.4 alongside.

Based on the information reported as being disclosed in the public domain, some findings related to community as a business stakeholder are detailed in Figure 1.5.5 below:

Figure 1.5.5: Disclosures on non-discrimination at the workplace: Highlights from the top-100 companies



The IRBI scored companies on a scale of 0 to 1 based on disclosure and placed them across four bands. The number of companies in each band for community as a business stakeholder is above. It is significant to note that **there are no companies in the high band and 94 in the low band.**

LOW	AVERAGE	ABOVE AVERAGE	HIGH
94	4	1	0

Violations

There are several violations being reported in media on communities getting a raw deal with respect to issue of land grabbing and inadequate efforts resettling and rehabilitating communities that are displaced. Some key violations are detailed below:

Protests on Violations

Supporters of the Dongria Kondhs were arrested in Delhi for peacefully highlighting Vedanta's illegitimate and harmful mining in the Niyamgiri Hills in Odisha. Vedanta's mining violated the Forest Rights Act, which stated that indigenous communities are entitled to remain in the forests — and utilise the produce, land and water in the forests — while conserving and protecting them.

(Source: The Indian Express, 21, November 2015)

The Kismunda opencast mine is one of India's and Asia's largest opencast coal mines in the district of Korba in Chhattisgarh. The mine is operated by a subsidiary of Coal India Ltd for which land acquisition takes place under the Coal Bearing Areas Act (CBA). The mine's fourfold expansion will displace 9250 families, including adivasi and dalit communities. While the land ordinance extends compensation and rehabilitation benefits to land acquired under the CBA, communities are yet to be informed if this is applicable to them. Korba is a constitutionally protected adivasi district. Neither does the CBA have in-built provisions for seeking the consent of affected adivasi communities, nor does the land act's section on consent apply to it. **This violates India's obligations to uphold the Free Prior Informed Consent** of indigenous communities prior to any decisions affecting their land and resources.

(Source: <http://www.caravanmagazine.in/vantage/whom-will-land-ordinance-affect#sthash.Lw1HzNbC.dpuf>)

Points to Ponder

Businesses cannot shrug off responsibility for the impact of their activities on the community amid whom they are located. The element of free, prior and informed consent (FPIC), which has been endorsed by the United Nations and other international bodies is yet to be converted into a much-needed law. With companies like Vedanta Resources learning about the need to get community consent the hard way, it only makes sense for businesses to have mechanisms to mitigate the negative impact of its business activities on the community.¹³

Companies owe the affected community detailed information about the scale of the project, the extent of intended displacement, expected impact of project, the measures taken to mitigate these, compensation, alternative livelihood options, grievance redressal and other related information. Such information needs to be in the public domain where it can be accessed easily to ensure accountability. In addition to these points, the NVGs also lay stress on how businesses deal with local knowledge and intellectual property – whether these are appropriated and branded as the company's own or if they acknowledge the community as owners of the knowledge.

- *Are there any mechanisms for communities to become aware of the social impact of the projects on their lives and livelihood?*
- *Are there any systems through which companies and the communities bargain and negotiate?*
- *Why has there been an increase in violations on communities affected by the project? Why is it often seen that the Government speaks the language of business rather than communities?*

¹³ <http://www.livemint.com/Opinion/HZ5MhH6v2UfixcTXnqKPQI/Four-letters-India-needs-to-learn-by-heart-FPIC.html>

1.6 Consumer as a Primary Stakeholder

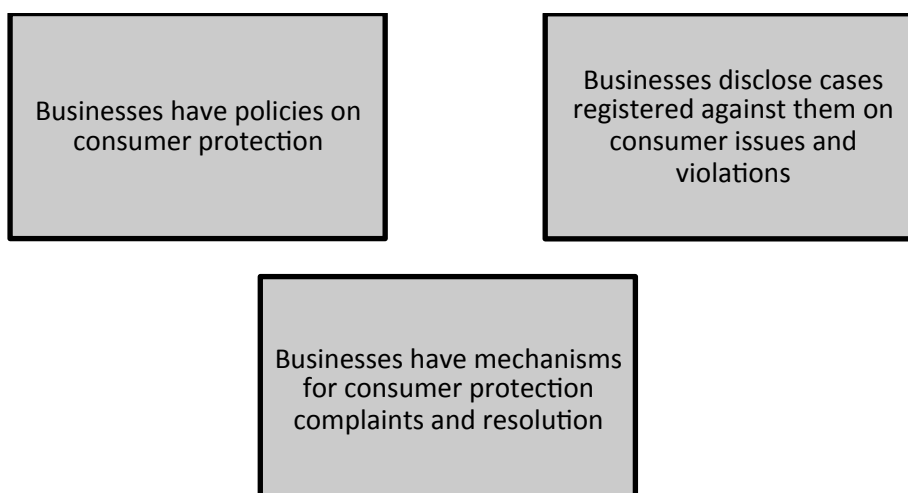
Background

The sole and end purpose of all production is consumption, where the consumer is the one who pays to consume goods and services produced. As such, consumers play a vital role in the economic system of a nation. Noted diplomat and economist, John Kenneth Galbraith said: “It is not the consumer who is the king, but it is the large corporation who is the king in the economy. Whatever happens is not because the consumers wants it that way, but simply because powerful large corporations prefer it that way.”¹⁴ Furthermore, the law uses the notion of the consumer in relation to consumer protection laws, and the definition of consumer is often restricted to living persons (i.e. not corporations or businesses) and excludes commercial users and addresses the inequalities of bargaining power between a consumer and a business that might exist. The corporate hegemony of consumers is more pronounced for consumers from the poor, low-income and socially disadvantaged consumers who are marginal players in the marketplace. These consumers are, more often than not, taken for granted.

Relevant NVGs and Pertinent Sections

Principle 9 of the NVGs recognises that businesses have a responsibility to engage with and provide value to their customers and consumers in a responsible manner. This principle enshrines the values that the customer is king and the interests and rights of this constituency should be protected, by providing accurate information about the service and product manufactured. One of the core elements, under Principle 9 states that businesses should disclose all information truthfully and factually, through labelling and other means, including the risks to the individual, to society and to the planet from the use of the products, so that the customers can exercise their freedom to consume in a responsible manner. Where required, businesses should also educate their customers on the safe and responsible usage of their products and services.”

Figure 1.6.1 NVGs expectations of Businesses on Consumer as a primary Stakeholder



Business Responsibility Reporting

The detailed guidelines that SEBI recommends primarily talk about the disclosure of responsible and sustainable practices followed by the business entities. The BRR

¹⁴ http://www.cuts-international.org/CART/pdf/Overview-State_of_the_Indian_consumer.pdf

conceptualisation is considerably more holistic than corporate responsibility, as it covers the pro-activeness from the side of the companies to ensure employee rights, fair trade practices, environmental considerations and land acquisition. The relevant aspects for consumer as a primary stakeholder include:

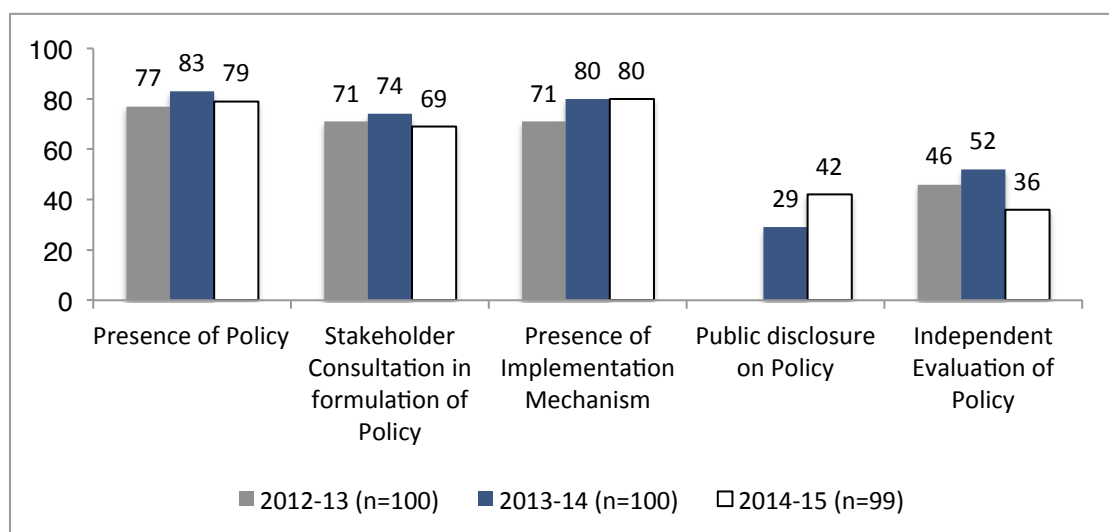
Figure 1.6.2 Key Components of Consumer as a Primary Stakeholder Expected in Policies of Businesses



Analysis of Business Responsibility Reports of top 100 companies

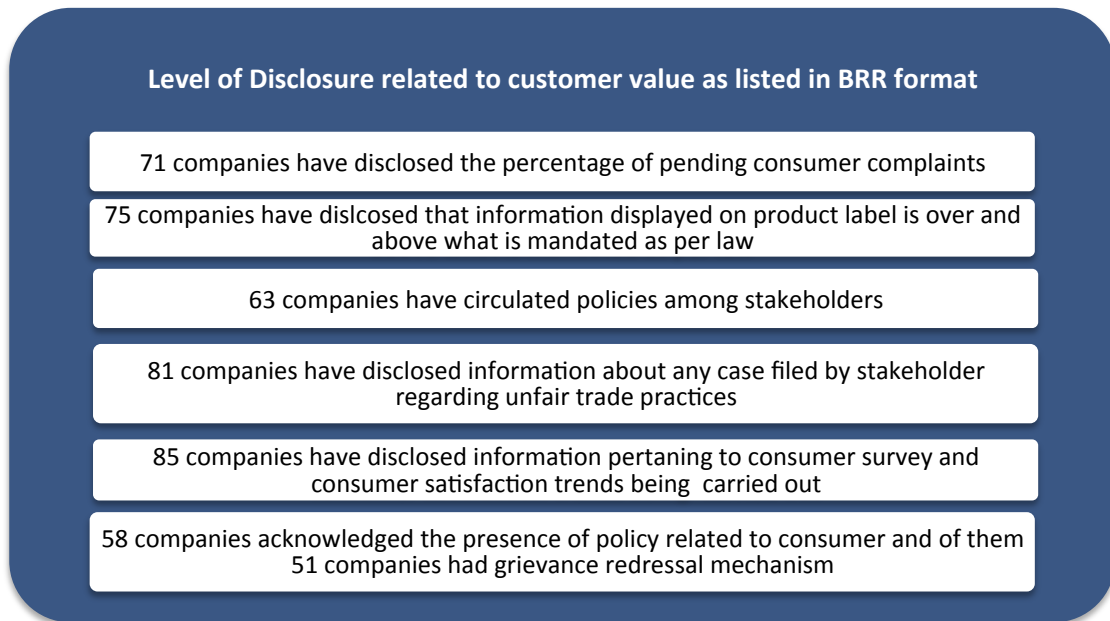
SEBI issued a notification to the top 100 companies to submit BRRs, a reporting framework reflective of the NVGs. Corporate Responsibility Watch analysed these reports for the years 2012-13, 2013-14 and 2014-15. The key findings are in Figure 1.6.3 below:

Figure 1.6.3 Numbers Of Companies With Affirmative Responses For Existence Of Policy And Implementation Systems Related To Consumers



Based on the information reported as being disclosed in the BRRs, some findings related to community as a business stakeholder are detailed in Figure 1.6.4 below:

Figure 1.6.4 Disclosures On Consumer As A Primary Stakeholder: Highlights From The Top-100 Companies



Violations

There are several media reports testifying to violation of consumer rights. A compilation of non-compliance by companies done by Corporate Responsibility Watch lists around 32 companies that have violated Principle 9 of the NVGs.

Telecom regulator TRAI imposed Rs 1 lakh penalty on Bharti Airtel in 2012-13 for violating norms of the provisions of the Telecom Commercial Communications Customer Preference Regulations laid by it to check telemarketing calls and SMSes. during that financial year.
(Source: The Indian Express, February 27, 2013)

The Food Safety and Drug Administration in the northern Indian state of Uttar Pradesh registered a case against Nestle India, after they found seven times the permissible level of lead in a routine test of two dozen noodle packets.
(Source: The Times of India, May 31, 2015)

Is consumer rights a middle class phenomenon?
In India, the sector that is under scrutiny is the health sector, as several pharmaceutical companies have been found violating the rule of over pricing products or are found carrying out unlawful promotions of certain products. Within the pharmaceutical industry as consumers, medicines are mostly unaffordable to poor people. Parts of legislations do not favour the manufacture of pro-poor pharmaceutical drugs.¹⁵ The market of medicines is the most distorted market because the brand that is the market leader is the costliest brand, it is the most vigorously promoted.” Glaxosmithkline Pharmaceuticals Ltd and other global companies have come under the scanner after allegations of conducting unlawful promotion of GSK and Pfizer drugs. With a settlement of \$3 billion, GSK pleaded guilty to charges of unlawful promotion of certain prescription drugs, failure to report certain safety data and alleged false price reporting. The promotion and false pricing invariably cater to the upper and middle class consumer segment, which is the section with the most purchasing power.

¹⁵ Poor may suffer as India caps drug prices, Nature, 14 December 2014

“When it comes to the FMCG sector, while metros will remain a staple for marketers and increasing a rural footprint will be critical for volumes in the long run, there is a growth opportunity that is vastly under-rated by many marketers today, which could emerge as a key growth engine for the next 10 years. 400 towns each with a population of 1-10 lakhs, is home to 100 million Indians and today constitute up to 20 percent of the country’s FMCG consumption.” The FMCG sector largely depends on the consumer base and consumer protection needs to be ensured through enhancing the purchasing power of marginalised and underprivileged communities. In sectors such as telecom often businesses cater only to consumers belonging to the middle or upper class and hence the responsibility towards the marginalised consumer is not recognised or acknowledged. Given that there is a lack of recognition, the mechanism also evolved would be only friendly to the literate population, who by sheer merit of the ability to read and write would have access to the mechanism and company’s formal communication formal channels. This selective process of enabling rights to the consumer denies the impoverished segment of society the right to question and get a formal response from the companies.¹⁶

Consumer Protection Act 1986

The Consumer Protection Act of 1986 defines consumer law in India. This legislation helps to protect consumers from any kind of exploitation by availing the means for hearing and considering and finally settling disputes. This Act also stipulates the goods and service providers’ responsibilities. In the year 1987, the provisions of this Act became legally binding. The Consumer Protection Act, 1986 was enacted to provide a simpler and quicker access to redressal of consumer grievances. The Act for the first time introduced the concept of ‘consumer’ and conferred express additional rights on him. It is interesting to note that the Act doesn’t seek to protect every consumer within the literal meaning of the term. The protection is meant for the person who fits in the definition of ‘consumer’ given by the Act.

In India, the Consumer Protection Act, 1986, has also provided the same rights to consumers. The rights that are covered under them are:

- Right to Safety
- Right to be Informed
- Right to Choose
- Right to be Heard
- Right to Seek Redressal
- Right to Consumer Education¹⁷

a) It applies to all goods, services and unfair trade practices unless specifically exempted by the Central Government. (b) It covers all sectors whether private, public or co-operative. (c) It provides for establishment of consumer protection councils at the central, state and district levels to promote and protect the rights of consumers and a three-tier quasi-judicial machinery to deal with consumer grievances and disputes. (d) It provides a statutory recognition to the six rights of consumers.¹⁸

Points to ponder

Often the understanding of consumers is very narrow – one that does not taking into consideration the rights of consumers who face exclusion and marginalisation on account of their identities or due to socio-economic factors. There is a need to mainstream the

¹⁶ Emerging Consumer Demand: Rise of the Small Town Indian, The Nielsen Company, 2012

¹⁷ Commentary on Consumer Protection Act, National Consumer Disputes Redressal Commission

¹⁸ Module on Consumer Protection, Business Studies

understanding that marginalised communities are also a significant section of consumers. Hence, providing products and services that meet customers' needs at an affordable price is necessary. The fact is that this segment is often not acknowledged and enumerated as consumers. The surveys are often organised with middle class consumers, which results in the absence of pro-poor products and innovations. In this context, businesses should create a business model whereby the rights of workers and employees as consumers, within the employee chain, should be strengthened, by ensuring a living wage is extended to all its employees at the shop floor and down the supply chain. Needless to say, in meeting the obligation to pay the stipulated wage necessary for a worker to meet basic needs, lies a business case, which will not only enhance productivity but also increase the consumer base. Thus, in the long run while considering this segment as vital to the dialogue on consumer rights and protection, enabling consumer grievance mechanisms that are non-literate friendly is also crucial.

- *Does business ensure that they do not restrict the freedom of choice and free competition in any manner while designing, promoting and selling their products?*
- *Does business educate customers on the safe and responsible usage of their products and services?*
- *Does business exercise due care and caution to ensure that goods and services do not result in over exploitation of natural resources or lead to excessive conspicuous consumption?*
- *Does business disclose all information factually, through labelling and other means, including the risks to the individual, to society and to the planet from the use of the products?*

2. Make in India – The One-Sided Growth Story

This section looks at recent pro-corporate changes in government policies and its social impact on workers and local communities.

Is the policy imperative of increasing business competitiveness at loggerheads with the protection of marginalised communities, including workers? The entire discourse on economic policy environment today is about “the need to increase and sustain growth rate at 7 per cent and above”, “Liberating corporates from State regulations”, “labour market flexibility” and “Ease of doing business”. The impression one gets is that the interests of the marginalised communities in the form of workers’ protections, minimum wage legislation and pro-poor schemes like Mahatma Gandhi National Rural Employment Guarantee (MNREG Act) Scheme are restrictive and constraining the growth of the economy.

Creating a pro-investor policy environment

The entire set of new policy prescriptions favouring investors and businesses are typically presented as though labour flexibility is in the interest of the workers, as it would ensure job creation. Clearly, the growing nexus between corporates and political parties typifies the increasing influence of corporates in government policies. The takeover of the policy domain by corporates in order to alter the business environment to suit its interests is a very real threat. Increasingly, pro-corporate policies in the past year indicate the government’s interests in engaging with and dependence on businesses whereby more blatant and brazen anti-poor policies have been put in place or have replaced some of the more progressive pro-poor policies such as Land Acquisition Act, Forests Rights Act, MNREGA and the various labour laws, only to serve and protect the interests of the corporates.

Corporate donation is a vicious cycle. A corrupt nexus develops through corporate donations to political parties. The parties, once they return to power, ensure paybacks to these corporates that they have to return to during elections. There are good reasons for sounding a note of warning on this unholy nexus in an environment where there is no public debate and opinion on the same or attempts are made to suppress such debates and opinions.

The Government’s current focus is on strengthening the business environment through its ‘Make in India’ campaign. Make in India is an initiative to boost manufacturing in the country by attracting overseas companies to set up businesses here and for domestic businesses to increase production within the country, by relaxing regulatory policies to facilitate investments and enhance ‘ease of doing business’. To accomplish this, successive governments have allowed 100 per cent FDI in all the sectors except space (74 per cent), defence (49 per cent) and news media (26 per cent). The government has enabled provisions for online filing of income tax returns, obtaining environmental clearances and extending the validity of industrial licence to three years. Similarly in order to improve ‘Ease of Doing Business’ the government has made significant improvements in the regulatory environment through deregulation, delicensing, reduction in number of documents and simplification of procedures for investments. These steps are being adopted to create an enabling environment for industries, encourage investors, boost economic growth and create jobs. Ease of Doing Business not only promotes a competitive private sector but also competition among states to lure corporates that would contribute to their economy. Government’s stress on ‘Make in India’ is not solely about policies that facilitate ‘Ease of Doing Business’ but also about policies that adversely impact certain support systems of farmers, workers and communities within the supply chain. The immediate policy implications can be seen in several areas.

Easy land acquisition for business – tough on people

There is a massive increase in the percentage of landless, marginal and small farmer households from 69.24 per cent in 1992 to 92.84 per cent in 2012 as per a National Sample Survey Organisation (NSSO) survey. There has also been an increase in fragmented landholdings. In this context, the amendments to the Land Acquisition, Rehabilitation and Resettlement Act 2013 (LARR) will have serious implications on the lives of the rural poor, their livelihoods and on food security concerns of the nation. While the current government has faced stiff opposition on the amendments they intended to make, the fear persists that government will make renewed attempts to ease land acquisition for corporates.

In the pre-independence era it was not foreseen that corporates would acquire land in such a massive manner. Under pressure the land acquisition law was amended in 2013 - The Right to Fair Compensation, Resettlement and Rehabilitation and Transparency in Land Acquisition Act, 2013 that included the need for mandatorily conducting a social impact assessment (SIA) in consultation with the concerned Gram Sabhas. Despite its flaws and infirmities, it included the essential elements of land rights and justice. The government in 2014, based on the argument that it wants to ease the process of doing business in India, issued an ordinance circumventing the pressure from institutions such as the Parliament. The Right to Fair Compensation and Transparency in Land Acquisition, Resettlement and Rehabilitation (Amendment) Bill 2015 that enables the government to exempt five categories of projects (defence, rural infrastructure, affordable housing, industrial corridors, and infrastructure including PPPs where government owns the land) from the requirements of: (i) social impact assessment (SIA), (ii) restrictions on acquisition of multi-cropped land, and (iii) consent for private projects and public private partnerships (PPPs) projects.

SIAs estimate the costs and benefits of a project. It assesses whether land acquisition is in public interest or not, people that would be affected by the project and its impact on their lives and livelihood. Further, it also provides the basis for drawing up a meaningful compensation plan. The government has proposed a diluted form of SIA that will separate the land acquisition decision from the rehabilitation and resettlement of the people affected by the projects. Under this proposed diluted SIA, any rehabilitation and resettlement will be reduced to a mere charade.

SIAs are crucial information about projects available to citizens whether affected directly, indirectly or not. In exempting some projects from conducting SIAs, the government is taking away the right to this information from citizens. How can the government allow such exemption and how in such cases do compensation, rehabilitation and resettlement get decided?

Quick clearances at the cost of the environment

The last year saw the government hastily issuing environmental clearances for five infrastructure projects that included Adani Ports' Mundra special economic zone (SEZ) in Gujarat, two coal mining projects – Coal India Limited (CIL)'s Tikak block in Assam and Reliance Power's Chhatrasal block in Madhya Pradesh (MP), GAIL's gas-based power plant in MP and a state highway renovation project in Assam. The Comptroller and Auditor General Report had pointed out financial gains to Reliance-Power for coal allotment to Sasan Ultra Mega Power Project and called for a review of the allocation of the Chhatrasal coal block for the Sasan power plant. The project was given a go-ahead by the environment ministry in July 2015. The Gujarat High Court had ordered the closure of the 12 out of 21 operational units in the Adani Ports and Special Economic Zone due to lack of environment clearances. After

the Supreme Court directed the government to decide on its clearance, the Union environment ministry issued clearances in July 2015. Given the current deliberations around climate change, it is crucial that India also shoulders the responsibility of its contribution towards the same and makes amends in its policies and laws to ensure reduced contribution to global carbon emissions.

Disempowering the work force to favour a few

The government is diluting labour laws to ensure labour market flexibility that is corporate-friendly. Proposed amendments to the law are pushing the trade unions to the margins. With the amendments made to the Trade Union Act 1926, the documents required for registration of a trade union have been doubled and the number of office bearers who could have potentially been from outside the industry (like lawyers and activists) has been reduced from one-third or half the number of officers to only two officers. Further, the number of reasons that can be used to cancel the registration of an existing union has been increased from three to five. The trade unions, that serve as a safety valve, claim that the amendments have been made without consulting them while the Ministry of Labour and Employment denies the allegations. Thus, now forming a trade union has more conditions than starting a business.

In addition, with the Industrial Disputes Act (IDA) now applicable only if the case involved 300 workers or more will put 50 to 60 per cent entities outside the scope of influence of all laws. Changes to the Contract Labour Act, raising the employment under any contractor from 20 to 50 workers would allow the employers to avoid abiding by almost all the labour laws applicable for contracted workers in private sectors as well as in public sector undertakings. These amendments to the Factories Act, the Industrial Disputes Act and the Contract Labour Act besides making the formation of trade unions more difficult, makes it much easy for industrialists to fire workers.

Children in India form a considerable proportion of the workforce. The Census found an increase in the number of child labourers from 11.28 million in 1991 to 12.66 million in 2001 and 21.39 million in 2011. The issue of child labour is complex because of its social and economic ramifications and the definition of 'child', 'labour' and 'forced'. These become more complex when viewed from the perspective of autonomy of a child. However, in no way should the government promote or legitimise child labour. The Government of India proposed an amendment to the child labour law whereby exception will be made for children to be engaged in family based enterprises. With family enterprises and industries opting for the piece-rate system, the involvement of women and children will increase. Women and children often get invisibilised and their labour is often unpaid for. The likelihood now is that they will be pushed towards more exploitation than they already face. This amendment to the child labour law cannot be read in isolation but along with the Small Factories Act 2014 that exempts factories employing up to 40 workers from following 14 labour laws including child labour law. Many of these small factories could also be family enterprises. Further the Small Factories Act is another example of ways in which the laws put the workers outside the purview of laws meant to benefit them. This would impact practices in the supply chain, which would now go unchecked.

When talking of labour, it is essential to discuss wages. The Minimum Wages Act has always been seen as market distortion. Businesses use multiple ways to circumvent the implementation of this law through sub-contracting and the piece-rate system. However, a scheme like MNREGS managed to influence the wage market and this was something that was beyond the control of the private players. MNREGS' biggest achievement was that it

ensured minimum wages to those employed in the worksites. It substantially influenced the wage market whereby people began refusing work that paid lower than what was being paid to them under the scheme. Marred with corruption and with little or no access to the scheme, non-availability of work, little or no payment for work and delayed payments over the years – an indication of poor governance – made MNREGS unable to influence the wage market. People started taking up jobs with lower wages as they did not receive full or partial payment under the scheme. The government has in the last year expressed concern over the corruption and that the scheme does not generate revenue considering what it costs the exchequer. It wants to amend the scheme and restrict it to poorest 200 districts.

It is well known that the funding for MNREGS has come down. Mere 0.3 per cent of India's GDP goes toward the scheme, which benefits about 50 million households. Further, corruption cannot be a good enough argument to do away with a scheme. So is scrapping MNREGS another step to favour the corporates by altering the wage market?

NVGs and the potential for making businesses accountable

Development today camouflages as “Make in India” and law follows it. Set against this background, it is important to ask the question: Who are these ‘people that will help make’? Similarly, in the context of ‘Ease of Doing Business’, who are the people that will ensure businesses are able to perform and deliver? It is none but the workers. Although the laws should promote the welfare of the workers, the key players we would assume of the Make in India campaign, they instead favour and encourage investors. It is important for businesses to recognise workers as their primary stakeholders. This paradigm shift is imperative to ensure economic and social security of the key stakeholders of businesses. This paradigm shift needs to extend to policies too so that the policy environment is more conducive to workers and local communities than to the investors.

The above changes in policies can have adverse implications on workers' communities and the community of people affected by various industrial projects. In the above scenario of adverse policy implications, the National Voluntary Guidelines (NVG) are an important effort towards inclusive growth. The NVGs formulated in 2011-12 by the Ministry of Corporate Affairs are the only instruments safeguarding the interests of these communities. However, these guidelines are voluntary. The reporting on these guidelines was made mandatory for the top 100 companies by SEBI. They are required to report on their performance and compliance to the guidelines as per the Business Responsibility Report format. What the guidelines anticipate is for businesses to self-assess their adherence to the principles and standards under the NVGs while making it mandatory to report on the same for a restricted few businesses. Thus, the voluntary nature of the guidelines allows businesses to bypass the principles and standards laid out in the NVGs. This necessitates a regulatory reporting system for all businesses based on the NVG to ensure corporates endeavour towards a set of policies and practices that aim to achieve the “triple bottom line – people, planet and profit”. However, it also necessitates not only the expectation of regular reporting from SEBI – as we know how the companies' reports circumvent most questions to their benefit – but also periodic analysis of the BRRs to monitor their progress towards responsible business.

3. Business and inclusion – key insights

3.1 Inclusive Businesses: Towards Non-Discrimination at the Workplace

- Ashok Bharti¹⁹ and Vikrant Wankhede²⁰

Introduction

In the current context of an expanding private sector and rapid privatisation of the economy, ensuring non-discrimination at the workplace demands various measures to include marginalised and excluded populations. Indices now show the private sector is growing at 7.1 per cent and the public sector at 1.2 per cent (1st Revised Estimate, Economic survey of India 2013-14). At the same time, the private sector is contributing four fifths of India's GDP, and the public sector only one fifth. The expanding contributions of the private sector to the national GDP and investments in the private sector are suggestive of the impact that companies have on people's lives. According to the Asian Development Bank (ADB) report, these figures stand at 90 per cent and 75 per cent respectively. This indicates the significant influence of private companies in terms of providing employment and their influence on daily consumption patterns.

Internationally, debates revolving around inclusive workspaces have been gathering momentum. More lately, the eighth of the Sustainable Development Goals (SDG 8) promotes '**Sustained, Inclusive and Sustainable Economic Growth, Full and Productive Employment and Decent Work for All**' by the year 2030. Target 8.5 particularly states '*achievement of full and productive employment and decent work for all men and women, including for young people and persons with disabilities, and equal pay for work of equal value*'. To support the fulfilment of the SDGs, the indicators that are being discussed by the United Nations shall be amended as per national realities. Thus disaggregation of indicators must be based on caste, tribe, gender, religion, youth population and physical disability. In many countries the debates are converting into concrete policy measures such as the Affirmative Action (AA) policy to make workplaces more inclusive in terms of hiring and promoting inclusion. Adoption of measures to prioritise the welfare and promotion of groups that have been directly and indirectly affected by socio-cultural factors are now finding space in company policies on hiring, promotion and in other areas. In the case of India, the key feature of social and community development is severely handicapped with several loopholes functionally. This is compounded by the reluctance of companies to act inclusively in principle and in policy as they fail to understand and abide by founding principles of India's Constitution.

Policy interventions

Articles 15, 16 and many others of the Indian Constitution lay the framework of inclusion in the nation. The need of the hour is to push these within the corporate sector, beginning with work places, hiring practices and government backed HR policies. This can play a vital role in following and fulfilling the Constitutional mandates that are amiss presently. The widely contested policy of Affirmative Action (AA) in private sector companies can play a key role in providing inclusive recruitment practices. This may be on the lines of preferential treatment at the time of hiring based on one's caste, tribe, gender and other or providing a fixed quota system for population proportionate representation. Equal opportunities herein would highlight that the idea of equality can be realised only when preferential treatment is put forward to individuals from weaker or disadvantaged backgrounds. The implementation of

¹⁹ Chairperson, National Confederation of Dalit and Adivasi Organisations

²⁰ Programme Officer, National Confederation of Dalit and Adivasi Organisations

AA, however, should be backed by enough programmes that make the policy relevant to achieving its target of nation-building and community development: especially that of the Dalits, Adivasis and other minorities. AA plays the role of providing opportunities and representation to the weaker sections in the private economy. However provisions shall also be made for individuals to perform to the fullest of their capacities and cope with the demanding nature of the work.

To make workplaces inclusive, there is a need to formulate and implement appropriate policies, develop redressal mechanisms and provide constant training and orientation for employee skill upgrade so that they are able to manage the evolving needs of the company and the economy at large. **A national-level monitoring authority with regards to AA in the private sector shall be constituted for smooth implementation and quicker impacts.**

Arguments of merit and language barriers

Any efforts to introduce AA policy in the private sector faces stiff opposition, the advocates relying heavily on the arguments of 'merit', 'quality' and 'hard work'. The private sector exclusion of the marginalised is further compounded by the lack of 'English' language skills and formal professional/ technical education. English language being synonymous with companies, Dalit and Adivasi community jobseekers find it difficult to compete and also find it difficult to cope with the language, which can affect integration as well as progress. Language training during recruitment could thus play a vital role in determining welfare of communities and at the same time fulfilling the requirements of the companies. In the context of discussions around merit, the historical and prevalent injustices against the Dalits, Adivasis and other populations are often ignored. Advocates of merit herein tend to forget the exclusive social networks and 'word of mouth' hiring that only the privileged classes have, not to mention the historic social and educational advantages. The AA policy and thorough developmental/orientation programmes can thus serve as a necessary counterpoint to historic and enduring privilege. **Similarly, the expensive nature of higher education can be brought down by implementing scholarships and freeships in private educational institutions.** This would provide increased opportunities to disadvantaged groups and prepare a generation of learners equipped with the market and company requirements.

Revealing data on the marginalised

The adoption of the AA policy is only voluntary by industrial lobbies such as for example the Confederation of Indian Industry (CII). It is however pertinent that the member companies should at the least reveal data on their supply chain engagement, CSR policy, community engagements, recruitment policy and other relevant data on the number of Scheduled Caste and Scheduled Tribe employees, representation of women, Dalits and Adivasis in the board, Dalit women, differently abled persons and others. **The disclosure of such information is essential as it pertains to issues that have a direct impact on the lives of disadvantaged groups, including their livelihoods, consumption patterns, welfare and the environment. Mandating disclosures of this nature would therefore incline companies to be more responsible in their business practices and approach to society as a whole.** For example, on an average every fourth consumer belongs to the Dalit community and therefore becomes an integral part of the companies' engagement with society. Similarly the companies should, as a mandate, provide information and numerics on the demographic representation and value of their products among other things.

Non-Discrimination at the Workplace

The Principle 3 of the NVGs says businesses should promote the wellbeing of all employees.

The principle recognises that for a business to be inclusive it should provide a workspace where every employee gets an equal opportunity in terms of employment, promotion, career advancement, etc. There should be no discrimination of any form. The principle encompasses policies and practices relating to the dignity and wellbeing of employees.

Drawing parallels, it is pertinent that business opens up to the variety of handicaps that are a part and parcel of the lives of the marginalised. Secondly, appropriate mechanisms should be put in place within companies for maximum output and individual growth. This would also deal with the problems of discrimination within the workspace, thereby providing opportunities for collective bargaining, participation and associations. In addition to fair wages, the companies should also provide an environment where the dignity and rights of the workers are upheld. Work-life balance of all employees and especially that of women should be catered to on a priority basis while training, orientation and refresher programmes shall be offered to all to create a fair and conducive process of work output and individual development. **Various cells such as the SC/ST and Social Protection Cells should be created and promoted under the direct responsibility of the head of the companies to ensure a harassment free workspace. These Cells should directly report to the Ministry of Social Justice and Empowerment or its equivalent.** The said measures would not only promote a sustainable business model, but it would also provide ample opportunities for the excluded sections to participate freely in the private economy, thereby opening a pool of avenues for development and progress at the larger level.

Conclusions

It shall be highlighted that India is inherently a hierarchical society with numerous inequalities and practices of 'purity and pollution' and other dichotomies of 'superior and inferior'. There is a pressing need to acknowledge the exclusionary structure of the society before we move forward. Once the issue of lack of representation, discrimination at the work place and others are identified and recognised, it is only then that these can be developed into concrete agendas and policies for action. Secondly, there is a huge disparity between the population and their proportionate representation in every field, and especially in the private economy. This is especially true for Dalit and Adivasi communities, hence the need to take active steps to ensure proportionate representation. From a rights-based perspective, it may also be argued that every member of an excluded group is, equally, a consumer of the product and hence significantly contributes to the life cycle of the product. These groups thus contribute to the successes and failures of the company in every way. Keeping this in mind, as a first step, a diverse work place must be promoted and catered to for an inclusive and just society.

3.2 NVGs, Business Responsibility Reporting and the reality

- Amita Joseph²¹

The National Voluntary Guidelines - the NVGs, as they are popularly known - were released in July 2011. It would have remained just that - one among the many guidelines and voluntary codes prescribed until, in August 2012, the Securities and Exchange Board of India (SEBI) made it mandatory for the 100 top companies listed on it by market capitalisation to report on their performance across 9 principles and their core elements, as part of the annual reports from the financial year ending March 2012 onwards. The circular recognised

²¹ Director, Business and Community Foundation

that enterprises are not just accountable to shareholders but also to society and that social and environmental norms were as significant as financial parameters. The Equity Listing Agreement was amended to include Clause 55 and hence reports from 2012-13 and thereafter were available in the public domain. Other listed entities were also encouraged to voluntarily report.

At the centre of an enterprise are its human resources, its workers. The third Principle of the NVGs encouraged businesses to promote the wellbeing of all employees. This encompasses all policies and practices relating to the dignity and wellbeing of employees engaged within a business or in its value chain. It extends to all categories of employees engaged in activities contributing to the business, within or outside of its boundaries, and covers work performed by individuals, including sub-contracted and home-based work. Its core elements includes the following, of which many are mandated by law:

1. Businesses should respect the right to freedom of association, participation, collective bargaining, and provide access to appropriate grievance redressal mechanisms.
2. Businesses should provide and maintain equal opportunities at the time of recruitment as well as during the course of employment irrespective of caste, creed gender, race, religion, disability or sexual orientation.
3. Businesses should not use child labour, forced labour or any form of involuntary labour, paid or unpaid.
4. Businesses should take cognisance of the work-life balance of its employees, especially that of women.
5. Businesses should provide facilities for the wellbeing of its employees including those with special needs. They should ensure timely payment of fair living wages to meet basic needs and economic security of the employees.
6. Businesses should provide a workplace environment that is safe, hygienic, humane, and which upholds the dignity of the employees. Business should communicate this provision to their employees and train them on a regular basis.
7. Businesses should ensure continuous upgrading of skill and competence of all employees by providing access to necessary learning opportunities, on an equal and non-discriminatory basis. They should promote employee morale and career development through enlightened human resource interventions.
8. Businesses should create systems and practices to ensure a harassment free workplace where employees feel safe and secure in discharging their responsibility

Source: National Voluntary Guidelines²²

The BRRs analysed by Corporate Responsibility Watch (CRW) for levels of disclosure point to the fact that while companies disclosed indicators related to employees, aspects such as safety and skill upgrade was disclosed only by about 53 of the top 100 companies and the same number had a policy on employee wellbeing, with 39 having placed it for public view. The questions in NVGs and BRRs need to be tightened with less loopholes for non-reporting. The format is limited in terms of providing an overall picture on indicators such as wage and remuneration parity by gender, equal opportunities and non-discrimination at the time of recruitment and employment across caste, class, gender, disability or sexual orientation.

The recent India Responsible Business Index (IRBI) developed by CRW, Oxfam and Change Alliance focused its attention on self-disclosed data on company websites. In terms of

²² Ministry of Corporate Affairs, Government of India:
http://www.mca.gov.in/Ministry/latestnews/National_Voluntary_Guidelines_2011_12jul2011.pdf

employee wellbeing, there is promise in terms of health and safety commitments – with 82 companies recognising their employees’ need for healthy and safe working conditions; but there is only limited recognition of some key entitlements such as fair living wages and freedom of association, while institutional measures to address issues such as forced labour are not universally disclosed.

What is the scenario across the country?

The findings from surveys conducted by the National Sample Survey Organisation (NSSO) are dismal and point to a widely known fact that only a small share of employment today is in the organised sector. Almost 69 per cent of workers in India had neither a written contract nor eligibility for paid leave as compared to 63 per cent in 2004-05. Conditions for workers have deteriorated over the years in both agriculture and non-agriculture sectors. 72 per cent of workers in the non-agrarian & AGEGC (agricultural sector excluding only growing of crops) sectors had no social security such as pensions, gratuity or healthcare coverage. The central point that seems to emerge is the employers quest for higher flexibility (and profitability) versus more equitable remuneration for both permanent and non-permanent labour. Top down policy led approaches do not work. Although overall total Employment itself rose in India between 2004-5 and 2011-12 from 457.9 to 472.4 million 86 per cent of the workers in the private sector and 50 per cent of the workers in the public sector were in units that could be designated as “unorganised” based on employment size. In absolute terms there were more who joined the unorganised sector than those who were in the smaller organised sector, presenting a grim and dismal picture. The demand and supply positions ensure that workers get a raw deal.

In a discussion paper in 2013, for the Planning Commission, Arun Maira, a then member, had said that “Human resources are the only appreciating resource in an enterprise, the only element of business which increases in value under suitable conditions, all other resources depreciate with time. The best enterprises and most competitive nations therefore consider people their prime asset and source of competitive advantage.”²³ The same report pointed out three significant factors that impinge on the manufacturing sector that employed 60 million in 2008 and whose contribution to GDP is in the range of 15 per cent, employing 12 per cent of the workforce. These are the rampant use of contractual labour and the high level of disparity in remuneration as compared to the permanent workforce, non-payment of statutory benefits, and poor working conditions. Discontent across the workforce and unrest in many sectors particularly in the automobile and garment sectors was picked up as a simmering issue much before workers went on a rampage in some Gurgaon factories. “Skill gaps, low attractiveness of manufacturing jobs, poor quality of skill development and training” was also highlighted. In light of all this, it is surprising that industry has asked for further labour reforms (wrested after decades of struggle), in what is already a stressed environment.

The ‘Safe in India’²⁴ report released in September 2015 by the *Safe in India* team and *Agrasar* on what can safeguard workers in the automobile sector in Gurgaon and the Faridabad region is small yet significant as India is one of the largest auto parts exporter in the world and its auto industry is one of the world’s largest. The majority of the case studies were from Tier 2 and Tier 3 factories, highlighting the lacunae that exist in safety protocols and infrastructure in units, which supply to the big brands. No training had been provided,

²³ Planning Commission Report on “The Manufacturing Plan, Strategies for Accelerating growth of Manufacturing in India in the 12th Five Year Plan and Beyond”

²⁴ Safe in India Report -www.safendia.org and AGRASAR www.agrasar.org

no safety mechanisms or safety regulations existed. There were little or no safety control systems, there was a lack of good quality safety equipment and little or no access to Employees State Insurance (ESI) for healthcare. In spite of having a good legal framework in the form of the ESI Act for the protection of workers, the country suffers from the chronic problem of lapses in the ESI service delivery as well as monitoring of the Minimum Wages Act. It is also ironical that levels of contractors remain complex and multi-layered, with it being almost impossible to pin down the primary employer. Maruti employees continue to languish in jails while agitations across auto employees continue to highlight issues just as in the garment and construction sectors. Disclosures or reporting formats cannot be seen in isolation or work in silos and the larger distress signals can be ignored only at peril to the nation itself.

The Directive Principles of State Policy provide for the securing of the health and safety of all workers, just and humane conditions of work and that Government shall take steps to secure participation of workers in any industry. 'Make in India' and 'Skill India' campaigns must address these aspects with strategies as much as their pitch for overseas investments, Foreign Direct Investment, etc. Therefore to report on Principle 3 of the NVGs "businesses should promote the wellbeing of all employees" in the light of these circumstances seems a futile exercise until we can find equitable solutions for the 'unseen worker' who contribute cheap goods and services that affluent and middle class customers purchase and continually demand. It is the paradox of our times that the higher the levels of affluence, the cheaper the people want their goods and services to be. Somebody pays the price and in our context it is usually the worker at the end of the supply chain.

3.3 Community Inclusion in Corporate Social Responsibility programmes

- Pradeep Patra²⁵

Background and Context

Occasional debates around the role of business in society notwithstanding, we have seen an increasing acceptability of the idea that the private sector has a critical role to play in society other than being concerned about profits alone. The evidence of this shift is being seen in a number of guidelines, declarations, coalitions and standards set up by Governments, multi-lateral agencies, voluntary agencies as well as by businesses themselves. Most of these business responsibility discourses and initiatives have centred around three broad aspects – a) delivering sustainable products and services that minimise harm to the planet, b) following ethical practices in business conducts such as improved governance systems for decision making, labour practices etc, and c) engagements to reduce negative impact on affected communities, improve the relationship with them and contribute to their wellbeing. The current paper focuses on the third aspect i.e. private sector role in community development, the challenges therein and some thoughts on improving the engagements.

While the growing importance of direct community engagement is evidenced by an increasing number of CSR projects, this has also remained a huge challenge before businesses. This is primarily because this aspect requires the businesses to venture into their non-core areas of operation requiring long-term engagement with communities to understand complex development challenges and come up with effective solution-based approaches. In the Indian context, community engagement is virtually the whole of CSR,

²⁵ Senior Programme Officer, National Foundation for India

excluding the resettlement and rehabilitation of the affected communities. An inclusive and participatory approach is generally recommended both by experts and national as well as international guidelines for a number of reasons, including the following:

- a. *For improved CSR project design and thus better outcome/impact:* Community inclusion and participation in CSR projects from an early stage can help in carrying out a more authentic needs assessment and in generating an improved understanding of the local dynamics in order to better design the project. Such improved understanding of the needs and solution approaches are key for project innovation.
- b. *For project acceptability and building social capital for the company:* Participation of the community also ensures that they more readily accept the project interventions, thus reducing implementation barriers for the company.
- c. *For more equitable distribution of benefits:* This is one of the most critical yet often overlooked aspects of development interventions. Inclusion and participation of all social groups especially by the socially excluded group ensures that the benefits reach the people who need them the most and the project is not co-opted by politically or economically stronger groups within the beneficiary community.
- d. *For better monitoring and assessment of impact:* Community engagement creates formal/informal systems of project accountability which helps in receiving much more proactive monitoring data than otherwise possible, thus reducing project risks.
- e. *For local institution building or capacity building of existing institutions for long term sustainability of activities:* At least some of the community institutions developed during project implementation usually continue to produce further benefits once the project is completed
- f. *For improved business reputation and social goodwill:* By engaging in human development efforts, the company is more likely to gain not only community goodwill but also goodwill from different stakeholders.

Status of community Inclusion and participation in CSR: Some key findings

Different businesses adopt various methods and models of community engagement. While most of community inclusion discourse has centred on community inclusion as an outcome, there has been little focus on community inclusion as a 'process' in designing interventions or on community inclusion as part of 'evaluation of impact'. This discourse is also a direct result of the currently prevailing community engagement practices. With this in mind, Corporate Responsibility Watch (CRW) and others conducted a study, *'Making Growth Inclusive: Analysing Inclusive Policies, Disclosures and Mechanisms of Top 100 Companies'* (October 2015) to find out the level of current commitment among top 100 listed companies. The companies were differentiated on the basis of the following criteria:

- The corporate has a clear policy on CSR with details of key objectives, their implementation and monitoring in the public domain
- Along with a policy commitment the corporate has established a CSR committee to steer CSR operations along with proactive identification of key thrust areas, backward regions and vulnerable communities
- The corporate has well-defined knowledge systems to inform companies regarding the needs of vulnerable groups/backward areas as well as for impact evaluation

Analysing the self-disclosed information by corporates through their annual reports, websites, business responsibility reports, etc on the above aspects, the following findings emerged:

- a. *Recognition of CSR through policy document and implementation systems:* of the top 100 companies, 87 companies have endorsed CSR within their policies. Significantly, 75 of these companies, in their policies, have incorporated detailed systems of implementation and monitoring of CSR as well.
- b. *Identification of beneficiary group and project area:* 63 companies identified women, children, scheduled tribes, scheduled castes and youth as their target stakeholders. Only 23 companies stated a commitment to identify backward regions as focus of the CSR programmes.
- c. *System to carry out needs assessments and independent impact assessment:* these are critical knowledge systems for companies to evolve their programmes as well as policies. As seen in Table 3.3.1, 17 companies disclosed that they carry out needs assessments as part of CSR projects and 22 companies stated that they conduct independent impact assessments. More than two third of the companies had systems to assess outreach in terms of numbers of beneficiaries
- d. *Community engagement in needs assessment and impact assessment:* Participation of vulnerable groups reflects the extent to which CSR programmes are inclusive. However, only two companies mentioned involvement of vulnerable groups such as children, people with disabilities, women, SCs and STs in needs assessment processes and only one company mentioned the involvement of the mentioned groups for impact assessment of their CSR
- e. *Disclosure on displacement and engagement with displaced communities:* Just one out of the top 100 companies have been found to have recognised the principle of Free, Prior and Informed Consent for displacement. Only 4 companies have disclosed any information on people displaced or affected. Only two have disclosed any information on people who have been rehabilitated or resettled.

Table 3.3.1 Findings of analysis of self-disclosed information by corporates

Recognition of key aspects	Number of companies
Identification of backward regions for implementing community development projects	23
Identify and specify some distinct vulnerable identities as target stakeholders with whom companies plan to implement their CSR programme	63
Presence of system for/to:	
Needs assessment for initiating CSR projects	17
Stakeholder consultation for formulating CSR policy	1
Independent impact assessment of CSR projects	22
Estimate number of beneficiaries	68
Determine distribution of expenses on CSR across themes	24
Source: 'Making Growth Inclusive: Analysing Inclusive Policies, Disclosures and Mechanisms of Top 100 Companies' (October 2015): 39-42	

Discussion on broader trends on community inclusion-participation in CSR and implications

Apart from these direct findings suggesting the extent and nature of community inclusion in the CSR initiatives by corporates themselves, there are also broader critical findings suggestive of certain trends. These trends are shaped by Government action or by the collective actions of corporates, which have rather a long-term and critical impact on the way community inclusion is going to be shaped in the coming days. Here are some of the key trends worth discussing:

- a. Changing role of the government in CSR:** After the initial enactment of the CSR mandate, several state governments have been only too willing to establish state development funds for collecting CSR money. The Gujarat government recently established a Gujarat CSR Authority to “create a CSR fund with contribution of PSUs and private sector companies and channelise the CSR fund”²⁶. Other states such as Jharkhand and Maharashtra are now establishing their own funds. While there is nothing wrong with supplementing government schemes, such engagements become vulnerable to misuse as tools to win direct or indirect goodwill from the government. They also use up valuable resources that could have been invested in areas of need beyond government focus. Continuation of such a scenario would necessitate the question as to whether CSR is becoming less of a philanthropic activity by the private sector and more of a welfare tool for governments to deliver their services. It does not quite go with the spirit of CSR and typically omits community inclusion and engagement requirements.
- b. Creating infrastructure but not building community systems:** Following the lead provided by Schedule VII of the CSR Rules, most qualifying companies have invested in a handful of areas listed in it. The choice of area and nature of CSR projects also reveal a lot about a company’s focus on community inclusion and participation. Not surprisingly, many studies have found that the CSR investments are not only concentrated in a handful of areas, but focus only on the easier infrastructural part of it where community inclusion and participation aspects may not be so critical. For example, after the Prime Minister’s call to build school toilet blocks as part of Swachh Bharat Abhiyan, it has become one of the most popular areas for CSR expenditure. However, the fact is that school toilets are mandated within Sarva Shiksha Abhiyan (SSA), one of the largest centrally sponsored schemes with a budget of Rs 22,000 crore for 2015-16 (which is incidentally more than the entire estimated CSR contribution under the Companies Act). That a whopping 20 per cent of the money under SSA remained unspent from 2014-15 and more than 1,62,000 schools toilets remain dysfunctional (according to a minister’s reply in Parliament) does raise a few questions. On the other hand, as per media reports, corporates have built approximately 20,000 toilets under the scheme in 2014-15. From the above figures questions arise as to why so many toilets remain dysfunctional and what it would take to ensure such wastage is not repeated. Could they not have invested the same money to restore the non-functional toilets by providing water supply and in ensuring effective community participation, rather than build new ones? Till the time corporates are not able to break into the nuances of community inclusion and participation similar situations will continue to arise.

²⁶ Gujarat CSR Authority <http://gcsra.org/>

- c. CSR to further strengthen regional and social group disparities:** The finding that only 23 companies have included identification of backward areas to focus their CSR raises the possibility that the CSR expenditures may not reach those who need them the most and may actually exacerbate regional inequalities. Initial findings also suggest most of the CSR investments in India have been made in a few already industrialised states, while most backward states have received very little investment from CSR. Given the fact that a handful of already prosperous states dominate industrialisation in India, most of the CSR might be directed into those states, leaving out the poorer states – a classic case of the poor getting a poorer deal in poor states. Similarly, very few companies have gone a step beyond to actually identify socio-economically excluded groups as CSR project beneficiaries. There is very little focus or investment on communities belonging to SC/ST communities, or communities living around forest/hilly areas or geographically remote areas, or communities who still are living on the margins due to long standing social exclusion.
- d. Focus on process along with the outcome:** One of the most emphasised yet least acted upon aspects of the CSR mandate has been its implementation in partnership with civil society/NGOs, most of whom have always advocated for and been practicing community inclusion and participation in implementing development projects. Even Governments regularly recognise and utilise the services of NGOs for their capacity to work with excluded groups and communities in difficult and remote area. At the moment much of the CSR work is a mix between implementation by the corporate's own foundations, employee engagement, contribution to funds and to a lesser extent by partnerships with NGOs. Civil society in India given its years of experience possesses the unique understanding and skills to bring about social change. Corporates will do a lot of good if they partner with NGOs in issue-specific interventions, rather than creating their own implementing foundations and trying to reinvent the wheel. Such partnerships shall also help corporates in investing in areas that require long-term community engagement. This would not only help them better understand complex societal problems but also to better design and engage with communities.

Challenges and way forward

There are a few factors for which businesses may like to avoid or underplay community inclusion/participation within their CSR initiatives. The following are some of the key challenges and approaches to improve community inclusion and participation in CSR projects:

1. **Operational factors:** Community inclusion and participation does have operational implications in terms of an increased resource and time requirement for any project. However, the long-term benefits most certainly outweigh the increased input requirements. This would require a long-term engagement perspective at the planning stage rather than short-term outcomes.
2. **Need for engagement with local agencies/NGOs:** One of the ways to reduce above-mentioned operational costs is by engaging local agencies/NGOs who have a longer presence within the community. Businesses open to local partnerships tend to have more sustained and mature community partnerships than those who are unwilling to do so.

3. Fear of being seen taking up positions on contentious social issues: Some corporates avoid making social 'equity' related investments fearing this may upset some other consumer groups who might have a different view and thus end up taking on softer issues like organising health camps, distributing ambulances or even building toilets without doing a beneficiary analysis to include excluded groups. However, not doing so can also bring up negative sentiments among certain sections. While such approaches can be time consuming, if the company succeeds, the recognition and social capital earned can be well worth the effort.
4. Project design flexibility: Many community engagement endeavours fail for lack of flexibility to tailor strategies on the basis of local dynamics and needs. One size hardly fits in the community development context and companies have to bear that in mind.
5. We invest, hence we decide mindset: There could also be a mindset of since 'we are investing money, we get to decide where or how' we invest. However, by taking such a stand corporates might be missing out on an opportunity to contribute where the need is most or where they could have the maximum impact. This makes it even more critical to have a good understanding of the needs and the right solution approach, both of which can never happen without community engagement.
6. Lack of monitoring and evaluation of impact: As seen in the CRW study, not many businesses lay emphasis on monitoring of CSR projects, much less on the community inclusion-participation aspects or evaluating the impact outcome of their community. But a focus on monitoring and evaluation can not only help build the learning curve on community engagement and reduce project risks but also enhance the intended impact.

Focusing on community inclusion within CSR is still at a nascent stage in India and we can expect corporates to get their systems strengthened in coming days to do so. By keeping some of the above challenges and suggestions in mind, they can reduce the time that this will take.

3.4 Inclusiveness in the Supply Chain: A Human Rights Perspective

- Viraf Mehta²⁷

Over the past two decades there has been a significant growth in the number of Western Multinational Companies (MNCs) concerned about social, environmental and other related responsible business issues in their supply chains and procurement practices. These initiatives are usually referred to as Supply Chain Sustainability (SCS). The United Nations Global Compact (UNGC) and Business for Social Responsibility (BSR), in their 2010 publication, 'Supply Chain Sustainability: a practical guide for continuous improvement', define SCS as "the management of environmental, social and economic impacts, and the encouragement of good governance practices, throughout the lifecycles of goods and services." It goes further to state that "the objective of SCS is to create, protect and grow long-term environmental, social and economic value for all stakeholders involved in bringing

²⁷ Independent consultant and Convener, Human Rights and Business Resource Group

products to market'. The report stresses the role of Companies, stating: "in today's globalised economy, outsourcing business operations doesn't mean outsourcing responsibilities or risks- or that a company's responsibility ends once a product is sold."

While many such early initiatives were driven by considerations of reputational and other business risks highlighted by NGO campaigns and consumer pressure, particularly in industry sectors such as globally branded garments, footwear, food and beverages, there has been a growing number of Companies that have recognised the inherent benefits that can accrue to Companies that invest in Sustainable Supply Chain management. The latter includes realizing efficiencies through the reduction of material and energy inputs, increased labour productivity and the creation of sustainable products and services to meet evolving customer, business partner and investor requirements. The early SCS initiatives were characterised by a regime of social and environmental audits by large branded Western (American and European) MNCs on suppliers, particularly those situated in emerging markets/developing countries, to ensure compliance with applicable laws and regulations, international norms and principles, and buyer codes of conduct. This approach has spawned a multi-billion dollar industry of social and environmental audits, and whilst there has been undoubted progress and improvement in some areas at the shop-floor level, there has been much debate on the overall benefits and impacts of such an approach. An increasing number of leadership companies have shifted their strategies from a purely monitoring approach to a more partnership-based and collaborative relationship in their engagement with suppliers on social and environmental issues. As the UNGC-BSR report points out: "The ultimate aim of engaging with suppliers should be supplier ownership of sustainability".

This shift has been accompanied by an increase in collaborative industry-sector approaches to common challenges, as for example, vividly noted in the response by apparel brands on safety and allied issues in the aftermath of the recent tragic fire in Rana Plaza, Bangladesh. It is instructive to note a few key findings of a UNGC Survey of its signatories to questions related to SCS: 1) 83 per cent of respondents indicated that they consider supplier's adherence to the GC Principles. However, of the 17 per cent who do not consider such adherence at all, the main reasons included: lack of capacity (28 per cent), not a priority (28 per cent), and lack of knowledge how to integrate GC Principles with procurement practices. As we shall note later, these last three findings are relevant to the Indian context and suggest themselves as opportunities for remedial action.

The Indian context is markedly different: consumers are not driving the SCS agenda, very few civil society organisations are running large national campaigns highlighting adverse social and environmental conditions in the supply chain, media coverage is limited to the most sensational cases, and trade-unions have a limited interest or representation beyond the formal sector. The exceptions are Indian exporting units supplying to EU, US and other 'developed country' markets or companies, who are well-versed in the dynamics of international monitoring and compliance requirements. However, the oft-heard complaints from such exporting businesses includes the plethora of standards and varying requirements that they have to comply with that are not necessarily domestic priorities or requirements. A recent example of an effort to create a domestic Guideline and capacity-building support for garment exporters is to be found in the DISHA programme of the Apparel Export and Promotion Council (AEPC).

The Government of India, through the Ministry of Corporate Affairs (MCA) sponsored NVGs has stated explicitly in its Introduction that businesses "are encouraged to ensure that they encourage and support their vendors, distributors, partners and other collaborators across

their supply chains to follow the Guidelines as well.” It further devoted an entire Principle (2) to exhorting business to “provide goods and services that are safe and contribute to sustainability throughout their life cycle.” Significantly, The NVGs devote an entire section to the application of its Principles and Core Elements to Micro, Small and Medium Enterprises.

Till the advent of sustainability reporting in India, it was difficult to obtain accurate and comprehensive accounts of the extent to which companies were promoting responsible practices in their supply chains, and there are still challenges in the quality of information available in the public domain. Sadly, the business schools in India, except for a few leaders, are yet to comprehensively teach or produce case studies on the theme of SCS.

The recent Report, “Making Growth Inclusive”, by Corporate Responsibility Watch (CRW) and its partners, provides an analysis of inclusive policies, disclosures and mechanisms of India’s Top 100 listed companies, and a separate section (3.4) is devoted to Inclusiveness in the Supply Chain. In general terms, the notion of SCS is an issue that is barely on the horizon of most industry sectors, except for leadership companies, amongst which most of the current efforts (focussing on quality and general efficiencies) are restricted to their Tier 1 (and Tier 2 at best) suppliers. This implies a need for companies to, in the first instance, thoroughly map their supply chains, understand the social and environmental risks, and accordingly develop the policies and systems necessary to bring about improvements in the areas prioritised. As the report indicates, leadership companies are already taking steps to source preferentially from local suppliers and disadvantaged groups, but this is a long way from mainstreaming business responsibility (as per NVGs) issues into their supply chains.

One of the primary challenges confronting this objective is the present lack of understanding and commitment to Human Rights, as per the provisions of the United Nation’s Guiding Principles for Business and Human Rights (UNGPs). In the context of an absence of a human rights-based approach by companies to, in the first instance, examine the extent to which discriminatory practices (based on gender/ethnicity/religion/ability/etc) exist in their supply chain, to expect more than a few random or token acts of affirmative action, is unrealistic. Accordingly, civil society organisations must, in the first instance, examine a company’s Human Rights commitment (as per the UNGP provisions), and within this framework evaluate the company’s performance vis a vis ‘Inclusion’. CSOs have already developed instruments and tools that Companies can use, such as Inclusion Check (NACDOR), and it would be useful to promote its usage amongst companies and to design similar instruments for other categories of exclusion. It is instructive to note that in the case of differently-abled persons, despite an Act that requires Public Companies to set aside a 3 per cent reservation, no company has achieved this target despite the passage of over two decades. The reasons provided by such companies include a) insufficient applications and b) a lack of suitable skills. It will be a worthy effort for CSOs to bridge such gaps between companies and organisations representing excluded/marginalised groups, with a view towards including them in the economic value chain.

To conclude with a hopeful note from an Industry Leader (Anand Mahindra): “The purchasing power of a corporation can become a unique driver for bringing about positive change in society. Companies must use this power to achieve a purpose and make their supply chain a vehicle for inclusive growth. In a developing economy like India, the bulk of the workforce is employed in the unorganised sector, which often constitutes the last mile of the supply chain. If this workforce is exposed to the advantages of good and clean business practices, it would make a great impact on their lives and on the wellbeing of the nation.”

3.5 Putting communities back at the centre of business

- Tom Thomas²⁸

“In a free enterprise, the community is not just another stakeholder in business, but is, in fact, the very purpose of its existence.”

Jamshedji Tata

What Jamshedji Tata said over a century ago encapsulates the vision of a democratic relationship between business and community, irrespective of whether the Tata group has erred from that path or not. Though democracy is usually taken as relevant only in the political sphere and not in economics, in what Jamshedji said lies the wisdom that democracy needs to be an overarching principle of how societies organise themselves, socially, politically and economically. It also in a tangential way relates to the Marxian idea of equitable production relations between man, money and machine constituting the economic structure, the real foundation of society. However in a direct challenge to Jamshedji's idea of philanthropy and the Marxian idea of equity, is Milton Friedman's rather myopic view that "the social responsibility of business is to increase its profits" thereby laying emphasis only on the shareholders. In other words, he laid a hugely disproportionate premium on capital with complete disregard to the most critical constituent of the production relations – the people. The sentiment Friedman expressed, that found favour, unsurprisingly, amongst most businesses, is considered by many as a pivotal cause of the colossal divide between the rich and poor and the huge asymmetry between business and community that we witness today.

The asymmetry runs through all levels of engagement between business and people – be it the workers, the supply chain, the consumers or even the ordinary shareholders. Corrections to such asymmetry are meant to come from governments that have a fundamental duty to arbitrate in favour of the people. However, it is seldom the case and in fact, it often works proactively to protect businesses. The other corrective factor, the trade unions, that are meant to be a watchdog of equity, not just between the capital and the worker, but also larger society, has over the years, lost its relevance due to its narrow focus on welfare of just their enlisted workers while turning a blind eye to the casualisation of labour, gender equity and equity concerns of the society at large. The latest example of their irrelevance was evident in the women's agitation against Tata Tea in Munnar. The governments have also actively connived to curtail the bargaining power of trade unions through legislations as well as policies such as SEZs, doing away with social impact assessments in the proposed amendment to the Land Bill. One hope that remains of brining the government back to its role of arbitration in favour of the people is the 73rd Amendment, which though limited, has opened an avenue for a better assertion of people's power against erring corporates, like in the case of Plachimada with the closing down of the Coca Cola factory or the rejection of Vedanta's bauxite mine by tribal people in Niyamgiri Hills. However, this assertion is possible only with the brick and mortar businesses where they have investments that need protection from the ire of the people. With the new generation companies that own no asset that needs protection, panchayat level actions or even state/ union government level actions become less effective.

²⁸ Convener, Corporate Responsibility Watch, and Chief Executive, Praxis

With inputs from Anamika Dutt, Anusha Chandrasekharan, Pradeep Narayanan, Rohan Preece and Sowmyaa Bharadwaj

In such a scenario where the state and union governments are aligned to corporate interests, trade unions have become discredited and ineffective and Panchayats have limited scope in the case of new generation businesses, solidarity amongst all stakeholders, including ordinary shareholders becomes an imperative to keep businesses on track and contribute to the betterment of society as a whole and not just the investors. In any such attempt, the Mazdoor Kisan Shakti Sanghathan and the Right to Information movement have shown us that the first step in creating a level playing field is to bring information onto a public platform for it to be contested in an atmosphere free of fear or favour - the stone that can bring the Goliath down to the level of people. Corporate Responsibility Watch's endeavour to facilitate public disclosure of business policies, which are related to communities, is in that sense a step towards the democratisation of the power relationship between these two stakeholders.

It is in this context that one has to look at the India Responsible Business Index (IRBI) element, Community as Business stakeholder. The National Voluntary Guidelines (NVGs) have two principles that enunciate the significance of strengthening community as business stakeholders - Principle 4 and 8, which clearly indicate the need to recognise those who are disadvantaged, vulnerable and marginalised as important stakeholders as well as support inclusive growth and equitable development. This can be seen in Table 3.5.1 below.

Table 3.5.1. NVGs directly relating to welfare and development of community as business stakeholder

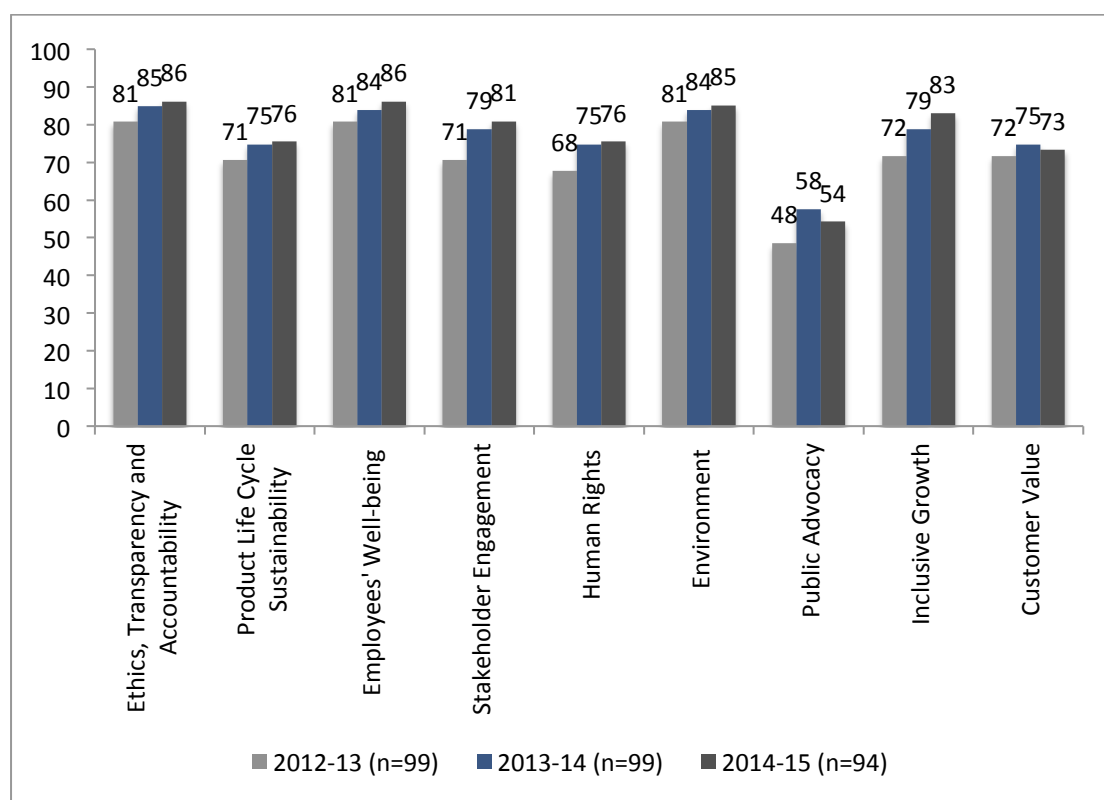
NVG principle	Elements of principle
<p>Principle 4 Businesses should respect the interests of, and be responsive towards all stakeholders, especially those who are disadvantaged, vulnerable and marginalised</p>	<ol style="list-style-type: none"> 1. Businesses should systematically identify their stakeholders, understand their concerns, define purpose and scope of engagement, and commit to engaging with them 2. Businesses should acknowledge, assume responsibility and be transparent about the impact of their policies, decisions, product & services and associated operations on the stakeholders 3. Businesses should give special attention to stakeholders in areas that are underdeveloped. 4. Businesses should resolve differences with stakeholders in a just, fair and equitable manner
<p>Principle 8 Businesses should support inclusive growth and equitable development</p>	<ol style="list-style-type: none"> 1. Businesses should understand their impact on social and economic development, and respond through appropriate action to minimise the negative impacts. 2. Businesses should innovate and invest in products, technologies and processes that promote the wellbeing of society. 3. Businesses should make efforts to complement and support the development priorities at local and national levels, and assure appropriate resettlement and rehabilitation of communities who have been displaced owing to their business operations. 4. Businesses operating in regions that are underdeveloped should be especially sensitive to local concerns.

Two things that every business shall have policies on include:

- a) **Recognising and consulting relevant stakeholders:** An analysis of the Business Responsibility Reports of the companies (the detailed guidelines that SEBI recommends which focus on disclosure about responsible and sustainable practices followed by the business entities) across three years is shown in the figure below.

Figure 3.5.1. Consultations with relevant stakeholders

Percentage of companies that say they consult with relevant stakeholders when formulating policies related to the 9 NVG principles

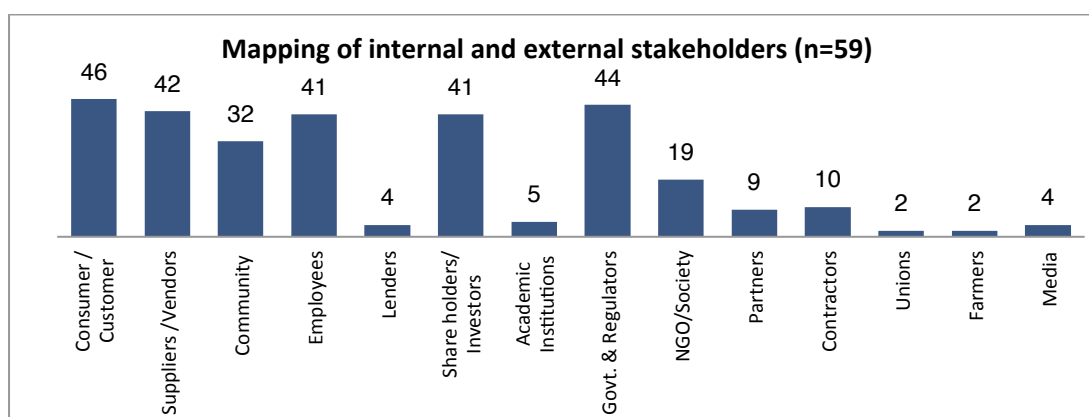


Source: Top 100 Company Business Responsibility Reports

The table denotes how many have responses in the affirmative about consulting relevant stakeholders while formulating policies for the nine principles. It indicates some principle-wise variance in the extent of consultative practices, with some areas: notably ethics, transparency and accountability, employees' wellbeing and environment, more commonly the subject of consultation. At the same time, other areas, especially policies related to public advocacy – are more frequently developed without consultation.

Information on which stakeholders companies consider as relevant raises the issue of who should be consulted. An analysis of 2012-13 company data (Figure 3.5.2) suggested that customers/consumers are most frequently cited as relevant stakeholders, followed by suppliers and vendors, employees, shareholders/investors and government and regulators. The local community is only considered to be a relevant stakeholder by around half of the companies on which data is available.

Figure 3.5.2. Mapping consultations with different stakeholders



Source: Disclosure Matters: Does the Community Count? – Working Paper 5

- b) **Necessity of social impact assessments for their services, products and operations and free, prior and informed consent** The IRBI data showed that 28 of 99 companies do not explicitly recognise, within their policies, the need for impact assessment of the community. Most worryingly, the principle of Free, Prior and Informed Consent (FPIC) was publically recognised by only one company, and only three companies recognised and provided details of a system to ensure provision of similar or better living conditions and services for people affected by business operations.

Levels of consultation were also very low, with only 9 of the companies committed to a public hearing and communication of project impacts to the community, just 2 publishing impact assessment reports in the public domain, and the same number consulting stakeholders for formulation of policies on resettlement and rehabilitation. More generally, there is a concerning level of opaqueness in the way that companies report the impact of their business operations on local communities, with very few disclosing information on the number of people displaced, affected, rehabilitated and resettled.

The findings of the IRBI raise an important question. Just how should companies interact with and relate to local communities? Clearly, companies cannot shrug off responsibility for the impact of their activities on the community amid whom they are located. A core requirement must be that they share information with them. Companies owe the affected community detailed information about the scale of the project, the extent of intended displacement, expected impact of project, the measures taken to mitigate these, compensation, alternative livelihood options, grievance redressal and other related information. Such information needs to be in the public domain where it can be accessed easily to ensure accountability.

The Principle of Free, Prior and Informed Consent (FPIC), despite having been endorsed by the United Nations and other international bodies, is yet to enter the realm of law in India. Yet with companies like Vedanta Resources learning the hard way about the need to get community consent, it also makes some sense for them to have mechanisms to safeguard the principle of enabling local people to be stakeholders in business activities affecting them. It is also right, in the context of a democracy in which non-state agents are becoming increasingly active and powerful, to utilise the principle of FPIC as a way of preserving democracy – a way of keeping corporations in check. In fact it is even more important for corporations to inculcate this principle given that they are not electorally accountable – and given that their ‘constituencies’ (shareholders) are likely to be far removed from the scene

of development, and unable, therefore, to grasp the implications.²⁹

Connected here are two constitutional imperatives: the right to equality and the right to freedom from exploitation. If Adivasis, who number disproportionately highly among India's poorest and most disadvantaged, are to survive on equal terms, their worldviews also need to be given equal interest. They have a totally different view of the environment to that held in most mainstream quarters – and may view territorial integrity to be of sacred importance. So a violation of the local environment of an Adivasi may mean something quite different to the violation of the local environment of a non-Adivasi, making the need for full consultation, thorough and sensitive understanding, and consent-taking even more important in tribal contexts.

Conclusion

Though the nexus between business, state and media are all-permeating, the good news is that there are laws, state regulations and executive orders, that define a number of aspects of the relationship between the business and community. Some of these have been derived from the fundamental rights that every citizen enjoys. Whether it is social impact assessments or free, prior and informed consent, or negotiations related to wage, employment conditions and others, these are all stipulated in laws and regulations. However, without citizen actions, these stipulations will remain in statute books with very little impact. Bringing information onto a platform and solidarity among all stakeholders holds the key to correct the asymmetry that exists between businesses and its stakeholders and reverse the gigantic suction of the world's resources into the hands of a few.

²⁹ <http://southasia.oneworld.net/peoplespeak/transforming-csr-into-business-responsibility-towards-protecting-environment-and-community#.Vlv5b-LdU7Y>

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