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Corporate Environmental Responsibility in Malaysia and India: A preliminary analysis

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Abstract

Following the activities of a tyre recycling company in Johor, Malaysia, over 2000 people fell sick and 111 schools were shut when toxic substances were released into the Sungai Kim Kim, a river in Pasir Gudang. This paper examines the relevance of corporate environmental responsibility (CER) policy framework in ensuring constant environmental sustainability by corporate bodies in Malaysia. The paper adopts a comparative law research methodology to assess the potential impact of environmentally sustainable corporate social responsibility across two jurisdictions i.e., Malaysia and India. Looking at existing CER framework in another jurisdiction, the paper argues that voluntary and mandatory CER can strengthen existing environmental regulations in Malaysia under the environmental regulation in Malaysia.

Keywords: Environment, Corporate Environment Responsibility, Malaysia, India

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1.0 Introduction

In June 2019, over 2000 people fell sick and 111 schools were shut when toxic substances were released into the Sungai Kim Kim, a river in Pasir Gudang, by several chemical factories operating in Johor, Malaysia. While this can be strictly viewed as tortious liability, we argue that non-consideration of environmental standards in Corporate Social Responsibility (CSR) is a factor for businesses in Malaysia. CSR refers to a wide range of actions that businesses may make - from donating to charity to ethical trading and responsible environmental practices. One primary focus of CSR is the environment hence the need for Corporate Environmental Responsibility (CER).

According to Archie B. (1991) in Carroll's Pyramid of Social Responsibility, CSR is one of the responsibilities described by the resources contributed by corporations toward social, educational, recreational and cultural purposes. This approach embedded environmental consideration under cultural purposes. It is high time that countries such as Malaysia identify environmental factor as distinct standard in CSR.

The paper adopts a comparative law research methodology to assess the potential impact of environmentally sustainable corporate social responsibility across two jurisdictions i.e., Malaysia and India. Looking at existing Corporate Environmental Responsibility (CER) framework in another jurisdiction, the paper argues that voluntary and mandatory CER can strengthen existing environmental regulations

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in Malaysia under the environmental regulation in Malaysia. We also argued that the Environmental Quality Act 1974 seems to be reactive and have not adequately considered a framework policy on corporate responsibility to achieve environmental goals such as protection of the environment, climate change, pollution, resource depletion, prevention of chemical waste and much more. Corporate bodies should be encouraged to develop voluntary Corporate Environmental Responsibility CER initiatives as a contribution to society with specific deliverables. The main objective of this paper is to the importance of CER policy framework and the role of the policymakers, Department of Environment and community leaders in Malaysia. This will also strengthen the preparedness of the government in preventing pollution and ensure that corporate bodies execute CER and avoid unsustainable practices inimical to the environment. The paper finds that as long as companies commit to a long term or short term CER practice, such commitment must be closely monitored by the community and the policymakers. This is a conceptual paper that is based on doctrinal methodology. The implication of this paper is to lead the discussion towards the formulation of a CER policy framework agreeable to the business community and government regulators in Malaysia. It also seeks to ensure that corporations in Malaysia contribute to the stride towards Sustainable Development Goals (SDGs) through their involvement in CER initiatives Based on the existing framework in India, the required CER framework is suggested to include adherence to existing clearances, enforcement of the adopted policies and reporting of violations among others.

2.0 Methodology

This is a conceptual paper that is based on doctrinal methodology. This involves the study of public document on CSR and CER in India and relevant literatures on environmental standards for businesses. The implication of this paper is to lead the discussion towards the formulation of a CER policy framework agreeable to the business community and government regulators in Malaysia. It also seeks to ensure that corporations in Malaysia contribute to the stride towards Sustainable Development Goals (SDGs) through their involvement in CER initiatives Based on the existing framework in India, the required CER framework is suggested to include adherence to existing clearances, enforcement of the adopted policies and reporting of violations among others.

The justification for exploring the Indian CER framework is that it remains the most comprehensive approach to combines environmental standards with CSR. The most recent document on this was National Guidelines on the Economic, Social and Environmental Responsibilities of Business issued in 2018.

3.0 Literature Review

Several studies have already specifically been carried out to explore the concept of CER in reducing any damaging environmental effects resulting from business processes and activities. The activities involved energy use, water use, waste management, recycling, emissions, eco-friendly office, logistics and business travel policies. (Bansal & Roth, 2000; Lyon & Maxwell, 2008)

Teoh & Thong ,(1984) mentions that CER is about considering the whole picture, from the internal processes to the clients, taking in every step that any business takes during day-to-day operations, while Rahman and Post (2012) defined CER as “a corporation’s commitment in minimizing or eliminating any harmful effects and maximizing its long-run beneficial impact on society.” CER can also be defined as the process of assessing an organization’s impact on society and evaluating their responsibilities.(Andrew, Gul, Guthrie, & Teoh, 1989) Millon (2015) mentions that CER begins with an assessment of a business and the relationship it has with its key stakeholders. There is an enormous pressure exercised by the general public who rejects unethical business practices and organizations who act irresponsibly, on businesses. Advances in social media (giving everyone a voice) mean that negative or destructive practices quickly fuel conversations online (Saleh, Zulkifli, & Muhamad, 2010). As a result, organizations are accountable for their actions like never before.

Since the Brundtland Report was published in 1987 as a result of World Commission on Environment work, business and management scholars have been grappling with the question of how and why corporations should incorporate environmental concerns into their own strategies. Today many companies have accepted their responsibility to do no harm to the environment. An earlier emphasis on strict governmental regulations has ceded ground to corporate self-regulation and voluntary initiatives.

According to Lyon and Maxwell (2008), CSR is about responsible production processes, socially responsible employee relations, community involvement, and sustainability. CSR by this definition does not emphasis environmental responsibility from the corporation. This perhaps underscores the need for a more focused CSR for the environment.

Banyte et al., (2010) , mentions that business organizations is turning to CER as its payback tool. Companies would actively seek to integrate environmental consideration into their operation and activities. These also include promoting the advantages of eco-friendly products (Jansson, Marell, & Nordlund, 2010; Pickett-Baker & Ozaki, 2008), also encouraging eco-tourism; (Chiutsi, Mukoroverwa, Karigambe, & Mudzengi, 2011; Stronza & Gordillo, 2008); ,not forgetting developing environment friendly behaviour through workplace climate (Rashid, Khalid, & Rahman, 2015). These studies have then become the empirical foundation to the development of a holistic organizational perspective to environmental protection or ECSR. Subsequently, Williamson et al. (2006) have regarded CER as: “...a concept about companies extra effort integrating environment concerns in their business operations and in their interactions with their stakeholders. It is viewed as the contribution that firms make to sustainable development by balancing and improving environment impacts without damaging economic performance” (p.317). According to Rahman and Post (2012), the researchers have made a comprehensive effort to trace relevant empirical studies and have attempted to conceptualize CER and eventually developed a reliable and valid measurement instrument. While concluding CER as a multidimensional construct, most of the dimensions cited in their study are more relevant to corporate governance issues and organizational performance as the unit of analysis. Studies associating the implementation of CER with external stakeholders, especially its customers were not

explored. An important justification for attempting to explore the environmental dimension of CSR lies in the fundamental idea around which the “green business organization” is built. Companies and its members are expected to hold shared assumptions and beliefs about the importance of balancing economic efficiency, social equity and environmental accountability (Bertels, Papania, & Papania, 2010)). This holistic worldview acknowledges that only through the appreciation of “whole entities” and positive interaction among all stakeholders (which includes customers, shareholders, competitors, citizens, and government and legal institutions), will the organization be successful. The organizations need to show enduring consistency in its commitment to every aspect of environmental protection and sustainability challenges.

4.0 The CER in India

The justification for exploring the Indian CER framework is that it remains the most comprehensive approach to combines environmental standards with CSR. The most recent document on this was National Guidelines on the Economic, Social and Environmental Responsibilities of Business issued in 2018.

To understand the current state of Indian CSR, India’s long tradition must be taken into account. There are four phases that need to be discussed.

The first phase (1850-1914): where CSR activities were mainly undertaken outside companies and included donations to temples and various social welfare causes. The second phase (1914-1960) was hugely influenced by Mahatma Ghandi’s theory of trusteeship, the objective of which was to consolidate and amplify social development. The reform programmes included activities geared particularly to abolishing preferential treatment for large corporations, empowering women and developing rural areas. The third phase (1960-1980) involved the domination of the paradigm of the “mixed economy”. In this context, CSR largely took the form of the legal regulation of business activities and/or the promotion of public-sector undertakings (PSUs). The fourth phase (1980 until the present) is characterized partly by traditional philanthropic engagement and partly by steps taken to integrate CSR into a sustainable business strategy. Specifically, the philanthropic approach is still widespread: while the Indian understanding of CSR shows a slight shift from traditional philanthropy to sustainable business, philanthropic CSR patterns are still apparent in many Indian companies. In addition, the imbalance between the internal and external CSR dimensions is still huge.

The role of public policy in regulating and creating an enabling environment for CSR is crucial. In general, public policy can take on four key roles for CSR: mandating, partnering, facilitating and endorsing. Companies and stakeholders in India placed most emphasis on the government’s mandating and partnering roles.

The majority of the interviewees agreed that no additional legislation was needed. However, a more proactive government approach to law enforcement in the areas of anti-corruption, environment protection, health care and labour standards (e.g. minimum wages) was demanded.

On the question of the partnering role of public policy, interviewees underlined that further partnerships with private business and civil society organizations are needed. However, when the role of public policy was considered in greater depth, the picture became more diverse. While stakeholders emphasized the need for additional financial incentives for the private sector, it was interesting to find that more business oriented stakeholders and other CSR experts also saw this as a risk, particularly when budget constraints occur. In their view, public policy should focus on its mandating and partnering roles, rather than offering financial incentives.

According to Chahoud et al (2007), the two poles of the existing approaches are self-regulation and legal regulation. Between those two extremes, the multi-stakeholder initiatives stand for the alternative approach of co-regulation. The dimensions of the CSR triangular concept can be characterized as follows:

- The *self-regulation approach* is characteristic of most company-related initiatives. In this case, companies decide for themselves how far to engage in CSR and which CSR measures to implement. As the role of the state is limited, liability is limited, too.
- In *legal regulation*, the government is the most important player. This is reflected in multinational initiatives which are based on binding legal commitments. Individual codes of conduct for companies form one side of the spectrum, the legal instruments the other.
- *Multi-stakeholder initiatives*, such as the Global Compact or the OECD Guidelines for Multinational Companies, are located between the two extremes and can be defined conceptually as co-regulation approaches in which stakeholders are involved in a company’s CSR policy-making process. In this “third way”, NGOs, business associations, governmental organizations and multilateral institutions, among others, work together in a constructive manner to achieve complementary goals in the CSR process.(Chahoud et al., 2007)

4.1 Current situation in India

India’s economic reforms and its rise to become an emerging market and global player have not resulted in a substantial change in its CSR approach. Contrary to various expectations that India would adopt the global CSR agenda, its present CSR approach still largely retains its own characteristics, adopting only some aspects of global mainstream CSR.

In India, environmental approach to CSR has developed in recent years. The most updated policy document in India is the National Guidelines on the Economic, Social and Environmental Responsibilities of Business 2018. Among the highlights of the guideline are nine thematic business responsibility principles of CER with well-defined core elements which encompasses. The principles relates to transparency in business conduct, safe and sustainable production process, well-being of employees in the value chain, responsiveness to stakeholders. The fifth principle is on respect for human rights which was predicated on the constitution of India.

Principle six state the need to protect the environment and perform restorative actions where damage has occurred as a result of business activities. The elements of this principle emphasised the precautionary approach in all business decisions which may affect the environment, need to deploy innovative technology solutions and alignment with climate change mitigation processes. Another principle identifies the business lobbying process which has become mainstream for multi-national corporation (MNCs). Hence, the guideline emphasises the need for transparent engagement with regulatory and policy makers. Community advocacy and trade interest must be promoted in the interest of fairness.

The eighth principle refers to inclusive growth and expansion on the part of businesses. This also recommended equitable growth and balance between environmental concern and development agenda of large corporations. Lastly, the guideline enjoined companies to engage consumers and provide value in a sustainable and responsible manner.

The Policy identifies the need to categorise CER application based on the size of business entities. Therefore, separate sections are provided for Micro, Small and Medium Enterprises (MSMEs), Large companies and multi-National corporation (MNC) and foreign entities. The multi sectoral and legislative indication for a comprehensive CER in India requires compliance with the following laws: Factories Act 1948, Companies Act 2013, Bureau of Indian Standards Act 2016, Trade Marks Act 1999, Prevention of Corruption Act 1998, Designs Act 2000, Right to Information Act 2005, Micro, Small and Medium Enterprises Development Act 2006, Industrial Disputes Act 1947 and Trade Union Act 1956 among others.

5.0 The CER in Malaysia

In Malaysia, the conflict between environmental protection and commercial activities seems to be unending. Following the activities of a tyre recycling company in Johor, Malaysia, over 2000 people fell sick and 111 schools were shut when toxic substances were released into the Sungai Kim Kim, a river in Pasir Gudang.

These sad events call for thorough review of CSR policies and practices in Malaysia with strong involvement from multiple parties (the Government, Bursa Malaysia and the Companies Commission of Malaysia), to raise awareness and encourage companies to include environmental standards of CSR in their business operations. In recent years, the Malaysian Government has actively engaged the business community to increase the profile of CSR. Jointly, the Malaysian government and the business community have managed to address some areas related to children such as education and poverty alleviation. However, it appears that CSR and its non-binding nature does not serve the goal of environmental protection. Hence Malaysia needs a CER framework for companies towards the prevention of environmental hazard.

However, these efforts have not been codified into environmental responsibility for businesses in Malaysia. Hence, the incessant environmental hazard resulting from companies operating in the country.

6.0 Findings

This paper finds that CSR is a non-binding responsibility which does not necessarily serve the purpose of environmental protection, sustainable development goals and environmentally responsible production. Where CSR is implemented towards environmental objectives, it is determined by the corporation and not regulation or any enabling law. Malaysian corporations observe CSR as a non-binding social responsibility which may not focus on environmental protection or remediation.

The pollution of rivers and release of noxious substances can be reduced and control through effective and binding CER. This will also strengthen the preparedness of the government in preventing pollution and ensure that corporate bodies execute CER and avoid unsustainable practices inimical to the environment. The paper finds that as long as companies commit to a long term or short term CER practice, such commitment must be closely monitored by the community and the policymakers.

The implication of this paper is to lead the discussion towards the formulation of a CER policy framework agreeable to the business community and government regulators in Malaysia. It also seeks to ensure that corporations in Malaysia contribute to the stride towards Sustainable Development Goals (SDGs) through their involvement in CER initiatives. Based on the existing framework in India, the required CER framework is suggested to include adherence to existing clearances, enforcement of the adopted policies and reporting of violations among others.

7.0 Conclusion and Recommendations

This paper suggests that CER framework is required to inculcate environmental responsibility into existing CSR activities by corporations. It is recommended that CER framework should be consider as a separate regulation under the Malaysian Environmental Quality Act. Corporations which engage in activities deemed to possess long term and short term effect on the environment must be obligated to adhere to CER rather than CSR. The adherence must be communicated through annual report of CER activities to the relevant government agencies. Failure to adhere to the designed CER framework should attract sanctions as applied under the EQA. The following specific recommendations are necessary for effective CER framework for Malaysian businesses and protection of the environment:

1. Integration of environmental standards into CSR and core business processes.
2. Setting specific environmental agenda for internal and external structures of large corporations operating in Malaysia.
3. Establishment of environmental watchdog comprising community stakeholders, corporate executives, environmental experts and the department of environment (DOE).
4. The framework should be applied differently to MSMEs, Large companies and MNCs and distinct monitoring metrics for internal CER projects.

References

- Andrew, B. H., Gul, F. A., Guthrie, J. E., & Teoh, H. Y. (1989). A note on corporate social disclosure practices in developing countries: the case of Malaysia and Singapore. *The British Accounting Review*, 21(4), 371–376.
- Bansal, P., & Roth, K. (2000). Why companies go green: A model of ecological responsiveness. *Academy of Management Journal*, 43(4), 717–736.
- Banytė, J., Brazionienė, L., & Gadeikienė, A. (2010). Investigation of green consumer profile: a case of Lithuanian market of eco-friendly food products. *Ekonomika Ir Vadyba*, (15), 374–383.
- Bertels, S., Papania, L., & Papania, D. (2010). Embedding sustainability in organizational culture: A systematic review of the body of knowledge. *Network for Business Sustainability*, 25.
- Carroll, A. B. (1991). The pyramid of corporate social responsibility: Toward the moral management of organizational stakeholders. *Business Horizons*, 34(4), 39–48.
- Chahoud, T., Emmerling, J., Kolb, D., Kubina, I., Repinski, G., & Schläger, C. (2007). *Corporate social and environmental responsibility in India-assessing the UN global compact's role* (Vol. 26). DEU.
- Chiutsi, S., Mukoroverwa, M., Karigambe, P., & Mudzengi, B. K. (2011). The theory and practice of ecotourism in Southern Africa. *Journal of Hospitality Management and Tourism*, 2(2), 14–21.
- Jansson, J., Marell, A., & Nordlund, A. (2010). Green consumer behavior: determinants of curtailment and eco-innovation adoption. *Journal of Consumer Marketing*, 27(4), 358–370.
- Lyon, T. P., & Maxwell, J. W. (2008). Corporate social responsibility and the environment: A theoretical perspective. *Review of Environmental Economics and Policy*, 2(2), 240–260.
- Millon, D. (2015). Corporate social responsibility and environmental sustainability. In *Company Law and Sustainability: Legal Barriers and Opportunities*. <https://doi.org/10.1007/CBO9781107337978.004>
- Pickett-Baker, J., & Ozaki, R. (2008). Pro-environmental products: marketing influence on consumer purchase decision. *Journal of Consumer Marketing*, 25(5), 281–293.
- Rahman, N., & Post, C. (2012). Measurement issues in environmental corporate social responsibility (ECSR): Toward a transparent, reliable, and construct valid instrument. *Journal of Business Ethics*, 105(3), 307–319.
- Rashid, N. R. N. A., Khalid, S. A., & Rahman, N. I. A. (2015). Environmental corporate social responsibility (ECSR): Exploring its influence on customer loyalty. *Procedia Economics and Finance*, 31, 705–713.
- Saleh, M., Zulkifli, N., & Muhamad, R. (2010). Corporate social responsibility disclosure and its relation on institutional ownership: Evidence from public listed companies in Malaysia. *Managerial Auditing Journal*, 25(6), 591–613.
- Stronza, A., & Gordillo, J. (2008). Community views of ecotourism. *Annals of Tourism Research*, 35(2), 448–468.
- Teoh, H.-Y., & Thong, G. (1984). Another look at corporate social responsibility and reporting: an empirical study in a developing country. *Accounting, Organizations and Society*, 9(2), 189–206.