CHANGING FACETS OF CORPORATE SOCIAL RESPONSIBILITY IN THE UNITED STATES

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DECLARATION

I declare that the thesis entitled "**CHANGING FACETS OF CORPORATE SOCIAL RESPONSIBILITY IN THE UNITED STATES**" submitted by me for the award of the degree of **DOCTOR OF PHILOSOPHY** of Jawaharlal Nehru University is my own work. The thesis has not been submitted for any other degree of this university or any other university.

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CERTIFICATE

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ACRONYMS AND ABBREVIATIONS

BSR	Business for Social Responsibility
CPSC	Consumer Product Safety Commission
CSR	Corporate Social Responsibility
EB	Bureau of Economic and Business Affairs
EC	European Commission
EEOC	Equal Employment Opportunity Commission
EPA	Environmental Protection Agency (EPA)
EU	European Union
GC	Global Compact
ILO	International Labour Organisation
IMF	International Monetary Fund
ISO	International Organization for Standardization
MDGs	Millennium Development Goals
MNCs	Multinational Corporations
NGO	Non Governmental Organisations
OECD	Organization for Economic Cooperation and Development
OSHA	Occupational Safety and Health Administration
SA8000	Social Accountability 8000
SEC	United States Securities and Exchange Commission
SRI	Socially Responsible Investing
TNC	Transnational Corporations
UN	United Nations
UNDP	United Nations Development Programme
WBCSD	World Business Council for Sustainable Development

NFTC	National Foreign Trade Council
ATCA	Alien Tort Claims Act
FCPA	Foreign Corrupt Practices Act
EEOC	Equal Employment Opportunity Commission
CPSC	Consumer Product Safety Commission
GRI	Global Reporting Initiative
SRI	Socially responsible
ETUC	European Trade Union Confederation

Chapter- 1

Introduction

The concept of corporate social responsibility (CSR) has gained relevance globally. It was during the decade of the 90's that the CSR gained momentum. Crucial it is to note, however, that from being premised on the charitable notion of trusteeship, it has graduated to become a much more qualitatively nuanced concept.

Corporate social responsibility is understood as corporate accountability with a greater emphasis on the obligations a company holds towards the community. More recently, across the globe, there has been a growing realisation that society shapes corporations, and therefore they must serve it. Hence, CSR, in short, it encapsulates the essence of a metamorphosed relationship between state, market, and civil society and manifests a new role for private actors or corporations in national and global governance.

Rising consciousness on concerns of socio-economic inequality along with environmental degradation as a consequence of uninhibited corporatisation has forced a discernible shift in the approach of the corporations towards the society. Corporations are now attempting sensitivity towards the environment, the local communities and its workforce. They are also evolving as active participants in governance. There is a growing awareness that besides their economic interest corporations should also incorporate social and environmental considerations into their decision-making processes involving business activities while engaging relevant stakeholders and their concerns. Thus, CSR practices have emerged as a potent tool that seeks to reform the workplace and in turn, benefit the society in forms that go beyond the narrow legal requirements these companies are expected to uphold**.**

1.1 Delineation of the Theme

There is a long tradition of altruism in the histories of both, Eastern and Western culture, arising from the belief that the creation of wealth should go hand in hand with social good. “Past centuries have shown enormous acts of charity, funding, fairness and stewardship, for example, the medieval chivalry, the aristocracy's noblesse oblige.” Back in the 19th century, corporate philanthropy was practised in pursuit of personal satisfaction, as evident through examples of contributions by big businesses towards the welfare of employees, and their families. The desire to build a strategic relationship with the society also led to these corporate houses investing towards the establishment of community institutions, like public parks, public schools, and hospitals, etc., in addition to charitable trusts and foundations that supported socially beneficial activities. Interestingly, these initiatives also became excellent opportunities of tax exemption.

Historically, the study of CSR was analysed as a philanthropic activity. It is in the current academic discourse that new approaches are emerging to understand the concept differently. The philanthropic approaches to understand CSR might be the point of its origin, but the current emergence of various approaches to understand corporate social responsibility today clearly indicates that CSR is a relatively recent and a marked phenomenon. The various approaches that have set the trend towards understanding CSR are social contract theory, legitimacy theory, stakeholder theory, shareholder theory and few others. Among these approaches the social contract theory provides explanations to changing circumstances and new corporate challenges that had not occurred previously. It urges corporations to fundamentally rethink their position amidst the present day complexities in our societies. Therefore, these approaches are considered a relatively new perspective from which CSR should be seen today.

In recent times, corporations have been insisted upon by not for profit organisations, Non-Governmental Organisations (NGO), political and social activists, local and global communities, governments, global media and other concerned forces. These groups stipulate what they consider to be responsible

and ethical corporate practices. As a result, some organisations are seeking corporate responses to social demands by establishing a dialogue with a broad spectrum of stakeholders.

CSR as an approach seeks to explain that being responsible is not only the prerogative of the corporations. There is seen an active involvement of the governments across the world. Most notable example is the appointment of CSR Minister in the United Kingdom in 2001. Similarly, at the transnational level organisations like the European Union that has published a green paper in 2001 and launched European Alliance for Corporate Social Responsibility in 2006. Thus, governments all over the world are actively involved in developing and implementing many aspects of CSR, devising their own frameworks.

Corporate social responsibility throughout the 20th century emerged both as a 'management idea' as presented by M. Porter and M. R. Kramer (2006) and J. P. Gond and Jeremy Moon (2011) and as an 'academic concept' by authors like Howard Bowen (1953). Moreover, in today's time, there is an increasing attention by firms on examining their socially responsible practices (Moir, 2001).

CSR literature brings out three distinct 'schools' of thought which reflects that CSR has been understood from various perspectives. These schools are the neoliberal, neo-Keynesian, and radical political economy approaches. The Neo-liberalist perspective assumes a minor role for CSR in the repertoire of corporate strategies. CSR is, thus, studied, and practiced as merely a voluntary initiative to be undertaken by corporate sector. The neoliberal discourse around CSR also endorses the view articulated by Milton Friedman in his piece in the *New York Times* on September 13, 1970. Friedman in "The Social Responsibility of Business is to Increase its Profits" argues that,

> *"the only social responsibility of business is to increase profits for its owners or shareholders while ...conforming to the basic rules of society... in terms of obeying the law and following current ethical customs" (Friedman, 1970).*

On the other hand, a Neo-Keynesian approach to understanding CSR emphasizes the active involvement of the stakeholders, and proposes a positive role of the State in decision-making.

A third approach, which derives from the Radical Political Economy perspective has a far more critical understanding of what CSR should entail. It criticizes the other approaches for maintaining a 'normative view' on the kind of role businesses ought to play, thus raising skepticism about the effectiveness of CSR initiatives. There is also the fear that in ensuring CSR as a voluntary practice, corporates have been able to divert the attention away from demands for external regulations that would control their behavior. Moreover, corporate are able to pursue socially and environmentally destructive activities in the guise of voluntary CSR.

Initially, some industries were considered relatively 'cleaner' in terms of their market practices and social image such as banking industry, tourism industry, entertainment industry etc. Presently, they have also come under the radar of pressure induced by social forces. There is virtually no sector, industry, market, and business that has not experienced increasing demands to align its practices with society as a whole. Nevertheless, this increased attention towards the responsibility has much to owe to the informed citizenry and civil society groups. It is believed that, the purpose of business is not only to earn profits, but it is about sharing that profit with stakeholders and the larger society, that it is part of.

That is why it becomes necessary to know what corporate social responsibility is and for whom and why are we talking to be more responsible? What motivates corporate to act responsibly? The chapter tries to underline the meaning and purpose of corporate social responsibility based on the current understanding of the term.

Scholars, over the decades have pondered over the need for companies to undertake such socially responsible activities and it has been widely discussed. Initially, it was Milton Friedman who talked about social responsibilities of business, and his theory is an influential one. He first stated

his position towards corporate responsibilities in *Capitalism and Freedom*, where he considers that the one and only obligation of business is to maximise its profits while engaging in "open and free competition without deception or fraud."

> *"In such an economy [a free economy], there is one and only one social responsibility of business? to use its resources and engage in activities designed to increase its profits so long as it stays within the rules of the game, which is to say, engages in open and free competition without deception or fraud"* (Friedman, 1962).

Friedman in his work, an essay "Social Responsibility of Business*"*, suggests business executives to follow and be obliged towards their shareholders obeying the laws and the ethically driven customs of the society.

> *"In a free-enterprise, private-property system, a corporate executive is an employee of the owners of the business. He has direct responsibility to his employers. That responsibility is to conduct the business in accordance with their desires, which will be to make as much money as possible while conforming to the basic rules of the society, both those embodied in law and ethical custom. Of course, in some cases, his employers may have a different objective. A group of persons might establish a corporation for an eleemosynary purpose? For example, a hospital or a school. The manager of such a corporation will not have money or profit as his objective but the rendering of certain services"* (Friedman, 1970).

However, Thomas Carson, while criticising Friedman's theory of CSR, makes a point that the "maximising profits while engaging in 'open and free competition without deception or fraud' is not the same as maximising profits while obeying the laws and ethical customs of one's society" (Carson, 1993). He explained that the acts that involve 'deception or fraud' or the acts that happens in neither open nor free competition are not essentially against the laws and customs of the society. These views stirred the debate regarding the social responsibilities of the corporations in the United States of America in the 1970s. Further, Cannon (1992) describes that the corporate social responsibility has grew as a historically evolved concept , and he explained its rise in the post-war period where business, society, and government played a collective role. He further stressed that though the primary aim of companies was to produce goods that society demanded, however, there was interdependence between business and society.

Similarly, Wood (1991) states that "the basic idea of Corporate Social Responsibility is that, business and society is interwoven rather than distinct entities." Interestingly, the CSR practices and its understanding differ across countries due to different cultural and institutional frameworks. CSR differs from one continent to another, varies in one country from another and even among sectors and corporations. As the notion of the socially responsible act by an organisation in one country might not be the same in another country due to different political, cultural and economic conditions.

One can derive that the area of CSR is not new, many its policies, practices, and programs, today are being addressed by the corporations and they have begun to acknowledge their role in society far more coherently, comprehensively, and professionally – an approach that is contemporarily summarised by CSR. There are many names that are attributed to the concept of CSR, including corporate responsibility, corporate accountability, corporate ethics, corporate citizenship, sustainability, stewardship, and triple-bottom-line (economic, ethical, and environmental) and so on.

1.2 A Brief Review of Literature

There is a substantial amount of published work on the United States approach towards corporate social responsibility (CSR). The notion of CSR made its appearance almost a hundred and fifty years ago around the late 1800s. Social practices similar to the present day CSR emerged in the US as a social-political reaction to the rapid growth of capitalism during the thirty years following the American civil war (1861-65). Large companies, as we know them today, started to appear in the United States in the 1870s.

With the growth of large corporations in America there also emerged an 'anti-trust' movement against the businessmen that were notoriously called 'robber barons[1]'. R. N. Farmer and W.D. Hogue in their book *Corporate*

[1] Some Us businessmen who were labeled as 'robber barons' include John Jacob Astor (real estate, fur) – New York, Andrew Carnegie (steel) – Pittsburgh and New York, William A. Clark (copper) – Butte, Montana, Jay Cooke (finance) – Philadelphia, Charles Crocker (railroads) – California, Daniel Drew (finance) – New York and many more.

Social Responsibility (1973) mentioned the excesses committed by emerging big industrialists and the response of the government by passing various legislations regarding labour laws related to children and workers' rights, laws related to work place etc. Similarly, T Mc Ewan's book, *Managing Values and Beliefs in Organisations*, (2001) explains that the rationale for the 'anti-trust' movement was "the new industrial trusts and corporations which had become too powerful, wasted resources, were politically dangerous and socially irresponsible" (McEwan, 2001).

William Frederick's (1978) much-cited working paper entitled "From CSR1 to CSR2: The Maturing of Business-and-Society Thought*"*, notes that with the change in times, firms are no longer solely involved in an academic debate about the ethics of different degrees of social responsibility. There is visible trend of replacing the 'responsibility' with 'responsiveness'. Responsiveness is "the capacity of the corporation to respond to social issues" has made him call it CSR 2 (Frederick, 1978). It is due to the social pressures from various sources that firms were compelled to respond. He explained the role played by various social activist groups, and mass media had forced compliance from firms. While CSR 1 focused on the 'accountability' and 'morality' aspect of the corporations' social responsibility, CSR 2 (Corporate Social Responsiveness) as termed by Frederick stressed on the mechanisms and arrangements by which business acknowledge their social responsibilities.

David Vogel's book *The Market for Virtue: the Potential and Limits of Corporate Social Responsibility* (2005) discusses that although the historic roots of CSR emerged from the philanthropic activities undertaken by the big businesses, but these had no impact on the core principles of business back then. For example, Carnegie libraries, the Rockefeller foundation, Ford foundation, and Bill and Melinda Gates foundations whose philanthropic contributions have nothing to do with addressing any environmental or social challenges existing in the country. Further, the book examines and analyses the factors that drive CSR and explores their impact on the current and future business practices. While doing so, it brings out the reasons why some corporations behave responsibly even when legal mechanisms to enforce such

practices are absent. However, the focus of the book has been primarily on the 'market forces' that motivates as well as restricts the practices of CSR.

Observing from the citizenship perspective, advocates of CSR, argue that corporations derive the benefits of serving as community citizen and therefore owe a corresponding contributory obligation to that community. A. B. Carroll, in his articles "A Three-Dimensional Conceptual Model of Corporate Performance" (1979), classified CSR into four as economic, legal, and ethical and discretionary responsibilities. These four categories "are simply to remind us that motives or actions can be categoried as primarily one or another of these four kinds" (Carroll, 1979). The order of these responsibilities was given "to suggest what might be termed their fundamental role in the evolution of importance" (ibid).

In 1991, "The Pyramid of Corporate Social Responsibility: toward the moral management of organizational stakeholders*"* the same responsibilities were depicted in a pyramid (see Fig. 1.1). However, with the publication of "The Four Faces of Corporate Citizenship", (1998), Carroll withdrew his earlier remarks, gave up his pyramid construct of responsibilities. In 2004, in "Managing ethically with global stakeholders: A present and future challenge" the author recreated the pyramid model in which he incorporated the responsibilities towards stakeholder.

Whereas, Andrew Crane and Dirk Matten in their "Corporate citizenship: Toward an extended theoretical conceptualization*"* (2005), while evaluating Carroll's stratification, contend that though the role of citizenship as a powerful motivator towards CSR is not yet firmly established, yet there is an evidence of a growing trend within CSR discourse in the early 21st century of language surrounding corporate citizenship and a commitment toward its integration. And acknowledge that the term 'corporate citizenship' evolved in the 1980s needs to be reformed in the light of present context of globalisation.

Fred Robins (2005), in his article "the Future of Corporate Social Responsibility", while talking about the future of CSR makes some very important points like the reasons for growing pressure on the corporations to

undertake socially responsible behaviour. Robins, concludes by saying that the proponents and opponents of a mandatory system of regulations must be cautious while evaluating the contributions of businesses. According to him, moral suasion is much more persuasive than any regulatory mechanism.

An important intervention in the idea of corporate philanthropy and CSR was made with the publication of article "The Competitive Advantage of Corporate Philanthropy*"* in the *Harvard Business Review* by Michael Porter and Mark Kramer (2002). The authors build an effective argument for a new type of corporate philanthropy to which they termed as "strategic philanthropy". While noticing a relative decline in philanthropic activities and to deal with it, the authors suggests in this piece that "in the long run…social and economic goals are not inherently conflicting but integrally connected." Further, Although Porter and Kramer applied this principle to philanthropy; it could easily be extended to virtually any form of CSR. Porter and Kramer argue that the firm while making strategic social investments can still be at competitive advantage. The fundamental idea they propose through this article is that when firms apply philanthropic strategies in their core business operations they gain competitive advantage.

Dirk Matten and Jeremy Moon (2006) argued that cultural distinctions in societal expectations that may undermine other, perhaps more superficial, differences in cross-Atlantic corporate approaches. Specifically, the researchers suggest that the business and social structures of Europe as compared to the U.S. foster a different role for the corporation within those structures. They conclude that "the USA's comparatively greater deployment of CSR to address a wider range of issues is explained by the fact that in Europe these problems would be addressed through institutional capacities in which corporations would be implicated but not solely responsible" (Matten and Moon, 2006).

Regarding the role played by government in implementing public policies regulations and the promotion of CSR (Aaronson & Reeves, 2002; Fox et al., 2002)One of the most useful classifications of governmental roles was developed by Fox et al. (2002), where they present the different roles that

could be adopted by governments: mandating (legislative), facilitating (guidelines on content, fiscal and funding mechanisms, creating framework conditions), partnering (engagement with multi-stakeholder processes, stimulating dialogue) and endorsing (tools and publicity).

There is a difference in practicing CSR as a business case versus understanding CSR as an ethical commitment. This difference is most stark in the CSR policies of the US and the European Union. Laura P. Hartman, Robert S. Rubin, K. Kathy Dhanda in their article "The communication of corporate social responsibility: United States and European Union multinational corporations" (2007) attempted the cross- cultural analysis of communication of CSR activities in the US and European corporations. They have found that the US companies follow CSR strategies with the end purpose of improving their bottom-line margins and market performance. On the other hand, EU companies show a commitment for corporate accountability, and hold high their moral responsibility as citizens when pursuing CSR activities. Unlike the US businesses, the corporate work ethics in the EU combine financial profitability with sustainability commitment to strategise their CSR policies.

Ella Joseph in article, "Promoting Corporate Social Responsibility: Is Market-based Regulation Sufficient?" (2002). The author discusses the existing barriers at the national level, regarding implementation of CSR. She comments, "Prescriptive legislation often leads to tokenistic responses, and regulation can become an inaccurate reflection of society's concern because it is lagging behind public opinion". Similarly at the international level, social and environmental laws are inadequate to deal with corporations. Hence the 'voluntary' aspect of CSR is crucial as many corporations choose to act responsible on their own. There are a number of internationally recognised standards for measuring CSR, those set by ILO, OECD, and UN. However, they also become ineffective if they are not incorporated or adopted by the national laws. or are not applicable to overseas operations, their effectiveness is much diminished. The author explains how companies take voluntary action when market forces reward them for doing so.

David Chandler and William B Werther's book, *Strategic Corporate Social Responsibility: Stakeholders, Globalization, and Sustainable Value Creation* (2013) is important, as it presents CSR issues and case studies in a comprehensive manner. The book has undertaken case studies to analyse the various debates around CSR. Apart from this, it explores various aspects of corporate Lobbying. The focus of the book ranges from the different stakeholders and their interests to identifying the influence exerted by corporate lobbies in the United States.

Bart Slob and Francis Weyzig (2010), in the chapter *"*Corporate Lobbying and Corporate Social Responsibility: Aligning Contradictory Agendas,*"* in the book *Business, Politics and Public Policy. Implications for Inclusive Development* analysed the direct and indirect channels of lobbying and argue that the indirect channels of lobbying that consists of business associations and bodies like Chamber of Commerce that represent business and their activities related to CSR are most difficult to address. Corporate lobbying and relationship with CSR have been provided in great detail in their work.

Further, an analysis of reports from Government Accountability Office (GAO) of the US government is made. The American newspapers and websites of many non government and international organisations in the United States added depth to the study of CSR in the United States.

1.3 Scope of the Study

This study aims to contribute to a more contextually informed analysis of CSR by studying how political-economic institutions in the United States have not succeeded in formulating mandatory CSR legislations. The study explores the extent of political influence exercised by Corporate America in preventing the US government from formulating and implementing strict guidelines on CSR. The majority of CSR theories are derived from the premises of dominant theories within the Business and Management disciplines, however, from a Social Science perspective, CSR has far more important and fundamental answers to offer than just being an economic value

creation subject. It provides a relation between state, market and civil society, which is a central concern of any society.

Thus, this study critically evaluates CSR practices within the United States and attempt a comparative analysis with that of conditions in industrially advanced European countries with focus on the framework provided by the European Union.

1.4 Research Questions

- How has the concept of Corporate Social Responsibility (CSR) evolved?
- What constitutes the contextual framework for Corporate Social Responsibility in the United States?
- To study the evolution of CSR in the United States.
- To what extent businesses in the U.S. have attempted to present themselves as socially responsible organisations?
- What has been the role of the US governments in shaping or promoting CSR? Which are the US government agencies that are involved in the formulation of CSR guidelines?
- How different are the socially responsible business practices in the United States from that of Europe?

1.5 Hypotheses

- The powerful business lobbies in the US have been responsible for inadequate CSR guidelines in the country.
- The inability of the US government to set and implement CSR guidelines accounts for ineffective CSR practices compared to many other industrially advanced countries in Europe.

1.6 Research Methodology

The study uses both descriptive and analytical method. All available primary resources provide the basis for data collection. The primary sources that have been used include various available reports of the US government, reports of the Department of the State, reports of United Nations, the European Union and International Labor Organization.

However, a vast amount of literature on the subject is available in the secondary domain. Secondary sources such as, relevant books and articles from Journals, Monographs and unpublished theses were used to generate data. Relevant reports published by several research institutes like Brookings, Rand Corporation, Heritage Foundation and international organizations and governmental agencies were also consulted. The attempt has been made to adopt qualitative research method and an integrated analytical framework based on two complementary perspectives-comparative political economy, international political economy and relevant conceptual analysis of CSR.

The present work is a humble attempt to understand and explore the Corporate Social Responsibility concept with a particular focus on its evolution and genesis in the United States. Also, it is a modest endeavour to see how different instruments of governance whether global or domestic have tried to regulate the same concept and in the end, a comparison of CSR practices is made between the United States and the Europe.

Some of the libraries that were instrumental in the collection of sources during this study were the Central library, CSSS library and EXIM library at Jawaharlal Nehru University. During the writing of this thesis, the opportunity to present a paper at an International Conference related to the topic, at Pau Business School in France, where interaction and feedback from the experts in the subject has added value to this research.

1.7 Chapterisation Scheme

The thesis has been structured on the basis of the following chapters-

Chapter-1 Introduction

This is the introductory chapter that briefly outlines the overview of the topic of the thesis. In this chapter scope of the study, research questions and research methodology are also outlined.

Chapter-2 Corporate Social Responsibility: A Conceptual Framework

This chapter analyses and offers a brief overview of Corporate Social Responsibility (CSR), the discussions and the disputes surrounding it as a concept and practice. The chapter also deals with the existing theories related to this concept.

Chapter-3 Genesis and Evolution of CSR in the United States

To give a more detailed understanding of CSR, this chapter narrows down the focus to concern CSR in the US. It outlines the historical evolution of CSR practices in the US. Furthermore, this chapter represents how CSR has transcends from being traditional concept of philanthropy to a much more nuanced concept of Corporate Accountability today.

Chapter-4 Role of US Government in Promoting CSR

The chapter examines the public policy perspective on corporate social responsibility. It tries to map out the role of institutional and legislative public policy frameworks in the United States. It also explores the role played by the powerful corporate lobby in influencing public policies in the United States.

Chapter-5 Comparing American and European Practices of CSR

The chapter is a comparative analysis, as CSR is said to have originated in the US which makes this country particularly interesting to include in a comparative study of CSR in the Europe to see how the concept is adopted in countries outside its country of origin.

Chapter-6 Conclusion

The chapter concludes this research by analysing the various approaches, drivers, and motives behind the CSR and its implementation. Further, it will reflect on the main arguments put forward in the research. It summarises the main findings of the study and examines the hypotheses.

Chapter- 2

Corporate Social Responsibility (CSR): A Conceptual Framework

2.1 Defining Corporate Social Responsibility (CSR)

Understanding CSR is a 'complex issue' because it is a multidimensional phenomenon that is undertaken by organisations in a way in which it is consciously responsible for its actions as also its non-actions and their impacts on its stakeholders (Idowu, 2009; Idowu and Filho, 2009). In academic articulations and business communities, hundreds of abstractions and definitions have been proposed that refer it as a more conclusive, ethical, accountable, transparent and responsive way of conducting business.

Moreover, this field is growing significantly and today contains a vast expansion of theories, approaches, and terminologies. Hence, there are invariable numbers of definitions of CSR, and it is due to the 'ever changing and dynamic' character of CSR that its practices towards society and development issues (Snider *et al*., 2003). Despite any concrete definition of the concept, there are ways in which such practices are defined. They are related to economic, social and environmental impacts of business operations and their responses towards consumers, stakeholders, employees and shareholders and their demands and expectations.

By most accounts, CSR is a product of industrialisation and, more recently, of globalisation. The emergence of mega-companies in the 1870s as the result of the Industrial Revolution that started in the West, it was found that their operations immensely affected other realms of society. With the growth of sectors like petroleum, railways, roads and other corporations moving toward monopolisation in the late 1800s, public debate on examining

control over their actions intensified. For example, as a result of public pressure in the 1890s, the US government passed a series of laws attempting to control major corporations.

It has been established through various empirical studies that carrying out social responsibilities does not merely give moral brownie points to corporations but also helps them in attaining financial benefits (Orlitzky *et al*., 2003; Roman *et al*., 1999). While over 120 studies have examined the link over the past 30 years with mixed results (Margolis and Walsh, 2003), which has left some scholars in the field of CSR to question whether there is any clear market motivation for firms to engage in socially responsible behaviour (Vogel, 2005). This has resulted in a classic paradox: both critics of business and global business leaders both are calling for an increases role for comapnies in social and environment affairs, yet there is mixed evidence of an active ‘business case' for CSR (Kurucz *et al*., 2008).

CSR helps in creating ingenious and felicitous mechanisms for governance, which have become a necessity in a highly globalised and interconnected world. Globalisation though has facilitated economic and social progress, but it also comes with its own political challenges. Maintaining legitimacy of the welfare state and having a citizen centric governance structure are some of the acute challenges that modern nation states face in globalised world. CSR helps in providing a fortuitous framework through which new ways of collaborations among corporations, governments and civil society can be found (Zadek, 2001; Albareda *et al*., 2004; Midttun, 2004, 2005).

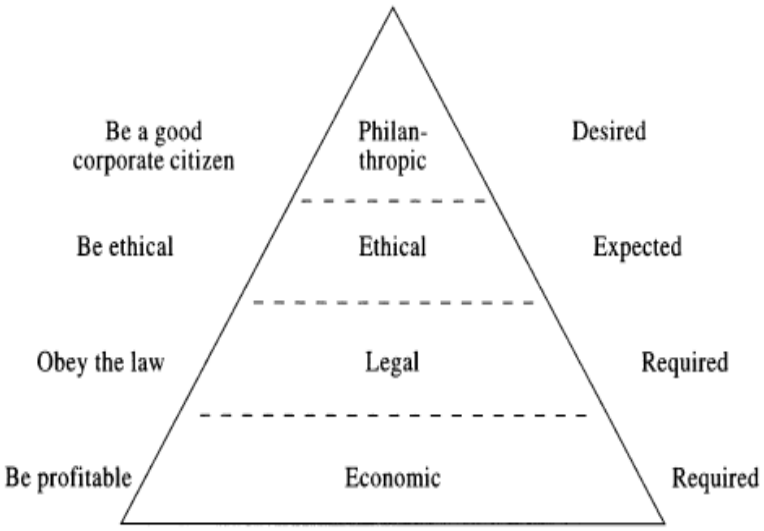
CSR is a ‘fluid concept’ as noted by Michael Hopkins (Hopkins, 2004), as he finds the concept interchangeable and overlapping in the absence of a widely accepted definition. For some scholars, the rules of CSR change with the change in generation and its idea transforms depending upon the society in question. For instance, its meaning in the European society is different from its meaning in a developing society.

Thus in such circumstances, it is hard to develop before terminology. As a result, it is sometimes described by using various terms like corporate citizenship, corporate accountability, etc. In a broader sense, CSR is about the impact of business on society or in other words the role corporations play in the advancement of the society.

Archie B Carroll, one of the most prestigious scholars in this discipline, gave a lengthy account of the evolution of the definition of CSR beginning from the 1950s to 1990s with specific features during each decade regarding its development (Carroll, 1999). He later incorporated his four-part categorization into a 'Pyramid of Corporate Social Responsibilities' as explained in Fig 1.1 (Carroll, 1991).

According to him, Economic responsibilities of a corporation encompass various responsibilities: providing investment, creating workplaces and paying taxes. Legal responsibilities are about the compliance with the law and regulations promulgated by governments at different levels. It is also about the good relation businesses maintain with the government and its officials. Ethical responsibilities are about adopting voluntary codes of ethics existing at societal level but are not codified as law.

Lastly, Philanthropic responsibilities include those responsibilities that are undertaken in response to society's expectations and it is more voluntary on the part of the business to fulfil. Though he mentions that prioritisation of these responsibilities may vary from one country to another (Carroll, 1991). In Carroll's words, the "CSR firm should strive to make profit, obey the law, be ethical and be a good corporate citizen" (Carroll, 1991).



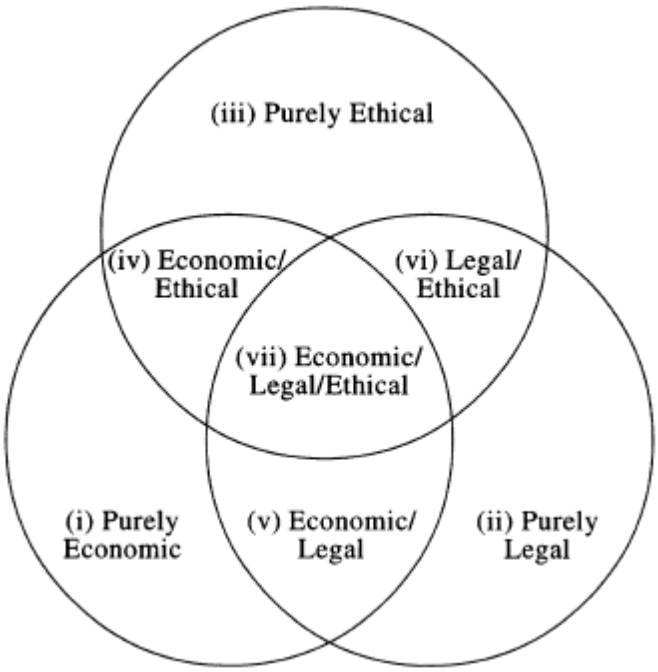
Carroll's Pyramid of Corporate Social Responsibility

Fig 1.1: Source: A.B. Carroll, "The Pyramid of Corporate Social Responsibility: Toward the Moral Management of Organizational Stakeholders," *Business Horizons* (July-august 1991)

This categorization by Carroll in a pyramid is misunderstood by some as the responsibilities that are at the top of the pyramid as most important, whereas Carroll did not intend the same. He stipulated that the Economic and Legal Responsibilities are the most important while Philanthropic Responsibilities are less important than other three responsibilities in the pyramid (Schwartz and Carroll, 2003). As Carroll (1993) himself noted that pyramid cannot fully capture the overlapping nature of CSR domains.

Later in 2003, Mark Schwartz and A. B. Carroll together established an alternative approach on the basis of three core domains of Economic, Legal and Ethical Responsibilities. This new approach is demonstrated through Venn model framework and is explained here through Fig 1.2 (Schwartz & Carroll, 2003). Though this model is based on the previous approach developed by Carroll as Pyramid, and even here responsibilities are defined as Economic, Legal and Ethical with the exception that philanthropy is subsumed under the ethical responsibility. The reason for choosing Venn model was that this

model suggests that none of the three CSR domains is more significant than the other and highlights their overlapping nature.



Three Domain Approach

Fig. 1.2 Source: Mark S Schwartz & Archie B Carroll, "Corporate Social Responsibility: A Three-Domain Approach," *Business Ethics Quarterly* (October 2003)

Cannon (1992) argues that CSR developed after the gradual involvement of businesses in the society and through post-war review of the nature of relationship between business, society and government. For him, ostensibly, the primary goal of business was to produce goods and services that society demanded and needed, however, for business to flourish a stable environment and an educated workforce are equally important. A recent addition to the vocabulary of CSR is the concept of 'social license'. Gunningham *et al*. offered the following description:

> *"... social licence...is based not on compliance with legal requirements (although breach of these requirements may jeopardise the social licence), but rather upon the degree to which a corporation and its activities are accepted by local communities, the wider society, and various constituent groups."* (Gunningham *et al*., 2002)

The World Business Council for Sustainable Development (WBCSD) defines CSR as "the continuing commitment by business to behave ethically and contribute to economic development while improving the quality of life of the workforce and their families as well as of the local community and society at large" (CSR: Meeting Changing Expectations, Page 3). This is a broad definition that encompasses the responsibilities of corporations to contribute towards the employees, their families, local community and society as a whole.

Business for Social Responsibility (BSR), a global nonprofit organisation defines CSR as a tool for "achieving commercial success in ways that honour ethical values and respect people, communities and the natural environment" (White, 2006).

The World Economic Forum (WEF) identifies the concerns for responsible business as follows:

> *" . . .To do business in a manner that obeys the law produces safe and cost-effective products and services creates jobs and wealth, supports training and technology cooperation and reflects international standards and values in areas such as the environment, ethics, labour and human rights. To make every effort to enhance the positive multipliers of our activities and to minimize any negative impacts on people and the environment, everywhere we invest and operate. A key element of this is recognising that the frameworks we adopt for being a responsible business must move beyond philanthropy and be integrated into core business strategy and practice"* (World Economic Forum, 2002).

Davis (1973) believes "social responsibility begins where the law ends. A firm is not being socially responsible if it merely complies with the minimum requirement of the law, because this is what any good citizen would do" (Davis, 1973). It is important to note here that Davis focuses on the point that Social responsibility goes a step further than what just law prescribes. CSR should essentially mean doing beyond what is required by law. The law

does not require us to donate to charity, help old people on the street, or help the needy. Being a good citizen means doing things, perhaps like these, that we are not obliged to do.

Similarly, the self-regulation and cleansing, undertaken voluntarily by corporations, is known as Corporate Social Responsibility (CSR), or "Corporate Citizenship" (Tapscott and Ticoll, 2003). The latter is used more frequently in a business context, but the two terms are synonymous. "Efforts made by companies to create social goods beyond the company's interests or responsibilities regulated by law" are also called CSR in order to emphasise the active action by companies (Williams and Seigel, 2001). These are few definitions that talk more about the voluntary aspect of social responsibility, which should not be understood only in terms of compliance.

Essentially, CSR recognises that corporations are not only responsible to their shareholders, but owe, or should owe, particular duties to persons or communities directly or indirectly affected by their operations; such persons or communities comprise a corporation's "stakeholders" (OECD, 1999).

During the last few years, there has emerged an awareness of a need to establish a universal set of CSR standards. Many CSR standards are being converted into global standards through comprehensive standardization efforts such as the UN Global Compact (UNGC), Global Reporting Initiative (GRI), and ISO 26000. In other words, a common consent is being shaped on the key items for CSR standards to be complied with by all states and corporate organisations. This may impact directly on organisations that evaluate the social responsibilities of companies in the market.

Corporate Social Responsibility has been defined as spending corporate funds, at the discretion of corporate management, on doing "good works" for the community or as refraining from doing "bad works." It has also been described as denoting the "obligations and inclinations, if any, of corporations, organized for profit, voluntarily to pursue social goals that conflict with their presumptive shareholder desire to maximize profit"

(McCabe, 1992). Too often, CSR is regarded, as the panacea which will solve the global poverty gap, social exclusion, and environmental degradation.

One of the more conclusive definitions of CSR is given by United Nations Industrial Development Organization (UNIDO), which states that CSR is:

> "*Generally understood as being the way through which a company achieves a balance of economic, environmental and social imperatives while at the same time addressing the expectations of shareholders and stakeholders.*" (UNIDO website)

Furthermore, Green Paper published by the European Commission in July 2001 formulated the currently most cited definition and describes CSR as

> *"A concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis"* (European Commission, 2001).

These are a number of definitions that attempt to define CSR. A large number of definitions represent not just a change to the commercial setting in which individual companies operate, but also a pragmatic response of a company to its consumers and society. There are two crucial pillars that support and effective CSR strategy:

- Responsible business conduct
- Shared Value Creation.

Responsible business conduct refers to the commitment of companies to comply with laws and adhere to global norms and standards. It also rests on the ability to identify, mitigate and offset negative environmental, social and governance ramifications. Shared value creation, refers to the strategic decision of companies to address challenges on the social and environmental front that benefits their business as well. Buchholz has identified five key elements that are common to most definitions of CSR:

1) Corporations have responsibilities that go beyond creation of profitability for themselves.

2) Corporations are equally responsible for solving social problems, especially those that have been caused because of their actions.

3) Corporations are accountable to the society as a whole, and not just their immediate stockholders.

4) Corporations have an impact on the socio-political and cultural system, in addition to the economic system. Their actions have an impact more than the simple market transactions.

5) Thus, corporations can have a huge impact on 'wider range of human values', which is hardly captured by economic values (Buchholz, 1991).

As WBCSD, 2000 report rightly points out; there is a lack of an 'all-embracing definition of CSR'. In the absence of a clear framework of concepts, and overlap in terminology, it has become tedious to conduct research, and hold academic debates on the subject (Gobbels, 2002). In 1970s, Dow Votaw wrote, regarding CSR that

> *"Corporate social responsibility means something, but not always the same thing to everybody. To some it conveys the idea of legal responsibility or liability; to others, it means socially responsible behavior in the ethical sense; to still others, the meaning transmitted is that of 'responsible for' in a causal mode; many simply equate it with a charitable contribution; some take it to mean socially conscious; many of those who embrace it most fervently see it as a mere synonym for legitimacy in the context of belonging or being proper or valid; a few see a sort of fiduciary duty imposing higher standards of behavior on business men than on citizens at large"* (Votaw, 1972).

Attempting a definitional construct of CSR, while discussing various practices that are being adopted by corporate makes it a complex task. However, A Blyth, summarises by saying "There is no one definition of what it takes to be a responsible corporate. The key is to have a rigorous process for identifying those responsibilities and fulfilling them" (Blyth, 2005).

It is important to point out that the scope of CSR is no longer confined to the idea of corporate philanthropy; rather, it has been validated that accepting social responsibilities has a positive effect on companies' financial performances. Thus, CSR has established the core principles for furthering

appropriate strategies for incorporating its different notions into business practice. **Table 1.1** provides an overview of the CSR's definitional work that has been already reviewed in depth in this section.

Name of the Organization	**Definition**	**Source**
International Labour Organization (ILO)	*CSR as a way in which enterprises give consideration to the impact of their operations on society and affirm their principles and values both in their own internal methods and processes and in their interaction with other actors.*	
World Economic Forum (WEF)	*Corporate global citizenship is fundamentally in the enlightened self-interest of global corporations since their growth, prosperity, and sustainability are dependent on the state of the global political, economic, environmental and social landscape.*	http://www.weforum.org/pdf/GCCI/GCC_CEOstatement.pdf
European Commission	*CSR is a concept whereby companies integrate social and environmental concerns in their business operations and their interaction with their stakeholders on a voluntary basis.*	European Commission (2001)Green Paper www.europa.eu.int

World Bank	*Corporate Social Responsibility CSR) is the commitment of business to contribute to sustainable economic development, working with employees, their families, the local community and society at large to improve the quality of life, in ways that are both good for business and good for development.*	
United Nations Industrial Development Organization (UNIDO)	*CSR is generally understood as being the way through which a company achieves a balance of economic, environmental and social imperatives while at the same time addressing the expectations of shareholders and stakeholders.*	http://www.unido.org/index.php?id=o72054
World Business Council for Sustainable Development (WBCSD)	*The continuing commitment by business to behave ethically and contribute to economic development while improving the quality of life of the workforce and their families as well as of the local community and society at large*.	

(Source: (Author's illustration)

Table 1.1: CSR Definitions given by major International Organisations

2.2 Classical vs. Modern CSR

The classical view of CSR forbids the business community from engaging in any activity that does not lead to 'profit maximization'. Since, CSR only leads to creation of additional cost without any tangible commensurate benefits accruing to the company; it is believed that it is wasteful expenditure on part of business community. Moreover, it is also

argued that the primary purpose of a company is profit maximization and social responsibilities are a diversion from the primary function. It is asserted by scholars like Clarkson (1995), Maignan, Ferrell, and Hult (1999) that the ultimate burden of CSR falls on the consumers as corporate shift their cost of CSR to them by charging higher prices, therefore it is avoidable. CSR is discouraged by classical thinkers also because of the fact that it is an irresponsible act to squander away the shareholder's money on unprofitable social ventures. Naturally, this is the minimalist view of CSR, which discourages corporations from giving back to the society.

On the contrary, modern view of CSR is based on the premise that business community should retain and strengthen its relationship with society. This view contends that socially responsible and reliable gestures towards the society benefit corporations both in short term as well as long term. Howard R. Bowen (1953) was a pioneer in postulating the vital characteristics of CSR. The current discussions on CSR, within the American tradition, can be traced back to his works, where he argues that managers pursue policies, make decisions, and follow lines of action in keeping with the values and objectives of the society. This concept was further given weight by Ells and Walton (1961) who averred that CSR among other things were the ethical principles that should govern the relationship between corporations and society. Finally, it was Joseph W. McGuire (1963), who gave a sharper focus to the understanding of CSR as the set of company obligations beyond the economic and legal realms.

The factor analysis carried out by Quazi and O' Brien (2000) suggested that only these two positions are taken into considerations by the managers in the companies. The choice made in a company between these two options reflects, among other things, the extent to which they either seek to embed social and ethical considerations into their decision- making and operations or see CSR as a defensive legal and public relations activity.

2.3 Approaches to Analyse and Understand CSR

CSR is defined and analyzed as an umbrella term. Thus, there are several conceptual and theoretical approaches to understand CSR in the absence of a universally accepted definition. These theories are illustrated here in detail:

1) Social Contract theory

2) Stakeholder theory

3) Shareholder theory

4) Legitimacy theory

5) Institutional theory

2.3.1 *Social Contract Theory*

The idea of Social Contract theory stems from the ancient philosophical thought that has its precedence in the writings of Hobbes, Locke, and Rousseau. The theory states that an individual's ethical and political obligations relate to an agreement he has with every other individual within a society. Initially the idea of social contract was about the rights of the individual when they gave up to the state for the greater good. More recently, the Social Contract is being used to explain the relationship between business and the society. Concerning business, social contract theory includes the obligations that businesses of all sizes owe to the communities in which they operate and to the world as a whole. Donaldson (1982) based on the philosophical thoughts of John Locke, believes that there exists an implicit social contract between business and society and this indirect relationship implies some obligations that business has towards society.

This view holds that the activities of corporations occur within an interpersonal and, most likely, in a social context. The company is considered a social institution in society, with social responsibilities. Gray, Owen, and Adams describe society as “a series of social contracts between members of

society and society itself" (Gray *et al*., 1996). In the context of CSR Gray *et al*. continue, "An alternative possibility is not that business might act in a responsible manner because it is in its commercial interest, but because it is part of how society implicitly expects business to operate" (Gray *et al*., 1996). They meant that today, corporations exist because society implicitly sanctions them to function in that form.

Further, Thomas Donaldson and Thomas W Dunfee (1995) proposed a theory of business ethics, popularized as 'Integrative Social Contracts Theory'. They argued that it is the society that allows corporations to operate thus they make an implicit commitments with that society. It is these commitments that form the social contract between the society and the business. It instructs managers to take confronting decisions on the basis of ethical framework. The theory differentiates between 'macro social contracts' and 'micro social contracts'. A macro social contract is the one that governs the social relationships of the business at the macro level. For example, in a society such a contract would be an expectation that business provide support to its local community. Concerning CSR, the theory primarily focuses at the position of the business organisations in the society not how they are constituted.

According to the societal approach, that is considered the broader view on CSR (Mcguire, 1963; Van Marrewijk, 2003; Gobbles, 2002), companies are responsible to society as a whole, as they function as its integral part. They operate by public consent or are granted the license to operate to "serve constructively the needs of society - to the satisfaction of society". It is considered the broader view on CSR but cannot be termed the contemporary view on CSR.

2.3.2 *Stakeholder Theory*

The term 'stakeholder' was first coined in Stanford Research Institute document on corporate planning in 1963, designating "those groups without whose support the organization would cease to exist" (Freeman, 1998). R. Edward Freeman in a classic book entitled *Strategic Management: a*

Stakeholder Approach (1984), described a firm as a series of connections of stakeholders that the managers of the firm attempt to manage. His classic definition of a stakeholder describes "any group or individual who can affect, or is affected by, the achievement of the organization's objectives" (Freeman, 1984). Employees, customers, suppliers, competitors, the government, and the community, apart from shareholders are included among a corporation's stakeholder. Thus, Stakeholder theory, examines whether and why corporations attend to the interests of stakeholders, along with their own immediate corporate interest (Freeman, 1984; Mitchel *et al*., 1997).

The normative view of the stakeholder theory takes the Kantian view that business ethics demand that the organization should take stakeholders into account, not because of the profit maximization purpose but because this fulfills its duty towards each stakeholder (Campbell and Craig, 2005). Moreover, this theory assumes that corporations must keep accountable to all stakeholder groups within a society, including shareholders, investors, employees, customers, the community and the government (Nadica and Vladimir, 2011).

The Stakeholder Approach marks a distinctive departure from the Classical minimalist understanding of CSR. This approach holds that an organization is not merely accountable to its shareholders but all the stakeholders, whose interests are intertwined with the objectives of an organization. This theory rejects the narrow view of protecting the interests of only the shareholders of a company and suggests that the stakes of all interested parties be considered. Stakeholders in this approach are not merely those who have invested in the company but they are a plethora of people ranging from employees, suppliers, dealers, local communities and the nation as a whole. Johnson (1971) proposes that instead of striving for larger returns to its shareholders, a responsible enterprise is bound to heed to the interests of the stakeholders as well.

Stakeholders are categorized into primary and secondary stakeholders. A primary stakeholder group as defined by Clarkson "one without whose continuing participation the corporation cannot survive as a going concern"

(Clarkson, 1995). The primary group includes shareholders, investors, employees, customers and suppliers, together they may be defined as the public stakeholder group, the governments and communities that provide infrastructures and markets, whose laws and regulations must be obeyed, and to whom taxes and obligations may be due. In short, there is a high level of dependency between corporation and its primary stakeholders groups.

The secondary groups are defined as "those who influence or affect or are influenced or affected by the corporation, but they are not engaged in transactions with the corporation and are not essential for its survival." Under this definition media and wide range of special interest groups can come who are not directly a part of the corporation(Clarkson, 1995).

Further, A. B. Carroll (1991) argues that the idea of CSR and stakeholders of a company are naturally linked to each other. He divides stakeholders into five groups that are recognized by most firms across the sectors in spite of size and location, based on priorities: owners, employees, customers, local communities and society at large.

Some researchers argue that no group of stakeholders dominates the other and their intrinsic value for the organization is almost similar (Clarkson, 1995) whereas there exist another group of scholars that argue that this idea is misleading. Polonsky (1995) promotes the idea of internal and external stakeholders. According to him, the first category includes employees, managers and shareholders. In short, with the internal stakeholders company has a direct relationship. On the other hand external stakeholders are comprised of the government, NGOs, the media and the society.

In order to make profit and survive, which is still considered the primary goal and responsibility of a company (European Commission, 2001), businesses need to identify and act in accordance with the demands and expectations of its various stakeholders (Neergaard, 2006; Lindgreen et al., 2009). In this respect, the responsibilities of a company are said to be defined by its stakeholders.

Stakeholder dialogue helps to address the question of responsiveness to the generally unclear signals received from the environment. Also, this dialogue "not only enhances a company's sensitivity to its environment but also increases the environments understanding of the dilemmas facing the organization" (Kaptein and Van Tulder, 2003).

Ansoff (1965) argued that organizations must determine the often-conflicting needs of its stakeholders, and manage them in a way to satisfy as many as possible or at least the most powerful stakeholders. As noted by Farmer & Hogue (1973), given the limited resources any one organization has, this strategy of stakeholder management may often result in a trade-off between satisfying stakeholders.

In trying to explain who all are the stakeholders of a business are, Geoffrey P. Lantos points out that they are to be found at four different levels. At the first level, which is a corporation's macro-environmental level, come the stakeholders who are connected with the corporation through economic, legal, political, and socio-cultural structures and institutions of the society. The second level stakeholders comprise the 'exchange relationship partners', i.e. the suppliers and distributors, the customers, the local communities, and even one's competitors in the market. The third level of stakeholders belongs to the business fraternity itself, including the supervisors, subordinates, colleagues and labour unionists. Finally, the fourth level of stakeholders includes the close peers, such as family members, and friends of colleagues (Lantos, 2001).

As a result, Stakeholder theory enjoys the advantage of being a broader and realistic view of the corporation as a socially embedded institution. In one way, it recognizes all the relevant social actors or stakeholders with whom a firm interacts. On the other hand this theory persuades managers to maintain a balance between long-term shareholder interest and the interests of other stakeholders. However, some scholars have allege that stakeholder theory has been unsuccessful to attend to the social and economics imperatives that organizations often deal with in many contradictory ways (Margolis and Walsh, 2003).

2.3.3 *Shareholder Theory*

Representing the basic view on businesses responsibilities, the well known American Economist Milton Friedman (1970) argues that "the only social responsibility of business is to increase profits for its owners or shareholders while ...conforming to the basic rules of society... in terms of obeying the law and following current ethical customs" (Friedman, 1970). According to Friedman, social activities in terms of donating money to good causes and dealing with other social issues are considered to be a "waste of shareholder's money and a distraction from the core purpose of a company" (Friedman, 1970; Andriof & McIntosh, 2001). Among those who supported Friedman's view was former Yale Law School Dean, Eugene Rostow, declaring that the corporate practice of profit maximization was a successful one and that it would be unwise to replace it with CSR (You, 2015).

This theory emphasizes that, the shareholder, in pursuit of profit maximization, is the focal point of the company and socially responsible activities do not belong to the domain of organizations but are a major task of governments. This approach can also be interpreted as business enterprises being concerned with CSR only to the extent that "it contributes to the aim of business, which is the creation of long-term value for the owners of the business" (Foley, 2000). Supporters of this view argue that maximizing the corporate value and generating profits implicates the maximization of wealth automatically for the society by providing jobs, producing high-quality products, and contributing to economic growth. And such views were mostly shared by corporate managers during the 19th and 20th century.

Quazi and O'Brien (2000) consider the shareholder approach as the 'classical view' on CSR. In practice, the stakeholder and societal views are most often used interchangeably or applied in combination (Carroll 1991, 1999) as stakeholders constitute an important part of what is referred to as "society" (Carroll & Buchholtz, 2008).

This classical view of a company's responsibilities is widely cited as a stark contrast to contemporary understandings of CSR. It does, however, still

play a role in defining CSR as it forms the foundation for contemporary conceptualizations and understandings of CSR.

2.3.4 *Legitimacy Theory*

Suchman (1995) defines legitimacy as "a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs and definitions." Underlying this understanding is the implication that it is the governments and the societies which will grant legitimacy to corporate actions, and delegitimize their status whenever the interests of the former are sidelined.

O'Donovan (2002) argues that the success of corporations is dependent on their fulfillment of 'socially responsible behavior' expected by the society. Thus, the desire and urgency to seek legitimacy is an important reason why corporate undertake CSR activities. Moreover, by initiating CSR, corporate are also able to strengthen their power to influence members of the society (Lindblom cited in Gray *et al*., 1996; Clarke, 1998). Similarly, C.K. Lindblom also notes that legitimacy is not necessarily a benign process of merely obtaining legitimacy from society. She also explains that an organization may employ various strategies for legitimating itself during times of threat. These strategies involve:

1. Actively educating the stakeholders about the benevolent intentions of the organization, so as to improve one's performance.

2. Changing the perception of the functioning of the organization, without actually changing its performance.

3. Diverting attention away from the issues of concern

4. Seek to change external expectations about its performance

There is another view that completely reverses the idea that businesses use their power to create legitimacy for themselves. According to Keith Davis (cited in Wood, 1991), it is actually the society that bestows legitimacy to

businesses, and not the other way round. A society grants a corporation immense power by legitimizing it, with the hope that this would be used responsibly in the interest of the society. “In the long run, those who do not use power in a manner which society considers responsible will tend to lose it”. In effect, this is a re-statement of the concept of a social contract between the firm and society.

2.3.5 *Institutional Theory*

The major concern of the institutional theory is to seek legitimacy to operate within an environment and it also makes an attempt to become “isomorphic with these environments” (Dimaggio and Powell, 1991; Tolbert and Zucker, 1996). The Institutional theory answers a very important question that while businesses can get incentives for maximizing their profits, then what motivates them to be socially responsible. And given both good and bad conditions, under what conditions are corporations more likely to act in socially responsible ways (Campbell, 2007). Aguilera and Jackson (2003) have also argued that institutional theory is useful for understanding cross national differences in corporate governance. It is due to the reason that stakeholder identities and their interest vary across nations. In CSR the motives of managers, shareholders and other important stakeholders shape the way corporations are governed, the institutionally theory gives an opportunity to explore and them within their national context. Moreover, institutional theory clearly brings out the interdependencies and interactions among the stakeholders in its analysis.

According to Jones (1980) “corporate behavior should not in most cases be judged by the decisions actually reached but by the process by which they are reached”. Consequently, he emphasized the idea of process rather than principles as the appropriate approach to CSR. So he shifts the criteria to the inputs in the decision making process rather than on the outcomes. And, further stresses on the process of implementation of CSR activities rather on their conceptualization.

Institutional analysis is important because institutional theorists understand that institutions beyond the market are often necessary to ensure that corporations are responsive to the interests of social actors beside themselves, particularly today's increasingly global economy (Scott, 2003).

2.4 Legal and Ethical Dimensions of CSR

To understand the effective underplay between CSR and law, it is necessary to read about its legal aspect. The compliance with law standards is the most basic of the conceptions of CSR, a sine qua non-principle (Hess, 1999). On the face of it, CSR and law are either redundant terms or significantly at odds. One legal scholar describes the linkage this way: "CSR is a function of law and law is a function of CSR" (Ostas, 2001).

There seems to be a distinct relationship between CSR and the law. In simple terms, compliance with the law can be said to be the first responsibility of citizens or corporations. Moreover, the principal instrument governments' use to address a firm's social, environmental and economic impacts is the law. Many countries have an extensive range of laws, whether at the national, state or local levels of government, relating to consumers, workers, health and safety, human rights and environmental protection, bribery and corruption, corporate governance and taxation. A firm's CSR approach should begin by ensuring full compliance with those laws already in place. No matter how good a CSR policy may be, failure to observe the law will undermine other good efforts. Looking ahead, the CSR activities of firms can be seen as a proactive method of addressing potentially problematic conduct before it attracts legal attention. A responsible approach to CSR must be naturally attuned to the emerging trends in law and policy.

Ward (2003) aptly suggests that the most fundamental dividing line in CSR debate is "between people who argue that CSR should be limited to consideration of 'voluntary' business activities 'beyond compliance' with legal baselines, and those who argue for a broader starting point based on an understanding of the total impacts of business in society." The former approach tends to discourage the introduction of legislation or regulation as a

response to issues raised in the CSR debate thereby disconnecting the debate from a discussion of corporate accountability through law.

Ward further argues that legal dimension of CSR is so important that its failure to take into account of CSR weakens the chances of making progress in defining the proper balance between government, business, and civil society (Ward, 2003). Thus, the legal aspect of CSR views the concept as a means of employing legal changes to attain CSR objectives. As a result, corporate practices are typically influenced by an array of legal domains, such as securities regulation, taxation law, contract law, employment law, environmental law, consumer protection law, etc. Common sense would suggest compliance with the law as the first social responsibility of citizens, whether individual or corporate. And yet, corporate compliance with the law is hardly a sure thing despite the fact that most citizens assume it to be certain.

The ethical concept of responsibility is relatively new as it emerged and evolved during the 20th century. With ancient roots in philosophy, business ethics has exploded as an area of study and practice, moreover due to the corporate governance movements of the 1990s. The proponents of ethical CSR argue that corporations derive the benefits that they accrue being the part of the community, therefore, they are obliged to pay a corresponding contribution to that society (Kang and Wood, 1995).

Ethical CSR goes way beyond surpassing a firm's economic and legal obligations. According to Geoffrey Lantos (2001), any organization that does not adhere to its ethical duties would be like an unreliable and morally unethical entity. Ethical CSR is based on the socially aware view and stakeholder model of CSR that business should be sensitive to potential harms of its actions on various stakeholder groups (Freeman, 2001).

2.5 Governance Dimension of CSR

*"*Governments *are a fundamental actor in governance, but increasingly non-state actors from business and civil society are seen to play key roles*" (Miller, 2003). CSR is taking us on a path towards increased private takeover of

government functions. It is not merely a form of PPP (Public Private Partnership) but a progression towards corporations taking on the role of governance.

The corporate social responsibility debate is also intertwined with the question of governance - who should control the corporation's activities? Governance here refers to "sustaining coordination and coherence among a wide variety of actors with different purposes and objectives, such as political actors and institutions, corporate interests, civil society and transnational organizations". The privatization of governance has led to a situation in which political power and institutional capability are less and less rooted in formal constitutional powers and increasingly derived instead from a capacity to wield and coordinate resources from a variety of state and non-state actors. This trend has caused an accelerating convergence between business and civil society in actively setting regulatory frameworks in economic development.

Matten and Crane (2005) suggests that in the course of development some business firms have even begun to assume a state-like role. They argue that many companies fulfill the functions of protecting, enabling, and implementing citizenship rights, which have initially been considered the sole responsibility of the state and its agencies. These corporate activities often occur in cases where the state system fails, i.e. when the state withdraws or has to withdraw, when the state has not implemented basic citizenship rights, or when it is principally unable or unwilling to do so (Matten and Crane, 2005)

As a consequence, some authors conclude that business firms have become important political actors in the global society (Boddewyn and Lundan, 2010; Detomasi, 2007; Matten and Crane, 2005; Scherer and Palazzo, 2007; Scherer et al., 2006). It is observed that unlike national governance with its monopoly on the use of force and the capacity to enforce regulations upon private actors within the national territory, global governance rests on voluntary contributions and weak or little enforcement mechanisms.

2.6 Drivers of CSR

There are numerous ways in which a company is driven to act responsibly. Sometimes, there exists an internal driving motivational force while at points it is the external pressure that expects a company to fulfill its duties towards the society. While examining the various drivers for CSR, it is seen that together they carve out a distinctive account of how CSR is shaped, encouraged, and applied in various economies of the world. Here are some internal as well as external drivers that make sure a company acts responsibly.

- ***Leadership*:** It is observed that CSR often begins from the top. It is considered one of the important self-driven motivations for being socially responsible. The socially driven CEOs do try and bring together the socially responsible practices into the corporations fold, and explicitly talk about CSR in their agenda. Sometimes they even go further and create departments for CSR, and report about company's contribution towards CSR in their financial reports (Zadek, 2004; Porter & Kramer, 2006)

- ***Socio-Economic Priorities*:** Socio- economic causes are crucial issues. CSR sometimes is intended to address the social and economic development challenges of the developing as well as developed countries. They also try to focus on matters like poverty alleviation, health-care provision, infrastructure development, and education. And it stands in stark contrast to many Western CSR priorities such as consumer protection, fair trade, green marketing, climate change concerns, or socially responsible investments. An example Zadek (2004) gives is of Pharmaceutical industry, where civil society advocate's demands that these companies should sell their life saving drugs at cheaper price for the larger benefit of the patients. Till few years ago companies argued that this will negatively affect their research and development efforts. However, now days these companies are exploring options to sustain their R&D while trying to reduce their drug prices in the developing countries and also integrating prevention of long time illness in their business strategy. Zadek advises companies to predict in advance and ask them to respond to such issues responsibly.

- ***Public Relations*:** Another crucial reason for companies to engage in CSR is the positive image that it helps to create (Fombrun and Shanley, 1990) and also the positive impact that it has on the reputation of the firm (Clarkson, 1995). Epstein & Schnietz (2002) argue that companies often use CSR as a way to fix their image after disasters that they create. Interestingly, it is said that some of the best practices in CSR are demonstrated by the companies that were once featured as irresponsible corporations such as Nike[2]. The company in order to rebuild its image made crucial efforts to promote the corporate social responsibility in general and improvement of working conditions in particular (Zadek, 2004)

- ***Governing System*:** Blowfield and Frynas (2005) consider CSR as "an alternative to government" which can be used to fill the governance gaps that have come up as a result of the liberal economic globalised system. For other scholars like Matten and Crane (2005), CSR can be considered an open chance for private companies to cover areas of public interest that are still not under the concern of the local government policies or are only partially covered. Jeremy Moon (2004) even concluded that CSR must be understood as part and parcel of a wider system of national governance. It should be incorporated not only by government institutions but also non-government organizations and business organizations.

- ***Pressure from Nongovernment organisations*:** Today there exist a number of nongovernmental organisations (NGOs) that exert pressure on corporations to undertake socially responsible behaviour. Some of the nongovernmental organisations even facilitate the process of corporate involvement with society, for example, United Nations Environment Program (UNEP). UNEP has introduced the Global Reporting Initiative (GRI), which is an international standard for reporting on CSR performance. Apart from these, there are other such organizations that act as watchdog on corporate actions. For example, Human Rights Watch, Greenpeace etc (Griffin & Vivari, 2009). These

[2] In 1990s company was in the middle of the crisis due to bad working conditions in its supply chain.

organisations thus force the corporate to undertake responsible practices towards consumers, stakeholders, and shareholder and assure that corporations become better part of the society.

Nike, the sports company was found violating labour laws in their supply chain and branded irresponsible. However, due to the immense pressure from civil society groups and activists, the company adopted corporate responsibility as a practice faster than it would have done otherwise (Zadek 2004).

- ***Responses to Crisis*:** Today there are urgent calls for responsibility from corporations and businesses. That is why it is seen that various kinds of crises associated with developing as well as developed countries often have the effect of catalyzing CSR responses. The crises can be economic, social, environmental, health-related, or even industrial.

  Sometimes, the actions of CSR arise as a result of severe crises, as commitment is being demanded from the companies. As Corporations do not operate apart from the society, we live in, and business behaviour has many direct and indirect impacts on society. Social responsibility pertains to fair and beneficial business behaviour toward those involved, such as employees, the community, and the region. There is a corresponding social structure under the social responsibility dimension in which the well-being of the corporate, labor and other stakeholder is interdependent (Elkington, 1998). Social responsibility is a wide term that covers human rights obligations, employee welfare, concerns of the community and it even ensures product safety (Andriof & Mcintosh, 2001; Niskala and Tarna, 2003). Apart from them, social responsibility also includes a range of labor rights including child labor, environmental protection, and consumer protection, prevention of monopolies, tax evasion, anti-corruption, and promotion of technology transfers to LDCs.

  - ***Human Rights***: Corporations face a series of human rights concerns when they decide to invest in Least Developed Countries (LDCs) and developing countries, particularly with regards to an appropriate standard of

working and their position on human rights issues outside their scope or impact of their operations. Unlike traditional human rights law, CSR-related human rights recognise a "collective" right of host State's local communities living in or peripherally to the investment project, or which are directly impacted by the project's operations, relating to environmental and social wellbeing.

The increased presence of human rights focused nongovernmental organisations such as amnesty international and human rights watch have intensified the focus on the importance of issues related to violation of human rights , raised public interest levels and have also encouraged international media coverage. As a result, corporations that are found to be violating them are forced to change their policies by building up the international pressure. The UN Guiding Principles on Business and Human Rights are a positive step in this direction. Though these guidelines are not mandatory but they are a reflection of the efforts that have been built by nongovernmental organisations to bring business into the realm of accountability concerning human rights.

- ***Labor Rights***: CSR pressure has called upon large multinational corporations (MNCs) to ensure that their supply chains respect the labor conditions. Supply chain management incorporates the process of procurement of raw materials, manufacturing those raw materials into products, distribution and then marketing and sale of those products (Beamon, 1999).

- ***Environmental Rights*:** Besides domestic environmental legislation, no other instrument legally binds corporations in environmental matters. The concept essentially means that the pursuit of economic objectives should coincide with environmental concerns and social growth. The World Bank requires stringent environmental checks and control before and during the implementation of an investment.

- ***Sustainable Development***: While there are over 100 current definitions of sustainable development (Holmberg and Sandbrook, 1992), the one most

commonly used is that of Brundtland Report named "Our Common Future" published by World Commission on Environment and Development (WCED). According to this report, Sustainable Development is "a process of change in which the exploitation of resources, the direction of investments, the orientation of technological development, and institutional changes are made consistent with future as well as present needs" (WCED, 1987). Ever since this report was published in 1987, sustainable development has become a debatable concern.

Similar to CSR, the mainstream understandings of sustainable development emphasize the need to better integrate the social environmental and economic aspect of development and to involve civil society organizations and business doing so (European Council, 2006).

2.7 Voluntary Vs Mandatory Reporting Debate

CSR reporting is a way through which organisations provide information for its stakeholders on important issues like social, human rights, labor rights and environmental issues. CSR reporting can be voluntary or mandatory. As seen, voluntary aspect of CSR is emphasized in the most commonly cited definitions by various organizations and scholars. Traditionally, CSR reporting has been regarded as a voluntary activity and it is one of the most recognized forms of reporting throughout the world.

However, the recent debate in the concerned literature gradually focuses on the role of the state in regulating the business. The realization that voluntary reporting did not produce the desired results as it simply was not undertaken to a significant extent by most companies- except few large Multinational Corporations (MNCs), eventually led governments to enforce reporting of CSR related issues in different ways. Some countries like Denmark, South Africa, and France, have directly introduced rules that require the disclosure of environmental, social and governance issues. Advocates of mandatory reporting believe that reporting should be regulated by the state in order to protect the citizens and to ensure its stakeholders that authentic information is provided to them (Doane, 2002). Its proponents even argue that

it can help to reduce uncertainties about the future and will result in improvement of the economic incentives for companies to act responsibly. However, it is apparent that mandatory regulation is not a panacea for the social problems.

However, the efficacy of reporting and disclosures to achieve greater sustainability impact through CSR is yet to be tested. Many countries have resorted to other measures to indirectly enforce reporting like some have modified stock exchange rules that imply more extensive disclosure of information, included CSR reporting into public procurement or have strengthened safety and health protections laws. These are few among various other measures adopted by various countries.

Robert Reich (2007), Secretary of Labor under US President Bill Clinton, for instance, argued that governments need to set the agenda for social responsibility by formulating laws and regulations that will allow businesses to conduct themselves responsibly. As far as the introduction of mandatory CSR reporting is concerned, there is a significant diversion of views among the practitioners and the academicians on its prospects. Countries like Indonesia and Mauritius amongst many others were the first few to apply this idea of formulating a mandatory framework of CSR for businesses. Tschopp (2005) called for regulatory bodies such as the U.S. Securities and Exchange Commission (SEC), the European Commission, the International Accounting Standards Board, or others agencies to work for worldwide consensus on mandatory CSR reporting systems that put social and environmental assessments on par with financial audits. In the US, a SEC seal of approval takes the form of strengthening and expanding requirements as outlined by the Sarbanes-Oxley Act, (SOX). Moreover, Estes' (1996) recommended a Corporate Accountability Act enforced by a Corporate Accountability Commission which would provide for mandatory stakeholder input. For instance, a number of public voluntary programs initiated by the U.S. Environmental Protection Agency (USEPA) have been considered a significant success, while a number of negotiated agreements involving USEPA had little success (Khanna, 2001).

2.8 Future of CSR

There is an ongoing debate about issues concerning Corporate Social Responsibility, like how it should be promoted, what is the best way to measure a company's performance with regards to its social activity, about its compliance, whether it should be voluntary or it should be regulated through national legislations or international laws. Many scholars believe that businesses cannot be imposed to do a desirable social activity as it could be risky (Hess, 2001; Kelly, 2001; Robins 2005). Robins (2005) thus believed that moral suasion and market pressure on firms to act responsibly are much more persuasive than any regulatory legislation.

The website of International Business Leaders Forum (IBLF) presents a three level governance framework consisting of national legislation, international conventions and voluntary standards. At the first level there are number of legislations to which all companies within a country are obliged to comply. Beyond this, is the second level of international conventions that have emerged over the years around the pertinent issues of the time. Sometimes they form the basis of national legislations and are now increasingly used by major corporations for decision-making. The third level is the level of voluntary standards, established by various agencies. These standards are either in form of indexes or accreditation system.

Robins (2005) clearly points out three developments that are taking place presently and considers that they are important for the future of CSR. First, many big corporations are growing into global corporations. And these huge corporations account for one third of the world's GDP and two third of its trade (Parrett, 2004). And these global corporations do adopt some form of measurement of corporate responsibility in order to avoid criticism from their home country or from the market. Second, with the increased knowledge sharing activities of the shareholders and stakeholders, companies are paying more attention to their social responsibility to avoid negative reputation. Thus there is indeed pressure on them to be transparent and accountable. Third, he believes that corporate leaders are finding that their share price and moral high

grounds are positively correlated. This further encourages them to meet the rising expectations from community.

Further, Wayne Visser gives a framework for the future of CSR. According to Visser (2010), the future of CSR to which he calls systemic CSR or CSR 2.0 must incorporate five principles, namely, creativity, scalability, responsiveness, glocality and circularity. The First principle in Visser's Model is Creativity; he asserts that for CSR to succeed, innovation and creativity is needed. He locates today's business in the 'Age of Responsibility' and believes that businesses should direct their creativity towards resolving social and environmental problems. Scalability is the Second principle, which stresses that the largest sustainability issues these days are climate change and poverty. They are so urgent that no CSR solutions can match their scale and urgency. Visser's Third principle is Responsiveness. Visser argues that the problem with CSR 1.0 is that they are not adequate enough to deal with the most serious social and environmental trends, though they have succeeded in keeping the regulatory bodies and NGOs at a distance. Many CSR policies and programs are responding to various important issues but they are not genuinely 'responsive' to the scale and urgency of its stakeholders needs. Therefore, responsiveness is one of the most important principles for CSR in future. Glocality is the Fourth principle which means global localisation. It point out that the major companies today are global in their operations but they must be instructed in understanding local contexts. And the solutions they find for local problems and issues must adhere to local standards while they follow universal principles. Fifth and the last principle is Circularity which means that business needs to feed and replenish their social and human capital through education and training and through nurturing community and employee wellbeing. Visser maintains that the purpose of business is serving society, and business can help society by supplying safe, high-quality products and services which boost well-being (Visser, 2014).

Presently the role played by International organisations in promoting and developing the concept of CSR across the world, cannot be undermined. The most significant international CSR instruments includes the Organization

for Economic Cooperation and Development[3] (OECD) guidelines published in 1976 provides guidelines that are in the form of recommendations on environment, human rights, employment and industrial relations, bribery, consumer interests, science and technology, etc. addressed by governments to Multinational Enterprises (MNEs). The Global Sullivan Principles launched in 1977 are another powerful framework to secure social justice. These principles are the guidelines for corporate accountability and responsibility.

The United Nations and multilateral groups associated with it have also developed frameworks to support companies to improve and enhance their 'corporate citizenship and responsibility.' Amongst these, the Global Compact (GC), the Universal Declaration of Human Rights, the International Labour Organisation's (ILO) Declaration on Fundamental Principles and Rights at Work and the Rio Declaration on Environment and Development are amongst a few examples. However, there are few observations related to them, First, they do not provide a binding legal framework for industry, non-binding nature. Secondly, they are looked at with skepticism because of the issues related to increased competitiveness, particularly by MNEs as they are not unilaterally enforced at the national and local level.

When a corporation is criticized for trading with factories that violate their worker's human rights, corporations can respond to the negative publicity by making genuine efforts to improve those labor conditions or by counteracting the negative publicity with other publicity tools. The ability of corporations to counter negative publicity with their positive publicity can arguably reduce the effectiveness of the CSR movement.

Certainly, today there is need for some universal charter that corporations are liable to rather than just voluntary codes of conduct (Banerjee, 2008). Corporations do not have the self-driven motive to facilitate the governments in contributing to social welfare simply because of the reason that they are intrinsically motivated by economic growth and profits. Markets, however, efficient they may be in setting prices, cannot be counted upon to ensure that corporations will always act in the interests of society.

[3] http://www.oecd.org/corporate/mne/1922428.pdf

From the beginning, CSR has been the subject of much debate. Its critics argue that for businesses the main responsibility is to maximise return to their shareholders. According to them, it's the corporate legal system that should serve as the entity for regulating businesses' conduct with society. Supporters of CSR contend that there are significant profit-related benefits in socially responsible behaviour. Companies are using their CSR activities to recruit and keep the best management talent and to establish partnerships with communities to increase company influence on legislation.

Despite the ongoing debate, trends indicate that CSR is gathering force and is here to stay. More and more leading companies in America and elsewhere are releasing sustainability reports. Plus, new industries like clean energy provide social and economic benefits while dealing with environmental problems like climate change. The result of that combination has been called one of the greatest commercial opportunities in history, which will also pave way for more businesses that will adopt sustainable practices.

In short, there is indeed an upward trend in CSR but there is also a need to be cautious while observing the socially responsible behaviour of corporations. Equally important is to understand that in fostering environmental and social good businesses cannot replace the government. However, over the past sixty years and especially in last few decades the structure of American companies and conditions under which they operate has dramatically transformed. The following chapters are an attempt to bring out the evolution and change in CSR practices in the United States.

Chapter -3

Genesis and Evolution of CSR in the United States

The previous chapter has discussed at length about the concept of Corporate Social Responsibility (CSR), its various definitions, and dimensions. Additionally, it has thrown some light on the various theories explaining CSR. It also briefly mentions the different CSR practices that exist today among countries. Such variety in practices occurs because of the cultural, political, and economic differences as well as due to existing variations in the institutional frameworks of these countries.

In this chapter, the primary aim is to explore how this concept of CSR has evolved in the United States. It also seeks to fill the gap in the existing literature on the evolution of CSR in America since the 18th Century and how it has come of age. Even though there exists a significant amount of literature on the historical development of the concept, very few works have focussed on studying, CSR rise since the early 19th Century onwards to the present 21st Century.

A well-known fact is that the American economic policies and practices are liberal, characterising minimal government intervention. Consequently, the companies in the US apply self-established standards of functioning from the earliest times. So, there is no general or common reference point in the US with regard to corporate social responsibility practices.

Even today the US companies are not considered excessively regulated through government mandated legislations when it comes to its CSR practices, as seen among European countries. CSR in the US is addressed as a moral and social choice perspective rather than as a regulatory compliance perspective.

Here, the Triple-Bottom-Line[4] approach to business success has always been a voluntary one. So while stakeholders expect that companies adopt more sustainable business practices that benefit society in addition to creating profits, the fact remains that no law makes it obligatory for businesses to adopt CSR practices.

On the positive side, perhaps the absence of the mandatory set of practices of corporate responsibility has enhanced a sense of corporate accountability among US companies. So much so that the focus of some companies has even gone beyond environmental, legal and workplace issues to matters that best enhance a company's external reputation. According to Donna J. Wood (1990), charitable activities of American firms are a 'part of image marketing campaign.'

Importantly, the US companies are much more explicit in their public statements on the commitment to corporate responsibility than most of their counterparts in various other countries. However, the absence of a fixed definition of the concept has led to perplexity on the scope of the concept given its wider range, including everything from matters of social responsibility to sustainability, community investment and corporate citizenship.

Lately, the world has come to believe that CSR needs to be more than just the virtual reality. Nine years ago, a report by McKinsey suggested that CSR, to be sustainable, needs to be deep-rooted in the value system and be part of the strategy of the organisation. Rather than being an optional approach in the form of corporate philanthropy, CSR should be a "source of organizations rejuvenation and growth, enabling the institution to take on new inputs and to learn and develop." The report asserts that "CSR is a vital ingredient for the future, as it draws on external inspiration, enables

[4] The term triple-bottom-line is often used to convey the message that although corporations are interested in their financial bottom line, they also measure their success by ecological and social performance.

organisational learning, and helps to steer core strategy" (Mckinsey, 2008 cited in Ennals, 2010; Josendal and Ennals, 2009; Ennals, 2014).

For some companies CSR is same as corporate philanthropy, whereas some companies define it as those activities that combines activities that covers all its operations starting from raw material procurement to third party involvement and even employment generation. The concept has been widely accepted and is being practiced by mainstream companies around the world. A growing convergence is observed regarding the activities that are covered under CSR initiatives. . To better understand the shifts in practices of CSR in the US the chapter will now delve into how the concept has grown and flourished.

3.1 Evolution of CSR in the United States

Robert Hay and Ed Gray described the period from the late 1900s till the World War I (WWI) as the "profit maximizing management" phase in the development of socially responsible practices undertaken by big businesses of the time. The second phase according to them was "trusteeship management" phase that emerged in the 1920s and the 1930s. During this phase, managers were not only the agents of the company they were called 'trustees' (Hay and Gray, 1974). According to this 'management as trustee' concept management has a multiplicity of obligations to the stockholders, towards employees and the public at large (Frederick, 2006).

Sophia Muirhead (1999) characterised the period starting from the 1870s to 1930s as the 'pre-legalization period' of corporate contributions. The corporate contributions during this period were seen in the negative light as being illegitimate practise. Beginning from the mid of the 1950s to the midway in 1980s saw the expansion of corporate grants thus Muirhead called it "growth and expansion" period. The period of the late 1980s into 1990s is called as "diversification and globalization" period as global companies started to enter economies where they created managing positions dedicated specifically to corporate giving.

Patrick Murphy (1978) in a very clear-cut manner divides the period into four eras, where period up to the 1950s was called the "philanthropic era." During this time, companies made charitable donations as part of their philanthropic Endeavour. Since 1953-1967 was the "awareness era", during this phase recognition of responsibility became more apparent. The period 1968-1973 was termed as the "issue era" as companies shifted their focus on the emerging issues of the time and paid attention to specific issues such as urban decay and racial discrimination among other pertinent issues (Carroll, 2008). This period is termed as a period of changing social consciousness when there was noticed a rise in the recognition of overall responsibility of businesses, their involvement in community affairs, and the continuing philanthropic era in which there was a focus on charitable donations by businesses (Murphy, 1978). In other words, at this juncture it was believed that businesses were primarily driven by externally induced, socially conscious motivation to act as socially responsible. They were not expecting returns. Finally, period from 1974 onwards characterised as the "responsiveness era" when CSR issues began to be dealt with serious management actions. As a response management took various measures that included forming a board of directors, making corporate ethics a part of the organisation and even began to use social performance disclosures (Carroll, 2008).

For the convenience of the reader, this chapter divides the historical rise of CSR into three phases, where first phase, focuses on the early practice of corporate philanthropy. Second phase starts from World War II, when new ways of corporate giving began in the form of federated programs. Finally, third phase focuses on the emergence of CSR. It begins with the decade of the 1950s and goes up till the 21st Century CSR. The chapter culminates while discussing the CSR in the present in the United States.

3.1.1 Phase One: Early Phase of Corporate Philanthropy

The beginning of Corporate Social Responsibility in the US has been a fascinating part of its history. Initially, the usage of corporate wealth for any charitable purpose was considered illegal or unlawful by the courts (Sharfman,

1994). It is a bit intriguing that during the late 18th Century charitable activities done by big business houses were considered illegitimate and later the same practices became so important that they reached the top of 'Pyramid of CSR[5]' as represented by A.B. Carroll (Carroll, 2008). Before the 1900s, corporate contributions were perceived as suspicious, because they were seen as shareholders' assets that were being given away without their consent. Also, laws restricted the corporate contributions to be used only for purposes that 'benefitted the company' in some way or the other (ibid).

It was the *Steinway v. Steinway & Sons et al. case, of 1896* which paved the way for the legitimization of the tradition of corporate giving. In the *Steinway Case,* the Piano manufacturing company bought a tract of land for the purpose of building a church, library, and school for ward of its employees. When company's shareholders approached the court, it held that this move resulted in "improved employee relations," thus contributing to the company's wellbeing alongside (ibid). As Mark Sharfman explains, the society was using "corporate philanthropy to help resolve the conflict between a collective desire to be of assistance to one's fellow citizens in need and the collective philosophy of individualism which was the very foundation of American society." (Sharfman, 1994)

The period of the late 1800s, as illustrated by Morrell Heald (1970), through *R. H. Macy Company Case* of New York City quite evidently demonstrated the initial phase of social sensitivity in the US. Company records like the contribution made towards an orphan asylum, gift to charities, etc. were a testimony to the fact that company rendered assistance to various social agencies. It exhibited company's relationship towards community well beyond its walls (Heald, 1970, cited in Carroll, 2008). Although this was not the only case when a company supported a social cause not as a collective effort but as an individual entity, but philanthropic acts of the 19th Century were largely an individual effort (Wren, 1983; Sharfman, 1994). Though it was not called social responsibility as such some extent of it was being undertaken by the companies even then.

[5] For explanation of 'Pyramid of CSR' by A.B. Carroll, please see Chapter 2.

Heald (1970) further suggests that social responsibility during this period in the US was put into practice in two ways. One way was the 'paternalistic' way as carried out by the corporations. The other was through the creation of associations such as YMCAs (Young Men's Christian Associations), a movement that started in the UK but quickly spread to the US. While explaining paternalism, Heald mentions the 'Pullman Experiment.' The creation of a model industrial town in Chicago, Illinois by George M Pullman, the owner of the Pullman Palace Car Company in 1893 is an important example that stirred the paternalism debate in the US. It was an industrial town that was built with advanced technology and had many modern amenities like parks, playground, theatre, casino, hotel, etc. It exhibited Pullman's interest in enhancing the living condition of his employees and their families.

Sharfman (1994) argues that the objective of such experiment was to attract the workers to remote and undesirable places where these industrial units were set up. It was not actually to fulfil an overriding social agenda. To Carroll, it seemed apparent that the primary concern of the emerging businesses was to increase the productivity of their employees (Carroll, 2008). However, today it is hard to understand the purpose of what businesses do, whether they do it for their employee productivity or some social cause. During the early 1890s, corporate funds were also considered as tainted money (Gladden, 1895 cited in Sharfman, 1994).

In the early 19th Century, businesses were free from government regulations, so they enjoyed their freedoms to keep wages low, and profits high not only in the US but many developed countries. However, with time their attitudes started to change, partly due to the pressure of government legislations that were enacted over the period and partly because of the 'paternalistic Christians values' of the business tycoons. The basic idea of the Christian ethics seems to be that the businessman needs to think of himself as something more than a simple money collector. These ethics stresses on the fact that one must have a nobility of purpose (Frederick, 2006).

The US businessmen such as Henry Sage, John Hopkins, Benjamin Wofford and John D Rockefeller, etc. were foremost amongst those, who thought that being socially responsible made good business sense and was moralistic as well. Benjamin Wofford considered himself as an 'agent and trustee' of Christ (Wren, 1983). Further, Daniel A. Wren, a Management Historian notes that many of the early businessmen were generous; some were benefactor of the arts and others made regular philanthropic contributions for the building of churches, educational institutions, and even provided funds for various community projects (ibid). Such 'conspicuous giving,' by American capitalists was a way to maintain their authority by way of feudalism. Therefore, this period has been described as the 'Era of Benevolent Feudalism' by W.J. Ghent in his book titled "*Our Benevolent Feudalism*" (Ghent, 1902; Sharfman, 1994; Pillay, 2015).

Carroll (2008) contended that it was hard to understand whether the philanthropy of such individuals was a form of personal philanthropy or business philanthropy. Wren (1983) however illustrates that although individual philanthropy was viewed in a positive light, corporate philanthropy did not receive the encouragement under the nineteenth-Century law. Wren considered the initial period of the factory system as exploitative and an effect of the Industrial Revolution that caused social problems like poverty, child and female labour, etc. Through his writings, Wren demonstrated that the welfare movement that arose during this time was in a way "an uneven mixture of humanitarianism, philanthropy, and business acumen" (Carroll, 2008). Thus welfare schemes taken up during this period were interpreted as doing well to both businesses as well as society.

Moreover, the emergence and expansion of the cities resulted in a wide range of social adversities and needs that demanded urgent attention. To these problems and matters of urgent concerns, society responded by widening the role of businesses from being the mere providers of goods and services so that they could assist and provide the solution to society's emergent problems. The resources provided by the business could be used for the welfare of the society (Lloyd, 1986 in Sharfman, 1994). Not only this, the cycles of economic

recessions and depressions that occurred in 1873-1877 for the first time, then again in 1885-1887 and further in 1892-1894 also enforced corporations toward philanthropy. Hence, Bremner (1987) notes a limited rise in corporate philanthropic activity during each economic downturn.

However, the emergence of the Labor Movement and the Industrial Revolution gave rise to the spreading of slums and problems related to it. This gave businesses an opportunity to contribute towards social welfare on a limited scale. It included the construction of hospitals clinics, lunch rooms, bath houses and provision of food coupons (Wren, 2005 in Carroll, 2008). Although the lawfulness of philanthropy was not yet well established, the local communities recognised the attempt made by philanthropists (Sharfman, 1994). In short, businesses were private entities with profit motives, and it was private businessmen who were more interested in making socially responsible business choices.

Sharfman observes that the difficulties brought by industrialisation, immigration, and urbanisation expanded the "infrastructure of charity in the United States to a practical breaking point" (Sharfman, 1994). Efforts by businesses, governments, charitable foundations and private citizens acknowledged these issues and also provided encouragement for the development of corporate philanthropy (ibid).

It was towards the end of the 19th Century and the beginning of the 20th Century that more people began to argue that corporations with large size and market power factor and their activities were partially responsible for rising inequalities and they must be held accountable for their activities. As they continued to grow, they were expected to fulfil their social obligations. Nader *et al*., state that the US Supreme Court through its announcement in 1906, made American corporations aware of their public responsibilities. In its judgement the court observed that "the corporation is a creature of the state. It is assumed to be incorporated for the benefit of the public. It receives special privileges and franchises and holds them subject to proper government supervision." (Nader *et al*., 1997) As a result, the idea of philanthropy extended from merely being an individual concern to corporate accountability.

Around the beginning of the 20th Century, there emerged a public consciousness among the masses about the injustices and tragedies engendered by industrialisation and the social changes that occurred with it (Wood, 1986; Sharfman, 1994). While, the credit of provoking such sentiments is attributed to some group of journalists popularly recognised as the 'muckrakers' (Sharfman, 1994). These journalists told the story of excesses committed by big corporate houses using the new vehicles of the mass media like newspapers and magazines. They also pressurised businesses to use philanthropy judiciously which later helped them gain legitimacy in the society. All, this together led to the commencement of the Progressive Movement in the US. Heald (1970) notes that the public opinion during muckrakers phase became sceptical of the businesses though it was not hostile.

It was President Theodore Roosevelt (1901-1909) and the Republican Party that held national power at this point of time. Several legislative regulations were enacted by the US Congress during this time, for example, 1906 Meat Inspection Act that prohibited the sale of unadulterated livestock and ensured that hygienic conditions are maintained while slaughtering, the 1906 Pure Food and Drug Act that prevented the production, sale or transportation of adulterated food, the Clayton Antitrust Act of 1914 and the 1914 Federal Trade Commission Act. As a result, of these legislations, various business practices were brought to the forefront, and they became a matter of widespread debate and deliberations among the populace (Sharfman, 1994). Moreover, around the same time frame, also emerged some environmental concerns and legislations in the US. However, concerning corporate sustainability, the environment became a significant issue in the later decades of the 1960s and 1970s owing to various conferences hosted by the United Nations (UN). In short during this phase, corporate philanthropic activities began to come under the scrutiny of the government (ibid).

One important feature of the early 20th Century was the growth of "scientific federated philanthropy", an example of coordinated charity (Bremner, 1987). It was an effort aimed at making easier for those who were confused regarding the cause and whereabouts of donation. While big

businesses were able to donate by establishing their foundations, these helped common people regarding charitable activities. These federated programs also directed corporations about the right amount of charity that was required. It is noteworthy that corporate funding was haphazard before these programs emerged. For example, in 1870s welfare agencies supported by Jewish community came together in Philadelphia to coordinate their philanthropic activities (Sharfman, 1994).

The beginning of WW I in 1914 gave birth to entirely new demands from corporate philanthropy as welfare needs of the country grew faster during and post war years. Some scholars (Heald, 1957; Sharfman, 1994) exhibited that during the First World War, especially in the US the business administration funded and contributed to community welfare and established a practice of corporate funded social security programs. The American Red Cross society anticipated an enormous amount of money that had to be generated during these years. Moreover, the drive to collect money was hugely supported by the then President Woodrow Wilson (1913-1921), who convened a meeting of business groups and civic body leaders to discuss the needs of the Red Cross society and thereby gave a major impetus to the welfare drive. Andrews (1952) argued that there exist evidence to "pinpoint 1917 as the year in which corporation contributions first reached a substantial total in the history of American philanthropy."(ibid)

Thus, it was during WW I, and in its aftermath, a few states and the federal government in the US began to explicitly legitimise what had previously been *ultra-vires* (Sharfman, 1994). Therefore, governments in the US at both the levels federal and state passed enabling legislations that categorically permitted corporations to make charitable contributions. For example, first such legislation was approved by Texas in 1917, later many other states followed by passing similar laws including state of New York in 1918, Illinois in 1919, and Ohio in 1920 and so on (Andrews, 1952; Sharfman 1994).

In 1918 the American Association of Community Organisations was formed which was later came to be known as the 'Community Chest

Movement.' The community chest was business's first large scale organised philanthropic activity that began in 1920s. Carroll prefers to call them as 'early forms of CSR' (Carroll, 2008). These community chests were a nationally recognised organisation that were authorised to collect corporate donations as well as it had the authority to make funding decisions (Sharfman, 1994). Bremner (1987) notes that the Community Chest had grown immensely as a movement and it was a valuable tool for corporate philanthropy in the US. Corporate philanthropy "had become a well-established practice by the end of the decade" as an outcome of this Community Chest movement records Heald (1970). There appeared no court cases where corporate philanthropy was declared *ultra vires* (Andrews, 1952). Thus apparently, during the decade of 1920s the legal position of corporate philanthropy became quite clear.

Further, in 1924, the US Chamber of Commerce in broad way accorded a new legitimacy on corporate donations by developing a code of ethics for businesses titled "Principles of Business Conduct". This code of ethics consisted of fifteen principles that summarised social obligations of the business towards their communities. Its first principle stated that "the foundation of business is confidence, which springs from integrity, fair dealing, efficient service and mutual benefit." (Heald, 1970s) and Surplus profit should be seen as a reward for service towards mankind. Thirteenth principle from these codes on the role of management stated that "the primary obligation of those who direct and manage a corporation is to its stockholders. Notwithstanding this, they act in a responsible capacity and in such a capacity owe obligations to others- employees, to the public which they serve, and even to their competitors…" (ibid) By the mid 1920s, these codes of conduct were endorsed by the US Chambers of Commerce in 750 cities that represented nearly 300,000 members (Heald, 1970; Sharfman, 1994). These principles were the first recognition by the business community that their social responsibility included philanthropy.

In the late 1920s, the 30th President of the United States, Calvin Coolidge (1923-1929) remarked that "the chief business of the American

people is business."[6] This comment made by the president was obvious as it reflected the period of economic prosperity when issues such as energy security and climate change were practically absent. Moreover, President Coolidge, like many other American Presidents and while following the philosophy of less government kept government out of the affairs of business as much as possible.

The Roaring Twenties is considered an era in the US when business regained its momentum and argued for its autonomy. This was a period when the war had ended with the America becoming the super power with a new sense of peace and prosperity. However, the roar soon faded with the onset of the Great Depression in the 1930s, and business was no longer in the strong position that it held post World War I (Llewellyn, 2007).

The period of Great Depression (1929-30) had an effect on corporate philanthropy corresponding to the World War I. The adverse situation created during the Great Depression just like the World War caused a huge set of social problems that the government was not in a position to deal itself adequately (Sharfman, 1994). Eberstadt made an observation that "indeed, business might never have turned back towards responsibility and accountability if the culmination of corporate irresponsibility had not been the collapse of the economic system" (Eberstadt, 1973).

Herbert Hoover became the President of the United States (1929-1933); he was a pro- business candidate, who believed in the private enterprises and their positive attitude towards society. During this phase, many businessmen understood the need for social welfare functions that were once solely performed by the government like employment generation and pension schemes among others. In doing so, in 1931, President Hoover recognised the role that business could play in meeting the needs created by the Great Depression. Thus, He created a quasi-governmental organisation, the President's Organization for Unemployment Relief, to aid the unemployed,

[6] Calvin Coolidge: "Address to the American Society of Newspaper Editors, Washington, D.C.," January 17, 1925. Online by Gerhard Peters and John T. Woolley, *The American Presidency Project*. http://www.presidency.ucsb.edu/ws/?pid=24180.

who lost their job during the economic depression. Post Depression period again saw the rise of Community Chest Movement, which began talking about the tax deductions, in the anticipation that such concessions would impart business with better incentives to contribute (Eberstadt, 1973; Sharfman, 1994). Moreover, for Dodd, the 1920s was the era of 'welfare capitalism' a period when corporations had begun to recognise their responsibilities towards their employees and communities (Wells, 2002).

Nevertheless, the election of Franklin Roosevelt (1933-1945) as the President of the United States caused a setback to such demands of tax deductions. Roosevelt asserted that managers did not have the right to "buy goodwill" or do away with the stakeholder's assets without their prior approval (Heald, 1970; Sharfman, 1994). Even though Roosevelt expressed his objection to this tax relief in 1935, Congress despite his disapproval passed the Act that permitted corporations to donate up to 5% of their pre-tax revenue and to subtract that amount from their tax returns (Sharfman, 1994). President Franklin Roosevelt's New Deal[7] led towards an era of increased federal power over both corporations and citizens. It was a symbol of institutional transformation on a grand scale.

Subsequently, major banking and administrative reforms took place in the US. The examples include Glass- Stegall Act of 1933, Securities Exchange Act, 1934, Banking Act, 1935, Trust Indenture Act, 1939, Investment Company Act, 1940, Investment Advisors Act, 1940. Similarly, the establishment of the US Securities and Exchange Commission (SEC) took place in 1934. Although, a regulatory body it is not concerned with CSR in the conventional sense. The creation of SEC in particular, together with other reforms listed above prompted some limited regulation of the business activities in the US.

The major debate about CSR took place in the 1930s among the scholars of Law, Adolf, A. Berle and E. Merrick Dodd. They argued over the obligations owed by corporate executives towards their shareholder and stakeholder groups that were directly impacted by the activities of the

[7] New deal was a set of federal programs that were passed after the Great depression in 1933.

corporations. Berle opined that courts showed some new willingness and used their powers to force directors to exercise their powers not only for their benefit but the 'relatable benefit of all the shareholders as their interest appears' (Cited in Brennan, 2005). In short, Berle and Dodd's interventions reflected tensions that underlined the future debates over CSR. However, both reached a conclusion that large corporations had accumulated such power in modern America that, if they were not managed in the interest of society, they would soon hold a dominant position in American society. It is observed that after their critical comments over CSR, the debate remained dormant for nearly two decades and reemerged in the 1950s.

3.1.2 Phase Two: World War II and New Ways of Corporation Giving

The pattern of corporate philanthropy that emerged during World War II was very similar to the one that existed during World War I. Heald (1970) observed that the 'doubts and defensiveness' that had characterised businesses throughout the time of the Great Depression had faded in the World War II period. The economic growth achieved during this phase helped the US in recovering from the effects of the depression. It was the federal government that had led and coordinated wartime manufacturing of goods and managed public opinion concerning war (Llewellyn, 2007). Businesses regained confidence during this time, and this renewed conviction and leadership provided a climate in which exploration of the social dimension of the corporate enterprise was encouraged.) Corporate donations grew multifold i.e. as much as nine- fold during 1936 to 1945 period noted Andrews (1952) and Bremner (1987). One of the primary reason for this huge rise in donations was the prevailing patriotic fervour however, scholars believe that it also got impetus from the Excess Profits Tax that was imposed in 1942 (Andrews, 1952; Bremner, 1987; Heald, 1970). Through the provisions of this tax companies reduced their tax bills, when they made charitable donations while at the same time such contributions immensely improved corporations standing in the community (Sharfman, 1994). Thus the excess profit tax helped in raising the amount of corporate giving. However, a while later

Excess Profits Tax was repealed, and it reduced corporate donations, though temporarily.

Although after the end of the war, contributions did not reduce by a huge margin. For this, many scholars reasoned that the widespread support of education by corporations was considered a way of attaining their goals of obtaining highly skilled workers and retaining the positive image that they had developed during the war years. Heald (1970) opined that education in the post-war America was considered as the "most fertile field of protection against creeping socialism" and donations to education could help protect the country against the 'Red Menace'. Eberstadt (1973) notes that companies viewed it as their social responsibility, since they felt that they represented an anti-communist institution (cited in Carroll, 2008).

On another occasion in 1949, corporate philanthropy got further legitimized, when the American Bar Association Committee on Business Corporations proposed a model corporation statute for all the states to follow. This law had included a section that explicitly allowed corporations to make donations up to certain limits without any 'relatedness' clause to corporations business. Nine states had immediately adopted the legislations and seven more joined in by 1948. "By 1951, a total of 27 out of 50 states had enacted similar legislation. Thus a majority of the states had given corporations the power to do what the federal government had implicitly recognised through Internal Revenue Code" (Sharfman, 1994).

3.1.3 *Phase Three: Emergence of CSR*

It was, however, in the United States in the early 1950s that the role of the corporation in society became subject to a more systematic debate. Carroll (2008) notes that writings on social responsibility in periods before the 1950s were very few. Philanthropy, trusteeship, and stewardship were ongoing phenomena those days.

Many consider the scholarly contribution of Howard R. Bowen's book *Social Responsibilities of the Businessman* (Bowen, 1953) to be the landmark contribution to the ongoing debate on CSR (Carroll, 1999; Carroll and

Shabana, 2010). It is observed that during the 1950s there was little congruence between CSR and business making profits from it. The primary focus during this period was on 'doing the good for the society.' The social debate over CSR emerged as a part of the wider discussion of corporation's growing power in society and politics. The leader of the debate Peter Drucker, a renowned Management Guru, declared Corporations to be the "representative…institutions of modern society" and argued that its power over workers and consumers give it a social, political, as well as an economic dimension. He believed in the profit motive, but one that had a symbiotic relationship with the corporation's larger social mission (Cited in Brennan, 2005).

The period of the 1950s is considered to be the 'climax of the institutional legitimisation' of corporate philanthropy. In June 1953, the Supreme Court of New Jersey in *A.P. Smith Manufacturing Co. v. Barlow et al.* case upheld the lower court judgment. In this case, the company had donated some amount of money to Princeton University, about which its stockholders approached the court. The New Jersey court through its judgment established that the existence of the New Jersey Legislation conferred the company the right to make the donation without any profitable criteria to business. The Supreme Court denied a hearing to the lower court judgment, though it did not comment on the legitimacy of philanthropy per se. Court's decision made a pronouncement that,

> "*Just as the conditions prevailing when corporations were originally created required that they serve public as well as private interests, modern conditions require that corporations acknowledge and discharge social as well as private responsibilities."* (Sharfman, 1994)

Heald (1970) discusses that the judgment, in this case, ended the doubts and uncertainties and settled the debate regarding the legitimacy status of philanthropy. It further supported the marked expansions of philanthropic contributions in the 1950s. Interestingly, it was seen that in the late 50s making money was not as important as it was for the corporation to show that they are 'great innovators and public benefactors and exist to serve the public'

(Wells, 2002). Quoting David Rockefeller, “the old concept to maximize profits, has evolved into the belief that ownership carries certain binding social obligation” (ibid).

However, Carroll (2008) states that with respect to CSR, there was limited action and more talk during the decade of the 1950s, very few corporate actions of the time can be considered beyond philanthropy. He clarifies that though Howard Bowen (1953) was ahead of his time when he talked about social audits and development of business codes of conduct, although there is not much evidence to meet eye that this was put to practice.

The decade of the 1960s marked a remarkable success in an attempt to formalise what CSR meant. However, philanthropy remained the most obvious manifestation of CSR even during this decade (Carroll, 2008). By the beginning of the 1960s in the US, 46 states had accepted specific corporation legislations that allowed corporate philanthropy. As Edwin Epstein notes that the decade of 60s was unique in the sense that federal and state governments showed willingness to enact laws that helped in the transformation of general public expectations into legal acts. There was an emergence of a new era of interaction between the business and society in the US (Epstein, 1998).

It was in 1962 that the US Economist Milton Friedman (1962) developed his famous and sometimes even considered, controversial concept that "the business of business is business" (Friedman, 1962). Friedman implied that management has one responsibility and that is to maximise the profits of its owners and shareholders. Further he explained that the social issues are not the management concern, these matters, should be settled by the unrestrained working of the free market system. He firmly believed in the efficacy of free market. Moreover, this view suggests that, if the free market cannot solve the social problems, then these problems should be solved by the governments through legislations and in no case these falls upon businesses.

During the late 1960s and 1970s, the general discussions over how business leaders in the US could use their positions to improve society came under immense pressure. Various social movements in the form of Civil rights

movements, Women's right movements, Consumers' rights movement built up the pressure. Further, protests against Vietnam War and the Environmental movements due to the negative environmental impact of an ever-expanding economy were generating social unrest among citizens. All of these movements and the rise of the Public mistrust caused by the Multinational Enterprises based in the US contributed to a regulation- friendly environment in the US.

The result of all this was a wave of legislation designed to reduce the pollution, building safety measures, etc. Those laws had positive effects and had become vital parts of the American regulatory framework. Federal legislation addressed many of these concerns and created responsibilities for corporations in complying.

Judith Richter states that the US government in the years "between 1965 and 1977, the US congress enacted 20 new regulatory laws governing for example occupational health and safety consumer product safety, clean air, clean water and toxic waste and created an elaborate regime for assessing environmental impacts and regulating the financial system" (Richter, 2001). As a result, numerous regulatory agencies were created, for example, Equal Employment Opportunity Commission (EEOC) was established in 1965, Environment Protection Agency (EPA) in 1970, and Occupational Safety and Health Administration (OSHA) in 1971. These regulatory agencies created standards for responsible corporate practices which became the threshold for minimal CSR behaviour in the US (Jones, 2010). Interestingly, during the 1970s Council on Economic Priorities and few other agencies in the US began to rate companies publicly on their social and environmental performance.

The laws were also enacted regarding various issues. For example, laws related to pollution and hazardous waste control were Federal Water Pollution Control Act, The Clean Air Act Amendments of 1977, related to workplace safety and consumer protection was The Occupational Safety and Health Act of 1970, The Equal Employment Opportunity Act of 1972 and Consumer protection, The Consumer Product Safety Act, The Federal Hazardous Substances Act and so on (Hess, 2001). Although companies had

to meet the requirements set by the state and federal government, there was no obligation on reporting their performance to the public. Therefore, during the first half of the 20th Century, the emphasis was on stiffening the laws concerning labour and consumer protection. Government action was the priority, rather than corporate activity. It is not surprising that, in the 1970s the concept of 'business ethics' gained prominence (George, 2008).

The next impetus for CSR came during the corporate 'takeover glut' of the 1980s, which brought public attention back to questions of CSR (Llewellyn, 2007). The mergers that took place globally among the MNCs, they resulted in the inflated power for them. There was wide criticism in the US of these corporate takeovers. Transnational organisations were becoming the dominant players in the international arena and at points they were also seen as power contenders with the government. The government in the United States took notice of such situation and numerous states passed laws as "Corporate Constituency Statutes.[8]" as many as 29 states passed similar legislations, from 1983 to 1993. This statute allowed corporate directors to measure the impact of a proposed takeover on stakeholders including employees, suppliers, and other affected parties as well as its stockholders (Wells, 2002).

These statutes were also endorsed by 'The Business Roundtable', it stated

> *"Corporations are chartered to serve both their shareholders and society as a whole. The interests of the shareholders are primarily measured in terms of economic return over time. The interests of others in society (other stakeholders) are defined by their relationships to the corporation. The other stakeholders in the corporation are its employees, customers, suppliers, creditors, the communities where the corporation does business, and society as a whole.[9]"*

The business scandals of the 1980s gave the impetus for the development of the concept of 'business ethics' by corporations as they feared the danger of losing public faith and trust in big business houses. However, the concept made limited progress during Ronald Reagan's Presidency in the US

[8] A constituency statue allows corporate executives to consider the interest of no shareholders while making crucial business decision. It is also called as 'stakeholder statute.'
[9] The Business Roundtable, Corporate Governance and American Competitiveness, 46 Bus. LAW. 241, 244 (1990)

(1981-1989). There was little concern in the White House for social or environmental issues under the prevailing philosophy of 'small government'. The tradition of philanthropy continued, but it was about "giving back" rather than about replenishing what had been taken away. President Reagan in one of his speeches said

> *"Over the past five years, charitable giving has increased 80 percent to last year's record high of nearly $80 billion privately given to the right causes. In the area of voluntarism, more people are donating their time than ever before. In the area of public-private partnerships, we've seen thousands of new programs across the country committed to meeting human needs in health, education, nutrition, child care, and many other fields. And we've seen many American corporations take active roles in communities across the country in a new concept known as corporate social responsibility."*[10](Reagan, 1986)

Moreover, there were a number of business scandals that occurred in the US in the 1980s and 1990s. Many of them were particularly related to government contracts, which are most often narrowly focused on complying with national and local laws and regulations. Big Corporate houses like Enron and WorldCom, among others, received worldwide attention as they lied about their financial strength through inaccurate financial reporting and wrongdoings by corporate officers. During this phase, American confidence shook about the ethics of big business.

The practice of 'Reporting' came to the forefront in the 1990s when companies used CSR reports as 'damage control'. For example, Exxon-Mobil used CSR reporting after the Valdez oil spill, so did Nike after accusations of violating child labour standards in Southeast Asia (Tschopp, 2005). The problem with this is that without comparability and consistency standards the current reports merely represented biased marketing campaigns. The solution to the excesses by corporate was corporate constituency statutes that enabled corporate managers to take into account non-shareholder interests when making decisions (Wells, 2002).

[10]President's remarks while addressing United States delegation to International Conference on Private Sector Initiatives on November, 6 1986.
Can be accessed here: http://www.presidency.ucsb.edu/ws/index.php?pid=36700

During the 1990's, the concept of ‘corporate welfare’ in the United States received widespread publicity, and as a result, the concept of Corporate Social Responsibility was again a subject of debate. ‘Corporate welfare’ has been defined as "any action by local, state, or federal government that gives a corporation or an entire industry a benefit not offered to others" to create jobs. Examples of benefits are subsidies, grants, loans, tax breaks, or government service. The proliferation of corporate welfare has given the judiciary another opportunity to prioritise the interest of shareholders and stakeholders. By 1994, almost all the states and territories had enacted legislations that explicitly allowed corporate philanthropy.

As a matter of fact, the US companies have had the comfort of defining and interpreting their view of responsible business within the context of their company. Subsequently, they have been able to measure and promote activities with greater freedom than their international counterparts.

Another milestone was created with the establishment Business for Social Responsibility (BSR) in 1992. It was formed in the US to help companies negotiate the ‘social side’ of responsibility or, as it is called in the US, corporate citizenship. In 1999, there arose some riots in Seattle, around the World Trade Organisation’s (WTO) formation. Indirectly, they were targeted at multinational enterprises which were allegedly destroying the environment, exploiting workers, and causing economic havoc in developing countries. So all of this brought CSR to the forefront and emphasized that it is about the responsibility of companies for all their impacts on society; much more than philanthropy; broader than environment; global and local domain; internal and external. Therefore, according to many scholars of CSR, the 1990s was a decade of intensified discussion of CSR.

However, new thinking gained headway in the corporate world during the late 20th and early 21st Century as the world itself changed with the end of the cold war and the communication and technology revolutions. Peter F. Drucker opined that the next society's corporation would have the task of balancing the three dimensions of the corporations: as an economic

organisation, as a human organisation, as an increasingly important social organisation.

3.2 CSR in the 21st Century: Change in Attitude

Since the beginning of the 21st Century, CSR is more focused on its implementation than on the refinement of the concept. Today business trends throughout the world suggest that more businesses are trying to integrate CSR into their core operations. Few of the most important CSR issues are about environmental impacts, climate change, prevention of corruption, child labour and human rights practices. Similarly, the concept of sustainable businesses has also gained more attention recently.

Aron Cramer, Chief Executive of Business for Social Responsibility, non profit global organisation discusses how business in an order to act responsible must embrace sustainability into their core business operations and functions right from the procurement of raw material, during production, supply chain, in transportation, and even in their marketing strategy. He believes: "Companies are moving beyond philanthropy endeavors to look at corporate responsibility as a driver of innovation and competitiveness." And they understand that corporate responsibility innovation must begin at the research and development phase. He emphasizes that "It's less about managing risks and more about how sustainable business practices can impact competitive differentiation and drive innovation."

Though the reporting of CSR is a voluntary practice in the United States, however, there is an upward trend among the firms to report about their operations and project a transparent image of the company. Some firms are disclosing such information due to the pressure of civil society while others are acting on the demands of their shareholders. Socially Responsible Investments (SRIs) also known as 'ethical investing' is an investment strategy that focuses not only on the financial returns of the companies but also takes into account the socially responsible practices undertaken by companies towards achieving social good. SRIs constitute one of the most rapidly growing segments of the investing community today, representing over 10%

of all investments (Smith, 2002). Popular SRIs include Fortune's Reputation Index and the Dow Jones Sustainability Index[11]. The increased amount of SRI practices in the US has caused the financial markets and fund managers themselves to rely on comparable and reliable reporting standards. For example, KPMG through its survey has found that 83 percent of people surveyed trust a firm more if it is socially responsible. Investors are also responding to the changing marketplace (KPMG, 2008).

Examples of Corporate Responsibility programs and policies being implemented by the US corporations include Workplace diversity, Non-exploitation of workers, including prevention of discrimination and harassment, issues related to child labour issues, Work-life balance initiatives, practice of volunteerism and charitable giving, 'Going Green' programs, reducing carbon emissions, environmentally friendly supply chain.

Even though businesses are making efforts to be more efficient and sustainable, the environment continues to suffer. This is because the scale of economic activity that is growing every year, despite environmental improvements by individual enterprises. Few years ago, activist in the U.S. and around the world began calls for more action from private enterprises on these social issues, beyond compliance with regulations and traditional charity-related work. CSR started to grow as a movement.

There has been growing distrust for corporate practices after a spate of corporate scandals were exposed in the late 1990s. The strong anti-globalization sentiments post 9/11 further fuelled the discontent. Consequently, there has been strong pressure on governments to reregulate the market (Spencer, 2002). "Whatever their private wishes, governments will almost certainly feel bound to reregulate the frameworks of market capitalism". The Western world is in a "trust drought", he suggests, pointing out that the Roman Catholic Church and the accountancy profession, once paragons of solidity and certainty, are now adrift.

[11] Dow Jones Sustainability indexes were launched in 1999 as the first global indexes to measure the financial performance of the globally leading corporations in the world.

A survey conducted by the Economist Intelligence Unit, sister concern of *The Economist* has found that CSR has risen sharply in global executives' priorities. It has become a "fashion Mantra" which is high on the agenda of every company, due to various internal and external factors (Franklin, 2008).

There is an acknowledgement among the businesses community today of their ethical and social obligations. They accept the idea that businesses bear economic, legal, ethical, and discretionary responsibilities as suggested by Carroll (1991). Williams (2010) defines discretionary responsibility as the presumption that a company will voluntarily serve society. Such responsibilities are beyond the economic, legal, and even ethical responsibilities.

The age of globalisation led to the proliferation and strengthening of large corporations with transnational operations. The big business was criticised for being too powerful and for practising anti-social and anti-competitive practices. Thus, the need to curtail and redress their power and influence increased. Around the beginning of the Twentieth Century, a backlash against large corporations began to gain momentum. Laws and regulations such as the Sherman Anti -Trust law in the US were enacted to rein in the large corporations and to protect employees, consumers and society at large, and the movements associated advocated greater attention to the working classes and the poor.

A joint study was conducted in 2006 by Flieshman Hillard and National Consumers League (NCL). In its annual survey of American's perception of CSR against the backdrop of political change in the US, it indicated that Americans view a company's performance from three angles: one, as an employee, second as an investor and third as a consumer. The results of the survey shows that 'red' depicting Republican and 'blue' representing Democrats are unified in their expectations, attitudes and beliefs about corporate America's conduct regardless of their political ideology. (Fleishman, 2007)

The US President Barrack Obama, in his inaugural address, called for a ‘new concept of responsibility’ as the only proportional remedy for a crisis of immeasurable magnitude, the result of the US recession. During his tenure, Social Innovation and Civic Participation (SICP) was established that aimed at supporting social entrepreneurship.

Recent developments are a reminder that the U.S. corporate governance is not a static system in equilibrium, but has evolved continuously over the past decades. One thing is common throughout the history that large corporations dominated American society and new legal mechanisms were needed to make corporate leaders answerable to stakeholders beyond shareholders asserts Wells (2002). CSR is no longer is confined to corporate philanthropy; rather it has been established that accepting social responsibilities has a positive impact on companies financial performance. While corporate philanthropy plays a valuable role in the United States the greatest contribution the most companies can make is through mobilizing their core skills, technologies, resources, adopting sustainable business models and value chains.

Chapter-4
Public Policy on CSR in the US

The Practice of corporate social responsibility in the United States has come a long way, starting from the time when philanthropy was considered illegal to the present times when it is regarded as a crucial responsibility of the business towards society. So much so, that it has given rise to the term, 'corporate citizenship'- implying market-based efforts by businesses towards becoming responsible citizens. However, CSR initiatives continue to remain a voluntary effort by the corporates' in the US, with the minimal role of the government. The relationship between CSR and the public policy frameworks of governance within which the companies are operating today- locally as well as globally is relatively less researched not only in case of US but other countries as well. This is a strategically important area that needs to be examined (Nelson, 2008).

Many researchers have focused on government programs regulating CSR in various countries and have identified different key roles for governments in promoting CSR. The aim of this chapter is to explain the extent of US government interventions in CSR activities. This is done by exploring the various public policies initiated by the US government for regulating CSR practices through its federal legislations, state regulations, different agencies, bodies and Bureaus over the past years. This explanation is followed by an analysis of the political, economic compulsions that have been influencing public policy measures for CSR, with the primary focus on the role of business lobbies, and corporate influences on legislations and public policies in the US.

4.1 Public Policy and Corporate Social Responsibility

Broadly, there is a consensus that the purpose of CSR is the enhancement of the reputation and for the future development of the businesses. It depends on the working out of a mechanism that pursues, together, the interest of the companies and its stakeholders. CSR is essentially a process of managing the costs and benefits arising out of business activity to its internal and external stakeholders ranging from workers, shareholders, investors, customers, suppliers, to civil society and community groups. With the enlarging scope of CSR, the last few decades have witnessed the growing role of the governments around the world as important stakeholders to the debate, seeking to formulate public policies to regulate and drive the CSR practices in the best interest of the society. The involvement of the governments in CSR framework heralds the third generation of CSR development as described by Zadek (2001), where government play the role of chief exponent is a central issue.

Public policies are usually defined as an attempt by governing bodies to address public issues and concerns. In most cases, public policies require a regulatory framework which defines restrictions, requirements, and recommendations for action. In the realm of business, this kind of arrangement can be defined as laws, directives, mechanisms, processes, and incentives issued by governmental actors or its delegated authorities that constrain, enable, or encourage particular business behaviour (Crane & Matten, 2007). One can argue that that the role of government in public policy related to CSR is not a contemporary issue. In the history of the industrial societies, social responsibility of business have been argued and questioned through social movements like environmentalism and labor movements etc. The government response to such problems has been through the application of legal measures.

Likewise, many CSR activities, such as those promoting protection of the environment, human rights, workers' and labour rights and prevention of corruption, are often addressed by government through public policies. However, public policies that primarily deal with the various aspects of CSR have been challenging to formulate, partly because the definition of the

concept itself is still being debated and deliberated upon. Moreover, there is a heated debate on the matter of allowing proactive role to governments in the area of CSR. The debate in the US centred on the question of whether or not governments should regulate and enact laws to make CSR actions compulsory. Traditionally, corporations were often expected to take on a philanthropic role, and intervention from the state was mostly seen as an interference with private liberty (Crane & Matten, 2007).

That is why in most cases, governments across the world have restricted their involvement to only monitoring or regulating certain aspects of CSR. The focus of these regulatory public policies has been limited to issues like prevention of corruption, or matters of environmental standards or social concerns. Therefore, it is felt that governments have traditionally adopted a relatively neutral position that is somewhere between the regulatory and voluntary approach (Steurer, 2010).

Proponents of government-led CSR public policies consider the active involvement by governments in CSR policies as fostering dedication from corporate actors. Moreover, involvement of government is sometimes perceived as a way to ensure that CSR activities undertaken by corporates' are being monitored and measured. This, in turn, provides a more formal system for reference for the civil society and general public. It has also been pointed out that, "in addition to ensuring corporate accountability, many CSR related regulatory efforts, such as social and environmental labelling of goods, have been useful tools for changing consumer behavior" (Doane, 2005).

The introduction of CSR under the purview of the public policy has brought to light some significant divergences in national CSR policies and different approaches that vary among countries. Some governments follow a more systemic or centralised approach, others follow a more extensive and decentralised approach, some may follow business-oriented (top-down) approach, whereas other follow a more multi-stakeholder and multilevel approach. Governmental strategies also vary in their scope of influence, i.e. the relevance to domestic and international issues, and the level of involvement of regional and local governments. In addition, there are

multitudes of factors, like state sponsored welfare provisions[12], social agendas of political parties and national government, and political culture of countries that may influence the different approaches. Thus CSR is said to be 'embedded in' (Moon and Vogel, 2008) or 'structured by' (Matten and Moon, 2008), the domestic institutions, including laws, which governments create and legitimise.

Government in many countries are in the process of developing their CSR related public policies today in response to favourable public opinions. They have become involved in CSR programs either through traditional mandatory regulation of business or through the implementation of 'soft laws' that encourages companies to pursue CSR initiatives (Knudsen *et al*., 2015).

The Instructive guidelines for the corresponding policies, at the transnational level, have often developed around the so-called "soft law" which incorporates factors for determining model codes of conduct and encourages best-practice approaches.

The 'soft-law' approaches have usually been represented as approaches that put forwards guidelines that are comparatively viable for organizations to put into practice, and to an extent, they lead to minimal political risks for the State. As a result, the state and the public policies related to CSR are related to the system that incorporates 'soft intervention' policies or 'soft regulation' (Joseph, 2003), emphasizing the state's role in exercising soft practices.

Many authors while emphasizing on the role of public policies on CSR converge on the point that CSR policies backed by state must utilize 'soft intervention' by state to mould the voluntary practices of organizations (European Commission, 2002; Fox *et al*., 2002).

At the start of the 21st century, the initiatives taken by the governments worldwide converged with the actions of different international organisations such as the United Nations Global Compact (UNGC) Organisation for Economic Cooperation (OECD) guidelines, International

[12] The crisis of welfare state in the United Kingdom compelled people to look for newer ways to develop collective action, to deal with social demands that were earlier not being met by the state.

Labor Organization (ILO) endorsed tripartite agreement and also multilateral efforts like the European Union (EU), which began to promote and endorse CSR at their respective levels. These organisations recognised that the role of public administration and public policy initiatives were critical in encouraging a greater sense of CSR.

One of the most systematic categorization of the functions of government concering CSR policies was developed by Fox *et al*., (2002), where they delineated on the several roles that could be adopted by governments: i) a mandating role (legislative), ii) role as a facilitator where it provides guidelines on the content, fiscal and funding mechanisms and creates conditions for framework, iii) role as a partner (engagement with multi-stakeholder processes, stimulating dialogue) and iv) role as an endorser (tools and publicity).

Four Central Public Sector Roles in Strengthening CSR

Mandating	Laws, regulations, penalties, and associated public sector institutions that relate to the control of some aspect of business investment or operations.
Facilitating	Setting clear overall policy framework and positions to guide business investment in CSR, development of nonbinding guidance and labels or codes for application in the marketplace, laws and regulations that facilitate and provide incentives for business in CSR by mandating transparency or disclosure on various issues, tax incentives, investment in awareness raising and research, and facilitating processes of stakeholder dialogue (though not necessarily in the lead.)
Partnering	Combining public resources with those of business and other actors to leverage complementary skills and resources to tackle issues within the CSR agenda, whether as

	participants, convenors, or catalysts.
Endorsing	Showing public political support for particular kinds of CSR practice in the marketplace or for individual companies; endorsing specific award scheme or nongovernmental metrics, indicators, guidelines, and standards; and leading by example, such as through public procurement practices.

Table 2.1 Source: adopted from Fox, ward, and Howard (2002)

Apart from the above stated roles, governments can play a crucial role while working with companies and industrial associations as being on the "supply side" of CSR. Whereas on the "demand side" it can work with stakeholders, civil society groups etc. Non-governmental organisations (NGOs) also presume that encouraging good practices of enterprises like engaging in social pursuits in a way that it benefits the society, must be recognised by the government and awarded. The government's role entails much more than just promoting and encouraging CSR. Governments have to represent many interests, including the public interest and should adopt a leading role, above all in relation to the influence of the different social agents.

Gribben *et al*. (2001) have also linked the role of governments towards CSR to their strategies in the creation of new models of social partnership. According to them, central governments could adopt partnerships with companies, social organisations and local governments to solve specific social problems of their communities. Such partnerships are a potential win-win for the corporation as well. Possible business benefits include improved quality in the company's processes and products, greater self-knowledge internally and externally, quicker response to changing markets, increased reputation and

innovative and competitive CSR policies. Nevertheless, there is scepticism in the business world about this relationship.

As a matter of fact, businesses, will contribute to social issues if it makes business sense, not simply for humanitarian reasons. In formulating their CSR policies governments have to ensure that they fit their business agenda, as well as addresses the concerns of civil society. Businesses wish that the government should adopt the role of a mediator, fostering good practice and encouraging businesses to provide the solutions to society's needs. The governments should work with the civil society to create a framework for achieving change initiated by market forces.

Governments often use a voluntary approach in managing CSR activities performed by businesses. This is so because the dominant view remains that businesses need to be allowed to develop their own practices of CSR, before regulations become appropriate, and regulation is seen as stifling innovation. Many civil society organisations have called voluntary CSR codes of conduct and the annual reports published by corporations as part of "corporate agenda" and merely a "window dressing practice". Such organisations often argue that there should be a regulatory mechanism in place such as legal regulation or economic coercion, as nothing apart from them can oblige business to be accountable and act responsibly (Winston, 2002). However, some NGOs argue for much stricter regulation. As they believe that boundaries in the role of businesses in society can become blurred, and governments may encourage the involvement of the business sector in areas where public services are lacking. The government led CSR in the US occurs at the agency level or state level rather than via coordination by the federal government with a systematic overarching policy and regulatory system. For example, the CSR issue of climate change in the US falls under the jurisdiction of USEPA.

Susan A. Aaronson's research in 2002 found that most governments have a broad range of policies that give clear indications to corporations regarding their expected global corporate behaviour. However, only a few governments have accomplished to present these policies in a consistent,

coherent manner or have defined the social and environmental responsibility of multinational corporations. While many countries are doing well in practicing CSR, the US lags behind in promoting global corporate responsibility (Aaronson, 2002). Although America has a wide range of public policies that can promote global corporate responsibility, very few of these policies are well known or effectively coordinated with other related policies.

The decade of the 1970s brought most of the social issues that were raised through various movements under the broader purview of public policies. Consequently, to address those social issues various legislations were passed in the US. The issues that were at centre were health and safety at work, labour rights, consumer protection and environmental protection. The public policy approach provided legitimacy for socially responsible actions on behalf of management, as government, acting on behalf of its citizens, had a legitimate right to provide guidelines for managers and shape corporate behaviour to correspond with societal expectations. The public policy approach contended that the social responsibility of business is not only to perform well in the marketplace and meet its economic objectives but also to follow the directives of society at large, as expressed in and through the public policy process (Buchholz, 1993).

Call for an 'intelligent' government action was made to ensure that the contribution made by corporate actions towards sustainable development will not be adequate as voluntary actions of corporations depend on their will (Cowe and Porritt, 2002). Further, it is suggested that government intervention at the beginning should consist of a set of 'soft' measures such as changing the political environment through measures like, i.e., mandatory company reporting and later it should move towards building up 'hard' actions such as laws and regulations (ibid).

4.2 CSR Related Public Policy Developments in the US

Since the early 1980s, different groups of stakeholders have challenged the conventional view of governance in the United States and gave pressing calls for 'corporate governance'. The case for corporate governance was largely made after severe episodes of corporate collapse resulting from fraud and mismanagement that took place in the US since the 1980s. There was widespread disappointment in public based on the declining value of assets and poor financial returns of shareholder's wealth. The similar sentiments provoked strong newspaper headlines with the growing demands by the public for reform of company's governance with the threat of legislative action if the change was delayed (Cannon, 1994). The growing importance attached to re-appraising the governance of modern businesses was also in response to public concern about the large remuneration 'packages' offered to senior managers, often without the approval of shareholders (ibid).

During the same decade, President Ronald Reagan came to office, with the promise to "get government off our backs," a phrase that represented minimal government and thus led to a partial dismantling and overall weakening of the federal regulatory structure. As a result, budgets of the central regulatory agencies were reduced, and selective appointments were made to these bodies with the apparent aim of shifting regulatory administration to a to a softer phase regarding the environment, consumer protection, affirmative action, and labor union organising (Frederick, 1983).

However, it can be said that during Reagan's period social responsibility requirements lessened but they did not dwindle. There are two reasons for this, one that the decades of the 1960s and 1970s had taught businesses that social responsibility is beneficial for businesses. By being socially responsible the businesses build up an excellent reputation which is also consistent with their long- run profit motive. Secondly, big corporations had started embedding the habits of social responsibility in their practices and policies. These habits were not going to fade away even with less governmental pressure (ibid). However, despite such voluntary CSR initiatives by the corporate major social concerns of that period were not getting

addressed. On one hand, voluntary CSR initiatives related to social responsibilities continued without focusing on the society's major social problems, while on the other hand, mandated social responsibilities which could have shown greater gains were weakened as Reagan government relaxed its regulatory purview.

After the big businesses rocked the US through scandals, in response to the crisis an observation made by Richard Howitt "In an era when reputation began to exceed all other factors in determining company sales and value, executives could not afford to wait for a change in the political wind. The more enlightened ones began to admit to the problem and say only they could do something about it" (Howitt, 2000).

A business group, the Committee for Economic Development (CED), endorsed the formation of a "government-business partnership for social progress." It seems that they acknowledged that society's problems were too complicated and too large to be tackled by business or government alone. Moreover, they also feared increased government initiatives in the social arena, if the business did not act promptly and voluntarily to address society's problems and these concerns were subsequently realised. Leading business groups believed that the answer to the question of corporate social responsibility was to be found through a coalition of interests in which both government and business would play central and complementary roles.

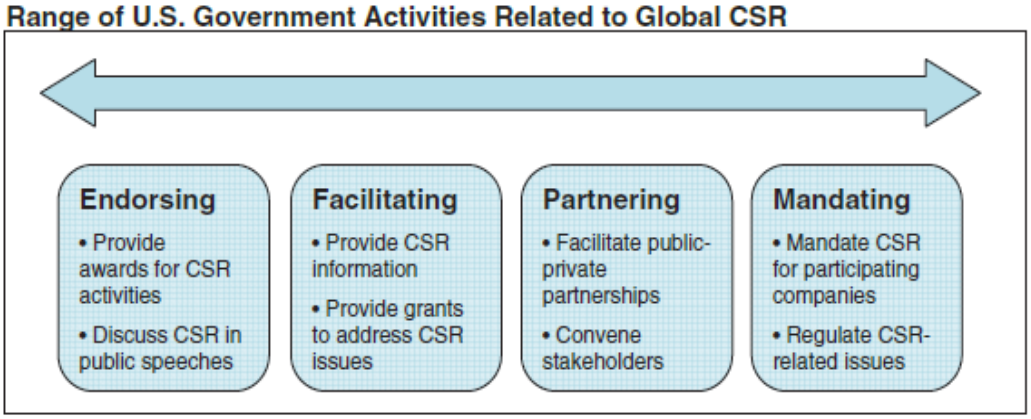


Figure 1.3 Source: GAO, 2005 Illustration based on World Bank Report

As a matter of fact, there are no standards in the US that are mandated by the federal government. Despite the lack of any specific federal regulation, a 2005 report from the US Government Accountability Office (GAO) found that there are more than 50 programs and policies that are run by 12 federal agencies of the country. Together, these programs and policies regulate social responsibility activities and actions that are characterised in four roles including endorsement, facilitate, partnering, and mandating. The report further clarifies that CSR in the US varies from one industry to another and even within them. But certainly, there are specific regulations to regulate certain sectors and industries.

Examples include financial disclosures regulations established by the US Securities and Exchange Commission (SEC), and Department of Justice of the Federal Trade Commission, environment related regulations established by the US Environmental Protection Agency (USEPA). Providing award to companies for their exemplary CSR activities is an example of endorsement practice of the US government for the promotion of CSR, such as the Department of State's Award for Corporate Excellence (ACE). Further, the endorsement activity of the government includes discussion of CSR in public speeches. Various Federal programs facilitate CSR primarily by providing information or providing funding and incentives to important players to encourage their engagement in CSR. For example, the Department of Commerce facilitates CSR by training its commercial services officers specifically on corporate stewardship (GAO, 2005).

In recent years, the US Government has begun to play a more proactive role as a 'broker' and 'catalyst' for new types of competence-led partnerships. It is achieved through initiatives such as the State Department's Global Partnerships Center and its Office for International Labor and Corporate Social Responsibility (Nelson and Unger, 2009) the Responsible Business Conduct (RBC) team provides guidance to companies, nongovernmental organisations regarding the promotion of responsible business practices. US committed to create a national action plan for the promotion of sustainable business practices in 2014. And in 2016 the United

States government launched the First Action Plan on responsible business conduct. Overseas Private Investment Corporation's (OPIC) Partners Program, Millennium Challenge Corporation's (MCC) and the Office of Sustainable Development Partnerships in the Department of Agriculture.

However, such partnership building efforts need to be better resourced and coordinated to make more efficient use of the innovative ideas, R&D, financial management, logistic operations, strategic marketing planning and network competencies of the private sector. Committed efforts are needed to develop the necessary legal and management process within the US government to allow for more strategic and flexible interactions with these development partners, to ensure accountability and transparency regarding process and outcomes.

Jennifer J. Griffin and Ben Vivari argue that the practice of CSR in the US is evolving and accelerating at an uneven pace across industries and within firms because of differences in beliefs in CSR, company leadership, employee's pressure, government demands, and inputs from the community. While the US government has not imposed mandates or has come out with any comprehensive regulations concerning climate change and global warming, many American companies have been trying to align themselves with the green movement and promote themselves as environmentally responsible (Griffin and Vivari, 2009). Moreover, many government agencies work with the private sector on issues that are generally covered by the concept of corporate social responsibility, such as labour, environment, human rights, and corporate governance, but few agencies define corporate social responsibility or brand their activities explicitly as CSR. Some agencies prefer terms, such as corporate stewardship or corporate citizenship, to refer to similar issues (GAO, 2005).

For example, the US Securities and Exchange Commission (SEC) regulations governing disclosure requirements provide legal avenue toward implementation of normative CSR. While the SEC does not establish the responsibilities of managers under the principle of 'shareholder primacy', it still provides for CSR implementation by mandating transparency and

truthfulness in corporate disclosures. The SEC regulations itself does not explicitly provide for CSR disclosures. In fact, some regulations require disclosure of the material effects of environmental costs, material pending or contemplated administrative or judicial proceedings, including CSR related cases (You, 2015).

In the United States, the onus of guiding and supporting corporations to undertake ethical business practices and adopting socially responsible practices come under the purview of The Bureau of Economic and Business Affairs (EB). It also engages with the civil society including NGOs and trade unions in helping them to adopt and implement exemplary practices. The Bureau works under the framework of the Organization for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises and with EB's US National Contact Point for the Guidelines.

The Organization for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises (MNEs), are non-binding guidelines that were adopted in 1976 and were recently updated in 2011. These guidelines are in the form of voluntary recommendations that are addressed to corporations and are based on a binding commitment from governments with significant input from civil society, and business. These Guidelines are addressed to multinational enterprises to enhance the private sector's contribution to sustainable development in the following areas of Human Rights, Employment and Industrial Relations, Environment, Combating Bribery, Consumer Interests, Science and Technology, Due Diligence and Supply Chains.

The US National Contact Point has the responsibilities regarding Promotion of the OECD Guidelines among business, labor, and other non-governmental sectors, including the general public and the international community; Offer a forum for discussion for stakeholders and governments to contribute to the resolution of issues regarding observance of the Guidelines. This announcement is consistent with the efforts of countries around the globe to develop national action plans to promote responsible conduct by businesses and to implement the U.N. Guiding Principles. These plans set expectations

for governments and provide frameworks that corporate stakeholders can use to push for more legislation and regulation to address the human rights impacts of corporate activity.

From the website of the State Department one can understand that responsibility to promote CSR in the US is fragmented in the sense that, The Bureau of Democracy, Human Rights and Labor (DRL) offices of International Labor Affairs, Internet Freedom, and Business and Human Rights work with companies, civil society including unions and NGOs and governments to implement policies that respect human and labour rights and maximize positive contributions to global development. The Business and Human Rights team focuses on engaging stakeholders on practical challenges at the intersection of business and human rights and on leading U.S. government efforts to implement the United Nations (UN) Guiding Principles on Business and Human Rights. Its work includes: cementing emerging norms on business and human rights; demonstrating the value of credible multi-stakeholder systems; encouraging companies to implement human rights and internationally-recognized labour rights at every stage of their supply chain and contributing solutions to urgent policy challenges that implicate business respect for human rights. EB's Intellectual Property team works to protect intellectual property in ways compatible with human rights. Energy concerns are taken care by Bureau of Energy Resources and anti- corruption issues are looked after by Bureau of Narcotics and Law Enforcement Affairs. It is expected that the US companies must abide by terms of these agencies however nothing much has been done to bind them legally.

Apart from these agencies, the government can also empower any of its department or agency to create influence on CSR activities. For example, the 'Shareholder Resolution'[13] mandated by SEC, requires companies to allow resolutions to be put to the vote annually.

[13] Shareholder resolutions are those proposals that are submitted by shareholders and are put to vote at annual meetings of the company. The submission and regulation of resolution of public sector companies are regulated by SEC. In 2016, SEC made it mandatory for Exxon Mobil Corp to include a climate change resolution, for a long time Exxon Mobil was calling such proposal vague. However, such decision by SEC is welcomed by environmentalist.

It shows that the US government does not actively formulate mandated guidelines. One of the reasons for not endorsing any mandatory guidelines by the US government is the existence of several definitions of CSR; it becomes difficult to make a consensus on what is CSR (GAO report, 2005). Another such example is the establishment of a new entity under Obama administration named the white house office of social innovation and civic participation (SICP). The office is housed under the Domestic policy council of white house that is the principal forum that is used by the US president for the domestic policy matters. The primary aim of this office is to help the non for profit groups and social entrepreneurs in successfully expanding their programs (Nelson and Unger, 2009).

4.3 Regulation of CSR in the US through Legislation

With their legislative power, governments have an enormous impact on the way corporations execute their business strategies, as governments can restrict corporate activities as well as it can protect their interests. By using R. Edward Freeman's definition of a stakeholder that he defines, "any group or individual who can affect, or is affected by, the achievement of the organization's objectives," (Freeman, 1984) it can be argued that governments are in fact business stakeholders themselves. This position manifests itself in at least two different ways. Firstly, government by passing legislations can restrict or enable business activities according to their electorate's mandate (Crane & Matten, 2007). Secondly, governments are also actors with interests of their own. Their success and re-election are often defined in terms of their ability to uphold and improve the economic well-being of communities (ibid).

Though the whole rationale behind CSR is premised on deregulation phenomenon, any reference to CSR legislation raises doubts and confusion. Till very long it was considered logical to assume that companies themselves were best suited to allocate resources and make investments. However, the famous cases of 'corporate irresponsibility' and frauds like Enron, WorldCom in 2000 and Wall Street in 2007 among others, had created an environment of trust deficit in the US. These cases might have been the most often heard cases in point, but "by July 2002, the scandal sheet included over a dozen

corporations, including Adelphia, AOL Time Warner, Arthur Anderson, Bristol-Meyers Squibb, Global Crossing, Halliburton, Johnson & Johnson, Qwest Communications, Tyco, WorldCom and Xerox" points out Ted Nace (Nace, 2003). After these infamous cases of corporate misconduct the US once again entered a new era of regulation that it had once experienced during the New Deal.

Americans were worried about societal harms arising from corporate activities such as that pertaining to the safety of products manufactured by corporations and to environmental issues. Thus, in the matter of protecting constituencies against certain negative "results" of corporate activities, namely the production of societal harm, American regulatory authorities began to mandate pertinent regulations.

However, the American government assumed responsibility for correcting the social behaviour of big corporations as early as the 1890s. It passed laws on child labor, safety at industrial sites, and on workers' rights to form trusts (Farmer and Hogue, 1973). The government later enacted more legislation on labour protection, provision of public utilities and banking services during the nineteenth and in the early twentieth Century. Nader *et al.* (1997) have observed that American corporations became more aware of their public responsibilities after the US Supreme Court announcement in 1906.

It may be noted here that the notion of CSR has its foundations in the 19th Century, but the modern understanding of corporate social responsibility is mainly linked with the social movements of the 1970s in the US. The prolonged period of post-war economic growth and the birth of vibrant movements such as environmentalism and feminism mobilised the public. Thus, they started demanding commitment towards environmental protection, transparency and community investment from corporations.

Rachel Carson's book - *Silent Spring*, stressed all the problems that the unrestricted use of pesticides caused on air and water. Miller (1995) cites specific events such as the first Earth Day on April 22, 1970 held in America, the demand by anti-Vietnam war activists for businesses to stop producing

chemical weapons, African-American and female groups' campaigns for equality in the workplace, and protests against the use and transportation of toxic materials as having an impact on the way companies were expected to run their business. Nevertheless, the companies in the US have a long history of integrating issues of ethics and social responsibility into corporate strategies. However, today these issues seem to appear with a renewed urgency in the wake of globalization.

Currently, in the US, it is the responsibility of the individual States for delineating the rights and duties of businesses that choose to incorporate within their jurisdiction. There is an absence of a federal business corporation statute. Scholars view this arrangement as the one that led to a charter market competition among the individual states; that is, a competition to entice incorporators to incorporate in a particular state (Daniels and Waitzer, 1994). This competition has been referred to as "a race to the bottom," where individual states are viewed as "competing to provide managers of corporations with special benefits."

To prevent this competition between the federal and state machinery and a remedy to this problem, it has been suggested that a federal corporate law regime must be enacted that can bring a level playing field for corporations. The charter market competition has sometimes been referred to as a "race to the top" where the market ensures efficient administration, eliminating the need for a federal business corporation's law. For example, the state of Delaware incorporates most of the public companies in the United States. As explained in the previous section that the federal government led CSR programs and policies occurs at the agency level like SEC or EPA and at the state level through acts like California Transparency Act. This shows an inconsistent and fragmented system in order rather than a well coordinated and systematically defined system of regulation of CSR in the US.

There are number of legislations that have been enacted from time to time by the governments in the United States to regulate certain aspects of corporations and their business practices. To begin with, one can notice that 1920s was the period of industrial growth in the US as it was the post World

war phase when industries like automobiles, steel; oil; communications and real estate were in their economic boom phase. The period also resulted in a huge surge in the market prices of commodities. Accordingly, accounting standards were developed to keep a check on the growth of the industries. However, these accounting standards were ill defined and manipulative. Therefore, such underdeveloped and under regulated security markets led to fraudulent practices which helped the business earn higher prices. The personal greed and exploitative behavior of the business resulted in unethical practices that drove the markets towards the Great economic depression in 1929 (Rockness and Rockness, 2005).

4.3.1 The Securities Acts, 1933

The passing of the Securities Acts of 1933 and 1934 was a result of a legal and mandated response towards the economic crisis that occurred in the late 1920s. The acts established the US Securities and Exchange Commission. The Securities Acts were the first broad based legislated attempt to regulate the unethical behaviour by corporations and signified a remarkable shift as an attempt to regulate securities market and accounting profession through law. These acts were one of the most significant acts till the government enacted the Sarbanes Oxley act in 2002 (ibid). However, the Securities Act could not correct the systemic errors that existed in the United States. Consequently, the period between the 1934, after the enactment of this act to 2002, before the Sarbanes Oxley act was passed witnessed several cases of "ethical transgressions" in the United States.

4.3.2 Foreign Corrupt Practices Act, 1977

The decade of the 1960s was marked by the scandals in the real estate market that were created by fabricating the accounts of corporations. Similarly, the 1970s also saw the emergence of the international level of frauds and brought forth the acts of bribery. This time the government of the United States responded to such scandals in the regulatory form of Foreign Corrupt Practices Act.

In 1977, the act was passed by the US congress as the Foreign Corrupt Practices Act (FCPA) with the aim to "criminalise inter alia, the bribery of any 'foreign official' by any domestic concern in order to obtain or retain business." Additionally FCPA introduced new reporting and disclosure requirements as a measure to increase the transparency of international business transactions.

The legislation was enacted to renew the tarnished image and rebuild the confidence of the American public in the integrity of US corporations at the end of the 1970s. The History of FCPA reveals that the law was introduced after Securities and Exchange Commission's investigations revealed that many big corporations were involved in misusing the funds. This law was passed despite an outcry from the US businesses claiming that the FCPA act put them at "competitive disadvantage".

4.3.3 The Sarbanes – Oxley Act, 2002

The adoption of Securities Exchange Act in 1933 and FCPA in 1977 could not prevent the United States from the big corporate scandals that occurred in the late 1990s and early 2000s. The scandals of this period were magnanimous in their scope and impact on the American community (Rockness and Rockness, 2005).

In 2002, the US Congress with an aim to reform corporate governance passed the "Public Company Accounting Reform and Investor Protection Act" popularly known as the Sarbanes-Oxley Act (SOX) which was later commonly known as the Corporate Responsibility Act. The fundamental goal in passing of this law was to restore public trust that was eroded in the wake of corporate scandals that were reported in the previous decades. Further, it was targeted to revive the trust not only of the stakeholders but also of the investors in the corporate auditing and financial reporting system. Spencer described this law as the result of "trust draught" (Spencer, 2002). It also aimed to institute a similar system of corporate accountability and disclosure for the US public sector corporations across the country that was resolutely supported by compliance and audit procedures. This law conferred a

responsibility on corporate officers for their company's financial reporting errors. In this regard, the act was designed to tackle the most elementary of CSR challenges.

Further, it replaced the self-regulation system that existed before with a new supervisory body- the Public Company Accounting Oversight Board. This Board was established to supervise public company auditing, to publicise the auditing standards, to investigate and discipline noncompliant auditing firms (Act, 2002). In doing so, the act essentially rejected self-regulatory actions of the public sector firms that were voluntary corporate practices as a measure to enhance the anti-corruption responsibility of American corporations. Harvard Law Review describes the SOX Act as "Arguably the most far-reaching corporate reform legislation since the Securities and Exchange Acts of 1933 and 1934." (Notes, 2003)

The Sarbanes Act of 2002 was enacted with an aim to increase the transparency, integrity, and accountability of public companies. The underlying aim was to fight the corporate deceit that had given rise to the scandals and financial breakdowns in previous decades. The legislation created government mandated regulations regarding corporate financial reporting. Before the adoption of the act, the existing requirements under the federal securities law were inadequate in dealing with the financial disclosure of the companies.

In short, SOX was an attempt to deal with the corporate scandals of the time. In 2002, President George W. Bush signed this law, and stressed on its potential impact as comprising "the most far-reaching reforms of American business practices since the time of Franklin Delano Roosevelt."[14]

The SOX Act since its enactment has remained a matter of controversy in the US because of its potential to infringe into the domain of corporate governance, that is traditionally, administered by state laws[15]. Critics of the

[14] George W. Bush, *Remarks on Signing the Sarbanes-Oxley Act of 2002* (July 30, 2002), *in* 38 Weekly Comp. Pres. Doc. 1283, 1284 (Aug. 5, 2002).
[15] *See* Robert Charles Clark, *Corporate Governance Changes in the Wake of the Sarbanes-Oxley Act: A Morality Tale for Policymakers Too*, 22 Ga. St. U. L. Rev. 251 (2005);

law complain that the disclosures mandate of the act threatens the 'competitiveness' of the US companies. Moreover, they argue that it focuses mostly on financial oversight and auditing with the hope of bringing back trust and confidence of financial investors, rather for the concern of larger public. Whereas its supporters argue that SOX act contributes to a more holistic awareness of corporate responsibility across big businesses.

Nevertheless, the act had established a clear standard of responsibility for corporate managers and concerns in business strategy and had also mandated the creation of an Audit Committee that was responsible for monitoring corporate disclosures. Essentially, it represented the congressional will to implement "normative CSR" by increasing the role of mandatory federal regulations in corporate governance, transparency, and accountability.

The particular Act can be considered a basis for renewed confidence in the markets in the post-scandals America, but scholars predicted that some corporate leaders, those who have no interest in rational actions, will transgress its terms for reasons that one cannot anticipate. As Prentice notes,

> *"According to traditional economic analysis, regulation of Enron was unnecessary because Enron, like other rational actors, would voluntarily act honestly in order to reduce long-term costs of raising capital, and its officers would not derail promising individual careers by engaging in financial fraud., Of course, rational wrongdoers would have been deterred by the civil and criminal provisions already on the books that will likely send Enron's Michael Kopper and Andy Fastow, WorldCom's Scott Sullivan, Tyco's Dennis Kozlowski, and others to jail. Unfortunately perhaps, it is not a rational world . . . even beneficial legislation like Sarbanes-Oxley offers no panacea."* (Prentice, 2003)

Therefore, the SOX law only offers a partial mechanism for regulating corporate behaviour. It does not offer any provision for recourse when the transgression is committed at the top management level and it is seen that most of the scandals that happened were the result of the top management's ignorance or involvement (Llewellyn, 2007).

4.3.4 California Transparency in Supply Chains Act, 2010

In September 2010 California Governor Arnold Schwarzenegger signed into the law California Senate Bill 657, to enact the California Transparency in Supply Chains Act of 2010[16]. The act entered into force on January 1, 2012. The act is codified in California's Civil Code and Revenue and Taxation Code. The stated purpose of the Act was to "provide consumers with information regarding their efforts to eradicate slavery and human trafficking from their supply chains" and to "educate consumers on how to purchase goods produced by companies that responsibly manage their supply chains" (California Transparency in Supply Chains Act, 2012).

The adoption of this legislation was a positive step in building sustainable supply chains as it requires retails and manufacturers in California to make a disclosure on their websites about their efforts that they make towards eradicating slavery and human trafficking from their supply chains. It was also unique in the sense that, it is a law passed by a state that will impact the operations of MNCs and their practices of CSR. It is considered a crucial regulatory attempt towards attaining the sustainability in supply chains of the company. Another important aspect of the act is the social audit that it expects companies to conduct. However, it is not definite that the companies have strictly followed the regulations that this law had proposed to impose. One of the reason why act is considered weak by the critics that companies do not face monetary penalty in case of non disclosure of information.

One can argue that such legislations lie within the domain of corporate law. Rejecting these examples as CSR implementation due to corporate law's preoccupation with internal matters such as securities, accountability, and financial and disclosure regulations. Nonetheless, one needs to acknowledge a broader picture of influence of corporations. In this regard, one has to understand corporate law as a more substantive system, which regulates the society and its activities beyond strictly business-related matters. Individual laws regulating the types of corporate activities that may produce social harm

[16] http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0651-0700/sb_657_bill_20100930_chaptered.pdf

surely represent an implementation of CSR that could potentially touch every sector of American society. CSR legislation embraces all these legal means for preventing social harms spawned by corporate activities.

The Dodd-Frank Wall Street Reform and Consumer Protection Act is another prominent example of legislation that implements CSR by regulating business behaviours. Another stepping stone was set with the passage of "Edward M. Kennedy Serve America Act" which was signed into law by the president Barrack Obama in April 2009. The act authorises private sector supported grants that encourage skilled volunteers to work overseas on development projects through non government organisations (Nelson and Unger, 2009). Some of these laws are presently in a nascent stage in the United States.

A growing number of firms have been adopting CSR programs and policies over the course of the last few decades as voluntary measures with reference to various rationales. What is being witnessed is the transition from voluntary CSR measures to hard law using the codification of CSR-related societal norms and the advent of CSR related law and regulations in the United States and around the globe. From the SEC's conflict minerals rules to California's Transparency in Supply Chains Act, it is impossible to ignore the fact that CSR is now inherently legal.

American companies and NGOs, and in some cases the government, have been actively engaged in some of the most effective voluntary multi-stakeholder initiatives (MSIs) aimed at spreading more accountable and responsible business practices. In 1996, during the Clinton administration, for example, the State Department and a few U.S. extractive sector companies and NGOs played a vital role in the establishment of the US Model Business Principles, a set of Voluntary guidelines for companies. This document is built on the basis of the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy and the OECD Guidelines for Multinational Enterprises (Rahim and Nasrullah). Other accountability alliances such as the Extractive Industries Transparency Initiative, the Fair Labor Association, and the Partnership for Quality Medical Donations trace

their roots to leadership by U.S. companies, NGOs and the government among others. Within the humanitarian community, InterAction and individual American NGOs have also played a leadership role in establishing global accountability guidelines and mechanisms for humanitarian relief.

4.4 Corporate Lobbying in the US

Lobbying is a conventional strategy that has been used by corporations to influence business related government initiatives through tactics such as persuasive attempt to influence government policy-making processes. However, today the expectations of the stakeholders are ever rising and they expect proactive involvement of corporations in those public policies that strive to resolve social and environmental issues. As a response to these expectations and in a bid to protect their interests many corporations have become active in self-regulative policy-making processes that are not enough at times.

Just as governments have a profound impact on the business environment, corporations also influence government actions. The relationship between corporations and governments has become somewhat more complicated in the present context of globalization due to an economic and political environment that embraces the notion of integration and common markets, corporations have grown powerful vis a vis the government. Although business cannot ignore national legislative and regulatory frameworks existing in their country they can certainly apply lobbying techniques and if that does not work they can relocate with relative ease to other countries with more convenient conditions with weak law enforcements. The observation made by Canadian sociologist Joel Bakan (2004), aptly illustrates the present situation:

> *"Economic globalization and deregulation have diminished the state's capacity to protect the public interest (through, for example, labor laws, environmental laws, and consumer protection laws) and have strengthened its power to promote corporations' interests and facilitate their profit-seeking missions (through, for example, corporate laws, property and contract laws, copyright laws, and*

international trade laws). Overall, however, the state's power has not been reduced." (ibid)

Lobbying usually refers to the practice of trying to influence one or more of the various branches of government. According to Adrian Henriques, "the classic function of lobbying is to influence specific legislation or regulation" (Henriques, 2007). Similarly, Hillman (2003) views them as broad range of activities that are aimed at influencing policy that also includes donations given to political parties. Besides the conventional forms of lobbying, companies also try to influence stakeholders other than the legislative authority. These stakeholders include consumers, NGOs, media, etc.

From a CSR perspective, it is important to distinguish between corporate lobbying directly related to CSR, for instance, against binding regulation on CSR, and lobbying practices related to other relevant and adjacent areas or indirect lobbying through trade and investment agreements, government contracts, public procurement regulation, advertising and subsidies for public–private partnerships (Slob and Weyzig, 2010).

With reference to CSR, the problem is that the same companies that create and fund corporate responsibility programs also spend money lobbying against the very regulations that are needed (Drutman, 2015). Henriques observes that "companies have been known publicly to support fashionable issues while behind the scenes lobbying hard for contrary ends" (Henriques, 2007).

Corporate leaders vehemently oppose the policies while they are being enacted and implemented, this takes place primarily in private realm and they redouble their efforts once progressive policies are enacted argue Charles Conrad and JeAnna Abbott, (2007). Further, they observe that corporate executives always prefer to influence public policies in private sphere as it may help them deterring the conflicts whereas policy making in the public arena will force the executives to justify their actions in open. That is why they prefer influencing public policies privately through influencing legislations and political structures that also helps corporations in maintaining

secrecy of their operations. For example, in 2006, petrochemical industry successfully persuaded the USEPA to allow firms to release up to 5000 pounds of toxic chemicals without disclosing it in public (Gormley, 2006).

Similarly, a study conducted by KPMG in 2011 confirmed that out of 250 large global firms nearly 95% had CSR programs and almost 30% of those firms also participated in lobbying. And often they lobbied for less regulation in the name of faster growth (KPMG, 2011). For such a situation, it is the current system in the US that has to be blamed. A system that allows some firms to benefit on both fronts: at first the corporations lobby for inefficient regulations that help them maintain high profits, then they create and manage CSR programs that help them generate goodwill from customers and society. These CSR programs have the potential to help the companies in mitigating any negative image that they have constructed through their ill considered actions but effectively their policies do not do as much good as they seem (White, 2015).

Such situation was rightly pointed out by Vogel (2010) that corporations in an effort to avert strict regulations and real accountability may use CSR strategically. He continues that, if this is the case, then any advancement made in achieving the goals of global governance resulting from CSR related activities may be neglected by the setbacks that result from anti regulatory lobbying facilitated by the very same scheme. Corporations engage in non-market activities in a variety of ways often with the aim of influencing public policy and preventing adverse regulation (Stigler, 1971; Grier *et al*, 1994). The issue of lobbying in the US seems to be more related to particular issues as they arise. There is no particular way of lobbying practice in the US. Some cases in point where corporations have used lobbying as a strategy mainly to avert regulations related to various aspects of CSR are:

4.4.1 National Foreign Trade Council (NTFC) Brief Case

It is an important case, where business community in the US lobbied against the mandatory regulations in the name of 'competitive disadvantage'. In the *Alvarez- Machain v. United States* case, the major business organisations in the US, National Foreign Trade Council (NTFC), the US Chamber of Commerce, the US Council for International Business, and the US Business Roundtable, filed an 'Amicus curie', as these organisations were not a party to the lawsuit in the case but they had strong interest in the matter of Alien Tort Claims Act (ATCA). Business association argued that ATCA should be declared nullified by the Supreme Court because is implementation placed the US based multinational firms at a competitive disadvantage. The main cause of worry for the corporations was their operation outside the US. This shows the 'profits first' position taken by the US business community and also reveals their lack of faith in the code of conduct. The business's intent to act responsibly has always seen with suspicion and such aggressive refusal by the business community to be regulated by the minimal regulation constraint of ATCA. Surprisingly, the all the firms that were represented in the NTFC were in some ways or other undertook CSR initiative and had pledged to comply with social standards that are far more advanced than those proposed in ATCA (Collingsworth, 2005). Exxon Mobil, Coca Cola and Unocal Corporation are among the few leading companies that were the part of the NTFC brief (ibid).

4.4.2 Exxon Mobil Corporation

Another example of corporation's influence is the funding provided by Exxon Mobil, American multinational oil and Gas Corporation, to think tanks and researchers with the aim of influencing policies on climate change and global warming is an example of policy influence through external experts. Research conducted by the Royal Society of United Kingdom indicates that in 2005 Exxon Mobile provided more than $2.9 Million to organisations in the US that misinformed the public about climate change (Ward, 2006). In the same year, the Guardian newspaper revealed that the US State Department papers showed that the US Government's conservative position on climate

change partly resulted from input from the global climate coalition of which Exxon Mobile was a prominent member (Videl, 2005; Kolke and Pinske, 2007). In October 2006, two of US Senators wrote to Exxon Mobil's Chairman and CEO asking the company to "end any further financial assistance" to groups "whose public advocacy has contributed to the small but unfortunately effective climate change denial myth" (Sandell, 2006). They wrote that they were convinced that Exxon Mobil's longstanding support of a small cadre of global climate change skeptics and those skeptics' access to and influence on government policymakers had made it increasingly difficult for the US to demonstrate the moral clarity it needed across all facets of its diplomacy (Sandell, 2006).

4.4.3 Royal Dutch Shell (Shell)

In 2003, Shell an American company embarked on a lobbying campaign against efforts by the UN to define the human rights responsibilities of the companies. This initiative is known as the UN Norms on the Responsibilities of Transnational Corporations and other business enterprises with regard to human rights. This initiative was well received by many nongovernmental organisations and few corporations. However, Shell led the opposition to the UN norms and asserted that these norms seek to impose responsibilities on businesses that are not appropriate for them. It further argued that human rights standards should be voluntary for businesses and should not be mandated by law. It made clear that company was already implementing human rights standards so that UN norms offered little value (Global Policy Forum, 2004).

4.4.4 *Cisco*

Cisco an American multinational technology conglomerate employs at least two in-house lobbyists for the purpose of lobbying, besides contracted private lobby firms. In the first half of 2007, Cisco spent US$ 680000 on lobbying on various issues in the Senate, the House of Representatives and

other sections of the US federal governments (US Senate Office of Public Records, 2007).

It is observed that occasionally regulators and the regulated can be inordinately friendly. After laws are enacted, corporations use lawsuits to stay their implementation; sometimes they even overturn, or use strategies to weaken a law that has been passed. With a certain irony, these corporations point to the very laws they shaped as protections for the public interest. They cite those laws as an affirmative defense to lawsuits. For instance, in the United States, tobacco companies put warning labels on their products and then "successfully argued before the US Supreme Court that the warning relieves the companies of some degree of liability" (Hilts, 1996).

4.4 Why Is It Not Enough? What Can Be Done?

It is agreed that socially responsible business behaviour acknowledges the correlation between economic, environmental and social impacts of corporate activities. Nevertheless, questions have often been raised about whether corporate leaders are the best people to assess societal needs in this respect. However, their voluntary CSR practice would likely be insufficient to protect all stakeholders who might be affected by corporate activities. As far as the implementation of CSR relies on the willingness of corporate management to contribute to society's well-being, such action is undoubtedly tempered by a lack of consistency and enforcement mechanisms. Hence, calls for regulatory CSR governing business behaviours have recently intensified in the American legal arena. These regulations require specific conduct in and result from CSR practices based on the fact that corporate activities might result in social harm in various sectors.

Consequently, many groups of stakeholders have questioned the effectiveness and motivation of the traditional self-regulative CSR measures adopted by corporations. The involvement of these stakeholders has contested the traditional view which has emphasized the aspect of 'corporate volunteerism' in CSR which suggests that CSR is essentially about businesses going voluntarily beyond legislative requirements to contribute more to

societal welfare. Stakeholders are increasingly calling for the regulatory imposition of CSR obligations and corporate codes of conduct (Robins, 2008). Many people in business also believe that government regulation is essential for the successful pursuit of many social problems and social goals.

Zadek et al. (2001) point out that CSR can best be understood as a consequence of global business activities, due to which business will have to take greater account of its impacts on society. He notes that the state's political power has been eroded, often due to factors such as economic powers of businesses. To continue the discussion, Crane & Matten (2004) explain how the role of the state has changed from a traditional context during Westphalian setting, where the state was the dominant actor, as a regulator with imperative regulation and the company's played the dependent role. On the contrary in the globalised world of the Post-Westphalia setting, where due to immense economic power asserted by the corporations, the state has a secondary role vis a vis. the company's dominant role.

Traditionally, the political power and the authority to legislate were in the hands of the governments. Globalization has changed this, and now economic relationships go beyond national boundaries and the organisations that operate in civil society. Unsurprisingly, the context of the globalized economy has also led to political challenges, like the crisis in the welfare state and the need to seek new forms of governance, within both the national context and the global economy. Globalization and the evolution of multi-level systems of governance thus pose new challenges and opportunities for corporations' and those actors seeking to influence their behaviour. CSR is seen as a useful framework within which new ways of collaborating with corporations, governments and civil society can be found, creating innovative mechanisms for governance (Zadek, 2001; Albareda et al., 2004, Midttun, 2004, 2005).

Furthermore, in the existing global scenario national governments have begun to address the regulations proposed by the transnational organisations. For instance, the OECD guidelines in the United States are implemented through National contact points. The Major intergovernmental organisations,

such as the United Nations and its various agencies, the OECD, the European Union, various other organisations operating in a multinational and multilateral setting play the role of international regulatory forums.

Some scholar argue that the existence of these organisations has restricted the traditional freedom of policy making at national levels as the member states are required to take into consideration the coherence between national and transnational frameworks. Though this kind of setting offers a mutual help to the member states of the international organisations and their governments a medium of convergence in terms of their public policies, but it adds to the extra layers of governance (Utchay, 2005). However, in most cases, it is observed that the member states of intergovernmental organisations are expected to ensure that the decisions made at the intergovernmental level are respected at and applied to the national level.

The power of the national governments have been eroded with respect to regulation of corporations and markets, therefore, many civil society organisations have taken the role of 'watchdogs' of the public interest and have tried to establish parameters of accountability for both corporations and governments. Some scholars argue that governmental controls over the actions of Multinational Corporations (MNCs) are necessary supplements to informal advocacy, in part because governmental policies often play a crucial role in instances involving practices of "corporate social irresponsibility."

For example, during the debate about National Health Care Legislation in 2009, speaker of the US House of Representative Nancy Palosi publicly called health insurance companies irresponsible for trying to block the so called 'public option' that would have established a government operated insurance plan. The opposition from the health industry was so fierce that Pelosi accused it of immoral behaviour. Many such comparable examples can be seen in the public debates in the US surrounding financial reform, bailout legislations, executive compensation, offshore oil drilling and various other pertinent issues.

As Frederick, insists there should be "recognition that socially responsible business behaviour is not to be produced automatically but is rather to result from deliberate and conscious efforts of the institutional functions" that has been given the task by the society (Frederick, 2006). Conscience alone, whether of public trustee or of Christian businessman is not enough as was the case in the past in the United States. It requires a constant tinkering with the institutional mechanisms of society and government.

To conclude one can say that CSR in the US takes variety of forms and is derived from various sources and has different outcomes. Therefore it is very difficult to locate CSR activities in the United States in one water tight compartment. What is easy is to define its traits and how it has come of age.

Chapter-5

Comparative Analysis of CSR in the United States and Europe

As stated before, corporate social responsibility is a concept that oversees the integration of social and environmental issues in the business operations and interactions of companies with their stakeholders on a voluntary basis. To fulfil social responsibility corporations decide to take measures that are beyond minimum legal requirements and comprehend their obligations to address societal needs. The United States and Europe are undoubtedly two of the world's geopolitically important and economically advanced regions. Both are headquarters to many of the world's largest and most powerful MNCs and intergovernmental organisations too. Therefore it is imperative to understand the divergent views of these two regions together, as they can prove an ideal point from where one can begin to analyse the developments in CSR practices and regulations and evaluate the responses of various interest groups while assessing the attitude of the business groups. It is definite that the comparative analysis of these developments in the United States and the Europe will provide valuable learning for the future of CSR.

The fears about the negative impact of globalisation on the environment have caused social disorder. To react to such issues not only corporations' even governments across the world are adopting social and environmental concerns in their agenda. The companies' around the world have begun to realise that the investors are not solely interested in company's financial performance but also in its social and environmental performance (Elkington, 1994). So this is where the need for corporate social responsibility comes in.

The previous chapter has explored the role of public policies in the promotion of CSR by corporations and outlines the function of business lobbies in influencing formulation of CSR guidelines in the United States where laws related to CSR are fragmented. It is intriguing to see if the practices in the US are any different or they have some similarities with regards to CSR practices and their implementation in the European Union (EU)[17].

CSR arguments are based on two premises, one is economic, and the other is ethical. The former focuses on the competitive market advantage whereas the latter stresses upon the fact that corporations owe to the society as they are reap benefits from it. However, apart from ethical and economic reasons, there are many factors that affect the CSR policy of the business. These may range from history, culture, geography to governance, and others. Dirk Matten and Jeremy Moon observe that different societal expectations also lead to various ways of implementing CSR programmes. They have concluded in their study that,

> " *the USA's comparatively greater deployment of CSR to address a wider range of issues is explained by the fact that in Europe these issues would be addressed through institutional capacities in which corporations would be implicated but not solely responsible*" (Matten and Moon, 2006).

On the contrary, T Schopp (2005) while examining the government's role in Europe and the United States on the issue of reporting, notes that neither the US nor Europe is anywhere near the mandatory regulation of CSR, though the movement is much progressive in Europe on this matter. There are differences in political, financial, educational, labour system and the nature of firms in the United States and Europe that affect their CSR policies explicate Matten and Moon (2008). Moreover, they explain that the US style CSR has been embedded in a system that provides more opportunities for corporations to take explicit responsibilities. Whereas, in Europe CSR has been implied in

[17] This chapter will look at the European Union (EU) as a unit when talking about CSR in Europe.

wider organisational responsibility that does not give enough opportunities for corporations to take up explicit responsibility. As a result, authors identify two distinct elements of CSR—the *explicit* and the *implicit.* Susan A. Aaronson and James Reeves (2002) in their comparative analysis of the US and Europe studied the acceptance of the role played by government in the regulation and promotion of CSR. Their research found that the role played by the government has a greater acceptance in Europe than the United States. The reason given for their acceptance in Europe is the cooperative role played by the government in association with companies. They have further noticed the different business cultures of both regions. Their study illustrates that the European firms are comfortable both ways- when they work in partnership with governments and also in the government regulated environment (Albareda *et al*., 2008).

The aim of this chapter is to first briefly trace the history of the evolution of CSR practices in the US and the EU while highlighting the differences and similarities in practices related to corporate responsibility between them. It also aims to provide a review and a comparison of the CSR guidelines and reporting standards in both the US and EU. The fundamental aim is to determine if it is the inability of the US government to set and implement guidelines that account for ineffective CSR practices in the US compared to the contries that are member of the EU.

5.1 Comparison of CSR Practices in the US and Europe

As expressed in previous chapters, philosophically, American culture is considered as individualistic, legalistic, pragmatist and with an understanding of rights as freedom from state intervention (Sison, 2009). Consequently, in the beginning, American business thinking saw a conflict in the acceptance of the idea of 'corporate responsibility' which was different from the responsibility of the individual worker (Sison, 2000). In 1819 *Dartmouth College v. Woodward* decision, the US Supreme Court explicitly recognised that the "corporations are legal person, although not an individual or physical entity before the law but they are a subject before the law albeit a collective one of rights and responsibilities" (Sison, 2009). And the ultimate

objective of these rights and responsibilities is to allow corporations to produce goods and services for the benefits of shareholders and society as a whole.

The business practices that were explicitly referred to as CSR emerged in the US in the 1950s. It was then, legislators did not formulate regulatory policies related to the responsibility of businesses and deliberately left these policy gaps that it thought could be filled by the nongovernmental forms of social provision. But, Government did promote CSR practices through measures like introduction of tax incentives for employers when they provide employment and health insurance (Carroll, 1999; Moon, 2005).

The prolonged period of post-World War II economic growth and the birth of socio-economic movements such as humanism, environmentalism, and feminism made governments respond to the rising concerns. The modern understanding of CSR is particularly linked with the social movements of the 1970s in the United States and also in some parts of Europe. Subsequently, the government of the United States passed various laws to address the pressing issues of the time. These legislations were broadly related to issues related to business and their effect on American society but most specifically related to the environment and the consumer protection. For example, 1960s to 1970s nearly twenty bills related to consumer protection were passed in the congress related to radiation adulterated meat and poultry etc. concerning the environment the legislations that were enacted included water quality act in 1965, the clean water restoration act, 1966, air quality act 1969, national environment policy act of 1969 and several others (Wilson, 1974).

European culture when compared to the US is more community oriented, more dependent on unwritten laws or customs and is more appreciative of the intrinsic value of activities and with pervasive understanding of the rights as freedom to participate in social goods and decisions (Sison, 2009). Carroll (2008) argues that with the rise of Industrial Revolution, there emerged criticism against factory system, and the problems arising out of this system gave rise to welfare movement, and things progressed positively from thereon. As a response, businesses, across Europe

to show their responsibility towards the communities surrounding them built hospitals, churches, libraries, baths, etc. (Wren, 2005).

The European Commission defines CSR as "a concept whereby companies decide voluntarily to contribute to a better society and a cleaner environment" (European Commission, 2001). Talking about whole of Europe and its CSR practices is a complex task, but while analysing the policies and programs endorsed by the European Union, it is feasible. EU was formed as a result of the Treaty of Maastricht, as an economic and political intergovernmental organisation in 1993. It is a union of 28 nations that have their distinct history, culture and tradition.

At the EU level, CSR became a topic of political discussion since the late 1990s. European business Network for Corporate social responsibility was launched in 1996. After this initiative, the EU heads of the state and government on the sidelines of Lisbon summit in 2000 made an appeal for making Europe "capable of sustainable economic growth with more and better jobs and great social cohesion by 2010." It was the first time when in line with the mandate from the Lisbon Summit, the European Council made an appeal to corporations concerning their CSR practices (Perrini *et al.*, 2006). As a result of the appeal, many European governments started to assume an increasingly active role in shaping and promoting CSR in following years. In 2002, the European Commission released its First Communication on CSR that explored ambitious policy options to increase the transparency and convergence of CSR across Europe.

The institutional implementation of CSR in the United States is influenced by its political history. The US, with its federal and decentralised system of governance cannot empower central governments with immense or unchecked powers. There are a number of ways by which checks and balances are ensured in the country. During the 1960s and 1970s, as a result of wave of legislations there came up many regulatory organisations that contributed to the baseline structure of responsible business operations. Many agencies that came up were Occupational Safety and Health Administration (OSHA), Equal Employment Opportunity Commission (EEOC), Consumer Product Safety

Commission (CPSC) and Environmental Protection Agency (EPA). The reason for the establishment of these agencies was to make "continued efforts to maintain standards for responsible corporate business practices that eventually turned into threshold for CSR behaviour concerning the daily operations of the business" in the United States (Gutierrez & Jones, 2005).

However, the focus for CSR in the US is driven by the context in which minimal legislative control on business is preferable. Therefore, companies in the US rely on their corporate self-governance rather on legislations. As a result, corporations are motivated to apply their internal policy to regulate themselves and provide external communications in the form of annual reports or sustainability reports as evidence for the demonstration of their social responsibility. Most of these regulatory bodies apply to a specific aspect of CSR, for example EPA looks after the environmental sustainability of the corporations, the Dodd-Frank Act of 2010 and the Transparency on Trafficking and Slavery Act of 2015 in the US. And their mode of regulation is the social information that corporations provide to these agencies, such disclosure by corporations is the direct result of public dissatisfaction over poor corporate responsibility standards in corporations.

The Clinton administration in 1996, after prolong discussions and extensive consultations with the business leaders, labour unions and members of NGOs ratified US Model Business Principles. These principles are a set of voluntary Guidelines for companies, based on the Tripartite Declaration of International Labour Organisation (ILO) and OECD guidelines. These were adopted apart from the existing legislative and self-regulatory measures.

In Europe, the European Commission works independently and its function is to work as the Executive body of the European Union. The role played by EC's is to look after the management and implementation of the policies and programmes adopted by the European Parliament and the European Council. It also supervises the member states regarding the implementation of EU wide laws, and sees if they are applied correctly by the national governments. The Commission has been the most active and visible institutional actor regarding EU's CSR policy. About the mode of

implementation of CSR, there exist a divide between European Commission and European parliament. Ramon Mullerat observed that the European commission often takes the position in favour of voluntary measures; a similar stand is taken by the business community. Whereas the European Parliament, along with the members of the civil society, such as Nongovernment organisations and trade unions have been advocating for the mandatory regulations and reporting on social and environmental impact of business (Mullerat, 2010).

However, The European Union is the most influential supranational body that has addressed the CSR explicitly and is a leader in its willingness to promote it. This is a complex and progressive work given the disparity in CSR actions that currently coexist in different European countries and the significant differences in the degree of implementation of public policies at local level.

In 2001 European Union published its Green Paper "Promoting a European Framework for Corporate Social Responsibility." The paper suggested that CSR in Europe was motivated by the four factors: that there were concerns and expectations from citizens, consumers, public authorities, and investors in the context of globalisation and also due to large scale industrial change, it also took into consideration that Social criteria influence the investment decisions of individuals and institutions both as consumers and as investors, another important issue to address was the increased concern about the damaged caused by economic activities to the environment, and issue of transparency of business activities brought about by the media and communication technologies (European Commission, 2001). Europe's push for developing a European strategy on CSR resulted in the first strategy adopted in 2002.

Richard Howitt, European Parliament' spokesman for CSR once opined that,

> "*The EU parliament continues to be at the forefront of seeking real progress. In its resolution of March 2007, we agreed that Europe must stop viewing this as an internal issue and instead strive to become*

a true global leader. Yet today, if we are honest, the EU falls far short of the European Commission's stated goal for Europe to become a 'pole of excellence on CSR'." (Mullerat, 2010)

In October 2011, EC published "*A Renewed EU Strategy 2011-14 for Corporate Social Responsibility*" to support entrepreneurship and responsible business. The new policy states that to meet their social responsibility, enterprises "should have in place a process to integrate social, environmental, and ethical and human rights concerns into their business operations and core strategy in close collaboration with their stakeholders."

The earlier definition adopted in 2001 called for companies to integrate "social and environmental concerns in their business operations and in their interactions with their stakeholders on a voluntary basis." By contrast, this new strategy adopted in 2011 proclaims to be a modern and renewed understanding of corporate social responsibility. It describes the aim of CSR as "maximizing the creation of shared value for their owners /shareholders and for their other stakeholders and society at large." This new CSR strategy fundamentally redefines the EU's approach to CSR and signals a new era of heavy handed EU social and environmental regulation reports Heritage Foundation Report (Roberts and Markley, 2011).

The establishment of CSR Europe was one of the first pushes under the EU framework to demonstrate their commitment to Corporate Social Responsibility and its implications in business and beyond. Following this initiative EU heads of state and governments made an appeal at the Lisbon Summit in 2000. They pledged to make Europe "capable of sustainable economic growth with more and better jobs and greater social cohesion by 2010" (Sapp, 2016).

Apart from the directives of European Commission the governments in Europe, offer broad-based support to corporate initiatives concerning CSR. For example, the Belgian government's social labelling[18] program is one of the remarkable steps taken by national government. Belgium was the first

[18] Social labeling program as the name suggests, is to promote socially responsible production. The label enables companies to acquire a distinction that defines that ILO Core conventions have been respected along the whole production change.

country to adopt the program in 2002 (Lozano *et al*., 2007). Later, various other countries followed similar programs like France, where these initiatives get the resources from the local government for implementation of such programs. The European parliament has strongly supported such schemes and initiatives taken by the national governments. Similarly, the establishment of the Copenhagen Centre in 1998 by the Danish government was an effort in the direction to commence CSR based partnerships between business, society, and government; social and environmental reporting practices mandated by France, and the appointment of the minister for Corporate social responsibility in 2001 by United Kingdom are some of the prominent examples (Brum, 2003).

Moreover, another big promotion the European Commission has pushed is that of national action plans. These plans come from each country in EU and outline the various CSR related problems they are going to address and change in a set time frame.

Spain, with its Strategy for Corporate Social Responsibility 2014-2020, has implemented national action plans for CSR. Other countries have also followed suit like France and Switzerland. Interestingly, Norway has introduced specific action plan based on UN Guiding Principles on Business and Human Rights.

The present institutional structures in Europe, such as the pan-European institutions, were begotten by a range of factors like the two world wars and the concomitant desire to assimilate Europe both politically and socially (Doh & Guay, 2006).

Table 5.1 Timeline of CSR in Europe

1995	The creation of a European Business Network
1998	The first CSR Europe Advisory Board was created
1999	The European Parliament passed a resolution calling for a binding code of conduct to govern EU companies' environmental labour and human rights compliance worldwide.
2000	The Lisbon Summit, EU Heads of the State met and committed for sustainable economic growth and called for business to support CSR as part of the Lisbon Agenda.
2001	The European Commission Green Paper "Promoting an European Framework for Corporate Social Responsibility."
2002	The European Parliament voted for legislation that required companies to publicly report annually on their social and environmental performance and made board members responsible for these practices.
	The EC launched the EU Multi-stakeholder Forum on CSR to exchange good practices and asses common guidelines
	The EC presented the first communication concerning CSR , entitled "a Business Contribution to Sustainable Development"
2003	A European Council resolution calls upon member states to promote CSR at national level and also to integrate CSR in national policies.
2004	European Council invited the European multi-stakeholder forum on CSR, since it excluded regulatory measures, it was boycotted.
2006	Second European Council communication entitled "Implementing the Partnership for Growth and Jobs: Making Europe a Pole of Excellence on Corporate Social Responsibility" resulted in integration of CSR into European policy.
2007	The first high level meeting of the European Alliance established to exchange experiences between the different European member states and to support policy learning.
2008	The EC presents the sustainable consumption and production and sustainable industrial policy action plan, it contained proposals to contribute to improving the environmental performance of products.
2009	European commission convened a meeting of the European Multi stakeholder Forum on CSR to review the progress made on CSR and to discuss future initiatives.
2011	EC published a new policy on CSR, EU strategy 2011-14

5.2 Comparing Reporting Practices

Various countries have adopted varying requirements for corporate reporting in areas of social or environmental responsibility. These requirements, in these countries are backed by legal mechanism. It also places similar demands on corporations as voluntary schemes in these areas do (Prakash and Potoski, 2006; Kollman and Prakash, 2001).

In case of the United States, Businesses have a large amount of autonomy in their approach to CSR. This is due to the concern that over regulation of companies will negatively impact the financial market and disadvantage many companies (Tschopp, 2005). The government agencies like EPA, OSHA, and others who are supposed to address CSR do not create laws, but instead publish guidelines that are suggestive in nature, for companies to adopt thus allowing for plenty of autonomy at each level of business (Gidwani, 2011).

When it comes to policy or law, the US does not have clearer legislations in terms of CSR. As dealt in Chapter 4, there are multitudes of laws regarding labour, pollution, anti-corruption, consumer protection etc. However, there are no 'hard laws' on CSR per se. Here, 'hard law' is meant by those laws that are binding and hold companies accountable (Sapp, 2016). Though there are government agencies that deal with areas concerning CSR. For example, State Department on CSR provides for "guidance and support for responsible business" (US Department of State, 2016). The CSR team, under Bureau of Economic and Business Affairs (EB), works to promote ethical and responsible business practices in the US. This very well indicates the suggestive nature of America's approach to CSR.

Resultantly, executives in the US based MNEs have been slow to develop practices and even slower in agreeing to report on such practices through the Global Reporting Initiatives or other efforts. The Fortune report (2005) hypothesises that US firms disclose based on legal requirements while European firms go beyond those requirements. It was further found that though the US signed comprehensive guidelines issued by OECD that cover

issues such as human rights, environment, corruption, labour standards, and other issues related to corporate behaviour, little has been done to publicise the Guidelines or to make the national contact point person effective. As Crane and Matten (2009) have noticed that the idea of integrating responsible efforts into the entire management structure and organization was and still is the focus of CSR in the United States.

Conversely, the European Union, in 2001, outpaced the US when it published the Green Paper titled "Promoting a European Framework for Corporate Social Responsibility". This was the strongest move to date in attempting to promote corporate social responsibility by the European Union. The stated objective of this issue was to launch a global debate for the purpose of promoting a new European framework for CSR. They were a result of an inclusive process that solicited opinions from member states, MNCs, NGOs and even academicians. EU Green Papers by nature are policy papers intended to stimulate discussion among interested nongovernmental actors in a specific policy area. They are not binding in nature, and were intended to serve as supplement to the existing EU and national laws. It removed the confusion from the minds of MNC's regarding which guideline to follow and gave them a clear indication and comprehensive compliance guideline. While, this effort by the European Union was admirable at many fronts, but because of their voluntary nature, they fell critically short in addressing the problem of corporate responsibility outside of Europe. Nevertheless, the immediate result came in the form of overhauled French corporate law and mandated disclosure of companies social and environmental as well as profit performance in 2002.

According to a report[19] published in 2016, Europe continues to have a clear lead among other regions of the world in terms of an overall number of reporting instruments in place. There are reasons for it, may be because of the number of countries in the region and also because the region counts for mature, sustainable reporting. There exists an EU Non Financial Reporting Directive[20] that requires large companies to disclose information on policies,

[19] http://www.sseinitiative.org/wp-content/uploads/2016/05/Carrots-Sticks-2016.pdf
[20] EU Non-Financial Reporting Directive 2014 http://eur-lex.europa.eu/legalcontent/EN/TXT/PDF/?uri=CELEX:32014L0095&from=EN

risks and outcomes related to the environment, employee protection, human rights concerns, and anti-corruption and bribery issues. Apart from these, there are other reporting instruments that are introduced by EU focusing on climate change mitigation, greenhouse gas emissions, business and protection of human rights in global supply chains.

Regarding the mandatory guidelines, Europe is growing remarkably. There are constant efforts that are made by the governments and even by the EU commission that they require reporting not only on the specific environment or social issues but also on broad issues of non-financial performance. History is evident on how long it has come, starting from EU Accounts Modernization Directives issued in 2003 to the EU Non Financial Reporting Directive in 2014.

It is apparent that well-publicised incidents of corporate misconduct, such as Nestlé, a Swiss company during the late 1970s and early 1980s, British-Dutch company Royal Dutch Shell in the mid-1990s, and American corporation Enron in 2001, have increased the public scrutiny of even the allegedly ethical companies in both countries.

5.3 Response of Non-Governmental Organisations

Social activists and civil society groups encourage corporate executives to report and monitor their social and environmental performance. For example, groups like CERES, a non-profit sustainability organisation and Council on Economic Priorities (now called Social Accountability International), a public service research organisation that analysis and reports on the social and environmental records of corporations. Such groups have focussed on working with business executives on reporting standards. Other groups like Global Reporting Initiative (GRI) and Social Accountability 800 inform executives on how to measure and monitor social and environmental performance.

The framers of US constitution sought to design a political system that discouraged factions to prevent healthy democracy at worse, or even to

dominate political process at best. Therefore, at formal level, interests groups do not enjoy any significant standing. Nevertheless, it would be naive to argue that that interests groups are powerless in the US. Indeed the pluralist nature of US politics encourages the formation of interest groups. Public policy process is many a times influenced by umbrella organisations like labour union and business associations, which are considered legitimate representatives of vulnerable sections.

On the contrary, it has been observed that there is a large presence of such groups in the EU as European nongovernmental organisations heavily promotes good business practices within the context of CSR. According to Jonathan P. Doh and Terrence R. Guay (2006) the difference in the structure of influence wielded by NGO's in policy making in US and EU can be explained by distinctive political legacies and institutional and political setting prevalent in these areas. European nations support CSR because there is more awareness and receptivity towards NGO's influence in public policy, in these nations.

Interests groups have more formal standing in the European society (Wilson, 2003) unlike the United States. Consequently, mostly European governments include business, interest groups, civil society organisations in their decision making. The similar practice is followed at the EU level.

During the 1970's and 80's corporations were reeling under the pressure built up on them by the social movements and NGO activity. Various civil society organisations attempted to persuade the corporations to exhibit a more socially responsible behaviour. Since the early twentieth century, legislations were formulated by the European Union member states to control the relationship between employee and the firm, health and safety at work, issues related to environmental concerns, discrimination and equal opportunities at the workplace. While state owned companies had to fulfil their social objectives along with taking care of their commercial interests, private sector companies were allowed free reign. They were free to carry out their commercial objectives exclusively.

Some organisations such as Active Citizenship Network and International Institute for Environment and Development did not appreciate the efforts made by the European Union through their Green paper and called them not sufficiently far reaching (Hartman *et al*., 2007).

The CSR rules acquired different characteristics when they were transferred from Anglo-American setting to European setting. In Anglo-American setting, CSR was primarily based on voluntary actions rather than on mandated regulations. In European setting, however, a range of activities, such as corporate provision of health care or education, have largely been undertaken on a mandatory basis (Matten and Moon, 2005)

Trade Unions in Europe, though invited at national meetings to discuss CSR, many of them regards it as an instrument of multinationals notes Chris Rees. According to him trade unions consider it "mere rhetoric to improve the corporate image with little substance in practice." He further, talks about number of factors that influence trade union's support for CSR like the history of the country, ideological instances, etc. the Deputy General Secretary of the European Trade Union Confederation (ETUC) said that the latest communication on CSR presented in 2011, signalled a positive development compared to earlier communications that were 'pro business' that prompted ETUC to discontinue their involvement in the discussions regarding CSR. There are wide spectrums of responses to CSR from unions, for example in Denmark and Germany unions have traditionally been engines of CSR. Whereas unions in French and British show scepticism and distrust towards the concept.

In 2009 in the US, more than 50 US and overseas leaders from the development and socially responsible sectors wrote a letter[21] to the then President Barrack Obama demanding the promotion of CSR in the US comprehensively. The letter suggests, it could be done through the establishment of an Office for Innovation in Corporate Social Responsibility

[21] The letter undersigned by 50 leaders from various sectors, written on the letter head of Social Investment Forum can be accessed at file:///E:/PhD/chapter%205%20EU%20&%20US/Office%20of%20CSR%20Letter.pdf

with an objective to enhance and coordinate CSR activities in the US. This office will be in line with its public policy objectives in both domestic as well as International arena. It claims that the creation of such an office would assist the federal government in leading the businesses to integrate best practices governance, accountability, transparency and environmental and social issues.

5.4 Attitude of Business Community

Aaronson and Reeves in 2002 noted that the corporate executives in the US and Europe consider the CSR pressures not only 'unnecessary' but also 'unfair' to business. They acknowledge that the primary aim of corporations was to make profit for their shareholders and 'not to make the world a better place' (Aaronson and Reeves, 2002).

However, historically the businesses in the United States have played an active role in the development of its society as many US firms have depicted CSR processes first and foremost in terms of philanthropic programs and volunteerism. Similarly, the social responsibility issues most commonly discussed by the US firms were those linked to the community–e.g., quality of life, education, etc. Hartman *et al*., (2007) notice that executives in the US have been slow to develop practices either on their own or through efforts like Global Reporting Initiatives. The Former CEO of Shell, Philip Watts once said that the "smart CEO's are not only orienting companies towards sustainability, but they are also making efforts to orient society towards sustainability."

On the other side, the European businesses acknowledge that, firms are institutions that are embedded in society hence they have duties towards it apart from those enshrined in laws. European business thinking is considered more cognizant of the socially embedded practices of business institutions and has taken the interests of other social agents into account. This is especially true in the case of German speaking countries, in which labour representatives are granted the right to participate in high level corporate deliberations (Charkham, 1995) as well as in Scandinavia, where industrial democracy has enjoyed a long and successful history (Nasi,1995; Sison, 2009).

As a follow up to the Green Paper published in 2001, the EU published its first communication in 2002, concerning CSR titled "Corporate Social Responsibility, a Business Contribution to Sustainable Development". This communication asked for responses from the business community and civil society. It received over 250 responses. Most businesses in their response emphasised on the 'voluntary' nature of CSR while trade unions and civil society organisations advocated for a 'regulatory framework' and emphasized that CSR policies to gain credibility should be developed, implemented and evaluated with the involvement of relevant stakeholders.

CSR Europe[22], was officially established in 1996 is a leading European business network for promoting corporate social responsibility. 48 corporate members and 42 national CSR organisations are part of this network. It's the same organisation that prompted the European Commission to engage more strategically with business and stakeholders in developing a European Strategy on CSR, the first strategy that was adopted in 2002 was also a result of its efforts. In 2005, CSR Europe led a strong campaign encouraging and providing businesses with the tools they needed to fully integrate CSR in their business strategies and practices. 400 businesses and stakeholders launched "the European Roadmap for Businesses- towards a Competitive and Sustainable Enterprise" which outlined the goals of CSR Europe.

The Business initiative on Human Rights (BIHR), a non-profit organisation is a group of 18 corporations with a vision to ensure that all the corporations must respect the rights and dignity of those that they are associated with must be mentioned (Mullerat, 2010).

Later in 2010, "Enterprise 2020" was launched by CSR Europe that works to address European and global challenges to achieve smart sustainable and inclusive growth. It builds a movement for corporate social responsibility and to achieve the set goals, it has come out with a manifesto[23] that calls for a joint action of business community with the government to achieve strategic

[22] For more details see, https://www.csreurope.org/homepage-slider
[23] https://www.csreurope.org/sites/default/files/ENGLISH_Enterprise%202020%20Manifesto.pdf

goals. These include employability and inclusion as priority stimulates companies to engage in sustainable methods of consumptions and livelihood and lastly it urges them to keep transparency and human rights at the centre of the business conduct.

From the above discussion, it is clear that there is a greater presence of the both national as well as supranational government in the formulation of CSR guidelines in the EU as compared to the US.

Not only this, but in the EU CSR is also supported through various research programs. For example, IMPACT project, involved 16 European research institutions that were to give the necessary resources to test the implications of CSR not only within the company but also for the surrounding communities and various stakeholders. The main aim of this project was to assess different CSR initiatives and finding ways to improve them, if necessary.

Though the activities of private charitable organisations in the US do not fall in the accepted definition of CSR, which goes beyond philanthropy, their role cannot be ignored while assessing American CSR. In the US, the corporations have a greater scope for discretion, since the government is not encouraged to play an overactive role in regulating business. In the Europe, a lot of attention is paid to public social programs by businesses through the support of the government. Although EU has set some guidelines, similar to the US, but the EU guidelines are much more extensive and are often linked to hard laws. Therefore, it is clear that even the short history of European Union, have made a great stride in promoting CSR and emphasising its importance in every aspect of the business, whereas in the US there are no such clear-cut guidelines for the governments to follow.

Lofstedt *et al.* (2001) conclude that Europe has implemented many of the regulatory procedures that were advocated by America in the 1970 and 1980s and in the same way the US in many cases put forward policies that were similar to those that were implemented by Europe in the 1990s.

The chapter has looked at various aspects of CSR practices and response towards them from the Nongovernmental organisations and business communities in the United States and Europe. There is no uniformity of thoughts, however civil society groups in both the countries advocate for mandatory provisions whereas the business community pushes for voluntary practices. Noteworthy it is to know that, as hypothesised, countries in Europe are ahead of their counterparts in the United States in terms of active civil society and outlook of business towards CSR practices.

Chapter - 6
Conclusion

Business practices determined by moral principles and 'controlled greed', is not a novel idea, it was championed by pre-Christian Western thinkers like Cicero in the first Century B.C. and their non-Western counterparts like India's Kautilya in the fourth Century B.C. Similarly, the notion of corporate philanthropy is rooted in the 1800s and had flourished over the years in the United States. Thereafter, the corporate contributions for charitable reasons were considered crucial for the society's overall development. It is believed, that without these funds many fragile and humanitarian institutions like schools, parks, churches and libraries would not have survived. Philanthropic activities provided healthcare for the poor and the disadvantaged, funded basic medical research on rare diseases, supported artistic endeavours, contributed to educational opportunities for youth, created recreational spaces for elderly and children, endorsed family support programs and many other such attempts were undertaken that benefitted society at large.

The definition of the term 'Corporate Social Responsibility' can be broken down into 'corporate', which denotes the large business group or an organisation. The 'social' aspect, which covers all the stakeholders of that business group and the word 'responsibility' generally, refers to the accountable relationship between the business and the society and their integrated actions. However, there is a lack of any widely acceptable definition of the concept. Scholars from various fields of studies, including social sciences, business and management have attempted to define it, but clearly there is no consensus. Given the many definitions that exist today, one can conclude that CSR is fluid, ever changing and is a dynamic concept that involves an innovative mechanism for governance and obligations towards a society that ranges from social, economic, legal, and ethical to philanthropic.

There are a number of theories that have formed the basis for explaining corporate social responsibility and they range from social contract theory, shareholder theory, stakeholder theory, legitimacy theory to institutional theory. However, it is noteworthy that most of these theories have focused and converged on four most important aspects of CSR. Firstly, they suggest that it is essential to meet objectives that produce long-term profits for the business. Secondly, they advise that the power of the business must be used judiciously. Thirdly, they instruct the corporations to integrate social demands in their practices as it provides legitimacy to their actions, and lastly, they recommend contributing to a healthy society by doing what is ethically correct.

The broad responsibilities that businesses owe to society include their duty towards neighbourhood community, and the natural environment, which on occasions goes beyond legal compliance. Secondly, corporations have a responsibility for the behaviour of others with whom they do business; and thirdly, that business needs to manage its relationship with the wider society, whether for reasons of commercial viability or to add value to society.

Corporate social responsibility as a concept gained popularity since the decade of the 1950s in the United States. The change in terminology from the 'social responsibility of the business' to 'Corporate Social Responsibility' was noticed after Howard Bowen's remarkable work *Social Responsibilities of the Businessmen* was published in 1953. Additionally, *in* the same year the New Jersey Supreme Court ruling in *A. P. Smith Mfg. Co. v. Barlow* held that the New Jersey Law allowed corporations to make charitable donations. Thus, the US court upheld the right of corporations to prioritise non-shareholder concerns, especially in the area of charitable contributions. This offered a new dimension to the concept of philanthropy. It is since then that the term CSR has come under scholarly and official scrutiny.

While analysing the concept, it is essential to see its evolution and genesis in the country of its origin. It began in the United States in the late 1800s with a philanthropic endeavour undertaken by a few big businessmen like John Hopkins, John D Rockefeller, Henry Sage and several others who

either for the sake of morality or with a goal to promote social good made charitable donations. Interestingly, some of the businessmen also embarked on charity as it was part of their 'Christian ethics' that urged them not to hoard money but to use it for the larger cause of humanity. Many scholars at different points of time have called these endeavours by different terms; like one scholar called this period an 'Era of Benevolent Feudalism' and saw their efforts as a way to maintain feudalism.

There were various factors that influenced the growth and development of corporate philanthropy which later transcended to CSR in the US, like Industrial Revolution which gave birth to slums and the miseries related to it. As a response to this crisis, there arose a welfare movement when philanthropists helped the society by building hospitals, schools, churches and libraries. The Progressive Movement in the US also raised the awareness in public regarding the social responsibilities of the business. Similarly, in the aftermath of WWI there arose 'Community Chest Movements' and 'Federated Philanthropy programmes' as an effort at organised philanthropy that informed the masses and assisted big businesses about the contributions and hence promoted philanthropy in the US. It came a long way from being called an illegal practice in the late 19th century to being legally recognised by the courts in the early 1900s.

The Great Depression of the 1930s also had an impact on philanthropy, as it created a whole new set of difficulties that the government alone could not deal with. Hence, the corporations were reminded by the society that they had a role to play in the enormous task of rebuilding the economy. In the post-World War II America, education was promoted mostly through charitable wealth, the reason being that the corporations understood that education would provide skilled labour to the industrialised economy, and also many thought that it would act as a barrier against the then proliferating communism, 'the Red Menace'.

As mentioned above, the decade of the 1950s not only gave birth to the terminology of CSR, it also legally institutionalised the concept of corporate philanthropy through the Supreme Court pronouncement that clearly stated

that the prevailing conditions required corporations to fulfil their 'social as well as private responsibilities'. The successive decade of the 1960s was remarkable because during this decade the inclination of the federal and the state governments to enact legislations integrating business and society were witnessed. For example, 46 states in the US passed specific legislations that permitted corporate philanthropy. However, the social movements of the 1970s in the form of Civil Rights Movements, Women Rights Movements, and Consumers Rights Movement pressurised the businesses to use their position for the improvement of society. Resultantly, there was a wave of legislations that were enacted during this period. However, in the 1980s during the Reagan administration limited progress was made concerning social responsibility of business. While Reagan administration did not promote the tradition of corporate philanthropy, though it let it continue at the same pace that was achieved during the last decade.

The decades of the 1980s and the 1990s have proven to be one of the tumultuous years in the history of social responsibility in the United States. A number of business scandals shook the trust of the American people in the positive power of corporate sectors and every action of the businessmen were seen sceptically from then on. Big corporate houses like Enron, World Com and others fabricated their financial positions. However, as a measure to fix their damaged image, the practice of "Reporting" came to the forefront and legislations were enacted as a reaction. The decade of the 90s also intensified the discussion on CSR and pundits and commentators emphasised that CSR was not mere philanthropy.

In the wake of globalisation, the idea of CSR in the 21st century has become much more nuanced. The contemporary discourse encompasses environmental protection, climate change, workplace diversity, the welfare of labour, environment-friendly supply chain and promotion of human rights practices and so on. As a result, companies started embedding CSR into their core operations, though voluntarily.

CSR now provides an arena for a proactive role by political leaders and activists in the civil society. It is also a priority for many high-profile political

and economic platforms, such as the United Nations, World Economic Forum, and the Organisation for Economic Cooperation and Development among others. Moreover, governments across the world have also tried to influence the agenda, be it at the national level such as the appointment of the United Kingdom's Minister for CSR in the Department of Trade and Industry or by way of multilateral initiatives such as the Green and White Papers on CSR issued by the European Union. Due to the absence of consensus on key issues and company responses, dozens of initiatives like Tripartite Declaration, Global Responsibility Initiatives have emerged over the years to help bring definition and consistency in CSR practices.

Traditionally, it has been seen that the US has played a leadership role in supporting the development of global norms, standards and guidelines, ranging from upholding the creation of the Universal Declaration of Human Rights in 1948 to the enactment of Foreign Corrupt Practices Act (FCPA), 1977. It has played a major role in supporting anti-corruption and good governance efforts around the world. However, after a thorough analysis of various legislative and administrative measures undertaken by the US government at both levels, federal as well as states, it is seen that the US policies are often inconsistent. There is a certain kind of behaviour that is expected to be performed by the corporations and has been in some ways mandated in the US, yet neither agencies nor private firms are monitored or evaluated for their adherence to such performance requirements. For example, the US does not take into cognizance of the firms operating overseas which are selling or using pesticides that are banned within the US. While it is difficult to coordinate the government endorsed wide ranging policy goals, but it should send out a clear message that human rights issues and sustainable policies are foreign policy priorities too.

The US government takes various steps with regards to CSR, broadly they are categorised in four ways – in terms of mandate, facilitation, partnership and endorsement. Though in the US there are no clear laws related to CSR, yet there are a variety of legislations that are related to various aspects of CSR, like labour, environment, consumer protection, anti corruption,

money laundering, etc. The existing laws in the US have proved inadequate for regulating powerful entities like Multinational Enterprises (MNEs). International law is another legal tool that traditionally does not apply to private actors, a category that includes MNEs. Problems related with the existing legislations are their inherently 'voluntary' nature. The cases like National Foreign Trade Council brief, Cisco, Exxon Mobil and Shell are a testimony to the fact.

The corporations in the US take a variety of actions related to CSR ranging from voluntary measures such as charitable contributions to government mandated programs like disclosure of significant environmental conditions. However, the role played by the corporate lobby in the US in influencing the legislations related to CSR is noteworthy. Lobbying is a powerful tool that can be used for advancing social responsibility, but most firms either underuse or misuse it. According to a report published in the Guardian, out of 50 companies that work with environmental groups, only three – Mars, Google, and Starbucks explicitly support the Environment Protection Agency's (EPA) Clean Power Plan. However, there are many including the oil, coal and natural gas industry and manufacturing industry who lobby against such plans. Sometimes, it is seen that firms that follow good ethics and have adopted greener practices, support and advocate for legislations that directly contradict their socially responsible image. For example, many leading corporations in the US claim to support the cause of human rights but do not accept when the same human rights protection is part of an act like the Alien Tort Claims Act (ATCA). After the enactment of ATCA, the US multinational business community collectively demanded to repeal the act and repudiated the trust of the society. However, Supreme Court in *Alvarez- Mechain v. United States case* rejected and quashed the demands of the business community and unambiguously approved the claims under ATCA Act. This stand taken by the business community collectively clearly indicates the attitude of US business community towards regulations related to CSR. Often it is observed, that companies under the disguise of their membership to certain associations attack such rules and legislations. Other examples of corporate lobbying practices adopted by various corporations like

Shell, Cisco, Exxon Mobil enforces that business in the US have an underlying agenda to remain free from any type of mandatory regulations.

This clearly brings out the fact that being socially responsible is rewarding for companies in many ways. This is why companies, under the leadership of National Foreign Trade Council (NFTC), demanded the revocation of ATCA, as they could not criticise the act in the open. This concerted attack by the business community in the US clarifies that the progress made on CSR is still limited and companies in the US mostly use social responsibility as a face saving action. It exposes the hypocrisy of some business houses in the US. Corporate America is yet to show interest or make a commitment to a binding standard.

While analysing the provisions regarding CSR in the US and the European Union, there are many noteworthy observations that need attention. In matters of health and climate change, members of the European Union majorly see it as the prerogative of the government, whereas in the US they are dealt differently. Though the contemporary institutional structures in the US reflect the influence left by the early political history of the country, the role played by culture and religion cannot be ignored. In both Europe and the US, key socio-political and legal institutions exist at the supranational level in the form of OECD and ILO guidelines, and at the national and sub national levels. The focus in the US is on federal and state level institutions whereas in Europe the focus is primarily on the EU wide and national institutions existing among countries. For example, In the UK, France and Denmark, member countries of EU, CSR operate under liberal, regulatory and partnership based model, whereas in the US the mode of implementation of CSR is traditional and self regulatory. In both cases, however, institutional variations emanate from differences in a range of social, political, economic and cultural experiences in respective political and geographic jurisdictions.

In 2002, the US was shaken by the corporate scandals and in 2003 it was Europe that got hit by similar infamous corporate excesses. It was post these scandals related to ‘corporate irresponsibility’, that both the trans-Atlantic countries were forced to formulate various legislations on CSR. The

US enacted the Sarbanes- Oxley Act, (SOX) in 2002 and the European Union came out with Green Paper in 2002 and constantly made efforts after that.

While analysing the differences between the regulatory mechanisms existing in the US and the European Union (EU), it is observed that some regulatory processes have been exchanged between the two regions. These exchanges were made when authorities looked for new instruments to deal with the changing scenario in the respective countries. This is not to say that both countries have entirely different regulatory systems, but with the advancement in technology, exchange of ideas that have proven useful has taken place. For example, negotiated rule making has been the norm for regulations in Germany post-WWII, where industry actors' as well regulatory bodies reach a decision via consensus. It is a successful process, given the less number of litigations and conflicts arising out of differences. Experts like Lofstedt and David Vogel have noticed that this mechanism of rule making is gaining acceptance in the US.

Though the European Union is relatively a recent regional organisation, it has paid lots of attention towards developing a mechanism to promote CSR not only in formulating laws at the supranational level, but also directing countries, and helping and monitoring their national action plans. Such activism is missing in the United States, and the inability of the US government to set and implement guidelines for CSR has led to ineffective CSR practices in the country as compared to the countries in Europe.

This study was initiated based on the following hypotheses:

- The powerful business lobbies in the US have been responsible for inadequate CSR guidelines in the country.
- The inability of the US government to set and implement CSR guidelines accounts for ineffective CSR practices compared to many other industrially advanced countries in Europe.

To conclude, it can be said that, corporate executives always try to influence public policies and prefer to keep them in private so that the

positions taken by them do not get disclosed in public, as they are often in contradiction with their public image. This thesis establishes that influencing public policy-making is central to the corporate management of CSR in the United States and has been demonstrated with the help of various examples. Corporations often use CSR strategically so that they can avert the strict regulations and legal accountability.

Similarly, this inability of the US to formulate formidable guidelines concerning CSR has paved the way for the European Union to lead and set an example. It had outpaced the United States when, in 2001, it published the Green paper which is considered the strongest move in an attempt to promote corporate social responsibility. The publication of the green paper titled "Promoting a European framework for Corporate Social Responsibility" sparked the global debate on the role of government mandated framework of CSR.

In 2009, Social Investment Forum wrote a letter to the then President Barrack Obama and voiced that it is high time that the United States should take formidable steps in formulating and promoting CSR practices globally with the help of intergovernmental organisations. While doing so, the government has to be careful that it does not increase unfair protectionist measures. Much more could be done by the United States government to convene, catalyse and fund efforts towards corporate social responsibility, especially in light of the need to build international prestige and trust in this realm. This study further indicates that there is much potential for research on the manner in which corporate lobbying influences law making in the United States concerning CSR.

This thesis has analysed various public policy initiatives undertaken by the United States since the time CSR was understood as philanthropy. It points out that the US corporations, which under the federal and state laws implement CSR practices, ignore to promote the same when operating outside the jurisdiction of their country. The title of the thesis "Changing Facets of Corporate Social Responsibility in the United States" is justified on the grounds that an analysis of the development of CSR practices in the United

States presents few distinct phases in the US. It began purely as philanthropy, when giving donations for community welfare was considered the only responsibility of business. However, this notion was transformed in the next phase when managements of the corporations were seen as the public trustee. Then, came the period of social movements that brought many problems existing in the US to the forefront. This was the time when businesses understood their responsibility and became the drivers of social change. And finally, in the late twentieth century and around the beginning of the twenty-first century, a new phenomenon of corporate partnership is visible where their actions are largely seen in an alliance with the government.

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