Corporate Social Responsibility: A Legal Perspective with Reference to Banks in Pakistan

*Rehman Akhtar, Ph.D. Scholar, Faculty of Law, Universiti of Malaya, Kuala Lumpur, Malaysia
Zil-e-Rehman, Ph.D. Scholar, Asia Pacific University (APU), Kuala Lumpur, Malaysia
Mehreen Nazish, Ph.D. Scholar, Bahauddin Zakariya University, Multan, Pakistan

*Corresponding author’s email: Rehmanchughtai85@gmail.com

ARTICLE DETAILS

ABSTRACT

**Purpose:** The term "Corporate Social Responsibility" is not new in the business world. Over time, several academics and researchers have evolved their definitions of CSR, basing them on the political, environmental, economic, and social circumstances of the moment. Since the 1950s, no solitary, recognized definition of CSR among academics and researchers has existed. Companies that engage in CSR see a rise in customer loyalty. No doubt, CSR a new-fangled idea in Pakistan intensifies the significance of CSR for banks in Pakistan. The researchers will try to determine whether the banks operating in Pakistan are obeying the standards of CSR and, if so, how closely those rules are being adhered to.

**Design/Methodology/Approach:** To achieve that, we will try to comprehend the idea of CSR, look into where it came from, and examine its constituent parts and primary motivators affect the environment and people.

**Findings:** Additionally, it is important to consider how CSR compliance may The study will attempt to look out for pertinent laws, rules, regulations, and recommendations in the local and international legal frameworks that highlight the importance of CSR and its application.

**Implications/Originality/Value** If banks do not execute the CSR laws, we will attempt to determine if the State and people of Pakistan have any legal remedies against the banks.

© 2022 The authors, under a Creative Commons Attribution-NonCommercial 4.0


Introduction

Recently, the idea of Corporate Social Responsibility (CSR), has become a self-regulatory system in that firms actively participate in improving society as a whole (Alavi, Babek, et al. 2016). This research will go into the specifics of the idea of CSR, its history, its importance, and associated instruments under national and international law. After it has been proven that CSR exists, is
important, and that investment always goes hand-in-hand with CSR, the study will shift to its main subject, Pakistan's legal framework for CSR and this study will attempt to assess the degree to which CSR principles are adhered to there. Through this study, we will attempt to comprehend what CSR is, what it means, and what it entails. We will examine the origins and framework of CSR within national and international legal frameworks. We will also concentrate on the legislation in Pakistan that requires CSR for banks doing business there. Additionally, it is important to consider how CSR compliance may affect people, the environment, and the objectives of sustainable development. There are five sections to the study. To get a fundamental grasp of the topic under study, the first section will introduce, describe and explain CSR. It will also analyze its historical development, components, and development in Pakistan. The legal implications of CSR will be covered in Part II, where we will first review the legislative framework for CSR in Pakistan, and afterward international instruments for CSR in Pakistan. Part III of the study analyses the information that would have been covered in the sections earlier. Further, we will review the challenges and issues Pakistan faces in properly implementing CSR succinctly and clearly. Our attention will shift to the answers to the issues we would have discovered and indicated in the first half of that section in the second half. A brief synopsis of the study will be given in the final section, followed by the results.

**Theoretical Basis of the Study**

It would be improper to attempt to research and study CSR in Pakistan without discussing CSR's historical development. So, we shall explore the general ideas of CSR in this part, its precise definition, elements of CSR, and the development of CSR in Pakistan. The following four topics will be discussed in this part.

**CSR's Historical Development**

CSR is not an ancient idea and has seen a significant contemporary change during the last thirty years. The idea stayed unchanged for a significant portion of the 20th century (Bantekas 2004). Corporations have never felt that their actions and businesses are responsible to society. The 20th century, however, saw a significant departure from that conventional strategy. It is vital to note that organizations have significantly altered their CSR policies during the previous 20 years. This shift in policies is mostly attributable to shifting societal attitudes and customer desire for businesses to support social justice causes and act responsibly toward the environment (Cochran 2007). Companies are now tackling CSR more strategically as they understand how integrating these initiatives with their aims and business model may significantly boost a company's competitive edge.

The following stages summarize the historical development of CSR. At first, there was increasing public pressure for governments and businesses to answer for the harm they did to society and the environment. Friends of Earth was established and the United States celebrated its inaugural Earth Day during the 1960s (Waheed 2005). Widespread reports of labor and human rights abuses, as well as widespread corruption, in the last two decades of the previous century, sparked public concern about the actions of large firms. As a result, a more overt form of CSR began to take shape. Additionally, during this time, important milestones were reached and the damaging effects of these industries on the environment were acknowledged (Gordon 2001) were made during this time. The efforts made in centuries past and the actions performed in this one have combined to create the current version of CSR that is in use today. Several catastrophes also blemish this phase (Petrick and Scherer 2003). Moreover, several agreements and rules were made to handle the issues of labor, human rights, and the environment. This final stage is crucial because of globalization, security threats, and the realization of common destiny among states. It is also significant due to its proximity (Waheed 2005).
Corporate Social Responsibility (CSR)
CSR was never defined during the majority of the previous century; in fact, it never existed. Corporate Philanthropy, which employed charitable donations and other social welfare projects to build goodwill and advance businesses, came before CSR. When society began to become increasingly worried about the harm that businesses were causing to the environment and society, the CSR concept began to evolve (Waheed 2005). The current form of CSR was formed on several occasions during the past few decades, and as a result, the idea was defined in more rigid terms. Due to the lack of a single, universal meaning for CSR, many definitions exist depending on the context in which it is used. We must examine some of the definitions provided in various literature to proceed. The more expansive definitions of CSR focus on the link that exists or ought to exist between multinational firms, national governments, and ordinary citizens. However, this article has chosen a few of the definitions by the context of this paper to acquire a general notion and revisit them afterwards. CSR is the voluntary incorporation of social and ecological issues by businesses in their commercial dealings and relationships with relevant partners.

One thing is clear from the definitions given above: CSR entails the practice of signifying a practical apprehension of the environmental and social implications of operating a corporate. The minute we discuss a company's or organization's social influence, we are referring to a wide range of factors, including workplace safety, human rights, education, and labour laws. Similar to this, there are many different aspects to how the environment is affected, and these aspects take into account both current issues and potential ones related to sustainable development. Because CSR is not a static concept but rather an ever-evolving practice that must be adjusted to meet shifting needs, it is both practically difficult and theoretically undesirable to come up with a firm definition of it. Society's expectations of corporate behaviour increase as nations develop, becoming wealthier and better educated. Therefore, what was sufficient yesterday may not be sufficient today, and it will certainly not be sufficient tomorrow.” (Williams and Zinkin 2010).

Elements of Corporate Social Responsibility (CSR)
The business's overall social responsibility is made up of a variety of parts that work together to create a single notion. For this essay, we have broken down CSR into four fundamental components: philanthropic, ethical, legal, and economic responsibilities. In the lines that follow, we will quickly discuss each of these CSR components.

Ethical Responsibilities
Additionally, businesses are supposed to uphold society's moral and ethical standards. In most cases, this means abiding by social norms and refraining from actions that are frowned upon.

Philanthropic Responsibilities
A company's philanthropic responsibilities are its voluntary contributions made towards society. Therefore, CSR refers to the charitable activity that organisations conduct to better local communities (Ahmed and Ahmad 2011). Businesses can make up for the resources they take or recompense any ecological imbalances or losses brought on by their extractive operations (Hameed 2010). There is essentially no restriction or cap on the amount of charitable CSR that a corporation should undertake because it is purely optional. Philanthropic CSR is included in a company's strategy primarily to win society's goodwill.

Economic Responsibilities
Economic responsibility is the fourth component of CSR, which every business owes to its owners and shareholders. It has to do with maximizing revenue and upholding a high standard of operational efficiency. For the owners and shareholders to reap the most financial rewards from their investment, it is closely tied to them.
Legal Responsibilities
Laws that are based on ethics are related to legal responsibility. These regulations mandate that businesses offer products and services that at the very least abide by basic legal criteria and industry standards. Additionally, it obliges businesses to behave consistently by what the law and the government demand of them (Ahmed and Ahmad 2011). In other terms, legal responsibility is defined as abiding by state laws and regulations when conducting business. The business's legal obligations are a reflection of how it conducts itself by applicable laws and rules (Hameed 2010).

Development of Corporate Social Responsibility in Pakistan
CSR in Pakistan has largely taken the form of philanthropy and voluntary gifts throughout its history, and this is in large part due to the country's religious beliefs and long-standing social customs. Every person in the Pakistani community is typically expected to donate a portion of his income to charity causes. The same is true of businesses and enterprises operating in Pakistan, most of which donate services and money to the causes of health and education. But is CSR developing in Pakistan as it is doing elsewhere in the world? CSR is now being included in business strategy as legitimate projects rather than only voluntarily given money. Although the process is undoubtedly moving more slowly than it is in the developed world, it is nonetheless ongoing, despite what might initially appear to be the case. Pakistan's Security Exchange Commission has established rules to help businesses communicate their CSR (SECP 2003). The cause of CSR in Pakistan has greatly benefited from these intellectual endeavors, along with scholarly writings and research. The business volume and capital of banks are astronomically large when compared to local businesses. Additionally, it has been observed that banks often exhibit more evident and organized CSR procedures than do local businesses. Therefore, it makes sense that banks' CSR accounts for the largest share of Pakistan's overall CSR chart. In 2014, Aymen Sajjad and Gabriel Eweje published a report titled "Corporate Social Responsibility in Pakistan: Current Trends and Future Directions" that was the result of extensive research (Sajjad and Eweje 2014). In this report, they examined the concept of CSR in Pakistan by examining a variety of secondary sources, including the extant literature on CSR, government reports, publications of international agencies, industry reports and companies' CSR/sustainability reports. They concluded that Pakistan has a relatively weak understanding of CSR.

Current Legal Framework of CSR in Pakistan
Our goal in this section is to learn more about the CSR legal framework that now exists both globally and specifically in Pakistan. We will attempt to comprehend the roots of CSR in domestic and international law, as well as how they require organizations and banks to plan, develop, and implement their CSR strategy, under the present legal framework. These sources include guidelines, rules and regulations, precedents, treaties, etc. However, the legal framework of CSR is mostly non-binding and voluntary. That does not, however, imply that CSR is an unrestricted, friction-free concept of law. It is crucial to remember that there are rules and guidelines in place for developing, implementing, and upholding the notion of CSR, as well as, for correcting violations and enforcing sanctions when they occur.

Sources of CSR Legal Framework in Pakistan
The fundamental labour laws, environmental laws, corporate laws, consumer protection laws, SECP recommendations, and codes and regulations included in contracts and approval form the basis of Pakistan's legal framework for CSR.

SECP Guidelines for CSR
The CSR standards approved by the SECP as recently as in the year 2013 are another set of regulations that are far more pertinent than the aforementioned elements but are not as binding (SECP 2013). The Guidelines' goals are to encourage ethical business activities that advance societal progress for the benefit of the general public, eradicate dishonest business practices that
have a negative impact on the public, and assure corporate responsibility and transparency (National Voluntary Guidelines 2012). The Guidelines also state that the company is expected to set aside a specific amount (between 1 and 2 percent of its profit) for CSR. In addition, the guidelines end by encouraging businesses to adopt a transparency and reporting policy in which they disclose both a description of the CSR activities they have carried out and the associated financial data for each fiscal year.

**Code of Corporate Governance by SECP**
The following section of the discussion centers on two key directives issued by the SECP. In 2002, the SECP created the Code of Corporate Governance, which was updated in 2012. The majority of its provisions deal with the Board of Directors, including their selection, responsibilities and audits of the organizations. Though, the Code mandates that any severe accidents, dangerous situations, and environmental issues be brought to the Board of Directors committee for discussion and decision-making.

**Companies ACT 2017**
Another important piece of legislation about the formation and operation of businesses in Pakistan should be included here. The fundamental statute that controls practically every element of corporations and companies is the Companies Act of 2017. This is one of the most comprehensive and complex pieces of legislation in the nation. Section 227(1) of the Companies Act 2017 provides that directors of a company should attach a report along with financial statements of the company while Section 227(3)(c) of the Companies Act 2017 provides that the business review of a listed company must contain information about the CSR activities undertaken by the company during a year. Unfortunately, it is noted that not even a single paragraph or provision makes a passing reference to the minimum mandatory percentage of income spent on CSR.

**Constitution of Pakistan**
The nation's Constitution is the primary document from which fundamental CSR ideas can be taken. Abolishing all forms of slavery from the nation is a principle that is spelled out in several of its articles. The Constitution mandates that State is responsible to provide fair working conditions for children and women (Ibid Art. 37 e). Furthermore, the Constitution also guarantees the right to form unions and associations (Ibid Art. 17). These Constitutional provisions protect and advance the fundamental ideas of CSR.

**Labor Laws**
Labor Laws in Pakistan provide coverage for and enhancement for the following CSR component. When the Indo-Pak peninsula was partitioned, the British created legislation that United India acquired as the basis for its labor laws (NatachaWexels-Riser 2004). The Government passed the Factories Act in 1934, which among other perks gave workers who had served for a full year a break of fourteen consecutive days (Factories Act 1934, Sec. 49-B). Penalties for breaking or not adhering to the rules were also discussed (Ibid Sec.60) established in the law, which also included protections for children and adolescents, restrictions on adult workers' hours, and safeguards for health and safety.

**Codes of Conduct**
Also contributing to the literature and framework of CSR in the nation are the voluntary codes of conduct produced by the businesses themselves for a variety of causes. Companies typically adopt a CSR policy because it will likely enhance their public image, gain more media attention, raise employee engagement, and draw in and keep investors in addition to serving philanthropic goals.

**Contract Clauses**
Additionally, the terms of the contract between the government and the companies include
requirements to practice CSR. These obligations, which are defined by the contract, are legally and contractually required of the companies in the areas of the environment and the communities where they operate.

**SBP Regulations**

On January 31, 2009, the State Bank of Pakistan (SBP) established many reasonable restrictions. These rules concern CSR by banks in Pakistan, should be considered, respectively. Regulation G-3 of the Prudential Regulations for Corporate/Commercial banks guides banks about contributions, donations, educational, social, charitable, and welfare of the public. These rules apply to management and the boards of directors (Ahmed and Ahmad 2011).

**International Laws about CSR**

The legal framework for CSR in international law is based on several legal documents, NGO principles, and codes of conduct (Bantekas 2004), all of which will be covered in the paragraphs that follow.

**United Nations Global Compact Principles**

The UN Global Compact initiative is an important step in the direction of the adoption and application of CSR. The 10 principles of the UN Global Compact, which was established in 2000, have been embraced by the participating nations and businesses. The Global Compact covers a variety of topics, such as labor rights, environmental concerns, and human rights. The guiding principles demand that enterprises uphold and defend human rights, end child labor and forced labor, and take precautions to safeguard the environment (Yu., Shuhong., et., 2019).

**NGO Guidelines**

NGOs created the NGO Guidelines to advise companies operating in their regions on how to be socially accountable to the community and its residents. Since there are tens of thousands of NGOs worldwide, the number of these regulations is likewise incalculable. There is no better example of NGO guidelines for CSR than ISO 26000. The International Organization for Standardization for Social Responsibility has developed a set of rules called ISO 26000 that address issues with definition, identification, and developing activities by CSR standards (Nemoto Rechden 2013). Seven fundamental CSR concerns are covered by ISO 26000, including community involvement and development, human rights, and labour.

**Study by the Pakistan Institute of Corporate Governance (PICG)**

In 2013, the Pakistan Institute of Corporate Governance (PICG) conducted a study (PICG 2013) in which eight CSR-related questions were posed to more than 50 organizations. The survey's findings are significant because they shed light on how companies operating in Pakistan generally view CSR and its principles. When asked if they have a strategy for sustainable development, 62 percent of participants said yes. An overwhelming 90% of interviewees reported that corporate cultures at their organizations place a high value on environmental protection. 61 percent of respondents who were asked whether their organization has a policy in place to assess the environmental impact of investments said yes. Nearly 90% of respondents agreed that mandatory sustainability reporting was a good idea. Nearly 78 percent of respondents supported using assurance companies to examine Corporate Responsibility programs. Nearly 90% of the respondents believed that having a set of KPIs was necessary since meaningful sustainability reporting requires measurable data to back up facts and numbers (Ibid). The reason for mentioning the survey's findings is to demonstrate how slowly and gradually Pakistan is gaining a feeling of CSR. Most businesses are aware that they must engage in CSR efforts to better the lives of their customers, staff, and the environment. When we consider all the companies, the pursuit of these goals is, nevertheless, still somewhat detached from reality.
Problems and Solutions
In this section, we will summarize our findings and, if appropriate, offer suggestions for enhancing CSR in Pakistan.

Problems In Pakistan’s CSR
CSR in Pakistan is in such a state that just as you are about to declare it nonexistent, it begins to surface everywhere, and just as you start to believe its universality, it appears to be in its infancy. When the research first began, it was assumed that Pakistan did not have any rules governing CSR efforts. However, it was discovered during this research that CSR laws do exist in Pakistan in some capacity, ranging from labor regulations to environmental legislation, from voluntary advice to binding contractual requirements. While this is true, we also discover that much work has to be done in Pakistan in this area. However, it is appropriate to bring up a 2013 law that was implemented in India. Any firm with revenues over 10 billion rupees must comply with the Companies Act 2013 of India, to spend at least 2% of their net profit on CSR activities (Noreen 2017). India became the first nation in the world to mandate that nations donate a portion of their profits to charitable causes. However, Pakistan does not have such a law and it is unlikely that one would be created until at least the next 10 years. Nevertheless, the lack of such a law does not significantly impede the correct pursuit and implementation of CSR values. The reason Pakistan has a lower percentage of CSR activities than developed and developing countries is not so much a lack of interest on the part of businesses and governments, but rather a lack of enforcement and a lack of public knowledge of CSR.

However, it has been discovered that multinational corporations and other sizable local businesses adhere to CSR practices more closely. Many of these businesses do have particular departments in charge of implementing these procedures. They advertise and publicize their CSR efforts in local newspapers, and on corporate websites, and some also release annual reports. Additionally, we discovered that the general population is unaware of this idea. Because of this lack of understanding, businesses do not give CSR much thought and are not motivated to implement it, largely because they are aware that people are uninterested in and unaware of this part of the corporate sector (Ahmed and Ahmad 2011). The Pakistani Constitution of 1973 guarantees the existence of some essential CSR concepts, such as labor rights, rights to association, the elimination of child labor, etc., in its article 37 on fundamental rights. Additionally, the Supreme Court is authorized to take cognizance of any subject about public significance by Article 184(3) of the Constitution. We discovered that several government bodies have published specific criteria for the businesses to follow in the area of CSR expenditure on the infrastructure and/or improvement of the community where these banks operate.

First, the SECP created and frequently updated its CSR rules. Companies are urged but not required to abide by the rules because, as was already established, they are not legally binding. These principles have established a fundamental framework for the nation's CSR initiatives. The contract that businesses sign when they are granted a work permit in the nation, however, is something tangible and through which they may be held accountable. Since these clauses are those that, these businesses knowingly agreed to, they are required to abide by them, making them legally binding. However, it has been observed that the majority of businesses fail to adhere to these restrictions, and the governmental bodies are charged with ensuring that these laws are followed and executed in full compliance with both their letter and their spirit.

Solutions
The following recommendations are made after reviewing the statistics on CSR activities in Pakistan to significantly improve and effectively implement CSR in the nation. Our proposals will entail and address the legal issues more than any other since our main focus has been on the legal and contractual obligations placed on firms to take advantage of their CSR opportunity.
Additionally, only those recommendations that have been determined to be applicable, reasonable, and pragmatic are listed here. Companies registered or granted a license to operate in the nation should be required to periodically publish their CSR operations to streamline their CSR efforts. This can be made obligatory by including it in legislation or by upholding the clauses in contracts that typically already do so. Where it has not already, the government ought to include these clauses in any agreements it makes with businesses, domestic or foreign, as well as in the conditions of any licenses it grants them to operate within the nation. The responsible agency must take harsh action against the violating corporations in cases of negligence or failure to carry out those activities. A chapter devoted solely to CSR activities needs to be added to the Pakistani Companies Act. The presence of a solid law will cause these activities to evolve more swiftly and in better shape, even though legislation is of less concern and execution is the key to this issue. It is imperative that government and non-governmental organizations both launch awareness efforts to promote public knowledge and information. These campaigns consist of lectures, meetings, workshops, publications, etc. As general public knowledge rises, more people will start to create voluntary associations, which can then exert pressure on businesses to engage in CSR concepts and actions.

The difference between CSR and corporate philanthropy must be understood by the firms. Corporate philanthropy is comparable to individual charitable activity in that it is more voluntary and depends on the firms' willingness to carry out these activities. CSR, on the other hand, is more of a moral and social responsibility that businesses have to the area they operate in and its residents. CSR has the potential to have an impact in a variety of life areas (Ahmed and Ahmad 2011). Additionally, CSR, as mentioned in the previous sentence, can address a variety of issues, including infrastructure, empowerment, business prospects, and the improvement of health, education, and other fields as well as the reduction of poverty and unemployment. The living standards of the populace can be raised by offering them amenities and facilities if businesses allocate the funds designated for CSR activities to locations that have been recognized.

**Conclusion**

Due to Pakistan's lax legal framework, researching CSR from a legal standpoint seems more like a social sciences endeavor. This is due in part to the fact that CSR in Pakistan is still in its infancy and that it is more directly tied to social issues than to legal ones (due to its non-binding character). Because of the government's lack of interest and concern for CSR, the idea is still more closely associated with corporate philanthropy. It can be reasonably inferred from all of the discussions we had above that CSR is gradually expanding in Pakistan, despite being in its early phases. However, the rate of expansion must be accelerated and the government and NGOs can help in this effort. If CSR is successfully implemented in Pakistan, many public areas that have been ignored or disregarded in the past can be improved. In the nation, the legal aspect of CSR is essentially nonexistent. No department was discovered to be appropriately urging and pressuring corporations to obey those regulations, even if several departments are concerned with defining the rules of the process for the implementation of CSR. They seem to be more of a formality than a goal that needs to be accomplished. The government needs to take note of and pay attention to this aspect of corporations, particularly the major industries. Regarding legal remedies, they can be divided into three groups: those that are available to the masses. The general public can approach the courts under the purview of Article 184 (3) of the Constitution of Pakistan for any irregularities being committed by Companies and to direct them to indemnify the results of those commissions or omissions. Additionally, if the workers of these companies discover that their owners are contravention of the nation's labor laws, they have the right to sue them in court. If an organization violates the terms of the agreements, they signed to obtain a license to operate in the country, the government departments, particularly those that provide those licenses, have the authority to cancel that license. They can also ask the court to hold these banks accountable for failing to carry out their contractual responsibilities, which include CSR activities, based on the terms of these
contracts.

References
The Constitution of the Islamic Republic of Pakistan, 1973