

The Political Economy of Corporate Responsibility in India

Atul Sood and Bimal Arora



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Acronyms

| | |
|----------|--|
| AIDS | acquired immunodeficiency syndrome |
| AITUC | All India Trade Union Congress |
| APO | Asian Productivity Organization |
| ASSOCHAM | Associated Chambers of Commerce and Industries |
| BCCI | Bombay Chambers of Commerce and Industries |
| BIS | Bureau of Indian Standards |
| BMS | Bhartiya Mazdoor Sangh |
| BPNI | Breastfeeding Promotion Network of India |
| BSR | Business for Social Responsibility |
| CAP | community advisory panel |
| CCC | Clean Clothes Campaign |
| CCPA | Canadian Chemical Producers' Association |
| CEO | chief executive officer |
| CERES | Coalition for Environmentally Responsible Economies |
| CFBP | Council for Fair Business Practices |
| CII | Confederation of Indian Industries |
| CORE | The Corporate Responsibility Coalition |
| CREM | Consultancy and Research for Environmental Management |
| CREP | Charter on Corporate Responsibility for Environmental Protection |
| CRISIL | Credit Rating Information Services of India Limited |
| CSE | Centre for Science and Environment |
| CSM | Centre for Social Markets |
| CSO | civil society organization |
| CSR | corporate social responsibility |
| EITA | Engineering and Iron Trades Association |
| EMD | Environmental Management Department |
| ERA | Equal Remuneration Act |
| ESI | Employees' State Insurance |
| ETI | Ethical Trading Initiative |
| EU | European Union |
| FICCI | Federation of Indian Chambers of Commerce and Industry |
| GDP | gross domestic product |
| GRI | Global Reporting Initiative |
| GRP | Green Rating Project |
| GTZ | Gesellschaft für Technische Zusammenarbeit |
| HIV | human immunodeficiency virus |
| HLL | Hindustan Lever Limited |
| HMS | Hind Mazdoor Sabha |
| HUF | Hindu United Family |
| IBFAN | International Baby Food Action Network |
| ICICI | Industrial Credit and Investment Corporation of India Limited |
| ICMA | Indian Chemical Manufacturers Association |
| IDA | Industrial Disputes Act |
| ILO | International Labour Organization |
| IMRB | Indian Market Research Bureau |
| IMS | Infant Milk Substitutes |
| INTUC | Indian National Trade Union Congress |
| ISO | International Organization for Standardization |

| | |
|--------|--|
| IT | information technology |
| ITC | originally Imperial Tobacco Company of India Limited; now known as ITC Limited |
| MFA | Multi-Fibre Arrangement |
| NCAER | National Council for Applied Economics Research |
| NCL | National Centre for Labour |
| NGO | non-governmental organization |
| ODS | ozone-depleting substance |
| IBFAN | International Baby Food Action Network |
| ICICI | Industrial Credit and Investment Corporation of India Limited |
| ICMA | Indian Chemical Manufacturers Association |
| IDA | Industrial Disputes Act |
| ILO | International Labour Organization |
| IMRB | Indian Market Research Bureau |
| PHDCCI | Progress, Harmony and Development Chambers of Commerce and Industry |
| PiC | Partners in Change |
| Plc | public limited company |
| PSU | public sector undertaking |
| RBI | Reserve Bank of India |
| RIL | Reliance Industries Limited |
| SA | Social Accountability standard |
| SACCS | South Asian Coalition on Child Servitude |
| SAVE | Social Awareness and Voluntary Education |
| SCM | Save the Chilika Movement |
| SDC | Social Development Council |
| SEDF | Socio Economic Development Foundation |
| SEWA | Self-Employed Women's Association |
| SME | small and medium-sized enterprise |
| TCCI | Tata Council for Community Initiative |
| TERI | The Energy and Resource Institute (formerly Tata Energy Research Institute) |
| TISCO | Tata Iron and Steel Company Limited |
| TNC | transnational corporation |
| UK | United Kingdom |
| UN | United Nations |
| UNDP | United Nations Development Programme |
| UNEP | United Nations Environment Programme |
| UNICEF | United Nations Children's Fund |
| US | United States |
| US EPA | United States Environmental Protection Agency |
| USAID | United States Agency for International Development |
| WTO | World Trade Organization |

Summary/Résumé/Resumen

Summary

Corporate social responsibility (CSR) is on the rise all over the world, and India is no exception. The history of corporate paternalism has played an important part in shaping community expectations and CSR practices in India. Civil society, consumers and other actors have increased the pressure on companies to adhere to social and environmental standards, and this new “civil regulatory” environment has had impacts on business in India. This paper considers corporate environmental and social behaviour in India, both in the past and the present, in an attempt to better understand the actual impact of CSR.

The paper is divided into five broad sections with the first section setting forth the issues in context. Section 2 covers the historical aspects of the business and society interface in India from the middle of the nineteenth century up to the present, and it determines the actors and the factors that have influenced the corporate responsibility discourse. Section 3 then presents the state of contemporary CSR in India, by detailing perceptions of the issue, and the initiatives undertaken by selected companies, industries, industry associations, non-governmental organizations (NGOs) and trade unions. It includes a discussion on certain codes of conduct related to labour and environmental issues. Section 4 discusses the drivers of corporate social and environmental responsibility in India, using a case study of the garment sector. Voluntary initiatives are examined in light of the macro changes unfolding in the Indian economy and society since the early 1990s, particularly by examining the characteristics of the labour market and the impact of labour, environmental and other regulations on business and society. This section also documents corporate management and governance practices. The last section contains a brief discussion on issues beyond voluntarism and judicial activism.

Philanthropy has been important in India since the middle of the nineteenth century, largely due to a strong heritage of community influence and paternalism among traders-turned-entrepreneurs. At the same time, the larger economic governance framework that was put in place by the state also influenced corporate practices toward labour and society from time to time. The Indian government’s socialistic policy agenda, which aimed at a more equitable distribution of resources, restricted the concentration of wealth to the hands of a few industrialists through strategies of import substitution, foreign exchange control, reservations for and protection of small-scale enterprises, industrial licence, and quota systems for raw material and production. This influenced business practices of the times. However, business was often reluctant to abide by such principles. As a result, interest in corporate philanthropy decreased, leading to an increase in corporate malpractice, and manoeuvring for survival and profits. All this was facilitated by incidents of corruption in state and national government bureaucracies. However, certain self-enlightened businessmen practiced and advocated ethical and responsible business behaviour, and issues of the social responsibility of business and stakeholder engagement were debated in India as early as the 1960s. In fact, there is evidence available of businesses going far beyond compliance and setting best-practice standards in labour relations and community development even before India’s independence in 1947. Some such best practices later became the basis for drafting related legislation after independence.

Despite the existence of trade unions, the trade union movement was not very effective in advocating for the rights of workers beyond issues related to wages and could not, therefore, contribute much to the larger corporate responsibility debate. To some extent, this shortcoming was offset by the emergence of other civil society actors in the form of NGOs and community-based organizations from the 1970s. However, NGO activism in the early phase was limited by government policies to the role of service delivery agents; it was only in the 1990s, when this role broadened, that NGOs started to have greater effect. However, they tended to influence state policies rather than confronting business head-on. Consumer boycotts, popular in the Western economies, have also been rare in the Indian context.

The response to corporate responsibility pressures in India has occurred mostly in export-led sectors and where the business is part of a global supply chain. The important issue of home-based workers was not addressed by international instruments for a long time and this, coupled with the lack of both the will and capability for monitoring, meant that businesses could exploit vulnerable groups of workers. Manufacturers catering to local markets did not experience the same demands and pressures to practise corporate social and environmental responsibility. Therefore, the locally developed certification and labelling schemes failed to attract the attention of local business.

Since the mid-1990s, CSR has been practised and debated by businesses, industry associations, NGOs and the government. However, there is still progress to be made. CSR is not institutionalized as a part of business practice; instead it is more of a “social good” left to the discretion of chief executive officers or top management. The agenda does not yet engage with CSR in terms of workers’ rights. Employee care is often left to employer benevolence. And while environmental care and total quality management have been driven by international competition as well as by legislation in India, compliance and enforcement are slack.

The nature of corporate actions and market-friendly regulations in India suggests that increased private sector participation in social and environmental affairs will need more vigilance from the government, not less. More importantly, we will need more democracy, not less, to create the space for various actors to operate and provide support and resistance, as required. The government will have to be re-engineered so that its regulation and monitoring role can be strengthened. In other words, it will need countervailing power outside the government-industry nexus. This requires democratic rights and institutions that can defend or advocate these rights, from courts to civil society institutions. The challenge, therefore, is to continue to build a vibrant set of civil institutions capable of feeding the corporate community and their markets with signals of success that orient companies toward social and environmental “goods”, and away from the “bads”.

Atul Sood is Associate Professor, Centre for the Study of Regional Development, Jawaharlal Nehru University, New Delhi, India. Bimal Arora is a doctoral scholar, International Centre for Corporate Social Responsibility (ICCSR), Nottingham University Business School, University of Nottingham, United Kingdom.

Résumé

La responsabilité sociale des entreprises (RSE) a le vent en poupe dans le monde entier et l’Inde ne fait pas exception. Les attentes des populations et les pratiques des entreprises en matière de responsabilité sociale sont pour une bonne part le produit de l’histoire, celle du paternalisme patronal en l’occurrence. La société civile, les consommateurs et autres acteurs ont fait monter la pression et poussé les entreprises à adhérer à des normes sociales et environnementales, et ce nouvel “encadrement civil” a eu des répercussions sur les entreprises en Inde. Les auteurs étudient ici le comportement social et environnemental, présent et passé, de ces entreprises, pour essayer de mieux comprendre l’impact réel de la RSE.

L’étude est divisée en cinq grandes sections dont la première pose les questions en les mettant dans leur contexte. La section deux traite des aspects historiques des relations entre les entreprises et la société en Inde depuis le milieu du XIX^{ème} siècle jusqu’à nos jours, et ces relations déterminent quels acteurs et facteurs ont influencé le discours de la responsabilité sociale des entreprises. La section trois décrit le comportement social actuel des entreprises en Inde en exposant les termes dans lesquels la question est perçue, ainsi que les initiatives prises par des entreprises, industries, associations industrielles, organisations non gouvernementales (ONG) et syndicats. Elle traite aussi de certains codes de conduite liés à l’emploi et à l’environnement. Dans la section quatre, les auteurs s’interrogent sur les moteurs de la responsabilité sociale et environnementale des entreprises en Inde en prenant pour étude de cas le secteur de l’habillement. Ils étudient les initiatives volontaires à la lumière des changements

d'origine macroéconomique qui se produisent dans l'économie et la société indiennes depuis le début des années 90, en examinant tout particulièrement les caractéristiques du marché du travail et l'impact du droit du travail, de l'environnement et d'autres lois sur les entreprises et la société. Cette section décrit aussi les pratiques de management et de gouvernance des entreprises. La dernière section traite brièvement de questions qui dépassent le cadre du volontarisme et de l'activisme judiciaire.

La philanthropie joue un rôle important en Inde depuis le milieu du XIX^{ème} siècle, principalement en raison d'une forte tradition, à la fois de paternalisme et d'influence dans la vie locale, parmi les négociants devenus chefs d'entreprises. En même temps, le cadre général mis en place par l'Etat pour réglementer la vie économique a aussi influencé de temps en temps les pratiques des entreprises liées à l'emploi et à la société. La politique socialiste du gouvernement indien, qui tendait à une répartition plus équitable des ressources, a empêché que les richesses ne se concentrent entre les mains d'une poignée d'industriels par la substitution de produits nationaux aux importations, le contrôle des changes, la protection des petites entreprises et les réserves à leur intention, l'octroi de licences et des systèmes de contingents pour les matières premières et la production. Ces diverses stratégies ont influencé en leur temps les pratiques des entreprises. Celles-ci, cependant, étaient souvent réticentes à les respecter. En conséquence, l'intérêt pour la philanthropie d'entreprise a baissé, les abus et les tractations douteuses se sont multipliés chez les entreprises, bien décidées à survivre et à engranger des bénéfices. Des affaires de corruption dans les administrations de l'Etat et du gouvernement national ont encore favorisé cette évolution. Cependant, certains hommes d'affaires éclairés prônaient et appliquaient des règles d'éthique et de responsabilité dans les affaires, et les questions relatives à la responsabilité sociale des entreprises et à l'engagement des autres acteurs ont été débattues en Inde dès les années 60. En fait, il est avéré que certaines entreprises ne se contentaient pas d'appliquer la loi et avaient un comportement exemplaire à l'égard de leur personnel et des collectivités locales, et ce avant même l'indépendance de l'Inde en 1947. Certaines de ces bonnes pratiques ont par la suite inspiré le législateur lorsqu'il a fallu légiférer sur ces sujets après l'indépendance.

Malgré l'existence de syndicats, le mouvement syndical n'a guère réussi à faire avancer les droits des travailleurs si ce n'est sur les questions salariales, et son apport au débat général sur la responsabilité des entreprises a donc été réduit. Cette lacune a été comblée dans une certaine mesure par l'émergence, à partir des années 70, d'autres acteurs de la société civile tels qu'ONG et organisations communautaires. Cependant, les premières années, le militantisme des ONG a été limité, les politiques gouvernementales les cantonnant dans le rôle d'agents fournisseurs de services; ce n'est que dans les années 90, lorsque ce rôle s'est étendu, que l'action des ONG a commencé à porter. Cependant, elles préféraient en général influencer sur les politiques des Etats plutôt que de heurter de front les entreprises. Les boycotts de consommateurs, très répandus dans les économies occidentales, ont été rares en Inde.

C'est dans les secteurs tirés par les exportations et sur les entreprises faisant partie d'une chaîne d'approvisionnement mondiale que les pressions exercées pour obtenir des entreprises un comportement social responsable ont eu le plus d'effets en Inde. La question importante du travail à domicile, longtemps passée sous silence par les instruments internationaux, et le manque de volonté et des moyens susceptibles d'être consacrés au contrôle laissaient vulnérables ces travailleurs que les entreprises pouvaient aisément exploiter. Les fabricants qui approvisionnaient les marchés locaux n'étaient pas soumis aux mêmes pressions et ne se voyaient pas contraints de faire la preuve de leur sens des responsabilités en matière sociale et environnementale. Les systèmes locaux de certification et de label n'ont donc pas retenu l'attention des entreprises locales.

Depuis 1995 environ, la RSE est pratiquée et débattue par des entreprises, des associations industrielles, des ONG et le gouvernement. Cependant, il y a encore des progrès à faire. La RSE n'est pas institutionnalisée au point d'être ancrée dans la pratique des entreprises; c'est plutôt un "bien social" laissé à la discrétion des présidents directeurs généraux et de la haute direction.

La responsabilité sociale des entreprises comme droit des travailleurs n'est pas encore à l'ordre du jour. Le traitement des employés est souvent laissé à la bienveillance de l'employeur. Et si la concurrence internationale et la législation ont incité les entreprises à se montrer plus soucieuses de l'environnement et de la gestion de la qualité sous tous ses aspects, un certain laxisme règne tant dans l'application des lois que dans la répression.

La nature des actions des entreprises et de la législation en Inde, qui fait plutôt confiance au marché, laisse à penser que le gouvernement devra être plus vigilant, et non pas moins, devant la présence accrue du secteur privé sur le terrain social et environnemental. Il faudra surtout plus de démocratie, et non pas moins, pour que les divers acteurs puissent jouer leur rôle, apporter leur soutien et opposer une résistance, selon les besoins. La conception même de gouvernement devra être réexaminée afin que son rôle d'encadrement et de contrôle puisse se renforcer. Autrement dit, il faudra un troisième pouvoir qui puisse faire pendant au couple gouvernement-entreprises, ce qui suppose des droits démocratiques et des institutions capables de défendre et de faire triompher ces droits, depuis les tribunaux jusqu'aux institutions de la société civile. Le défi consiste donc à continuer de se doter d'un ensemble dynamique d'institutions civiles qui puissent, par leurs signaux, orienter les entreprises et leurs marchés vers ce qui est bon et les détourner de ce qui est mauvais pour la société et l'environnement.

Atul Sood est professeur adjoint au Centre for the Study of Regional Development de l'Université Jawaharlal Nehru, New Delhi, Inde. Bimal Arora est doctorant à l'International Centre for Corporate Social Responsibility (ICCSR), Nottingham University Business School, Université de Nottingham, Royaume-Uni.

Resumen

La responsabilidad social de las empresas (RSE) está ganando importancia en todo el mundo, y la India no es una excepción. Históricamente, el paternalismo empresarial ha cumplido una función importante en la definición de las expectativas de la comunidad y las prácticas de RSE en ese país. La sociedad civil, los consumidores y otros actores han aumentado su presión sobre las compañías para que estas cumplan con normas sociales y ambientales, y este nuevo entorno "regulatorio civil" ha repercutido en el sector empresarial de la India. En este documento se analiza la conducta social y ambiental del sector empresarial de la India, tanto en el pasado como en el presente, en un esfuerzo por comprender mejor las verdaderas repercusiones de la RSE.

El ensayo se divide en cinco grandes secciones, en la primera de las cuales se ubican los temas en su debido contexto. En la sección 2 se abordan los aspectos históricos de la relación entre el sector empresarial y la sociedad en la India, desde mediados del siglo XIX hasta el presente, y se señalan los actores y los factores que han influenciado el discurso de la RSE. En la sección 3 se presenta la situación actual de la RSE en la India; se detallan las percepciones que se tienen del tema y las iniciativas que han tomado ciertas compañías, industrias, asociaciones industriales, organizaciones no gubernamentales (ONG) y sindicatos en este ámbito. Se incluye en esta sección un análisis sobre ciertos códigos de conducta en materia laboral y ambiental. En la sección 4 se abordan los factores que han propulsado el tema de la responsabilidad social y ambiental de las empresas en la India, a partir de un estudio de caso en el sector del vestido. Se analizan igualmente las iniciativas voluntarias a la luz de los macro cambios que han acusado la economía y la sociedad indias desde principios de los años 90; se examinan en particular las características del mercado laboral y el impacto de las normas laborales, ambientales y otras regulaciones sobre las empresas y la sociedad. Esta sección documenta además las prácticas de gestión empresarial y de gobierno corporativo. La última sección contiene un breve análisis de temas que van más allá del voluntarismo y el activismo judicial.

La filantropía ha sido importante en la India desde mediados del siglo XIX, debido en gran medida a un sólido legado de influencia comunitaria y paternalismo entre comerciantes convertidos en empresarios. Al mismo tiempo, el marco más amplio de gobernanza económica

que el Estado puso en práctica incidió ocasionalmente sobre las prácticas empresariales ante la fuerza laboral y la sociedad. La agenda de políticas socialísticas del gobierno indio, cuyo objetivo era una distribución más equitativa de los recursos, restringió la concentración de la riqueza en manos de unos pocos industriales, por medio de estrategias de sustitución de importaciones, control de divisas, reserva para y protección de la pequeña empresa, licencias industriales y un sistema de cuotas para las materias primas y la producción. Estas medidas repercutieron en las prácticas empresariales de la época. Sin embargo, el sector empresarial se mostró con frecuencia renuente a regirse por estos principios. En consecuencia, disminuyó el interés en la filantropía empresarial, lo que llevó a un aumento de las conductas de malpraxis y a la comisión de actos que garantizasen la supervivencia y los beneficios. Todo esto se vio facilitado por actos de corrupción en las burocracias de los gobiernos estatales y nacionales. Pero algunos empresarios visionarios practicaron y abogaron en favor de una conducta empresarial ética y responsable, por lo que las cuestiones relativas a la responsabilidad social de las empresas y la participación de las partes interesadas se debatieron en la India desde principios de los años 60. De hecho, existen pruebas sobre empresas que excedieron los niveles de cumplimiento y establecieron estándares de mejores prácticas en materia de relaciones laborales y desarrollo comunitario incluso antes de la independencia de la India en 1947. Algunas de estas mejores prácticas se utilizarían posteriormente como base para redactar leyes sobre la materia después de haber lograda la independencia.

A pesar de que existen sindicatos, el movimiento sindicalista no fue particularmente eficaz en la defensa de los derechos de los trabajadores más allá de aquellos relativos al salario, por lo que no pudo contribuir en mayor medida al debate más general sobre la responsabilidad de las empresas. Hasta cierto punto, esta carencia se vio compensada con el surgimiento de otros actores de la sociedad civil, como las ONG y las organizaciones comunitarias, en los años 70. Sin embargo, las políticas gubernamentales limitaron en un principio el activismo de las ONG a la función de prestadores de servicios. Fue apenas en los años 90, cuando el papel de estas organizaciones se amplió, que las ONG comenzaron a tener una mayor repercusión. No obstante, las ONG tendieron más a influenciar las políticas del Estado que a confrontar directamente al sector empresarial. Además, los casos de boicot por parte de los consumidores, tan populares en las economías occidentales, han sido escasos en el contexto indio.

La respuesta a las presiones en favor de la responsabilidad de las empresas en la India se ha dado fundamentalmente en el sector de las exportaciones y en contextos donde la empresa forma parte de una cadena mundial de suministros. El importante tema de los trabajadores domésticos quedó por mucho tiempo fuera de los instrumentos internacionales, lo que aunado a la falta tanto de voluntad como de capacidad de seguimiento, brindó a las empresas la posibilidad de explotar a los grupos de trabajadores más vulnerables. Los fabricantes que atendían los mercados locales no experimentaron las mismas demandas y presiones para que adoptaran prácticas de responsabilidad social y ambiental. Por lo tanto, los sistemas locales de certificación y etiquetado no lograron atraer la atención de las empresas locales.

Desde mediados de los años 90, las empresas, asociaciones industriales, ONG y el gobierno han practicado y debatido el tema de la RSE en la India. Sin embargo, sigue habiendo espacio para progresar en este sentido. La RSE no se ha institucionalizado como parte de la práctica empresarial; se maneja más bien como un “bien social” que se deja a discreción de los gerentes generales o la dirección superior. Los planes de las empresas no abordan aún el tema de la RSE como un derecho laboral. El cuidado de los empleados queda con frecuencia a merced de la benevolencia del empleador. Y mientras que el cuidado del medio ambiente y la gestión de calidad total han recibido el impulso de la competencia internacional y la legislación en la India, el cumplimiento y la observancia no han gozado de tal respaldo.

La naturaleza de las acciones empresariales y las regulaciones favorables al mercado en la India parecería indicar que el aumento de la participación del sector privado en los asuntos sociales y ambientales requerirá de una mayor, y no menor, vigilancia de parte del gobierno. Más importante aún, necesitaremos más, y no menos, democracia para crear el espacio requerido

para que diversos actores puedan operar y ofrecer apoyo y resistencia, según sea el caso. El gobierno deberá someterse a un proceso de reingeniería con miras a fortalecer su función de regulación y supervisión. En otras palabras, deberá contar con un poder de compensación fuera del nexo gobierno-industria. Esto requiere derechos democráticos e instituciones que puedan defender o abogar por tales derechos, desde tribunales hasta instituciones de la sociedad civil. El desafío, por lo tanto, reside en continuar construyendo un conjunto de instituciones civiles con la vitalidad y capacidad para hacer llegar a la comunidad empresarial y sus mercados señales de éxito que orienten a las compañías hacia los “bienes” sociales y ambientales y las alejen de los “males”.

Atul Sood es Profesor Asociado del Centre for the Study of Regional Development de la Universidad Jawaharlal Nehru, Nueva Delhi, India. Bimal Arora es estudiante del doctorado del Centro Internacional para la Responsabilidad Social de las Empresas (ICCSR) en la Escuela de Comercio de la Universidad de Nottingham, Reino Unido.

1. Introduction

Economic globalization, besides offering opportunities for economic growth, has also given rise to a number of interrelated concerns in the social and environmental realms. These include its impact on employment and distribution of income, the emergence of new forms of vulnerability, the provision of welfare and social safety nets through collective or planned systems, and the respective roles of government regulation and voluntary codes and standards.

Globalization is taking place within an institutional environment in which competitive forces encourage companies to externalize negative social and environmental costs onto the wider community and future generations. Weak existing regulatory provisions encourage social and environmental standards to be pressured downward. The emerging framework of international regulation, embodied, for example, in the World Trade Organization (WTO) and that proposed under the Multilateral Agreement on Investment, are also advancing corporate rights over those of nation-states.

A growing body of thought and practice in the field of corporate social and environmental responsibility (hereafter referred to as CSR) has been attempting to increase the pressure on companies to behave in a socially responsible manner through corporate self-regulation and voluntary initiatives. In many cases, efforts are made to demonstrate a business case for CSR by demonstrating a positive relationship between behaving in a socially and environmentally responsible manner and the development of a competitive edge.

Such moves have been criticized by actors who wish to rebuild the economy with a greater focus on local, common ownership and participatory control. Also, they may be equally unappealing to actors advocating corporate accountability through public regulations (see CORE 2003).

But mainstream development in India seems to be headed in another direction. Following a perceptible trend of piecemeal reforms from the mid-1980s, the relatively broader and comprehensive economic liberalization since 1991 (Virmani 2004) and the resultant integration within the global economy, there has been a surge of interest in the Indian economy. Despite deteriorating governance patterns, paradoxical (and often disputed) poverty statistics, and imbalanced demographics with interregional (or subnational) disparities and dismal human development indicators, many Indians and India-watchers are encouraged by the recent developments in certain segments of the Indian economy and are very optimistic about the future prospects of the country. Market demographers have placed immense faith in the size of the Indian market. For example, the National Council for Applied Economics Research (NCAER) and Goldman Sachs, in 1997 and 2003, projected India as one of the largest markets in the world by the year 2020 and 2050 respectively, after the United States (US) and China (Rao and Natarajan 1997; Wilson and Purushothaman 2003).

Given the predominance of the neoclassical economic paradigm and its widespread acceptance in the contemporary world—where sustained growth is considered indispensable for development and poverty alleviation (see Virmani 2004)—a case is often made that CSR may be one of the best alternatives to sensitize the economy toward key developmental concerns such as the environment, equity, poverty and the building of human capacities for sustainable development, in the face of narrowly focused globalizing markets and institutions.

Although CSR is usually considered to be a construct that evolved and developed in the United States, the influence of CSR has not remained territorially limited to that country. Aaronson (2002) argued that Europeans recently took the lead in maturing the concept. Moreover, certain characteristics of the concept are visible in many countries, India being no exception.

Companies the world over, especially those with high levels of influence determined through their supply chains or global production, are under increasing pressure from consumers, civil

society and other actors to adhere to social and environmental standards while simultaneously pursuing profit maximization. Such pressures primarily come in the forms of activist boycotts and campaigns aimed at damaging companies' market performance by undermining their reputation. However, there are differences in perception between the North and the South. Some Southern companies have experienced cancelled contracts due to boycotts in the North. Codes of conduct can also be used to undermine collective bargaining, and voluntary processes may undermine public regulation. The implementation of higher standards on labour and environment in transnational corporation (TNC) affiliates or first-tier suppliers can also result in "islands of good conditions" at the expense of small and medium-sized enterprises (SMEs), the informal sector and homeworkers in developing countries.¹

To address these conflicting perceptions, there is a need to understand why civil society-led processes are supporting businesses which are "socially responsible", in order to offer some framework for thinking about why and how companies change their behaviour in response to such pressures. Are companies taking voluntary action or responding to an emerging organic "civil regulatory" environment? Are there areas for alliance building between the civil society actors of developed and developing countries that are critical for strengthening civil regulation of the corporate sector (Murphy and Bendell 1997; Zadek 2001)? How far can civil regulation take us, and what will be its relation to the public sector? These are some of the issues that this paper seeks to address by attempting to unravel the notion of CSR in India through assessing the potential of such endeavours to contribute to social and sustainable development.

Section 2 of this paper briefly discusses historical aspects of the interface between business and society in India from the middle of the nineteenth century up to the present. It provides the context and identifies the actors and factors that have influenced the corporate responsibility discourse in India. It also examines the rise of non-governmental organizations (NGOs) and emerging partnerships between corporations and civil society actors. Section 3 then describes selected CSR initiatives associated with particular companies, industry and business associations, NGOs and international organizations. Section 4 goes on to identify the primary drivers of CSR in India. The scope and potential of voluntary initiatives is examined in the light of macro changes unfolding in the Indian economy and society, particularly by examining the characteristics of the labour market and the impact of labour and environmental legislation. This section also documents the role of Indian industry in strengthening state regulation and the perceptions of businesses on corporate responsibility.

Given the history of social, labour and environmental regulations and their relative implementation failure in India, set within a macroeconomic policy context that weakens the regulatory capacity of certain state institutions, what are the potential drivers that might alter the condition of the poor and labourers while improving the environmental performance of business in this era of the so-called post-Washington consensus? In recent years, corporate self-regulation and voluntary initiatives (that is, initiatives adopted by companies that go beyond the existing laws and legislation related to environment and social protection) have emerged as alternative modes of improving conditions of labour and/or making the spectrum of development endeavours more sustainable. Can voluntarism and regulation complement each other? What would be the nature of this regulation, given the experience of command and control regulation? Section 4 attempts to answer some of these questions.

2. CSR in India: History and Context

Defining CSR

Before the term and concept of corporate social and environmental responsibility came into common usage in the 1990s, the terms "charity" and "philanthropy" were prevalent in business

¹ See Green (1998); Finney (2001); Chaturvedi and Nagpal (2002); Kabeer (2004); Mather (2004).

circles.² Observers argue that the idea of corporate involvement in social well-being as a voluntary response to social issues and problems (Vardarajan and Menon 1988), and responsible behaviour in business, is as old as business itself. However, although the evidence of the concern of business for society goes back several centuries, formal writing on corporate social responsibility is largely a twentieth century phenomenon (Carroll 1999). Business charity or corporate philanthropy—regarded as the earliest manifestation of CSR—is no longer considered an adequate response to demands for social responsibility, given its limited rationale and scope. The term CSR, on the other hand, is usually taken to include environmental, social and human rights-based impacts and initiatives of companies (Ward and Fox 2002), and in many countries—both industrialized and developing—the concept and practices are taken seriously (Hopkins 2003).

Corporate social and environmental responsibility has been defined in various ways, and each definition, description or interpretation reflects the context, ideologies and values of the defining agency, and changes with time and place. While there are several attempts to define CSR, currently business practices lead the theoretical development of the term. Heading the agenda, in many such practices, is the concept of “stakeholder management” or “stakeholder engagement”. “Business values” or “business ethics” is also common.

Another well-known term used in the same parlance is “corporate citizenship”, which is based on the premise that corporations are citizens. The terms CSR and corporate citizenship are often used interchangeably. Corporate citizenship emerged first in management literature dealing with the social role of business, and it has proliferated due to the fact that many businesses now prefer to use the term corporate citizenship over CSR (see Matten and Crane 2005).

According to Business for Social Responsibility (BSR), CSR is defined as “achieving commercial success in ways that honor ethical values and respect people, communities, and the natural environment” (BSR 2003). The discussion of CSR in India in the following sections is carried out with this definition in mind.

Industrialization in India and changing forms of charity and philanthropy

Although business traditions in India had their beginnings thousands of years ago (Herdeck and Piramal 1985), India is still a relatively young industrial nation compared to the industrialized countries of the West. The merchant class played an important role in India’s pre-industrial society, and in spurring the ideals of modern capitalism. The merchants were engaged both in domestic and international trade, as well as in a wide range of other commercial activities (Gadgil 1959; Rothermund 2000). In keeping with the caste system prevalent in India, production was the task of the artisan caste while merchants financed the process of production and distribution (Gadgil 1959; Rothermund 2000). The social background of India’s business class is not homogenous and is made up of several traditional business communities following different religious and business traditions.³ The Parsis, the Marwaris, the Gujaratis and the Chettiars, as we shall see in the following paragraphs, have established a lead not only in business but also in philanthropy (Sundar 2000).

Although many observers argue that British rule led to the de-industrialization of the country,⁴ the entrepreneurial spirit of the Indian merchant class did not die. Indigenous business and modern industry were developed under colonial rule and later matured under the post-independence controlled economy (Sundar 2000).

² The unabbreviated term of “corporate social responsibility” had been used from the early 1970s, but it was not until the corporate scandals of the late 1980s and the CSR reports in the early 1990s of the major multinationals such as Shell, Nike, and Ben and Jerry’s, that CSR became a popular concept.

³ Tripathi 2004; Das 2002; Sundar 2000.

⁴ Rothermund 2000; Khan and Debroy 2002; Rao 2004.

Some scholars⁵ have established that philanthropy has profound roots in the Indian merchant class. Yet there have been progressive shifts from ad hoc family and corporate philanthropy to more strategically planned and executed community development activities by the corporate sector.⁶

Shrivastava and Venkateswaran (2000:11) state that

[r]eputed companies in India and abroad each have their own tradition, culture and management style. These may come from the 'charismatic' influence of the founders who determine the ethics of the business, along with its economic goals. Even where several generations passed since the company was founded, their influence is still felt.

They support their argument by naming four reasons for the adoption of CSR policies and practices by Indian companies. Contributing to society without expecting anything in return, or philanthropy, is the first reason; internal reasons, such as the desire to improve relations with employees, customers and shareholders, is the second; better relations with local communities, whether for publicity or for tax benefits, is the third; and finally, enlightened self-interest. This is evident, for example, in the recognition that sustained economic growth and development holds greater promise for new markets and customers for companies' services and products, and hence investment.

In 2000 Pushpa Sundar, a philanthropy researcher, wrote a book, *Beyond Business: From Merchant Charity to Corporate Citizenship*, that has a detailed and systematic account of the evolution of ideas regarding the role of business in society and the transformations in business philanthropic practices in India.⁷ Sundar presented a synoptic view of Indian business philanthropy in the context of the economic, social, political and cultural developments in the country from the beginning of modern industrial development in the second half of the nineteenth century.

Sundar differentiates between charity, philanthropy, CSR and corporate citizenship, and claims to capture and present the shifts, from merchant charity to corporate citizenship in India, with CSR in between. Such shifts occurred over the nineteenth and twentieth centuries, as business responded to evolving societal needs and demands.

Sundar highlights three distinctive features of Indian philanthropy. First, it is largely a story of Indian businessmen, as historically women did not play too important a role in business philanthropy. Second, it is a story of indigenous rather than expatriate business. Even though foreign businesses have had a major presence in India, their aim has been profit maximization rather than the development of the country. The exceptions are some TNCs that have been present in India over a longer period of time and which have become more or less "Indianized". Third, as in most of Asia, philanthropy is largely a story of family businesses.

Despite these distinctive features, Sundar states that there are some similarities between the development of modern philanthropy in India and the West. Driving forces, such as religious beliefs and sentiments associated with capital accumulation, industrial wealth and the resultant social consequences, hold true for India as for countries in the West. Moreover, the corporate philanthropy vehicles in India, such as the trusts and foundations, closely resembled what had been the norm in Western countries and elsewhere.

However, similarities aside, the fact remains that the form philanthropy takes in any society depends upon a nation's unique history, culture, traditions, and economic and political

⁵ Dasgupta 1979; Appadurai 1981; Sidel 2001; Shrivastava and Venkateswaran 2000; Sundar 2000.

⁶ Sundar 2000; British Council 2002; PiC 2004; Arora and Puranik 2004.

⁷ This section draws on this book (Sundar 2000).

organization (Sundar 2000). For example, while trusts, foundations and societies have been popular vehicles for philanthropic activities in India as well as in the West, it is the “hands-on” philanthropy—keeping operational control of philanthropic activities—that is generally preferred by Indian businesses. One difference with the West, therefore, is that there are not many grant-giving foundations in India (Sundar 2000).

A second difference is that while religion’s influence has receded with corporate growth in the West, religion played, and continues to play, an important role in Indian business philanthropy. The concept of parting with a portion of one’s surplus wealth for the good of society, Sundar argues, is neither a modern nor a Western import into India.

The business community occupied a significant place in ancient Indian society. Indian merchants provided relief in times of crisis such as famines or epidemics, throwing open warehouses of food and treasure chests. Merchants built and supported temples, pilgrim rest houses, night shelters, bathing platforms, water tanks, wells and animal refuges, and provided drinking water facilities. They donated to education in traditional schools and gave money for dowries for poor girls (Sundar 2000). The practice of business giving continued through the ages, and the business response to social needs changed with evolving economic, political and social conditions. Sundar describes this as a shift from merchant charity to modern-day corporate citizenship.

Sundar identifies four phases of business philanthropy in India, from 1850 to 1914; from 1914 to 1960; from 1960 to 1970; and the 1980s and 1990s.

Philanthropy during early industrialization

The first phase of business philanthropy in India, as per Sundar’s classification, consisted of a shift from charity for purely religious reasons⁸ during the pre-industrial era toward a more Western form of philanthropy⁹ in the period between 1850 and 1914. These early stages of industrialization witnessed newly rich business families setting up trusts and institutions such as schools, colleges, hospitals, orphanages, widows’ homes, art galleries and museums. At the same time, older forms of charity, such as the building and maintenance of temples, pilgrim rest houses and water tanks continued (Sundar 2000). There were elements of both charity and philanthropy in business giving (Sundar 2000). The more enlightened Gujarati and Parsi business communities of Bombay, led by Jamsetji Jejeebhoy, Jamsetji Tata, Sir Dinshaw Petit and Premchand Roychand, spearheaded the new Westernized trends of philanthropy. For example, while Andrew Carnegie, the American millionaire, was establishing 2,000 public libraries in North America and Scotland, Jamsetji Tata established in 1892 the J.N. Tata Endowment to offer scholarships to deserving Indian students for their education at universities overseas (Lala 2004). At the time of writing, about 150 students receive the prestigious Tata scholarships every year.

Many of the early pioneers of industry in India, Sundar suggests, were also leaders in the social field, taking an active interest in religious and social reforms and public life. Lala (2004) states that Jamsetji Tata also experimented with labour welfare. He installed a humidifier and water sprinklers in his textile mill in Nagpur in the 1870s—the first in India—and later instituted a pension fund. He also began the payment of compensation for workers’ accidents. His son, Sir Ratan Tata, supported research on the causes of poverty and its alleviation, both in India and worldwide. Toward this end, he made a donation to the London School of Economics in 1912, which was used to establish a research unit called the Ratan Tata Foundation in London, now known as the Department of Social Sciences (Lala 2004:140; Harris 1989).

⁸ This means it was confined to members of the same community, caste or religion as the giver (Sundar 2000).

⁹ A Western form of philanthropy is considered more secular, inclusive in terms of caste, creed and community, and aimed at bringing progress to society through modern institutions (Sundar 2000).

The substantial amount of Rs. 110 million left by Sir Dorab Tata was used to establish the Sir Dorabji Tata Trust, which went on to promote the Tata Memorial Centre for Cancer Research and Treatment, the Tata Institute of Social Sciences and the Tata Institute of Fundamental Research (Lala 2004) – all of which are still prestigious institutions.

The mid- to late 1800s also saw the emergence of business associations to protect British and indigenous industrial and commercial interests (Rungta 1970; Kochanek 1974). The Calcutta Chamber of Commerce was formed in 1834, followed by the Madras and Bombay Chambers of Commerce in 1836. European trading houses¹⁰ were the principal members of these Chambers and, as such, represented the interests and opinions of European commerce and industry.¹¹ Indians followed the example by forming their own associations 50 years later. The Bengal National Chamber was the first Indian Chamber established in 1887. Very soon, a host of other chambers were formed by Indians to represent their own business and trading interests. Some of these associations were also formed to represent business interests of particular castes, as well as ethnic and religious groups. These organizations provided the platform for individual or collective social efforts toward charity (Rungta 1970; Kochanek 1974).

The "golden age" of Indian capitalism and philanthropy

During the second phase (1914–1960) of business philanthropy, which Sundar termed the golden period of both Indian capitalism and business philanthropy, philanthropic practices matured. This period also saw many political donations to the freedom struggle and contributions to social and cultural causes associated with the nationalist movement. Industrialists like G.D. Birla, Jamnalal Bajaj, Lala Shri Ram and Ambalal Sarabhai, all believed to be influenced by Mahatma Gandhi and his theory of the "trusteeship" of wealth (Narayan 1966), contributed to Gandhi's reform programmes, such as those targeting the situation of untouchables, women's empowerment and rural development.

The concept of "trusteeship" asserts the right of the capitalist to accumulate and maintain wealth and to use it to benefit society (Narayan 1966). Gandhi argued that the wealthy should be trustees of their wealth, using only what was necessary for personal use and distributing the surplus among the needy. Gandhi's theory resonates strongly with the ideas of trusteeship that were expounded in England and the United States in the late nineteenth and early twentieth centuries,¹² that later evolved into the concept of CSR.

While Gandhi's theory of trusteeship is presented by Kumar et al. (2001) as an "ethical model" of CSR with a voluntary commitment by companies to public welfare, Pachauri (2004) has established another connection between CSR and trusteeship. He says that Gandhi's

view of the ownership of capital was one of trusteeship, motivated by the belief that essentially society was providing capitalists with an opportunity to manage resources that should really be seen as a form of trusteeship on behalf of society in general. Today, we are perhaps coming round full circle in emphasizing this concept through an articulation of the principle of social responsibility of business and industry.

Gandhi, according to some observers, did not oppose wealth and emphasized that there should be no forced redistribution of wealth (Varma 2004). He called for social justice and the alleviation of suffering, but believed that change brought about by government intervention would be ineffective and suggested that there must first be a change in consciousness. The wealthy should not be coerced into sharing their wealth, they should do so voluntarily (Renold 1994).

¹⁰ The trading houses were private British partnership firms dealing with various types of trades and businesses like indigo and coastal trade, ship and house ownership, farming, manufacturing, banking, bill-brokering and so on.

¹¹ Some Indian firms joined the Calcutta Chamber of Commerce. The Bombay Chamber of Commerce was a joint endeavour of British and Parsi trading companies.

¹² Narayan 1966; Renold 1994; Masani 1956.

Domestic businesses were initially influenced by the British¹³ and were largely neutral on political affairs until they realized that there were better prospects for industrial success in an independent India. British economic policies in India in the 1930s had not been favourable to the Indian industrialists (Renold 1994; Rothermund 2000). The open hostility of the British to India's industrialization and planning resulted in a marked shift in the traditionally cautious line followed by big business toward the British Raj (Renold 1994). As resentment grew against British rule, Indian industry developed closer ties with Congress. In 1944 a group of industrialists, including G.D. Birla and J.R.D. Tata, developed a survey called the Bombay Plan, which surveyed India's postwar economic requirements and contained a detailed plan to achieve them (Tomlinson 1979; Das 2002). Tomlinson (1979) states that the Indian industrialists began to regard Congress, rather than the British, "as the body best able and most willing to secure for them a place in the domestic economy and polity they desired" (quoted in Renold 1994). From 1944 onward business interests openly supported Congress, and it was clear that big businesses would stand to profit by India's independence.

Like philanthropy in the early industrialization phase, this "golden age" was also characterized by the support for physical and social institutional infrastructure. However in this period, such ideas were led by a nationalistic fervour and a vision of a free, progressive and modern India (Sundar 2000).

After independence, several businesses supported the creation of institutes of scientific and technical research, as well as art academies and institutes for the study of Indian history and culture. Some of the best Indian institutions, such as the Tata Institute for Fundamental Research, the Birla Institute of Technology and Science, and the Calico Textile Museum, all owe their existence to the private business generosity of the post-independence era (Sundar 2000). Such initiatives on the part of businesses have often been credited more to enlightened self-interest than to any philanthropic rationale. Palsetia (2005:197) states, "a large and distinguished corpus of scholarship on 'gifting' in India has sought to explore the moral, social, political, and economic linkages of gifting and authority formation and legitimacy, as well as the relationship between donor and recipient". That said, the positive effects of those investments have been felt, and realized by companies, especially in information technology (IT); information technology-enabled services; and automotive, pharmaceutical and biotechnology sectors since the mid-1980s (Das 2002; Varma 2004).

Business and community development under state-led development

The third phase of Indian business philanthropy according to Sundar, from 1960 to 1980, coincided with a period of economic and political troubles, in which business operations were constrained. The euphoria of a newly independent nation, post-1947, coupled with enthusiasm for growth with equity, social justice and a self-reliant democratic state built on the foundation of science and technology—a Nehruvian vision—led to considerable public support for the government's socialist agenda (Sundar 2000; Khan and Debroy 2002). The government of India increasingly took on many social obligations (see Inamder 1987; Chaturvedi 1987).¹⁴

The national strategy—import-substitution industrialization, foreign-exchange control, reservations for and protection of small-scale enterprises, industrial licence and quota systems for "raw material" production, and so on—led to a declining interest in corporate philanthropy, together with an increase in corporate malpractice and manoeuvring for survival and profits. This was abetted and facilitated by a monolithic bureaucracy and corruption at both national and state levels.

¹³ The naming of textile mills by J.N. Tata represents this influence. His first mill was named after Queen Victoria, the Empress Mills, although nationalistic sentiments influenced the naming of a later mill, which he called Swadeshi Mill.

¹⁴ Jawaharlal Nehru (the first prime minister of India) and other leaders, however, strongly believed that the voluntary sector and non-profit organizations had an important role to play in social work, and created the Central Social Welfare Board to fund and promote non-profit organizations.

At the same time, the wrath of society against the capitalist mindset (Das 2002; Khan and Debroy 2002), unethical practices by some businesses and their narrow focus on profits, contributed to a feeling of mistrust in the Indian business class (Sundar 2000). High taxes to finance state-led development further contributed to the disinclination to part with private wealth for public benefit. Ironically, the high tax regime, aided by the deterioration in business morality, led to a large expansion in the establishment of charitable trusts. However, it is quite apparent that such actions were motivated more for the purposes of tax planning and evasion than for any real philanthropic reason (Sundar 2000).

On the eve of India's independence, just 18 families¹⁵ owned almost every company in the country and, between them, manufactured nearly all the industrial products that were being made at that time. They were also involved in international trade (Sundar 2000). However, societal dislike of the private sector during the second half of the twentieth century led to a preference for government employment over that of the private sector. Private sector jobs were mostly offered to people of the same caste and community as that of the business family. This, in turn, assured a degree of loyalty to the business family (Piramal 1998).

By the middle of the nineteenth century, the common form of corporate governance in India was the managing agency system that had been established by British traders. This system allowed British businessmen to control vast economic empires with minimum investments (Tripathi 2004; Reed and Reed 2004). The managing agents or promoters were assured of returns via commissions that were ordinarily calculated on the basis of turnover or production rather than profits. Shareholders, however, did not benefit to the same extent and sometimes had to wait for years for a return on their investments (Tripathi 2004).

The managing agency system proved beneficial for and relevant to Indian businesses because it was ideally suited to the Hindu Undivided Family (HUF) system in India, which had operated on a limited liability basis in business for centuries. Since independence in 1947, the HUF has been treated as a separate legal entity in Indian tax laws, which has helped to keep tax liabilities to a minimum (Tripathi 2004; Dutta 1997). The family members of upcoming Indian industrialists could share in the general profits of the managing agency rather than becoming entangled in a division of the underlying assets of the managing agency empire, which would not suit the family culture.¹⁶

Under the socialist political pattern, which sought to break the economic might of the few families who controlled Indian business, the government had, by 1970, completely abolished the managing agency system (Reed and Reed 2004). However, the result was limited as investment companies with cross shareholdings sprang up to help shelter income or conceal ultimate ownership, and keep businesses under the control of the joint or undivided family (Herdeck and Piramal 1985; Tripathi 2004).

In some cases inter-family bickering has caused many business groups to divide assets among family members. Often, however, following the division of assets, individual family members, after multiplying their inheritance, pass the business and wealth on to the next generations (Tripathi 2004). The cycle continues, and as Herdeck and Piramal (1985) observe, Indian businesses, including the largest ones, have clung to their family ties.

Dutta has researched family business in India and has defined it as "a firm or company in which the family has strong influence in the day-to-day running of the business" (Dutta 1997:13). She suggests that "this definition is wider than the strictly legal one" (Dutta 1997:13). Dutta further remarks that the traditional ways of doing business have proved durable in spite

¹⁵ In 1997, after 50 years of India's independence, 461 of the 500 most valuable companies in the country were still controlled by families. However, many of India's contemporary industrialists who top the industrial ranking in terms of total assets are descendants of business families of the pre-independence era.

¹⁶ Herdeck and Piramal 1985; Tripathi 2004; Dutta 1997.

of the country's adoption of Anglo-Saxon corporate governance patterns—where the Indian way of doing business is visibly similar to the West, but still unique and based very much on Indian traditions (Dutta 1997).

Dutta has cited from the business magazine, *Business India Super 100* of 1993, which puts the number of family businesses (among the top 100 companies by sales) at around 75 per cent (Dutta 1997). The 1990 *Economic Times* listing of 200 companies, according to capital employed, has 36 multinational and professional firms¹⁷ (Dutta 1997).

India's socialist policy agenda of equitable distribution and the curbing of the concentration of wealth in the hands of a few industrialists, along with an unwillingness on the part of businesses to abide by such principles, led to many corporate malpractices. Krishna (1992) observed that in the late 1960s and early 1970s the government set up several enquiry committees to investigate corporate malpractices.

In 1964 the Mahalanobis Committee (Government of India 1964) reported that despite government policy and rules, significant increases in the concentration of wealth occurred between 1951 and 1958. Similarly, the Monopolies Inquiry Commission of 1965 (Government of India 1965) reported that just 75 business houses in India controlled 44 per cent of the total paid-up capital and 47 per cent of the total assets of all non-governmental and non-banking companies. This report also cited several cases of private businesses, including TNCs, that had been indulging in restrictive trade practices (Krishna 1992).

According to Krishna (1992), the Industrial Licensing Policy Enquiry Committee, established in 1969, also reported many examples of business houses obtaining a large proportion of the licensed capacity in certain key products in order to limit the ability of other companies to gain access to the market. The committee also found that nearly one-third of the total licenses issued in the period between 1956 and 1966 had not been used, suggesting again that moves to obtain excess licenses were intended to prevent other companies from developing their own capacity in manufacturing the licensed products (Krishna 1992). Shielding the domestic industry in this way reduced competition and also resulted in consumers getting a raw deal in terms of product quality and customer services (Das 2002).

Nevertheless, the 1970s saw a revived corporate interest in social concerns, but in the new form of *corporate* philanthropy, as opposed to *family business* philanthropy (Sundar 2000). This may be largely attributed to the changes in corporate governance structures, as discussed above. The failure of government to handle issues of poverty and bring about social change at the desired pace had also led to a disillusionment on the part of the people (Sundar 2000). Moreover, the ever-widening gap between rich and poor led to fresh societal demands to the corporate sector to spearhead change.¹⁸

Debates and discussions on the social responsibilities of business were becoming commonplace. Two seminars on the social responsibilities of business held in India in 1965 and 1966 generated a significant interest in CSR. The seminars were the first organized effort by both social thinkers and businessmen in India to come together to discuss an issue of crucial relevance to both parties (Agrawal 1983). Influenced by George Goyder's (1961) book *The Responsible Company*, Jayaprakash Narayan, a socialist political leader, teamed up with the India International Centre of New Delhi and the Institute for Gandhian Studies of Varanasi to plan and organize a seminar on the social responsibilities of business. Both national and international delegates from different sectors participated, including George Goyder from the United Kingdom. The event

¹⁷ Firms where management and ownership have been separated.

¹⁸ This realization was one result of the poor ranking of India in social and economic indicator tables. The government began to exert pressure on, and offer incentives to, industry to conform to the broader social and economic goals of the country. The government frequently used the annual sessions of the major chambers of commerce, known as the apex chambers, to coax the industry to consider the larger good of India (Sundar 2000).

assumed greater importance as Lal Bahadur Shastri, the then prime minister, delivered the inaugural address. He urged participants from all sectors to come up with concrete recommendations for action. The seminar ended with the adoption of a declaration by the participants that stated that the social responsibility of an enterprise is a responsibility to itself, its customers, workers, shareholders and the community (Narayan 1966). The concept had therefore been expanded from the narrower notion of charitable giving for community affairs (Upadhyay 1976) to the idea that business must be profitable, just, humane, efficient and dynamic (Narayan 1966).

The year 1965 therefore proved to be a turning point in the debates over CSR in India. There was a spate of similar events organized by different organizations across the country as well as various writings on the issue by academics and other professionals. Following a second seminar in Calcutta in 1966, some concerned industrialists began initiatives to promote social responsibility among private businesses. The Council for Fair Business Practices (CFBP), established in 1966, was one such initiative focused on fair trade practices in the interest of consumers. The members of the CFBP agreed to comply with voluntary norms of business ethics formalized under a Code of Business Practices (CFBP 2004).

Business leaders like Ramakrishna Bajaj stated in 1970 that promoting ethical and social goals, along with the creation of wealth, was essential for the survival of business and would help make government controls unnecessary (Sundar 2000).

It is quite evident from the above that it was not simply a concern with ethics that accounted for shift in business from building institutions such as schools and colleges, to becoming concerned with community welfare. The shift was considered essential for protecting business autonomy and interests, as well as restoring its own power and prestige in order to better resist government control (Sundar 2000). Increasing unemployment and decreasing governmental capacity to provide social welfare (which threatened not only profitability but the very survival of companies, too) led to the shift in their response.

Income disparities had been widening, so that the top 10 per cent of the population accounted for 30 per cent of national consumption while the bottom 40 per cent accounted for just 20 per cent. Almost 40 per cent of the population was estimated to be below the poverty line, unable to afford the minimum intake of calories required for existence. Social unrest was rife across the country, exemplified in the unprecedented labour unrest in West Bengal during 1969–1970 and the Naxalite movement of the 1970s. The problems showed how deep and dangerous the social malaise had become. The unrest was not only a law and order problem but had its roots in a terrible sense of deprivation felt by local communities. The anger was directed particularly at big businesses that were perceived to have cornered all the benefits of development without putting anything back into society. The state, meanwhile, which had made massive investments in building up the country's industrial infrastructure, had paid little attention to basic amenities like schools, dispensaries and drinking water (Sundar 2000).

On the corporate side, the realization that supporting community development through philanthropic activities may be in their own best interest probably changed corporate thinking. Although some business leaders had long been conscious of their role and the need to contribute to development, the demands from the 1970s onward had put many others on the spot. More and more business leaders started practising and advocating for social responsibility on the part of businesses (Sundar 2000). There were also shifts in corporate thinking on the forms of philanthropic giving. Concerns over ethical practices and environmental issues started gaining attention—at least in rhetoric, if not in reality. The causes supported by business diversified to include forest protection, scientific and technical education, the preservation of monuments, women's rights and consumer education (Sundar 2000).

Khan (1981) was probably the first person in India to conduct a primary investigation into the perceptions of CSR among executives. Of the 41 senior executives interviewed at companies in

Delhi and neighbouring Ghaziabad, 98 per cent considered that CSR was relevant to business. It was also found that quality control and product improvements, as functions of CSR, were preferred over issues like urban renewal and development, or cultural and environmental activities. The other important areas in CSR, as perceived by Indian executives at that time, included employment and training, contribution to education, and air and water pollution. Khan's other findings included mention of the constraints on CSR, such as competition and rising prices.

The rise of new actors and corporate responsibility under economic liberalization

This phase, according to Sundar (2000:275), was "characterized by a dynamic corporate sector on the one hand and a variety of approaches to social development on the other". The gradual changes in the economic paradigm from the 1980s onward saw a large increase in corporate activity. Sundar states that this also led Indian businesses to be more exposed to both domestic and foreign competition. The Indian corporate sector is now large and diversified. As of 2001, about 584,100 shareholding companies, with an estimated aggregate paid-up capital of \$70,062 billion¹⁹ operated in the country. Among these were 1,262 government companies and 582,922 non-government companies with paid-up capital of \$18,403 billion and \$51,659 billion respectively (Monga 2004). Since 1991, when the process of economic liberalization began in earnest, the number of foreign companies in India has been increasing steadily. As of 2001, there were 1,213 foreign companies operating in India, many in the IT industry (Monga 2004).

According to Sundar, the growing profitability of many corporations increased their willingness and ability to give; this coincided with a surge in the public's and government's expectations of business. This fourth and contemporary phase Sundar (2000:13) characterizes as corporate citizenship and says that it moved "away from charity and traditional philanthropy towards more direct engagement in mainstream development concerns and in helping disadvantaged groups in society". This proactive engagement also means a clearer articulation of the corporate perspective on development and a defining of the terms of engagement for itself. To understand the nature of engagement of the Indian corporate sector with development concerns, it is interesting to look at the sector's response to a call from the government in 2004 seeking corporate sector support in giving jobs to disadvantaged groups.²⁰ On the whole, Indian business questioned extending the job reservation policy to the private sector. The few businesses that agreed to apply the policy asked for tax breaks. The corporate response on job support to the deprived groups reflects an elitist perspective of development premised on the belief of providing equality of opportunity for the vast sections of poor and deprived (nearly always overlapping with lower and the most backward castes) without really ensuring that there is equality of condition (see end of this section for details).

Historically, the Left-wing political parties in India provided an important platform for channelling discontent, not only during the independence struggle but also in the aftermath of decolonization. From the mid-1970s, the perspectives which reflected dissatisfaction and often disillusionment with the organized Left began to influence intellectual and political discourse. At the same time, non-party, grassroots social formations began to emerge²¹ (Kothari 1986a, 1986b, 1988). These non-political organizations often took the organizational form of NGOs.

India was one of the first countries to create a space for collaboration between the government and NGOs to facilitate development (Sen 1993). New types of NGOs appeared, notably the "welfare-oriented" NGOs in the 1960s and "empowerment-oriented" NGOs in the 1970s. The emergence of both groups is related to the socioeconomic and political context of India at that time, including the professionalization of the sector, resulting in viable employment

¹⁹ All \$ figures refer to US dollars.

²⁰ Letter, Government of India, 18 November 2004.

²¹ Rajni Kothari and the Lokayan group popularized the concept of "non-party political formations", which brought together new women's organizations, non-party mass organizations and funded "voluntary agencies" to contrast them with traditional Left parties and their mass organizations.

opportunities for young professionals. The government also began to see NGOs as implementers or service providers and supported them through grants, as long as the NGOs in question were not too radical (Sen 1993). From the late 1970s, India also witnessed increased domestic support for NGOs that held development objectives and that raised funds from individuals and the private sector. Many civil society organizations (CSOs) started advocating on issues of critical importance to poverty reduction and sustainable development and so moved beyond focusing on labour and consumer concerns (Sen 1993).

The government's control of the non-profit sector increased when the Congress Party led by Indira Gandhi rose to power again in 1980. The Financial Act of 1983 limited the funds that non-profit organizations could receive from industries. This act removed income tax exemptions that were previously given to industries for donations to rural development projects undertaken by non-profit organizations (Kothari 1986a). Around the same time, all tax exemptions from income-generating activities of non-profit organizations were also removed.

During the 1980s, with the disintegration of the Soviet-type economies of Eastern Europe and a growing disillusionment with the traditional organized Left, which supported the official positions maintained by the communist parties of the Soviet Union and China, the radicalization of people often took place outside the circles of traditional Left-wing organizations. This phase saw the spread and strengthening of new grassroots movements, which differed from the earlier ones in terms of the concerns and methods of mobilization. The new movements were not confined to rural areas.²² The new activists largely came from the urban middle classes and defined their exploitation and oppression, and the system that generated these, in newer terms.²³

The new movements were concerned with a whole range of activities including education, "peoples' science",²⁴ health and the environment. Grassroots mobilizations against large national and transnational projects—such as the construction of large dams and the consequent displacement of communities, and the patenting of life forms and plant genetic materials with implications on farmers' rights—became common. These issues were not addressed by the earlier rural-based grassroots organizations, and were treated as subsidiary to class or the class struggle by the organized Left. Although many activists in these movements had strong sympathies with the radical Left—and, in certain cases, these groups were consciously formed as fronts for radical Leftist groups—they became ideologically independent and more broad-based in their support, composition, programmes and activities as their activities expanded and became institutionalized. The entry of new civil society actors on the development initiative ground can be seen in this context. Thus in the 1980s, a paradigm shift in thinking on strategy toward social intervention occurred in India.

At the same time, given the high incidence of poverty and deprivation, the role of charity in social change and development was being questioned. Businesses were expected to contribute more toward social development, to engage more constructively with poor communities and to contribute to national goals of development. Interestingly, one of the first issues to be adopted by the big businesses in response to such challenges was high population growth. The population of India stood at 381 million in 1951 and had approximately doubled, in just 30 years, to 683 million in 1981, and was projected to double again to 1.3 billion by 2006 (Rothermund 2000). The annual sessions of various major, or "apex", bodies of industries during the 1980s highlighted the "dangers" of unchecked population growth. The Federation of Indian Chambers of Commerce and Industry (FICCI), for example, appealed to its members to take a direct interest in solving the problem and to support family planning and the forcible

²² The earlier network of Gandhian grassroots movements that were active during the freedom struggle was based in rural areas. In post-colonial politics, however, these rural units slowly routinized and ceased to be transformatory in nature. Their role became confined to generating subsidiary employment opportunities for the poor with the help of limited state funding.

²³ See Sethi (1984); Gunder and Fuentes (1987); Vanaik (1990); Pramod (1991); Omvedt (1993).

²⁴ Peoples' science movements aim to popularize scientific thinking among ordinary people in India, especially the rural poor, partly in an attempt to undermine religious divisions.

sterilization campaign in the late 1970s of the then government, and also to support provider-controlled technologies of birth control (see Singh 1998).

In the 1980s, the contemporary phase of the business/society interface began, characterized by a dynamic corporate sector on the one hand and a variety of approaches to social development on the other (Sundar 2000). This phase witnessed increased productivity in the corporate sector. Although by 1980 the number of people employed in the public sector increased by almost 40 per cent, there was a decline in its overall productivity and output (Rothermund 2000). At the same time, there was an actual decrease in the number of people employed in private industry, energy and construction; however industrial growth continued due to increasing productivity and output (Rothermund 2000).

The issues of growth, productivity, effective management and the social responsibility of business acquired an important place in the debates, and to some extent, in corporate practices during the 1970s and 1980s in many Asian economies, including India. This is well demonstrated by the fact that the Asian Productivity Organization (APO) organized an Asian symposium on the social responsibility of business in 1983, bringing together delegates from many Asian countries. Besides discussion on aspects of growth, productivity and effective management, there was a common agreement on a definition of social responsibility of business:

Social responsibility is a series of actions taken by business enterprises and the professional managers for the employees, customers, suppliers, owners, government and the community in general to meet the needs and interests of these publics because business is a creation of society and must, therefore, serve that society if it is to remain viable. Such actions are either to be made voluntarily for goodwill, business necessity and cultural requirements or compulsorily to satisfy legislation and social pressures (APO 1983:9).

There was a fairly good presence of Indian businesses, and at least four Indian papers were presented at the APO symposium. The symposium culminated in some very useful policy and action programme recommendations for firm, national and regional levels linking growth, productivity, effective management and social responsibility of business within the Asian context (APO 1983).

The 1980s not only saw the emergence of new grassroots actors but also a substantially enlarged business community. Several new business groups became successful in a remarkably short time. New family-owned and -managed businesses such as Reliance Industries, Escorts, Gujarat Ambuja and Ranbaxy joined the old established family-owned and -controlled businesses like Tata, Birla, Bajaj and Mahindra, with established dynastic and corporate traditions, and the old non-family owned and professionally managed groups like Hindustan Lever Limited (HLL), ITC Limited, and Larsen and Toubro Limited. Medium-sized groups like Excel and TVS Suzuki were on the rise, as were companies like Sona Steering, Microland and Malladi, and multinationals like Pepsi and Motorola.

Socially, underdevelopment persisted in the 1980s and much of the 1990s as India ranked low – below many other developing countries – in the Human Development Index, the Gender Development Index and the Gender Empowerment Index. Thirty-six per cent of the total population lived below the poverty line,²⁵ and about 50 per cent of the adult population was illiterate. The poorest among the rural population did not have access to basic health services. Many villages had no potable water facilities, and there were added problems of environmental pollution, shrinking forest cover, child labour and widespread human rights abuse. Maternal and infant mortality were among the highest in the world, even among developing countries.

²⁵ The poverty incidence in India declined from 36 per cent of the population in 1993–1994 to 26 per cent in 1999–2000. This decline in poverty is primarily attributable to economic growth in the 1990s. However, poverty is multidimensional and the data on income poverty does not sufficiently capture trends in “human-poverty” (Arora and Puranik 2004).

Nearly 40 per cent of school children were dropping out before completing primary school and the girl child, in particular, suffered discrimination of every possible variety. At the same time social expenditure continued to be minimal (Sundar 2000).

It was this climate of extreme social need in the wake of limitations on public finance, coupled with improved returns to industry and a pro-business environment, which necessitated increased initiatives on the part of the business community. The emergence of civil society actors facilitated the attention of business toward social work (Sundar 2000).

The corporate sector and disadvantaged groups

Corporate sector support for disadvantaged groups has been on the agenda of the government of India for many years. From time to time the government has tried to create a government-private sector partnership on social justice, at times asking businesses to institute a quota system for disadvantaged groups (known as Scheduled Castes and Scheduled Tribes, or SC/STs). However, as mentioned above, the government's suggestion that the job reservation policy for SC/STs should be extended to the private sector has been questioned by businesses; if they did agree, they asked for tax breaks as incentives. Industry in general has expressed its commitment to the concept of affirmative action. The Confederation of Indian Industry (CII) has opposed the job reservation policy because it believes that the private sector would be less competitive if the quota system were thrust upon it, since the use of the criteria of merit in awarding jobs would be compromised.²⁶ A recent report by the CII, the Affirmative Action report,²⁷ talks about "curtailment of freedom of employers" in the matter of employment. CII has asked companies to create opportunities for backward and forward linkages, for example, corporate-funded training programmes for the weaker classes. The report has proposed seven concessions to help *dalits*²⁸ and other disadvantaged groups to attain employability, but these initiatives are to be "voluntary" and "self-regulated". To assist in this, CII proposed appointing an ombudsman, while the Associated Chambers of Commerce and Industries (ASSOCHAM) would appoint an oversight council to supervise the implementation of the initiatives. The companies will also report on their progress in their annual reports. Some of the initiatives include setting up of coaching centres for 10,000 *dalit* students in universities and 50 scholarships in prestigious institutes like the Indian Institute of Technology (IIT) and the Indian Institute of Management (IIM). It has also proposed working with NGOs to improve schools in 104 *dalit* districts and the collection of an education tax to fund the programmes. The response suggests that the corporate sector has rejected the government's view that merit is not a natural phenomenon but shaped by social circumstance. The companies have also asserted their own view of development that favours elite globalized sectors, and does not have to take into account the realities of the majority of lower caste, backward and tribal populations, especially those from rural India.

The policy of reservations in the public sector has been used for some time as a strategy to overcome discrimination and act as a compensatory exercise. A large section of the society in India was historically denied rights to property, education, business and civil rights because of the practice of untouchability. The reservation policy put in place safeguards against

²⁶ Twenty-two of India's top business houses wrote to the Minister of Social Justice and Empowerment assuring the government that they would extend their activities such as scholarships, vocational training and company-run schools, to include SC/STs. The signatories to the letter include the Chief Executive Officers (CEOs) of the Thermax group of companies, the Bajaj group, the Aditya Birla group, Forbes Marshall India, Godrej and Boyce Manufacturing Company Ltd., Switz group, Wockhardt Ltd., TVS Group, Mahindra and Mahindra, First Leasing Company of India, Tata Steel, Infosys, HDFC Bank, Wipro Industries, Tata Consultancy Services, Continental Devices, and Crompton Greaves. Others who signed the letter were former chairpersons of the Confederation of Indian Industry (CII) and Hindustan Lever, and academics. On the other hand, when the government wrote to corporate houses in November 2004, asking for job support for the disadvantaged groups, it did not receive unqualified support. ("Corporate India rejects caste-based reservations" at www.infochangeindia.org/index.jsp, in the section on Corporate Social Responsibility.)

²⁷ CII-ASSOCHAM [Confederation of Indian Industry-Associated Chambers of Commerce and Industries] Action Plan: Proposed Concrete Steps by Indian Industry on Affirmative Action for Scheduled Castes and Tribes (www.ciionline.org/index.asp).

²⁸ *Dalit* means oppressed or broken and refers to scheduled tribes, neo-buddhists, working people, landless and poor peasant women and all those being exploited politically, economically and in the name of religion (Gail Omvedt 1995:72).

discrimination.²⁹ In fact, the policy exists precisely because there was discrimination in the private sector in terms of civil and political rights, in land and capital markets, and in education and social services. Some kind of an anti-discriminatory policy for the private sector therefore appears to be a necessity.

There is also the issue of caste-based discrimination in jobs: should someone who is economically well-off and belongs to a Scheduled Caste be given scholarships and other economic concessions? It seems to be a gross misunderstanding that the reservation policy is for those who have less merit. The premise of reservation policies is to recruit people from disadvantaged groups who have the required qualifications. The Constitution of India specifies that reservations for discriminated groups are subject to efficiency, and appointing someone without the required qualifications for the job would go against this. Therefore the argument made by the private sector and others that reservation will affect merit and efficiency is not convincing. The current discussion on private sector reservation and the private sector response is very limited and biased, with only talk of labour market reservation and employment in certain sectors of the private sector economy. There is no discussion of capital market, private housing, land market, and government contracts to the private sectors. From the point of view of social equity, the focus should in fact go beyond the labour market.³⁰

3. Contemporary CSR: An Overview of Initiatives

The historical analysis presented above suggests that diverse societal, regulatory and ideational forces have shaped and institutionalized CSR in India. This analysis suggests that the origins and drivers of CSR are more diverse than those found in other developing countries where CSR thinking and initiatives are primarily externally or Northern-driven, and where CSR awareness is seen as a post-1990 phenomenon.

The findings of scholars like Khan (1981), Khan and Atkinson (1987) and Krishna (1992), taken from research carried out in the early 1980s, show again that the concept of CSR was already firmly rooted among top- and middle-level managers. Using a sample size of 529 company executives, Krishna (1992) studied attitudes on certain aspects of CSR in large public and private sector corporations in India. Respondents felt that CSR was an important aspect of business. His findings showed that:

- the majority of the respondent managers felt changes were taking place in societal values (98.48 per cent), compared to the past;
- The respondents saw a dominant role for industry in shaping a socialistic society (81.66 per cent); and
- managers felt that there was an increase in public demand for socially responsible behaviour by the industry (90.7 per cent).

²⁹ The Constitution of India, which came into force in 1950, mandated job reservations (15 per cent for scheduled castes and 7.5 per cent for scheduled tribes) in the public sector. In 1951, the first amendment Act of the Indian Constitution under Article 15(4) empowered the state to make any special provision for the advancement of any socially and educationally backward classes of citizens or for the lower castes. The other backward classes (OBC) category came into existence in 1955; the term "other" was added to distinguish this category from *dalits*. Eleven social, economic and educational indicators were used to determine backwardness, and it was estimated that 52 per cent of the total population (excluding SCs and STs) belonging to 3,743 different castes and communities were "backward". Most communities on the list are what are called "occupational castes", and also include non-Hindus. Most such occupations fall in the distinct ranks of most backward castes (MBCs) whose condition is closer to that of scheduled castes. Castes other than MBCs have clearly gained from social mobility and political power since India became independent. A special commission set up to consider affirmative action policies of backward and disadvantaged castes to address caste discrimination submitted its report in 1980, calling for the reservation of 27 per cent of all services and public sector undertakings under the central government and 27 per cent of all admissions to institutions of higher education for OBCs over and above the existing 22.5 per cent reservations for SCs and STs. The reservation for OBCs in services was introduced in the early 1990s; however, the reservation in educational institutions has not yet been implemented.

³⁰ This discussion is based on "Reservations for Dalits as CSR?", by Sukhdeo Thorat, 10 November 2004, <http://southasia.oneworld.net/article/view/97600/1/5339>, accessed in August 2006.

Khan and Atkinson (1987) had carried out a comparative study to analyse the views of the senior managers on social responsibility in India and Britain with a sample size of 200 and 400 companies respectively and found strong similarities toward a range of social responsibility concepts. The study showed that over 94 per cent of Indian and British executives surveyed viewed social responsibility as an important and relevant issue to business, and 54 per cent of British and 75 per cent of Indian respondents believed both social and profit goals were essential aspects of business practice.

As we have seen, much of the history of CSR has centred on philanthropy. Although contemporary CSR is generally regarded as qualitatively different from philanthropy, the latter can play an important role in institutionalizing CSR. Mital (1988), in his book *Social Responsibilities of Business: Concepts, Areas and Progress*—one of the earliest books on CSR in India—describes the CSR initiatives of many companies in India. Although those initiatives appear to be than mere ad hoc philanthropic acts, or limited to community development activities, the interconnectedness between traditional corporate philanthropy and CSR is crucial and holds promise for its future. Moon (2002) has argued that although the objects of philanthropy remain outside the company, such forms of involvement tend increasingly to institutionalize CSR in company deliberations. One of the important points raised by Mital (1988) has been that the Tata Iron and Steel Company Limited (TISCO) and ITC were the first organizations in India to utilize the concept of the social audit to measure their social performance in the late 1970s.

This section provides an overview of the contemporary state of CSR in India. By drawing on survey data and information about specific CSR initiatives promoted by companies, business and industry organizations, NGOs, and bilateral and multilateral agencies, it describes the motivations guiding company initiatives, stakeholder perceptions of CSR, the scale of CSR interventions, and the type of concerns and activities that tend to fall under the CSR rubric.

In the past few years a number of surveys have been conducted in India by different organizations.³¹ At the time of writing, the most recent one was conducted by Partners in Change (PiC)—their third such survey (PiC 2004). The previous ones were conducted in 1996–1997 and 1999–2000. The findings of the latest study, which surveyed a sample of 536 companies across India, revealed that philanthropy is the most significant driver (64 per cent) of CSR, followed by image building (42 per cent), employee morale (30 per cent), and ethics (30 per cent). The survey findings of 2004 also present a marked increase in the number of companies developing and adopting CSR policy, compared to the survey findings of 1999–2000. At the same time, the survey also shows that the initiator of a policy across different types of companies is largely the chief executive officer (CEO), except in the case of the public sector, where government policies determine the need to develop a CSR policy.

The perception of the role that companies have to play in CSR activities has increased when compared to PiC's previous surveys of 1996–1997 and 1999–2000. The 2004 report suggests this may be attributed to the growth of a corporate environment more conscious of the implications for India of the involvement of business in CSR. In continuation of the patterns observed in previous surveys, belief in the company's role in CSR activities showed a direct relation with the age and turnover of the company: older companies with a greater turnover were more likely to believe in their role in CSR activities (PiC 2004).

A report by The Energy and Resource Institute (TERI) (Kumar et al. 2001) refers to four models of CSR that have emerged since the beginning of the industrial revolution in Britain, and claims that all four CSR models are present in India. The ethical model, influenced by Gandhi's trusteeship idea, refers to the philanthropic acts of companies; the statist model refers to state-led development that emerged with the adoption of a socialist and mixed economy by

³¹ This section draws from Arora and Puranik (2004).

Jawaharlal Nehru; the liberal model was influenced by the thesis of Milton Friedman; and the stakeholder model emerged from R. Edward Freeman's work (see table 1).

Table 1: The four CSR models

| Model | Focus | Champions |
|-------------|--|-------------------|
| Ethical | Voluntary commitment by companies to public welfare | M.K. Gandhi |
| Statist | State ownership and legal requirements determine corporate responsibility | Jawaharlal Nehru |
| Liberal | Corporate responsibilities limited to private owners (shareholders) | Milton Friedman |
| Stakeholder | Companies respond to the needs of stakeholders—customers, employees, communities, etc. | R. Edward Freeman |

The TERI report, which explored the perceptions and expectations of various stakeholders including workers, company executives and the general public, showed that Indians in general feel businesses must play a wider and more expansive role in society besides providing quality products at reasonable rates. They should strive to make their operations environmentally sound, adhere to high labour standards and reduce human rights abuses (Kumar et al. 2001). The report, however, also revealed that Indians are not yet judging companies according to these criteria, and public opinion is still focused on brand quality and companies' reputations. The earlier survey of Environics International had presented a similar finding on the low demand for CSR in India (cited in Kumar et al. 2001).

The Centre for Social Markets (CSM) survey of July 2001 explored perceptions of and attitudes toward corporate social and environmental responsibility of Indian businesses. It covered Indian industry ranging in size, sector and geographical location (CSM 2001). An important finding of the survey was that there were key barriers to CSR in India. These included the government with unclear policies, an ineffective bureaucracy, poor monitoring records, complicated tax systems and poor infrastructure (Prakash-Mani 2002).

The CSR survey conducted in 2002 by the British Council revealed that many companies are in the midst of making the transition from the trusteeship or ethical model to the statist model. It also highlighted the growing recognition among companies that "passive" philanthropy no longer suffices as CSR (British Council et al. 2002).

A recent research project commissioned by the India Committee of the Netherlands and carried out by Consultancy and Research for Environmental Management (CREM) in the Netherlands and PiC in India, interviewed Dutch companies and their Indian counterparts, along with other stakeholders. The report concluded that Dutch companies operating in India practice CSR very partially. It also claims that although most of the Dutch multinationals do have CSR policies or codes of conduct, their Indian subsidiaries are not normally involved in similar developments. The Indian operations of the Dutch companies also lack monitoring, and companies generally do not check if production in the supply chain follows internationally agreed labour and other human rights and environmental standards (CREM 2004).

Another recent study on business-community relations in India, supported by the United Nations Development Programme (UNDP), United Nations Volunteers and the New Academy of Business as part of an international action-research project, reported that 85 per cent of the businesses surveyed in India agreed that they have a responsibility to the community in which they were located (Mahajan 2004). However, good business-community relations are not considered as an essential feature for business success. More interestingly, Mahajan (2004) argues, even if the terminology used may differ from the CSR or corporate citizenship

management language popular in the West, there definitely exists an understanding and commitment to the same issues in India.

A study on the mechanisms used by companies in India to implement CSR activities found that the majority of companies consider their social activities as CSR (Leff 2004). The companies believe that their decision to systematize and be more strategic about their work with society is a shift away from traditional corporate philanthropy or charity and toward CSR (Leff 2004). However, their implementation mechanisms mostly operate outside the core businesses of the company. Even the mechanisms within the company usually operate in a separate division or under some other department, and remain removed from the company (Leff 2004).

An interesting finding in Leff's (2004) study is that while the community development or social aspects of CSR seem removed from the core functions of the company, this is not the case with environmental and labour issues. Some companies studied were found to be addressing and integrating environmental issues across the company in numerous ways. This may, in part, be attributed to the corporate environmental crisis in India in the past and to the (subsequent) environmental legislation. Also, labour and employee issues such as safety, work environment and benefits were more integrated into the company functions. The strong trade union movement may have, in part, led to a better corporate consciousness of this issue.

Leff (2004:13) added, "what remains to be seen is how the social aspect, or what has been called here the community development, of social responsibility develops as a function of business".

Since the 1980s, the line separating the domains of private economic interest, such as that embedded in shareholder value principles, and social responsibility, exemplified by the stakeholder debate, has to some extent become blurred. At least the clear separation between considerations of larger social good and considerations of profit maximization, as posited by the economics Nobel laureate Milton Friedman four decades ago, does not hold good in many quarters, as demonstrated by the increasing acceptance of the principles of CSR among a large range of national and international corporations. Investors, consumers and social activists are all voicing demands for large enterprises to adopt policies and practices to improve the environmental, labour and other social impacts of their business activities. Patrons and financiers are increasingly injecting their social values into the realm of economic transaction. The question really is: Do consumers and investors act on their social values in product and capital markets, or does this social activity occur only on the margins? Do firms have the will and competence to respond to demands to be socially responsible? What role does regulation play in such situations?

There have been many developments in recent years relating to the growth in ethical consumerism in Western markets. These have led to a corporate response to concerns over environmental impacts, labour relations and efforts such as social auditing, independent monitoring, social certification and social label programmes which suggest that issues from the social realms (the introduction of social values and preferences in economic markets) are emerging in many sectors, particularly in North America and Western Europe. So what do the firms with headquarters in developed economies do when they start manufacturing in developing countries? Are domestic firms in developing countries displaying any social responsibility through their own policies and actions? The discussion below examines the efforts of consumers, investors, enterprises and other national and international actors to facilitate the development of an environment for promoting social responsibility in India.

The cases cited below illustrate the CSR initiatives of several Indian as well as foreign companies operating in India. These cases have been chosen because they represent certain types of CSR initiatives and are by no means, nor are intended to be, an exhaustive compilation of CSR initiatives in India. The initiatives are divided into various categories: company initiatives; industry initiatives and industry association initiatives; initiatives by NGOs,

multilateral agencies and other independent institutional actors; as well as certification, standards, codes of conduct and labelling practices in India.

Company initiatives

Hindustan Lever Limited

Hindustan Lever Limited, the Indian subsidiary of Unilever Plc., is India's largest packaged mass consumption goods company and deals in home and personal care products, food and beverages.

On the CSR front, HLL is engaged in a variety of projects and issues. It also provides support to government relief measures in natural calamities. In some cases, HLL is involved in the projects directly and, in others, it supports the appropriate organizations (HLL 2003).

HLL's approach to CSR is rooted in the corporate purpose of Unilever Plc., which states, "to succeed requires the highest standards of corporate behaviour towards our employees, consumers and the societies and world in which we live". As with Unilever, HLL's approach to CSR can be divided into three distinct areas: the company's own operations; the company's relationships with its business partners through the value chain; and the voluntary or philanthropic contributions it makes to communities.³²

HLL believes that CSR should be seen as a core business activity and the widely quoted case of HLL's social work, as part of its business strategy, is evidence of HLL sticking to its corporate purpose. Prahalad and Hart (2000) argue that HLL altered its traditional business model to increase its declining market position and to meet the needs of poorer people in rural India. This was done by decentralizing production, marketing and distribution; and establishing partnerships with local government agencies, NGOs, community leaders, financial institutions and other companies.

The programme of HLL called Project Shakti aims to create income-generating capabilities for underprivileged rural women by providing a sustainable micro-enterprise opportunity (HLL 2003). Ezekiel (2004) stated:

[B]y working with women entrepreneurs in the villages, [t]hese informal business women learn about products, prices and returns, and advise customers in their villages about the products they sell. In turn, HLL has the potential to reach more than 200 million customers it could not effectively reach otherwise through normal distribution channels. This market-based ecosystem is a source of informing the poor about the benefits of transparency in transactions and the need to respect contracts—be they explicit or implicit with the company. Most importantly, they empower women entrepreneurs and reduce their reliance on local moneylenders or slumlords.

However, HLL has experienced civil society pressure and protests in India from various groups, including the international environmental NGO Greenpeace and former HLL employees, who claimed that their health suffered due to unsafe working conditions and the dumping of mercury-contaminated waste at its Kodaikanal thermometer plant in Tamil Nadu in 2001. The different stakeholders demanded health remediation and financial compensation for around 600 workers, an environmental clean-up, and an apology to the community. Greenpeace quoted an independent health study carried out on 30 workers that apparently found symptoms associated with mercury poisoning in many of them, and workers suggested that skin allergies, infertility and kidney problems had become inexplicably commonplace at the plant. Dumping mercury-contaminated waste is in contravention of Indian law under the Hazardous Waste Rules (Management and Handling), 1989. HLL disputed the claims based on a study by international environmental consultants, stating there is no evidence that the plant

³² See the company website, www.hll.com, accessed on 1 December 2005.

has caused any harm to either workers or the environment. However, the company stopped producing thermometers when ordered to do so (Baker and March 2001). On the project Shakti itself, the findings of market research companies like Indian Market Research Bureau (IMRB), suggest that “consumption of Hindustan Lever’s (HLL) products in rural households has increased by 15–20% after the multinational kicked off Project Shakti in 2001”.³³ The increased penetration of the market is clearly established for companies like HLL from a project like Shakti, which aims at small villages with populations of 2,000 people or less. It aims at creating livelihoods for rural women, organized in self-help groups, to improve their standards of living. How much of this has helped in really empowering rural women in India is something that needs to be studied more carefully.

ICICI Bank Limited

The ICICI Bank was created in 1994 by the Industrial Credit and Investment Corporation of India (ICICI) Limited, an Indian financial institution. ICICI Limited was formed in 1955 at the initiative of the World Bank, the government of India and representatives of Indian industry. The principal objective in forming ICICI was to create a development financial institution to provide medium- and long-term project financing to Indian businesses. ICICI transformed its business in the 1990s from a development financial institution offering only project finance to a diversified financial services group offering a wide variety of products and services, both directly and through a number of subsidiaries and affiliates like the ICICI Bank. In 1999, ICICI became the first Indian company and the first non-Japanese Asian bank or financial institution to be listed on the New York Stock Exchange.

In the years following its formation in 1955, ICICI was involved in some vocational training programmes, and financed water and education schemes for 16 tribal villages in Bihar and an irrigation scheme for small farmers in Maharashtra in the 1970s. ICICI signed an agreement to borrow from the German development agency, Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ), and Kreditanstalt für Wiederaufbau (Credit Institution for Reconstruction); under this agreement, a part of the interest was to be devoted to social projects. Over 30 years ICICI has invested two billion rupees in India’s social development.

Post-1991, realizing the need for an informed and participatory socioeconomic order under the changed economic climate in India, with growing emphasis on the market, ICICI Bank, as one of the largest players in the economic landscape of the country, believed that its involvement in the commercial sector should be backed by a simultaneous commitment to the social sector. This is particularly so if any of the larger goals of economic liberalization in India, and of its players, are to be brought to fruition. ICICI Bank, therefore, reorganized its social efforts in a more strategic manner and sought to perform its role in the social sector through a permanent and full-time group, the Social Initiatives Group. Through this group, ICICI seeks to define and effectively fulfil its responsibilities as a corporate citizen. The group’s involvement is not at the grassroots level, although field visits aimed at assessing need and facilitating dialogue form an integral part of its work. The group has an articulated mission, and focused and well-drawn plans (British Council 2002). Its involvement is primarily in terms of non-commercial support to fill knowledge and practice gaps in specific thematic areas, including early child health, elementary education and microfinance services (ICICI Bank 2002).

ICICI Bank’s way of working is to provide funding and management advice to organizations active in the community, leaving community work to the organizations themselves. However, many ICICI employees volunteer to help blind people, leprosy patients and others in their spare time. The company also publicizes the voluntary efforts of different organizations on a dedicated portal, the first Indian portal that enables online donations as well.³⁴ The organizations benefiting from the portal include the charity that supplies the Jaipur Foot, an

³³ www.it.iitb.ac.in/~it625/hll.doc, accessed in August 2006.

³⁴ www.icicicommunities.org, accessed on 1 December 2005.

artificial foot specially designed at Jaipur for injured farmers, manual workers and others, enabling them to work instead of begging. The ICICI Web site includes a resource centre for primary education and one aimed at preventing the death of infants, another ICICI priority (ICICI Bank 2002).

A second ICICI Bank portal,³⁵ is an interactive platform that seeks to:

- bring together participants in the development process to widen and deepen the discourse informing development practice. Interactive features include discussion boards and facilities to post papers, articles or other resources;
- publish research related to innovations and significant problems within the identified thematic areas; and
- enable online application for funding.

This portal also has a section on microfinance plus a shopping mall displaying the products of NGOs and a section on volunteering and careers in development. Ezekiel (2003) states that “ICICI Bank in India is using technology and relationships with civil society to improve access to banking services at the bottom of the pyramid, and enhancing its capacity to expand the provision of microfinance as well as commercial-based support to the SME sector”.

On the other hand, like all other Indian banks, and unlike many leading banks with an international presence and operations, ICICI Bank probably has not felt it necessary to sign up to the Equator Principles—a voluntary set of guidelines developed for the financial institutions for managing social and environmental issues related to the financing of projects (however, they only apply to projects which cost \$50 million or more, as those costing less represent only 3 per cent of the market). In this connection, Ravindran (2003) states that

the conspicuous absence of Indian banks from the list is distinctly depressing. While Indian financial institutions (including banks) can hardly be described as major players in the funding of infrastructure projects at a global level, the fact remains that their adoption of the Equator Principles or other similar ones to guide their lending within the country would have given a major fillip to India’s environmental initiative, such as it is.

Ravindran further states that “It is possible that Indian financial institutions are under no pressure to factor environmental considerations into their lending activities because most people are not aware of the Equator Principles” (Ravindran 2003).

Infosys Technologies Ltd.

The Infosys Foundation, set up by the flagship Indian IT company, Infosys, in March 1997, receives 1 per cent of all the company’s after-tax profits. The Infosys Foundation supports disadvantaged people directly or through organizations. The foundation prefers to work through smaller organizations and donate in kind rather than cash. For example, it has donated books written in Kannada—a regional language in South India—worth Rs. 10,000³⁶ to a village library, in order to strengthen the local language. In the field of education, the foundation has instituted 26 scholarships for PhD scholars in 13 prestigious academic institutions. It has anchored the Train the Trainee programme in which computer science students from engineering colleges are exposed to the latest IT trends. The foundation has also played an important role in setting up science centres and libraries, and to date 1,001 libraries have been inaugurated with its assistance.

³⁵ www.ICICIsocialinitiatives.org, accessed on 1 December 2005.

³⁶ \$1 = Rs. 46 (September 2006).

Infosys Technologies has rationalized the foundation's distribution of funds. Money is distributed according to the ratio of its employees in the four states where it has offices. The Infosys Foundation is committed to dividing its funds between different target groups and issues, including the elderly, the destitute and the handicapped, rural development, education of talented but poor children, cultural activities and health care, in both villages and cities. Infosys also ensures that the organizations it supports do not discriminate against people according to caste or creed. The company's policies of transparent accounting and human resources are extended to the management of the foundation, which is run directly by the founder of the company.

The Tata Group

The Tata Group is India's largest business group. It is a 134-year-old industrial conglomerate, with a turnover touching \$11 billion—equivalent to 2.6 per cent of India's gross domestic product (GDP). It has long been regarded for its philanthropy and adherence to business ethics, and is India's most respected private business group. With over 220,000 employees working in more than 90 operating companies, it is also India's largest employer in the private sector. The Tata Group is made up of over 80 companies with operations in seven diverse and key business sectors and has a large international presence. Since 2000, Tata's list of global acquisitions include Tetley Tea of Britain, Daewoo Commercial Vehicles of South Korea, NatSteel of Singapore and Hispano Carrocera of Spain. Wehrfritz and Moreau (2005) of *Newsweek International* reported that by moving into Bangladesh and some African markets, Tata has assumed the role of a for-profit development agency.

Following the Tata Group's "trusteeship" concept of management (discussed above), the Tata family holds about 66 per cent of the company's capital through philanthropic trusts endowed by the sons of the group's founder, Jamsetji Tata, Sir Dorab Tata and Sir Ratan Tata, and through other charitable trusts (Lala 2004). These trusts have pioneered and promoted a number of public institutions in the fields of science and technology, medicine, social services, rural welfare and the performing arts. Nadkarni (2004) describes Tata as a "development-driven business" and states that with the changing economic landscape of India in the early 1990s, Tata initiated the development of a more systemic approach to its CSR programmes, which constituted a major shift from its earlier paternalistic philanthropic attitude. As a result, the Tata Council for Community Initiative (TCCI) was established in 1994 to facilitate the development of a common direction for all Tata companies on CSR policies and programmes (Nadkarni 2004). Twenty-eight major Tata companies now implement the guidelines developed by TCCI (Nadkarni 2004). The total outlays on community development activities by Tata companies were \$13 million in 1998, \$22 million in 1999 and \$36 million in 2000. This was in addition to charitable donations made by several Tata trusts and contributions by employee volunteers in kind (Nadkarni 2004).

TCCI, according to Anant Nadkarni, the general manager of Tata Group CSR, focuses on six themes: developing long-term programmes with stakeholders; the triple bottom-line; community champions; Tata Corp of Volunteers; improving the quality of life: the "Tata way"; and environmental management and social auditing (Nadkarni 2004).

Despite all the good work, reputation and brand image, Tata, like many large corporations, has experienced some criticism from civil society on different occasions. The case of the Integrated Shrimp Farm Project undertaken by TISCO and the ensuing Save the Chilika Movement (SCM) in the early 1990s is well known. The SCM put up a successful resistance against the joint venture project of TISCO and the Orissa state government for intensive prawn cultivation and export (Mohanty 2003) that directly threatened the livelihood of fishing communities living around the Chilika lake in Orissa. The intervention of the Union Ministry of Environment and Forests and the Orissa High Court verdict eventually closed down the project.

The above examples of different company initiatives suggest that a very wide range of social issues are covered as part of their CSR practices. The motivation for socially responsible activities of companies often appears to come from the leadership and orientation of top management. Social responsibility initiatives were found in a range of companies, such as newer Indian companies that were emerging as leaders in sectors like IT; domestically owned companies with a long tradition of philanthropy, as well as TNCs. At the company level, this aimed to create capacity through training and education, to create less exploitative income-generating activities or to provide services to other companies to help for fulfill their CSR. However, with some exceptions, there do not seem to be many company initiatives that support workers' rights to collective bargaining, unionization or the strengthening of the institutional structure in any way that would help improve the conditions of workers.

Industry association initiatives

The leading national and regional/local chambers of commerce and industry of India such as the Confederation of Indian Industries (CII); FICCI; ASSOCHAM; Progress, Harmony and Development Chambers of Commerce and Industry (PHDCCI); and Bombay Chambers of Commerce and Industry (BCCI), have all traditionally been active in mobilizing industry participation in social and environmental issues. They have focused on the involvement of their members on a broad range of issues, including occupational health, quality management, human resources development, technical and vocational training, providing support for entrepreneurs and SMEs, rural development, family planning, HIV/AIDS prevention, alcoholism, education, community development and environmental care. In this section, each industry association is briefly discussed and their CSR policies analysed.

The FICCI was established in 1927 on the advice of Mahatma Gandhi. As the India's Merchants' Chamber, its role was originally to garner support for India's independence. Now it focuses on furthering the interests of the Indian business community. It has a membership of over 500 chambers of commerce, trade associations and industry bodies, and it directly and indirectly represents over 250,000 business units in India, including small, medium and large businesses – employing a total of around 20 million people.

The CII, on the other hand, was initially called the Engineering and Iron Trades Association (EITA). Established in 1895, it was made up of five engineering firms. EITA was given the aim of pressurizing the colonial government on its purchasing policies, as all government orders at that time were placed with firms based in the United Kingdom. After a long journey comprising several changes in names, structures and causes, CII emerged as a national industry association in 1992, and has since then grown into one of the most visible business associations in India. CII has direct membership of over 4,900 companies from the private and public sectors, including SMEs and TNCs, and has indirect membership of over 50,000 organizations from 283 national and regional sectoral associations.

FICCI and CII both work closely with the government on policy issues, enhancing efficiency, competitiveness and expanding business opportunities for industry through a range of specialized services and global linkages. This also provides a platform for sectoral consensus building and networking. Major emphasis is laid on projecting a positive image of business, and in assisting industry to identify and execute corporate citizenship programmes.

CII believes in CSR as a workable business strategy. With the expansion of the global economy, the corporate sector should acknowledge that sustainable development is crucial for a company's future access to the global market. During the 1970s and 1980s, both FICCI and CII focused largely on rural development and population issues, and both associations decided to set up separate bodies to deal with CSR: in 1995, FICCI set up the Socio Economic Development Foundation (SEDF) and CII the Social Development Council (SDC). This was in the context of the growing demand on industry to help adopt CSR as a tool to ensure corporate participation in social development, and to provide an institutional base for the social activities of the

corporate sector. Both SEDF and SDC work closely and in partnership with the government, multi- and bilateral agencies, and civil society organizations.

The SDC has been focusing on the areas of community development (for livelihood programmes), disaster management, education and literacy, population and health (including HIV/AIDS), vocational training and women's empowerment. CII, in partnership with UNDP, has set up the India Partnership Forum to promote a multistakeholder approach to CSR.³⁷ To help extend the impact of national programmes for the prevention and control of HIV/AIDS, CII has set up the Indian Business Trust for HIV/AIDS. CII has been organizing the Social Summit every year since 1998 in different locations within India to provide opportunities and platforms for companies to discuss key issues in greater detail to help them take on social responsibility; to share good practices through interaction; and to identify partners (CII 2003).

FICCI, on the other hand, focuses more on environmental issues of significance for Indian industry. Its activities include regular interaction on policy with the government; regional and unit-level training programmes; technology diagnostic studies; facilitating technology demonstration projects; information dissemination on environmental issues; programmes aimed at generating awareness; and stimulating new initiatives. FICCI also has an exclusive Environmental Information Centre that compiles and disseminates information on environmental regulation, success stories, best practices, energy efficiency and clean technologies that are relevant to business.³⁸ FICCI has instituted awards for corporate initiatives in environmental conservation and pollution control as well as a national award for the prevention of pollution.

CII also established the Environmental Management Department (EMD) with a team of well-trained professionals to undertake a range of activities: environmental research; giving policy advice; and organizing practical initiatives, such as training and conducting audits. EMD's thrust is on building in-house capabilities in Indian industry to address environmental issues effectively and proactively.³⁹

Other industry associations in India, like PHDCCI, ASSOCHAM and BCCI, have long been working on the issues of social and environmental responsibility with their members. On the occasion of its Platinum Jubilee celebration, ASSOCHAM started a major initiative on drinking water, asking its members to facilitate the provision of drinking water in 100 villages; by 1996 110 villages were served (Sundar 2000). The BCCI has been working consistently with its members on issues of population and civic conditions of Mumbai. PHDCCI has major interventions in family welfare and rural development through its two foundations—PHD Rural Development Foundation and PHD Family Welfare Foundation. Additionally, almost all the industry chambers have instituted CSR awards to recognize and encourage the efforts of deserving companies in India.

The Responsible Care Initiative of the chemical industry

In the late 1980s and early 1990s, public distrust and fear of the chemical industry was at an all-time high. The 1984 chemical disaster at the Union Carbide plant in Bhopal was followed nine months later by a nearly catastrophic release of pesticide from a Union Carbide plant in the United States, and by fatal explosions at two Texas chemical plants. These and other similar accidents sparked aggressive and widespread community-based campaigns against toxic chemical exposure. In the face of thousands of victims and angry activists, the mounting evidence of chemical health hazards, and the spectre of tougher government regulations, the industry took action and launched a campaign to improve its public image. One outcome was the Responsible Care Initiative.

³⁷ See www.indiapartnershipforum.org, accessed on 17 June 2005.

³⁸ See www.cleantechindia.com, accessed on 17 June 2005.

³⁹ See www.ciionline.org/environment, accessed on 29 August 2005.

The Responsible Care Initiative is a voluntary programme for the global chemical industry to promote the safe handling of its products, all the way from inception in the research laboratory, through production, distribution, use and disposal. The idea for the initiative originated with the Canadian Chemical Producers' Association (CCPA). Even before the 1984 Bhopal accident—in which a lethal cloud of methyl isocyanate leaked from a plant partly owned by Union Carbide and killed thousands of people—the CCPA had adopted guiding principles to set up a Responsible Care programme.

The Bhopal tragedy provided the impetus American chemical manufacturers needed to adopt the Canadian-led initiative. The Chemical Manufacturers Association started its own voluntary effort, the Community Awareness and Emergency Response programme, to provide emergency planning coordination between a plant and its nearby community. This became the first of six mandatory codes of management practice at the heart of Responsible Care. The other codes require companies to practice pollution prevention; adapt the production process in order to prevent accidental releases from a plant; reduce hazards in the distribution, transportation and storage of chemicals; train employees in ways to reduce health and safety risks; and take responsibility for the safe handling, distribution, sale, recycling and ultimate disposal of a chemical product.

The Responsible Care Initiative requires member companies to engage in community dialogue, and recommends that facilities form Community Advisory Panels (CAPs). Some 400 facilities have formed CAPs. These panels establish dialogue with local community and opinion leaders in regular meetings in order to help companies anticipate and shape public opinion. However, the effectiveness of the CAPs is limited by design. These advisory panels have handpicked members and often exclude community activists. Moreover, they have no decision-making authority and have no consistent or guaranteed access to data about the facility's operations.

The chemical industry continues to be criticized for resisting and undermining government regulations, for harming workers and community residents through inadequate health and safety mechanisms, and for damaging the environment through chemical spills and other forms of pollution. However, Responsible Care may have achieved at least part of what the chemical industry may have wanted, which was to improve the industry's public image and stave off new regulation.

The Indian Chemical Manufacturers Association (ICMA), established in 1938, is a recognized representative body of the Rs. 500 billion chemical industry in India, and its members include both Indian companies with a global presence, and subsidiaries of multinationals. ICMA adopted the Responsible Care programme in 1993, and as of the end of 2004, 88 of the 300 members of ICMA had committed themselves to the initiative. Every year, ICMA presents seven awards in different categories, with two awards being given for Excellence in Management of Safety, Health and Environment, and Social Responsibility. In 2004, the Safety, Health and Environment Award was given to Excel Industries Ltd., and although nominations for the Social Responsibility award were received for two companies, neither was found worthy of the award.⁴⁰

In March 2003, the government at the time released a mutually agreed voluntary Charter on Corporate Responsibility for Environmental Protection (CREP)⁴¹ applicable to 2,098 manufacturing units in 17 categories of major polluting industries (TERI 2003).

In spite of the rhetoric, many of the chemical companies involved with the Responsible Care Initiative are directly or indirectly responsible for more than 500,000 tonnes of abandoned obsolete pesticides worldwide. The Indian government and Indian pesticide manufacturers have not made an effort to locate and quantify the dangerous and expired pesticides stored in

⁴⁰ Personal correspondence by email with ICMA, 22 January 2005.

⁴¹ See www.cpcb.nic.in/Charter/charter.htm, accessed on 30 August 2005.

the country. Indeed, the only known Indian location of a pesticide stockpile is at the ill-fated Union Carbide factory in Bhopal. However, neither the government nor Union Carbide (now Dow Chemicals) has taken any steps to clean up the stockpile, and a report on the environmental status in Bhopal prepared and coordinated by Srishti and Toxics Link (two New Delhi-based NGOs), recently presented evidence of the contamination of soil, water, vegetables and even mothers' breast milk by a range of toxic chemicals and heavy metals present in alarming concentrations – even after 17 years.⁴²

The company and industry associations' endeavours toward CSR discussed above suggest that the relevance and importance of CSR, in the context of a globalizing world, is well understood; accordingly, the focus in India is shifting from creating the necessary information base to developing institutional structures and strategies as well as showcasing good work. The Indian Ministry of Commerce and the CII recently launched a public-private joint initiative, India Brand Equity Foundation (IBEF), which aims to portray a positive economic picture of India to a mainly international audience, as well as present opportunities for investors and the CSR work of Indian companies.⁴³ An IBEF (2004:2) report, *Indian MNCs: Charity is Passé; CSR Makes Business Sense in India*, states that “a growing number of companies and institutions in India are seeking to link their own growth and survival to the social cause they try to promote”.

Corporate social responsibility initiatives of NGOs, multilateral agencies and other institutional actors

Civil society and other institutional actors in India have been active since the 1980s on a myriad of issues, such as labour, the environment, consumer causes, child rights and gender. Specific attention to CSR, however, only developed from the early 1990s. The discussion below of selected organizations and their programmes is an attempt to draw a broad picture of the actors and actions involved in the deepening and widening of CSR policies and practices in India. Therefore it should not be construed as a presentation of an entire range of organizations and activities vis-à-vis CSR in India. To this purpose, the reader is advised to consult a resource guide entitled *Who's Who in CSR in India*, compiled and published by CSM since 2003.⁴⁴ The guide seems to be improving by the year and is a useful resource for anyone interested in locating CSR-related individuals and organizations in India (CSM 2004).

The Energy and Resource Institute⁴⁵

The Corporate Roundtable for development of strategies for Environment and sustainable development (CORE) at TERI, New Delhi, is a network of leading corporations coming together to identify key problem areas in the field of industrial sustainability and to develop strategies for addressing the same. A team of industry members and TERI researchers has worked to develop appropriate solutions/strategies for use by the industry. The objective of CORE is to display corporate initiative and responsibility in adopting proactive environmental strategies (through case studies and benchmarking surveys), and thereby encourage other companies to follow. It also establishes links with national and international industry, trade and NGOs that develop and implement joint work programmes on environmental, health and safety concerns.

Nine leading corporations joined CORE in its maiden initiative. These were the Indian Oil Corporation, Indo-Burma Petroleum, Hindustan Lever Ltd., Gujarat Ambuja Cements, Oil and Natural Gas Corporation, Ashok Leyland, Imperial Chemical Industries, Bharat Heavy Electricals Limited, Reliance Petroleum Ltd. and Chennai Refineries Ltd. These are all fairly big Indian corporations in their respective fields. These companies have taken up the gauntlet to implement standards as well as to promote further use of such benchmarks in industry.

⁴² See www.toxicslink.org, accessed on 17 June 2005.

⁴³ See www.ibef.org, accessed on 31 August 2005.

⁴⁴ See www.csmworld.org/public/publication.htm, accessed on 17 June 2005.

⁴⁵ See www.teri.res.in/core/index.htm, accessed on 17 June 2005.

CORE is the central coordinating agency within TERI for overall research work and develops essential parameters to calibrate environmental adherence by members. TERI has constructed two indicators: the Eco-Rating System, an indicator of corporate environmental performance at the facility level which is expected to be used by corporations as a feedback mechanism; and Stakeholders Collaboration, an initiative at the local *panchayat* (local self-government body in rural villages) level which aims at developing wastelands, rehabilitating degraded forests, managing supply chains as well as influencing stakeholders to include environmental considerations in financial decision making. These two initiatives have led to the development of decision-making tools for environmental performance assessment, metrics, benchmarking and ISO 14001 certification. TERI currently offers services in a range of areas, including energy audits, environmental reporting and the provision of guidance to companies for the design and implementation of an environmental management system, such as ISO 14001.

Centre for Science and Environment⁴⁶

The Centre for Science and Environment (CSE) is an Indian NGO established in 1980 by a group of engineers, scientists, journalists and environmentalists to increase public awareness of vital issues in science, technology, the environment and development. CSE believes in finding innovative ways that are effective in dealing with industrial pollution.

CSE is working on policies for sustainable industrialization. One such effort is the Corporate Environment Policy Assessment Project where 500 of the top Indian companies are rated based on their environmental policy and management system. Another programme, entitled the Green Rating Project (GRP), aims to rate industries on their environmental performance. The industrial sectors being considered for green ratings are agro inputs, pulp and paper, automobile and caustic chlorine. The strategy is to focus on a company's future environmental commitment rather than dwell on its past track record, by using a strict voluntary disclosure policy combined with a verification strategy. It also finds strategies for data collection from primary and secondary sources.

The Green Rating Project works by employing over 100 green criteria under three broad categories. The categories are corporate environmental policy and management systems; input and process management; and public perception of the company's environmental responsibility, including that of the local community, NGOs and the media. The results have been mixed. However, currently the reach of the project is rather limited, and its replication and coverage depends upon the overall corporate culture and environment that will be built through the efforts of industry associations, civil society organizations and various regulatory agencies. As such, the existing track record of most companies covered under the GRP project is poor. For example, in the automobile sector, no company has so far qualified to get the five leaves award (the highest rating) and the overall rating scored by the sector was two leaves (below average). The results are similar for the caustic chlorine and the paper and pulp industries, the other two sectors in which the project is being implemented.

The rating methodology for the companies has been developed keeping in mind the lifecycle impact of the industry. Thus, the weightages were allotted accordingly with 80 per cent of the score devoted to lifecycle analysis and the remaining 20 per cent for corporate governance. The lifecycle analysis assessed the environmental impact of the company at various stages of the production process: sourcing of raw materials, manufacturing and assembly, effects of consumption, and product disposal.

Development Alternatives⁴⁷

The Development Alternatives Group is a non-profit research, development and consultancy organization established in India in 1983. It aims to help "evolve" the relationship between

⁴⁶ See www.cseindia.org/index.html, accessed on 21 June 2005.

⁴⁷ See www.devalit.org, accessed on 21 June 2005.

nature, machines, institutions and people in order to achieve the goal of sustainable development. Development Alternatives consists of three branches: Technology Systems, Environment Systems and Institutional Systems. Each branch then contains thematic groups: for example, the environment branch consists of groups on biodiversity, global environmental systems, environmental monitoring and the urban environment. This group advocates two broad programmes, cleaner production, and corporate environmental and social responsibility. The cleaner production programme enables industries to incorporate cost-effective environment management systems into the production process. The corporate environmental and social responsibility programme enables corporations to fulfil their environmental and social obligations through three components: environmental and social policy and procedure; environmental impact assessment and environmental management planning; and corporate neighbourhood development. Experience with corporations in large infrastructure, urban development and power transmission projects indicates that the process of developing ESPPs has enabled them to dovetail environmental and social concerns as an integral part of their operations at nominal costs. The corporate neighbourhood development programme has helped to create livelihood options, improve infrastructure facilities and build congenial relationships between the corporation and communities around them.

Social Awareness and Voluntary Education

Social Awareness and Voluntary Education (SAVE) is an NGO based in the state of Tamil Nadu. In 2000, it prepared a report on labour standards in the garment export industry of Tirupur in the state (SAVE 2000). Twenty workers from Tirupur's top 10 garment export companies were interviewed. The findings suggest insufficient wages, poor conditions of contract and long working hours without paid overtime. The working conditions are in clear violation of all labour laws and standards of the state of Tamil Nadu, the country and international labour laws. The report also reveals that most of the companies do not have trade unions and that a clear inequality exists in wages between men and women. Most of the women workers do not get maternity leave. Nor do workers know about any codes of conduct or any other international labour standards, and the factories have never attempted to educate the workers. Regarding child labour, many workers in the larger factories are between 15 and 18 years old, which is not a violation of Indian labour laws, although child labour does exist in small and medium companies.

Based on these findings, the report makes two recommendations for the organizations involved in the study: (i) build extensive networking between North and South in the monitoring of the garments industry, and (ii) increase consumer awareness on the labour standards of garment workers (SAVE 2000).

The Credit Rating Information Services of India Limited⁴⁸

The Credit Rating Information Services of India Limited (CRISIL) has released its model for Governance and Value Creation Ratings, which aims to evaluate the effectiveness of corporate governance systems. The evaluation addresses all stakeholders—shareholders, creditors, employees, customers, suppliers and society. The rating is based on corporate governance practices (processes), wealth creation measures (for individual stakeholders) and wealth management measures (for all stakeholders). The wealth creation measures include criteria for shareholders, debt holders, customers, employees, suppliers and society. The criteria for employees account for absolute salary levels, adjusted growth in average annual salaries, employee stock options (ESOPs), attrition rates, intangibles and so on. The criteria for society account for total direct taxes paid, employment generated, expenditure on social infrastructure, the environmental and social impact costs and the fair practices followed. The criteria for corporate governance and wealth management practices account for the assessment of management capabilities, financial transparency and disclosure, the influence of majority/large

⁴⁸ See www.crisilonline.com, accessed 21 June 2005.

stakeholders, and board composition and effectiveness. It will be interesting to observe the impact of such ratings on the corporate social responsibility practices of large firms.

Partners in Change⁴⁹

Partners in Change (PiC) is an Indian not-for-profit NGO set up by ActionAid in 1995 to critically engage businesses as partners in development in India (Venkateswaran 2004). PiC's mission is "to increase the understanding and active participation of business in equitable social development as an integral part of good business practice by promoting partnerships between business, disadvantaged communities, development initiatives and government".⁵⁰ Having its genesis in an international NGO focusing on poverty and equity issues, and having been established in an era when the Indian economy was opening up for liberalization, privatization and globalization, PiC believes that there is a great potential in businesses to do both good and harm to disadvantaged people, with actual results largely dependent on business managers' understanding and interpretation of the impact of their actions (and inactions) on communities (Venkateswaran 2004). PiC, therefore, focuses on maximizing the positive, and minimizing the negative, impacts businesses could have on society by engaging to increase this understanding and to motivate companies to look at maximizing the societal value while pursuing shareholder value (Venkateswaran 2004).

PiC recognizes that engagement with socially responsible activities demands that a company go through various stages of evolution before CSR is integrated as an essential business process. PiC is therefore involved in a range of activities, from practical action and advice to advocacy and research. It assists businesses at all stages, from the first steps of identifying stakeholders and partners and their issues, to the management of these relationships. It trains staff, advises on resource allocation to CSR activities, develops CSR policy and benchmarking guidelines, and conducts performance evaluation and social audits. It plays an important role in keeping businesses informed through its publications and dissemination of information at workshops and seminars, and of course, online. Interestingly, it undertakes some work to build capacity for NGO involvement with the corporate sector. Finally, it is involved with alliance building in the South Asia region, having been a founder member of the South Asian Alliance for Responsible Business, and Secretariat to the United Nations (UN) Global Compact in the Mumbai Network from April 2001 to December 2003.

PiC has also commissioned a biannual survey on the involvement of large companies in social development in India since 1997, to better understand and track changes in the beliefs and attitudes of companies toward CSR. These surveys are the only studies available in India to date with such a large sample (between 500 and 600 companies). The findings of the third survey were discussed briefly in the introduction to section three of this paper. An additional feature of the latest survey is that it also captured stakeholder perceptions of CSR in India (PiC 2004).

United States Agency for International Development

The United States Agency for International Development (USAID) India, through its Trade in Environmental Services and Technologies programme, has collaborated with FICCI Business Information Services Network and ICICI Ltd. to establish an online Environmental Information Centre.⁵¹ The Web site is dedicated to facilitating and promoting industry action for environmental protection, and addresses key issues such as global climate change, the adoption of clean technologies, waste management and energy efficiency. USAID believes that industry has to be proactive concerning environmental and pollution control, and that it cannot be led by regulatory pressure alone. USAID also believes in clean technology to assist Indian industry to realize the business and environmental benefits of adopting a private sector-driven, voluntary approach as a means to improve performance.

⁴⁹ See <http://picindia.org>, accessed on 21 June 2005.

⁵⁰ See http://picindia.org/mission_vision.shtml, accessed on 21 June 2005.

⁵¹ See www.cleantechindia.com, accessed on 21 June 2005.

Overall, the impact of civil society institutions, like the ones illustrated above, has been quite significant for corporate involvement in societal issues. In other words, these civil society actors have played a catalytic role in promoting CSR. Most of these initiatives suggest that the larger companies have better practices. Most interventions were meant to “help” communities, and they sometimes also helped create capacities among people. Many of the companies who responded to these actors were large domestic companies in key sectors, like infrastructure. Companies responded to regulatory requirements, demands from NGOs, trade/supply chain pressure and investment links with foreign companies and joint ventures.

Certification, labelling, standards and codes of conduct

In the context of rapid industrialization, India, like other Asian countries, has experienced considerable environmental degradation in recent decades. According to the Centre for Science and Environment (CSE 1999a), while the Indian economy grew by 2.5 times between 1975 and 1995, industrial pollution and vehicular pollution grew by 3.47 and 7.5 times respectively.

Concern for the environment and the sustainable use of natural resources gained importance in Indian policy circles in the 1970s. Kirpal (2002) argues that the beginning of Indian environmental law lies in the participation of the government at the UN Conference on the Human Environment in 1972 at Stockholm, which led to a realization that a legal framework was required to deal with the potential environmental hazards caused by industrialization. The Forty-Second Amendment to the Indian Constitution in 1976 introduced principles of environmental protection in an explicit manner into the Constitution through Articles 48A and 51A(g) (Kirpal 2002). Although the Ministry of Environment and Forests is the central agency for all environmental management processes set up by the legislature, the spirit of the existing environmental law has developed through legislative and judicial initiatives, with the judiciary being responsible for the most recent developments in this regard (Kirpal 2002).

Besides specific environmental enactments in India, like the Forest (Conservation) Act, 1981; the Air (Prevention and Control of Pollution) Act, 1986; and the Environment (Protection) Act, 1986, there are several provisions in over 180 enactments addressing issues related to environment and industrial pollution. Industry and businesses in India are required to respond to a growing variety of environmental imperatives (Zarapkar 2003).

The Bureau of Indian Standards (BIS), the national standards body of India and a founder member of the International Organization for Standardization (ISO), continues to take part in international standardization activities (BIS 2004). As in many other areas, India has shown great stewardship on standards, and was among the first few countries to develop a national quality standard, the IS 10201, in 1982 (BIS 2004). Similarly, in 1988 BIS formulated a standard on environmental management even before the ISO developed ISO 14001. ISO 9000 standards were adopted by BIS in their entirety, and later developed as IS/ISO 9000. In addition to the adoption of ISO standards, BIS has formulated standards in the fields of quality cost analysis (IS 10708), the development of supplier ratings systems (IS 12040), complaints handling (IS 15400), quality circles (IS 12301) and the management of hospital services (IS 13808), in addition to a handbook on statistical quality control (SP 28) (BIS 2004).

The government, meanwhile, has recognized and rewarded ISO 9000 certified manufacturers and made them eligible for special import licenses (BIS 2004). It also showed its support by launching a quality campaign with nationwide programmes on quality awareness in April 1992. The Rajiv Gandhi National Quality Award was organized by the BIS, and the first awards were made in 1991–1992 by the Indian prime minister. Indeed, the issue of quality was of crucial importance to India’s import-export policy that was implemented between 1992 and 1997.

A European expert group was invited by the government of India in 1992 to establish the National Quality Council in India, and the country witnessed a remarkable growth in certifications from 1992 to 2000 (BIS 2004). However, this growth was not without problems.

Some companies lacked self-motivation, and certification became a short-sighted goal, subject to varied interpretation (BIS 2004). The mushrooming of trainers and consultants also led to competition among them as well as the different certification bodies, which ultimately diluted the training and consultancy processes. Some unethical practices were also reported (BIS 2004).

There are now several government certification and standards schemes, both mandatory and voluntary, for product quality, environmental friendliness and organic production. Over 1,100 products have been certified for product quality standards by BIS and 16,000 licenses have been issued to companies meeting these standards as of July 2004 (Jain 2004). Realizing the popularity of labels in many developed countries, the government of India launched a labelling scheme for certifying and awarding a special product label (the ecolabel scheme) to goods meeting specific environmental and quality standards (Jain 2004; Alam 2005).

The Indian ecolabel scheme, Ecomark, was launched in 1991 and, like other such schemes, it is a market-based non-regulatory instrument to reduce pollution and improve environmental protection (Alam 2005). The scheme consists of a three-stage “cradle-to-grave” screening process, meaning that the lifecycle analysis of the product is based on the environmental consequences of the manufacture, use and disposal of the product.⁵² The Ecomark scheme was initially designed to cover 16 product categories although this was later reduced to 14. However, new categories (such as ozone-depleting substance/ODS-free fire extinguishers, leather and coir products) have been added recently, and presently there are 17 product groups for which Ecomark is available (Alam 2005). The BIS awards and oversees the progress of ecolabelling. There are now Ecomark criteria for more than 140 products in several categories, such as soaps, detergents, paints and paper (Alam 2005).

Unlike many other international ecolabelling programmes that are independent schemes related to environment, the Indian government went a step further and linked its Ecomark scheme with BIS's product quality standards, combining the environmental and quality standards. This, according to some observers, has hindered the process and added layers of bureaucratic controls and approvals, perceived as a burden with few immediate benefits to companies contemplating applying for certification (US EPA 2000; Alam 2005). Indeed, the overall response to the Ecomark scheme within India has not been very encouraging, and manufacturers have been hesitant to apply for the label (Alam 2005). At the time of writing, only four companies have been granted the Ecomark label since its inception in 1991, which include a detergent company and three paper mills. Moreover, none of these companies is using the label on their products (Alam 2005).

The United States Environmental Protection Agency (US EPA) (2000) and Alam (2005) have discussed several factors that are seen as possible causes for the hesitant attitude of Indian businesses toward the Ecomark labelling scheme. As Ecomark is a self-financing programme whereby manufacturers pay for application, testing, licensing fees and renewal costs, some estimates indicate that these costs can cause up to a 10 per cent increase in a manufacturer's production costs and subsequently act as a major deterrent. Moreover, there are no guarantees of increased sales and therefore profits (US EPA 2000). A common complaint is that the government did not take adequate steps to consult industry in the development of product criteria. There is also a feeling that the government “rushed through” the Ecomark scheme, following the introduction of labelling programmes in other countries, without really studying the local situation and business constraints in India. In addition to there being little demand for environmentally friendly products in India, there is also a low awareness of environmental issues and an absence of environmental concern among consumers (Bhattacharyya and Mago 1998; Alam 2005). Businesses feel that the Ecomark programme may in fact send consumers the wrong message by indicating to them that products without an Ecomark label are *not* environmentally safe (US EPA 2000).

⁵² Bhattacharyya and Mago 1998; Chaturvedi and Nagpal 2002; Alam 2005.

For exports, the Ecomark label may not add much value, where manufacturers have only adopted the ecolabelling standards of importing countries in order to operate in those markets, as evident from the textile and leather products sectors (two of India's largest exports) that have made efforts to conform to ecolabelling standards in European Union (EU) countries (US EPA 2000).

Discounting the failure of Ecomark, Jain (2004) states that some independent certification schemes are spreading fast in India, especially in the context of fair trade and for certain exported items such as tea and rugs. Jain (2004) stated that the Fairtrade Labelling Organizations International has certified that 23 companies in India operate in accordance with its Fairtrade Standards, while the International Fair Trade Association has several member companies in India. Similarly, the International Federation of Organic Agriculture Movements has 29 members and eight associates in India certifying production according to organic standards. However, Jain (2004) also remarked that independent third-party certification programmes within India are aimed primarily at ensuring the quality of products in trade, and concerns for the environment are generally given lower priority and are most often linked to reducing the negative environmental impacts of industry.

ISO 9000 has seen an impressive growth in India. The number of certified companies increased from 5,554 in 2001 to approximately 12,000 in September 2004 (BIS 2004). The story is similar for ISO 14000. With just one ISO 14000 certified company in December 1995, the number grew to 257 companies over the next five years (Zarapkar 2003) and reached 879 in 2003. In 2001, 2002 and 2003, the number of ISO 14000 certificates rose from 400 to 605 to 879 respectively. By the end of 2004, approximately 1,100 companies were certified with ISO 14000 (BIS 2004).

The standard on Occupational Health and Safety Management Systems (IS 18001:2000) was formulated by BIS in line with the requirements laid down by the International Labour Organization (ILO) guidelines and in tune with the Factory Act, 1948, of India. BIS (2004) claims that standards in the country have provided an opportunity for Indian industry and service providers to improve and become more disciplined. They have also encouraged people to think in terms of quality, environment, and health and safety, and have provided a framework for meeting requirements related to all management systems including legislative and regulatory requirements.

However, it has been noted that most of the certified firms were large industries, or units or facilities of large firms, while SMEs have been relatively slow in their uptake of standards (Zarapkar 2003). There is, nevertheless, a huge potential for environmental services in India. A report written for the US and Foreign Commercial Service and the US Department of State analysed the projected market trends for ISO 14000 consultancy services in India (Zarapkar 2003). The report stated that the estimates made by the CII had put the Indian environment market at \$2 billion, which is expected to grow to \$7 billion by 2010. The consultancy services market for ISO 14000 was estimated at \$8 million with an expectation of market growth at a rate of 10 per cent annually over the next three years (Zarapkar 2003). Rapid growth, the report stated, will be fuelled by stringent environmental norms, and an increased awareness among industries of the need for certification to allow access to international markets and of the financial benefits of opting for ISO 14000 certifications. Moreover, organizations have become increasingly concerned with achieving and demonstrating sound environmental performance by controlling the impact of their activities, products and services on the environment, taking into consideration their environmental policies and objectives (Zarapkar 2003).

Another area where social labels are prominent in India concerns child labour issues. According to the global report on child labour by the ILO in 2002, there are more than 200 million child labourers worldwide, and the incidence of child labour is highest in the Asia-Pacific region, with South Asia being the worst (ILO 2002). Greater public awareness about the much-publicized issue of child labour has resulted in some organizations developing social labels in India as well. Currently, child labour-related social labelling in India is limited to the carpet

industry, for which there is a multiplicity of labels. There are four labelling programmes in the carpet industry in India (Rugmark, Kaleen, STEP, and Care and Fair), which differ in their mechanisms as well as in the approaches adopted and stated objectives (Sharma et al. 2000). Rugmark and Kaleen labels are affixed to individual carpets, while STEP and Care and Fair programmes certify specific companies. With the exception of Care and Fair, the labelling initiatives operate with inspection and monitoring mechanisms of different types (Sharma et al. 2000).

The Rugmark Foundation, established in India in 1994, is an independent body that offers a voluntary certification programme for carpet exporters in India to ensure that carpets are not made by children. The Rugmark stamp of approval is a “smiling carpet” label. The cost of the inspections is borne by the exporters who pay 0.25 per cent of the value of their rugs toward monitoring the system, and by importers, who contribute 1 per cent of the carpets’ value.

Since 1995, according to the information provided by the Rugmark Foundation, 1,334 children have been liberated from carpet looms by Rugmark India.⁵³ Approximately 15 per cent of all registered carpet looms (some 230 Indian exporters) are licensed under Rugmark. However, the limitations of the programme’s reach can be gleaned from the fact that according to Rugmark’s own estimate, there were 300,000 children working on the looms in India in 1993 (see Rugmark Web site).

Christian Aid and the South Asian Coalition on Child Servitude (SACCS) have also been working on child labour initiatives. They have been instrumental in increasing the visibility of abysmal work conditions, especially those of child labourers, and calling for the Indian government’s adherence to the UN Convention on the Rights of the Child (Article 32).⁵⁴ Recently these organizations have looked at India’s sporting goods manufacturers who employ approximately 300,000 workers in 1,500 factories and smaller manufacturing units, and in subcontracted arrangements (Christian Aid 1997). Indian companies supply sporting goods to many international brands including Adidas, Mitre (Pentland Group), Umbro, Gunn and Moore, Dunlop Slazenger, Kookaburra Sports and Cosco. The report describes that, either with their families or in small stitching centres, these children work to produce some of the 200 different products manufactured by the Indian sports goods industry. Christian Aid and SACCS have found that Indian children as young as seven are stitching footballs in their homes, while boys as young as ten are employed as stitchers or trimmers producing boxing and cricket gloves. Tanneries supplying leather to the industry’s main exporters also employ children, exposing them to hazardous chemicals. These include tanneries located in Jalandhar in Punjab and in Meerut in Uttar Pradesh, which supply leather for cricket balls and gloves. Kashmiri sawmills that supply willow clefts for crafting into cricket bats also operate under extremely poor conditions. Children and teenage apprentices who work in factories or small workshops are routinely paid a fraction of the adult minimum wage. Meanwhile, some adult workers are not only poorly paid but also denied sick pay, union rights and company contributions to benefits such as employee provident fund and insurance schemes. The Sports Goods Export Promotion Council of India has downplayed these findings and challenged the World Federation of Sporting Goods Industries to inspect factories and provide evidence of any use of child labour (Christian Aid 1997).

Christian Aid has developed a model code based on internationally agreed standards, including ILO conventions and the United Nations Convention on the Rights of the Child. This code addresses not only the employment of child labourers in the sports goods and other industries, but also adult working conditions in factories manufacturing footballs, boxing and cricket gloves, volleyballs, cricket pads and shuttlecocks. The code also covers the manufacture of cut synthetic jewels, the weaving of silk saris and carpets, and the production of glass bangles (Christian Aid 1997).

⁵³ See www.rugmark.org, accessed 22 June 2005.

⁵⁴ See www.christianaid.org.uk/world/where/asia/indiap.htm, accessed on 22 June 2005.

One of the more recent certificates is the social accountability standard, SA 8000. Initiated by Social Accountability International, SA 8000 is an auditable standard for third party verification based on 11 ILO conventions, the Universal Declaration of Human Rights and the United Nations Convention on the Rights of the Child. The standard covers eight workplace conditions: child labour, forced labour, health and safety, freedom of association and the right to collective bargaining, discrimination, disciplinary practices, working hours, and compensation. A ninth area, covering management systems, stipulates the necessary systems for ensuring the ongoing conformity with the requirements of the standard. The standard covers not only the company that adopts these standards, but also the suppliers⁵⁵ and subcontractors.⁵⁶ The code is expected to maximize benefits in the areas of preserving and enhancing company and brand reputation; improving employee recruitment, retention and performance; better supply chain management; and opportunities to develop partnerships with other organizations.

According to Mishra (2005), a SA 8000 auditor with Bureau Veritas, Indian manufacturers are now more aware of social compliance and are increasingly interested in social accountability. However, the manufacturers do not have much choice, since the buyers insist upon it. Mishra (2005) claims that “post-MFA [Multi-Fibre Arrangement], social accountability has to be an integral part of business because importers, buyers and retailers from the United States and Europe will choose suppliers from other countries based on stringent social accountability norms”. Exporters and suppliers in India have become aware of this fact over the past couple of years as they prepared for the end of the MFA in January 2005. There has therefore been a significant increase in the number of companies in India that have gone for social audits, especially in the leather and textile sectors.

As at March 2004, only 30 Indian companies were SA 8000 certified from a total of over 200 companies worldwide (Mishra 2005). In India, social accountability audits are done only at the behest of buyers. Companies will not do it for domestic consumers because it is expensive (Mishra 2005).

Some Indian companies have adopted the Global Sullivan Principles of Social Responsibility, a code of conduct to which socially responsible companies and organizations can be aligned.⁵⁷ The objectives of the Global Sullivan Principles are

to support economic, social and political justice by companies where they do business; to support human rights and to encourage equal opportunity at all levels of employment, including racial and gender diversity on decision making committees and boards; to train and advance disadvantaged workers for technical, supervisory and management opportunities; and to assist with greater tolerance and understanding among peoples; thereby, helping to improve the quality of life for communities, workers and children with dignity and equality.

At present, the Global Sullivan Principles appear no more substantial than a statement of intent since there is no inherent system of monitoring or auditing built into it.

Another global programme, the Global Reporting Initiative (GRI), is a multistakeholder process and an independent institution with a mission to develop and disseminate the globally applicable Sustainability Reporting Guidelines.⁵⁸ The GRI Guidelines are for voluntary use by organizations reporting on the economic, environmental and social dimensions of their activities, products and services. The GRI incorporates the active participation of representatives

⁵⁵ “Supplier” is defined as a business entity that provides the company with goods and/or services integral to, and utilized in/for the production of the company’s goods or services.

⁵⁶ “Subcontractor” is defined as a business entity in the supply chain which, directly or indirectly, provides the supplier with goods and/or services integral to, and utilized in/for the production of the company’s goods and/or services.

⁵⁷ See www.thesullivanfoundation.org/gsp/default.asp, accessed on 22 June 2005.

⁵⁸ See www.globalreporting.org, accessed on 22 June 2005.

from business, accountancy and investment as well as environmental, human rights, research and labour organizations from around the world. It was started in 1997 by the Coalition for Environmentally Responsible Economies (CERES) in partnership with the United Nations Environment Programme (UNEP). The GRI became independent in 2002, and is now an official collaborating centre of UNEP and works in cooperation with the UN Global Compact. The GRI Sustainability Reporting Guidelines are applicable to national and multinational organizations in both industrial and developing countries. The ultimate objective of the GRI is the global harmonization of corporate reporting information covering the environment and social performance.

There is limited association between the GRI and Indian business. Only four companies in India had submitted a report to GRI by the end of 2004, with TISCO being the first Indian company to do so, in 2002. However, several Indians are involved in the GRI. At the time of writing in 2005, Dr. Jamshed J. Irani, Director of Tata Sons Limited, is on the Board of the GRI; there are four other Indians who are GRI Stakeholder Council Members; and the CII is an organizational stakeholder.

Indian companies are more strongly associated with the UN Global Compact. At the end of 2004, over 90 companies had committed themselves to its principles. The Global Compact was created after the United Nations Secretary-General Kofi Annan challenged business leaders, in an address to the World Economic Forum on 31 January 1999, to join an international initiative to bring together companies, with UN agencies, and labour and civil society to support nine (now 10) principles in the areas of human rights, labour, the environment and anti-corruption (the last principle was adopted during the first Global Compact Leaders Summit in June 2004).⁵⁹ The Global Compact is a learning network, and its operational phase was launched at UN headquarters in New York on 26 July 2000.

India was one of the first countries in which the Global Compact was launched, and the Global Compact New Delhi and Mumbai Networks were established in 2001. Realizing the need for a nationwide network, a third network—the India Partnership Forum, a joint UNDP/CII initiative—was added. This was followed by the formation of a UN Global Compact Society India in 2003. A number of industry associations, employer organizations and professional bodies in India have joined the Global Compact, and these bodies play an important role in promoting its principles to their members.

4. The Drivers of CSR in India

In this section we explore the drivers for the current discourse and practice on corporate social and environmental responsibility in India. There is a need for endeavours by the corporate sector to improve conditions of labour, implement environmentally friendly practices and contribute to societal development. There is little disagreement that the ongoing economic reforms in India are likely to widen the gap between regions, states, cities, industries and companies, and that a number of people will consequently feel deprived. It is also feared that greater competition and the weeding out of inefficient industries will also lead to job losses with a disproportionately adverse impact on marginalized groups, especially women, who are largely concentrated at the lowest end of the job market. It is in this context that social responsibility and expectation falls on industry to cushion such hardships by contributing to the larger developmental agenda of the nation.

As discussed earlier, the present policy environment is more conducive to making Indian industry competitive, and less so to make it socially responsible. Corporate self-regulation can also be viewed as an attempt to lessen the pressures from regulations and social responsibility. However, corporate social responsibility practices are multiplying and evolving, in response to

⁵⁹ See www.unglobalcompact.org, accessed on 22 June 2005.

various pressures. This section captures both these tendencies: the positive influences encouraging socially responsible corporate behaviour as well as the countervailing tendencies.

Market-based pressures and incentives

Industry-level and industry association endeavours suggest that the current focus in India is on creating the necessary skill sets, information base and institutional structures that can facilitate companies to respond to the emerging international CSR agenda and the related norms and regulations.

The voluntary corporate initiatives on environmental issues suggest that the pressure to compete in global markets is the main driving force behind such initiatives (Jha 2002). Large companies with a global presence are more open and able to bear the financial costs and make the necessary adjustments to improve their social and environmental performance. The urge to establish their brand name is an incentive to adopt socially and environmentally friendly codes and practices. At the same time, SMEs find it difficult to adopt these codes, and pressure in the domestic market is not strong enough to compel manufacturers to do so. A majority of manufacturers have a “wait and see” attitude toward the codes; they are neither proactive in adopting the codes that could help reduce pollutants and provide more environmentally friendly products, nor do they voice much opposition to the discourse on CSR.

Some large companies in key sectors like infrastructure, chemicals and automobiles are adopting cleaner technologies and going through social audits to project a clean image in the market. The Centre for Science and Environment’s Green Rating Project is a case in point that led many companies in India to formulate and adopt environmental policies. Only one company in the pulp and paper industry had an environmental policy when the project started. By the time the ratings were finalized (a period of approximately two years), nine companies had drafted an environmental policy statement. The participation of large companies in such civil society-led endeavours is a direct outcome of market pressures—the pressure to compete with global companies that have good CSR practices and that are now competing with Indian firms to enter the Indian market.

In addition, certification schemes like Ecomark have shown limited success, as manufacturers do not see any incentive to get such labels, as well as bear the additional costs, at a time when there is limited demand for environmentally friendly products. Given the highly skewed income distribution in India, consumers from the high-income brackets, who are willing to pay more than the market price, constitute a small proportion of the total demand in the Indian market. These consumers definitely do not represent the majority, who are concentrated mostly in the large cities of India, restricting the market for labelled goods to a niche market for a few products. The domestic drivers related to consumer demand appear to be very weak toward encouraging voluntary efforts for improved environmental standards by large corporations.

Yet domestic consumer consciousness toward cleaner technologies can play an important role in facilitating small and medium-sized firms to adopt environmentally friendly processes. The emergence of consumer rights groups like the Consumer Unity and Trust Society in the 1990s provides an institutional structure to create consumer consciousness for environmentally friendly products. However, consumer advocacy groups are fragmented and have not succeeded either in creating large networks or in mounting wide-scale campaigns against the harmful environmental practices of private corporations. Consumer rights, so far, are more focused on how governmental control is limiting consumer choices.

Despite considerable publicity surrounding codes of conduct related to labour, the extent to which they have been adopted so far is relatively limited. The industries that are covered are mostly those that have an export market, for instance, garments, carpets, textiles, leather and related accessories. These are consumer goods industries that produce for export, where brand name and corporate image are considered important. Within these sectors, firms that are part of

the global supply chain of large TNCs are the ones that voluntarily adopt “standardized” labour practices either in order to compete with their rivals from South and Southeast Asia, or in response to pressures from international buying houses and retail chains to adopt standards. There are hardly any examples of companies manufacturing for the domestic markets that adopt voluntary codes of conduct dealing with labour issues (Sood 2003). The weak domestic pressure for adoption of better labour and environmental practices creates a hiatus between firms that supply to the domestic market and those that supply to the global market. This implies that the reality of codes and standards in India as it exists now covers a very small fraction of the Indian market, especially the Indian labour market.

Within the export sector itself, the new standards regime is creating a bias toward large registered firms. It is likely that improved labour practices are adopted by a registered corporation or a firm that exists as a distinct legal entity and is relatively large in size. This is because such firms are more institutionalized. The implementation of standards in small and medium-sized firms is much more difficult and costly in relative terms compared to a big firm. Home-based workers and those outside the institutionalized organized sector can be covered by codes only in cases where the codes’ implementation is related to the supply chain, and where there are provisions for auditing and monitoring by third parties, or where there are exclusive groups within the company overseeing it. Declarations without constant monitoring and auditing do not serve much purpose. This is likely to have a similar fate to that of many domestic laws where the constitutional provisions were never fulfilled.⁶⁰ Companies could always find ways to circumvent the laws. We discuss in some detail below the dynamics of code adoption, using the garment sector in India as a case in point, for understanding the multiplicity of forces that are operative in an export-oriented consumer goods sector in a developing country. The discussion also reveals why the codes have different effects upon various types of workers. Indeed, the vast majority of workers in the sector are not covered within the ambit of the codes at all, thus limiting the scope of voluntary codes in large employment-generating sectors in a developing economy like India.

Codes and the garment sector

Interviews with garment manufacturers, buying agents and garment workers in Delhi reveal that regulatory frameworks have already been put in place for a large proportion of Indian garment and accessories manufacturing plants for export.⁶¹ In Delhi’s garment export sector, the working conditions and health and safety provisions in the garment units are often inspected by the buying agents of big importing retailers, the local offices of big retailers or through third party inspection. Hours of work, the availability of crèche facilities in factories where women are employed, the standard of the washrooms, the size of the rooms, the number of fire exits, sitting capacity, the use of protective equipment, labour rights such as freedom of association, terms of employment and other similar issues are all regularly evaluated, and garment manufacturers have to sign declarations, guaranteeing fulfilment of the established norms in their units.

The garment industry in India is currently going through significant changes in its organization of production, its size and scale, its labour practices and so on.⁶² It is difficult to attribute these changes to any one factor, particularly to the implementation of codes. A whole host of factors are currently impacting the sector, such as changes in government policy, the improved implementation of existing laws, and macro-level changes in the global market following the phase-out of the Multi-Fibre Arrangement in January 2005.

The nature of the garment sector in India influences the scope and limits of code compliance. The sector is characterized by the seasonal nature of the industry; a complex supply chain; a

⁶⁰ See Appendix I on Core Labour Standards and Legislation in India.

⁶¹ This discussion on the garment sector and on the impact of codes in the garment sector is based on Singh et al. (2003) and Sood and Singh (2001).

⁶² For a comprehensive treatment of changes in the garment sector in India in the post-MFA phase, see Singh et al. (2003).

vast, informal, home-based segment and the prevalence of temporary casual labour; law enforcement inefficiency; a complex and time-consuming redressal system; loopholes in legislation that are misused by employers; insufficient attention to the industry conditions by the government; as well as the absence of effective worker organization or trade unions.

Various kinds of codes have been in existence in the Indian garment sector for the last 12 years. The garment industry normally employs workers on a contract, casual or trainee basis. Home-based work, which is characterized by the poor status of workers who are often women and children, constitutes a major source of employment in the garment sector in India.⁶³ Codes completely bypass these workers. Even assembly line production, which caters to the niche export market that sells to big buyers, also employs a mix of salaried and regular workers on one hand and temporary workers hired through contractors on the other. It is estimated that even in these companies in the so-called formal sector, the regular salaried workers constitute only 15 per cent of the workforce; the rest are temporary casual workers. This labour employment context is an important factor that limits the scope of codes in the garment sector. The number of workers employed on the regular payroll is comparatively low. Informal or unregularized workers are not provided social security benefits even when the laws have provisions for covering them to some extent, depending upon the type of employment.

The codes seek to establish a proper employee-worker relationship and to banish the use of contract labour or bogus apprenticeship schemes. The results are undetermined. A number of factors, including the growing export market for Indian garments, the move toward consolidation of garment manufacturing in large assembly line production within the export sector, the de-reservation of the garment sector through policy and the introduction of codes have all gone hand in hand to contribute to the increase in contractual labour. Whether codes per se have increased this form of labour is difficult to say. But by maintaining a large part of the workforce as temporary casual workers, factories are able to keep costs down by avoiding paying employees' benefits and by being less restricted on the length of the working week, both of which can perhaps improve the competitive worth of Indian garment companies. This is especially true for the garment sector that is catering to the export market, where it was common for suppliers to blame the migratory nature of the workforce and its "unprofessional" work styles for the high turnover rate in this sector.⁶⁴

The competition to win contracts among an increasing number of suppliers has a downward effect on wages and conditions. Garment producers experience this on a daily basis, as they negotiate prices with buyers and importers. In the last few years the costs have been rising but prices have not. The incentive to buyers to shop around for cheap prices of their products is strong, and this results in many suppliers losing out. As buyers load compliance conditions onto suppliers in developing nations, there is little sign that they are willing to pay more to the suppliers in order to cover the increased costs of wages and investment for the codes of compliance. In their interviews, all suppliers expressed a growing concern that buyers are demanding adherence to standards but they are unwilling to pay the commensurate prices. The danger is that any attempt by suppliers to implement codes could see costs rise and orders move to cheaper competitors. Motivation for the effective implementation of buyer-driven codes would essentially then lie in the investment in a long-term, profitable business relationship with the buyers.

Consequently, while a few garment manufacturers may bring about improvements in their premises and working conditions, many are not willing or able to cover the costs. They are resorting to other means of evading regulations. Interviews in Delhi revealed that many

⁶³ It is estimated that in Delhi (which produces 20 per cent of the Indian garment output and employs 7 per cent of the workforce), around 80 per cent of the workers are employed in unregistered informal enterprises. This gives a partial estimate of home-based workers and excludes those who are tied to fabricating units but bring work home, or who carry out specialized tasks, such as hand embroidery or other forms of garment adornment (Singh et al 2003:25).

⁶⁴ Interviews with factory owners and garment sector workers in Delhi were carried out in 2001, 2003 and 2004. Some details are discussed in Sood and Singh (2001), Sood (2003) and Singh et al. (2003).

manufacturers who are working for retailers that insist on codes have stopped hiring women labourers so that they do not have to provide crèche services or make adequate provisions for toilets. Instead, they have started routing their production through homeworkers. A lot of the manufacturing units now have a small workforce engaged mostly for making samples while the actual fabrication is outsourced to homeworkers through labour contractors.

Most often the suppliers that are subjected to constant audits and buyer inspections find loopholes. The appearance of a fully compliant production unit is almost a smokescreen, alternating between masks of compliance and non-compliance. First-aid boxes that might appear to be stored when the unit is being inspected are usually emptied out as soon as auditors leave.⁶⁵ On the days of buyers' visits, toilets that are seen to be available for unrestricted access to workers are locked once they have left. Double bookkeeping exists for compliance auditors, often listing only permanent workers. Moreover, a contractual labour force working on a separate production floor might exit the factory premises from back door exits on the day of an inspection.

No matter how comprehensive a code is, it is merely a paper promise, unless it is effectively monitored to ensure compliance. For credible monitoring systems, there has to be transparency and independence. Codes can only make a difference if they have the backing and trust of the workforce. We found in our field visits that workers often have little knowledge of codes, and when asked about working conditions they usually provide sanitized responses, usually because they are scared or intimidated by management. Monitors should be impartial and workers must be centrally involved in the monitoring process, with a complaints procedure that guarantees their confidentiality. The workers' lack of awareness of codes of conduct may be partly due to the producers' minimal efforts to inform their workers about these codes.

Freedom of association is one of the most controversial issues in codes of conduct. If the aim is to improve wages and conditions for garment workers, their involvement at the heart of the process is crucial. Violations are most likely to be discovered if the workforce knows about the contents of the codes and has a right to complain to someone other than management. Only an effective, independent and representative trade union movement is likely to defend the interests of garment workers. But workers are often not able to organize or associate freely for a number of reasons, such as fear of termination, scepticism about the ability of existing trade unions to redress grievances, and the non-availability of autonomous and independent labour forums, and lack of resources.

Suppliers usually oppose the inclusion of workers associated with trade unions. A vigorous trade union movement acts as a channel for workers' grievances and can improve industrial relations. Codes, therefore, should not be seen as a substitute for trade unionism, replacing a democratic system of collective bargaining with a paternalistic arrangement in which companies hand out benefits to their workers without consulting or empowering them. Also, the living wage in a developing country in a labour-intensive sector like garments further limits the scope for codes to improve workers' conditions. Legal minimum wages often fall short of what is required to feed, clothe and shelter a family. This provides more incentive for workers to work overtime so they can increase their earnings. This additional dependence on management further reduces the scope for workers to organize and stand up for their rights, and to seek full and effective compliance with codes.

Thus it is quite possible that although there might exist a voluntary self-regulatory or civil regulatory regime, like labour codes of conduct in a particular sector, a vast majority of workers remain poor and experience poor working conditions. These workers make substantial contributions to exports and earn foreign exchange but their welfare entitlements are negligible. Home-based workers are subsidizing their countries' exports but cannot claim any health, maternity, education, old-age or retirement benefits. Girl children who drop out of school to

⁶⁵ Based on field visits to garment factories in Delhi in 2003 and 2004.

look after younger siblings and attend to household chores while their mothers do jobs such as stitching garments, embroidering or making incense sticks, are never compensated for their labour. They do not have the option of going to school or learning skills, and consequently turn into homeworkers when they start their own families. Home-based workers subsidize capital costs of exports by working from their homes using their space, water, electricity and family time, and yet for these workers and producers there exist no special rights or priorities in housing schemes. As shown by the discussion on the garment sector above, voluntary codes of conduct have not been able to do much for them.

Civil society and multistakeholder initiatives such as the Clean Clothes Campaign (CCC), though active in India since the 1990s (Ascoly and Zeldenrust 1999), have yet to develop a critical mass. The CCC Task Force for Tamil Nadu that focuses on the textile mills in southern India reported violations of workers' rights, including low wages and long working hours, intimidation and unjust dismissals, and the use of child labour. The CCC Task Force for Tamil Nadu is made up of 30 NGOs and seven trade unions working on labour rights issues in the region.

However, according to Labour Behind the Label (no date), some Indian garment producers who are part of the supply chain of TNCs or large Northern retailers that participate in several so-called ethical, fair or alternative trade initiatives, and who respond to pressures from the anti-sweatshop movement, are making efforts to comply with codes of conduct. As discussed earlier, most of these producers are catering to the export-driven market and hence are under pressure to comply with such codes in order to protect their markets.

In order to facilitate the compliance with labour standards in the supply chains of companies, the Ethical Trading Initiative (ETI)—a tripartite alliance of NGOs, trade union organizations and global companies, funded by the UK Department for International Development and membership contributions⁶⁶—formulated a model code of conduct called the ETI Base Code. Several ETI member companies have included elements of the code in their company codes of conduct, and their suppliers are required to comply with the agreed standards. In this manner, ETI incorporates models of ethical business practices into the supply chain management and, consequently, impacts the lives of the workers in the supply chain. ETI has been in operation in India since the mid-2000s. However, it still has some weaknesses. Like the other stakeholder initiatives operating in India discussed above, it has not yet developed a critical mass and remains focused on the export-driven market. The ETI code has not been able to successfully incorporate home-based workers into its monitoring model and has been able to build only limited trust with workers, thereby restricting their active participation in better implementing the base code. The code does not necessarily ensure a subsistence wage for workers either, in spite of the provision that member countries should pay the existing legal wage.⁶⁷

Civil society pressure

Traditionally, the links between NGOs and businesses in India have not been very strong and hence have had less influence, both positive and negative, on the corporate responsibility discourse in India. Furthermore, there is not much evidence of the participation of other business stakeholders, such as investors and consumers in CSR-related business decisions.

However, there are cases where NGOs and other civil society actors have engaged with the Indian corporate sector in a number of ways. Two of these are “competency-based engagement” (institutions/organizations that work with companies on the basis of their technical competence) and “legitimizing-based engagement” (institutions/organizations that work with companies and thereby endow them with a degree of legitimacy by virtue of their relationship). The most traditional engagement of NGOs with corporations is “public pressure” engagement, the classic

⁶⁶ www.eti2.org.uk/Z/lib/2006/media/CSRAAsiaWkly-Vol2Week2.pdf.

⁶⁷ Based on field visits to ETI garment factories in Delhi.

campaigning organization. India has witnessed some instances of NGOs and other civil society groups campaigning against corporations. A couple of campaigns on CSR initiatives of companies were briefly touched upon in the section on company initiatives above. There have also been cases of anti-corporate campaigning in India in the mining, agricultural, food and beverages, and natural resources sectors. Such CSO-led campaigns have, in many cases, created a kind of pressure on both the public as well as the private sector to pay heed to the demands made thereof and result in the development of an environment conducive to CSR.

One such successful case of anti-corporate campaigning in India worth citing here is the campaign against the infant formula/food industry in India by the Breastfeeding Promotion Network of India (BPNI), an Indian counterpart of the International Baby Food Action Network (IBFAN) and the World Alliance for Breastfeeding Action.

The BPNI in India was formed in 1991 by concerned individuals as part of the international campaign to push infant formula/food companies toward full compliance with the International Code of Marketing of Breastmilk Substitutes (Gupta 2005). The Indian government passed the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act in 1992 (otherwise known as the IMS Act). BPNI undertook massive advocacy efforts to mobilize the support of various influential professional associations like the Indian Academy of Pediatrics and the Indian Medical Association, both of which decided not to receive money from any industry related to infant formula/infant foods (Gupta 2005).

In 1994, BPNI was appointed by the government of India to be the official monitoring agency under the IMS Act charged with initiating legal action against the infant formula industry (Gupta 2005). In 1993 a lawsuit was filed against Johnson and Johnson under the IMS Act. Johnson and Johnson settled the case out of court in 1996 and subsequently announced their withdrawal from the Indian feeding bottle market.⁶⁸ In 1994, a lawsuit was filed against Nestlé in India. BPNI also brought a second separate action against Nestlé and two other companies. In 1996, Nestlé issued a writ petition against the Indian government, challenging the provisions of the IMS Act under which it was being prosecuted. In 1997, threatened with court action, Indian formula manufacturer Wockhardt apologized and made changes. All these cases suggest that BPNI has been very effective in its efforts to put pressure on the public and private sectors to change their policies accordingly.⁶⁹

Considering the social initiatives in the 1990s, it is clear that there has been growth in community and people's organizations in addition to the more traditional charities that provide welfare services, such as hospitals, and homes for the disabled. The agenda and reach of people's organizations has expanded from the 1980s, as discussed above. There are more groups working to raise awareness about people's rights and offering legal aid and legal literacy programmes. Similarly, there are growing numbers of think tanks, research centres, training organizations, advocacy groups, and networks of NGOs working on issues such as the environment, consumer rights, heritage conservation and women's rights, in order to lobby government and to offer support to the sector as a whole.

Although no accurate and authoritative count exists of the number of voluntary organizations, some estimates have put the current number of NGOs at anywhere between one and a half, and two million.⁷⁰ NGOs and the voluntary sector form part of a larger new social movement, the rise of which can be linked to many shifts in Indian political discourse and a changing emphasis from the traditional paternalistic outlook to the belief in participatory and people-centred development. "Empowerment" is the central to the new strategy for decentralized develop-

⁶⁸ See www.ibfan.org, accessed on 23 June 2005.

⁶⁹ See www.bpni.org, accessed on 23 June 2005.

⁷⁰ See statistics compiled by Indian NGOs.com, at www.indianngos.com/ngosection/newcomers/whatisanngo.htm, accessed on 9 December 2005.

ment. This is reflected in the formalization of the *Panchayati Raj* in rural areas and municipal elections for local self-governance in urban areas, through the 73rd and 74th Constitutional Amendments of 1992. A second thrust of the new development strategy is gender sensitization, which highlights the importance of bringing women into development and improving their status. And following the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer and the 1992 United Nations Conference on Environment and Development, or Rio Summit, environment was also put firmly on the agenda for essential social action. Many “green” NGOs became exclusively concerned with raising awareness and monitoring of environmental pollution and destruction.⁷¹

The presence of a large NGO sector funded mostly by the government and foreign agencies has, of late, been having a manifold effect on the corporate-community interface.⁷² It is serving to motivate businesses and catalyse corporate action by creating an awareness of different social problems and issues, and ways of working with communities.

The NGOs act as a watchdog to the corporate sector, especially in the area of environmental pollution where many corporations are culpable. The presence of NGOs also facilitates the engagement of corporations in community programmes. Corporations either donate to NGOs or build partnerships with them to work in particular communities and on particular issues. Toward the late 1980s, the NGO sector itself began to look increasingly to the corporate sector for financial support as it experienced a shortage in foreign aid that was governed by geopolitical considerations and trends in funding. This compromised the NGO sector’s autonomy because of increasing financial dependence on the corporate sector. Nevertheless, a number of new support organizations—such as the National Foundation for India, Child Relief and You, Helpage India, Partners in Change, and the South Asian Fund Raising Group—emerged to link the corporate sector with non-profit groups.

At the time of writing, corporate contributions for public welfare take many different forms, such as through the establishment of trusts and the channelling of money through such trusts; the establishment of mega-institutions for public causes; the direct management of community programmes by companies; the giving of donations on request to individuals or organizations; and the forming of partnerships with government or NGOs for particular projects and sponsorship. The two most prevalent current trends seem to be direct company involvement and forming partnerships with NGOs. A recent example of these trends is the role of the CII and business in the partnering of the reconstruction and rehabilitation work in Bhachau district in the aftermath of the Gujarat earthquake (see box 1).

⁷¹ Over the past decade, some environmental NGOs have become adept at voicing their opinions on issues of concern to them. In the area of CSR, the most notable of these campaigns have covered a broad cross-section, such as issues related to biotechnology, genetically modified organisms and foods, and the quality of air in metropolitan cities. The rights and awareness campaign by Gene Campaign in India (www.genecampaign.org); the clean air campaign by the Centre for Science and Environment (www.cseindia.org/apc-index.htm), and the information-based campaign by Integrated Environmental Strategies (www.epa.gov/ies/india.htm) are some important examples, besides many others, of raising awareness and monitoring of environmental pollution in India.

⁷² In the past few years, foreign donors have been channelling increasing amounts of funds through NGOs for development activities. In 2001–2002, total foreign donations to NGOs amounted to Rs 4,871.9 crore (1 crore = 10 million), an increase of 7.4 per cent from 2000–2001, when donations totalled Rs 4,535.5 crore. In 2000–2001 there was a 15.6 per cent increase from 1999–2000, when NGOs received Rs. 3,924.6 crore through foreign contributions (“NGOs hit pay dirt on the dollar trail”, *The Economic Times* Web site, 20 January 2004, <http://economictimes.indiatimes.com/articleshow/433557.cms>, accessed August 2006). In addition, funds were contributed by private foreign donors, such as the Ford Foundation and Planned Parenthood International, which are governed by the Foreign Contributions Regulation Act. These funds have increased several times over the last 20 years.

Box 1: Post-earthquake Gujarat: Rehabilitation of 26 villages of Bhachau Taluka (\$25 Million CII Project)

The CII undertook the following projects in the 26 allocated villages of Bhachau, Gujarat, that were affected by the 2001 earthquake.

i. Housing and physical infrastructure:

- building low-cost housing facilities for the affected families; and
- building community assets and general infrastructure, including water storage and distribution systems, and public toilets.

ii. Social infrastructure in conjunction with the United Nations Children's Fund (UNICEF):

- education facilities including tent schools with materials subsequently permanent structures;
- health facilities, such as public health centres and subcentres; and
- counselling facilities in villages, where needed, by a trained counsellor.

iii. Economic activity and rehabilitation:

- setting up of facilities such as shops and market infrastructure for trading, and reconstruction of bore and dug wells for agricultural activities.

Source: Handout circulated at the CII National Council Meeting on 3 March 2001. Updated details about the Gujarat project are available at www.ciionline.org/Social-initiatives1080/default.asp#guj, accessed in October 2005.

Trade unions, another key actor within civil society, were active even before India's independence, but have not been very effective in espousing issues of labour standards and rights.

The trade union movement evolved in the organized industrial sector of the economy. However, being in this sector meant that trade unions concerned themselves for a long time with the interests of a very small minority of the working population, ignoring the vast informal sector.⁷³ Shyam Sundar (2003) stated that the focus on organized sector workers, in the form of male, full-time, regular, native, blue-collar workers employed in large-scale factories, was a result of pressures of costs. They consequently paid little or no attention to women, young workers, immigrants, and those working in the informal sector.

The participation of industrial labour in the struggle for independence secured an institutional role for organized labour in Indian politics thereafter (Candland 1995). The post-independence governments, under the state-led planned economy, encouraged the development of politically powerful trade unions. These then served as electoral vehicles for the major political parties, and also helped to avert any large-scale labour movement and industrial unrest, as the mutual rivalry between various political camps resulted in fragmented trade unions and prevented the labour movement as a whole from forming a united front (Breman 1998).

Some perceptions of trade unions in India are very negative. Trade union leaders, Breman (1998) states, have been blamed for being primarily interested in maintaining their own privileges, being manipulative and corrupt, attaching no significance to the improvement of working conditions, and not caring enough for the interests of the rank-and-file. Workers have also been opportunistic and pragmatic in their choice of union, defecting to a rival union if dissatisfied. Breman (1998) argues that the question here is *not* of ideology but of pragmatism, in terms of who offers the most for the lowest price. Many authors have been critical about the way trade unions have traditionally operated in India; according to these authors, trade union

⁷³ The largest sector of the economy at the time of independence was agriculture. In 2004, however, the services sector accounted for 49 per cent, manufacturing 26 per cent and agriculture 25 per cent, respectively, of the economy.

bosses operate as brokers, using their mandate to enter into deals with employers, politicians and rival unions.

An increase in wages, however, has been the most urgent and persistent demand made by the trade union movement since its inception. In recent years the trade unions have also been involved in opposing the privatization of public sector undertakings (PSUs) by resorting to strikes, public demonstrations, court challenges and agitations leading to a series of tripartite negotiations to manage industrial restructuring of PSUs by the government (Candland 1995). Indian trade unions have also been able to successfully resist reform of labour legislation under structural adjustment programmes.

With the advent of economic liberalization in 1991 in India and the resultant emphasis on privatization and integration with the international economy, there has been a de-unionization of industry. This has occurred through the transfer of production from unionized to informal non-unionized workforces such as temporary, casual and contract labourers and home-based workers. This was already taking place, but increased competition accelerated the process. The Director General of Employment and Training in India estimated that employment in the unorganized sector has shown consistently higher growth than the organized sector. The share of unorganized sector employment, which was estimated to be around 93 per cent during 1990s, may have gone up, and may increase further over the coming years (Papola and Sharma 2004).

Some studies present evidence highlighting the increased flexibility in the labour market after the introduction of economic reforms in India. Despite the existence of restrictive labour laws, firms were able to retrench a large number of permanent workers, and thousands of workers were rendered unemployed as many units were closed (Papola and Sharma 2004). Technology, liberalization and globalization, Papola and Sharma (2004) argue, have adversely affected the rights of workers and their bargaining capacity with employers. At the same time, managerial rights are on the rise. Therefore, while trade unions have weakened, the militancy of employers is on the rise (Papola and Sharma 2004). Perhaps it can be argued that the very nature of the traditional union movement is responsible for its current state, and liberalization and globalization have only added to the crisis.

Having conceded that they only began to show interest in unorganized sector workers sometime in the 1980s, all the major central trade union organizations in India, like the All India Trade Union Congress (AITUC), Bhartiya Mazdoor Sangh (BMS), Hind Mazdoor Sabha (HMS), and the Indian National Trade Union Congress (INTUC), have attempted to organize workers in the informal sector (Shyam Sundar 2003). The AITUC organized workers in the *beedi*,⁷⁴ cigar and construction industries. The BMS has formed eight federations, organizing workers in the *beedi*, construction and handloom industries, as well as fishermen and *anganwadi*⁷⁵ workers. The HMS has organized forest workers, workers in brick kiln units and rickshaw pullers in Punjab, and fishermen in Tamil Nadu (Shyam Sundar 2003).

Furthermore, new trade unions have been created specifically to organize informal sector workers. A small initiative in 1972 to organize women workers led to the formation of the Self-Employed Women's Association (SEWA) as a trade union.⁷⁶ SEWA organizes homeworkers, street vendors and refuse collectors, among others, and has more than 200,000 members, covering four states in India. SEWA is registered as a trade union, but also offers services like microcredit, vocational and training programmes, and pensions (Shyam Sundar 2003).

⁷⁴ A hand-rolled cigarette using *tendu patta* (leaves of *Diospyros melanoxylon*), manufactured in cottage/micro industries.

⁷⁵ *Anganwadi* literally means courtyard play centre in Hindi. The government of India launched the Integrated Child Development Services programme in 1975, popularly known as the *Anganwadi* programme. *Anganwadis* are childcare centres, located within the village or the slum area and the focal point for the delivery of services—such as supplementary nutrition, education, immunizations and preventive medicine—at the community level to children below six years of age, pregnant and nursing mothers, and adolescent girls. For more information, see <http://wcd.nic.in/udisha/htm/anganwadi.htm>.

⁷⁶ See www.sewa.org, accessed on 24 June 2005.

During the last two decades, Indian workers and labour organizers have been devising new trade union strategies. Recently, the emphasis has been on advancing trade union solidarity, independence and democracy, organizing informal sector workers, and promoting workers' ownership, management plans and labour education programmes (Candland 1995). Shyam Sundar (2003) also states that

a crisis in the traditional trade union movement and the rise of new social movements has helped to create new experiments, innovations in organizing workers and society. Union renewal is visible: they are now more relevant to workers and society than ever in the past. The renewal is a result of introspection, changes in its organizing strategies, focus, positions and so on. Unions have begun to work with the unorganized and unorganizable either on their own or with the help of other social organizations. They have created new models of representation like occupational unionism model, community unionism model, social movement unionism model, and so on.

Another initiative, the National Centre for Labour (NCL), is an apex body of independent trade unions working in the unorganized sector of labour. Through its constituent members, the NCL represents the interests of workers in a wide range of industries and has about 625,000 members spread over 10 states in India (RoyChowdhury 2003).

However, given the scale and intensity of the problems, the potential for such efforts to address labour issues and the degradation of the environment is quite limited. As mentioned earlier, the achievements are diluted further because of numerous countervailing forces that exist within civil society actors and corporations themselves. It is clear from the various examples discussed above that the present context is more conducive for making Indian industry competitive and less on making it socially responsible.

The regulatory environment in India

Social, work and wage-related legislation

The prevailing condition of labour is strongly related to the effectiveness of laws designed to protect labour. Corporate codes were initiated to ensure minimum labour standards and were often intended to overcome the lacunae of labour legislation. The scope of intervention in the Indian labour market cannot be discussed without reference to existing labour laws and the (in)efficiency of their implementation. The process of formulation and implementation of codes in India has to recognize the complexity – and ineffectiveness – of Indian labour legislation. This is important since neither legal nor voluntary approaches can be a substitute for the other. Both are needed, and they can be complementary. Voluntary codes make binding regulation more likely to succeed because they can build consensus around some core rights. As companies introduce new management practices to implement codes, they develop business expertise that will also be essential to the successful implementation of binding regulations. The interconnection between codes and laws in India is also essential because the institutions of the labour market are such that coverage is usually restricted on the basis of establishment size. These laws exclude a vast majority of workers: for example, all those who work from home either as self-employed, independent or contract workers, or those who work as out-workers without the security of contracts or association with others in the same trade. Thus, labour laws that protect job and employment security, or that are brought to service in the event of a dispute, are not applicable in the case of contract or home-based work. Therefore, voluntary codes could play a potentially significant role for such workers. However, as discussed above, the irony is that there are far too many challenges for the supplier company to implement codes for home-based and contract workers.

The trends in employment in India suggest that, with the rate of employment growth slowing in the public or the organized industrial sector of the economy, most new employment is being generated in the unorganized sector. The share of casual employment is increasing in the workforce. Unorganized sector employment, which includes agriculture, home-based work,

roadside vendors and the small service sector, is being presented as a panacea for the jobless growth that India is experiencing. But it does not empower labour, and the vulnerabilities of the working poor are becoming more visible. Labour laws that offer employment security by facilitating dispute resolution are not applicable in the case of contract or home-based work.⁷⁷ The implementation of labour laws in India has become difficult not only because of home-based workers but also because of the multiplicity of labour laws that exist.

It has been a tradition in India that the central government⁷⁸ enacts legislation and the state governments assume responsibility for implementation, although states are also authorized to enact laws on all aspects of labour. This dual structure of labour law administration prevents the creation of a unified labour policy. It also results in a multiplicity of labour laws, non-uniformity in definitions and standards, and centre-state disputes on labour legislation, all of which add to the complexity and ineffectiveness of labour legislation. The implementation of labour laws is also hindered by political differences between the centre and the states. Ideological differences between state governments often lead to disputes over the implementation of labour policy. A large number of laws were enacted in independent India. Premised in the framework of the directive principles, the four main branches of labour laws in the country provide a large number of central labour statutes. These laws can be classified into labour relations, wages, social security and conditions of work. Labour, being a subject in the concurrent list of the Indian Constitution, has led to some states and union territories enacting their own laws to suit local conditions and the realities of power. So, although India can be viewed as a society where labour is overprotected by law, there are widespread and flagrant violations of these laws. Looking at the working conditions of labourers outside the industrialized organized sector, it is apparent that hardly any labour law exists for unorganized employment (Patel and Desai 1995; Saini 1998). The discussion on the garment sector above confirms that the multiplicity of minimum wages, working hours and overtime provisions applicable to companies restrict the implementation of codes.

It is interesting to note that a large number of labour laws were enacted in independent India to operationalize the constitutional vision of social justice and equity. The labour bureaucracy was entrusted with the role of ensuring compliance with these laws (Bhattacharjee 2001). In the developed world, especially in the United Kingdom, voluntary labour law frameworks have been nurtured, particularly until the beginning of the Thatcher regime. In the Indian system, the central government has reserved for itself tremendous discretionary powers in certain aspects of labour-justice dispensation, especially in the area of labour relations law. The Indian judiciary has, undoubtedly, played a salutary role in the progressive articulation and interpretation of the scope of these laws.

Conciliation and adjudication are two key subsystems provided in Indian labour relations law. These are deeply intertwined. The former is the less visible stage of the latter, because the government's decision on which labour cases are to be referred for adjudication usually has its genesis in the outcome of the conciliation proceedings. The key assumption in a conciliation process is that a conciliator is a neutral third party to ensure fair and amicable solutions. Unfortunately, the conciliators have not always done their duty with integrity to ensure that parties enter into fair settlements, and have instead allowed themselves to be used to disguise a corrupt alliance between vested interest groups (Dhavan 1989). Bureaucracy has contributed to corrupting institutions to a point where they are not able to deliver substantive justice in the Indian political economy. This has led to the emergence of rent seekers in the economy.

In India, there are currently nearly 40 labour laws of significance. These laws are fairly progressive and guarantee the protection of labour rights. Labour legislation applies to all factories regardless of factory size or whether the factory is registered with the Factories Act.

⁷⁷ In India, the Industrial Employment Standing Orders Act, 1946, and the Industrial Disputes Act (IDA), 1947, provide employment security. Standing orders are mandatory for all organizations with 100 or more workers (50 or more in some Indian states) and hence not applicable to home-based workers. The IDA excludes piece-rate workers and temporary workers.

⁷⁸ Central government refers to the federal government, and state government refers to local government for individual states.

Appendix 1 gives an overview of social, work and wage-related legislation in India. The legislation covers a wide range of issues and is quite comprehensive in terms of ensuring good working conditions, safety at work and social security for workers. As can be seen, casual workers are included in most of the legislation, contrary to popular belief. The Factories Act, 1948, applies to all workers, including contract and piece rate. Being registered under the Factories Act is not a prerequisite for coverage under most laws. Most laws also apply to establishments (involved in providing services such as transport, electricity, construction and maintenance of buildings) and manufacturing units. In particular, wage-related legislation ensures that all types of enterprises and their workers are covered.

The laws that were introduced to protect labour rights are now being as accused of making the Indian labour market inflexible, and reform of these laws is being called for. But labour reforms in India are highly contested. Corporate interests maintain that economic reforms require the dilution of existing labour laws and standards, and perceive workers' rights as an obstacle to competitiveness in the global economy as well as to attracting foreign investment. Trade unions and labour rights movements, on the other hand, believe that the assault on labour rights has intensified under liberalization and globalization, and contest any further dilution of these rights.

Core labour standards have been enshrined in seven ILO conventions. These standards are considered to be fundamental labour standards that guarantee basic labour rights and protect labour from exploitation by employers and from suppressive state policies. Broadly, the core standards include: freedom of association and the right to collective bargaining; the abolition of forced and slave labour; equal remuneration for equal work; non-discrimination at work; and the prohibition of child labour. As can be seen from the description above, the Indian legal framework on labour appears to have been significantly influenced by the recommendations and conventions of the ILO, and the government of India has so far ratified core standard conventions on forced labour, abolition of forced labour, equal remuneration, and discrimination (employment and occupation). The ILO conventions that constitute core standards, and the corresponding legislation in India, are discussed in detail in appendix 2.

The above discussion suggests that despite the existence of rigorous labour laws in the Indian context, implementation leaves much to be desired. This gives ample scope for voluntary initiatives to improve workplace conditions. However, the scope of intervention in the labour market is strongly influenced by the characteristic features of this market and the changes as a result of economic reforms in India. As discussed earlier, the overall trend in the Indian economy is toward increasing its competitive strength, either in terms of removing the protection of labour by law or in terms of the reorganization of production that uses newer forms of labour contracts which minimize labour costs rather than improving the social conditions of workers.

Environmental regulation

Over the years, the government of India has promulgated a number of acts, rules and notifications for the preservation and protection of the environment. The Water Act, 1974, was enacted to address environmental issues at the national level. It was under this act that the Central Pollution Control Board and the State Pollution Control Boards were set up. The Environment Protection Act was passed in 1986 to address a whole range of environmental problems. The Ministry of Environment and Forests issued a National Conservation Strategy and Policy Statement on Environment and Development in 1992, which recognized the role of the government, NGOs, industry and the public in preserving resources and protecting the environment while ensuring developmental activities. In addition to the growth of a regulatory and legislative framework, the 1992 Policy Statement for Abatement of Pollution aimed to promote voluntary initiatives for the protection and improvement of the environment through the use of incentives, either fiscal or financial, to promote cleaner technologies and production practices. In 1993, the Environment Action Programme was initiated to prepare a blueprint for

integrating environmental concerns into the development process. Emphasis was given to the promotion of a decentralized system and organizational strengthening for better environmental management.⁷⁹

An evaluation of the environmental policy and the institutional mechanism gives a picture of the duplication of functions and poor coordination among agencies. Greater effort is needed to adopt a decentralized approach to managing natural resources and the environment. Such an approach would ensure an increased participation of stakeholders in decision making. A restructuring of the current regulatory framework related to the environment is probably needed. The existing legislation has not worked in many instances.⁸⁰ Enforcement mechanisms need to be strengthened to ensure better performance. The enforcement machinery is weak, and it is made completely ineffective by the closed, non-transparent system of governance that prevails in India. The monitoring and enforcement of pollution norms from each factory is important but rarely feasible in a country like India.

What have the institutional mechanism and legal framework done to the state of India's environment? On the five priority areas of land degradation, biodiversity, air pollution (with special reference to vehicular pollution in cities), management of freshwater resources and hazardous waste management, *India: State of the Environment 2001* (TERI 2001) does not paint a very comforting scenario. There has been a loss of valuable nutrients and lower foodgrain production because of land degradation. A large number of species are either endangered or on the verge of extinction, both of which can be attributed to the lack of policy and institutional mechanisms for biodiversity conservation. The availability of freshwater is going to be the most pressing problem in India over the coming decades, and there has been a significant increase in the quantities of hazardous waste and municipal solid wastes generated in India over the last few decades. Overall, the current regulatory environment has performed dismally on the environment front in India, and the challenges for voluntary endeavours as a panacea (if at all) have increased manifold.

Counter-trends

There is a need for voluntary efforts by corporations on labour- and environment-related issues in India as a result of the poor performance of the prevalent regulatory framework on these issues. However, as mentioned earlier in the discussion on CSR in India, the domestic drivers supporting self-regulation by industries are rather weak. Some hope may lie in the trusteeship theory of Gandhi, or may emerge from within companies where each corporate leader/manager makes a significant difference by adopting more socially responsible corporate policies and practices. Such a transformation, however, confronts several obstacles described below, which relate not only to the inherent weakness of societal pressures that typically drive CSR, but also to the contemporary reality of corporate management and governance, as well as market-friendly regulation.

A review of various surveys on the perception of businesses suggests that CSR is more an individual trait than a business agenda (PiC 2004), and that CEOs continue to be key players in promoting CSR initiatives. Most businesses prefer to retain control of CSR initiatives, and partnerships with other stakeholders are quite limited (Sundar 2000). Nevertheless, partner-

⁷⁹ For a complete list of legislation see *India: State of the Environment 2001* (TERI 2001).

⁸⁰ The way in which the Indian government dealt with the Bhopal gas tragedy makes this point very clear. The government agreed to a mere \$470 million as compensation for the chemical disaster, billed as the worst in the world. What made matters more unacceptable was the government's apathy in distributing this money to the victims. The Central Bureau of Investigation, acting as the government of India's prosecutor, proposed diluting the charges against Warren Anderson, Chairman of Union Carbide at the time the disaster occurred. These charges were dropped in 1989, and restored by the Indian Supreme Court in its October 1991 decision. Another decision was also taken by the Group of Ministers on Bhopal on 7 June 2002 to distribute the more than Rs. 13.6 billion (approximately \$280 million)—which is the balance of the settlement fund—among the residents of the 20 municipal wards, who had until then been considered unexposed by the Indian government. The implementation of this decision will violate the rights of the residents of the 36 affected wards whose compensation has been far from adequate and who have been denied their legal rights to the interest on their compensation amounts. The Indian government proposes to use part of this fund to rehabilitate the soil and groundwater contaminated by the reckless dumping of toxic chemicals by Union Carbide. Legally and morally, such rehabilitation is the responsibility of the Union Carbide Corporation (now Dow Chemicals).

ships between NGOs and business corporations for social development initiatives have increased (PiC 2004).

At the moment, however, the most important agenda for firms in India is facing global competition following the opening up of the Indian economy. While CSR could be a significant instrument in this agenda (Nadkarni 2004), it is confronted with a somewhat hostile environment, as reflected in the government's regulatory and policy framework (discussed in the earlier section on the regulatory environment in India), and in the dominant management culture and trends in corporate governance. The corporate management and corporate governance issues facing CSR in India today are discussed below.

Corporate management

Some analysts highlight the peculiar character of Indian business in which corporate management practices are rather weak (Das 2002). This has the result of limiting the scope of voluntary social initiatives, even in large corporations. The concept of social responsibility has to some extent been internalized by corporate management in North America, Western Europe and Japan. The notion that non-propertied managers are responsible not only to shareholders but also to a host of other stakeholder groups like consumers, workers, local community, government and society, are gaining ground. There is a new class of non-propertied managers who owe their position more to their managerial ability rather than their family ties.

In India there has been a dichotomy between corporate ownership and management control (Das 2002). In the North, most of the modern giant corporations, having started as family enterprises, have gradually outgrown the limits of family control and have developed into corporations with widely dispersed shareholdings and professional management (Das 2002). Such a process, as discussed in section 2, has not yet taken place in India in a meaningful way, where the majority of the large private sector companies continue to be controlled by families or groups, and major decisions regarding investments, diversification, expansion, pricing and hiring of key personnel continue to be made within that circle (Das 2002).⁸¹ Their contribution in the areas of research and development, barring a few exceptions, has also not been comparable with the percentage invested by other economies, even in the newly industrializing countries.

Much depends upon the real and effective functioning of the management boards of companies, as the board is the supreme policy-making and executive body, and the issues concerning corporate transparency and accountability, which are intricately linked with the notion of CSR, could be positively impacted by the board's effective functioning. But it will be a while before this becomes a fact in most of the larger public limited companies in India. In such cases the board is a shadow king and has been largely replaced by the executive management. Indian corporate management, as a whole, still has a long way to go. The entrepreneurial class, which relies on professional managers and systems, as opposed to the domination of corporations by families, has still to emerge.

Corporate governance

Following the Asian crisis in 1997, the issue of corporate governance acquired prominence among industry associations in India. For the FICCI, corporate governance involves value enhancement of a company for its shareholders and all other stakeholders (FICCI and SEBI 2002). However, looking at the specifics within the concept, one finds a focus only on the appropriate management and control structures of a company, and the rules relating to power relations between owners and the board of directors, management and auditors.⁸² The only

⁸¹ A study of the top 100 listed private companies carried out by Omkar Goswami, chief economist of CII, reveals that most companies have retired corporate executives, bureaucrats, family members and friends as executive directors. These people do not want to have a say in the company itself. This seems to be a fairly common practice, which leads to the conclusion that there are hardly any de facto non-executive directors, let alone committed non-executive directors (Goswami 2000).

⁸² It is interesting to note that in the FICCI and SEBI discussion paper, CSR hardly gets a mention. In a 21-page document, there are only 44 words on corporate social responsibility, and these only express the need to be aware of CSR (FICCI and SEBI 2002).

stakeholders addressed are the shareholders. The other equally important stakeholders—employees, creditors, customers and last, but not least, the community—do not appear as actors whose stakeholder value has to be increased. It is clear that corporate governance in India is still in its infancy.

There is an absence of a significant community of shareholders or concerned investors to voice their opinions on corporate practices in India. The reality in India is far removed from the perceptions of corporate governance advocated by several committees and taskforces established in the country.⁸³ The investigations by the Central Bureau of Investigation, the Enforcement Directorate and other agencies into the involvement of some of the large industrial houses in shady and illegal activities, such as violations of the foreign exchange regulations or making clandestine payments to some parliamentarians, has invited criticism from industry leaders.⁸⁴ Various apex industry organizations termed it “human rights violations” and “excesses” by the investigating agencies. They demanded that a differentiation be made between criminal charges and alleged economic irregularities, and between technical violations of outmoded and obsolete laws, and offences involving common and hardened criminals. They reasoned that the actions of the investigating agencies would lead to a fear psychosis, slowing down industrial growth, eroding people’s confidence in economic liberalization, and scaring away overseas investors at this crucial stage of globalization (Godbole 1996a, 1996b).

A reference should be made to two recommendations of the report of the working group on the Companies Act, 1956, to highlight the nature of the regulation that is being proposed for the Indian corporate sector in the name of economic liberalization and corporate governance. The working group had recommended that the Companies Act should not mandate the requirement for audit, nomination or remuneration committees. Instead, it should be voluntary, with three apex industry associations—CII, FICCI and ASSOCHAM—playing a catalytic role. It is interesting to see that this is being recommended at a time when stringent measures have been implemented in a number of countries on these matters.⁸⁵ In another recommendation, the working group has proposed that the provisions under section 233B concerning mandatory cost audits at the directive of the department of the company’s affairs should be removed. However, the requirement to maintain cost records should continue as before. Both of these recommendations are a step backward for corporate governance.

Overall, the current practices of Indian business do not augur well for socially responsible corporate ethics. Such practices are an important countervailing force that hinder the adoption of voluntary initiatives by businesses to improve the conditions of labour and the environment in India. In fact, the retrograde nature of corporate ethics in India compels us to question the very motivation of corporations toward self-regulation.

It is quite possible that corporations adopt voluntary labour codes simply as a defensive strategy to guard against civil society pressure and any resultant government legislative intervention. In such cases corporate actions are not proactive responses to a perceived social responsibility but rather “reputation management”—that is, defending profits and market share by massaging a company’s image (UNRISD 2000). The experience of corporate governance, discussed above, supports this reading of socially responsible corporate behaviour in India.

⁸³ These include the Task Force of the CII in April 1997, Committee of the Securities and Exchange Board of India in 1999, the Advisory Group of the Reserve Bank of India (RBI) in March 2001, and the RBI Consultative Group of Directors of Banks/Financial Institutions in April 2002. The areas covered by these committees include the size, composition, charter, responsibilities and meetings of the board of directors; tenure of directors; age limit for appointment as directors; liability of directors; accountability to shareholders and stakeholders; access to information; nominee directors and their remuneration; committee on grievances of shareholders; executive versus non-executive chairmen of the board; audit, remuneration and nomination committees; board procedures; accounting standards and financial reporting; disclosure and transparency; auditor independence; responsibilities of individual and institutional shareholders; and matters relating to the implementation of the canons of corporate governance.

⁸⁴ In 1996 a London-based non-resident Indian accused some Indian parliamentarians of allegedly cheating him by not fulfilling their promise of getting him newsprint and a paper pulp supply contract in India in lieu of clandestine payments.

⁸⁵ A survey by the United States General Accounting Office in 1996 of the Fortune 1000 publicly traded companies revealed that at least 90 per cent of these companies required an independent audit committee as a matter of policy. The Cadbury Committee indicated that over half of the top 250 UK listed companies in The Times 1000 had audit committees (Naryanaswamy 1996).

5. Conclusion

The conventional approach to economic regulation is often referred to as command-and-control regulation because it sets uniform standards for firms and does not allow much flexibility in the means of achieving goals. For example, environmental regulation tends to force firms to take on equal shares of the pollution control burden. Labour regulation imposes uniform and fixed standards across industries, regions and firms.

As discussed earlier, the experience with such regulation in India has not been very successful. At the same time, the market-oriented reforms initiated since the early 1990s have also been weakening certain state institutions and discrediting the idea of command-and-control regulation. This has led to the adoption of more market-friendly regulation, or regulation by professionally managed “independent-neutral” bodies. However, the experience with such regulation so far has not been successful either. This failure is an outcome of both an unwillingness on the part of the bureaucracy to give up its powers, and the hesitation of the corporate sector to assume responsibility. The government abolished the Telecommunication Regulatory Authority of India after it realized that the authority had too much independence, and then enacted a new law for its reconstitution. The Electricity Regulatory Commissions, established at the central and the state levels have fared no better, with a large number of them becoming frustrated over the inaction and apathy on the part of power utilities—in both public and private sectors—and the state governments (Godbole 2002). The powers given to the Securities Exchange Board of India are insignificant compared to its American counterpart, the Securities Exchange Commission. With its limited investigative and penal powers, the Securities Exchange Board of India has been ineffective as a market regulator. Corporate houses often have a hostile attitude toward regulation (*The Economic Times* 2002).

The limited success of regulatory initiatives puts an even greater responsibility on voluntary approaches as the way forward to achieve social goals. This responsibility increases in a policy environment where, instead of strengthening enforcement agencies, a greater reliance by the government on private enterprises is often proposed. However, as the above discussion on corporate actions and market-friendly regulations in India suggests, the increased private sector participation will need more vigilance from the government, not less. In other words, there is a need for a countervailing power outside the government-industry nexus. Only a vibrant civil society can perform this role.

Can voluntarism work?

What are the lessons from history supporting the role of voluntary action in strengthening and building rights? Put differently, if self-regulation was the best means to ensure respect for environmental and labour rights, one would expect the number of abuses attributable to companies to have diminished over the years. A general assessment of global outcomes suggests that, on the contrary, there has been an increase in violation of environmental and labour rights over the last two decades or so, particularly after the global trend toward reduced state intervention, weak unionization and the increased scope of private sector activity. It would also be no further from the truth to say that at the level of nation-states, the lesson from history is that voluntarism rarely causes states to respect human rights. In the last 50 years, both cooperation and enforcement have been required to protect communities’ rights. If this is true, then the question would be: how can voluntarism be the answer for companies?

By definition, voluntary initiatives apply only to those who accept them. A company might accept a code of conduct because of a genuine commitment to its principles, or because the company’s reputation—and therefore its business—is at stake. Even where there is a genuine commitment, voluntary codes may not be respected if their principles clash with other more powerful commercial interests. If it makes good commercial sense to respect human rights, then market forces will naturally ensure compliance. It is not self-evident from history, however, that human rights norms are always “good for business”. International regulations may, therefore, play a role in ensuring that companies respect labour and environmental rights. This will be

possible if the international rules are clear enough to strengthen the obligations of the state with regard to the fulfilment of labour and environmental rights and where appropriate, these rules should place direct legal obligations on the companies.

What is being suggested here is that international rules do not reduce the importance of national regulation. On the contrary, international law has to depend on states for enforcement. If international law holds that companies must respect human rights, it is primarily up to states to make sure this happens through their domestic laws. Although international rules are not a substitute for national law or regulation, they can help harmonize rules at a time when there is weak national regulation. They can act as a common reference point for national law, setting benchmarks, drawing attention to core minimum requirements and clearly establishing what is permissible.

The important question, then, to ask is: how are these international rules to be constructed? A careful look at corporate social responsibility, based on voluntary initiatives, may provide an answer. In some contexts, voluntary initiatives can constitute stepping stones for enforceable international rules. If we look carefully, we find that the companies that currently respond to civil society pressure to fulfil environmental and labour standards are, in reality, neither taking “voluntary action” nor complying with some given public regulation. They are in fact responding to an organic “civil regulatory environment”. Civil regulation of Northern TNCs, as discussed by Murphy and Bendell (1997) and Zadek (2001), has, in the main, been driven by civil society organizations based in the North.⁸⁶ Over the last decade, the cumulative effects of civil action have been to create a civil regulatory environment that increasingly covers codes of conduct, commitments to transparency, and corporate governance. This civil regulation works by leadership, and *not* necessarily because being “good” is good for business. By accepting the civil regulatory framework, niche companies draw upon the energies of civil processes in revitalizing and refocusing their own operations, and ultimately in enhancing their financial performance. Civil society can leverage companies by influencing the thinking of the time, in terms of better environmental and labour standards, which the business community follows in exploiting markets for financial gains. Companies that are at the cutting edge of technology, and which provide global leadership to their industries, will use the civil society synergy to their best advantage. This obviously will exclude large numbers of companies in developing countries, thereby limiting the scope and significance of voluntary initiatives in these countries.

In sum, neither legal nor voluntary approaches should substitute the other. Both are needed, and they can be complementary (Utting 2005). There is synergy between the two. Voluntary codes can make binding regulation more likely to succeed because the voluntary regulation has started to build consensus, or at least an understanding, around some core rights. Of course, a willing consent to such norms will be helpful whenever binding regulations are introduced in the future. As companies introduce new management practices to implement codes, they will develop business expertise that will also be essential for the successful implementation of binding regulations in the future.

The challenge is therefore to continue to build a vibrant set of civil institutions capable of feeding the corporate community and their markets with signals of success that orient companies toward social and environmental “goods”, and away from the equivalent “bads”. If civil action cannot influence markets ethically, then it is unlikely to be effective in turning around the corporate community, except perhaps at the margins. This mutually enforcing relation between vibrant civil society institutions or a socially participative citizen voice, and an international civil regulatory environment, leading to binding and effective state regulation that ensures environmental and labour rights, has important lessons, even for directly creating an effective public regulation. Since governments are increasingly influenced by the needs of the

⁸⁶ This is not to say that Southern civil society organizations have not played an active role in the formation of this civil regulatory environment. It is true, however, that the key drivers for the recent responses by TNCs have tended to be in the Northern consumer markets rather than their points of production in the South. This has heightened the importance of Northern civil society organizations, since they have leverage over consumers and investors linked to these markets.

corporate community, new laws that constrain (or reward) corporate behaviour are only likely to be established if they align with (or at least do not undermine) competitive opportunities for the major market players.

With the current state of the global economy, the reduction of state intervention in the economy and the weakening of the traditional unions, it is the voluntary initiatives ultimately emerging as enforceable rules that seem to be an option worth pursuing, despite their complexities. The irony is that such civil action can deliver real development benefits but, at the same time, can also strengthen multinational domination of markets and economies. Moreover, this new civil regulation has brought with it the new so-called multistakeholder alliances and partnerships, such as those between workers in industrialized countries and Northern NGOs on one hand, and workers in developing countries on the other. This creates complex and divisive dynamics among communities that have historically worked together.

Judicial activism

Besides the various voluntary methods discussed above to influence CSR discourse and practices, another method used in recent years in India is judicial activism, brought about through public interest litigation. For example, the Supreme Court of India ruled on 28 July 1998 that all buses, three-wheelers and taxis—which are used as public transport—manufactured before 1991 would have to convert to compressed natural gas by 31 March 2000. For those public transport vehicles manufactured later, the deadline was 31 March 2001. Public interest litigation was filed in the Supreme Court regarding the air quality in Delhi, and the case was argued with the help of NGOs like CSE. The CSE had conducted research that established the connection between vehicular pollution in India and outdated engine technology, poor fuel quality, defective transportation planning and bad maintenance of vehicles on the road. This is a one-of-a-kind case where environmental performance of the automobile industry, through the quality of engine technology and type of fuel, is regulated through a Supreme Court Order. This “cleaning up the city” campaign also led the Supreme Court of India to order the closure or relocation of industries within Delhi. There have been several other instances in which the Supreme Court has intervened because, in its judgment, the executive failed to do its job. On the face of it, there is every reason to support the court intervention. However, going into the history of public interest litigation, and an examination of the nature of judgments delivered in recent years, makes matters much more complex.

In the past 25 years, the power of the courts has expanded. The process began in the early 1980s when the judiciary enlarged the courts’ jurisdiction and demystified the legal process to provide rights to those who had, until then, been beyond the courts’ ambit. Through the initiation of public interest litigation in the 1980s, the courts wanted to support those who were marginalized: bonded labourers, those incarcerated under trial, labouring children, migrant labour and women in custodial institutions. Public interest litigation that altered the connotations of “access to justice” allowed the courts to invite and collaborate with, especially, a complex of social movements, social activists, socially committed academics and investigative journalists in constructing its constituency.

By the 1990s, the courts were propelled into tackling corruption in public life and addressing environmental concerns, especially in the cities, and to this end they gained a further lease of legitimized power. At the same time, the courts had to also respond to the new “development agenda” of the 1990s, making India globally competitive, and fulfilling the needs of foreign capital, as well as the domestic rich and the emerging, but very vocal, successful and globally integrated professional class. The dominant social ethos also changed in the 1990s, where power and wealth were given a new lease of life in the name of efficiency, competitiveness and global standards. In the meantime, however, the courts were also confronted with conflicting interests, and with having to decide which of the interests ought to prevail. The right of over 30 per cent of the residents of Delhi to shelter in the slum settlements was pitted against the need to “clean up” the city. The right to a relatively unpolluted environment by means of the relocation of

industries was pitted against the right of the working classes to their livelihood. The right to life, livelihood and protection from immiseration and exploitation of communities displaced along the Narmada river was pitted against the enormous sums of money already expended on the dam. Even the right of the victims of the Bhopal gas disaster to receive compensation was pitted against the bureaucratic imperative of winding up the processing of claims. Increasingly, the constituency on whose behalf the enhancement of judicial power had been strengthened began to emerge, as the result of the exercise of that power.

CSR in India

Civil society action for responsible business practices can be looked at in three ways. The first perspective is of those who are wholly committed to trade liberalization as the means to deliver economic growth and development, which they believe will ultimately solve social problems, enhance global well-being and protect the environment. They lobby hard for a secure rules-based system to ensure free trade and investment, and argue that ethical issues are best solved by companies acting voluntarily, whether individually or collectively. The second view is of those who believe that planned development can best deliver social goals, such as the end to exploitative child labour. They argue for more coherent rules of the game determined by governments, preferably those that are democratically elected. They are deeply sceptical about corporate social initiatives, either deeming them to be a cloak to hide Western protectionism, a smokescreen masking the deepening problems created by globalization and transnational power, or as a weak palliative for these problems. The third view is of those who want and predict real development benefits from new rules governing corporate behaviour, both to improve standards for workers and communities in the South and to prevent companies investing internationally to escape stricter laws at home. They support voluntary initiatives as the best available option, hoping that these voluntary initiatives will ultimately emerge as enforceable rules.

In the Indian context, there are two broad categories of companies that are most likely to adopt codes of conduct in India or participate in certification schemes: those that export to Northern countries, and those that form part of the supply chain of North-based corporations or TNCs that have adopted a code. Companies that manufacture entirely for domestic consumption usually avoid adopting labour codes because of the absence of consumer pressure. Recent international attention in regard to labour codes has almost entirely focused on firms that fall within a TNC supply chain. Perhaps as a natural consequence of their visibility and vulnerability, TNCs producing consumer goods with high-value brands have been in the spotlight for not following best labour practices. Their products are distributed worldwide, and their reputations are easily damaged by allegations of unethical labour practices.

The sectors where most labour codes have been adopted include garments, sports goods, carpets and toys. There is a larger incentive within these sectors, and also greater financial viability for large manufacturing companies to pursue voluntary initiatives. If small and medium-sized companies adopt labour codes, it is usually because they are compelled to do so by virtue of being suppliers or subcontractors of TNCs. At present, the scope of voluntary labour codes in developing countries like India is very narrow.

Given the highly competitive export market, and the tight margins under which most small and medium-sized suppliers operate, it is not usually viable for them to undertake an improvement in labour conditions without external financial support. A possible consequence of promoting labour standards throughout the supply chain is that smaller suppliers may be dropped due to their inability to bear the costs of compliance, and production contracts may switch to larger national chains.

Although there has been commendable effort in the field of corporate social responsibility in India, the guiding philosophy has been a sense of “returning to society” rather than making CSR an integral part of corporate strategy through which companies reap its embedded value.

In many cases, corporate involvement in the social sector has been guided by the commitment of top management. Corporate social responsibility, in terms of workers' rights, is barely being discussed in India. Employee care is just employer benevolence. Environmental care and total quality management, on the other hand, have been driven by market forces as well as by legislation in India. However, compliance and enforcement are slack. Voluntary initiatives for environmental protection basically emerge from international competition and pressure from civil society, and have been restricted to large firms. This helps to explain the lack of formalized impact assessment of CSR initiatives in India. Companies tend to see CSR as an additional activity of the human relations or public relations departments.

Overall, the limits of regulatory initiatives, the changing nature of judicial activism, the current policy environment of greater reliance by the government on private enterprise, weakening unionization, and weak drivers of CSR in India—all place an even greater responsibility on voluntary approaches as an alternative means of building social rights. For civil regulation to work its way forward in India in terms of its reach, scope and steady movement toward strengthening enforceable regulation requires the strengthening of democratic institutions in India. There is a need to create space for various actors to operate and provide support and resistance, as required. Even government will have to be re-engineered so that its regulatory and monitoring role can be reinforced under civil society vigilance. In other words the re-engineering of the government will also require active defence or advocacy of constitutional rights, from courts to civil society institutions. To get the maximum benefits from these instruments of social change, their limits have also to be kept in mind.

Appendix 1: Overview of Social, Work and Wage-Related Legislation

| Legislation | Objectives | Requires Factories Act | Coverage | Eligibility/casual workers status |
|---|--|------------------------|---|--|
| SOCIAL SECTOR | | | | |
| Workmen's Compensation Act, 1923 | Compensation of workmen in cases of industrial accident/ occupational disease resulting in disablement or death | Yes | Persons employed in factories, mines, plantations, railways and other establishments | Benefits are payable in respect of work related to injuries to workers/dependents covered by the Employees' State Insurance Act |
| Employees' State Insurance (ESI) Act, 1948 | Health care, cash benefits in the case of sickness, maternity and employment injury | Yes | Factories/establishments to which the law is made applicable by the government; excludes seasonal factories | Employees drawing wages not exceeding Rs. 65,000 per month; every employee is entitled, including casual and temporary workers |
| Employees' Provident Funds and Miscellaneous Provisions Act, 1952 | Old age or survivor's benefits: Compulsory Provident Fund; Family Pension and Deposit Linked Insurance | Yes | Factories/establishments employing 20 or more people (listed in the Schedule under the Factory Act) and other establishments notified by central government | Employees drawing wages not exceeding Rs. 65,000 per month; contract labour included, but casual workers and apprentices are excluded |
| Maternity Benefit Act, 1961 | Maternity protection before and after childbirth | Yes | Factories, mines, plantations, commercial and other establishments to which the law is extended | There is no wage limit for coverage, provided the woman is not covered by the ESI Act |
| Payment of Gratuity Act, 1972 | Payment of gratuity on ceasing to hold office | Yes | Factories, mines, plantations, railways, commercial and other establishments to which the law is extended | Five years continuous service is required for entitlement |
| Industrial Disputes Act, 1947 | Unemployment benefits—to secure "industrial peace and harmony" | No | Every industrial establishment, irrespective of the number of workmen employed | Workmen as defined under the act; includes contract labour, anyone hired to carry out manual skilled or unskilled work, but excludes piece rate, daily and temporary workers |
| WORK CONDITIONS | | | | |
| Trade Unions Act, 1926 | To provide for registration of trade unions to facilitate legal organization of labour to enable collective bargaining | No | Minimum of seven workers can form a trade union; a trade union may be formed for imposing restrictions on trade or business | No specific criterion given; any person above the age of 15 can be a member |
| Industrial Employment (Standing Orders) Act, 1946 | "Benevolent social legislation" aims to achieve a laudable objective for the protection of labour | Yes | Applies to every industrial establishment where 100 or more workmen were employed in the past 12 months | Applies to all skilled and unskilled workers |

| Legislation | Objectives | Requires Factories Act | Coverage | Eligibility/casual workers status |
|-----------------------------------|---|---------------------------------------|---|---|
| Factories Act, 1948 | To regulate working conditions in factories and ensure basic requirements for safety, health and welfare | Not applicable | 10 or more workers in establishments with electricity and 20 or more without electricity | All workers, including contract and piece rate |
| Contract Labour Act, 1970 | To regulate the employment of contract labour to place it on par with direct employed labour | Yes | Every establishment where 20 or more workmen are employed as contract labour | Does not apply to establishments working on an intermittent or casual basis |
| Interstate Migrants Act, 1979 | To regulate employment; safeguard interests and provide for conditions of service | No | Five or more interstate migrant workmen employed on any day in the preceding 12 months | All interstate migrant workers, whether employed by establishment or contractor |
| Labour Laws (exemption) Act, 1988 | To regulate smaller enterprises and their labour; defines criterion for returns and registers | No | Defines "small establishments" as those in which not less than 10 and not more than 19 people are employed; "very small establishments" are defined as those in which not more than nine are employed | |
| WAGE-RELATED | | | | |
| Minimum Wages Act, 1948 | To provide minimum statutory wages to prevent exploitation; provides for maximum daily working hours, weekly rest days, and so on | No | Act covers every employee in any scheduled employment, including out-workers | Applicable to home-based workers |
| Payment of Bonus Act, 1965 | To impose statutory liability upon employers to pay bonus; defines principles of bonus | No | Applicable to every factory | All categories of workers—skilled, unskilled, managerial, supervisory—are entitled. Includes daily wage workers as well |
| Equal Remuneration Act, 1976 | Payment of equal remuneration to men and women workers for same work or work of a similar nature | No | Now applicable to almost every kind of establishment | Covers all employees |

Source: Singh et al. 2003.

Appendix 2: Core Labour Standards and Legislation

Freedom of Association and Protection of the Right to Organize (C87)

C87 states that workers and employers may freely exercise their right to form associations or affiliate with existing ones for furthering and defending their interests. Freedom of association is guaranteed as a fundamental right under the Indian Constitution. The Indian Trade Unions Act, 1926, grants both workers and employers freedom to form associations. Under the act, any seven or more workers of an establishment are permitted to form and register a trade union. The act includes provisions relating to the rights and obligations of unions.

Right to Organize and Collective Bargaining Convention (C98)

This convention has two aspects: the right to organize and to collective bargaining. The first is concerned with protecting workers and their employment against acts of anti-union discrimination, and the second deals with mechanisms for developing agreements between workers and employers on the basis of collective bargaining. The former is covered by the Indian Trade Unions Act, 1926, but there is no legislation in respect of the latter.

According to the Indian Trade Unions Act, 1926, a registered trade union can claim protection and file a civil suit for any discrimination arising due to bona fide trade union activities (Sections 17/18). Therefore, the right to organize is supposed to be protected by law. However, in reality, the incidence of unfair labour practices by employers is high, and employees are often terminated for active participation in union activities. The processing of industrial conflict through legal channels has led to several individual cases being brought to the courts. As on 31 March 1997, a total of 447,195 labour cases were pending before various labour courts and tribunals in India, and most were individual termination cases, including those for participation in union activities (Saini 1999). In only three of 21 cases, the dismissal of union leaders for participating in union activities was withdrawn by management, and in two of the remaining 18 cases, workers were not reinstated even after the Supreme Court of India found their dismissal to be wrongful, because the employers ensured that the decrees of reinstatement remained unimplemented (Saini 1999).

In regard to collective bargaining, no legislation has been created in India to promote collective agreements between employers' and workers' organizations with a view to regulating terms and conditions of employment. The enactment of the Industrial Disputes Act (IDA), 1947, effectively terminated the development of collective bargaining in India. The dispute settlement mechanism of the IDA consists of joint committees of labour and management (a "works committee"), conciliation officers who are from the government, and labour courts and tribunals, which are adjudicatory bodies. All industrial disputes are channelled toward the courts, rather than toward a bargaining procedure. When a dispute is raised, the conciliation officer intervenes for its settlement. The IDA envisages compulsory adjudication of disputes on the recommendation of the government when the concerned parties fail to reach an agreement. The adjudication process is time consuming. On average, adjudication of collective demand cases have taken 37 to 49 months (Saini 1999), which causes a great deal of hardship to workers. While the law permits voluntary arbitration of disputes before they are referred for adjudication, collective bargaining does not flourish under the threat of adjudication. Nath (1997, cited in Venkata Ratnam 1998:998) says that the real reason for preventing the growth of collective bargaining in India seems to be linked to

the interest of the government not to allow the right of collective bargaining even to industrial workers in government's departmental undertakings like the Railways, Post and Telecommunications, Central Public Works Department etc. Their pay etc. is decided by the government, on the basis of pay commission recommendations and not through collective bargaining.

Forced Labour Convention (C29)

C29 defines forced labour as work extracted from any person under the menace of any penalty and for which the person has not offered himself voluntarily. India has ratified this convention abolishing forced labour. In India, one kind of forced labour, namely “bonded” labour, was abolished under The Bonded Labour System (Abolition) Act, 1976. However, it continues to exist in some parts of rural India, largely due to widespread poverty, the ignorance of the law and the age-old social and economic dominance of landlords. The absence of proper and sustained supervision prevents this law from attaining its objectives. For instance, Venkata Ratnam (1998) describes the case of a bonded labourer who was freed by a government officer from a landlord in Bihar. The labourer was also supplied with a couple of buffaloes to enable him to earn a livelihood. When the buffaloes died, economic hardship and social ostracism at the instigation of the landlord forced him to return to bondage in even harsher conditions of employment. Thus the realities on the ground in rural India make it difficult to implement anti-bondage laws.

Abolition of Forced Labour Convention (C105)

C105 focuses on forced labour as a means of political coercion or education, or as punishment for holding or expressing political views. India has not ratified this convention. There is no specific legislation against forced labour as defined in C105, although article 23 of the Constitution prohibits traffic in human beings, *begar*⁸⁷ and other similar forms of forced labour.

Equal Remuneration Convention (C100)

The purpose of this convention is to eliminate gender discrimination in remuneration and provide equal pay to men and women for work of equal value. India has ratified this convention, and the Indian Constitution upholds the principle of gender equality. Article 39(d) of the Directive Principles of State Policy in the Constitution directs states toward a policy of equal pay for equal work for men and women. The Equal Remuneration Act (ERA), 1976, stipulates that equal wages should be paid to men and women for the same value of work. In principle, the ERA is a comprehensive act that covers organized and unorganized sectors, domestic and multinational enterprises and regular, temporary and casual workers. But in reality, the concept of work equality is loosely defined, allowing the payment of low wages to women workers. Furthermore, the ERA excludes self-employed persons, which leaves women workers in farming and unorganized non-agricultural activities outside the purview of the act (Heggade 1998). The labour inspection system is weak and corrupt, and is unable to enforce compliance with the ERA. The availability of a large pool of non-unionized female labour, particularly in unorganized sectors, makes it easy for employers to flout gender equality in wages.⁸⁸

Discrimination (Employment and Occupation) Convention (C111)

This convention defines discrimination as any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or reducing equality of opportunity in employment or occupation. However, the convention permits special measures of protection for persons who are in need of such assistance. There is no single legislation dealing with discrimination, although discrimination on specific grounds is covered by separate laws. In general, Article 16 of the Constitution of India upholds equality of opportunity in matters of public employment as a

⁸⁷ Forced labour, corvee or compulsory, unpaid labor demanded by a lord or king.

⁸⁸ Acharya (1996, cited in Heggade 1998:1038) points out, “there are systemic problems within the labour machinery itself. It is small in size compared to the labour force and is ill-equipped to keep vigil across tens of thousands of establishments. One can argue that this would be true for any country since this arm of the bureaucracy is never very large anywhere; but then it is expected that the workers, their unions and/or other public support groups will bring matters to the fore. This, however, does not happen here since the need for jobs far exceeds the need to practice gender justice within it. The slack labour market (and the consequent high un/under employment rates), large illiteracy and poverty, prevent such matters to reach the law”.

fundamental right, while giving individual states the right to make special provisions for disadvantaged sections of society.

Minimum Age Convention (C138)

This convention provides that the minimum age for employment should be 14 years for general work, and 18 years for hazardous work. The government has taken several steps to reduce child labour in India. Article 24 of the Constitution of India recognizes the right against exploitation to be a fundamental right for every child. It prohibits employment of children below the age of 14 years in factories, mines or any hazardous jobs. The Factories Act, 1948, prohibits the employment of a child below the age of 14 years in any factory. The Child Labour (Prohibition and Regulation) Act, 1986, bans employment of children of less than 14 years in specified occupations and processes and regulates conditions of work in employment where it is permitted. Several other acts prohibit the employment of children below the age of 14 years in mines, merchant ships, and *beedi* and cigar factories. Enforcement of child labour legislation is a complex task. First, the scope of the Child Labour (Prohibition and Regulation) Act is not comprehensive enough. For instance, laws prohibiting child labour apply to employment of children in sheds, factories, workshops or other such establishments, but do not cover the employment of children in home production centres where specialized crafts are passed from one generation to the next. It follows that industries that are dominated by household production, like carpet weaving, cigarette and *beedi* production, employ maximum child labour. The informal nature of production in these industries is driven by the economic compulsions of children and their families and sustained by their ignorance of labour laws. Moreover, in many cases, the children are not just earning to support their families; they are also acquiring skills that they will use as adults to earn a living. Enforcement of a ban on child labour requires extensive monitoring of home/family-based production centres and other informal work areas. Furthermore, child labour is a socioeconomic problem that cannot simply be eradicated by a legally sanctioned ban. Rather, it should be reduced by providing education, increasing awareness and addressing the factors that lead to the employment of children. Child labour is a poverty-driven phenomenon. The incidence of child labour is observed to be higher in states with a larger population living below the poverty line. A high incidence of child labour is accompanied by high dropout rates in schools. Child labour is essentially a function of the socioeconomic development of an area and parents' approach to their children.⁸⁹ Ultimately, without providing supplementary income for the family and adequate educational and vocational training for the child, it may not be possible to ensure the elimination of child labour.

In addition to the above core standards, the ILO prescribes ones that improve the quality of the work environment. The most important of these relate to occupational safety and wages.

The Occupational Safety and Health Convention (C155)

This convention aims to prevent accidents and injury linked to work by minimizing the hazards inherent in the working environment. At present, there is no comprehensive national law covering occupational safety and health. However, there are specific laws for specific sectors. The Factories Act, 1948, laid down minimum standards for ensuring the safety, health and welfare of factory workers. The Shops and Establishments Act, the Mines Act, the Motor Transport Workers Act and the Plantations Labour Act provide similar legislation for non-factory workplaces. These acts are comprehensive and cover many aspects of labour welfare like working hours, rest intervals, weekly holidays, leave benefits, health and safety norms, and the employment of women and children. The Workers Compensation Act, 1923, stipulates that an employer is liable to pay compensation to a worker for any injury or occupational illness arising out of, or in the course of, work.

The creation of good working conditions is impeded by the socioeconomic compulsions of employees who allow employers to neglect even basic labour standards. A lack of awareness of

⁸⁹ See <http://labour.nic.in/cwl/welcome.html>, accessed on 24 June 2005.

workers' basic rights and low unionization, coupled with overwhelming poverty and the absence of alternate sources of livelihood, allows employers to flout labour laws.

The Minimum Wage Fixing Convention (C131)

This convention provides for the establishment of a system of setting minimum wages, and revising it periodically. This wage is expected to be set on the basis of the needs of workers, the cost of living, social security benefits, level of economic development and productivity. Minimum wage setting in India is regulated by the Minimum Wages Act, 1948. The act provides for fixing and enforcing minimum wages for scheduled employment. Once an employer has been notified of a minimum wage, he or she is obliged to meet it. Although the act is a central legislation, either state governments or the central government, as appropriate, are responsible for setting up advisory bodies to recommend minimum wages. Minimum wages show a wide variation across states, and within each state they vary across different types of employment.

The act provides for legal action against employers who do not pay the prescribed minimum wage. The Supreme Court has observed that "the employees are entitled to a minimum wage at all times under all circumstances. An employer who cannot pay this minimum wage has no right to engage labour and no justification to run the industry" (Das 1998:335). Despite the apex court's support for minimum wage legislation, enforcement of this act is fraught with problems, particularly in remote rural areas of the country. In areas where there is no awareness of minimum wage provisions and where workers are not organized into unions, it is easy for employers to get away with paying less than the minimum wage. Employees may not report their actual wages for fear of losing their jobs. Venkata Ratnam (1998) describes a case of intimidation of labour by employers over the issue of the payment of minimum wages. The Labour Commissioner ensured that a tobacco merchant's workers were paid minimum wages, but as soon as the officer and his staff left, hired goons of the employers forced the workers to hand back the payments. Workers were threatened that they would lose their jobs, and their families would be endangered if they persisted in reporting this matter to the authorities.

Social oppression and poverty prevent labour, particularly non-unionized labour, from seeking the help of enforcement officials. The administrative and financial powers of the enforcement mechanism are usually too weak to ensure compliance with minimum wage legislation. Inspectorates for labour legislation are hampered by a shortage of personnel, inadequate training and lack of funds. Lack of transport facilities seriously hampers inspection activities in remote rural areas. For instance, Chandra (1999) observes that inspectors tend to depend on employers for transport, an arrangement that ultimately leads to collusion between employers and inspectors. In agricultural areas, inspectors are often appointed from land-owning families that further increase their bias toward employers. Rural labour inspectors concentrate on villages that are served by public transport, and some of them even fill out their forms without leaving their offices.

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Credit Rating Information Services of India Limited (CRISIL)
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www.devaltd.org

The Energy and Resource Institute (TERI) Business Council for Sustainable Development, India
www.teri.res.in/core/index.htm

Environmental Information Centre (a joint project of FICCI, ICICI and USAID)
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