Measuring Business Responsibility Disclosures of Indian Companies: A Data-Driven Approach to Influence Action

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I. Responsible Business Landscape in India

Post-liberalization of the 1990s, the Indian private sector has seen tremendous growth powering India's economic development engine.[1] An over-dependence on the private sector has led to a power and resource inequality. This has translated to India now having its highest levels of income inequality since income tax was first levied in 1922.[2] With a Gini coefficient of 51, India is among one of the most unequal countries in Asia.[3] High economic inequality, a global risk, is connected to trends such as unemployment and social instability.[4] Businesses that do not address these risks put the disadvantaged sections of society at risk, which in turn might create risk to such businesses.

This widening gap between economic growth and a rising private sector on the one hand and increasing marginalization and poverty on the other hand triggered a discourse on responsible business in India. In the years 2008–2009, the Indian Institute of Corporate Affairs (IICA) and a German technical agency, Gesellschaft für Internationale Zusammenarbeit (GiZ), started a project to draft the National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business (NVGs).[5] In 2011, the Ministry of Corporate Affairs published these guidelines. The NVGs are a set of nine principles governing various dimensions of responsible business covering issues such as ethics, human rights, sustainable consumption and production, consumer rights, social

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[1] UNCTAD, *Twenty Years of India's Liberalization – Experiences and Lessons* (2012), http://unctad.org/en/PublicationsLibrary/osg2012d1_en.pdf (accessed 17 September 2017).

[2] Lucas Chancel and Thomas Piketty, 'Indian income inequality, 1922–2014: From British Raj to Billionaire Raj?' (July 2017), http://wid.world/document/chancelpiketty2017widworld/ (accessed 8 October 2017).

[3] IMF, 'Sharing the Growth Dividend: Analysis of Inequality in Asia' (March 2016), https://www.imf.org/en/Publications/WP/Issues/2016/12/31/Sharing-the-Growth-Dividend-Analysis-of-Inequality-in-Asia-43767 (accessed 10 October 2017).

[4] World Economic Forum, *The Global Risks Report 2017*, http://www3.weforum.org/docs/GRR17_Report_web.pdf (accessed 17 September 2017).

[5] Ministry of Corporate Affairs, Government of India, 'National Voluntary Guidelines on Social, Environmental & Economic Responsibilities of Business' (July 2011) http://www.mca.gov.in/Ministry/latestnews/National_Voluntary_Guidelines_2011_12jul2011.pdf (accessed 17 September 2017).

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inclusion, gender equality and stakeholder engagement. This was (and continues to be) the first official business responsibility framework in India. The Ministry of Corporate Affairs has undertaken a process of updating the NVGs to integrate wider sustainable development and business responsibility landscapes.[6] However, the revised NVGs are yet to be released.

In 2012, India's stock market regulator, the Securities Exchange Board of India (SEBI), made business responsibility reporting (BRR) disclosures mandatory for the top 100 companies based on market capitalization listed on the National Stock Exchange and the Bombay Stock Exchange (BSE).[7] The SEBI mandate to include BRR in the annual report of the top 100 listed entities was in consideration of a larger interest of public disclosure from an environment, social and governance (ESG) perspective. In November 2015, SEBI extended the applicability of BRR to the top 500 companies listed on Indian stock exchanges based on market capitalization.[8]

In 2013, the Indian parliament passed the new Companies Act that included, among other changes, a new provision on corporate social responsibility (CSR) spending. The CSR provision requires Indian companies having net worth of INR5 billion [about USD75 million] or more, or turnover of INR10 billion [about USD150 million] or more or a net profit of INR50 million [about USD0.75 million] or more during any financial year to spend 2 per cent of their 3-year average annual net profit on CSR activities in each financial year.[9] A schedule in the Companies Act provides an illustrative list of themes and focus areas for which companies could use their CSR funds.[10]

While the NVGs take a rights-based approach and cover multiple dimensions of business responsibility, the 2 per cent CSR spending law takes a transactional approach outside the remit of the core business impact. The public narrative on business responsibility in India has worryingly inclined towards 2 per cent CSR spending with a multitude of CSR awards constituted and bestowed upon companies.[11] This state of affairs required a shift from the 2 per cent CSR spending to a more holistic business responsibility concept. There was also a need to restrict CSR events and forums from being presented as comprehensive responsible business platforms. Against this context, this piece focuses on how a narrow CSR-driven narrative, despite a broader responsible business framework in the form of the NVGs and SEBI's BRR, led to the creation of the India Responsible Business Index (IRBI) by civil society organizations. Section II describes the genesis of IRBI, its composition and methodology. Section III captures the key findings from the first two editions of IRBI. Section IV describes how a

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6 Indian Institute of Corporate Affairs, 'Updating the National Voluntary Guidelines on Social, Environmental & Economic Responsibilities of Business (NVGs)' (2016), http://iica.in/images/Draft%20Notice%20for%20IICA%20website.pdf (accessed 17 September 2017).

7 SEBI, 'Business Responsibility Reports – Circular' (13 August 2012), http://www.sebi.gov.in/legal/circulars/aug-2012/business-responsibility-reports_23245.html (accessed 17 September 2017).

8 SEBI, 'Press Release – SEBI Board Meeting' (30 November 2015), http://www.sebi.gov.in/media/press-releases/nov-2015/sebi-board-meeting_31145.html (accessed 17 September 2017).

9 Companies Act 2013, sec 135.

10 Schedule VII of the Companies Act lists these activities, which include 'eradication of extreme hunger and poverty, promotion of education, promoting gender equality', etc.

11 Sudeep Chakravarty, 'The Business of Corporate Social Responsibility', *Mint* (6 July 2017), http://www.livemint.com/Opinion/1DBHvVEU4m2ZSx8qi8FKCP/The-business-of-corporate-social-responsibility.html (accessed 17 September 2017).

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multi-stakeholder forum helps in engaging with key influencers and stakeholders in the responsible business eco-system with the IRBI data.

II. India Responsible Business Index

A. Genesis

The idea of IRBI emerged from the belief that disclosure of information by businesses aims to improve public understanding of corporate activities, policies and performance on development issues. Business responsibility reports are an important source of disclosures by Indian companies on responsible policies and practices. In the absence of any tool to analyse these disclosures and assess their quality, the idea of creating an index evolved. The primary objective of IRBI is to encourage companies to disclose more information and in turn create incentives for companies to align their policies with the intent of the NVGs.

The index is an outcome of a collaborative partnership formed in 2015 between several civil society actors: Corporate Responsibility Watch, Oxfam India, Change Alliance, Praxis Institute for Participatory Practices (Praxis) and Partners in Change.

B. Elements

In the first two editions of the IRBI (2014–2015 and 2015–2016), the focus was on NVG principles 3, 4, 5 and 8 covering social inclusion aspects. Other aspects of the NVGs include environment, ethics and consumer protection, some of which may be included in future editions of IRBI. Principle 3 covers all policies and practices relating to the dignity and well-being of employees in the workplace and in the supply chain. Principle 4 acknowledges the responsibility of businesses to proactively engage with and respond to stakeholders that are disadvantaged, vulnerable and marginalized. Principle 5 takes into account the corporate responsibility to respect human rights under Pillar II of the UN Guiding Principles on Business and Human Rights. Principle 8 of the NVGs encourages businesses to support inclusive growth and equitable development. For the purpose of IRBI, these principles are translated into five elements: (i) non-discrimination in the workplace, (ii) respecting employees' dignity and human rights, (iii) community development, (iv) inclusiveness in supply chain, and (v) community as business stakeholders.

The IRBI measures the in-principle acceptance of NVG principles associated with the five elements through companies' policy commitment in the public domain. The index assesses mechanisms that companies disclose for implementing the policies. The IRBI also assesses what information a company shares, based on its own evaluations to determine whether the policies are functional. The IRBI takes the information provided by the companies in the public domain as true. It does not validate the disclosures with actual implementation on ground.

C. Methodology

The IRBI relies on four primary sources of information: business responsibility reports, annual reports, corporate social responsibility/sustainability reports, and policies available on company websites.

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For the first two editions of the index, the top 100 companies listed on the BSE, as per market capitalization as on the last day of the previous fiscal year, were considered.

Inspired by the BRR format, a questionnaire was developed focusing on the IRBI's five elements. A skilled team of researchers collects the information based on the questionnaire. The datasheets are peer-reviewed by the research team and shared with each company for feedback and comments. The datasheets are updated based on the input received and then processed for indexation. It is worth noting that in 2016, 33 per cent of the surveyed companies responded to the datasheets with comments, compared with 25 per cent in 2015. This is an encouraging sign.

III. Findings

A. Non-discrimination in the workplace

This element recognizes workplace diversity as an asset. This is in alignment with NVG principle 3, which states: 'Businesses should provide and maintain equal opportunities at the time of recruitment as well as during employment, irrespective of caste, creed, gender, race, religion, disability or sexual orientation.' This element assesses whether a company endorses non-discriminatory employment practices and promotes diversity in the workplace.

Over 80 per cent of companies in IRBI 2016 disclosed their policy commitment to non-discrimination in recruitment.[12] In 2016, over 50 per cent of companies also disclosed systems through which they ensure non-discrimination in recruitment, a 25 per cent increase over 2015. However, policy disclosures on diversity in board saw a decreasing trend from 59 companies in 2015 to 43 companies in 2016, a 27 per cent decline.

While all 100 companies disclosed gender disaggregated data on board diversity in 2016, none disclosed any board diversity data disaggregated based on disability, caste, tribe, etc. This could clearly be attributed to the change in SEBI listing obligation in 2015, making it compulsory to have at least one woman director on the board of listed companies.[13] In the case of workforce diversity, over 90 companies disclosed data disaggregated based on gender in 2015 and in 2016. Just 16 companies did so based on caste and tribe in 2016, a sharp 30 per cent decline from 2015. Public sector undertakings (PSUs) invariably made employee disclosures based on caste and tribe and this decline can be attributed to the reduction in number of PSUs in the sample size from 29 in 2015 to 19 in 2016.

B. Respecting employees' dignity and human rights

This element of the IRBI recognizes employees' right to dignity and human rights. This is aligned with NVG principle 3, which states: 'Businesses should promote the well-being of all employees engaged within a business or in its value chain.' It also aligns

[12] Praxis, Oxfam India and Corporate Responsibility Watch, 'Making Growth Inclusive – 2017: Analysing Policies, Disclosures and Mechanisms of Top 100 Companies', http://www.responsiblebiz.org/wp-content/uploads/2017/08/India-Responsible-Business-Index-2017-Web-Version-1.pdf (accessed 17 September 2017).

[13] SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015, http://www.responsiblebiz.org/wp-content/uploads/2017/08/India-Responsible-Business-Index-2017-Web-Version-1.pdf (accessed 17 September 2017).

with NVG principle 5, which provides: 'Businesses should respect and promote human rights.' This element assesses whether a company is responsible towards creating an enabling environment for workers with policies in place regarding no forced labour, non-violence, fair living wages, freedom of association and employee health and safety measures.

The IRBI finds an increasing trend among companies to disclose policies and systems regarding employees' health and safety, with 91 companies disclosing such information in 2016 compared with 82 companies in 2015. Similarly, 72 companies disclosed policies on prohibition of forced labour in 2016 compared with 62 in 2015. However, the IRBI also found that fair living wages is a policy that only 16 companies recognized in 2016, although this number is higher in comparison with 2015 when only 11 companies had disclosed this. Only 18 companies had a policy for providing social benefits like provident fund and medical benefits to their contractual employees in 2016.

C. Community development

This element recognizes the potential of CSR efforts towards community development. It includes aspects of policy, mechanisms, monitoring, assessment and role of community in the same. This is in alignment with NVG principle 8, which provides: 'Businesses should support inclusive growth and equitable development.' This element assesses the process of stakeholder engagement, assessment and evaluation of CSR policies and associated implementation mechanisms.

The 2016 IRBI found 85 companies identifying and specifying some distinct vulnerable identities as target stakeholders with whom companies plan to implement their CSR initiatives. This is almost a 20 per cent increase from 2015. The number of companies reporting on independent impact assessment of CSR projects was merely 14 in 2016, a 36 per cent decrease against 2015. In IRBI 2016, 90 companies disclosed distribution of expenses on CSR across themes, more than double from 2015. However, only one company disclosed having systems in place for stakeholder consultation for formulating a CSR policy. This shows that while the top 100 companies are getting better at identifying stakeholders and reporting expenses, they are retracting from impact assessment and stakeholder consultation.

D. Inclusiveness in the supply chain

This element holds business accountable to its role in creating an environment that is conducive to respecting the rights of workers throughout the supply chain. It draws upon NVG principle 4, which states: 'Businesses should respect the interests of, and be responsive towards all stakeholders.' This element also covers NVG principle 3 (which extends business responsibility to promote wellbeing to 'all employees engaged within a business or in its value chain') and NVG principle 5 ('Businesses should, within their sphere of influence, promote the awareness and realization of human rights across their value chain').

In the 2016 IRBI, 79 companies recognized the extension of their policy on child labour to their supply chains, a 20 per cent increase from 2015. Only 29 companies in the IRBI 2016 extended their employment policy to their supply chains, of which merely

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15 companies have disclosed having a monitoring system. As few as six companies had systems to assess issues related to workers' rights in supply chains in 2016, a 25 per cent decline compared with 2015. A distribution of company scores from 2015 and 2016 across four quartiles[14] shows that 27 companies score over the second quartile (above 0.5) in 2016, almost double compared with 12 companies in 2015. This is a positive trend of companies moving upwards on the index.

E. Community as business stakeholders

This IRBI element is based on the principle that business recognizes vulnerable communities (such as women, children, persons with disabilities and scheduled castes/tribes) as stakeholders and is responsible and transparent about impact of its processes on these communities. This element covers aspects of community as stakeholders across NVG principles 4, 5 and 8, that is, to 'recognize and respect the human rights of all relevant stakeholders and groups' and be 'especially sensitive to local concerns'. The element assesses judicious use of local resources, offering local employment, compliance with the principle of 'free, prior and informed consent' (FPIC), and recognition and assessment of positive and negative impacts on communities.

The 2016 IRBI found that the need for conducting an impact assessment on the community was recognized by 72 companies, the same number as in 2015. In contrast, only two companies recognized the principle of FPIC in 2016, and none reported to having a system to enforce it. In 2016, 95 companies did not recognize their responsibility to provide similar or better opportunities to project affected people, similar to the number in 2015. Only three companies had a policy on transparent communication about compensation to be paid to the project affected population in 2016, again similar to the figure in 2015.

The 'community as a business stakeholder' element has seen the least change in scores across two years. Over 90 per cent of companies remained in the first quartile[15] in 2016 regarding this element, and no companies crossed beyond the second quartile. Putting this in contrast to the community development element where a majority of companies scored above the second quartile, this indicates that engaging community as stakeholders remains the most ignored area of business responsibility by all companies.

The IRBI data of the first two years show that the discourse in India about business responsibility towards the communities unfortunately remains within the boundaries of CSR spending. To be able to bring about a visible change in the low scoring elements of supply chain and community as business stakeholders, a collective dialogue and engagement with key stakeholders is crucial. The next section focuses on how to drive such an engagement.

IV. Building a Data-Driven Narrative

Making IRBI data and analysis available is the first step towards driving change. Engaging key stakeholders and influencers on the IRBI to develop a new narrative on responsible business is an important next step. A multi-stakeholder platform, the India

[14] Four quartiles represented on a scale of 0–1 as 0–0.25, 0.25–0.5, 0.5–0.75 and 0.75–1.

[15] First quartile: 0–0.25.

Responsible Business Forum (IRBF), is designed to help build a data-driven narrative around responsible business. IRBF facilitates dialogue between civil society, private sector, government, academia, investors and media to promote greater transparency and accountability in the business sector.

IRBF facilitates engagement with government agencies and regulators such as IICA and SEBI from an advocacy point of view. IRBF helps present civil society's request on strengthening business responsibility framework to the regulatory bodies. It also engages with investors and stock exchanges to highlight gaps and to influence them to demand more accountability from companies. Investors, especially overseas, consider ESG risks as an investment criteria and demand disclosures from companies. Stock exchanges have an important role in making ESG data available to investors. Media plays a critical role in creating awareness about these gaps and reaches out to a wider audience. IRBF also uses social media and digital platforms to expand the scope of this engagement.[16]

V. Conclusion

A more responsible private sector is a step towards an inclusive society and building a humane economy. The efforts taken by Indian regulators in setting up mechanisms for making businesses transparent and accountable is commendable. However, there is still a long way to go, as the quality of disclosures is low. The first two editions of the IRBI in 2015 and 2016 show that the top 100 companies are confined within their comfort zone of workplace and CSR-based commitments. Companies are yet to take their responsibility in community engagement and in the supply chain seriously.

The role of data is significant in measuring performance and identifying gaps. Engaging in a dialogue with key influencers helps to put a spotlight on these gaps. A strong narrative on responsible business is very important to break away from the narrow mind-set of 2 per cent CSR spending towards adopting a rights-based approach to business responsibility. Oxfam's Behind the Brands scorecard[17] – which assesses the agricultural sourcing policies of the world's 10 largest food and beverage companies – inspired the IRBI design and Oxfam's campaigning strategies influenced the engagement approach adopted by IRBF. The evolution of Corporate Human Rights Benchmark (CHRB)[18] reaffirms our index-based approach towards business responsibility. Having desired quality disclosures and policies will only take us half way towards real on-ground impacts. It will take concerted actions on the part of communities, workers, consumers and investors to demand responsible business models and practices to drive change.

[16] Articles and blogs written by sector experts at www.responsiblebiz.org/blogs; news and updates on responsible business curated on https://www.facebook.com/ResponsibleBiz/ and the twitter feed at https://twitter.com/bizresponsible.

[17] Oxfam, 'Behind the Brands', https://www.behindthebrands.org/company-scorecard/ (accessed 17 September 2017).

[18] 'Corporate Human Rights Benchmark', https://www.corporatebenchmark.org/ (accessed 17 September 2017).

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