

Corporate Social Responsibility: Between Legal and Voluntariness

Virginia López Nevárez

Universidad de Occidente

Paúl P. Harris 2684 norte, Fraccionamiento Fuentes 2000

Los Mochis, Ahome, Sinaloa

C.P. 81223

México

Abstract

Corporate Social Responsibility (CSR) has been appearing more frequently on the schedules of companies due to a number of social, environmental, and economic existing in society pressures. Therefore, it has demanded an active involvement of businesses and a greater commitment of all stakeholders. It was established aimed at understanding the different perspectives and concepts of CSR, to analyze the commitment and voluntary decision of the companies in its application from the sponsoring agencies of CSR. The results report that the legal framework and the smooth nature of CSR involves new roles and relationships between governments and companies, which must go beyond voluntarily bound by systems management indicators socially responsible.

Keywords: Corporate Social Responsibility, Volunteer, Legal.

Introduction

It can be seen that several studies on corporate social responsibility (CSR) have been developed in response to various variables. On the one hand, the problem that occurs in the transformation to a social management requires profound knowledge, it is also important to know the concept of social responsibility and as applied in organizations, as well as is necessary to analyze the prospects they have generated about the voluntary nature of CSR, depending on the actions taken under the awareness of social responsibility.

The aim of this paper is to analyze the perspective of the voluntary implementation of corporate social responsibility and involved in their implementation. To do a tour is done by the historical development, reviewing the different forms it has taken social responsibility in the company. In a second stage, it delves into the concept of CSR based on the proposals of the promoters and management institutions. The relationships between the legal framework and the application of the principles of social responsibility, ending with the analysis of the institutions promoting CSR, in the case of Mexico, the Mexican Center for Philanthropy established.

1. Evolution of Social Responsibility in Business

Corporate Social Responsibility (CSR) but comes from an American and British tradition that dates back to the early twentieth century (Raufflet, 2010), authors like Carroll (1999) considered the origin of the term with the publication of Social Book Responsibilities of The Businessman Howard Bowen in 1953. Historically, for Raufflet (2010), the concept of corporate responsibility arises in the early twentieth century in the United States, categorized by a first period between 1880 and 1929, known as RSE induced. At this stage, CSR is represented by legal responses requested by small business owners, citizens and consumers against abuses generated by the (monopolistic consortia and oligopolistic) dominant economic positions, which generates a mobilization of political representatives and development of antitrust laws as the 1890 Sherman Antitrust Act.

Between 30 and 60 of the twentieth century, society in general faces, situations of extreme misery and settlement of inequalities, acquired by the economic crisis (the crisis of 29) and, ten years later, by the remnants of the second world war (1939 - 1945); on the other hand, "steady economic growth, fueled by mass consumption based on the Fordist pact, founded on the negotiation of working conditions and access to a standard of living increase for employees of companies" experienced (Raufflet, 2010, p. 26).

In the early fifties there is an early version of corporate social responsibility (Frederick, 2008), which was based on three main centers: administrators act as public trustees, an administrator must balance the demands of employees, skills, owners and the public and the administrator must be the philanthropic support of social causes. These activities were voluntarily under the belief that those in power engage in reciprocal responsibilities to society.

In the 60s and 70s after new environmental and social challenges as a result of mass consumption appear, which led to the creation of both social and environmental regulations that companies must submit (Raufflet, 2010). The new social activism brought domestic companies, such as new initiatives and sanctions framing socially responsible behavior of managers and employees changes; corporate strategy incorporating socially responsible goals; stakeholders affected by the company were identified and brought into the negotiations, governmental regulations promulgated measures, designed to curb social ills became a new management mandate arise, which made leading companies moved from passive responsibility to the social response active (Frederick, 2008). It is at this time that new perspectives and contributions were made about the discussion on CSR; authors such as Keith Davis, William Frederick, Joseph W. McGuire and Clarence Walton, adhere important elements that relate to the company and society (Carroll, 1999).

During the 70s and 80s, the rise in world economic exchanges under a neoliberal ideology, reflected in the policies of liberalization and deregulation, along with a large number of privatizations that increased the power of business at the local level she experienced and global, maximizing shareholder value and benefiting many consumers in industrialized by lower prices for daily consumption (Raufflet, 2010) countries, while on the same neoliberal direction, many employees were subjected to job insecurity and individualized, states experienced a weakening by the limited capacity of government financial and political action, and the role citizen projected a big drop for its lack of confidence in the democratic system and the capacity for action of its representatives.

The real debate around CSR, according to Carroll (1999), took place when the economist and professor Milton Friedman, Nobel Prize winner in economics in 1976 and a defender of classical capitalism, a subversive character attributed to Social Responsibility. Friedman (1995), states that social responsibility means acting in accordance with a social conscience, promoting social purposes desirable, which does not concern the companies because their only responsibility is to increase profits without resorting to deception or fraud, where it would be irresponsible "for any business decisions taker decide donation or spending money, which belongs to shareholders, in activities not directly associated with running the business" (Vives, 2007, p. 7). However, the conception of social responsibility companies take a different turn, as Drucker after the expectations and demands placed on companies to assume "the responsibility of social problems, social issues, political and social goals." (Drucker, 2000, p 216)..

In the early eighties, CSR takes on a new meaning that goes beyond philanthropy and social activism. The socially responsible company could be reorganized for the quality of its corporate culture, an ethical climate, and regulatory principles that guide company policies, strategies, and decisions. Companies strive to create an ethical climate, establish positive relations with the community, respect the rights stakeholders, and promote socially responsible goals (Frederick, 2008). This set of political principles of CSR invokes the concept of social contract between the company and the community in which specific responsibilities are defined for each side. Donaldson and Dunfee (1999) propose a single type of social contract between society and business to incorporate the major universal human rights vital to society while providing economic concession companies in the flexibility and practically necessary to meet market operations.

Political and economic trends of the late twentieth century was geared to free competition and free operation of the company, where the state has moved from guard to a Regulatory State is limited to ensure a legal framework that enables the free initiative in the production and provision of all services in economic structures (Malagon, 2010). Companies as legal entities, have some rights and obligations as other members of civil society: obey the law, contribute to the common good, participate in government, and show respect for other citizens. With the globalization of markets, they have greatly expanded the civil rights of corporations. Now multinational corporations are citizens, not just in one or two countries, but in all societies where they operate their businesses. Social responsibility covers worldwide in scope and magnitude, which goes far beyond philanthropy, social activism and organizational ethics, perhaps even the central fact is the pursuit of long-term sustainability of individual businesses, economies national and ecological systems in the world that nourish life on the planet (Frederick, 2008).

Raufflet, Félix, Lozano, and García (2013), consider this stage as the inclusion of new actors in CSR, ranging from the United Nations Organization to regulatory bodies and indicators of social responsibility. Companies respond to these complex challenges in many ways: by setting solutions through collective dialogue with stakeholders, address the governmental and non-governmental organizations (NGOs) promising to meet global codes of conduct with regard to human rights, environmental impacts, transparency of operations and financial integrity (Frederick, 2008), in this sense Fort and Schipani (2002) indicate that companies have a new role as peacemakers in a world of growing tensions.

At the beginning of the century, the concept of CSR begins to break away from the framework of philanthropy, advancing as a central element of the competitive strategy of companies to consider their wide remuneration improvements reputation and corporate image (Porter and Kramer, 2002, 2006). Consequently, CSR becomes regarded as a management strategy for the organization, and not as a set of isolated philanthropic activities. Social concerns expressed by the different stakeholders are integrated into the dynamic aspects of the business, such as business model, strategy, vision, goods or services offered, etc. The implementation of this perspective of social responsibility requires a paradigm shift in the way of thinking and doing CSR actions (Raufflet et al., 2012), where social responsibility actions are aligned with the business model of the business.

Authors like Burke and Logsdon (1996), Epstein and Roy (2001), De Colle and Gonella (2002) and Smith (2003) propose a strategic model incorporating CSR in all phases of the model:

- Analysis intoned should not only reflect met grant legal requirements, but also the expectations of stakeholders and the environment.
- Internal analysis: involves an analysis of what the employees of the company consider the present and future of CSR activities that the company will perform.
- Strategic Mission: involves a sustained commitment to the fulfillment of CSR (globality and totality).
- Strategic formulation: the strategy should reflect the commitment to CSR policy.
- Implementation of the strategy: concrete actions that should be checked and revised for the proper implementation of CSR.
- Strategic Competitiveness and average yields: analyze whether CSR strategy contributes to improving the competitiveness of the company.

CSR is an idea that has come to stay, not only in the US but also in any market and corporate businesses that are at the base of economic and social effort. CSR has infiltrated the consciousness and corporate culture, finding expression in the workplace, participation of stakeholders, moldable strategies of companies, enrich the quality of life of the community, comprehensive view of the business and establish an economic enterprise humanized wherever you are (Frederick, 2008).

The practical operation of CSR is now much higher in planetary importance than in the past, which sought to gain acceptance of social justice and welfare of the community, it is now the gigantic struggle to balance economic boost business and greening needs world Community (Frederick, 2008), this is not only secure and sustain the economic base, business and moral systems of each nation, in order to preserve and prolong the life of the planet itself.

2. Conceptual Approach on Corporate Social Responsibility

The first difficulty of social responsibility is to identify and organize the variety of approaches, although there are differences in theory, can be identified as a common element that companies are working for social welfare (Ojeda and Jiménez, 2012).

Scrum (2008) considers that the proposals that have historically been developed, responding to a theoretical elaboration on companies and their purpose in society. And it makes a classification into four groups of theories: economic, social integration, and political and legal ethics. In the first economic approach, the company is seen as an instrument of wealth creation. The second group focuses on the social power of the corporation and its responsibility in the political arena associated with its power. The third group focuses on social integration, which includes theories believe that the company should integrate social demands. The fourth group of theories focuses on ethics, including theories that consider the relationships between business and society must be included along with ethical values. In sum, Garriga and Melé (2004) suggest that the concept of enterprises relationship society must include these four aspects or dimensions and also that there is some connection between them.

The diversity of currents and philosophies on corporate social responsibility that have been developed, expressed consensus on the fundamental idea that companies have an obligation to work for social welfare (Ojeda and Jiménez, 2012), with the ethical and moral component as an element of business (Carroll, 2008).

The positions on the action of corporate social responsibility are oriented primarily in the proposal Friedman (1962), which is identified with economic liberalism which holds that only has responsibility to shareholders in generating profits and on the other hand the proposal Triple Bottom Line Carroll (1979), which must play a role beyond economics to integrate social and environmental issues, ie social responsibility covers economic, legal, ethical and discretionary expectations that society has of the organization at a given time.

Linked to the idea that defends skepticism that causes both CSR as a concept or theory research and practical field activities and has its source in the pluralist nature of such an initiative. Such pluralistic character is linked to the nature of the phenomena described by CSR, which are identified as connections between business and society.

Social responsibility is derived from the actions and effect or that are embedded in the actions of organizations, same that impact its members and impacts on society in general, a narrow sense shows that this includes the entire organization, shareholders, workers, suppliers, consumers, the community as a whole and the environment; More generally only it shows the shareholders, employees and suppliers. The concept of social responsibility has developed from the organizational interest in maintaining a harmonious relationship with society and stakeholders, which, although has ethical bases, is also focused on strategy remain and legitimize the company medium and long term.

This conceptualization reflects the functionalist approach, to treat social responsibility as a function of social regulation (Gond, 2012), ie, there is a search for stability, integration of purpose and an implicit social contract between the organizations the society around them. It is this link-society organization, is what determines the vision of respect for ethical values, people, communities and the environment (Husted and Salazar, 2006).

There are also ethical reasons that reinforce the perspective of social responsibility of the organization (Lozano, 2012):

- The need for trust.
- The demand for ethical responsibility according to the power that has the organization.
- The inability to escape the post-conventional level, ie, guided by the universal principles of justification.
- The desire for justice and happiness of the people working in the organization, its stakeholders and the local community.

Regardless of the perspective or theory of social responsibility, converge on common elements, which are listed below (Vives, 2007):

- The commitment of companies to operate in such a way that adds social value to the community.
- The voluntary decision of companies to adopt CSR practices.
- The benefits for society and stakeholder groups (stakeholders): This is a broad topic, however some definitions make a specific list of communities, consumers, suppliers, employees and families as part of society should benefit from operations the company.
- Ethical conduct: Ethics in these definitions often goes beyond traditional expectations of business, and includes the expectations of society about what it means acceptable business practices.
- Environmental performance: Although CSR is a broad concept that concerns different areas of business, it is often highlighted performance in environmental conservation.
- Adaptability: One definition refers to the importance of adapting CSR context and reality of the societies in which businesses operate, ie designing CSR models tailored according to the specifics of the environment in which develop.

3. Principles of CSR: The will and the legal framework

Within the CSR commitment and voluntary decision, are aspects that stand out in most definitions, therefore the institutional position accepts voluntary basis of CSR, each company will be free to take the initiative or not, so right now social responsibility can be categorized within the so-called Soft Law (Arrondo, 2013).

The Soft Law can be treated as voluntary measures, the content of which does not require mandatory compliance order (Kirton and Trebilcock, 2004), as noted by Angel Cabo (2008), the soft law identify it the following characteristics:

- Do not depend on state regulation
- The construction, operation, and continuation is voluntary participation.
- There is a freedom of membership
- It seeks legitimacy through decisions by consensus and dialogue between different actors.
- No state sanctions are established.

Given the "soft" nature of CSR, it has not yet consensus on the concept itself and much less about what is involved implementation. Currently, the implementation of CSR involves new players, so we have seen new roles and relationships between governments and enterprises (Moon and Vogel, 2008), which has triggered the generation of indicators, tools and principles that underpin the practices.

The principles are defined as practices or guidelines indicating acceptable or unacceptable behavior and seek to be a reflection of the need for awareness of social, ecological, and economic problems. On a second level of approach to CSR are normative criteria, which are intended to generate guidelines directly related to the management of CSR and help achieve a better understanding of the ideas expressed in the principles. At a third level are the performance indicators of CSR, whose objective is the implementation of operational measures in the management of CSR within the organization (Portales and García, 2012)

This situation leads to a framework of uncertainty regarding its use (Arrondo, 2013), so the company can accommodate social practices and measures according to their interests, and as noted by De la Cuesta González (2004) can become in a business screen those indicators on which the company wants to inform and not what the stakeholders really want to know. On the one hand the company has control of their practices, but on the other, must be attended conventions, guidelines and objectives for the implementation of CSR, for example, companies have created forms of self-reports as the Global Reporting Initiative (GRI) . There has also been substantial growth in the number of ethical or social investments as well as market share of several ethical or social marks (Moon and Vogel, 2008).

The debate on social responsibility lies in the discussion of where to place CSR if the hard law or soft law, ie, if it is necessary to regulate all or part of CSR practices by establishing a binding or character leave your voluntarily (Arrondo, 2013).Castro-Sayan (2009) in his article "Corporate social responsibility, paternalism and legislation," said the regulation does not guarantee responsible practices, and that it is risky to start regulating the behavior of businesses.

4. Institutions promoting CSR

Like the variety of appropriated by institutions on the term CSR and global initiatives definitions, there are several models of this approach to identify and implement the dimensions of CSR in the organizational field, highlighting mainly the Global Guide to CSR ISO 26000 (ISO / DIS 26000, 2009), built and accepted by experts from more than 90 countries and 42 international organizations since 2001, achieving its final publication in November 2010.

In addition, there are several initiatives that have promoted independent models to identify and implement CSR dimensions. This body of initiatives aimed at promoting voluntary solutions, self-regulatory solutions that have been at the center of the great controversies CSR (Angel Cabo, 2008).

In Mexico, for example, the Mexican Center for Philanthropy (CEMEFI), private civil association, nonprofit, founded in December 1988 without any affiliation to party, race or religion, which operates throughout Mexico and its headquarters stands Mexico City. Its model seeks to evaluate, according to Cajiga (2008), a conscious and consistent to meet the purpose of the company, both internally and externally, considering the economic, social, and environmental expectations of all participants' commitment, demonstrating respect for people, ethical values, community, and the environment, thus contributing to the construction of the common good.

The indicators proposed by CEMEFI for the process socially responsible company, respond to four lines or strategic areas that explain their presence in every activity of the company, which are: ethics and corporate governance, quality of life in the company, bonding and commitment with the community and its development and care and preservation of the environment.

CEMEFI gives a distinction of the companies that behave in a socially responsible through a questionnaire which they must complete on their strategic areas in this connection is a certification system that can be placed as an instrument of soft law on liability corporate social; however, CEMEFI indicators are established as volunteers for the distinctive Socially Responsible Company, dealing with areas that have traditionally been found in the Mexican Official Standards; for example, in the Constitution of the United Mexican States (Articles 1, 5 and 123), Federal Labor Law (Articles 2, 3, 4, 51 and 86), Law to Prevent and Eliminate Discrimination (Articles 4, 9, 13 and 16), Law on Income Tax, General Law of Ecological Balance and Environmental Protection.

The advantage of the system of indicators CEMEFI compared to hard right to the Official Rules, it is argued that the mechanisms of soft law on CSR allow social and business learning flexibly, encourage a diversity of actors to participate in the process of defining measures and facilitate corporate commitment to social management (Angel Cabo, 2008).

5. Conclusions

Social responsibility has been a discipline that has existed for many years ago, its area of influence and the areas covered have been perfected over time in order to meet the needs and expectations of a society that is now characterized to have greater environmental awareness, fighting for respect for human rights and that demand a sustainable and just society.

The theory of corporate social responsibility indicates that it is a legal or ethical voluntary commitment assumed from a strong commitment to the society in which the company operates. In this sense, the practical implementation of CSR is a gigantic struggle to balance the economic outlook and address environmental and social needs, so global pacts, political regimes, codes of conduct and systems of indicators, which refer to the social contract between business and society are a first step towards finding solutions.

However, for companies to assume social responsibility practices go beyond legal, there are still many challenges, it is essential to start with compliance with existing regulations, also responding to international contexts, issues such as environmental pollution, rights human, corruption, among others are important in soft law paradigm of social responsibility, however, be taken as part of the obligations under the regulation in national contexts, which should not be left to the field of voluntary actions. It is proposed to deepen the discussion on mandatory CSR, including coordinated with the state and the company on social and environmental policy elements.

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