

LEGAL PERSPECTIVE ON GLOBAL CSR PRACTICES -

CASE BASED APPROACH

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ABSTRACT

The diversity in the laws and regulations and the cultural milieu in which firms operate across the globe led to the differences in Corporate Social Responsibility (CSR) practices worldwide. This paper aims to evaluate and compare the legal and regulatory frameworks of CSR practices of firms in major regions of the world namely- U.S.A, Europe, India and South Africa. In particular, the focus of the paper is on conceptualization of the CSR, broad activities under CSR and its reporting in these regions. While focus of CSR activities is shifting from philanthropy to sustainability, the CSR movement in most of the nations is yet to gain the mainstream acceptance as it enjoys in the UK. With the enactment of the companies Act 2013, India has become the first and the only country in the world mandating compulsory CSR spending. The paper is an attempt to explore the differences in CSR laws , practices and attitude of the firms towards CSR as mode of social innovation. Having being acclaimed as the most socially responsible country in the world, this paper aims to understand the Corporate Social Responsibility (CSR) model of Sweden and identify its key drivers. This paper analyses the rationale of Swedish managers to adopt CSR and its impact on strategic management. Based on the Case Study based approach of 7 Swedish firms, the paper reveals that these firms have reached a level where offensive CSR strategies are deployed which lifts opportunities and future expectations from a wide range of stakeholders. The study revealed the major role of government in pushing CSR initiative across Swedish firms and ensuring transparent reporting and implementation.

Keywords - Corporate Social Responsibility , Regulations , Sweden Model of CSR , Social Innovation.

1. INTRODUCTION

The scope of management theories are extending and theories about corporate social responsibility (CSR) are developing and changing over time. CSR would be seen as a strategy, a management concept and the code of business ethics involving in the business world. CSR also is like the bridge connecting the corporate, social community and ecology. (European communities, 2001) There are many different definitions of CSR from academics and corporate areas, but the most common view according to the Green paper is, "CSR is a concept whereby companies integrate social and environmental concern in their business operations and in their interaction with their stakeholders on a voluntary basis." (European communities, 2001).

Growing awareness of global environmental, social and ethical issues has led to more emphasis on non financial parameters becoming a key driver of long term sustainability and profitability of the firms. The idea of CSR first came up in 1953 in HR Bowen's "Social Responsibilities of the Business". Since then, it has been a hotly debated topic, and, still there seems no clear consensus over its utility. But with increased perception among the business enterprise that all stakeholders value market oriented responsible behavior, businesses have shifted their focus from traditional objective on profit imperatives to the triple bottom line approach of 'people, planet and profit'.

One of the most precise definition of CSR is that given by World Bank which states that, 'Corporate social responsibility is the commitment of businesses to contribute to sustainable economic development by working with employees, their families, the local community and society at large, to improve their lives in ways that are good for business and for development'. Obviously, CSR not only means fulfilling legal expectations and governmental policies but includes concerning for human capital, environment and the harmonious ecology and society development. (Lambooy, 2014) found that CSR has a common ground with sustainable development, thus they are always associated. Companies which engage in CSR would often prefer to claim that they work on sustainable development, for the human sustainability end extend their responsibility aboard during this global business era.

The big question lies where should ideally a firm invest its profits to meet CSR? CSR must stress on value creation rather than philanthropy. According to (Gigauri, 2015) there are three major ways which firms use to spend on CSR are philanthropy; risk management and value creation. First category of firms are the ones which impliedly wish to pursue CSR policy and believe it to be a charity work which has least strategic and operational impact. Firms which fear the laws and government regulation assume box ticking method of complying with CSR norms to mitigate operational risk and bad image. Third category, firms are the one who works beyond meeting CSR obligations, instead they incorporate CSR as a function in their supply chain management by innovative methods and practices and in turn has fundamental strategic impact in its operations.

Thus, true CSR adoption means a firm's implementation of CSR goes beyond compliance and engages in "actions that appear to further some social good, beyond the interests of the firm and that which is required by law (Dahlsrud, 2014). CSR is a process with the aim to embrace responsibility for the company's actions and encourage a positive impact through its activities on the environment,

consumers, employees, communities, stakeholders and all other members of the public sphere who may also be considered as stakeholders.¹

2. THEORETICAL FRAMEWORK

2.1. USA

CSR in the U.S. is based on triple bottom line approach of “an ongoing commitment by business to behave ethically and to contribute to economic development while demonstrating respect for people, communities, society at large, and the environment.” The triple bottom line focuses on promoting the three “Ps”: people (human rights), profit (efficiency), planet (environment). This triple bottom line business model maintains fair and equitable business practices toward their employees, the community, and the region in which a corporation conducts business.

CSR in the United States has primarily been approached through the initiatives of its corporations, rather than through the legal developments or government actions seen in other jurisdictions. According to (Capriotti, 2007), major American corporations have actively promoted voluntary CSR initiatives and about 60% of American companies report information relating to their actions regarding the environment and social policies publically.

The SOX legislation created government regulation regarding corporate financial reporting. The requirements under federal securities law for companies to disclose environmental and social information are extremely limited. As CSR reporting is unregulated in the United States., a required framework for reporting does not currently exist. As a result, many different types and names of reports exists under the umbrella of CSR reporting, such as ‘environmental reports’, ‘social reports’, ‘climate change reports’, ‘carbon reports’, ‘triple bottom line reports’ and ‘sustainability reports’ among others. The unifying theme is that a CSR report is separate from the annual report and presents non-financial qualitative and quantitative data. The United States appears to lag behind other countries in issuing CSR Reports. This may be attributed to the lack of formal requirements in the United States for organizations to disclose non-financial data or issue CSR reports

2.2. EUROPE

According to the European Commission, CSR is “a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis. CSR has three main features in Europe. First, it is a behavior by businesses over and above legal requirements, voluntarily adopted because businesses deem it to be in their long-term interest. Further, it promotes sustainable development of a business by integrating the economic, social and environmental impact of their activities. Lastly, CSR is not an optional “add-on” to business core activities; instead, it represents the way businesses are managed above and beyond its legal obligations.

The new EU Communication on CSR puts forward a new understanding of CSR, which no longer refers to CSR as voluntary action beyond compliance but highlights that every corporation causes impacts which

is responsible for. The impact areas (formerly just society and environment) have been enlarged by ethical, human rights and consumer concerns. To support policy learning among the European Member States, the Commission invites Member States to develop or update national CSR strategies and action plans and sets up a peer review system of public CSR policies.

The public CSR policies differs among the European Member states significantly: two thirds of the EU Member states have a CSR strategy and action plan in place or are currently developing such a policy document. Scandinavia, the Anglo-Saxon region and Central Europe, are leading regions. Among Southern European countries, Spain may serve as a role model due to their mature and integrated approach. The Baltic States and Slovakia are on their way to develop national CSR strategies and action plans. In contrast, many Eastern European countries have not published any plan to develop a national CSR strategy and action plan till recently².

2.2.1. UK

The UK government's CSR policy is highly visible and very robust. The reason for this, in addition to the strong union tradition, is the pressure exerted on the government by numerous civil society campaigns. At the same time, the UK government views CSR as a voluntary commitment on the part of the individual enterprise, which it encourages businesses to undertake using the argument of economic self-interest ("business case" for CSR). In addition to the promotion of economically, socially and environmentally beneficial activities, the UK government's CSR strategy also aims to foster cooperation with businesses, local councils, unions, consumers and other stakeholder groups.³ CSR in the UK is not a matter of charity, but an important element of a company's business.

The UK is the only country in the world which has a Ministry of CSR which works within the mandate of the Department of Trade and Industry (DTI). One of the main tasks of the CSR minister is the creation of a standardized framework for social and environmental reporting and certification. The Department of Trade (DTI) has a very much broader view of CSR than is the case in most other countries and also in most companies. The Department for International Development (DFID) also conducts an extensive CSR policy. It provides 40 percent of the funding for the Ethical Trading Initiative (ETI). DFID applies CSR primarily in the fight against poverty. The Department for Environment, Food and Rural Affairs (DEFRA) is more active in the areas of developing guidelines for environmental reporting and promoting sustainable consumption and sustainable production.

In 2004, the UK parliament enacted corporate responsibility regulations mandating all UK companies became legally obliged to publish an annual sustainability report. Additionally, the law expanded the responsibilities of company directors so that they now also have a duty of care for society and the environment. Furthermore, UK companies or their subsidiaries can now be held liable and required to pay damages for human rights and environmental abuses committed outside the United Kingdom.⁴ Across Europe, the UK continues to publish the highest number of sustainability reports.

² André Martinuzzi, Barbara Krumay & Umberto Pisano, Focus CSR , EDSN Report, 2011

³ Stiftung Bertelsmann (2006), Government as Partner?

⁴ www.neweconomist.org

2.2.2. SWEDEN

The Swedish Model of CSR rests on its unique model of ownership wherein , corporations have more commitment to union workers and government. Emergence of this model is the result of drastic strikes that occurred in 19th century and it lead to negotiations, establishment of powerful unions and creation of welfare system that depends on mostly the public sector. There were not high expectations for social responsibility from corporations (Nilsson et al., 2008). Sweden's approach to CSR is strongly influenced by environmental criteria and responsible foreign trade. Social aspects are only gradually becoming part of the Swedish CSR strategy. That does not mean that they are any less important, but for a long time they were debated in another area, namely, within the traditional tripartite partnership between government, unions and employers.

Sweden began promoting the idea of CSR and implementing it in the country's numerous government enterprises earlier than many other European countries. As early as 1979, a dialogue was initiated between industry, unions and other employment-related actors that was aimed at achieving adherence to the OECD Guidelines for Multinational Enterprises. Today, however, Sweden's CSR policy is not as broad as that of the United Kingdom. The Swedish strategy is incentive-oriented and emphasizes the voluntary nature of participation by those concerned. On the other hand, the government has launched several initiatives to involve stakeholders. CSR awareness is widespread in Sweden(Albareda, Lozano, & Ysa, 2007)..

The Government's CSR vision which believes that sustainable practices by the Swedish firms will facilitate free trade, strengthen Sweden's competitiveness and global development cooperation & development⁵. The government supports the development of CSR and aims to create a positive relationship with Non Governmental Organizations (NGO). As a result of this, encouragement of NGOs by the government causes more aggressive reactions on companies CSR performance and brings about the creation of new policies that are more consistent with CSR (Hawkins, 2006). Dow Jones Sustainability report also shows that Sweden has the highest standard in 2007 (Wiles, 2007).

The broad pillars on which the CSR model of Sweden rests are –

1. **Environment/Climate**
2. **Labor and Employment Law-Gender equality**
3. **Anti-corruption**
4. **Promoting sustainable initiatives**
5. **Human rights – a priority**

⁵CSR report by Ministry for Foreign Affairs Sweden, 2012

Sino.	Name of Company	CSR Practices
1.	<p>Swedish Export Credit Corporation (SEK)</p> <p>(SEK is a state-owned company providing financial solutions on a commercial basis for the Swedish export economy)</p>	<ul style="list-style-type: none"> • SEK is integrating CSR into all its business units, and have specific people looking at CSR issues, although there is no CSR department. • SEK supports and applies the principles in the UN Global Compact, the OECD Guidelines for Multinational Enterprises, and the OECD Recommendation on Common Approaches on Environment and Officially Supported Export Credits. • SEK adopts Equator Principle, a credit risk management framework for determining, assessing and managing environmental and social risk in project finance transactions, when financing projects. Projects undergo screening and classification, and high risk projects with potential social and environmental impacts require an Environmental and Social Impact Assessment (ESIA) report done by an independent consultant. • SEK is also reducing its environmental impacts, which consist mainly of energy consumption at the offices and carbon emissions from business travel. SEK has offset carbon emissions that is not possible to eliminate, by investing in carbon credits from the Clean Development Mechanism (CDM) projects.⁶
2.	IKEA	<ul style="list-style-type: none"> • 1/3rd wood used is FSE certified wood in 2013 • 2/3rd cotton from sustainable sources. • 68% paper used is FSE certified • 1/3rd women employees • All components are 100% IWAY approved.⁷ • 399Gwh of electricity produced by wind turbines. • 100 million Euros donated for saving rights of children • 5,50,000 solar panels installed in buildings.
3.	<p>H & M</p> <p>(Clothing company H&M, with about 2,000 stores around the world)</p>	<ul style="list-style-type: none"> • has an eco-clothing line called Conscious Collection. • H&M works actively with its suppliers to promote labor rights and reduce environmental impacts.

⁶ www.sek.se/en/media/media.../the-oecdcs-csr-experts-meet-in-stockholm

⁷ http://www.ikea.com/ms/en_US/the_ikea_story/people_and_the_environment/

		<ul style="list-style-type: none"> • H&M has an audit team of 70 people monitoring suppliers' compliance with the H&M code of conduct. • No. 1 user of organic cotton in the world – again! • 11.4% of all cotton used is more sustainable.⁸
4.	ERICSSON	<ul style="list-style-type: none"> • Ranked 1 in Folksam's Corporate Responsibility index. • 85,000 employees given anti corruption training in 2013. • 40% energy saving with Eriksson psi system • Ranked 3rd by green peace coolit leader board • 20 years of sustainability reporting . • 5,00,000 people connected in villages in Africa • 40,000 students benefit in connect to learn initiative.⁹
5.	BERGER BECKER COATING	<ul style="list-style-type: none"> • Participation in Polio Immunisation Programme for the eradication of polio • Partnering with organizations for sponsoring under privileged and destitute children • Sponsorship of education of children who come from poor financial background • Initiatives for a cleaner environment through the awareness programmers, plantations and green belt development programmers. • Donations have been given to the charitable institutions and social welfare organizations working for the cause of the upliftment of the poor and downtrodden. • Infrastructure development at the vicinity of the various manufacturing locations.¹⁰
6.	ORIFLAMES	<ul style="list-style-type: none"> • support education projects in the markets in which we operate, through the sale of accessories, cosmetic products, fundraising events and

⁸www.hm.com

⁹www.ericsson.com/thecompany/sustainability-corporateresponsibility

¹⁰www.bergerpaints.com/csr.html

		<p>volunteering activities.</p> <ul style="list-style-type: none"> • work with NGO partners with local projects in Oriflame markets or with a local charitable organisation on education projects that provide children and young women • Oriflame has sponsored education of 1,000 girls from Deepalaya, the largest operational NGO in Delhi. A grant of approximate 4 crores was given to Deepalaya for the 'Oriflame Girl Child' project • a grant of 30 crores was given from atJochnick Foundation to Hand in Hand - an NGO operational since 1988 in Tamil Nadu. The grant is used by Hand in Hand for running Self Help Groups (SHG) and Microfinance Projects in specific areas of general training for SHG members, women's literacy programme and medium-sized enterprises.
7.	AXIS COMMUNICATION	<p>Axis implemented these and other measures in 2013, to minimize its carbon footprint:</p> <ul style="list-style-type: none"> • Continued to enhance and reduce product packaging. • Optimized logistics flows, e.g., used land and marine transport as often as possible and worked with suppliers closer to certain markets. The result was that Axis reduced carbon emissions by 16% per ton compared to 2011. • Continued to develop energy-efficient, more environmentally friendly products and solutions, e.g., our award winning Lightfinder technology. • Create a Green Product Design group that reviews material selection (PVC is now being phased out of products). Ethics in all business processes

2.3. INDIA

CSR in India has traditionally been seen as a philanthropic activity. And in keeping with the Indian tradition, it was an activity that was performed but not deliberated. As a result, there is limited documentation on specific activities related to this concept. It is believed that the practice of CSR in India still remains within the philanthropic space, but has moved from institutional building (educational, research and cultural) to community development through various projects.

Government of India has repeatedly emphasized on its mandate to make growth "Inclusive" and has incorporated the same principle not only in Government schemes and projects but also in policies meant for private sector and others. The Companies Act 2013 is a step forward in that direction, with

inclusion of section 135 CSR provision mandating companies to spend a minimum of 2% of their net profit on developmental activities. The draft rules for CSR under Section 135 were made public on 9th August by the Ministry of Company Affairs seeking comments and suggestions. Many of the provisions have the potential to bring in transformative changes in the way private sector engages with national development, however certain provisions needs strengthening to facilitate smoother compliance as well as larger impact on society.¹¹

The Companies Act, 2013 has introduced the idea of CSR to the forefront and through its disclose-or-explain mandate, is promoting greater transparency and disclosure. Schedule VII of the Act, which lists out the CSR activities, suggests communities to be the focal point. On the other hand, by discussing a company's relationship to its stakeholders and integrating CSR into its core operations, the rules suggest that CSR needs to go beyond communities and beyond the concept of philanthropy. It will be interesting to observe the ways in which this will translate into action at the ground level, and how the understanding of CSR is set to undergo a change.

2.4. SOUTH AFRICA

Since 1994, political change and the efforts to balance out the unequal distribution of wealth from the times of apartheid have driven CSR forward in South Africa. Decisive for the involvement today is the "Black Economic Empowerment Act" (BEE) of 2003, which was set up by the government and specifies the advancement of historically-disadvantaged groups in the population. Especially the "Corporate Social Investment" guidelines of the BEE have a supporting effect since with their assistance CSR programmes are formalized and the results can be communicated.

In addition to the specifications of the "Black Economic Empowerment" (BEE), there are no special laws in South Africa that regulate CSR. However there are a series of laws relating to the responsibility of companies. Added to the national laws are a series of CSR-relevant international treaties and accords that South Africa has ratified. These include the ILO standards, environment protection and human rights treaties. The implementation of these treaties in national law, however, is proceeding very slowly. In some cases there are difficulties with the adherence to and monitoring of environmental protection laws, for example.

The guidelines of the Global Reporting Initiative (GRI) also play a role; the state especially appreciates this form of reporting. In the local network of the Global Compact of the United Nations (GC), the principles of the pact are borne to companies in South Africa. An internationally-recognized standard is the "King III Report on Corporate Governance." Among other things, it contains a broadly-conceived body of rules and regulations for companies' reporting about triple-bottom line. The Report mandated Integrated Reporting to be given by each listed company.

3. METHODOLOGY

In our research of companies we have primarily used secondary data of 7 Swedish companies meaning that we have looked at articles, annual reports, ethical conduct reports, CSR reports, citizenship reports and sustainability reports. Qualitative methods are appropriate for complex phenomena and when

¹¹National Foundation for India Report , 2013

numerous variables may influence the issue(s) at hand (Eisenhardt, 1989; Hamel and Dufour, 1993; Yin, 2002). We select 7 short cases as our research methodology, in accordance with the principles outlined by Yin (2002). First, we obtain a comprehensive understanding of the companies setting so that we may develop our theory in context. Second, we use secondary data and multiple interviews to gather rich insights and provide a basis for the greater generalizability of our findings.

A qualitative analysis/literary review of theory on CSR have been done focusing on Carroll’s Model. The theories that were chosen seemingly fit our purpose of the thesis the most though. Obviously, a wider study of companies would have been preferable, especially in comparing national concepts of CSR and the respective firms, but this again was not possible due to lack of resources.

4. COMPARATIVE ANALYSIS

BASIS	U.S.A	EUROPE			INDIA	SOUTH AFRICA
		U.K.	GERMANY	SWEDEN		
1.Mandatory CSR spending	None	None	None	None	Yes , 2% of its average <i>net profit</i> for its preceding three financial years	None
2.Reporting Agencies	Securities and Exchange Commission, Bureau of Economic and Business Affairs	Ministry of Trade and Industry	Ministry for Employment and Social Affairs, Ministry for Economic Cooperation and Development, Ministry for Environmental Protection and Reactor Safety, Foreign Ministry, Ministry for Families, Seniors, Women and Youth	Foreign Ministry	Ministry of Corporate Affairs , SEBI	Kings Committee on CSR
3.National CSR strategies	<u>U.S.</u> National	A CSR minister has	None	Environmental	Clause 135 of	No laws on CSR , only

	<p>Contact Point (US NCP) to promotes OECD Guidelines for Multinational Enterprises, e - Global Reporting Initiative (GRI) and Accountability</p>	<p>been appointed. National sustainability policy expressly emphasizes CSR. The International Strategic Framework addresses national and international contexts.</p>		<p>legislation is highly focused on sustainability.</p>	<p>Companies Act , 2013</p>	<p>Black Economic Empowerment (BEE) legislation</p>
<p>4.Visibility</p>	<p>Corporate Register.com is directory of CSR reports of USA companies</p>	<p>The government hosts a CSR webpage. (www.csr.gov.uk) The Queen recognizes companies for their efforts in a number of areas, including sustainability .</p>	<p>Low CSR promotion amongst consumers and business community.</p>	<p>The Global Ansvar partnership between government and business promotes CSR research, consulting and networking.</p>	<p>Published on ministry website , environmental , sustainability reports on company's website.</p>	<p>Poor promotion of CSR practices amongst body corporate and NGO.</p>
<p>5.Transparency &Reporting</p>	<p>Lacks formal requirement of CSR reporting, voluntary reporting CAGR is 37%.¹²</p>	<p>The Corporate Responsibility Law (2004) requires companies to file annual sustainability reports.(mandatory</p>	<p>Environmental Ministry supports the European environmental audit (EMAS) and the EMAS global declaration for individual businesses,</p>	<p>Since 1999, major corporations must also report on the environmental consequences of their operations. Those who do not comply</p>	<p>Mandatory Reporting of ESG initiative by listed companies</p>	<p>Supports GRI reporting but not mandatory</p>

¹²Lianna Cecil, Corporate Social Responsibility Reporting in the United States

		reporting)	German Sustainability Code which includes 20 criteria and 27 GRI Performance Indicators used in sustainability and reporting analysis.	face penalties and legal action.		
6.Financial Aspect of CSR		Pension funds are required to list environmental, social and ethical aspects of their investment strategies. Index for responsible investment: FTSE4Good [®] i.	The Nature-Aktien-Index lists only those companies that operate sustainably.	Public pension funds must meet environmental and ethical standards.	None	Johannesburg Stock Exchange Social Responsibility Index the FTSE4Good Index Series was launched in 2001), especially in emerging markets where South Africa was the first one in launching a sustainability index
7.Sustainable CSR Activities	Workplace diversity Suitable working conditions Non-exploitation of workers, including discrimination and harassment Avoidance of child labor issues Work-life balance initiatives	conducts an extensive CSR policy, provides 40 percent of the funding for the Ethical Trading Initiative (ETI) to fight against poverty, developing guidelines for environmental reporting and	Focus on Environmental Sustainability, employment generation and demographics	CSR research, consulting, networking and further education for managers, union members, politicians and members of NGOs., implementing the UN Global Compact in national policy. It is also a major provider of	Promotion of education Gender equity and women empowerment Eradication of extreme hunger and poverty Reducing child mortality and improving maternal health Combating	National Black Economic Empowerment, Mineral and Petroleum Resources Development, Promotion of Access to Information, Promotion of Equality and Prevention of Unfair Discrimination, National

	<p>Social/community policies of volunteerism and charitable giving “Going Green” programs – with recycling, resource conservation Reducing carbon emissions Partnering with environmental friendly suppliers and companies</p>	<p>promoting sustainable consumption and sustainable productionⁱⁱ</p>		<p>Global Compact funding, fulfills OECD guidelines.</p>	<p>HIV-AIDS, malaria and other diseases Environmental sustainability Employment enhancing vocational skills Contribution to Prime Minister’s relief fund and other such state and central funds</p>	<p>Water, Employment Equity Act , Skills Development Act.</p>
<p>8.Mandatory Reporting</p>	<p>Unregulated reporting , voluntary by companies</p>	<p>Mandatory reporting by CSR Ministry</p>	<p>Unregulated reporting</p>	<p>Mandatory environmental reporting with penalty</p>	<p>Mandatory reporting to CSR committee, comply or explain policy by ministry of corporate affairs.</p>	

5. CONCLUSION

Swedish companies such as IKEA, H&M and Ericsson are world-famous for their brands and products, but they are also known for being leaders in sustainability and corporate responsibility. In many ways, Sweden remains one of the leaders in the world, in terms of the country's corporate responsibility performance---the result of a combination of government leadership and coordination, as well as big companies taking the lead in actively, and voluntarily, practicing responsibility. Not only has Sweden been the top country in promoting responsible business practices, based on the Responsible Competitiveness Index; it also leads in reporting in the KPMG International Corporate Responsibility Reporting Survey 2011, with 72% of its top 100 companies reporting on sustainability performance, even though this is not mandatory for companies. Certainly, this accordance with international guidelines ensures that Sweden keeps to and even exceeds many of the recognized and accepted standards of

sustainability. Approach and attitude however, are more fundamental and crucial to any effective CSR effort--as well as the understanding that corporate responsibility is not a destination, but a journey.

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ⁱStiftung Bertelsmann, Government as Partner?, 2006

ⁱⁱ Ibid