Exploring the Interplay between Business Regulation and Corporate Conduct in India (BRCC Project)[1]

PROJECT LAUNCH

21st April 2011, New Delhi, India

Private sector participation is crucial to inclusive growth and poverty alleviation in India. Such role of business in development has been well recognised in the country. However, there is also a simultaneous need to ensure that the private sector players behave as good corporate citizens. To this dynamic end, there is an apparent need for initiating such a discourse in the country that can enable the regulatory instruments aimed at promoting economic growth to also facilitate responsible business. In this backdrop, the Business Regulation and Corporate Conduct (BRCC) Project was conceptualized by CUTS – an international research and advocacy organization. The Project has received funding support from the Norwegian Ministry of Foreign Affairs and is being implemented in partnership with the Norwegian Institute of International Affairs (NUPI). The Project will be operational during the years 2011-12 and will look into business regulations and corporate conduct pertaining to two sectors and the field work for the purpose will be carried out in two states. The sectors as well as the states will be decided at a later stage as per stakeholder feedback and the corresponding research methodology. The project learning and evidence will be utilized for larger sharing, capacity building, advice and advocacy. The Project was formally launched in New Delhi, India on 21st April 2011 and received participation from representatives of the government, industry, academia, civil society and media.

OPENING SESSION

PRADEEP S MEHTA, Secretary General, CUTS

- The BRCC Project forms part of a package of Projects being supported by Norwegian Ministry of Foreign Affairs.
- The purpose of the gathering is to take inputs for the Project planning and implementation.
- It will be important to understand how business regulation can facilitate corporate conduct – thus the role of 'facilitation' is important.

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[1] **BRCC Project Website:** http://www.cuts-ccier.org/brcc

- The term sustainable development is generally linked to environmental development, but it has wider connotations. The whole issue of sustainable development comprise of equality, equity and environment merge together.
- A brief overview of CUTS was provided and the gathering participants were requested to provide comments on the CUTS Vision document (CUTS in 2034). He asserted "our experience has shown that there is constant pressure for better policies and the struggle is to see that it is implemented properly. As a Civil Society Organization (CSO), we have ensured that our advocacy actions are based on research. Therefore, we hope this project will be able to catalyze discussion to move the agenda on better business in India".
- This project will generate discourse more certainly help firms to adopt responsible business conduct. It will emphasize on innovation. The Government of India has placed a huge thrust on why innovation is important and what measures are being adopted in India. It is hoped that the project will enable to development a better and more appropriate understanding of the concept of CSR/RBC i.e. is it just philanthropy or is it more than philanthropy.
- The Government of India (GoI) has initiated a process of developing guidelines on CSR - which is a burning issue in India. The spending of CSR initiatives to be made mandatory is controversial and it would better to create incentives structures, such as naming and shaming.
- The use of Eco-mark was emphasized for Indian context and concerns were raised over the lack of awareness and initiative on part of the Government, which needs to be corrected.
- Australia is a good example of co-regulation, where the business self regulates and the government only steps in to prevent regulatory failure. An interesting thought which could be analyzed is the concept of social audit, which should be included in the project.
- Mention was made of the establishment of Right to Information (RTI), which was achieved through active involvement of CSOs. It might be interesting to have a sunset clause in RTI Act, which should self-extinguish and it should become part of the Government DNA.

KARL RICH, Senior Research Fellow, NUPI

- An overview of NUPI was provided and it was shared that the focus areas of the research institute are international economics, politics and cross cutting themes. Though NUPI is a government institution, it works in an independent environment.
- NUPI started working with CUTS a long time back on a trade related project in India (GRANITE), with the purpose of building capacity of CSOs on trade issues.
- Emphasis was made over the need for building Northern-Southern research and intervention partnerships and acknowledged the promises associated with such partnerships. Special mention was made of the partnership being promoted through the BRCC Project and allied projects.

ARUN MAIRA, Member (Industry) Planning Commission of India[2]

- What are the challenges for Government in 21st century? The Prime Minister of India has been keen on responsible business conduct and has expressed his discussion with private sector to follow certain rules and principles to pay attention too.
- The world is being ruled by two forces i.e. on top we have forces going against the world along with the notion of globalization and the speed at which money is transferred across the globe, due to globalization i.e. force of modern technology. At the bottom of the forces is the recognition of human rights, which is being nurtured by the same technology such as media, etc. There is a need to reduce government intervention to make it attractive for private sector to undertake further investments and play an important role in growth and development.
- What is the paradigm between business and society? What does the society expect from business? Mention was made of a recently undertaken trust review report according to which 70% of the respondents trust business, 61% trust NGOs, 50% trust media and 44% trust government. Thus, businesses are look up to with great sense of responsibility and such expectation matters a lot for the businesses.
- What is the nature of regulations of business? The connection between self-regulation and government regulation. One needs to ask about the values by which the business would regulate itself. The drop in the trust among business is because businesses have not been able to understand the expectations of society. The business need to contract directly with society in-order to gain their trusts and not only through regulations. It is important to set up the process, become more accountable and ensures direct relationship with the society.
- If this project is going to be 21st century project and the project that address systemic problems, then it is important to be clear what are we going to do the research about?
- There should be a sunset clause for regulations as well as regulators, but it depends on the suitability of such time frame.

SURESH P PRABHU, Former Cabinet Minister and Member of Parliament, India[3]

- How do ensure fair play for all, is an interesting issue, which the project ensures to cover. He asserted that we have passed the stage where now there was no talk about the importance of business in growth and development of the country. Thus, there is a clearly felt need for economic activity in form of business and the role of business is becoming importance.
- The key question is how does business operate in society? Business by definition is going to do something for its own good. If activities are undertaken with common interest of society, then there is a lot of promise. But if the interest of individual business conflicts with the common interest of society, then how do we deal with the situation? It is important to be analysed under

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[2] Mr Arun Maira will serve as the Chairperson of the Project Advisory Committee (PAC) of the BRCC Project
[3] Member, Project Advisory Committee (PAC) of the BRCC Project

the project. There is a need to ensure that the conflict between individual and common interest of society should be identified and minimized. Thus, it is important to have relevant instruments to handle the conflict.

- There is a need to analyse the overall activity of business to ensure that while achieving profits, they should not harm the interest of stakeholders. But, at the same time, we need to be sure that we should not over-regulate which results in closing down the economic activity. The role of the regulator is to guide economic activity and ensure protection of interest in stakeholders and not defeat the purpose of its creation.

- There is a need to ensure economic sustainability which is more than just environmental stability. The regulation should ensure taking into interests of all relevant stakeholders.

- In the 21st century, markets are being dominated by technology, which is always ahead of government and markets. How does one ensure the presence of economic regulator which can cope with the advancement of technology?

FIRST TECHNICAL SESSION

BIBEK DEBROY, Centre for Policy Research, India[4]

- As per 2004-05 NSS, substantial population of the country is engaged into informal (unorganized) sector. Thus, 'corporate' forms part of a very small fraction of the populace and accordingly, the scope of the BRCC Project should not be restricted to the formal (organized) sector.

- A large segment of the small scale sector is not registered. Why they don't get registered? It is not just about the lack of information. Their non-registration is a conscious choice. Benefits from registration are not commensurate with the costs involved with registration and after registration – bribery and corruption.

- One should look on the report that was produced by the Prime Minister's Council on Trade and Industry in the year 2001 – it documented the various kinds of procedural hassles faced at the entry level, functioning and exit.

- When we use the term 'regulations', it connotes both the statutory law as well as administrative law. The latter actually serves as a major deterrent to enterprise but it is scarcely looked into.

- In the Commission set up for the purpose of dealing with Administrative Law, there were visible issues relating to its very interpretations. The reality is that such law is as it is determined by the petty officer (for his/her own convenience and benefit).

- Even though the Indian Constitution had attempted at dividing the jurisdictions through the Seventh Schedule, it has not done anything towards uniformity and standardisation. Thus, Administrative Law varies from state to state.

- If public governance won't improve, how will corporate governance improve?

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[4] Member, Project Advisory Committee (PAC) of the BRCC Project

- There is a clear correlation between levels of economic development and levels of corporate governance/public governance and thus both should be the target of the BRCC Project.

CAROLINE TWIGG, WBCSD, India

- There has been an ever growing appreciation of the notion of responsible business and there are many companies who wish to (earnestly) do something good apart from excelling in their chosen ventures. There is an apparent need for bridging the divide between business enterprises and social enterprises so as to take forth the socially responsible business and allied themes in a more structured way.
- WBCSD is working with a large number of global companies to work out large scale strategies whereby businesses can contribute in growth and development is a visible manner.

SEEMA ARORA, CII-ITC Centre of Excellence for Sustainable Development, India[5]

- It will be imperative to see how businesses have to look at global challenges
- The project should answer whether regulations can help. Or is it that enabling policy frameworks can help better – not just guidelines but accommodative frameworks
- The debate should be on the line of voluntary versus complementary guidelines as both possess their unique merits and both these go along. What matters is the focus area.
- Social enterprises have the capacity to mainstream business activities for the good of the society and country.
- Processes relate to sustainability range from shop floor to board room and there should not be generalizations in devising the solutions.
- Inclusive base of the pyramid models carry a lot of potential and the project should not exclude these from its enquiry. It should build evidence for their scaling up and replications, thus suiting the Indian context and needs.

BIMAL ARORA, GIZ, India

- Emphasis was made over the promise associated with inclusive business models in growth and development. Lessons were shared from the Growing Inclusive Markets (GIM) project that was supported through the UNDP.
- Mention was made of the potential that can result by linking Mobile Banking with MNREGA – one of the biggest ever livelihood guarantee initiative by GoI.

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[5] Member, Project Advisory Committee (PAC) of the BRCC Project

- Example was quoted of SELCO which is working with an innovative model for generating electricity through waste management. The project should take such innovative business models into account while designing its research methodology and tools. It will be a good contribution of the project is it succeeds in bringing up the regulatory bottlenecks being faces by such inclusive business models.

FLOOR DISCUSSIONS

- How can the project focus on how Indian Companies can perform globally on sustainability standards?
- It is important to know how and where companies themselves are moderating their behavior.
- What about MNCs operating in India? Are they following same standards in their home countries and in India?
- Are we talking about pricing when we enquire into corporate conduct?
- The project should endeavor to get down to the core of the problem, and should not just remain confined to surface enquiry.
- The project can develop a trajectory from CSR to ISR (Individual Social Responsibility) – of CEO so as to enable the person in charge take decision while eying at various stakeholders
- The project may look at informal economy in such a way as to deconstruct the supply chain and place the informal players in the same as its integral part.
- If corporates see value in any code, they will follow it. It is about internalising the codes. There should not be separate department to look after such codes.
- An enquiry could be made over UNGC related principles. It is a challenging task to measure how adherence to any such voluntary code adds value to the business performance or corporate conduct.
- When it comes to CSR, at times, the companies are puzzled about what can they ought to do extra or how they ought to do the same. It is important for the project to locate the missing links
- There has to be better and larger discourse over the very term CSR.
- Mention was made of the Code of Conduct put in place by the Bombay Chamber of Commerce and Industry. But whether or not is is being followed by its Members that is a different question altogether.
- The project can take a look at not just the prevalence of self-regulatory codes, if any, but also on how they are getting operationalised.
- The project could take a look at Hernando de Soto's work on informal sector and derive inferences for Indian context.
- The project theme touches upon a large arena of cross-cutting issues – regulatory framework, philanthropy, business conduct, social responsibility, corporate governance and the likewise. Some of these are governed by law, whereas some are governed by morality. Therefore, it will be imperative to have functional interpretation of different such issues.

- There is a widespread concern among shareholders in the US over CSR related spending. Their apprehension is that the management might have to spend *their* money into non-profitable ventures. Such concern and apprehension is not limited to US. The project can take a look at the business case for responsibility and inclusivity.
- The project will be required to accommodate human rights and their reciprocal relationship with business. It is not just about labour rights but more.
- The project will have to delve into stakeholder (social) value creation, sustainable development framework and so on, to focus not just on financial value creation but also on other aspects.

SECOND TECHNICAL SESSION

VASANTHI SRINIVASAN, CCGC IIM Bangalore, India [6]

- The project related presentations are meant for generating an informed and focused discussion among the different stakeholders and the research methodology is open for due inputs for further refinements.
- The project will also look into the philosophical bases for business regulation and corporate conduct and therefore will accommodate the role of values.
- There are different stakeholders working towards shared purpose in different ways. Therefore, there are bound to be divergence in their understanding of various terms being used in today's discussions and in the project related documents. Thus, it calls for detailing our of various such terms and that will be done at a later stage.
- It will be imperative to locate some important nodes in the government-business interactions. For instance, at what stage does regulation hits profitability of corporations, similarly, at what stage regulation encourages appropriate corporate conduct?
- Regulation is an evolving domain – there can be many examples of constant amendments into various legislations, statutes, laws, rules, policies and praxis.

JENS C ANDVIG, Senior Researcher, NUPI

- The project should be able to dig into multiple facets of corporate corruption that can be located between black part and white part as two extremities.
- Information handling by the firms is also an important area because the timing, adequacy and authenticity of information play a very important role in determining its responsibility quotient.
- Regarding CSR, there are many definitions. But it is important to keep track of the conducive environment under which CSR gets undertaken.

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[6] Research Adviser as well as Project Advisory Committee (PAC) Member of the BRCC Project

AMITA JOSEPH, BCF, India

- Concern was raised over the ongoing deliberations relating to mandating CSR by companies falling above a prescribed threshold. If such law is passed, there would be huge chunks of money getting spent in the name of CSR. So there have to be corresponding frameworks and guidelines for such spending beforehand.
- Mention was made of the Global Reporting Initiative disclosure requirements. The project can take a look at the interface among such voluntary (and globally recognised) measures and mandatory regulatory compliances.
- It is important to be clear about various terminologies so that there is no scope for vagueness.
- Instead of focusing so much on the states, focus should be on the regulations affecting the chosen sectors. This is so because regulations are getting administered no just at the state levels but also at the national and local levels.

GROUP AND FLOOR DISCUSSIONS

- The project should remain focused on in its approach and methodology.
- This is a unique project for Indian context and therefore it is natural for the various stakeholders to possess extra (wide) expectations from it. The best that the project can do in such scenario is to elaborate on its limitations and corresponding justifications for being selective (focused).
- As the modus operandi of the project is guided by the stakeholder feedback to be received during the future course of the project, it will be imperative to review all such inputs in a detailed manner – and such task will require a lot of time and patience.
- The project team will have to decide over whether its sampling frame will include only the corporate sector or the unincorporated companies as well.
- The project should always keep its focus on the target audiences.
- The choice of sectors should be guided by their relevance not just for the economy of the country but also their contribution in terms of being the providers of public goods and services. Thus, there has to be a detailed and careful comparison among different (potential) sectors before arriving at the final choice of the two sectors.
- The various sectors that were suggested during the discussions were: healthcare, pharmaceuticals, automobile, banking, retail, textiles, and information technology.
- There was no consensus over whether the sectors or the states should be chosen first.
- The project should keep its focus on its possible contributions for enhancing inclusive growth in the country i.e., the inclusion of such factions of the populace in the growth journey who could not speak for themselves.
- Corporate Conduct will incorporate visible as well as invisible elements.
- There has to be emphasis over the role of corporate sector beyond what is statutorily required.

- The project can try to answer whether regulations have helped (in realizing the objectives for which those were instituted!) – Thus an assessment of the need for existing regulations can be undertaken under the project and accordingly, recommendations for the new ones/amendments in the existing ones could be made.

CLOSING SESSION

VASANTHI SRINIVASAN, CCGC IIM Bangalore, India

- During the project implementation, due care will be made over the various terminologies and definitions. Alongside, the regulations will be categorized into appropriate categories.
- A final decision will be made over the extent to which the formal and informal interface is required to be studied only after the selection of appropriate sectors (two sectors) for the study.
- The issue of regulatory coherence and the promise of sunset clause will be delved further into.

PRADEEP S MEHTA, Secretary General, CUTS

- The formal-informal interface is important for any enquiry relating to enhancing the role of business in growth and development of India and the project will take this aspect into account.
- Other countries that have incorporated sunset clauses in their regulations could be studied further. The tool of Regulatory Impact Analysis (RIA) also carries promise in simplifying regulations by providing avenues for structured stakeholder consultation and periodic review.

SURESH P PRABHU, Former Cabinet Minister and Member of Parliament, India

- Different sectors have been proposed during the meeting and it is expected that the project implementation team will come up with a definite criteria for selecting the sectors. But it is also important to be realistic, which means that the feasibility of the study should also be assessed.
- During the research, an enquiry could also be made over whether it is feasible to introduce some kind of 'integrated' or 'convergent' regulations for specific sectors. Like in the case of special industrial zones, there are, by and large, single administrative authorities. In a similar vein, can we of having such sector-specific integrated regulations?
- It is expected that all the inputs being received during the day long gathering will be debriefed further and project progress will be shared with various stakeholders on periodic basis.

Exploring the Interplay between Business Regulation and Corporate Conduct in India (BRCC Project)

PROJECT LAUNCH

Hotel Le Meridian, New Delhi, 21st April 2011

0900 to 0930hrs: **REGISTRATION**

0930 to 1030hrs: **OPENING SESSION**

Pradeep S Mehta, Secretary General, CUTS

Karl Rich, Senior Research Fellow, Norwegian Institute for International Affairs (NUPI)

Arun Maira, Member, Planning Commission, Government of India

Suresh P Prabhu, Former Minister of Environment and Forests, India

1030 to 1100hrs: **TEA BREAK**

1100 t0 1300hrs: **FIRST TECHNICAL SESSION**

Challenges for Enterprise Development: Bottlenecks in Policies and Practices by Bibek Debroy, Centre for Policy Research, India (15 mins)

Global Trends in Responsible Business Conduct by Caroline Twigg, WBCSD, India (15 mins)

Responsible business in India – Yesterday, Today and Tomorrow by Seema Arora, CII-ITC Centre of Excellence on Sustainable Development, India (15 mins)

Can enterprise development and responsible business co-exist in India? by Bimal Arora, GIZ, India (15 mins)

Chair: Suresh Prabhu, Former Minister of Environment and Forests, India

FLOOR DISCUSSIONS (60 mins)

1300 TO 1430hrs:	LUNCH BREAK

1430 TO 1630hrs: **SECOND TECHNICAL SESSION**

Discussion on Thematic Research: Exploring the interface between business development and corporate conduct in India (30 minutes)

Jens C Andvig, NUPI, Norway & Vasanthi Srinivasan, IIM Bangalore

Group Discussion (30 mins)
[*Participants to be split into 4-5 groups for inputs on the research theme*]

Panel Discussion **(30 mins):**

- Atindra Sen, Bombay Chamber of Commerce and Industry
- V K Mathur, INAPEX Ltd.
- Ravi Chaudhry, CeNext Consulting & Investment Pvt. Ltd.

Chair: Amita Joseph, Business & Community Foundation

FLOOR DISCUSSIONS (30 mins)

1630 to 1700hrs: **TEA BREAK**

1700 to 1730hrs **CLOSING SESSION**

Summary of Discussions on Thematic Research by Vasanthi Srinivasan, IIM Banglaore

Closing Remarks by Suresh Prabhu, Former Minister of Environment and Forests, India

Vote of Thanks by Pradeep S Mehta, CUTS