

# Exploring the interplay between Business Regulation and Corporate Conduct In India (BRCC project)

## Brief Report of the State Focus Group Dialogue, Himachal Pradesh

*Shimla, 31<sup>st</sup> August, 2012*

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### 1. Background

1.1 The BRCC project ([www.cuts-ccier.org/BRCC](http://www.cuts-ccier.org/BRCC)) was initiated in 2011 to examine the existing relationship between business regulations and corporate conduct in India, by assessing the state of play in two sectors – *pharmaceutical* and *private healthcare*. CUTS International has been implementing this project in association with the Norwegian Institute of International Affairs (NUPI), Norway with support from the Ministry of Foreign Affairs, Norway through the Royal Norwegian Embassy, India. Activities under the BRCC project (research and dialogues) are being implemented by local civil society organisations in four states of the country, viz. *Andhra Pradesh, Gujarat, Himachal Pradesh* and *West Bengal*.

1.2 The BRCC Project was envisaged with the goal to stimulate better business to achieve sustainable development objectives in India. In more specific terms, the project aims to promote ‘responsible business’ conduct in these sectors and evolve a policy discourse to facilitate an environment that promotes business development in a sustainable manner.

1.3 The project is being operationalised by undertaking research to comprehend business regulations at the national and state levels (two sectors) that have implications for responsible business, and find ways to best motivate corporate entities to emerge as champions of responsible business conduct. The *National Voluntary Guidelines for Social, Environmental and Economic Responsibilities of Business* (NVGs), adopted by the Government of India (mid-2011) provides a framework that defines responsible business conduct (or business responsibilities) in the India context. The BRCC project research in the four states has been undertaken using the NVG as a framework to assess the current state of responsible business conduct in these sectors, identify the possible drivers of business responsibility and evolve a possible way forward for promoting better business in these states.

1.4 Focus Group Dialogues are being undertaken in the four states to share findings of the project with various state-level stakeholders. Findings from the states would then be shared with key players in the national policymaking circuit through a policy forum to be held on 8<sup>th</sup> October, 2012.

### 2. Proceedings

2.1 CUTS and Gunjan Organisation for Community Development (GOCD, which is CUTS partner in the state of Himachal Pradesh for the BRCC project) organised thr Focus Group Dialogue (FGD) on 31<sup>st</sup> August, 2012 in Shimla. The main objective behind this activity was to share the

findings of field survey carried out under BRCC project and fine-tune the strategy to develop a roadmap for adoption of responsible way of doing business in consultation with various stakeholders in state.

2.2 The meeting was inaugurated by the Chief Secretary, Govt. of Himachal Pradesh, Shri Sudripto Roy, and drew over 35 participants from the various key state and non-state level institutions. Participants included, special guest, Shri Tikender Singh Panwar, Deputy Mayor of Shimla, member secretary of the Himachal Pradesh Pollution Control Board, Shri Sanjay Sood and other key stakeholders from the two sectors. Gayatri Subramaniam from the Indian Institute of Corporate Affairs (IICA) also spoke in the meeting.

2.3 Some of the **key messages** that emerged from the discussions are as follows:

- i. Such state level multi-stakeholder forum are necessary to identifying lacunas in existing regulatory regime leading to irresponsible conduct in key sectors at the level of the state, in order to help develop a 'roadmap for promoting business responsibility' in them.
- ii. The fundamental differences between Corporate Social Responsibility (CSR) and Business Responsibility (promoted by NVGs) need to be understood
- iii. The NVGs provide a holistic understanding about 'business responsibilities'. Its awareness across state level needs to be promoted, especially among state level public regulators (in key sectors like healthcare, environment, electricity, etc.) and also sectoral associations of businesses
- iv. The process for developing 'business responsibilities' should start at the state level.
- v. Profit has unfortunately become the main motive in the pharmaceutical and private healthcare sector, which needs to be addressed. This has affected the ability of the ordinary citizens to access quality healthcare services in India.
- vi. Cartelisation in the pharmaceutical sector and other market malpractices in the private healthcare sector have affected the accessibility and affordability of healthcare services.
- vii. There is a need for effective application of laws/ regulation for overcoming these challenges in two sectors
- viii. Civil society needs to play a more active role in helping state and central government in application of such laws/regulations
- ix. The Government of Himachal Pradesh would be happy to take cognizance of the findings from the research and initiate appropriate actions to promote business responsibility in the state
- x. Link needs to be created between the implementation of a provision relating to CSR in the Companies Bill 2011 (Section 135), and the NVGs operationalization at the state level.
- xi. Inadequate public healthcare system and weaknesses in public investment in healthcare have allowed private healthcare sector to grow in state. Quality of healthcare delivery in the state has also deteriorated over the years

- xii. Sectoral Associations need to understand that they can play an active role in monitoring the performance and behavior of the members
- xiii. There is no formal process/mechanism for interactions between the state government and the sectoral associations in the state. Such a mechanism should be promoted and its purpose should be to take stock of each other's challenges and how to develop a functional working relationship between them.
- xiv. Recommendations made from time to time to the Government, including proper implementation and monitoring of *The Sales Promotion Employees (Conditions of Services) Act, 1976* that has not been heeded to.
- xv. Price of drugs should be capped in order to improve the situation. The price control authority (National Pharmaceutical Pricing Authority) does not seem to have taken necessary steps for capping the price of drugs.
- xvi. The Government of HP is in the process of initiating implementation of the Clinical Establishment Act in the state and would be forming a Committee on the same. Credible and experienced civil society organisations should form part of this Committee. The Committee should also include representatives of the relevant sectoral associations (e.g., Medical Association, Hospital Association, Pharma Association, M R Association, etc.)
- xvii. Lack of inter-ministerial coordination on certain issues like Bio-medical Waste management was noted. This is something that the Government of HP needs to address

2.4 Keeping the above discussions in mind, the Government of Himachal Pradesh could take some of the following **steps** to start the process of promoting 'responsible business' in the Pharmaceutical and Private Healthcare sectors:

i. Interactions:

Formal mechanisms for interaction between the relevant state government department (Department of Health & Family Welfare, Government of H.P.) and the Sectoral Associations (e.g., Medical Association, Hospital Association, Pharma Association, M R Association, etc.) need to be developed. These interactions should be undertaken on periodical basis, the discussions recorded and action points identified. Proper 'Action taken report' should be prepared for the subsequent meeting to keep an eye on the progress, etc.

ii. Monitoring:

A process for assessing the performance of the regulators (viz., State Drug Controller, State Pollution Control Board) in promoting responsible business practices in the pharmaceutical and private healthcare sectors need to be initiated. The report of such assessment should be made public.

iii. Regulatory Capacity:

Capacity of the relevant state regulators needs to be strengthened with the necessary human and financial resources. Areas of improvement are to be identified and strengths to be consolidated.

Credible and experienced civil society organisations can complement the task of the state government in monitoring performance of firms and identifying malpractices. Such CSOs should be empowered.

Government of H.P. can also think about the possibility to become the initiator of 'State Regulators Forum on Responsible Business in the Healthcare Sector'. This would be a forum that provides opportunities for the relevant State Level Regulators (viz., State Drug Controller, State Pollution Control Board) to learn from each other.

iv. Good Practices:

A process for identifying 'good practices' can be initiated in the state level. Such 'good practitioners' should be recognised and rewarded.

2.5 It has started to become increasingly clear that the process of promoting 'responsible business' should start at the level of the state. Given the interest of the Government of H.P., CUTS and Gunjan Organisation for Community Development would be happy to assist the state Government, should it decide to operationalize some of the above steps.

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