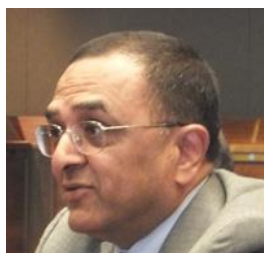




March 2015



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## Editorial

### CSR in India: voluntary initiatives deliver best results

India is facing multiple deficits; we need to raise literacy, to provide clean water and to promote hygiene. All these goals are achievable - if only we could make a dent in poverty. There is no way that philanthropy or charity can replace hard core economics and growth, which can eradicate poverty by creating more self-sustained jobs.

Corporate social responsibility (CSR), as the government has conceived it, is a temporary intervention in promoting these socio-economic goals for improving people's living standards, pending achievement of the ultimate goal: erasing poverty and all its attendant ills.

The Indian government has recently formulated a policy that requires companies above a cut-off level of net worth, turnover or profit, to spend at least 2% of their net profit on CSR activities. The activities identified for this purpose are: eradication of hunger, poverty and malnutrition, promotion of health, education or sanitation, training to promote rural sports and similar earmarked goals.

Spending the mandated amount (2% of net profit) could be financially significant. It has been estimated that the total amount of spending should be around \$2.5 billion a year. Although in India's context, it is not large in total, such a sum could make a difference at least in some pockets. However, to achieve these goals the use of funds must be judicious.

So what are the issues involved?

First, to identify projects under the stipulated headings, companies need specialised knowledge in areas which are not exactly their core competence. They will therefore need to consult with outside agencies. While non-government agencies (NGOs) could be helpful, there are so many (India has over two million NGOs) and of such reputation, it is difficult to choose.

Secondly, it will be absolutely necessary to monitor use of these funds. Companies are typically not in a position to track the flow of such funds and monitor the results from their use. Thus, a lot of funds honestly earmarked by companies might go to waste.

Thirdly, mandatory spend on CSR could eventually become a tax on the corporates. In the absence of a clear vision and an institutional mechanism to support such spending programmes, it might just become a way of earmarking funds for government-denominated purposes. As, for example, the law provides that company contributions to prime minister's relief funds, or any other funds created by the central government, could also qualify as spending on CSR.

Last but not least, CSR outlays must be allowed as legitimate business expenses, if companies are really to pursue these broader social objectives.

What is the best route for achieving the same goals?

The responsibility for doing socially responsible work should best be left to the corporates themselves. I can relate the experience of Great Eastern Energy Corporation (GEECL) in undertaking such activities in our operational areas. The experience has rich lessons for us in engaging with the community amidst which we work.

My company has chosen some specific projects which we felt addressed the typical deficits in our areas of operation. Take for instance the medical facilities available for the local population. We looked into the specific deficits and sought to provide whatever we could in bringing those to the areas. Eye camp and blood transfusion centres, in collaboration with some local medical centres, have brought real relief.

We identified talent among the rural tribal youth for sports and provided support through sports training centres. We set up training and education centres to qualify the educated younger people with skills and further education to equip them for jobs.

All these in addition to our core work of mining gas, which brings self-sustained quality jobs in the area which has wider spillover benefits to the local population.

These engagements were begun long before the new law made mandatory spending on CSR. We have a healthy relationship with local people. CSR has not been an action programme dictated from government, but a spontaneous response to taking some of the goodness of life to the people with whom we interact as a result of our business operations.

*Yogendra K. Modi is CEO of the Great Eastern Energy Corporation; Employer Member, ILO Governing Body; Board Member, International Organisation of Employers*

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## German G7 Presidency Supply Chain Initiative

The German G7 Presidency has launched an initiative for the promotion of decent working conditions and social and environmental standards in the supply chain. The initiative was first discussed at a G7 supply chain conference on 10 and 11 March in Berlin, at which IOE Vice-President Renate Hornung-Draus presented the IOE position.

The core component of the initiative is the establishment of a so-called "Vision-Zero" Fund for strengthening OSH programmes in supply chains. The fund is intended to be financed by voluntary contributions from companies from G7 countries and administered by the ILO.

The initiative aims further to strengthen the National Contact Points of the OECD MNE Declaration through peer review, as well as to enhance capacity building in producing countries and support for SMEs.

In a paper outlining preliminary perspectives, the IOE rejected the idea of a company-financed fund and called instead for the contribution of governments. It is the role of governments to set up effective labour inspection systems and OSH frameworks, as well as judicial systems that give people access to remedy. Moreover, the "Vision Zero Fund" must improve OSH systems generally, and not be limited to supply chain companies. The full involvement of local actors, including national governments, and the conditionality of funding are key in this regard.

The German G7 Presidency intends to get approval for the initiative at the G7 Summit in Schloss Elmau on 7 and 8 June and to discuss the operationalization in a joint meeting of G7 Labour and Development ministers on 6 October.

Please click on this [link](#) for more information

The IOE paper can be downloaded [here](#)

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## Council of Europe's draft Human Rights Standard headed in the wrong Direction

The drafting group of the Council of Europe (CoE) on a business and human rights standard met on 25-27 February in Strasbourg to further discuss the draft standard on business and human rights. The IOE was represented in the meeting by Paul Noll, Deputy Director for European and International Affairs at the BDA.

Although it was possible for the IOE to achieve several improvements to the text, for instance that the standard does not include direct requirements for companies with regard to reporting, the text remains unbalanced because of its primary focus on access to remedy, the third pillar of the UN Guiding Principles.

This is most unfortunate as there is general agreement that all three pillars ought to be supported with the same level of attention. The disproportionate focus on the third pillar jeopardises the intentions of the Council of Europe, which are to promote responsible business conduct with regard to human rights. Moreover, it is widely recognised that prevention is key to avoiding situations in which access to remedy becomes necessary.

By focusing chiefly on access to remedy, the Council of Europe is sending the wrong message that it is more important to have access to remedy after the fact than to prevent the incident from happening in the first place. Moreover, the section on access to remedy is almost exclusively focused on extraterritorial jurisdiction rather than on supporting CoE member States to improve access to remedy at local level. The shortcomings of extraterritorial jurisdiction are ignored.

The text will be finalized by the CoE Drafting Group in September.

IOE Comments on the draft CoE Business and Human Right Standard can be found [here](#)

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## New US Federal Acquisition Regulation places additional Burdens on Federal Contractors

On January 29, 2015, the US Government finalized a rule which amends the Federal Acquisition Regulation ("FAR") to combat human trafficking by placing new reporting and compliance burdens on federal contractors.

The existing FAR clause in all federal contracts already prohibits engaging in severe forms of trafficking in persons, procuring commercial sex acts, and using forced labour. On top of these proscriptions, the new regulation adds – among others – the following provisions:

- Before award of the government contract, the prospective contractor must certify that it has a Compliance Plan in place for the portions of the contract that occur overseas and exceed \$500K. After the contract award, this certification is required annually during performance of the contract. The certification must state: that the contractor has procedures to monitor, detect and terminate a contract with a subcontractor or agent engaging in prohibited activities; and to the best of the contractor's knowledge, neither it, nor agents, subcontractors, and subcontractors' agents, is engaged in trafficking activities or that if such activities have occurred, proper remedial and referral steps have been taken.
- Contractors who satisfy the \$500K threshold for contracts performed abroad must also create a Compliance Plan to address human trafficking risks.
- The rule requires contractors to inform the relevant agency contracting officer and the agency Inspector General immediately of: any "credible information" it receives from any source (including host country law enforcement) that alleges conduct on behalf of a contractor employee, subcontractor, subcontractor employee or their agent that violates the trafficking provisions of the FAR; and any actions taken against a contractor employee, subcontractor, subcontractor employee or their agent in response to the alleged conduct

### There are several areas of concern for business:

- The regulations provide minimum requirements for Compliance Plans, but it is still unclear how robust or detailed a plan must be, especially because it must be "appropriate to the size and complexity of contract and nature and scope of activities."
- What constitutes "credible information" of trafficking violations that must be reported by contractors?
- What constitutes sufficient "monitoring" of subcontractors and agents? The preamble states: "the prime contractor's monitoring efforts will vary based on the risk of trafficking in persons related to the particular product or service being acquired and whether the contractor has direct access to a work site or not."

*Stefan Marculewicz, Littler*

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## French Legislation in the Pipeline on Human Rights Due Diligence

Legislation has been proposed by members of the French parliament with the aim of avoiding another Rana Plaza-type tragedy and making sure that MNEs take their responsibilities seriously with respect to due diligence in their supply chain.

According to a first draft, rejected on 16 January 2015, any French company would be liable unless it could prove that it had been unable to prevent the damage *despite* exercising due diligence (presumption of responsibility).

The French government has now issued a second draft, with the following main provisions:

- Only enterprises with 5000 and more employees are covered
- The requirement is to put in place a preventive "due diligence" plan to avoid causing or contributing to harm as a result of the company's own economic activity, or that of their subsidiaries and global supply chain. The scope of due diligence, however, is not specified in more detail
- In the event of no preventive plan being established, civil liability can ensue, and the company fined up to 10 million Euros
- The right to bring an action is open to NGOs

Even though the new bill is a bit better, MEDEF has major concerns for the impact on France's competitiveness and attractiveness as an investment destination, since this type of system does not exist anywhere else in the world. MEDEF is also concerned by the legal risk, since the scope and boundaries of due diligence are not defined.

Finally, MEDEF does not regard this punitive approach to be constructive. The right to bring an action is open to NGOs, meaning the aim is not only to remedy any damages, but to point out companies' failures. It exceeds the ordinary rules of civil liability.

MEDEF's perspectives on the draft law can be found via this [link](#) (French only)

*Garance Pineau, Deputy Director, Social, European & International Affairs, MEDEF*

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## Taiwan Stock Exchange codifies rules requiring specific listed companies to compile Corporate Social Responsibility Reports

On 18 September 2014, The Financial Supervisory Commission issued a press release announcing that listed companies in the food, financial and chemical industries, and companies with over NT\$10 billion of paid-in capital must compile a Corporate Social Responsibility Report (CSR report), aiming to raise awareness of the social responsibility of companies that directly deal with customers (in other words, those with a B to C relationship) and to revive their consumer and supply chain vendor confidence. To assist with the implementation of this policy, TWSE has codified new rules which have been released to the public and come into effect.

The rules clearly define that listed companies from the food, financial, and chemical industries, those with annual food and beverage revenue accounting for more than 50% of total revenue, and those with paid-in capital of more than 10 billion NTD are compelled to prepare and publish CSR reports. These companies should refer to the latest version of the Sustainability Reporting Guidelines and Sector Supplements released by the Global Reporting Initiative (GRI), and also consult other applicable standards based on the nature of their industries and prepare last year's CSR reports. Furthermore, CSR reports of companies in the food industry and companies whose beverage revenue makes up more than 50% of its total revenue must be assured by CPAs based on standards released by the Accounting Research and Development Foundation.

TWSE has stated that, in principle, the filing deadline for such reports is 30 June. However, companies that have not compiled such reports or did not compile a report based on GRI guidelines in the most recent year, or companies that will make their reports assured by CPAs, may extend their deadline to 31 December.

The rules also require publicly traded companies to disclose the following: the material aspects in the economic, environmental, and social categories identified by the companies; management approaches; performance indicators; and the methods of measuring these indicators. Companies should strengthen the disclosure of material issues concerning stakeholders according to their industries. By preparing CSR reports, companies can conduct a comprehensive review of the risks and challenges they face, and develop policies and measures accordingly.

*Mike Lin, International Affairs Section, CNFI*

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## Economist Intelligence Unit launches Business and Human Rights Report

A new report published by The Economist Intelligence Unit on 16 March 2015 with the support of IOE and other business organisations evaluates the state of play in business and human rights since the adoption of the UN Guiding Principles by the Human Rights Council in 2011.

The report shows that 83 per cent of respondents to the survey believe that human rights are a matter for business as well as governments, with 71 per cent saying that their company's responsibility to respect human rights goes beyond "obedience to local laws".

The report can be downloaded via this [link](#):

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## US Dodd-Frank Act fails the Democratic Republic of Congo

*Foreign Policy* magazine has published an article on the unintended and very grave, negative consequences of the US Dodd-Frank Act on the Democratic Republic of Congo (DR Congo).

The act requires companies registered with the US Securities and Exchange Commission to disclose whether they are receiving tantalum, tungsten, tin, and gold from DR Congo, and whether those minerals are connected to sites of conflict. This disclosure is determined through an expensive certification process on a mine-by-mine basis.

The article "How Dodd-Frank Is Failing Congo" shows that the Act has not resulted in countering the control of the DR Congo's mines by armed groups, nor has it made life better for Congolese civilians. On the contrary, the law has brought a quasi-boycott which has resulted in the loss of employment for between five and 12 million Congolese.

The article can be accessed via this [link](#):

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## Norwegian Government issues White Paper on Human Rights

In December 2014, the Norwegian Government presented a white paper on human rights with the title "Opportunities for all: Human Rights in Norway's Foreign Policy and Development Cooperation".

The Norwegian Government is concerned by the fact that human rights are coming under increased pressure worldwide. Since the adoption of the Universal Declaration of Human Rights in 1948, a number of conventions have been agreed. In practice, however, the degree to which human rights are respected varies considerably. The Government will intensify its efforts to promote respect for human rights, not least in light of the ever more complex challenges the world is facing.

In the white paper, the role of the business community is not dealt with in great detail, most of what is stated primarily concerns the role of the Government and public authorities.

The white paper describes Norway's efforts to promote human rights in its foreign and development policy and sets out the following main priorities:

- A) Ensuring a holistic approach to Norway's international human rights efforts, with a particular focus on three priority areas that highlight the links between democracy, the rule of law and human rights:
  - Individual freedom and public participation – with an emphasis on rights that are under particular threat, such as freedom of expression, freedom of assembly and association, and freedom of religion or belief, as well as intensified efforts to support human rights defenders and to promote the independent media and the right to
  - 
  - The rule of law and legal protection – with an emphasis on the right to life, the development of fair and effective legal systems, the protection of private property rights, the fight against corruption and the protection of personal privacy;
  - Equality and equal opportunities – with an emphasis on the rights of women and children, the right to health and food, as well as efforts to combat all forms of discrimination, including discrimination of religious minorities, indigenous peoples, people with disabilities, and sexual minorities.
- B) Promoting human rights in international cooperation at the global, regional and bilateral levels, by pursuing a coherent policy and through the systematic use of foreign and development policy instruments. This includes:
  - Integrating efforts to promote and protect human rights into all aspects of foreign and development policy, to ensure that Norway's efforts in different areas pull in the same direction and are mutually reinforcing.
  - Playing an active part in international efforts to further developing the normative human rights framework, and further developing Norway's role in this field as a key international player with a clearly recognisable profile;
  - Working to make the UN more effective and to ensure that human rights are given priority across the organisation and that a larger share of its total resources is allocated to this area;
  - Working to further strengthen the activities of the Council of Europe and the Organization for Security and Co-operation in Europe (OSCE) to promote democracy, human rights and the rule of law;
  - Developing long-term, targeted cooperation with regional organisations outside Europe, as part of efforts to strengthen international human rights protection mechanisms;
  - Further developing a systematic approach to bilateral efforts, based on the human rights obligations of the countries concerned and in line with our multilateral efforts;
  - Setting clear requirements for recipients of Norwegian aid as regards their willingness to take steps to promote human rights, democracy and the rule of law;
  - Engaging the private sector in efforts to safeguard and ensure respect for human rights, with reference in particular to the UN Guiding Principles on Business and Human Rights;
  - Further developing human rights expertise in the Foreign Service, through training, capacity building and the development of relevant tools, and by facilitating cooperation with relevant actors, including civil society, the academic community, the private sector, religious groups and cultural networks.

## New CSR Unit at the Confederation of Private Employers of Bolivia

One of the institutional purposes of the Confederation of Private Employers of Bolivia (CEPB) is to promote the concept of Corporate Social Responsibility (CSR) among its members and other civil society organizations.

To this end, the CEPB has implemented in its internal structure a Corporate Social Responsibility Unit (URSE), an initiative that aims to promote CSR, to provide technical assistance, to advocate for the employers' position on CSR, to make the huge engagement of companies more visible and to coordinate the efforts of the private sector in this area.

The URSE supports the development of human resources and offers training through virtual tools and other activities that allow officials and corporate executives to constantly update their knowledge, and to be informed and empowered in this area.

Today, the URSE has developed a number of tools including a CSR Services Platform which contains a number of helpful inputs. At the launch of URSE, the CEPB developed three cross-cutting guides that assist companies to undertake the challenge of CSR:

1. Concepts and first steps in CSR
2. Strategic design of CSR
3. Management of corporate reputation

Finally, it is important to note that URSE works with the National Chamber of Industry (CNI), Federation of Private Employers of Chuquisaca (FEPCH) and Federation of Private Employers of Oruro (FEPO), advising on the implementation of CSR units in its organizational structure.

The CEPB appreciates the support of the International Labour Organization (ILO) through the ILO Regional Office for Latin America and the Caribbean, for all the support given in the development of this unit.

For more information, please visit the website: [www.urse.org.bo](http://www.urse.org.bo) or [www.rse-bolivia.org.bo](http://www.rse-bolivia.org.bo) (Spanish only)

*Lucia F. Sossa Aranibar, Executive, Legal Affairs, CEPB*

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## Joint IOE-GBI-WBCSD Webinar on potential Impacts of proposed UN Treaty on Business and Human Rights on Companies

In collaboration with the World Business Council for Sustainable Development (WBCSD), the IOE is organising a webinar on the impact of the "Ecuador treaty" process on business and human rights on 30 March 2015 at 15:00 CET.

As you are aware, the UN Human Rights Council decided in June 2014 to set up an intergovernmental working group to draft a binding treaty on business and human rights. The first meeting of the working group will take place on 6-10 July 2015 in Geneva. There will most likely be consultations beforehand.

Thanks to its official consultative status in the UN system, the IOE has the right to participate in this working group.

The webinar, in English only, will aim:

- to inform companies and IOE member federations about the latest developments regarding the intergovernmental working group,
- to discuss its possible impact on companies,
- to develop a business response to the treaty process

Kindly register by emailing Anetha Awuku at [awuku@ioe-emp.org](mailto:awuku@ioe-emp.org)

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*Editors' Note:*

*IOE members and partner companies are invited to contribute articles on CSR and human rights developments in their countries or enterprises, to share information on conferences and publications within the global business community, as well as to use the newsletter to exchange worldwide experience and best practice.*

*Please contact Matthias Thorns ([thorns@ioe-emp.org](mailto:thorns@ioe-emp.org)) with your submissions.*

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