

## India and CSR: Will the new CSR Law hurt or help India?

Dr. Michael Hopkins, [www.mhcinternational.com](http://www.mhcinternational.com) June 8<sup>th</sup> 2014



Over 25 May until June 3rd, I travelled to India where I gave four workshops on CSR as part of CSRFi. In Mumbai I was hosted by the Wockhardt Foundation and CSR Advisers while in Bangalore by the Bangalore Chamber of Industry and Commerce and Erin Advisers.



*Participants at CSR Workshop Mumbai, 26 May 2014*



*Workshop in Ramanagara District May 31<sup>st</sup> and Bangalore Chamber of Commerce, June 2<sup>nd</sup> 2014*



There is great interest in CSR in India particularly since the publication of new CSR Rules in the Indian Company Law that went into force on April 1<sup>st</sup> this year. In each of the workshops I insisted that CSR was a multi-stakeholder initiative as described in detail on the front page of my website

[www.mhcinternational.com](http://www.mhcinternational.com) which, in turn, also forms the basis of the EU, ISO26000 and GRI definitions<sup>1</sup>. In India, CSR means CSR projects, and large companies with profits over a certain amount are compelled to spend 2% of these on CSR projects. They are also invited to set up CSR committees within their company – leading according to some estimates<sup>2</sup> to about 16,000 companies using 48,000 Board members.

For some large companies such as Tata or Infosys, compliance is easy since they already partake in many so-called CSR projects. The company law lists the project areas where companies are invited to create CSR projects and are displayed in the two graphics below.

## India CSR Rules Schedule 7



(1) In Schedule VII, for items (i) to (x) and the entries relating thereto, the following items and entries shall be substituted, namely:-

“(i) eradicating hunger, poverty and malnutrition, promoting preventive health care and sanitation and making available safe drinking water;

(ii) promoting education, including special education and employment enhancing vocation skills especially among children, women, elderly, and the differently abled and livelihood enhancement projects;

(iii) promoting gender equality, empowering women, setting up homes and hostels for women and orphans; setting up old age homes, day care centres and such other facilities for senior citizens and measures for reducing inequalities faced by socially and economically backward groups;

(iv) ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agroforestry, conservation of natural resources and maintaining quality of soil, air and water;

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<sup>1</sup> You may wish to use these notes on what I see as CSR that come from my new book ‘CSR – A Text Book’ (Springer, Germany, Sept 2014, forthcoming) where I write. ‘The CSR concept I use has been based upon academic work, mainly from the USA, but has been slowly updated and revised over time to reflect comments by academics, business people and students. It is close to other main concepts used by the European Union or ISO2600 for instance and has stood the test of both time and its application. In fact close study of the definition is useful since it directly leads to specific tools to apply to a corporation, NGO or even a public institution. I don’t repeat the definition in detail here since it is quite a mouthful. In its shortened form the definition is ‘CSR is about treating stakeholders responsibly’. Every word needs defining. I define corporate to have a wider meaning than purely large private corporations. In fact some, such as ISO26000, have dropped the word ‘corporate’ and define social responsibly while I prefer to keep the notion of corporate explicitly to emphasise we are dealing with institutions and not individuals. Some drop the word social and arrive at Corporate Responsibility, but pictures of George Bush Jr. when presenting Sarbanes Oxley in front of a poster smothered with ‘Corporate Responsibility’ helped me decide that ‘social’ definitely had to be in the phrase CSR, while taking social to mean what University Departments typically include in their social science departments namely sociology, economics, finance, economic development, governance and the natural environment. Finally, and in fact the most difficult of all, is the notion of ‘responsibility’. I define that variously as the ‘ethical treatment of stakeholders’ and, as such have two chapters in my text book on what is meant by ethics, and on how to define stakeholders). I also allude to responsibility as being responsible as seen in decent countries and more formally say according to ‘internationally accepted norms’. What these could be are elaborated in the text book as are the human rights of business as formulated by the Ruggie committee in the United Nations.’

<sup>2</sup> By Centre for Advancement of Philanthropy

## India CSR Rules Schedule 7 (cont'd)



(v) protection of national heritage, art and culture including restoration of buildings and sites of historical importance and works of art; setting up public libraries; promotion and development of traditional arts and handicrafts;

(vi) measures for the benefit of armed forces veterans, war widows and their dependents;

(vii) training to promote rural sports, nationally recognised sports, paralympic sports and Olympic sports;

(viii) contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government for socio-economic development and relief and welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women;

(ix) contributions or funds provided to technology incubators located within academic institutions which are approved by the Central Government;

(x) rural development projects.”

Normally lists like those above are more familiar in UN or Government Planning documents and are essentially for guidance to the public sector. Sometimes such plans also include incentives for the private sector to be involved in executing the programmes. But the new India company law is unique across the world – nearest parallels are probably in Mauritius and Nigeria.

The law has led to great interest in CSR around India and raised the profile of companies and their role in Indian society. I think raising the level of this interest is a very good thing but I wish it had been handled very differently. Clearly, many believe that given India's high level of poverty which some estimates put at 60% of the population, then large companies should contribute to development.

However, there are a number of questions and implied objections:

1. Is it not the job of Government to invest in development projects? Using tax revenue to invest in such things as the Prime Minister's National Relief Fund or Rural Development Projects or measure for armed forces veterans? Or at least to provide the incentives for the private sector to be involved such as tax breaks, incentive systems, foundations, social funds, tax subsidies (such as a basic income), micro-credit institutions etc.?
2. If the private sector is much better at such things as promoting education, gender equality, setting up old age homes etc etc, why does the Government not raise taxes on corporate profits and then allocate the revenue to so-called CSR projects using the private sector through a bid and tendering system?
3. Will the emphasis on CSR projects actually hurt CSR in India? This is my main worry, since companies caught in the CSR profit net will feel that they need do no more on CSR and will avoid multi-stakeholder systematic CSR? This could mean India being behind companies around the world that have adopted full-fledged CSR. In Mauritius, a similar tax of 1% on profits allocated to Government chosen NGOs had led to the phrase 'CSR' being considered by companies as a dirty word!
4. Without Indian companies adopting CSR frameworks that are not required under the new law - such as GRI G4 sustainability reporting, SA8000 labour conditions, Fairtrade production

of their exports, UN Human Rights Principles for Companies etc. - will these actions lead to less exports? Will Indian consumers, as in many countries, prefer to pay a premium for fairly produced products from companies that have a full-fledged CSR system? Or will the same old exploitations of labour, shoddy products, environmentally unsound policies etc continue? Not by all companies it must be said since many large companies have adopted, as I mentioned above, system wide CSR policies that are both up to international standards and are actually beneficial to the company itself (see my book [‘The Planetary Bargain’](#) on such a system wide approach or a shorter free version on my website – [A strategic approach to CSR.](#))

5. Should not any CSR project be closely aligned with the business case of the company involved in the new law? If this is not the case then the new CSR law is simply introducing a new tax.
6. Will investment in the new CSR projects be sustainable i.e. once the initial investment is done will the projects look after themselves?
7. How will the Government ensure that the companies involved don't all choose the same projects? In an exercise in our workshops, involving groups choosing projects for Tata...many opted for bio-toilets, a great need in India, but could such investment simply lead to a huge surplus of bio-toilets while other key problems are ignored?

The above issues were discussed and participants carried out a number of interactive case studies in groups in the workshops held over the ten days that I was in India. Most companies I spoke with, except the very largest, were rather bemused by the new laws and were asking for guidance on what to do next. So huge possibilities for new consulting and advisory services of which we are happy to assist. But was that the real intention of the Government? Certainly not, to be fair they are seriously interested in reducing poverty and the Indian intellectuals have been writing what to do about that for many years. Perhaps it is time to turn back to listen to these intellectuals and come up with laws that actually do help to reduce poverty in India while not punishing large companies? Rather use large companies management expertise which they have in great abundance and, as many civil servants would admit, strikingly lacking in public institutions in general.