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## **FIELD OF RESEARCH INTEREST**

- Policy Analysis, Policy Design and Public Policy Instruments
- Corporate Law and Corporate Governance
- Business Law and Human Rights
- Sustainable Development and UN Global Compact (Global Governance)
- Qualitative Research Methodology for Policy and legal Studies

Surabhi Gupta as a public policy scholar and a trained lawyer focuses to promote sustainable solutions on issues at the interface of human rights, entitlements and empowerment. She brings firsthand experience of procedural justice where public policy has evolved as an outcome of social movements, such as acid attack, Vishakha guidelines, etc. She has actively worked in several campaigns and development projects, such as Save the Childhood Movement, Make A Difference and contributed in several International and National policy and academic forums such as UN ESCAP, National Law Universities, Bar Council of India, Human Rights Council, FICCI etc. As a research scholar in public policy and governance, she has a distinguished track record of research and publications in academic journals. She comes with strong philosophy to converge theory and practice in teaching with the knowledge and skills of translating idea into action with the use of mix-method research techniques. She is a passionate reader, and advocate for holistic development.

## **EDUCATIONAL QUALIFICATIONS**

### **Fellow Programme (PhD)**

**Department of Public Policy and Governance, Management Development Institute, Gurgaon (2015- ongoing, expected to be completed by 2020)**

**Thesis:** *Evolution of Policy Instruments in Presence of Legislative Vacuum in Common Law Country (India)*

The study explores the interface between law and public policy in emerging paradigm of demosprudence. The study with the use of systematic literature review (SLR) analyzes how contemporary socio-legal cases and conditions give rise to formulation of policy instruments. The study adopts case study approach with the use of participants' observations in the court-room, semi-structured interviews responses (content analysis) by the legal experts, judiciary and proponents (plaintiffs and

respondents) of the cases, are analyzed using Nvivo (software).

Thesis Advisory Committee: Prof. Avanish Kumar, Public Policy and Governance, MDI Gurgaon (Chairperson), Prof. Arun Kumar Tripathy, Strategy, MDI Gurgaon (Member), Prof. Gerald Torres, Cornell Law School (External Member)

## **LL.M (Masters of Law)**

## **National Law University, Jodhpur (2014-2015)**

**Thesis:** *Exploring the Relationship between Corporate Governance and Firm Performance- A Multinational Context*

The research examined the impact of corporate governance (CG) on the firm value of public listed companies in multi nations from the perspective of agency theory. This research also tried to bring together agency theory and institutional perspective and examine how various institutions affect companies' governance.

## **B.A, LL. B (H) (Bachelors of Law)**

## **Vivekananda Institute of Professional Studies, GGSIP University, New Delhi, India (2009-2014)**

## **PUBLICATIONS WORKING PAPERS AND OP-EDS**

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1. Gupta, S., & Kumar, A. (2018). Social licence to operate: A review of literature and a future research agenda. *Social Business*, 8(2), 187-203. (ABDC- B Category Journal)
2. Gupta, S. (2018). Regulations for Drones in India. *Economic & Political Weekly*, 53(16), 23.
3. Gupta, S. (2018). Understanding Sustainable Practices within Global Compact and CSR Policy Framework: Through the Lens of Indian Corporations. *Enterprise Governance eJournal*, 1(1), 6935. (ABDC- C Category Journal)
4. Gupta, S. (2017). Redundant and Obsolete Laws. *Governance Now*.
5. Gupta, S. (2017). Public Policy and Land Exchange: Choice, Law, and Praxis. *Vikalpa*, 42(4), 268-269.
6. Gupta, S. (2012). Law and Sports in India: Development, Issues and Challenges. *International Journal of Legal Studies and Research*.

## **PEER- REVIEWED INTERNATIONAL AND NATIONAL CONFERENCES**

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- Responsible Business and Human Rights Forum, United Nations ESCAP, Bangkok, June 2019
- Peer Reviewed paper "Sustainability in Legal and Management Education: An India Study" presented at International Legal Research Conference, Faculty of Law, University of Colombo, Sri Lanka from 16-17 November, 2018.

- Presented a paper at “Round Table Conference on Right to Environment of Human Right by Human Rights Council”, Vizag, March 2018.
- Co-presented a paper on International Conference on Sustainable Development Goals and Role of Business (8 July, 2017) at Indian Law Institute, New Delhi.
- Attended a week-long seminar on “Business and Human Right”, Indian Law Institute, August 2016.
- Co-presented the paper “Young enterprising millennial, climate change policy management and the research lens of social science - A Cosmopolitan Analysis of Sustainable Entrepreneurship” at Annual Paris Business and Social Science Research Conference, August 2014.
- Co-presented a paper on “Moderating role of integrity Pact in Ensuring Transparency and Accountability in Public Procurement: An Empirical Study of PSUs in India” in International Conference on Transparency and Accountability in Governance: Issues and Challenges, NLU Delhi, October 2012.
- Attended National Consultation for Strengthening the Judiciary towards Reducing Pendency and Delays organized by Indian Law Institute, New Delhi.
- Assisted Inaugural R.K Jain Memorial Lecture organized by R.K Jain Memorial in association with Vivekananda Institute of Professional Institute.
- Attended Constitutionalism in Modern India by Bar Council Of India.
- Attended National Residential Youth Seminar (I, Society and Public Policy), 2010

## WORK EXPERIENCE

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- **Legal Adviser, LegalAtom.com (Under DayalGem Ventures & EdTech Pvt. Ltd.)**  
**Sept 2017 – Oct 2018**
  - Responsible for aggregation and processing of Indian judgments to make them searchable and query enabled for a providing legal services a common man.
- **Teaching Assistantship**  
**July 2016- July 2017**
  - **PGP- Public Policy & Management:** Qualitative Methods for Policy Research; State and Civil Society; Sustainable Development and Global Governance
  - **PGP- Human Resource & International Management:** Corporate Social Responsibility and Business, Society & Government
- **Legal Intern at FICCI - IPR Department**  
**Jan 1-31, 2013**
  - As an intern, worked on an intellectual property policies project that included cross-country level analysis of legal and policy challenges faced by inventors in emerging as well as developed economies. Solely undertook a rigorous comparative analysis of intellectual property laws of all the countries that were under the purview of the study.

- **Judicial Internship, Delhi High Court under Justice Sunil Gaur  
Jan 2012 to May 2012**
  - Worked as a law intern and worked on various legal aspects relating to Land Acquisition. My responsibilities included researching on recent law position and case laws relating to Land Acquisition. Also drafting of the case summary listed before the Hon'ble High Court.
- **Mr. Rajan Narain, Advocate, Delhi High Court and Supreme Court of India  
June 2011 to July 2011**
  - Worked in Global Legal Associates (GLA) as a legal intern. The projects included team work on cases relating to Competition Law, Consumer Protection laws, Partnership and Companies laws, Negotiable Instrument Act and Constitutional law
- **Mr. Ravi Kumar Aggarwal, Advocate, 210 Lawyer's Chamber, Delhi High Court  
June 2011 to Aug 2011**
  - Worked alongside to learn the process of legal drafting and the process of litigation on diverse range of complex matters.

## **PROJECTS UNDERTAKEN**

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- **Eco-Village Development (DIB, Denmark) 2018** : As a research associate designed project policy evaluated projects Eco-Village development on local climate solutions for a poor community in India (INSEDA) and Sri Lanka (IDEA)
- **Ola's consumers' perception with respect to safety and security of cab based transportation services (2018)**: The current study aims to develop a clear understanding of consumers' explicit and latent needs with regards to safety and security while making use of cab aggregation services by accessing consumer perception towards safety and security features in cab transport services.
- **Climate Action Network South Asia (CANSAs) 2017**: As a research associate did impact assessment for evaluation of 108 CSOs (NGOs) working across South Asia (India, Pakistan, Bangladesh, Nepal, Bhutan & Sri Lanka) on Climate Change and Development.
- **Case Study on Right to Education**: Analysis of unreasonable differential methods adopted by various private schools which thereby leads to violation of Right to Education.
- **Green Team Member of International Climate Champion, India (April '09 – March '10)**: Responsible for carrying out a climate change project in college and/or community, networking with like-minded young Champions from around the world, sharing ideas and best practices on the notion of climate change.
- **Bachpan Bachao Andolan (Save the Childhood Movement)**: Studied and examined in detail the cause and effect of child labor in India. Also provided Legal awareness and generic assistance to the rescued children.
- **Make A Difference (MAD)**: Active part of an initiative to help the underprivileged face life better by improving their communication skills, computer skills and their overall personality.

## **AWARDS AND ACHIEVEMENTS**

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- Cleared AIBE (All India Bar Examination) conducted by Bar Council of India (2017)
- Selected to be a speaker and research participant for 4<sup>th</sup> National Moot Court Competition, Amity Law School, Lucknow, 2011.
- Selected to be Speaker-I for the Xth Law Centre-I India Level Moot Court Competition-2011, University of Delhi.
- Successfully passed DL-101 General Course on Intellectual Property (01-10-2012 to 18-11-2012) by World Intellectual Property Organization (WIPO).
- Participated (as a Speaker) in 3<sup>rd</sup> NLIU-Juris Corp National Corporate Law Moot Court Competition 2012, held from October 26-28, 2012.
- Award of Centre for Civil Society Graduate, 2010.
- Awarded Vivekananda Kendra Kanyakumari (Delhi) Certificate of position holder, 2000.
- Awarded a certificate of appreciation in Competitive Sports Programme, CBSE, 2004.
- Is a trained Bharatnatyam dancer, with two years of professional classical dance training from Prayag Sangit Samiti, Allahabad (Rukmani Devi Lalit Kala Kendra, Delhi).
- Backed special recommendation award, as the delegate of Spain, in General Assembly at VIPS Model United Nation Conference held on 24&25 January, 2013, organized in collaboration with UN Information Centre for Indian and Bhutan.

## **PROFESSIONAL MEMBERSHIPS**

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Bar Council of India, Bar Council of Delhi, IPPA (International Public Policy Association) and AOM (Academy of Management)

## **SKILLS AND OTHER INTERESTS**

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Research Tools: NVivo, SPSS, AMOS, Web of Science (Thompson Reuters)

Languages: Hindi (Native), English (Fluent), Sanskrit (Fluent), French (Basic), Punjabi (Basic),

Other Interests: Bharatnatyam , Badminton, Doodles

# UNDERSTANDING SUSTAINABLE PRACTICES WITHIN GLOBAL COMPACT AND CSR POLICY FRAMEWORK: THROUGH THE LENS OF INDIAN CORPORATIONS

SURABHI GUPTA\*

## ABSTRACT

United Nations Global Compact (UNGC) is one of the initiatives by the United Nations for developing and communicating Corporate Social Responsibility (CSR). However, until now very few studies have been conducted evaluating the Global Compact (GC) perception of companies and their CSR strategies. This article, by case study method using three fortune 500 Indian companies, aims to understand how UNGC is used by Indian companies in practice and the role GC has played in influencing their CSR strategies. This article also recommends that the companies' CSR policies require a multi-dimensional strategy while operating within the paradigm of the UNGC. The major reflection from the study is that the GC principles are seen only as the compliance norms and do not provide enough momentum for the companies to perform better in the enlisted areas of practice.

## I INTRODUCTION

Corporate Social Responsibility (CSR) as a concept can be traced back to the 1950's but it only recently became part of business language and practice for companies around the globe.<sup>1</sup> There does not appear to be any clear and unbiased definitions of CSR.<sup>2</sup> However CSR is broadly understood to include business practices based on ethical values and respect for communities and the natural environment.<sup>3</sup> In most cases it is seen by the companies as an instrument to justify legitimacy and avoiding negative publicity.<sup>4</sup> Sometimes CSR also acts as an internal driver for holistic and equitable growth.<sup>5</sup>

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<sup>1</sup> 'Evolution\_of\_Definitional\_Construct.pdf'

[https://www.laurea.fi/dokumentit/Documents/Evolution\\_of\\_DefinitionalConstructs.pdf](https://www.laurea.fi/dokumentit/Documents/Evolution_of_DefinitionalConstructs.pdf).

<sup>2</sup> Alexander Dahlsrud, 'How Corporate Social Responsibility Is Defined: An Analysis of 37 Definitions' (2008) 15(1) *Corporate Social Responsibility and Environmental Management* 1.

<sup>3</sup> Abigail McWilliams and Donald Siegel, 'Corporate Social Responsibility: A Theory of the Firm Perspective' (2001) 26(1) *The Academy of Management Review* 117.

<sup>4</sup> Peter Utting, 'Corporate Responsibility and the Movement of Business' (2005) 15(3/4) *Development in Practice* 375; '07SummerSchool - Barkemeyer.pdf' <<http://www.2007amsterdamconference.org/Downloads/07SummerSchool%20-%20Barkemeyer.pdf>>.

<sup>5</sup> Peter Utting and Ann Zammit, 'United Nations-Business Partnerships: Good Intentions and Contradictory Agendas' (2009) 90 *Journal of Business Ethics* 39.

Various legal and non-legal, voluntary and mandatory, national and international initiatives have been aimed at facilitating, enhancing and promoting CSR.<sup>6</sup> Some of the international institutions such as the United Nations (UN), the International Labour Organisation (ILO) and the Organisation for Economic Cooperation and Development (OECD) have been involved in promoting CSR initiatives.<sup>7</sup> The protocol of such institutions contains voluntary initiatives and has been focusing on the monitoring, enforceability and accountability of CSR. Relevant initiatives setting such standards for CSR are:

1. UN Guiding Principles on Business and Human Rights operationalizing 'Protect, Respect, Remedy Framework' to advise companies and other stakeholders on how better to protect individuals and communities from adverse human rights impacts of business activities.<sup>8</sup>
2. Intergovernmental organization standards such as ILO conventions and declarations; OECD guidelines on Multinational Enterprises (2008); UN Principles for Responsible Investment (2006); United Nations Conference on Trade and Development UNCTAD's Investment Policy Framework for Sustainable Development (2012).<sup>9</sup>
3. International Finance Corporation's (IFC) Sustainability Framework has social performance standards for business enterprises to respect human rights.<sup>10</sup>
4. Private and Multi-stakeholder initiatives, such as the Global Network Initiative,<sup>11</sup> International Organization for Standardization (ISO 26000) Guidance on Social Responsibility (2010),<sup>12</sup> the Fair Labor Association.<sup>13</sup>
5. OECD guidelines incorporate standards for enterprises to respect the internationally recognized human rights and carry due diligence to identify, prevent, mitigate actual and adverse risk impacts of their activities.<sup>14</sup>

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<sup>6</sup> Marta De La Cuesta Gonzalez and Carmen Valor Martinez, "Fostering Corporate Social Responsibility Through Public Initiative: From The EU To The Spanish Case" (2004) 55(3) Journal of Business Ethics.

<sup>7</sup> Andreas Georg Scherer and Guido Palazzo, "The New Political Role Of Business In A Globalized World: A Review Of A New Perspective On CSR And Its Implications For The Firm, Governance, And Democracy" (2011) 48(4) Journal of Management Studies.

<sup>8</sup> Nicola Jägers, "UN Guiding Principles On Business And Human Rights: Making Headway Towards Real Corporate Accountability?" (2011) 29(2) Netherlands Quarterly of Human Rights.

<sup>9</sup> Unctad.org <[http://unctad.org/en/PublicationsLibrary/wir2012\\_embargoed\\_en.pdf](http://unctad.org/en/PublicationsLibrary/wir2012_embargoed_en.pdf)>.

<sup>10</sup> IFC Sustainability Framework (2018) Ifc.org <[http://www.ifc.org/wps/wcm/connect/topics\\_ext\\_content/ifc\\_external\\_corporate\\_site/sustainability-at-ifc/policies-standards/sustainability+framework](http://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/sustainability+framework)>.

<sup>11</sup> GNI's Submission To The UN Working Group On Business And Human Rights | Global Network Initiative (2018) Globalnetworkinitiative.org.

<sup>12</sup> ISO 26000 Social Responsibility (2010) Iso.org <<https://www.iso.org/iso-26000-social-responsibility.html>>.

<sup>13</sup> Fairlabor.org <[http://www.fairlabor.org/sites/default/files/shift\\_summary.pdf](http://www.fairlabor.org/sites/default/files/shift_summary.pdf)>.

<sup>14</sup> 2011 Update Of The OECD Guidelines For Multinational Enterprises - OECD (2018) Oecd.org <<http://www.oecd.org/daf/inv/mne/oecdguidelinesformultinationalenterprises.htm>>.

The World Economic Forum in 1999 led by Kofi Annan (then UN Secretary General) initiated a UN Global Compact (UNGC). Its main objective is to bring the various stakeholders together like corporations, UN agencies and civil societies for environmental and social reasons.<sup>15</sup> UNGC aims to provide:

- a set of 10 normative principles for CSR relating to labour, human rights, and environment and anti-corruption (see Table 1) as guidelines for CSR. These norms have been adopted from the Universal Declaration of Human Rights (UNDHR), the Rio Declaration and the United Nations Conventions against Anti-Corruption;<sup>16</sup>
- an enabling platform that provides a channel for initiatives in support of UN goals in the areas relating to social and environmental progress.

**Table 1**  
**10 UNGC Principles<sup>17</sup>**

<b>Human Rights</b>	Principle 1	Business should support and respect the protection of internationally proclaimed human rights; and
	Principle 2	Make sure that they are not complicit in human rights abuses.
<b>Labour</b>	Principle 3	Business should uphold the freedom of association and the effective recognition of the rights to collective bargaining;
	Principle 4	the elimination of all forms of forced and compulsory labours;
	Principle 5	the effective abolition of child labour; and
	Principle 6	The elimination of discrimination in respect of employment and occupation.
<b>Environment</b>	Principle 7	Business should support a precautionary approach to environmental challenges;
	Principle 8	undertake initiatives to promote greater environmental responsibility; and
	Principle 9	Encourage the development and diffusion of environmentally friendly technologies.
<b>Anti-Corruption</b>	Principle 10	Businesses should work against corruption in all its form, including extortion and bribery.

<sup>15</sup> Daniel Berliner and Aseem Prakash, "The United Nations Global Compact: An Institutional Perspective" (2014) 122(2) Journal of Business Ethics.

<sup>16</sup> Marinilka Barros Kimbro and Zhiyan Cao, "Does Voluntary Corporate Citizenship Pay? An Examination Of The UN Global Compact" (2011) 19(3) International Journal of Accounting & Information Management.

<sup>17</sup> *The Ten Principles | UN Global Compact* <<https://www.unglobalcompact.org/what-is-gc/mission/principles>>.



Although a wide scholarship exists on CSR and UNGC little has been discussed in the literature about the contribution of the UNGC to CSR strategies.<sup>18</sup> There are articles around this topic however they do not specifically mention the impact of UNGC principles on companies' communication and developmental strategies.<sup>19</sup> The article aims to contribute in understanding how UNGC principles are used in corporate strategies and what has been its impact on Indian companies.

## II LITERATURE REVIEW AND THEORETICAL BACKGROUND

The review methodology followed for this study was the one suggested by Fink.<sup>20</sup> For the purpose of this article Fink is used as a template because it focuses on literature, reflects the discipline of social science research and provides a model which can be adapted to law. Fink's methodology for a thorough literature review is a set of various stages:

1. Selecting research questions
2. Selecting article databases
3. Choosing search terms
4. Applying practical screening criteria
5. Doing the review
6. Synthesising the result.

In order to understand (1) how the UNGC is understood by Indian companies and (2) how the UNGC influences their CSR strategies, various primary and secondary sources were studied. The articles were primarily selected from the following online sources: HeinOnline, JSTOR, EBSCO, ProQuest and Google Scholar. Using combination of keywords (see Table 2), articles were extracted from these databases using advanced search option. In the entire process it was made sure that the extracted articles had the phrases belonging to both Category Type 1 'Corporate Social Responsibility' and Category Type 2 'UN Global Compact'. This step resulted in a total of 120 articles published on or before January 2017.

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<sup>18</sup> Hens Runhaar and Helene Lafferty, 'Governing Corporate Social Responsibility: An Assessment of the Contribution of the UN Global Compact to CSR Strategies in the Telecommunications Industry' (2009) 84(4) *Journal of Business Ethics* 479.

<sup>19</sup> Luis A. Perez-Batres et al, "Stakeholder Pressures As Determinants Of CSR Strategic Choice: Why Do Firms Choose Symbolic Versus Substantive Self-Regulatory Codes Of Conduct?" (2012) 110(2) *Journal of Business Ethics*.

<sup>20</sup> Arlene Fink, *Conducting Research Literature Reviews* (SAGE, 2014).

**Table 2**  
**Search keywords used in this Review**

Type	Category	Search Keywords
1	Corporate Social Responsibility	Corporate Social Responsibility, Corporate Responsibility, Social Responsibility, Socially Responsible Businesses
2	United Nations Global Compact	United Nations Global Compact, Global Compact, Compact

These extracted articles were further filtered on the basis of their titles and keywords. A closer manual look at the titles and keywords of all the articles helped the author to do away with the irrelevant and out of context articles. This step reduced the total peer reviewed articles to 92. In the next step, the abstracts of the articles were read which resulted in the elimination of the review articles, duplicate articles, news, non-English articles, prefaces and the articles which didn't meet the objective of the study but just mentioned the key categories in their text. It resulted in 45 total articles.

In the final step, full text of the selected articles was read so that only those articles were considered which met the following criteria:

- a) the article clearly mentioned the aim of its study;
- b) the fundamental concept of the article included the UNGC principles and their role in a corporation's CSR strategies.

In addition to this, a reference list of the selected articles was scanned and it took the tally to 23 peer reviewed articles. The results are as follows:

*United Nations Global Compact-* UNGC is a voluntary initiative based on corporations' commitments to implement environmental and social principles and to take adequate steps to support the UN.<sup>21</sup> It is a network based initiative with stakeholder participation from the government, civil societies, academia, and the UN. The voluntary nature of the UNGC is preferred because: (a) there is more support for the non-binding nature of regulations, (b) there have been negative experiences in the past for regulations through codes of conduct and (c) a lack of facilities to monitor and enforce compliance. A voluntary approach is believed to have its own perks such as CSR may increase above the threshold level mandated by a regulatory framework due to dialogue, facilitation and learning.<sup>22</sup> UNGC participants usually expect to improve their ethical conduct and gain economically after associating themselves with the UN.<sup>23</sup> Thus in order to discourage the companies from only using the association with UN as a positive influence on their image and not to increase transparency and accountability, the UNGC asks for a yearly 'Communication on Progress' (CoP) to be

<sup>21</sup> Lothar Rieth et al, "The UN Global Compact In Sub-Saharan Africa" (2007) 2007(28) Journal of Corporate Citizenship.

<sup>22</sup> Ruggie, above n 6.

<sup>23</sup> Stefan Schembera, "Implementing Corporate Social Responsibility: Empirical Insights On The Impact Of The UN Global Compact On Its Business Participants" (2016) 57(5) *Business & Society*.

maintained by the participants.<sup>24</sup> The CoP documents how effectively the companies are adopting the UNGC principles in their business strategies.

The UNGC not only acts as a catalyst for businesses to align their operations with the 10 universally accepted sustainability principles but also gives a learning platform to companies regarding their CSR strategies. UNGC is an important milestone in the history of global corporate social responsibility and is considered the largest and only one of its kind when compared to other non-legal CSR promoting mechanisms.<sup>25</sup>

*UNGC for the Development of CSR-* The pyramid of CSR<sup>26</sup> summarised the questions regarding the responsibilities for corporations and has generated considerable public attention in business discussions. Since its inception, the UNGC has helped companies in realizing these responsibilities.<sup>27</sup> UNGC is viewed as a role model for global governance initiatives and has contributed to making CSR visible globally.<sup>28</sup> This voluntary initiative has established local networks and spaces to facilitate dialogue among stakeholders that keeps the fire of business responsibility ignited.

In the last 10-15 years the UNGC has exponentially gained importance for businesses worldwide. The countless articles on UNGC's homepage summarises the attention directed by the researchers towards the initiative.<sup>29</sup> The scholars have recently begun to study the impact of the UNGC focusing on the inter-relationship between the UNGC and CSR implementation,<sup>30</sup> internal and external drivers influencing participation<sup>31</sup> and the global spread of the UNGC. It has contributed to CSR in numerous ways: (1) it provides for the integration of ten universally accepted principles for CSR norms;<sup>32</sup> (2) it has induced learning platforms for the companies to share experiences that may later form part of company strategies;<sup>33</sup> (3) it may also be used for publicity both positively

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<sup>24</sup> Andreas Rasche, "'A Necessary Supplement'" (2009) 48(4) *Business & Society*.

<sup>25</sup> James E. Post, "The United Nations Global Compact" (2012) 52(1) *Business & Society*.

<sup>26</sup> Mark S Schwartz and Archie B Carroll, 'Corporate Social Responsibility: A Three-Domain Approach' (2003) 13(4) *Business Ethics Quarterly* 503.

<sup>27</sup> Rodrigo Lozano, "Towards Better Embedding Sustainability Into Companies' Systems: An Analysis Of Voluntary Corporate Initiatives" (2012) 25 *Journal of Cleaner Production*.

<sup>28</sup> Voegtlin, Christian and Nicola M Pless, 'Global Governance: CSR and the Role of the UN Global Compact' (2014) 122 *Journal of Business Ethics* 179.

<sup>29</sup> UN Global Compact (2018) [Unglobalcompact.org](http://unglobalcompact.org)

<sup>30</sup> Dorothee Baumann-Pauly and Andreas Scherer, 'The Organizational Implementation of Corporate Citizenship: An Assessment Tool and Its Application at UN Global Compact Participants' (2013) 117(1) *Journal of Business Ethics* 1.

<sup>31</sup> Berliner, Daniel and Aseem Prakash, 'From norms to programs: The United Nations Global Compact and global governance' (2012) 6 *Regulation & Governance* 149.

<sup>32</sup> Urša Golob and Jennifer L. Bartlett, "Communicating About Corporate Social Responsibility: A Comparative Study Of CSR Reporting In Australia And Slovenia" (2007) 33(1) *Public Relations Review*.

<sup>33</sup> Mariëtte van Huijstee and Pieter Glasbergen, "The Practice Of Stakeholder Dialogue Between Multinationals And Ngos" (2008) 15(5) *Corporate Social Responsibility and Environmental Management*.

and negatively (blue washing);<sup>34</sup> and (4) it gives rise to collaboration between companies and their stakeholders with respect to CSR strategies.<sup>35</sup>

However, limited literature is available on the Indian perspective of the UNGC except a few relevant scholarships such as Chahoud,<sup>36</sup> Ghish and others.<sup>37</sup> This article through the three case studies highlights the fact that even though the companies are following the dicta, they do not rigorously evaluate quantified performance information in their CoPs and sustainability reports.

### III RESEARCH METHODOLOGY

This article focuses on the UNGC enabling CSR in India. With the latest amendment in CSR laws (Companies Act, 2013), every company with an annual turnover of INR<sup>38</sup> 1000 crore (10000 million) or more, or a net worth of INR 500 crore or more (5000 million) or a net profit of INR 5 crore (50 million) or more in a financial year have to spend at least 2% of their average profits over the previous three years on CSR activities.<sup>39</sup> Since India now has a law for compulsory CSR spending, there is an increasing concern regarding social responsibility and its importance from an Indian perspective.<sup>40</sup>

King and Epstein note that a critical step in research is to identify the target population. This is important in order to ensure that the data sample corresponds to the research target.<sup>41</sup> King and Epstein's first two rules of legal research are: (1) identify the population of interest, and (2) collect as much data as is feasible. In this study the population of interest was the Indian companies falling under the mandatory CSR ambit. When choosing these companies, a set of three selection criteria were utilized. Firstly, the company needed to be a front-running company within their industry, as these companies can be expected to have the most explicit CSR strategies. Secondly, the selected company needs to be registered in India. Thirdly, the companies had to be a participant of the UNGC.

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<sup>34</sup> Rafael Currás Pérez, "Effects Of Perceived Identity Based On Corporate Social Responsibility: The Role Of Consumer Identification With The Company" (2009) 12(2) *Corporate Reputation Review*.

<sup>35</sup> Daniel Arenas, Josep M. Lozano and Laura Albareda, "The Role Of Ngos In CSR: Mutual Perceptions Among Stakeholders" (2009) 88(1) *Journal of Business Ethics*.

<sup>36</sup> Tatjana Chahoud, *Corporate Social And Environmental Responsibility In India - Assessing The UN Global Compact's Role* (DIE, 2007).

<sup>37</sup> S.N. Ghosh, Romit Raja Srivastava and Palak Srivastava, "Un Global Compact and Millennium Development Goals: The Indian Perspective" in *Sustainability Ethics: Ecology, Economics and Ethics* (2014).

<sup>38</sup> Using the exchange rate of 1 AU\$ = 51 INR as on 27 July 2018, this equates to an annual turnover equivalent to approximately AU\$ 19,57,54,844 or more, or a net worth of approximately AU\$ 9,75,72,500 or more or a net profit of approximately AU\$ 9,75,725 or more in a financial year.

<sup>39</sup> Companies Act, 2013 s 135; Companies (Corporate Social Responsibility Policy) Rules, 2014.

<sup>40</sup> Sandeep Gopalan and Akshaya Kamalnath, "Mandatory Corporate Social Responsibility As A Vehicle For Reducing Inequality: An Indian Solution For Piketty And The Millennials" [2014] SSRN Electronic Journal.

<sup>41</sup> Lee Epstein and Gary King, "The Rules Of Inference" (2002) 69(1) *The University of Chicago Law Review*.

The sampling for this study involved the iterative selection of positive cases of Indian companies in Fortune top 500 lists that are UNGC participants. Three companies fulfilled these criteria, Indian Oil Corporation Ltd. (IOCL), Hindustan Petroleum (HP) and Tata Motors. The objective of the study requires interaction with many stakeholders from different disciplines and an analysis of their approach towards complex CSR strategies. This cannot be conducted using a survey-based method.<sup>42</sup> Therefore the research has been conducted making use of multiple case study methods, within a constructive paradigm.<sup>43</sup> As suggested by Lisa Webley multiple case studies were used to analyse the causal relationship between dependent and independent variables so that the interaction of variables in different environments can be comparatively examined in different contexts.<sup>44</sup> Such exploratory research is best suited for understanding the strategies of businesses in emerging markets.<sup>45</sup>

Case study methods usually involve an array of research methods to generate a spectrum, of numerical and non-numerical data that when triangulated provide a means through which to draw reliable and valid inferences about law in the real world.<sup>46</sup> Case study protocol is important to maintain reliability and robustness of the research.<sup>47</sup> The key parameter of such a research design is involvement of multiple data sources and techniques.<sup>48</sup> Also the nature of the case, its boundaries, features and reasons for inclusions should be clearly set out.<sup>49</sup>

A linkage needs to be established between the various stages of data collection, familiarization of data and analysis.<sup>50</sup> In this study the data was collected from both primary and secondary sources. Secondary data sources were the company websites, sustainability reports, annual reports and other information available in the public domain. This data was triangulated by primary data from stakeholders like the CSR heads, CSR managers and CSR advisors of the company through interviews, telephonic interviews and field observations. The data was then conceptualized by comparing the events, actions and interactions with each other for similarities and differences. The similar themes were bundled together to form categories and sub-categories. The result of the analysis is discussed in next section in detail.

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<sup>42</sup> Kathleen M Eisenhardt, 'Building Theories from Case Study Research' (1989) 14(4) *The Academy of Management Review* 532.

<sup>43</sup> Dubois, Anna and Lars-Erik Gadde, 'Systematic combining: an abductive approach to case research' (2002) 55 *Journal of Business Research* 553

<sup>44</sup> Lisa Webley, *Stumbling Blocks In Empirical Legal Research: Case Study Research* (Boom Juridische Uitgevers, 2016).

<sup>45</sup> Robert E Hoskisson et al, 'Strategy in Emerging Economies' (2000) 43(3) *The Academy of Management Journal* 249.

<sup>46</sup> Gary King, Robert O Keohane and Sidney Verba, *Designing Social Inquiry* (Princeton Univ. Press, 2012).

<sup>47</sup> Lisa Webley, *Stumbling Blocks In Empirical Legal Research: Case Study Research* (Boom Juridische Uitgevers, 2016).

<sup>48</sup> G David Garson, 'Case Study Research in Public Administration and Public Policy: Standards and Strategies' (2002) 8(3) *Journal of Public Affairs Education* 209.

<sup>49</sup> John Gerring, "What Is A Case Study And What Is It Good For?" (2004) 98(02) *American Political Science Review*.

<sup>50</sup> 'Charmaz\_2008-B.pdf' <[http://www.sxf.uevora.pt/wp-content/uploads/2013/03/Charmaz\\_2008-b.pdf](http://www.sxf.uevora.pt/wp-content/uploads/2013/03/Charmaz_2008-b.pdf)>.

## IV DISCUSSIONS AND FINDINGS

The narrative of the findings of the study is presented in two stages:

- a) The presentation of the budding themes and the strategic choices of the companies on the basis of the data collected (Table 3);
- b) Analysing the strategic choices influenced by the UNGC and mapping the link between UNGC and the company's strategic CSR choices.

The analysis was based on CSR themes, activities and strategic choices made by these companies. The table below enlists the extent of coverage that each case study company devoted to its CSR initiatives to distinguish the extensive attention by the companies from the ones which consider it more cursorily.

### ***A Contribution of UNGC to CSR Strategies of the Indian Case Study Companies***

Table 3 projects the major aspects of the CSR strategies of the three selected case study companies as well as CSR instruments implemented by companies within the areas of human rights, labour, environment and anti-corruption. Analysis of the research indicates that CSR for the three companies is only seen as necessary for legislative compliance and for safeguarding bad publicity and stakeholder satisfaction. The project selection for CSR activities is mostly similar for the three companies. With their main focus on initiatives relating to education, other projects were mainly driven out of companies' own products and services.

The CSR strategies for the three companies more or less cover the UNGC themes (Table 1). However the extent to which UNGC supports CSR strategic development in the three companies is characterised in the following ways: a) Legitimacy and effectiveness, b) Local networks and regional development, and c) Transparency and accountability. The basis of the analysis will be the interviews of the company representatives.

**Table 3**  
**Sampling (list of Fortune 500 Indian companies & UNGC participants)**

	<b>IOCL</b>	<b>HP</b>	<b>Tata Motors</b>
<b><i>Company Background</i></b>			
<b>Industry Sector</b>	Oil & Gas	Oil & Gas	Automotive
<b>Headquarters</b>	New Delhi, India	Mumbai, India	Mumbai, India
<b>Products &amp; services</b>	Fuel, lubricants, petrochemicals	Oil, natural gas, petroleum, lubricant, petrochemical	-Automobiles, construction equipment, automotive parts -Automotive design, vehicle licensing and service, engineering and outsourcing service

<b>CSR Dimensions</b>			
<b>Campaigns and contribution</b>	Education scholarship, Industrial training centre, AOD Hospital, Swarna Jayanti Samudaik Hospital, Indian-Oil Multi skill development institute	Nanhi Kali (girl child education), Akshay Patra (food in school to underprivileged), Unnati (e-literacy), ADAPT (children with special needs), mobile medical units	Arogya, Amurtdhara (Safe water drinking project), Vidhyadhanam (education), school infrastructure programs
<b>Thematic Areas of CSR initiatives</b>	Carbon management, water management, waste management	Childcare, education, health, skill development	Health, education, employability, environment
<b>Motivational determinants of CSR</b>	Market reputation Licensing Demands	Employee satisfaction Reputation	Reputation Demand from Investors
<b>CSR objectives cover 10 UNGC principles?</b>	Yes The Sustainability Reports cover all 10 principles	Yes The Sustainability Reports and general practices cover all 10 principles	Yes With focus on Human Rights and Labour all 10 principles are covered
<b>UNGC as CSR strategy</b>			
<b>Human Rights</b>	-Compliance with applicable laws and internationally recognized human rights -remediation for those affected by companies activities -non-discrimination policy	-Provides training to schools and local communities -alliance for inclusive growth -follows high industry standards for protection -aid after accidents/calamities -codes of conduct for employees	-Policies on Human Rights; -policy on equal opportunities and non-discrimination -monitoring and evaluation mechanisms for human rights integration
<b>Labour</b>	-Compliance with principles of ILO -Promotes gender equality -Recruitment of disabled people in the company	-Promotes gender diversity in workforce - Equal remuneration -compliance with labour laws -applies all these	-Prevents discrimination (equal pay for equal work) -Gender diversity (age, gender, caste) - Recruitment of disabled people

		principles throughout areas of operations	-do not allow/encourage forced or child labour
<b>Environment</b>	-Energy conservation, water conservation -Sustainable sourcing, water management	-Environment Management System accepted areas of operations -Pollution control facilities like effluent treatment plants, water disposal facility -Bioremediation technology for recycling waste water	-Tool 'Legatrix' for compliance of regulatory and safety requirements -Compliance with Central Motor Vehicle Rules of India and Bureau of Indian Standards -Ensures falling in line with increased fuel economy, reduced greenhouse gas and other emissions, vehicle safety
<b>Anti-corruption</b>	-supports international anti-corruption organization	- Codes of conduct for employees -Rules and regulations for fair trade practices	-Prevention of corruption and fair trade practices -disciplinary committee working on principles of natural justice -regular training on anti-corruption to the employees
<b><i>Use of CSR</i></b>			
<b>CoP Report</b>	Yes (last published on 08/2015)	Yes (last published on 05/2016)	Yes (last published on 10/2016)
<b>How is UNGC perceived by the companies?</b>	-Gives a list for the companies to do CSR (but it is not an exhaustive list)	- GC directly included in CSR guidelines	-Relates GC to all the sustainability work
<b>Use of UNGC in CSR strategies</b>	Yes, in sustainability reports	Provides principles for CSR activities	Information for projects to be undertaken (related to 10 UNGC principles)

Legitimacy and effectiveness: The three companies do not have specific criteria from the 10 principles for their CSR strategy and claim that the 10 UNGC principles have been the core of their already existing CSR strategies. For instance, the companies have been supporting the UDHR and ILO principles on Human and Labour Rights. For them the UNGC is the minimum adherence norms and their ambition is to do more than the mere UNGC norms. UNGC principles are not the only principles these companies adhere to. The Companies' sustainability reports follow the Global Reporting Initiative (GRI) guidelines on sustainability issues like climate change, human rights, governance and social well-being.



Local networks and regional development: The three companies have been positively active in local UNGC networks. Both HP and Tata Motors are very keen participants in the networks and are seen as one of the strengths of the UNGC. To IOCL, it is seen as a learning platform and experiences of peer companies for regional development. The frequency of the meetings however is low, once or twice a year. The interviewees of the companies also believed that a more frequent and smaller meeting with companies from the same industry will be more helpful since the companies from the same industry encounter similar issues.

Transparency and Accountability: A pre-requisite for UNGC membership is the delivery of Communication on Progress (CoP) reports. All three companies in the case study meet this condition, but the reports are mainly CSR performance reports. The reports do not explicitly follow the UNGC guidelines but use them for communicating CSR activities, such as Global Reporting Initiative (GRI), ISAE3000, AA1000 (Assurance standards developed for accountability). The reports also view the UNGC as only part of the CSR mechanism and as an assistance tool to communicate their CSR activities to other actors in the society. The publication of the CoP reports for the companies does not seem to be updated on an annual basis.

For the three companies examined, the analysis indicates that the UNGC is considered as one of the many existing initiatives that contribute in the direction of development of CSR. The role of UNGC is marginally considered in CSR strategies by the companies. One major reflection of UNGC is that the ten principles are looked at as compliance norms and do not encourage the companies to perform better in the enlisted areas of practice. Thus, so far the role of the UNGC for Indian companies has been weak. In support of Runhaar and Lafferty's work,<sup>51</sup> the analysis suggests that 'good standing' and 'reputation' are the major drivers for the UNGC (in terms of adhering to the 10 principles and reporting on them).

## V RECOMMENDATIONS

The predominant aim of the study is to understand how UNGC as an initiative is used by Indian companies in practice and the role the UNGC has played in influencing their CSR strategies.

The analysis has helped us identify the four possible ways in which the UNGC can be used (and is not being used) in CSR communication and development by the companies: (1) adopting the ten UNGC normative guidelines in their CSR activities; (2) engaging in collaborative learning experiences through local networks; (3) structuring partnerships with other stakeholders, individuals and companies for implementing specific aspects of CSR; and (4) implementing a positive attitude towards timely reporting of CSR.

As indicated in the previous section, the companies are barely utilizing these opportunities. No direct evidence is found relating to companies' efforts towards learning in networks.

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<sup>51</sup> Runhaar and Lafferty, above n 8.

The impact of the UNGC could be more if the companies used it to index its performance on the touchstone of the ten principles. Thus a paradigm shift in adopting a *two way approach* is required. It is submitted that industry specific and issue specific separate networks can help in complimentary initiatives to the UNGC local networks. A pre-requisite for entering the specific networks should be that the CoP reports will be critically examined in adherence to the 10 UNGC principles. The companies can use it to develop more ambitious CSR strategies in the areas of Human Rights, Labour, Environment and Anti-Corruption and also form a network for discussing how to better operationalize norms through shared experiences. The UNGC would serve its purpose only if there is effective implementation and enforcement.<sup>52</sup>

It is also suggested that the UNGC should implement different mechanisms of reporting (checks and balances) or mandating the annual reporting on the success and challenges of the 10 UNGC principles.

## VI CONCLUSION

When it comes to discussing the growth and impact of UNGC principles on companies, there is a big gap between theory and practice. The evidence obtained from the three case studies demonstrates that the usage of the UNGC in companies' CSR strategies is primarily impressionistic. While the adherence of 10 UNGC principles in general by the companies in their CSR activities, projects and initiatives, local and regional networks may seem impressive, the true impact of the UNGC is marginal. The article further proposes recommendations in which the UNGC can be more strategically used in communication and development by the companies. Overall these assessments of the UNGC reflect that the 10 principles are seen only as compliance norms by the companies and do not provide enough momentum for the companies to perform better in the enlisted areas of practice.

In the words of former Brazilian President, Fernando Henrique Cardoso:

“The legitimacy of civil society organizations derives from what they do and not from whom they represent or from any kind of external mandate. In the final analysis they are what they do...”<sup>53</sup>

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<sup>52</sup> Georg Kell, 'The Global Compact Selected Experiences and Reflections' (2005) 59.1-2 *Journal of Business Ethics* 69.

<sup>53</sup> Shepard Forman, Derk Segaar, "New Coalitions for Global Governance: The Changing Dynamics of Multilateralism" (2006) 12(2) *Global Governance: A Review of Multilateralism and International Organizations*.

# Regulations for Drones in India

SURABHI GUPTA

The 2017 draft guidelines on the operation of unmanned aerial vehicles, or drones, indicate a reversal of the government's earlier misgivings about drone technology. However, in a field with rapid technological advances, the long delays in framing drone regulatory norms, and the as yet non-existent policy, could mean a failure to harness the innovative potential of civilian drones.

The sky has no definite location ... There can be no ownership of infinity, nor can equity prevent a supposed violation of an abstract conception.

—Judge Haney,  
in *Hinman v Pacific Air Transport* (1936)

**P**olicy formulation for emerging innovative technological processes is a complex procedure. Unmanned aerial vehicles (UAVs), colloquially known as drones, have raised policy concerns in India as well as other emerging economies. The privacy and security concerns associated with unmanned aircraft systems (UAS), led the Directorate General of Civil Aviation (DGCA) to ban the launch of any UAS in India, in its notice which was effective from October 2014 (DGCA 2014).

While civilian drones have gained popularity across the globe, flying one in India, even as a hobby, was illegal and could land people in jail. Past incidents such as the arrest of three people in Charkop area in Mumbai for trial film shooting with a drone camera, indicate that the use of drones without prior permission was viewed as a security hazard (*Indian Express* 2016). In many cities, including Mumbai, Delhi and Jaipur, reported violators have been booked under Sections 188 (disobedience to orders duly promulgated by public servant), 336 (act endangering life or personal safety of others), and 287 (negligent conduct with respect to machinery) of the Indian Penal Code. While there is no settled law regulating the sale of drones on online platforms in India, the import of

drones has been prohibited. As per Section 80 of the Customs Act, 1962, “prohibited goods” can be detained. The Ministry of Commerce and Industry, Department of Commerce and Directorate General of Foreign Trade (DGFT) had declared the import of UAS/ UAVs/ remotely piloted aircrafts (RPAS)/ drones as “restricted,” requiring prior clearance of the DGCA and an import licence from the DGFT (MoCI 2017).

While traditionally associated with military applications, drones today have myriad uses, from critical infrastructure monitoring, recreational purposes, mapping and aerial photography, to emergency deliveries, crowd surveillance, and delivery of products (Choi-Fitzpatrick 2014). The proliferation of uses and new innovations raise a number of regulatory apprehensions with regard to property rights, safety and privacy, both on land as well as in airspace (Padmanabhan 2017; Rastogi 2015). Amazon Inc, one of the leading e-commerce websites, had applied for a patent in India for its delivery system drone, designed to deliver products to the customer's doorsteps within 30 minutes of placing an order (Kimchi et al 2014). Also, Boeing obtained a patent for its “flying submarine” drone, which is adaptable for both flight and water travel. Thus, the overall outline of the drone policy has been calling for a more futuristic, start-up friendly approach.

The DGCA issued draft guidelines in April 2016, proposing a framework to regulate the civil and commercial use of UAS technology (DGCA 2016). The guidelines reversed the overarching ban, and were seen as an encouraging first step by industry stakeholders, reflecting a willingness to embrace drone technology and as such, an “opening of the skies.”

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The recent improved draft regulations, developed upon the 2016 guidelines on the use of commercial drones, were released in November 2017 and have finally set in motion the process to clear the way for drone use in India (DGCA 2017). Given the rapid growth of India's industry and the multitude of possibilities that UAVs offer, these new rules could significantly impact the country's technological development.

## Designing the Future

The regulatory framework proposed in 2016 for the use of drones followed a pro-development and pro-efficiency approach, while structuring the policy to legalise UAS technology. Building upon these guidelines, the draft regulations prepared by the DGCA bring India to the cusp of permitting use of drones and other remotely piloted aircraft systems for commercial and recreational purposes. The permissions as well as the time taken to obtain them will vary depending on the size and weight of the drone. Most commercial drones fall under the "micro" category, that is, greater than 250 grams (gm) and less than or equal to 2 kilograms (kg). Nano drones (weighing less than 250 gm), which can be operated indoors and in uncontrolled airspaces, do not require any permit (Table 1).

The absence of well-defined regulations had made innovation and attracting investments very difficult in this field, and the new rules are expected to ease manufacture and use of drones in the country. The draft regulations, in many ways, look similar to the 2016 norms, but a closer inspection reveals that they borrow much from progressive drone laws in developed countries. The draft guidelines seem to be in sync with international best practices, except for a few stringent restrictions with respect to UAS operations in the country's border areas, which have been included to avoid security and privacy issues. Certain areas declared in the guidelines will be out of bounds. For instance, it will not be permitted to fly a drone within a 5 kilometre (km) radius of an operational aerodrome, within 50 km of an international border or within a 5 km radius around Vijay Chowk in Delhi, where Parliament,

**Table: Requirements for Operation of Unmanned Aircraft Systems**

Category*	Nano (up to 250 gm)	Micro (>250g to <2kg)	Mini (>2kg to <25kg)	Small (>25kg to <150kg)	Large (>150kg)
Unique identification number	No	Yes	Yes	Yes	Yes
Unmanned aircraft operator permit	No	Yes	Yes	Yes	Yes
Estimated approval time	2 days	2–7 days	2–7 days	2–7 days	2–7 days
Height above ground level allowed to fly	50 feet	200 feet	200 feet	200 feet	200 feet
Local police permission	Yes	Yes	Yes	Yes	Yes
Flight plan and air defence clearance	No	No	Yes	Yes	Yes

\* Civil drones are classified according to maximum take-off weight (MTOW).

Source: DGCA (2017).

President's House and North and South Blocks are located. Flying within 500 m from the perimeter of strategic locations, over eco-sensitive zones like national parks and wildlife sanctuaries, or over an area affecting public safety, is also prohibited (DGCA 2017).

Cloud computing, machine learning and artificial intelligence technology, along with powerful communication and collaboration tools, are enabling societies to gather data and analyse them in unprecedented ways. In agriculture and healthcare, drone technology has the potential to transform lives and deliver critical and useful information to the least privileged (Kokina and Davenport 2017). The real outcome of the regulations will be effective when large-scale manufacturing kick-starts in India. This will also open up markets for international companies such as DJI (Dà-Jiāng Innovations) Drones and GoPro to begin retailing in India. Legalising operation of UAS is a welcome change, however the draft regulations in its current form need further improvement in order to be consistent with the interests of innovators and entrepreneurs. A well-knit regulatory structure, which takes into consideration advanced technological as well as airspace security concerns, is the need of the hour.

## Glaring Bottlenecks

With civil aviation all set to legalise the use of UAVs, guidelines regarding the misuse of drones (especially near airport security) are not in place. Besides this, the standard operational altitude of micro, mini and heavier drones is set to 200 feet above ground level (AGL), which might not be an adequate height allowance to stay clear of obstacles. Many international drone policies, like those in the United States (us), Australia and

China permit drone operations up to 400 feet AGL, in order to avoid obstacles and also since many significant infrastructure monitoring operations like geo-mapping, aerial photography, monitoring power lines, etc, require flying above the 200 feet limit (FAA 2016). This is also in alignment with international standards, including those of the International Civil Aviation Organization (ICAO), which allow UAS operations below 400 feet (ICAO 2011).

Another concern emerging out of the draft regulations is with regard to autonomous drones.<sup>1</sup> Although the position of the regulation is not very different from international laws—several other countries do not allow fully autonomous operations of drones either—industry experts are of the opinion that for agriculture, search and rescue operations and monitoring infrastructure, autonomous drones are better suited than human-controlled ones. The draft regulations are silent on what operators, who are currently operating partly autonomous drones, will have to do.

With the proposed drone policy envisioning a future where a large number of commercial drones take to the skies, air traffic control (ATC) system for drones should also be kept in mind (Rule 2015). Some of the major requirements include weather tracking, generating air maps, setting up directions and ensuring drones are able to exchange information. Also, designation of identified areas for testing/demonstration of drones is a positive step taken by the DGCA in the draft norms. Twenty-three locations spread over 11 states in the country have been identified, but easy accessibility to such sites will be a concern for companies. For example, a drone company based in Delhi will have to travel a distance of 270 km to Sakhanpur Farm, or 350 km to Phagwara, in order to test UAS prototypes, or

for trial runs. Instead, open tracts of land on the outskirts of the city, away from populated areas and other obstacles, could be designated as test sites.

It is also interesting to mention here that the draft norms clearly state that the remote pilot must be at least 18 years old and should have gone through ground training, equivalent to that undertaken by aircrew of manned aircraft or a private pilot licence (PPL) holder (aeroplanes/helicopters) with a flight radio telephone operator's licence (FRTOL). This does not seem very pragmatic for micro and mini UAVs. Another concern is the use of radio frequency identification (RFID) as well as GSM (global system for mobile) and SIM (subscriber identity module) card slots for application-based tracking in micro and mini drones. First, most of the drones in these categories are not equipped for SIM-based operations, and second, this increases the risk of third-party control of the drones, thus posing a threat to the safety and security of the UAS. Furthermore, secondary surveillance radar (SSR) and automatic dependent surveillance–broadcast (ADS–B) transponders—equipment requirements for micro and mini drones—are expensive and too heavy for these drones and, thus these requirements seem impractical.

Also, drone crashes are frequent occurrences in countries permitting drone operations. For instance, recently, a drone crashed into a Boeing jet plane at Mozambique airport, damaging the aircraft (Brickell 2017). Drone policy formulation will therefore make air traffic management necessary.

Drone management systems also face some challenges such as difficulty in tracking weather (Bolos 2015). Small drones fly at low altitudes and are more susceptible to changing weather conditions. Strong winds and rains can easily knock them off course, out of their designated operating zones. Drone traffic management will require planned research and practical experimentation, and the increasing use of drones in varied sectors will require proper air traffic control. The National Aeronautics and Space Administration (NASA), the Federal Aviation Administration (FAA) and an array of industry partners, have been researching the requirements for

establishment of a drone traffic management system (Gipson 2017).

While the regulatory framework has holistically incorporated application, operations and maintenance of drones, there still remains a gap in easing of drone manufacturing norms. The Department of Industrial Promotion and Policy (DIPP) looks into its manufacturing and has set up strict norms as to who can manufacture with restrictions on the importing parts. Thus, inclusion of guidelines for design, prototyping and manufacturing of drones under the framework is necessary.

### Conclusions

Without doubt, UAS technology is in its nascent stage and safety and privacy concerns of the government are well-grounded. However, imposition of crippling, unreasonable restrictions on UAS technology, presented as well-defined regulations, will impair our technological progress.

The European Aviation Safety Agency (EASA) has outlined two main goals of UAS regulation: integration and acceptance of drones into existing aviation system in a safe and proportionate manner; and to foster an innovative and competitive European drone industry, creating new employment, in particular for small and medium-sized enterprises (SMEs) (EASA 2015). To allow for reaping of similar benefits in India, we need to have a more permitting approach to regulation based on the proportionate, progressive risk-based model. Business models like Amazon Prime, Facebook's Aquila and Google's Project Wing are founded on UAS technology. The new draft regulations will certainly come as a relief for the e-commerce industry, which has been lobbying for drone deliveries. However, keeping in mind the push for "Startup India," the field should not be constricted such that for every new commercial application of drone technology, new exceptions have to be created from an overarching prohibitory policy.

Regulation should improve the ease of doing business, by sidelining unnecessary requirements and creating a single-window process. The end goal of opening up the national airspace for civilian use of drones

can be facilitated through means better identified by the stakeholders in drone technology, ranging from the DGCA, security agencies, Bureau of Civil Aviation Security, information technology experts, telecom regulators, state governments, industry experts, academicians and startups. While this might not lead to a perfect legislation all at once, it will ensure India's continuing evolution towards a holistic regulatory framework for drones.

### NOTE

- 1 An autonomous drone is an unmanned aircraft that does not allow pilot intervention in the management of the flight (DGCA 2017).

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## REVIEW ARTICLE

### **Social licence to operate: A review of literature and a future research agenda**

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**Abstract** This paper seeks to review the literature on social licence to operate (SLO). We also identify gaps in the literature and provide directions for future research. This review should serve as a basis to understand the research gaps and opportunities, and to undertake new research projects based on the propositions and the future agenda outlined. There is no literature review on the concept in general, and to address this gap, a systematic literature review of 104 papers published in 31 peer-reviewed academic journals was conducted. The purpose was to identify recent developments in academic research in this area and analyse the status, content, context, and methodology of the research so far. We synthesise the findings and explore different dimensions, which in turn would facilitate further research and the growth of SLO in the long run.

**Keywords** Social licence to operate, Literature review, Mining and extractive, Sustainable development, Social licence, Social businesses

## INTRODUCTION

Over the past few years, social licence to operate (SLO) has become an imperative in resource-dependent sectors that require support from local communities to secure approval, financing, and government licences (Kein, 2012). The natural resource governance propagators suggest that a well-defined programme for managing natural resources can make a positive difference for the people who are living in resource-

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rich countries, and also for future generations (Atinc, 2013; Collier, Van Der Ploeg, Spence, & Venables, 2010). The mineral and extractive industry developers around the world have embraced SLO as a local content strategy to manage the relationship between locals and miners (corporations) in natural resource exploration negotiations (Pelosi & Adamson, 2016; Ruwhiu & Carter, 2016). The impetus for the emergence of SLO was the growth of the sustainable development paradigm and governance shifts that ceaselessly transferred the onus to non-state actors, leading to pressure from local communities (Hanson, D'Alessandro, & Owusu, 2014; Lassonde, 2003).

SLO comes from the older, broader, and better-established concept of corporate social responsibility (CSR), (Hall, Lacey, Carr-Cornish, & Dowd, 2015). The term *social licence to operate* was coined by Canadian mining executive Jim Cooney in the late 1990s (Prno, 2013), and refers to the acceptance that corporations and their activities get from government, communities living close to project activities, and broader society (Prno & Slocombe, 2012). The concept of SLO is closely related to some other complementary concepts, like free, prior, and informed consent (FPIC) and social impact assessment (SIA), (Bice & Moffat, 2014; Lacey, Carr-Cornish, Zhang, Eglinton, & Moffat, 2017; Lehr & Smith, 2010; Ward, 2011). Even so, SLO differs on some key points: (1) SLO is usually an ongoing process and is required during projects and not just prior to them (Prno & Slocombe, 2012; Rodhouse & Vanclay, 2016; Szablowski, 2010), and (2) the SIA of new mining developments is most commonly conducted prior to obtaining SLO for large mining projects (Dale, Taylor, & Lane, 2001; Harvey & Bice, 2014; Lockie, Franettovich, Petkova-Timmer, Rolfe, & Ivanova, 2009).

The widespread use of SLO in diverse fields of activities has evolved from a metaphoric concept to a strategic decision-making tool used for planning and management in socio-political development (Boutilier, Black, & Thomson, 2012). SLO is seen as a way of avoiding potential costly conflicts and exposure to social risks (Prno & Slocombe, 2012). The potential business advantages of SLO are: access to resources, better corporate reputations, abridged regulations, stronger stakeholder relationships, and positive employee sentiments (Graafland and Smid, 2017; Hall, 2014; Joyce & Thomson, 2000; Kern, Sachs, & Rühli, 2007; Martinez & Franks, 2014).

SLO in enforcement has no legal sanctity, but is helpful in gaining legal licences (Lynch-Wood & Williamson, 2007). Unlike statutory (legal) licences that are tangible and issued by legal authorities for a defined time period, social licences are intangible, not permanent, and need to be earned and maintained over time (Franks & Cohen, 2012). Though legal and social licences are common in their goals, they may differ on grounds of sanctity, duration and permanency. It is important to mention here that grants of regulatory licences to proceed with a project do not necessarily mean they have social acceptance (Howard-Grenville, Howard-Grenville, Nash, & Coglianese, 2008). Corporations might now require social licences in addition to legal permits (Parsons, Lacey, & Moffat, 2014), as legal licences alone are not sufficient for satisfying societal expectations (Jijelava & Vanclay, 2017).

Regardless of the reach of SLO across varied fields and disciplines, a well-established classification on the subject is missing. The objective of this research paper is to provide a taxonomy of the existing literature by conducting a state-of-the-art literature review, and to identify research gaps for future scholarship in this field.

The article aims at reviewing both theoretical and empirical studies in the field to provide a holistic understanding of SLO. The objective of the paper is twofold.



First, it is to provide the state of literature existing on the field of SLO. Second, it is to draw the attention of researchers to unexplored areas by providing a future scope of research.

Based on the literature and its contemporary relevance, SLO is analysed on seven critical parameters: (1) SLO as definitions, (2) temporal distribution of articles in terms of time period, (3) spatial distribution of articles in terms of countries, (4) operational distribution of articles in terms of application area, (5) academic distribution of articles in terms of journals, (6) theory used, and (7) nodal typologies of SLO. The paper then discusses the methodology used in reviewing and classifying the literature, and research findings are presented in subsequent sections, followed by a discussion and scope for future research for both practitioners and academicians.

With so much popular use mixed with scholarly analysis spread across so many diverse fields of activity and study, the potential for multiple meanings and strained metaphors has increased. As a result, serious attempts by businesses to understand what the social licence entails can be stymied by the diversity of interpretations of the term and its implications.

## METHODOLOGY

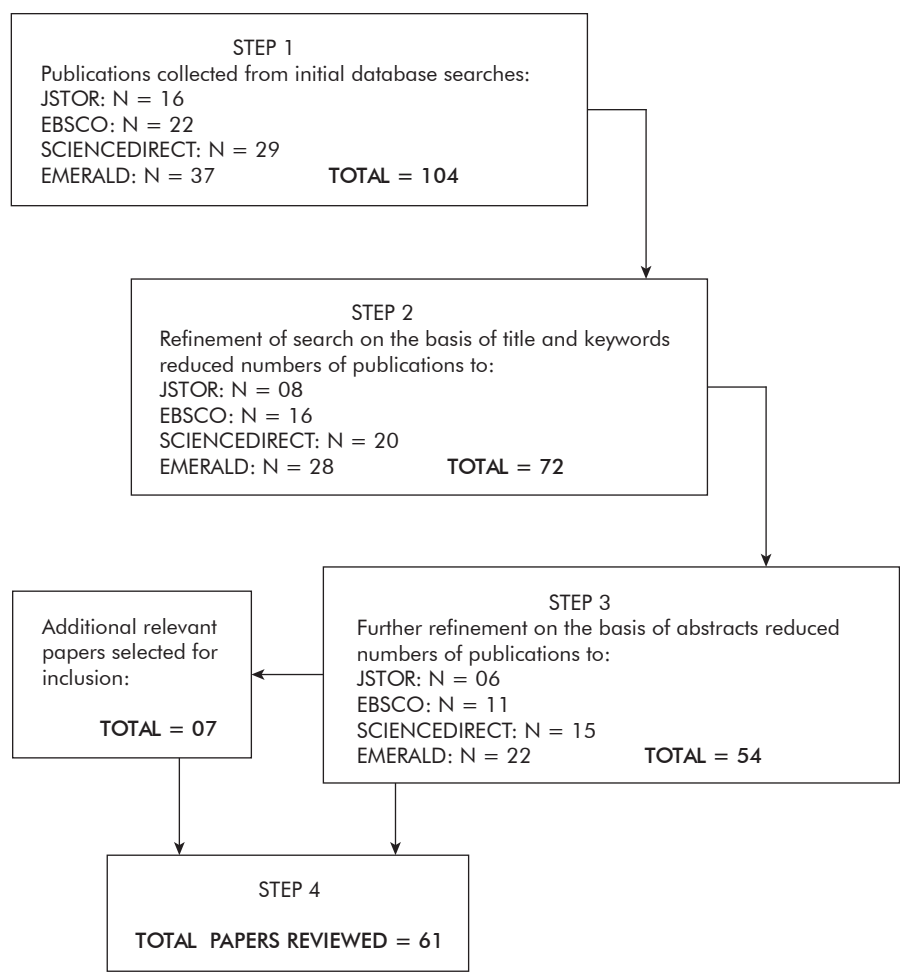
The authors followed the guidelines suggested by Kitchenham and Charters (2007) for the review process. The recommended guidelines included several steps, such as protocol development, selection of research papers for review, data extraction from the papers, synthesis, and reporting of the final results.

The protocol development determines the criteria used for searching for the research papers for review. The papers were sought from the following prominent databases: JSTOR, EBSCO, Science Direct, Emerald, Wiley, and Google Scholar (see Figure 1. (Wiley and Google Scholar did not yield any new results, therefore they were not included in Figure 1.) Papers published in or after 2000 were extracted using advanced search options and using a combination of keywords. The keywords used in the literature search were *social licence<sup>1</sup> to operate* and *social licence*, to identify the availability of relevant information in various disciplines. The search terms for each category were combined using the Boolean operator ‘and’. The entire process was followed to make sure that no relevant papers were missed. This step resulted in a total of 104 papers that were published in or before July 2017.

Step 2 (see Figure 1) of the relevant paper research is based on the keyword being detected in the title or list of keywords. This extensive search came out with a total of 72 papers relevant for the review. Abstracts of these remaining 72 publications were reviewed to ensure their eligibility (Step 3), and those which did not match our criteria or were of a non-English language were excluded. Overlaps of articles from the databases were counted to ensure only one of them was included. The references cited in the eligible papers (n = 54) were screened, and another seven relevant papers were included in the final review. This systematic literature review yielded a final set of 61, which was used to identify and record the themes, criteria, and theories used in those papers (Step 4).

1 Both US and UK spellings of ‘licence’ and ‘license’ were included in the literature searches.

**FIGURE 1** Systematic literature review protocol



## RESULTS AND DISCUSSION

### *Social licence to operate definitions*

Clear and comprehensible definitions are the starting point of all research (Baines, Lightfoot, Benedettini, & Kay, 2009). SLO, though frequently used, is poorly defined (Wright & Bice, 2017). Authors have defined and described the concept with different perspectives (see Table 1), such as the acceptance and approval of the local community (Parsons et al., 2014; Prno & Slocombe, 2012), business profitability (Joyce & Thomson, 2000; Nelsen & Scoble, 2006), and stakeholder support (Jijelava & Vanclay, 2014; Parsons et al., 2014). SLO is approached from a corporate perspective (Boutilier & Thomson, 2011; Prno & Slocombe, 2012), and little research exists on SLO from communities' perspectives, leaving a gap as to how communities view, understand, and define SLO (Litmanen, Jartti, & Rantala, 2016).

**TABLE 1** Multiple definitions of SLO

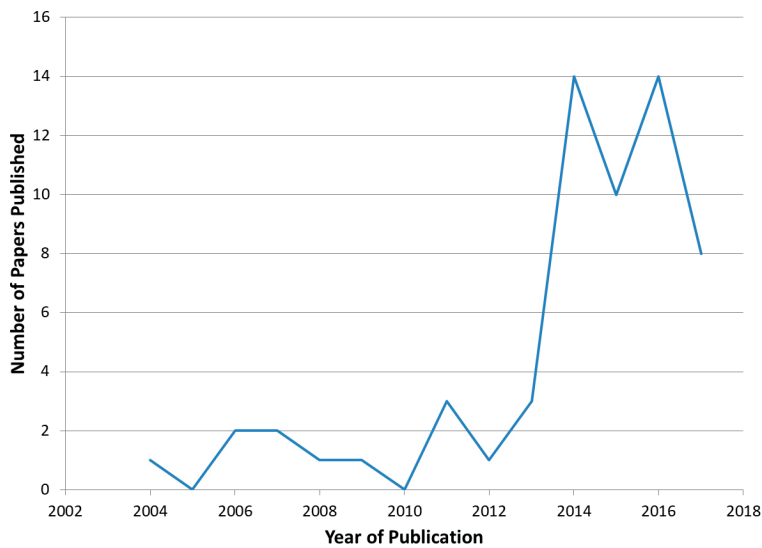
Author(s)	Definition	Thrust
Prno & Slocombe, 2012; Joyce & Thomson, 2000; Nelsen & Scoble, 2006	The ongoing <b>acceptance and approval</b> of a mining development by <b>local community</b> members and other stakeholders that can affect its <b>profitability</b> .	As a process of acceptance/approval by the community and to sustain profit as the purpose of the development
Gunningham, Kagan, & Thornton, 2004	The <b>demands and expectations</b> for a business enterprise that emerge from neighbourhoods, environmental groups, community members, and other elements of the surrounding civil society.	As demand and supply
Parsons et al., 2014	A need to <b>work with</b> and <b>gain approval and support</b> of local communities and other stakeholders.	Work with local communities to seek approval, as a strategy to gain support
Owen & Kemp, 2013	An informal or tacit licencing that signals the presence or absence of <b>critical mass of public consent</b> , which may range from reluctant acceptance to a relationship based on <b>high levels of trust</b> .	An informal indicator of existing critical public support based on level of trust
Kelly, Pecl, & Fleming, 2017	An <b>unwritten social contract</b> that reflects opinions and expectations of the broader community on the impacts and benefits of industry and government practices.	As an indicator of moral contract for convergence of impact and benefits between community, government and industry
Jijelava & Vanclay, 2014	A <b>conceptual approach an organisation applies</b> in engaging with communities and stakeholders. It helps organisations in <b>identifying proactive actions</b> they can take to increase the likelihood that they will enjoy the support of the communities where they work.	An organisational approach of engagement for planning and implementation
Parsons et al., 2014	To <b>operate with the acceptance of the community at the lowest level</b> , and with the support of the community at the highest level.	As a bottom line

The key terms of the definitions, highlighted in bold, are used to develop the thrust of the papers.

### *Distribution of articles in terms of time period*

The distribution of research papers in different periods shows the growth of studies relating to SLO in different time spans. It provides a basis for understanding the work done in each study phase. The period-wise distribution of published papers is shown in Figure 2. Out of a total of 61 articles, seven articles were published in the period 2004-2010, and may be seen as the birth of the concept. The contribution rate increased in the next two years to a considerable level, and a steep upward rise in the

**FIGURE 2** The number of published papers citing social licence from the years 2004-2017



next five years, to 49, is indicative of the increased demand for understanding the changing community-company nature of partnership. The volume of publications in 2011-2017 is ten times more than in 2004-2010, indicating an urgency to establish a model of cohesion between community and companies. The graph in Figure 2 is an indication of a rising consensus over the rationale and need to search for models of operationalising SLO.

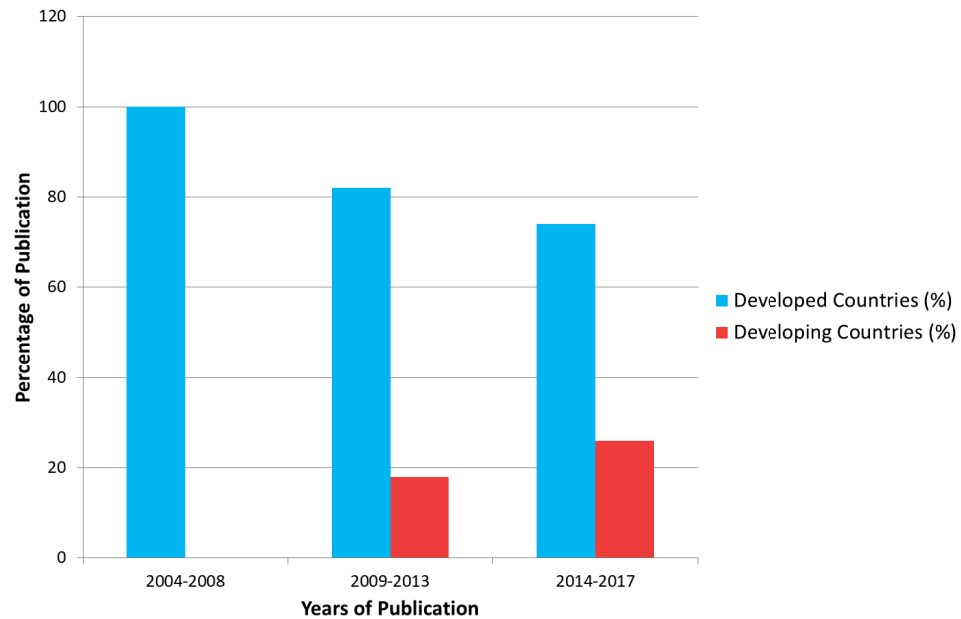
*Distribution of articles in terms of countries*

Spatial country-wise classification of the literature is pivotal to understanding the research paradigm on corporate governance and ethics issues across the globe (see Table 2). The lack of research does not indicate a need for SLO, but rather suggests that research needs to transcend from concept to operation and practice to policy to merge community-company gaps, while the incidence of community resistance around the world (Shaffer, Zilliox, & Smith, 2017) suggests the existence of unestablished evidence to sensitise decision-makers on the issue of social licence. In 2004-2017, the greatest numbers of research articles related to SLO were from Australia, the US, Canada, and Russia (Cullen-Knox, Haward, Jabour, Ogier, & Tracey, 2017; Hall, 2014; Prno & Slocombe, 2014; Richert, Rogers, & Burton, 2015; Ruckstuhl, Thompson-Fawcett, & Rae, 2014; Voyer, Gladstone, & Goodall, 2015; Walsh, van der Plank, & Behrens, 2017; Wilson, 2016). There is a shortage of studies from the developing world, especially India, Brazil, China, and South Africa (Hanna, Vanclay, Langdon, & Arts, 2014, see Figure 3).

**TABLE 2** Frequency of research conducted at different geographic locations

Geo-spatial coverage	Frequency of publications
Australia	16
USA	6
Canada	4
Russia	3
Chile	2
Finland	2
Georgia	2
Brazil	1
China	1
Faroe Island	1
Greenland	1
Iceland	1
India	0
New Zealand	1
Papua New Guinea	1
Peru	1
South Africa	1
Spain	1
Sweden	1
Switzerland	1
Uruguay	1

**FIGURE 3** Country-wise distribution of articles



Note: Countries are classified according to the UN's Country Classification (WESP, 2014)

**TABLE 3** Industry-wise distribution

Time interval/industry	2004-2008	2009-2013	2014-2017	Total
Mining and extractive	-	1	16	17
Energy	1	-	5	6
Forestry	-	-	3	3
Construction	-	-	2	2
Marine	-	-	2	2
Oil and Gas	-	-	2	2
Pulp and paper	1	-	-	1
Telecommunication	1	-	-	1

*Distribution of articles in terms of application area*

In the distribution of articles in terms of industry, the numbers and thrust of articles are related to the mining sector (see Table 3), followed by the energy sector. Though the concept of SLO was first introduced in the mining sector, the scholarship to date is majorly concentrated on its use and operationalisation in the mining sector (Lacey, Parsons, & Moffat, 2012; Lockie et al., 2009; Owen, 2016; Zhang et al., 2015), indicating higher relevance in the context of minerals and natural resources to evolve a sustainable management strategy for scarce resources.

A few studies outside the gambit of mining perspectives have also been conducted, such as on the paper and telecommunications industries (e.g., Gunningham et al., 2004; Lynch-Wood & Williamson, 2007; Shepherd & Martin, 2008), but there remains an unexplored area that unveils the idea and institutionalisation of SLO in domains other than the mining and extractive industries.

*Distribution of articles in terms of journals*

Articles related to SLO are widely published in various journals’ databases (Buhmann, 2016; Curran, 2017; Holley & Mitcham, 2016). There are in total 28 journals that published articles related to SLO in the time frame studied. The greatest number of papers was published in the *Resources Policy* journal. The list of journals, along with the numbers of articles, is shown in Table 4.

*Distribution of articles in terms of theory used*

The phrase *SLO* has been invoked principally in discussions relating to stakeholder theory (Dare, Schirmer, & Vanclay, 2014; Hall & Jeanneret, 2015; Hall et al., 2015; McIntyre, Murphy, & Tetrault Sirsly, 2015; Wilburn & Wilburn, 2011). The basic premise of stakeholder theory is the understanding of SLO with diverse stakeholders and different perspectives regarding the acceptability of activities (Phillips, Freeman, & Wicks, 2003). This literature review suggests that SLO has also been associated with several other theories, such as capital theory (Wright & Bice, 2017), systems theory (Prno & Slocombe, 2014), organisational legitimacy theory (Parsons et al., 2014), institutional theory (Lyons, Bartlett, & McDonald, 2016), argumentation theory (Corvellec, 2007), human capital theory (Smits, Justinussen, & Bertelsen, 2016), communication accommodation theory (Gallois, Ashworth, Leach, & Moffat, 2017), regulation theory (Lynch-Wood & Williamson, 2015; Nysten-Haarala, Klyuchnikova, & Helenius, 2015), decentralisation and citizen participation

**TABLE 4** Journal-wise distribution

<b>Journal name</b>	<b>No. of articles</b>
<i>Resources Policy</i>	11
<i>Impact Assessment and Project Appraisal</i>	7
<i>Journal of Cleaner Production</i>	7
<i>Journal of Business Ethics</i>	4
<i>Extractive Industries and Society</i>	3
<i>Marine Policy</i>	3
<i>American Society for International Law Journal</i>	2
<i>Corporate Communications</i>	2
<i>Corporate Governance</i>	2
<i>Social Epistemology</i>	2
<i>Corporate Governance: International Journal of Business in Society</i>	1
<i>Corporate Governance: International Journal of Effective Board Performance</i>	1
<i>Corporate Social Responsibility and Environmental Management</i>	1
<i>Energy Policy</i>	1
<i>Energy Research and Social Science</i>	1
<i>Environmental Management</i>	1
<i>Forest Policy and Economics</i>	1
<i>Geoforum</i>	1
<i>International Journal of Mining, Reclamation and Environment</i>	1
<i>Journal of Applied Corporate Finance</i>	1
<i>Journal of Energy and Natural Resources Law</i>	1
<i>Journal of International Business Ethics</i>	1
<i>Journal of Language and Social Psychology</i>	1
<i>Journal of Law and Society</i>	1
<i>Law and Policy</i>	1
<i>Law and Social Inquiry</i>	1
<i>Mining Review</i>	1
<i>Social Alternatives</i>	1
<i>Social Licence and Environmental Protection</i>	1
<i>Technological Forecasting and Social Change</i>	1
<i>World Development</i>	1

(Costanza, 2016), triple font of morality (Melé & Armengou, 2016), organisational theory (Howard-Grenville et al., 2008), gender and participation theory (Jijelava & Vanclay, 2014), and social contract theory (Demuijnck & Fasterling, 2016; Lacey & Lamont, 2014).

From a theoretical point of view, there are some other theories that could be used in the future to advance the knowledge base. For example, the existing theoretical framework of resource dependence theory (Aldrich & Pfeffer, 1976; Pfeffer & Salancik, 1978) could be used to explain company profitability and survival and its ancillary application in the practice of company risk reduction. Also, as suggested by Thomson and Boutilier (2011), social network theory could be used to understand the process through which social licences are granted or withheld.

**FIGURE 4** Typology nodes of SLO



***Social licence to operate: Typology and key aspects***

SLO is a diverse topic, and this review paper identifies a few of its nodal typologies (see Figure 4). According to this model, SLO is maintained by multiple interacting disciplines, such as law (Guaqueta, 2011), by means of human rights and social contract theory (Demuijnck & Fasterling, 2016; Hanna & Vanclay, 2013; Lacey & Lamont, 2014), explored through sustainability (Gunningham et al., 2004; Prno & Slocombe, 2012; Solomon, Katz, & Lovel, 2008) and innovation perspectives (Provasnek, Sentic, & Schmid, 2017). SLO has also been looked at in complementary studies in communication paradigms (Hall & Jeanneret, 2015; Prno & Slocombe, 2012), and from the unique perspectives of religion, gender, and tourism (Cui, Jo, & Velasquez, 2016; Jijelava & Vanclay, 2014; Williams, Gill, & Ponsford, 2007).

This paper, by developing this typology, gives insight into the existing work on SLO in various domains and provides a future research agenda for researchers and practitioners to further their work and explore other related areas.

**CONCLUSION**

The analysis and literature corroborate the notion that SLO is an established need with an emerging concept from multiple disciplines; all the parameters of assessment should be included. Studies resulted in multiple and varied interpretations of social licence (Prno, 2013), however, a consistent definition is lacking. In the



present scenario, even though the term *social licence* is increasingly being used in both academic studies and in practice, its applicable connotation is not very clear, with no reflection as to how it impacts managerial decisions and social realities (Hall, 2014). The spread of the term across various sectors and countries is not accompanied by a coherent understanding of its meaning and implications (Boutilier, 2014). We acknowledge the fact that social licence cannot be clearly defined and adequately quantified (Richert et al., 2015), but future work needs to lay down the best means by which social licence can be developed. To further add to the appeal, it can be used opportunistically to serve the interests of community, industry, and government (Gallois et al., 2017). SLO is an exchange weaved through trust by balancing corporate-community relations (Ehrnström-Fuentes & Kröger, 2017; Harvey, 2014); thus, gaining social licence means gaining public trust that industries are utilising the environment and resources ethically and judiciously, in accordance with stakeholders' expectations. The discourse followed and participant engagement are fundamental parts of the process (Dare, Schirmer, & Vanclay, 2011; Rooney, Leach, & Ashworth, 2014), and hence much value can be added by exploring how social licence is attained, applied, and is beneficial within various realms.

In its novel stage, SLO seems to be a promising way to develop a dialogue between the stakeholders who are involved and affected (Moffat & Zhang, 2014; Nelson, 2006). However, the review suggests that until date-limited research has been conducted into the metrics of obtaining and retaining social licence, there is ample scope for exploring how, when, and where social licence can be attained and maintained.

The opportunities researchers could engage with in the future are the gaps identified from the vast pool of scholarly literature mapped out of the themes, contexts, theoretical-lens and findings. The major gaps identified in the existing literature of SLO were:

- (1) limited research from developing parts of the world, such as India, Brazil, China, and South Africa, showing spatial imbalance of literature;
- (2) unexplored research in other sectors, unveiling the idea and institutionalisation of SLO is restricted to the mining and extractive industries;
- (3) limited theoretical underpinning with a focus on a few theories (stakeholder theory, social contract theory) for studying SLO; and
- (4) the development of a typology, giving insight into the limited variation in existing work on SLO in various disciplines.

These gaps are in need of further research to understand the integration between the local community, companies, and other related stakeholders.

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# Obsolete and redundant

Dead laws impose heavy burden and their costs outweigh their benefits and thus are in a need of simplification, amendments or repeals

Surabhi Gupta

**T**he fecundity of the state legislatures has resulted in multiplicity of laws of the land, without eliminating those which have been rendered obsolete by changing times. The laws remaining on the statute books, although no longer enforced, are obsolete and have outlived their usefulness. Certain old statutes can no longer be enforced, since the conditions to which they apply have ceased to exist. Statutes which have been repealed by implication or declared unconstitutional also fall into a similar class. These not only create useless bulk in the statute books and confusion in ascertaining the law but also have a danger of sporadic enforcement. The danger is present because either the changing conditions have rendered these policies unwise, changed customs have stamped as rightful what was once forbidden, or the enforcement has made the act inoperative.

A suo-moto project on 'Identification of Obsolete Laws' was undertaken by the 19th Law Commission, followed by a study 'The Legal Enactments: Simplifications and Streamlining' by



the 20th Law Commission. The study found that 253 laws, despite being recommended for repeal in Commission Reports Nos 18, 81, 96, 148, 159, still exist in the statute books. These laws are inconsistent with the modern and newer laws, with supreme court judgments, and international conventions signed and ratified by India.

Take, for instance, the Sarai Act, 1867, which asks sarai-keepers to give free drinking water to passersby and is applicable to hotels. The Act is now redundant because hotels are already registered under relevant state legislations. There have been cases where police and tourism officials have harassed hotel owners for failure to comply with the provisions of the Sarai Act.

The Births, Deaths and Marriages Registration Act, 1886 provides for the voluntary registration of births,

deaths and marriages. The Act remains unused because registration of births and deaths is already provided for under the Registration of Births and Deaths Act, 1969, while marriages are registered under the Hindu Marriages Act, Special Marriages Act etc. Such redundant laws impose heavy burden and their costs outweigh their benefits and thus are in a need of simplification, amendments or repeals.

The judiciary and constitutional doctrines have certain weapons to meet such sporadic enforcement. The judiciary, through the process of 'interpretation', may change statutes with changing conditions, by adding new relevant meaning to the old existing forms. The doctrine of desuetude obtained in the Roman law, meaning "the condition or state into which anything falls when one ceases to sue or practice it", is the principle encompassing situations in which a court refuses to use law even if the law has not been repealed (*Monnet Ispat and Energy Ltd. v. Union of India and ors* (2012) 11 SCC 1). However, it is now fairly clear that such action alone would not be sufficient in a polity organised with a legislature.

Some countries had special commissions (Missouri Commission, Massachusetts Commission) to investigate obsolete statutes. Due to limitations of



time and authority, the treatment of the problem is apt to be fragmented. Some aid in removing obsolete statutes has been received from judicial councils in various countries and occasional relief is obtained through the practice of office of attorney general in recommending repeals. A committee of Pennsylvania Bar Association working in conjunction with legislative reference bureaus with attention centred on the statute law also had beneficial effect in the past. But by far the commonest way of dealing with the problem worldwide is that of codification and revision of the statutes. It is certain that the problem in many countries has been touched narrowly; either there has been no official action with regard to the outdated statutes or only a compilation of outdated laws has been made, which is nothing more than a depository of such laws.

It must also be mentioned that repealing appropriation Acts whose terms have expired will in no negative way impact the actions validly taken under these acts. It will to the contrary, serve the purpose to clear the statute books and reduce the burden. More than 700 laws will be repealed, if only those appropriation acts that are older than 10 years may be repealed. Other countries have mechanisms to systematically remove appropriation Acts that have positively served their purpose. For example, in the UK all appropriation Acts contain a repealing provision, which specifically repeals non-operational appropriation Acts. The Australian legal system follows an automatic repealing route for appropriation acts. Section 89 of Australian Legislation Act, 2001 governs that certain appropriation acts are automatically removed and this includes the ones that make appropriations on the last day of the financial year. Thus, provisions in the nature of sunset clause are read into every appropriation act by the virtue of the 2001 legislation.

India does not have any such mechanism and appropriation Acts continue to sleep on the list of the statute books. Without major amendments or introduction of new laws, a practice like that

of the UK (the model from where we adopted our appropriation Act) would serve a useful purpose in the cause.

The difficulties of comprehensive revision and the fear of creating unintentional changes in the law are formidable obstacles. Yet it seems that a slight relief in the field of obsolete statutes can be hoped for by any method discussed other than just codification. A revision of laws would have to be periodic, at short intervals and be maintained as a constant and continuous process. This might need a permanent and highly trained board, which keeps necessary watch over the body of statutes of the land.

When national economies are progressively becoming globally interdependent and interconnected, ignoring to recognise the harmonious nexus between law and economy can prove costly to the nation. As the economy is liberalised and modernised, encompassing phenomenal changes brought in almost every walk of life, the need for laws to keep pace with changing times becomes a fundamental requirement, lest there should appear legal gaps, inconsistencies and contradictions causing serious impediments to the processes of growth and development.

To conclude, we need to remember and reinforce one of the sayings by Savigny, an eminent jurisprudence scholar: "Law grows with the growth

*When national economies are progressively becoming globally interdependent and interconnected, refusing to recognise the connect between the law and the economy can prove costly to the nation.*

### Five outrageous Indian laws

**Kite flying can land you in jail:** The Indian Aircraft Act, 1934 controls possession, manufacture, and use, sale (import & export) of aircraft. This includes balloons, airships, kites, etc. Don't forget to take a licence before flying a kite next time.

**Never courier a letter:** As per the Indian Post Office Act, 1898, the post office has the "exclusive privilege" to deliver letters from one destination to the other. That is why most private courier companies use the word "document" instead of "letter".

**Buried treasure goes to the queen:** The India Treasure Trove Act, 1878, defines treasure as "anything of any value hidden in the soil" and worth as little as ₹10. Moreover, if the finder of such treasure fails to hand over the booty to the government, the "share of such treasure ... shall vest in Her Majesty". Who cares if the British left India in 1947!

**Telegram, what's that:** The Telegraph Wires (Unlawful Possession) Act, 1950, regulates possession of telegraph wires by Indians; anyone possessing copper telegraph wire can land in jail for up to five years. Ironically, India sent out its last telegram in 2013.

**Bob Marley causes drug abuse:** The Young Persons (Harmful Publications) Act, 1956 aims to "prevent the dissemination of certain publications harmful to young persons". In 2014, the police raided several joints in Kochi to eradicate marijuana and other drugs. Citing this act, the police also arrested sellers of Bob Marley merchandise, including bracelets, T-shirts and keychains.

and strengthens with the strength of people...". The question is whether law in our legal system is growing and gaining strength or is still muddled and outmoded in archaic laws remaining on the statute books. There is an urgent need to ensure that laws and the legal system are responsive to the needs and challenges of the times. ■

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## BOOK REVIEW

covers reviews of current  
books on management

### *Public Policy and Land Exchange: Choice, Law, and Praxis*

**Giancarlo Panagia**

Routledge, London and New York, 2015, 178 pages, £85.

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The book focuses on the history and public policy literature of land exchange using case studies to illustrate land swaps, highlighting the history of US agencies' promotion of private interests in land exchanges for over a century. The author brings economic sociology theory to the study of undervaluation of land in federal-private land swaps, including the serious institutional dysfunctions, which sometimes amount to corruption. The author develops a historical timeline from the late 1890s to the present, studying the historical and legal changes in the interpretation of terms related to land exchange.

The book introduces identification of public choice theory which helps the reader understand the behaviour of federal agents facing the acuteness of thin economic markets (a market is thin or narrow when only a low number of buyers and sellers are in the position to exchange or swap) of exchange (Coggins & Nagel, 1989). There is an initial deliberation on economic terms of exchange and a historical coverage of public policy related to land swaps. The author then discusses the present federal legislations, rules and regulations, and legal precedents. The snapshots of the legal cases presented in the book help in understanding the complex status quo maintained for the two unanswered issues of (a) undervaluation of the federal land and (b) institutional dysfunctions. A closer look at the federal details of the Bureau of Land Management and the US Forest Service land swaps reflects the unsuccessful attempts of the state to solve either one of these issues. The well-defined, systematic and exhaustively laid-out chapters subdivided along the themes mentioned below are quite captivating to read.

The book is divided into three main parts. The first part contextualizes the topic, defining the problems involved in federal land swaps. It also provides a historical synopsis of legislations passed on land swamps by the Congress over time. Utilizing public choice theory, Panagia highlights the agency official's practices that demarcate a shift where allegiance to the organization is replaced by individualism and self-interest.

The second part reviews different statutes governing the federal land exchange. The author analyses these statutes to understand changes over the course of time while also describing the land exchange procedure. Panagia brings these legislations to

life through case laws and administrative judicial decisions concerning completion of the land swaps, valuation and public interest (Paul, 2006).

In the final section, the book highlights the current controversial scenario in the federal land swaps based on governmental investigative reports. By evaluating the investigative reports of each federal agency in detail, it illustrates the trends to transfer federal lands showcasing flawed value appraisals and interpretation of public interest. Panagia concludes by providing suggestions of using important tools such as judicial review and accountability to ensure that the principles of equality in value and the observance of specific public policy to transfer federal lands are maintained.

Overall, the book is comprehensive and innovative in its approach. By stressing on themes of power and privilege throughout the book, Panagia weaves together a coherent narrative that exposes the faults of the current land swap system. Though heavily focused on legal systems and case laws, there's much for non-legal scholars, especially policymakers and journalists, to gain from reading this book. It is a well-researched book supported by numerous case studies, exhaustive references and literature to substantiate the views of the author.

From an Indian perspective, with discussions on the recent Land Acquisition, Rehabilitation and Resettlement Act of 2013, the book provides significant

insights about land exchange and acquisition in developed countries. India, with a questionable past in land acquisition, is now attempting a humane, participative, informed and transparent process for land acquisition. This book helps India and other emerging economies form a perspective on improvements in land acquisition policies and implementation measures that can mitigate the adverse impacts of institutional dysfunctions.

While the book puts in a considerable amount of effort to reflect on the existing land exchange laws in the United States, it fails to understand land swaps from a developing country outlook. Without the active inclusion of common law countries' voices, this book risks speaking on global issues without the perspective of more than half of the globe. The addition of a comparison and contrast with other common law countries on the land exchange practices would have added immensely to the 'how-to-do' value of this otherwise remarkable book.

The book under review comes highly recommended to the researchers of history, law and policymakers. The book is recommended for three reasons: it is lucid to read; the research is well substantiated with case laws which are so necessary an angle for better awareness especially for someone with non-legal background and it brings into sharp focus the inadequacies inherent in the system adopted by the agencies.

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