

# Corporates should support the rule of law

---

[idr idronline.org/corporates-should-support-the-rule-of-law/](https://idr.idronline.org/corporates-should-support-the-rule-of-law/)

Rohini Nilekani

January 16,  
2020

I have often talked about the continuum of *sarkaar*, *samaaj*, and *bazaar*, and why, for a successful society, these three sectors must work together in a fine balance.

Ideally, *sarkaar*, or the state, should not grab too much power, *bazaar*, or the market, should not flout the rule of law or appropriate public resources, and vigilantes from the *samaaj*, or civil society, should not take the law into their own hands.

This requires awareness and active participation from all citizens. After all, we are citizens first; our primary identity is not as a subject of the state or as a consumer for the market. As citizens, how do we then help build a good society?

## The *bazaar's* interest in the rule of law

---

There are many interests between *samaaj* and *sarkaar*; *bazaar* and *sarkaar*; as well as between *samaaj* and *bazaar*. For the purpose of this article, we will examine the congruence of interest between *samaaj* (society) and *bazaar* (markets). And it starts with the rule of law.

┆ No business can thrive without social stability outside its gates.

We all want and need the rule of law to be upheld. In fact the *bazaar*—or at least the modern corporation as we know it—would not exist if the rule of law had not created the limited liability company 300 years ago. This allowed innovation to flourish over the centuries, and also provided for the absorption of failure, because wherever there is innovation, there is failure. It is because of the rule of law that companies can fail without going under themselves; and therefore, for their own sake, corporations have a great stake in upholding it. They need the enforceability of contracts, protection of property, availability of fair competition, and so on, otherwise they simply cannot function. But even beyond this, they need the law to be upheld by society at large, because no business can thrive without social stability outside its gates.



Civil society and business have more in common than either believe. | Photo courtesy: ©Bill & Melinda Gates Foundation/Prashant Panjiar

Civil society and business therefore have more in common than either believe. Sure, in some cases, civil society has to position itself against business interests, when those interests are being deployed unfairly on the ground. For instance, in the case of public goods like water and land commons, or with environmental issues like pollution and contamination, civil society and business knock up against each other. But they also have a common concern—to keep the *sarkaar* in check.

**Related article: We shouldn't expect philanthropists to fund activism**

## Keeping the *sarkaar* in check

---

State power worldwide tends to accumulate, and it is to the advantage of both business and civil society, to make sure that the state does not abuse its own power.

Many corporations have been subject to the vagaries of state power while running their businesses; excessive discretionary power also adversely affects the climate in which businesses operate. If the alignment of *samaaj* and *bazaar* is understood and worked on, it helps restrain the state.

For example, civil society institutions and business corporations might together, or separately, appeal to the state on poorly framed laws. In the recent proposal to criminalise non-compliance of CSR, both *samaaj* and *bazaar* would have been adversely affected. Both successfully voiced strong reservations against it, and it was rolled back.

┆ We all need good laws, and an independent, impartial, and efficient judiciary to verify the constitutionality of those laws.

We all need good laws, and an independent, impartial, and efficient judiciary to verify the constitutionality of those laws. We all require equal access to the justice system. We also need effective public institutions that help uphold the rule of law. It is the only way to both empower the *bazaar* and uphold the rights of the country's citizens.

The *samaaj* has an interest in the rule of law as well, as it is critical for addressing access issues, especially for the poor. Civil society organisations (CSOs) representing *samaaj* are often driven by passion and a commitment to rights and freedoms. Sometimes, at great personal risk, they go up against the power of the state and corporations, to create campaigns, build institutions, and push for more agency for people who are left out. Civil society must however learn to communicate better the long term benefits of such work to business.

Because, the *bazaar* itself cannot do this work. Though they benefit indirectly, corporations cannot support or implement politically sensitive programs, and risk the fallout of such action. It would make them vulnerable to all sorts of state action.

But they can certainly do more than what they're doing at the moment.

With the civil society institutions that they trust and already have a relationship with, they can, and should, give core institutional support to continue work beyond project-based funding. Even if they do just this, it strengthens civil society capacity to take on issues of rights and exclusions that are adjacent to their work on service delivery.

## **It's time to take big bets**

---

Swami Vivekananda said, "Take risks in your life. If you win, you can lead, if you lose, you can guide."

### **Related article: It's time for CSR to invest in justice**

Indian philanthropy doesn't take enough risk. However, it cannot achieve its potential without risk-taking. It's good to keep honouring service delivery improvements, but it's time to look at our society as a whole, and for the philanthropic sector to step up and get into more important areas such as access to justice. And the congruent interest of *samaaj* and *bazaar* is exactly why.

From a recent Boston Consulting Group report—[Total Societal Impact- A New Lens for Strategy](#), it's clear that corporations which align with *samaaj*'s ideals will be better off in the long run. There is now exhaustive research that shows that the non-financial side of business is linked to its financial side, and that companies that do well when it comes to ESG—environmental, social, and governance issues—also consistently show better results on their bottom line.

Can we—as corporations and philanthropists—pledge that we will no longer do only incremental work, but will try something transformational? The time has come to align self-interest and the public interest in support of the rule of law and constitutional

values.

## The common within uncommon ground

---

It doesn't have to be the state versus civil society, or business versus civil society, or the state versus business. They are not necessarily antithetical to each other.

Society is successful when it reduces the friction for the three to co-create solutions. And it's important for all the three sectors to recognise that—to discover the common within the uncommon ground.

It is an especially opportune time for business and civil society to act more creatively from their own, unrecognised common ground. Poised at a new decade, we can together ensure that this country's solemn promise to itself—to secure liberty and justice, social, economic, and political—for all its citizens, will be met, and met in abundance.

—

## Know more

---

- Hear Rohini Nilekani speak more about the relationship between *samaaj-sarkaar-bazaar* in this [video](#).
- Read more about strengthening the rule of law in India in [this paper](#) by Devesh Kapur and Milan Vaishnav and in [this article](#) by HuffPost India.
- Explore [IDR's Philanthropy & CSR](#) section to learn more about current conversations on the state of philanthropy in India.

## Do more

---

Explore how corporates can come together to co-create solutions with civil society via [Project Aspire](#).

*Disclaimer: IDR was funded by Rohini Nilekani Philanthropies in 2018-19.*