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Available at: https://scholarcommons.sc.edu/scjilb/vol12/iss1/8
THE FINANCIAL BENEFITS OF CORPORATE SOCIAL RESPONSIBILITY IN THE AZERI OIL INDUSTRY

Thomas Moran*

I. INTRODUCTION

Corporate Social Responsibility (CSR) refers to the belief that companies must take responsibility for their social impact on society. CSR functions as a self-regulated business model in which a corporation monitors and ensures that its business practices comply with local laws, ethical standards, and international norms. What started as a broad ideal espoused by economist Howard R. Bowen sixty years ago has gained substantial ground in the private-sector world. Today, CSR shapes the international corporate business models for some of the largest companies in the world.

Some argue that the nature of a business is solely to increase economic gain. Others believe that because large companies have economic strength and political power, they have a duty to share the

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2 See INTERNATIONAL ORGANIZATION FOR STANDARDIZATION, GUIDANCE ON SOCIAL RESPONSIBILITY 26000 (2010).


5 See id.

6 See BRIAN ROACH, TUFTS UNIV. GLOBAL DEV. & ENV’T INST., CORPORATE POWER IN A GLOBAL ECONOMY 1–2 (2007).
burden of underdeveloped countries. However, this article will not discuss the moral merits and social duties of corporations to undertake CSR. Instead, it will focus on why, from a financial standpoint, it is good business practice to implement CSR where a corporation does business.

Many companies have popularly utilized the CSR model. Most of the initiatives taking place today focus on maximizing CSR in high income emerging markets, such as China, Russia, and South Korea, while ignoring involvement in many middle and low-income markets, such as Azerbaijan and Armenia. The factors that contribute to the lack of CSR in developing markets include limited market information, inefficient regulatory environments, inadequate infrastructure, a weak legal system, and restricted access to financial products and services.

As the world’s economy is shifting and natural resources are becoming more valuable, many multinational corporations are increasingly doing business in emerging markets. Within these emerging markets are many business risks including financial instability, negative company reputation, shareholder issues, and environmental and human rights concerns. Azerbaijan currently

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7. See id.
11. Id. at 67.
13. See Ignacio Requejo, Lecture at the University of Strathclyde Business School: Defining & Characterizing Emerging Capital Markets (Sept. 3, 2011). An emerging market is defined as a low or middle-income country with low investible market capitalization. Id.
fits the paradigm of an emerging market in the oil industry. Like archetypal mid to low-income countries, Azerbaijan has problems with market information, inefficient regulatory environments, inadequate infrastructure, and a weak legal system. This article will first demonstrate that oil companies in Azerbaijan will receive financial benefits by engaging in CSR. It will then demonstrate that as small, socially and economically unstable countries gain entrance into the international marketplace, the companies doing business there will financially benefit and alleviate risk by integrating CSR.

Part I of this article will introduce the concept of CSR and explain why no clear definition exists. It will also analyze various interpretations of CSR by examining the focuses of several public and private organizations. Part II of this article will discuss the current state of privatized oil drilling in Azerbaijan and the effect it has had on the region. In Part III, this article will address the failures of the agency overseeing the petroleum industry within Azerbaijan and the outside involvement currently taking place. Finally, Part IV will show the great financial benefits to be had when oil companies incorporate CSR in Azerbaijan. This section will discuss the economic relationship between CSR and investment, while also providing information on why the CSR movement should be at the forefront of international business practices. Using the examples of shifts in the global economy, shareholder activism, consumer awareness, and employee retention as support, this article will establish why CSR is beneficial to the corporate duty of maximizing shareholder profits.

II. WHAT IS CORPORATE SOCIAL RESPONSIBILITY?

A. DEFINITIONS

Although human rights and governmental organizations are participating in a major movement to improve CSR in underdeveloped nations, there is still a high level of confusion about the overall goal of CSR. As more entities become involved in the CSR discussion, more variances in the definition of CSR

\[^{15}\text{See U.N. Dep't of Econ. & Soc. Affairs, supra note 9.}\]

\[^{16}\text{See id.}\]
develop.\textsuperscript{17} Legislative bodies and governmental organizations take different approaches to defining CSR.\textsuperscript{18} Essentially all definitions of CSR are based on the premise that CSR is important to (1) the development of human rights, and (2) the improvement of the country hosting the business.\textsuperscript{19} However, there are differences in perspective. While the European Commission and public officials tend to emphasize the content of business practices, other actors have focused on the social impact of corporations.\textsuperscript{20}

From the perspective of a governing body, the European Commission’s agenda for improving CSR is focused on enhancing the visibility of CSR and disseminating good business practices; improving and tracking levels of trust in business; improving self and co-regulation processes; enhancing market reward for CSR; improving company disclosure of social and environment information; further integrating CSR into education, training, and research; emphasizing the importance of national and sub-national CSR policies; and better aligning European and global approaches to CSR.\textsuperscript{21}

Differing from the European Commission’s outlook, the UK Minister for CSR, Nigel Griffiths MP, does not specify what impacts CSR should have on society or how CSR can be achieved.\textsuperscript{22} Instead, he only vaguely suggests that companies should have some responsibility to society, stating “CSR … is about the way businesses take account of their economic, social, and environmental impacts in the way they operate – maximizing the benefits and minimizing the downsides.”\textsuperscript{23} This definition is drastically less comprehensive than the one provided by the European Commission, but still provides the same essential message that corporations should socially and economically enhance the country in which they do business.

Private groups have also weighed in. The World Business Council on Sustainable Development defines CSR as “continuing commitment by businesses to behave ethically and contribute to

\textsuperscript{19} See, e.g., \textit{Corporate Social Responsibility (CSR), supra} note 1.
\textsuperscript{20} See \textit{id.} at 26.
\textsuperscript{21} See \textit{generally id.}
\textsuperscript{22} See Hopkins, \textit{supra} note 18, at 24.
\textsuperscript{23} \textit{Id.}
economic development while improving the quality of life of the workforce and their families, as well as the local communities and society at large.\textsuperscript{24} Here, there is an interesting discourse providing a different area of focus from the governmental approach. The governmental approach provides more emphasis on the behavior of the corporations themselves, while the World Business Council provides a human rights focus on the employees and communities where business is being done.\textsuperscript{25}

\textit{B. Frameworks}

Frameworks for implementing these approaches are important to show the intentions of CSR. One such framework that can provide information on the promotion of human rights is the UN Guiding Principles on Business and Human Rights.\textsuperscript{26} The guidelines, directed at many different industries including oil and gas, can further lead businesses to implement safeguards to avoid infringement on human rights.\textsuperscript{27} Established in 2011, these principles are a set of guidelines used to employ a “protect-respect-remedy” framework.\textsuperscript{28} They combine a state’s duty to protect human rights with requirements for businesses to conform to domestic and international human rights laws.\textsuperscript{29} By establishing that international corporations can play a large part in human rights initiatives, the guidelines encourage companies to understand that they have a direct relation to potential human rights abuses when doing business.\textsuperscript{30} This awareness may cause more thoughtful consideration on how to avoid these potential abuses.\textsuperscript{31}

\textsuperscript{24} Id. at 25.
\textsuperscript{25} See id. at 24, 25.
\textsuperscript{27} See id. ¶ 11.
\textsuperscript{28} See id.
\textsuperscript{29} Id.
\textsuperscript{30} See id.
\textsuperscript{31} See id.
III. The Current State of the Oil Industry in Azerbaijan

Plagued with a history of war, poverty, and pollution, Azerbaijan has recently been experiencing a boom in business and development, which can be attributed to the discovery of vast amounts of oil and gas within the country’s borders.\textsuperscript{32} Located in the Caucasus region at the crossroads of Western Asia and Eastern Europe, Azerbaijan has been valued as an oil producing country since the Russian Empire first controlled the region in 1813.\textsuperscript{33} Under Russian and Soviet control, state-run oil companies were created and Azeri oil contributed to military campaigns in World War I, World War II, and the Cold War.\textsuperscript{34} Drilling for oil is not a new business in Azerbaijan, but expanded trade markets, increased private involvement, and established pipelines are all recent developments bringing Azerbaijan into the modern global marketplace.\textsuperscript{35}

Part A of this section discusses the establishment of the oil drilling industry in Azerbaijan and the actors who are involved there. In Part B, the positive outcomes of the oil industry are highlighted. Finally, Part C discusses the negative outcomes related to the oil industry in Azerbaijan.

A. The SOCAR Agreement

After gaining independence from the Soviet Union in 1991,\textsuperscript{36} Azerbaijan merged the two state-run oil companies, Azerneft

\textsuperscript{32} Azerbaijan’s first oil boom occurred over one-hundred years ago, now more industry and business has entered Azerbaijan to drill for oil, especially in the Caspian Sea. \textit{See} Tom Esslemont, \textit{Azerbaijan Boom Benefits Super Rich Oil Elite}, BBC (June 2, 2010), http://www.bbc.com/news/10156909.


\textsuperscript{34} \textit{See} Raoul Lowery Contreras, \textit{Azerbaijan, Oil and the 21st Century}, \textit{The Hill} (June 12, 2015), http://thehill.com/blogs/pundits-blog/international/244789-azerbaijan-oil-and-the-21st-century; \textit{Azerbaijan, supra} note 33.

\textsuperscript{35} \textit{See} Contreras, \textit{supra} note 34.

\textsuperscript{36} \textit{Azerbaijan, supra} note 35.
and Azneftkimiya, into the State Oil Company of Azerbaijan Republic (SOCAR), which was headquartered in the capital city of Baku. According to presidential decree, SOCAR was established to use oil profits to further state policy, to improve management of the oil business, and to ensure development of fuel and energy to increase the effectiveness of oil producing and oil processing enterprises.

Following three years of negotiations, Azerbaijan and a consortium of private foreign oil companies entered into a product-sharing agreement to develop oil reserves in Azerbaijan on September 20, 1994. The agreement issued an investment of $7.4 billion over thirty years in three offshore drilling fields and was estimated to produce 4 billion barrels of oil. Per the terms of the contract, the Azeri government received 80% of the profits of the drilling excursion when combining the royalties from the sale and SOCAR’s 20% investment; the remaining 20% of profits were divided up between British Petroleum, Amoco, Lukoil, and Amoco.

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38 Id.


40 Id.


42 Id.


Pennzoil, Unocal, Statoil, McDermott International, Ramco, Turkish State Oil Company, and Delta-Namir. Oil experts estimated that Azerbaijan would receive $81 billion in profits over


46 Pennzoil, which was purchased by Royal Dutch/Shell Group in 1999, is incorporated in the United Kingdom, and publicly traded on the LSE, BUE, SWX, BER, DUS, FRA, DEU, HAM, HAN, MUN, STU, GER, PAR, MEX, AEX, STO, DES, NYSE, and OTCQB. See Who We Are, SHELL GLOBAL, http://www.shell.com/global/aboutshell/at-a-glance.html (last visited Feb. 21, 2015).


the thirty-year contract term.53 “Due to its historical, political and international importance the Agreement has been called ‘Contract of the Century.’”54 It spanned four hundred pages and was executed in four languages.55

With the SOCAR agreement in place, Azerbaijan then developed both regional and international pipelines to establish trade.56 The first pipeline, built in 1996, was the Baku-Supsa Pipeline, commonly called the Western Route Export Pipeline (WREP),57 which originated in Baku and traveled through Georgia.58 In addition to the WREP, a trilateral agreement was established in 1997 between SOCAR, the International Operating Company of Azerbaijan, and the Russian pipeline, Transneft.59 The agreement enabled Azerbaijan to transport its oil through Russia.60

The Azeri oil trade, however, was only regional at this point. In order to broaden the market the Baku-Tbilisi-Ceyhan (BTC) Pipeline project was established, allowing oil to be transported from the Caspian Sea across the Mediterranean to Europe and thereby expanding Azeri oil into the global marketplace.61 While the BTC Pipeline was a product of the Azeri Government, it was a private pipeline.62 The BTC Company, a conglomerate of British Petroleum,
SOCAR, Chevron, Statoil, Türkiye Petrolleri Anonim Ortaklığı, Eni, Total, Itochu, Inpex, ConocoPhillips, and Hess Corporation owned and operated the pipeline.63

B. The Positive Outcomes of Oil Drilling

The Azeri Government viewed the SOCAR agreement as a way to reaffirm Azerbaijan’s international involvement in the petroleum business as a newly independent country64 and intended to use the agreement as a real solution to positively “transform the economy, political standing, and the standard of living” for its citizens.65 Although this project was focused on oil transportation, the pipeline brought economic and social development to many countries in the Caspian region.66 In order to open up the Caucasian energy corridor, major developments needed to take place—infrastructure to build the pipeline had to be established, peaceful negotiations between participating countries had to take place, and revenue had to be put into the pockets of the involved countries.67 Essentially, the BTC Pipeline became a modern “Silk Road” and fostered a major East-West trading highway.68

Another major outcome of this project was the decision to apply European Union standards to the pipeline project.69 This affected the rule of law in all of the countries involved, including Azerbaijan.70 Furthermore, the BTC pipeline project had the positive effect of facilitating a partnership between Azerbaijan and the European Union through the EU-Azerbaijan Action Plan.71 By recognizing their shared interest in oil production and consumption, the EU and Azerbaijan established a partnership to further ensure


63 Id.
64 See Sagheb & Javadi, supra note 39.
65 Id.
67 Id. at 7, 12, 14–15.
68 Id. at 8.
69 Id. at 14.
70 Id.
energy security. The EU-Azerbaijan Action Plan focused on stabilizing oil pricing, reforming energy tariffs, and attracting investors to the oil industry in Azerbaijan.

The EU-Azerbaijan Action Plan was beneficial to both partners of the agreement. It provided the EU with a new and reliable source for oil, and brought more business to Azerbaijan by adding a heightened level of stability for investors to rely on. While this plan did not allow Azerbaijan to gain entrance into the EU, it helped expand the oil trade from Azerbaijan into the international market and permanently made the country a fixture of the oil industry.

Another monumental result of the SOCAR agreement was that it served as an important aspect of rebuilding during a brutal conflict with Armenia, known as the Nagorno-Karabakh War. Due to the conflict, many people were forced to flee their homes and still, 20 years later, many are suffering from displacement. As of March

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72 See id.
73 See id. at 33, 38.
74 Id. at 33.
75 Id.
76 See id. at 32.
77 See id. at 33.
2014, there were over 597,000 internally displaced people (IDP’s) who depend on assistance in order to survive.\(^{80}\) There is still a grossly inadequate amount of housing for IDP’s.\(^{81}\) Furthermore, there is strong evidence of continued gender-based violence, segregated education, and discrimination against children of IDP’s.\(^{82}\) IDP’s also suffer from employment discrimination and many families remain separated.\(^{83}\) The problems related to IDP’s and the lack of response led many Azeri citizens to distrust large corporations and the government.\(^{84}\)

Over the last two decades, the Azeri Government made efforts to improve the lives of IDP’s by donating over $5.4 billion to the widespread problems affecting them.\(^{85}\) More recently, due to increased revenue from the petroleum industry, SOCAR has been able to give an additional $600 million.\(^{86}\) While this support deserves to be lauded, it does not begin to remedy the situation. As a result of the support from SOCAR and the Azeri Government, IDP’s are given a monthly allowance.\(^{87}\) However, this allowance is only $23 per month, and the majority of IDP’s still live in unsuitable conditions.\(^{88}\)

**C. Negative Effects of Oil Drilling**

There are many negative outcomes, both environmental and human rights related, arising out of the SOCAR agreement. The environmental issues related to oil drilling in Azerbaijan range from oil spills to burning wells,\(^{89}\) and the Azerbaijani government has done little to alleviate these issues.

Similarly, there are still reports of gross human rights violations by drilling companies.\(^{90}\) Thousands of contracts of oil

\(^{80}\) *Id.*
\(^{81}\) *Id.*
\(^{82}\) *Id.*
\(^{83}\) See *id.*
\(^{84}\) See *id.*
\(^{85}\) *Id.*
\(^{86}\) *Id.*
\(^{87}\) *Id.*
\(^{88}\) *Id.*
\(^{90}\) See Michael Weiss, *The Corleones of The Caspian: How Azerbaijan’s Dictator Woos the United States and Europe*, *FOREIGN POLICY*
field workers have been illegally terminated; many SOCAR employees have either been underpaid or not paid at all;\textsuperscript{91} and there have been illegal deductions from salaries paid.\textsuperscript{92} The conditions in drilling communities include problems such as sexual harassment, prostitution,\textsuperscript{93} human trafficking,\textsuperscript{94} and the spread of AIDS.\textsuperscript{95} Alcoholism and drug dependency, especially narcotics, are also prevalent around the drilling fields.\textsuperscript{96} Unsafe working conditions at the drilling sites have led to hundreds of employee deaths.\textsuperscript{97} Furthermore, for the families of individuals who have died on the job, SOCAR has refused to make insurance payments.\textsuperscript{98}

The petroleum industry met public dissent with strong resistance. Journalists who attempted to bring focus to these violations were the targets of blackmail and listed as “enem[ies] of the state.”\textsuperscript{99} Peaceful protesters who demonstrated against the corruption of the drilling corporations were beaten and thrown in jail.\textsuperscript{100} Critics of the government faced invasive police raids.\textsuperscript{101}


\textsuperscript{91} See Azerbaijan: Oil Workers Allege Foreign Discrimination, HUMAN RIGHTS HOUSE (Feb. 19, 2005), http://humanrightshouse.org/Articles/6386.html.


\textsuperscript{93} CEE BANKWATCH NETWORK & GENDER ACTION, BOOM TIME BLUES: BIG OIL’S GENDER IMPACTS IN AZERBAIJAN, GEORGIA AND SAKHALIN 29, 33 (Greig Aitken ed., 2006).

\textsuperscript{94} Id. at 12.

\textsuperscript{95} Id. at 4.

\textsuperscript{96} Id. at 12.

\textsuperscript{97} See Razi Abasbeyli, Oil Companies Do What They Want in Azerbaijan, in OBLIGATIONS TAKEN BY AZERBAIJAN BEFORE EUROPEAN COUNCIL: CORRUPTION AND POVERTY 15, 15–16 (Zamin Haji, ed., 2004).

\textsuperscript{98} See id.


\textsuperscript{100} HUMAN RIGHTS WATCH, TIGHTENING THE SCREWS: AZERBAIJAN’S CRACKDOWN ON CIVIL SOCIETY AND DISSERT 70 (2013).
Despite steps taken by the Azeri government agencies to reduce these problems, the government and lawmakers have done little to act.  

IV. THE LACK OF CORPORATE AND STATE ACCOUNTABILITY IN AZERBAIJAN

Although national governments should bear the responsibility of setting up human rights safeguards and work with their citizens to ensure the actualization and support of implemented safeguards, the Azeri government has failed to do so effectively. The Azeri government delegated the power to regulate the oil industry to a government agency, but not much has been done to solve any problems. Because of the lack of government action, outside groups have undertaken this responsibility. However, there is still a large gap in human rights protection that may be filled by the oil corporations. Part A of this section discusses the governmental attempts to reform the human rights problems created by the oil industry, and Part B discusses outside intervention.

A. GOVERNMENTAL ATTEMPTS TO REFORM HUMAN RIGHTS ISSUES IN AZERBAIJAN

President Ilham Aliyev established the State Agency on Standardization, Metrology, and Patents of the Republic of Azerbaijan (AZSTAND) in 2001 in order to form the direction of state policy, implement target programs, and coordinate and govern economic subjects in the country of Azerbaijan.  


102 See id.


focuses on the publication of state standards, the management of state funds related to the regulation of state industries, and cooperation with international organizations.\textsuperscript{105} As the governing body on state industries such as oil and gas drilling, AZSTAND enumerated rights to adopt legal acts related to the industry; make decisions related to its authority on governing bodies; consult with local and foreign bodies on issues under its areas of expertise; oversee issues related to human health, safety, and property; and to establish standards enforced by governing bodies.\textsuperscript{106} AZSTAND also has the right to enforce its regulations, to bring suit under its authority, and to work with international organizations to further human life, health, and environmental protection of its citizens.\textsuperscript{107}

Although AZSTAND established strict standards, there have been problems with enforcement. Problems related to human rights violations in oil drilling are not addressed, the government does not hold any actors accountable, and there are few resources available to citizens who want to file claims for human rights violations.\textsuperscript{108} Furthermore, when a formal request from an employee to investigate a human rights violation is made, the investigations either do not happen or decisions are swiftly made in favor of the oil companies without any legal backing.\textsuperscript{109}

There are many factors that lead to the inability to bring about justice from within Azerbaijan, but they all stem from problems surrounding the rule of law.\textsuperscript{110} Employees often do not know their legal rights and employers use this lack of knowledge against them.\textsuperscript{111} Judges and officials see labor legislation as a second

\textsuperscript{105} Id.
\textsuperscript{106} Id.
\textsuperscript{107} Id.
\textsuperscript{108} See generally, NETH, HELSINKI COMM., supra note 90 (discussing the adoption of the European Convention on Human Rights in Azerbaijan and the positive impact it has had on the protection of human rights).
\textsuperscript{111} See generally id. (discussing recent human rights violations in Azerbaijan during the Eurovision Song Contest).
tier issue. Therefore, such legislation receives no importance in the court. There is a lack of formality in rulings made by the court. Decisions or dismissals do not dictate legality or precedent on the subject. There are no attempts to inform employees of labor rights and no measures being taken to remedy this inadequacy.

Additionally, the Azeri Parliament has failed to reform the labor laws in the country. This problem stems from the fact that many members of the parliament are actually employed by the oil companies themselves, so any gaps in the law are to the detriment of the employees and benefit the employers. The failure of both the written law and its enforcement have led to a loss of confidence in the legal system of Azerbaijan. As the violations continue, the system further perpetuates itself.

B. EXTERNAL ATTEMPTS TO REFORM HUMAN RIGHTS ISSUES IN AZERBAIJAN

It is clear that Azerbaijan has not been able to hold itself or the oil corporations in its borders accountable. As a result, outside intervention has taken place. The two main approaches that have been used to bring about human rights disputes in Azerbaijan have been mediation and litigation.

First, in many regards, mediation has been a strong option for resolving human rights related disputes between business and

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112 Id.
113 Id.
114 Id.
115 Id.
117 See generally id. (discussing the regulation of hydrocarbon projects in Azerbaijan).
118 See HUMAN RIGHTS WATCH, supra note 110, at 399.
119 See id.
120 See id.
121 See id.
123 See Strategic Human Rights Litigation in the Southern Caucasus, supra note 103.
society, offering an alternative to costly and complex litigation for Azeri citizens who have had their rights violated. From a power perspective, mediation offers a neutral playing field for both sides in a dispute because it reduces judicial power and limits counsel to equal numbers.

On the international level, the most prominent mediator between citizens and corporations has been the Compliance Advisor/Ombudsman (CAO) of the World Bank Group. The CAO mediates disputes between the International Finance Corporation or the Multilateral Investment Guarantee Agency and the citizens or communities that are impacted by those corporate clients that engage in business there. When mediation takes place between a multinational corporation and harmed citizens, issues arise relating to the transparency of the parties involved and the outcome of the mediation. Although some corporations, like BP, list complaints received and the number of resolved issues in public reports, the reports detail little other than the quantity and nature of the disputes resulting from the BTC Pipeline. Without publishing more documentation on steps taken to prevent further violations and the awards resulting from mediation, multinational oil corporations in Azerbaijan will not be held fully accountable for their violations.

Second, along with mediation, litigation for human rights violations can prove beneficial to Azeri citizens who have suffered in the past. The European Court of Human Rights (ECHR) is a key external actor raising awareness and supporting litigation for these citizens. Azerbaijan is a member of the Council of Europe and has signed the European Convention on Human Rights as well as other conventions that aim to promote human rights through the rule of

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124 See Rees, supra note 122, at 12.
125 See id. at 4.
126 Id. at 13.
127 See id. at 19.
128 Id. at 19.
129 Id. at 20.
131 See id. at 36; Rees, supra note 122, at 20–21.
132 See Strategic Human Rights Litigation in the Southern Caucasus, supra note 103.
133 See id.
law.\textsuperscript{134} Therefore, the country falls under the jurisdiction of the ECHR.\textsuperscript{135} When performed correctly, appeals to the ECHR can be utilized as a way for human rights organizations to bring about change and punish a government for improper practices.\textsuperscript{136}

Due to the lack of promotion of human rights in Azerbaijan, the Netherlands Helsinki Committee (NHC) established a project to develop the capacity of human rights organizations and attorneys in order to effectively bring human rights cases before the ECHR.\textsuperscript{137} Using lectures, training, and internships, and also increasing the transparency of litigation between states, the Netherlands Helsinki Committee further promoted the rule of law in this region.\textsuperscript{138} The NHC promoted human rights litigation by giving local attorneys the knowledge and tools to stay aware of international human rights standards.\textsuperscript{139} For example, the NHC spurred the establishment of websites that function as databases that publish cases and rulings.\textsuperscript{140} Access to such rulings is especially important in Azerbaijan because there is no government mandate to publicize the rulings of the ECHR.\textsuperscript{141}

As this information became more available to the general public, it increased the knowledge of attorneys and local courts.\textsuperscript{142} Consequently, arguments concerning international human rights standards have become precedent in many cases against the government.\textsuperscript{143} This increased knowledge led to a wider variety of human rights cases coming before the courts.\textsuperscript{144} Furthermore, it led to favorable rulings in Azerbaijan regarding the right to life and the right to freedom.\textsuperscript{145} While the NHC has not yet impacted CSR practices or brought light to corporate practices in Azerbaijan, it should be seen as a shift in precedent that human rights are now a concern that will no longer go unnoticed.\textsuperscript{146} This increase looks

\begin{thebibliography}{100}
\bibitem{134} Id.
\bibitem{135} Id.
\bibitem{136} Id.
\bibitem{137} Id.
\bibitem{138} Id.
\bibitem{139} Id.
\bibitem{140} Id.
\bibitem{141} Id.
\bibitem{142} See id.
\bibitem{143} See id.
\bibitem{144} Id.
\bibitem{145} See id.
\bibitem{146} See id.
\end{thebibliography}
promising, but should not be the only avenue in which the citizens of Azerbaijan seek solace.\textsuperscript{147}

Despite the external attempts to improve human rights issues in Azerbaijan, none of the attempts have been able to completely solve the problems that CSR would resolve. When the government and external actors are unable to provide adequate living conditions for a country’s citizens, private corporations can fill that gap.

V. SHOULD OIL COMPANIES IN AZERBAIJAN IMPLEMENT CORPORATE SOCIAL RESPONSIBILITY INITIATIVES?

There has long been a debate as to whether human rights compliance should be a concern of a corporation when looking to increase investment and production.\textsuperscript{148} Historically, countries that violate human rights have a difficult time attracting corporations to undertake business within their borders.\textsuperscript{149} However, as corporations globalize and resources become scarcer, many corporations no longer believe that it is necessary to conduct business only in nations that comply with human rights standards.\textsuperscript{150} Furthermore, with the emergence of large, global corporations, many of which have higher profits than the Gross Domestic Product (GDP) of actual nations, human rights violations are not always committed by countries, but instead by these large corporations.\textsuperscript{151} Because of this financial shift, companies have a direct role in the debate on whether to take on CSR initiatives or not.\textsuperscript{152}

When analyzing the pros and cons of undertaking CSR initiatives, a corporation must recognize that there are many financial benefits that CSR can bring about. In order to truly maximize profits, CSR initiatives should be undertaken. CSR leads to financial benefits and these benefits are directly linked to the maximization of profits. First, a corporation should practice CSR because a board of

\textsuperscript{147} See id.
\textsuperscript{149} Id. at 85.
\textsuperscript{150} Id.
\textsuperscript{151} Id. at 86.
\textsuperscript{152} See id.
directors owes its shareholders the duty to maximize profits. This will be discussed in Part A of this section. Part B of this section will discuss the connection between corporate profits and human rights and show that they are not mutually exclusive initiatives. Part C will examine the current investment trends, in both private investing and public mutual funds, that indicate there is a strong focus on investing in socially responsible corporations. In order to maximize profits, those trends cannot be ignored.

Along with investment trends, the global marketplace is shifting. There are currently negotiations taking place that would create a legal duty for corporations to abide by international human rights standards established by a treaty. These negotiations will be discussed in Part D. Along with treaty negotiations, the information technology revolution has demonstrated that human rights violations no longer go unnoticed. Part E of this section shows that if a corporation does violate human rights, the violations may be brought to light by various organizations, blogs, and members of the media, which all directly influence consumer trends.

A. The Corporate Duty to Shareholders

A corporation is run by a board of directors, which is legally obligated to operate in the best interest the shareholders. The current belief in corporate finance law is essentially that a corporation’s role is to make money for its shareholders. This belief is encouraged by the myth, commonly accepted in the international business community, that shareholder-wealth-maximization (SWM) requirements prohibit a corporation from simultaneously benefitting its shareholders and society. On the contrary, SWM and human rights concerns can coexist through CSR. While the maximization of shareholder wealth is a primary concern of a corporation, the ability to decide how to maximize

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profits is left to the discretion of the board of directors through the Business Judgment Rule (BJR). 157 The BJR protects corporate directors from liability when they make decisions that appear to be for the benefit of the company. 158 Under the BJR, in both the U.S. 159 and abroad, 160 corporate directors are enabled to make decisions that yield long-term profits and benefits to shareholders in lieu of instant short-term profits. 161

It may seem counterintuitive for directors to use corporate profits for anything other than distributing profits to shareholders or putting money into the company to directly accumulate growth. However, according to the BJR, the directors legally have room to use profits toward CSR as long as there is a perceived benefit in doing so. Therefore, the question of how increasing CSR benefits for shareholders must be addressed. To answer this, the connection between maximizing profits and social activism must be established.

B. THE CONNECTION BETWEEN CORPORATE PROFIT AND HUMAN RIGHTS

When addressing the intersection of corporate profit and human rights, there are typically two schools of thought. 162 The first school of thought is labeled the property model. 163 It views a corporation as private property owned by the shareholders with a

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159 See id. at 780; see also Aben, supra note 155, at 13.
160 See Aben, supra note 155, at 6.
161 In the UK and many continental European countries there is a comparative duty to maximize profits while still giving deference to directors to make business decisions that positively benefit shareholders. Under the UK Companies Act of 2006, directors must act within the best interest of the corporation. Similarly, the Italian Corporate Governance Code contains similar language. Also, most European countries have similar statutes that allow shareholders to bring derivative suits against corporations when they are not acting within the shareholders best interests. See Patrick J. O’Malley, Board Fiduciary Duties to Shareholders and Litigation, UNIVERSITÀ DELGI STUDI DI MILANO, 1, 8, 22, 40 (2008).
162 See Ghahramani, supra note 148 at 86.
163 Id. at 86.
primary duty of maximizing shareholder wealth.164 This model is
driven by financial activism, defined as the efforts of the
shareholders to increase a company’s profits.165 The opposing school
of thought is the managerialist concept, which expounds upon the
property model to view a corporation as a social entity with a public
purpose.166 The managerialist concept is driven by social activism,
which forces a company to evaluate ethical concerns.167

When analyzing these two theories from a CSR viewpoint,
the main conflict of these two ideals is whether CSR promotes or
reduces the profits of a corporation.168 Property model supporters
view CSR as a sacrifice of profits for the good of society.169
Managerialists see social responsibility as necessary to business.170
In Azerbaijan, these two ideals compete in the discussion of whether
oil companies should implement CSR initiatives. The assumption
that the drilling companies must maximize profits has led to a
reduced awareness for human rights within the country.171 However,
these two ideals are not mutually exclusive—a company can
maximize profits for shareholders by improving CSR initiatives
within a country.172

One of the most immediate ways that CSR initiatives can
benefit a corporation and maximize corporate profits is through an
idea known as Socially Responsible Investing (SRI).173 SRI calls for
corporations to combine financial considerations with social
values.174 By doing so, the investors are able to promote concepts
and ideals that are of great importance.175 SRI is driven by
shareholder advocacy, which is “socially responsible investors
proactively influencing corporate decisions that could otherwise have

164 Id. at 86.
165 See id. at 86.
166 Id. at 86.
167 Id. at 86.
168 See ABEN, supra note 155, at 3.
169 See id. at 4.
170 See id. at 5.
171 See id.
172 See id.
173 See Ghahramani, supra note 148, at 87.
174 Id.
175 Michael Chamberlain, Socially Responsible Investing: What You
sites/feonlyplanner/2013/04/24/socially-responsible-investing-what-you-
need-to-know.
a large detrimental impact on society.”

By pressuring corporations to promote CSR initiatives while at the same time promoting long-term profits and financial performance, socially responsible investors are able to spotlight issues that would otherwise go unchecked, such as human rights violations. Dating back to the nineteenth century, SRI initiatives have prevented corporations from investing in tobacco, gambling, and alcohol related companies for fear of alienating shareholders. In modern times, SRI focuses have shifted towards human rights issues such as environmental concerns, climate change, fair trade, and labor abuse.

In Azerbaijan, SRI is directly tied to the oil industry through both the human rights issues and the environmental concerns associated with drilling. SRI intends to address the violations that are currently being disregarded by the oil corporations that do business there. By combining social awareness with good business practices, a company may avoid alienating shareholders, whether they believe in the managerialist concept or the property method. Thus, the company is able to attract investments from both schools of thought and maximize profits.

C. INVESTMENT TRENDS LINKED TO CORPORATE SOCIAL RESPONSIBILITY

One of the main ways the issue of SRI has been brought to the table has been through investment in mutual funds. There has been a fear of following an SRI model when investing through public pensions because many investors worry about violating the fiduciary duties of their investors to maximize profits. However, the argument against that fear is that many mutual funds are actually private, and investors can decide between funds based on their own ethical convictions. Therefore, in a private mutual fund, there

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176 Id.
177 See id.
178 See Ghahramani, supra note 148, at 87.
179 Id at 87.
180 Id.
181 Id.
182 Id.
should be no fear of SRI because those who do not agree with social activism can avoid mutual funds that subscribe to that belief.\textsuperscript{183}

On the other hand, many of the beneficiaries of public pension funds have no say when choosing which funds to invest in, leaving the duty to maximize profits up to the investors.\textsuperscript{184} Despite this rational fear, many public pensions do invoke SRI both in the U.S. and worldwide.\textsuperscript{185} The California Public Employees’ Retirement System (CalPERS) is the largest public pension fund in the U.S. and freely invokes social activism in investment.\textsuperscript{186} By avoiding investing in tobacco companies and examining carbon emissions of companies before they invest, CalPERS has taken a strong stance against investing in corporations that have proven harmful to the public.\textsuperscript{187} Further, CalPERS has taken a strong stance on human rights violations and recommends that corporations eliminate these violations in all countries in which they do business.\textsuperscript{188}

Another fund that greatly considers human rights violations before investing in corporations is Norway’s Government Pension Fund Global (GPFG).\textsuperscript{189} GPFG, which manages $325 billion,\textsuperscript{190} set up strict restrictions on investment. It does not allow investment in companies that produce goods that violate humanitarian principles through their use, such as tobacco companies, and companies that sell military materials.\textsuperscript{191} Furthermore, GPFG maintains the right to restrict investment from companies that violate human rights in such ways as abusing labor laws, causing environmental damage, corruption, or breaching severe ethical principles.\textsuperscript{192}

Along with the government public mutual funds, SRI growth has increased in private investment as well.\textsuperscript{193} In the last two years, “SRI investing has grown by more than 22% to $3.74 trillion in total managed assets.”\textsuperscript{194} Currently, “about $1 of every $9”

\textsuperscript{183} Id.
\textsuperscript{184} See id. at 87–88.
\textsuperscript{185} See id. at 88.
\textsuperscript{186} Id.
\textsuperscript{187} See id.
\textsuperscript{188} See id. at 88–89.
\textsuperscript{189} Id. at 90.
\textsuperscript{190} Id. at 91.
\textsuperscript{191} Id.
\textsuperscript{192} Id.
\textsuperscript{193} See generally Chamberlain, supra note 175.
\textsuperscript{194} Id.
invested under professional management in the U.S. is classified as an SRI investment. Based on two of the largest public pension funds as well as private investment data, there is a strong push in the global market to adhere to human rights laws in order to attract investment.

This increase in SRI can be explained by the documented success of socially responsible companies. Developing Value, a study performed by SustainAbility, assessed 240 businesses in sixty countries and found that social responsibility consistently produced financial benefits for businesses in developing and emerging markets. The study found that benefits included: cost savings through minimizing energy use and reducing pollution, increased revenues by expanding business lines, reduced business risk, enhanced market reputation, stronger human capital, and improved access to foreign investing. The study concluded that by promoting CSR, corporations could both reduce costs and increase revenues by being socially responsible.

Investment trends, demonstrated by the data, studies, and mutual fund restrictions discussed above, show that practicing CSR will lead to greater investment in the oil companies that drill in Azerbaijan. CalPERS and GPFG show that human rights violations are a major factor in determining whether they choose to invest in a certain company. Accordingly, if oil corporations that drill in Azerbaijan were to implement CSR initiatives and reduce the possibility of human rights violations, an increasing amount of public investments would be made in the corporations. Similarly, private investment trends indicate the same belief. In 2001, SRI investments made up over $2 trillion of all assets managed in the U.S. and trends indicate that the number is growing. CSR initiatives would place the multinational oil corporations that drill in Azerbaijan into the SRI

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195 Id.
196 See Ghahramani, supra note 148, at 88–93.
198 Id. at 11.
199 See id.
200 See generally BP, supra note 130.
201 See Ghahramani, supra note 148 at 87.
202 See id.
203 Prakash-Mani, supra note 196, at 49.
category, which would increase investments. Finally, the *Developing Value* study attests that corporations in emerging markets make more money by practicing CSR than those who ignore it.\textsuperscript{204} As Azerbaijan is an emerging market in the oil industry, a great financial benefit may be obtained by incorporating CSR initiatives into the business climate.

**D. UNITED NATIONS TREATY NEGOTIATIONS WILL PLACE A LEGAL OBLIGATION ON TRANSNATIONAL COMPANIES TO RESPECT HUMAN RIGHTS**

Along with attracting investment and increasing revenue, there is evidence of a global trend to push for the promotion of CSR stemming from a recent decision from the United Nations Human Rights Council (UNHRC).\textsuperscript{205} On June 26, 2014, the UNHRC approved a resolution to “begin [negotiations] toward a binding international treaty around transnational companies and their human rights obligations.”\textsuperscript{206} The treaty would be focused around the United Nations Guiding Principles on Business and Human Rights (hereinafter Guiding Principles).\textsuperscript{207} The Guiding Principles are grounded on the principles of recognizing a country’s obligation to respect and fulfill human rights freedoms, the necessity of businesses in those countries to comply with human rights laws, and the need for remedies when companies breach human rights laws.\textsuperscript{208}

This treaty proposal has brought the discussion of business practices and human rights to the international stage.\textsuperscript{209} The first of its kind, a treaty of this magnitude would prove monumental for multinational corporations.\textsuperscript{210} The corporations would become solely responsible for any human rights violations.\textsuperscript{211} Although this treaty is currently in the negotiation stage, there has been a strong push

\textsuperscript{204} Id. at 52.


\textsuperscript{206} Id.

\textsuperscript{207} Id.


\textsuperscript{209} Biron, *supra* note 183.

\textsuperscript{210} Id.

\textsuperscript{211} Id.
from the Global South, along with China, Russia, and India. Similarly, a coalition of 95 countries and 610 international organizations has shown support for the binding treaty. Although the U.S. and the entire EU have remained silent through the treaty negotiation process, a recent report created by the U.S. and Danish governments offered an action plan discussing how a binding human rights treaty would be implemented.

The international conversation described above indicates that there is a high possibility that a treaty will be ratified. If passed, Azerbaijan’s history of human rights voting indicates that it would vote in the affirmative for a binding human rights treaty. According to the Universal Report of the UN Human Rights Council in 2009, Azerbaijan voted in favor of many human rights resolutions. Those resolutions include the right of people to peace and the financial obligations of the State to fulfill enjoyment of all human rights (particularly economic, social, and cultural rights). In the same report, Azerbaijan indicated that it attaches importance to human rights, stating that steps would be taken to “harmonize legislation with international law to protect human rights.”

Azerbaijan is a member of the United Nations. Therefore, if it becomes a party to the treaty, Azeri oil companies would face swift penalties for continued human rights violations. If a corporation were to be penalized, this would lead to a loss in revenue, which would directly harm the profits of a corporation and lead to a loss in profits for the shareholders. Therefore, financially it is in a company’s best interest to promote CSR in order to benefit the shareholders of that corporation.

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212 Id.
213 Id.
216 Id. at 76.
217 Id.
218 Id. at 144.
However, even if this treaty does not pass, or does not bind a corporation’s home or investment state, CSR will continue to be a subject of attention. When working groups pay attention to an issue, the information becomes more readily available. Information on this treaty is easily accessible to both shareholders and investors alike through quick internet searches. The more that human rights issues become discussed in forums like the UN, the more light is shone on human rights violators such as the oil companies in Azerbaijan.

E. THE INFORMATION TECHNOLOGY REVOLUTION INFLUENCES CORPORATE PROFITS THROUGH CONSUMER AWARENESS

With the emergence of a global economy, and foreign trade becoming a main topic of discourse, the promotion of sound human rights practices is being discussed both as a way to provide a positive example of how to conduct business on a global scale, and as a reason companies should be wary of committing human rights violations. The information technology revolution has been linked as a main factor that has led to increased discussion on human rights violations of corporations. Access to information on company practices in underdeveloped countries like Azerbaijan has increased consumer awareness. These consumers are making decisions on what products to buy using proper labor practices as a guide. Consumers have become more aware of companies’ human rights policies, and are more willing to support companies that promote human rights.

This phenomena is supported by empirical research. In 2015, Reputation Institute (RI), a private global consulting firm, conducted a study across fifteen markets. RI invited approximately 47,000 consumers to participate in order to rank the 100 most profitable companies with international business presence and found that 42 percent of consumers base their perception of a corporation on their CSR initiatives. The study found the top 10 companies

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221 Id.
222 Id.
223 Id.
224 Id.
225 Adams, supra note 4.
with the best CSR practices in 2015, in order to be: Google, BMW, The Walt Disney Company, Microsoft, Daimler, Lego, Apple, Intel, Rolls-Royce, and Rolex.\textsuperscript{226}

As a result of bringing human rights violations into the public eye, companies are becoming more aware of their practices because they do not want to be categorized with other offenders.\textsuperscript{227} More recently, when offending companies’ violations are publicized, human rights and labor organizations, such as Human Rights Watch,\textsuperscript{228} bring campaigns to tarnish company reputations. Companies have reacted by making a greater human rights effort to separate themselves from such negative campaigns. Along with global organizations, there are also organizations that are direct watchdogs over certain industries, including oil.\textsuperscript{229} The Oil-Workers’ Rights Protection Organization published a detailed monitoring report about the legislation on labor, economic, and social rights of the oil industry in Azerbaijan.\textsuperscript{230} In its mission, the Oil-Workers’ Rights Protection Organization states that they fight “for the protection of human rights in the energy sector... for the benefit of society.”\textsuperscript{231}

Along with consumer-based initiatives to implement positive human rights practices, companies prioritize their CSR agendas to further implement rule of law.\textsuperscript{232} By creating a stable, rule-based society that consistently applies human rights initiatives, corporations can contribute to the development of fair, stable legal systems.\textsuperscript{233} This is attractive to corporations because the stronger the rule of law is in a country, the less bribery and corruption there is.\textsuperscript{234} This leads to equal access to the law and offers all businesses equal

\textsuperscript{226} \textit{Id.}
\textsuperscript{227} \textit{See generally U.N. High Comm’n for Human Rights, supra note 219.}
\textsuperscript{229} \textit{See, e.g., Oil WATCHDOG, http://www.oilwatchdog.org (last visited Oct. 20, 2015).}
\textsuperscript{230} \textit{See Indep. Monitoring Report, supra note 79 at 15.}
\textsuperscript{231} \textit{See id.}
\textsuperscript{232} \textit{See U.N. High Comm’n for Human Rights, supra note 219, at 4.}
\textsuperscript{233} \textit{Id.}
\textsuperscript{234} \textit{Id.}
protection by law. By encouraging CSR in Azerbaijan, oil corporations would be able to expand their market further by removing concerns over human rights violations. Trade agreements would be strengthened and possible trade sanctions would not limit the ability to do business and trade globally, further increasing their profits.

Another benefit is that when companies employ good human rights standards, their workers become more productive and the companies have higher worker retention. Both Costco and Whole Foods Market have cited employee morale as a reason to adopt CSR as a way to increase employee efficiency and loyalty through employee safety and benefit programs. The belief behind this is that a happy workforce leads to increased employee retention, which leads to “long term cost savings from reduced employee turnover”. When the employees stay with a corporation longer and are pleased with their work environment, companies can achieve higher performance rates and produce better products. Consequently, this leads to increased profits that are distributed among shareholders.

VI. CONCLUSION

As a country that has struggled with war and poverty, Azerbaijan’s recent emergence into the global economy is one that cannot be ignored. Unfortunately, as the country is developing economically, its social progress is not keeping up. As this article has shown, the government is unable to care for its own.

The Azeri Government is unable to regulate the labor conditions, payment, and general human rights of its citizens. Due to both oil drilling and military issues, the citizens of Azerbaijan currently face numerous human rights violations. Although there have been major marks of success in the advancements of Azerbaijan in the form of rule of law promotion, government and inter-country

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235 Id.
236 See generally id. (detailing the relationship between human rights violations and business performance).
237 Id. at 4–5.
238 Id. at 5.
239 ABEN, supra note 155, at 10.
240 Id.
241 Id.
aid, and stabilization, there is still large room for improvement. It is clear that in light of these issues, there needs to be a governmental effort made to help resolve the societal downfalls. Thus far, the government has come up short.

As the number one export and profit generating resource, oil is directly influential on the economic, social, and environmental health of the country. As private drilling companies become increasingly involved with Azerbaijan, they must realize that they have the ability to help alleviate the issues that plague the country. So far, there has been little effort from the oil industry to make any improvements.

From a financial standpoint, however, it would be in the best interest of the oil corporation directors to increase their CSR involvements in Azerbaijan. As this article has shown, it is good business practice to promote CSR and human rights. Accordingly, the trend towards placing CSR higher on the business agenda is becoming commonplace in many international corporations. For investment purposes, companies who promote rule of law and CSR are seen as attractive to investors. Furthermore, as the global market centralizes and CSR initiatives are brought to the focus of the international corporate community, human rights violations in underdeveloped countries will not go unnoticed. As corporate transparency and information on business practices become more readily available to the public, consumers are starting to become more selective in determining which companies they do business with. Therefore, by avoiding scars to their reputations and increasing investing, corporations are able to increase revenue and maximize profits.

Due to the factors mentioned above, the conflict between maximizing profits and social activism has shifted to form a new business model in which a corporation better maximizes profits by increasing social responsibility. Therefore, by becoming more invested in promoting human rights, corporations can more successfully fulfill the obligation that they have to their shareholders.