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Corporate Social Responsibility and Its various context in law

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ABSTRACT

The purpose of this paper is to critically examine corporate social responsibility (CSR) in a capitalist society. Its special focus is to investigate CSR as a trend as well as the role of law using different initiatives and dimensions at different level of governance; i.e. national, regional and international levels. This paper employs qualitative method of research, drawing on observation, semi-structured interviews and the use of statistical data from different body of United Nations. Most importantly were observations made at CSR module lectures during my LLM. In CSR movement today, the law is taken shape, although in different form of legal norm which might either be prescriptive or regulatory. The study also found that CSR is a trend and not a passing social fad or a threat to corporate capitalism. That the legal norm definitely has a role to play in any social group without which conflict is rife and that firm's responsibility to the society is continuous. As the society develops, so also is the need for sustainable economic development expected from corporate industries. This research paper adds to myriads of literature on CSR and capitalism. It suggests the need for legal dimensions and initiative for better 'performance' rather than 'ticking the boxes'. It concludes that the firm, society and the law cannot function effectively in a water tight compartment, the society cannot do without the firm, and the firm needs the law for its existence. Thus the firm needs to balance responsibility to the law and the society for it to achieve its aims.

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Introduction

With different transformation that has happened in different era, times and season. The society cannot but develop through cooperation and consensus of economic, social, cultural and political factors.

Economic liberalism has been in the fore before the end of the twentieth century which operated through investment both locally and abroad. Bilateral Investment Treaties were encouraged by states for development purpose with little or no interference from the government. Technologies and know how were transferred and local companies began to operate with the sole aim of making profit to sustain these businesses. These economic actors serve as agents of progress and protectors of investment with less or no initiative to protect the environment and prevent violation of human rights, with the realisation that its conduct may be deleterious and harmful to the environment. Consequently, there were massive outcry and pressure by the people for companies to mitigate the externalities their operations have on the environment, not 'head bent' on profit motive. This is the basis for 'Corporate Social Responsibility' (herein after referred to as CSR) a minimum control measures for firms especially Multinational Corporation (herein after referred to as MNCs). This paper has set out to achieve the following aims:

- The definition of key terms and conceptual frameworks e.g. what is CSR, capitalism, regulation, and law
- Whether CSR has any interrelationship with law and in what dimensions.
- The connection between CSR and financial performance of a company

- CSR is a mere threat, whether a company can be held for not carrying out CSR as it has held itself out to do. Have they been effective...how much of the difference?

The factory system used to be the cause of various social problems, including labour strife, dearth, slums, and child and female labour. The industrial welfare movement of this early period was a patchy 'mixture of humanitarianism, philanthropy, and business acumen',¹ was never but almost CSR.

CSR began to take shape in the 1950s, some developments before that time should provide 'context rather than detailed content'. Some of the activities and practices during the Industrial Revolution saw the emergence of businesses concerned with employees and how to source for more productive workers. Then, and now, it is sometimes tricky to distinguish what organizations are doing for business motives, i.e. making the workers more industrious, and what the organizations are doing for social motives, i.e. helping to fulfill their needs and make them better and more causal members of society.²

¹ Wren, D. (2005). *The History of Management Thought*, 5th edn. Hoboken, NJ: John Wiley & Sons, Inc, at page 269-270. Welfare schemes like hospital clinics, profit sharing and recreational facilities.

² Carroll A., (2009) A History of Corporate Social Responsibility: Concepts and Practices, in *Oxford Handbook of Corporate Social Responsibility*. Available at <http://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780199211593.001.0001/oxfordhb-9780199211593-e-002> [Accessed on 26/12/2012]

We will consider different initiatives that have changed and accommodated these initiatives which are fully institutionalised today especially the CSR integration with corporate governance and strategic management.³ With this background in mind, this paper will review different trends and development of CSR in the 21st century, whether CSR has lived its days, and 'a fad whose time has come and gone'. Also, what correlation there is between law and CSR?

Historical Perspectives

CSR Prior To 21st Century

CSR is not a recent social phenomenon, in actual fact, moral issues arising from commercial activities have dominated writers, philosophers, company's executives, law makers and religious leaders for centuries.⁴ Due to globalisation, the role of business became more important in the society as large scale firms began to impact on the community; some began to take philanthropic obligations upon themselves,⁵ influenced by social concern and religious convictions.

In order to determine whether firms have 'inherent' responsibilities towards society? A debate took off in 1929 which is still relevant today '*Businesses started long centuries before the dawn of history, but business as we know it is new – new in its broadening scope, new in its social significance. Business has not learned how to handle these changes, nor does it recognise the magnitude of its responsibilities for the future of civilisation*'.⁶ The debate goes on till the 1970s when Friedman said "there is only one responsibility of business-to use it resources and engage in activities designed to increase its profits so long as it stays within the rules of the game, which is to say, engages in open and free competition without deception or fraud"⁷ According to him, wealth distribution is for government and not companies but business could contribute to society through wealth generation. Also companies should still act within the ambit of the law.

Representing mainstream position is the similarity between financial performance of corporations and CSR as unethical firms are on the long run unsustainable i.e. shareholders obligation is fulfilled when companies are socially responsible. There was an attempt to develop certain standards⁸ and frameworks on investment due to impossibility to have 'healthy,

equitable, and democratic societies [because of power concentration] in a few gigantic corporations'.⁹

One of the environmental campaigns of this period was by International Baby Food Action Network against Nestlé¹⁰ in the 1970s and 1980s, and the bitter controversy surrounding the execution of a writer, activist, and an outspoken critic of the operations of Shell and BP in Nigeria, after series of protest. Saro Wiwa and nine other activists were arrested on 10th of November 1995, they had 'show trials' and executed with eight others. This act of the military government raised an outcry, much of which was levelled at Shell because of Shells inability to intercede with the government for sentence reduction. Shells posit that it was not in a position to interfere in the national politics of host states.¹¹

However, two prominent positions were held by corporations with regards to CSR: Does the corporation have exclusive responsibility to their shareholders, thus their only objectives is to make profits for them¹² or whether corporation is responsible for 'other' stakeholders not only shareholders but including suppliers, employees, the ecological environment and the general community?¹³ These questions are the basis for trends in CSR discuss and literatures.

Conceptual Frameworks

New Trends

The theory of CSR has made a shift from 'few stakeholders' to a greater and inclusive concept, eventually becoming a global trend.¹⁴ Tony Blair, former UK Prime Minister said "The 21st century company will be different. Many of the world's best known companies are already redefining traditional perception of the will of the corporation, they are recognising that every customer is part of the community, and that social responsibility

⁹ Korten D., (1995) *When Corporations Rule the World*. London: Earthscan Publications, at 181

¹⁰ The boycott of Nestlé is the world's longest running. It began in 1977 in response to the dubious and aggressive marketing of Nestlé baby milk formula in poorer countries. Available at <http://info.babymilkaction.org/nestlefree>, <http://www.corporatewatch.org.uk/?lid=240> [Accessed on 12/12/12]

¹¹ Shell, 'Statement of General Business Principles', July 1994. Shell companies endeavour to act commercially, operating within existing national laws in a socially responsible manner, abstaining from participation in party politics and interference in political matters.. It is, however, their legitimate right to speak out on matters which affect the interests of employees, customers and shareholders, and on matters of general interest where they have a contribution to make based on particular knowledge. Quoted in Zerk J.,(2006) *Multinationals and Corporate Social Responsibility: Limitations and Opportunities in International Law*. Cambridge: Cambridge University Press at pg.23-24

¹² Ibid Milton Friedman

¹³ Obe R. Corporate Social Responsibility: A Necessary Means for a Better Society. Paper delivered at a conference presented at the International Bar Association African Regional Conference. 5-8TH April 2004

¹⁴ Forbes Leadership Forum, on, The Top 10 Trends in CSR for 2012. Available at <http://www.forbes.com/sites/forbesleadershipforum/2012/01/18/the-top-10-trends-in-csr-for-2012/> [Accessed on 04/01/2013]

³ Through managements and organisational policies for reporting, conscious social practices, sustainability reports and CSR surveys

⁴ Hood J., (1996) *The Heroic Enterprise: Business and the Common Good*. New York: Free Press, p.xv

⁵ Hopkins, M. (1998) Corporate Social Responsibility around the World. 2 Online Journal of Ethics, No. 2, available at <http://www.stthom.edu/cbes/onlinejournals.html>.

⁶ By Donham W., Dean of Harvard Business School. Quoted in Peattie K., (2002) Research Insights into Corporate Social Responsibility (Part 1) *New Academy Review* Vol. 1(2) 33, 50

⁷ Friedman M. The Social Responsibility of Business is to Increase its Profits. The New York Times Magazine, September 13, 1970. He claims that only natural person can have responsibility i.e. Individual Social Responsibility, he argued that engaging in CSR may jeopardise companies productivity and the director as agent of the company does not have the discretion to spend shareholders money considering market forces of inflation.

⁸ OECD; Multilateral Agreement on Investment (MAI), 1995, Existing network of BITs', GATS etc.

is not an optional activity".¹⁵ Today, there are still some thought around Friedman's proposition whilst some CEOs consider companies duties to other stakeholders, human rights and sustainable development in addition to making profits. Also, the Enron¹⁶ and WorldCom¹⁷ scandals in 2001 brought about "a gap between a company's cleverly crafted do-gooders image and its actual operations..."¹⁸. This led to scepticism about CSR and not just the need to persuade corporations but to address CSR issues in their corporate practice, as CSR debate has now moved on from why be socially responsible to 'how'?¹⁹

CSR movement now reflects the shift from a state centred to a 'market -dominated' world of greater prominence to 'people-centre' concern.²⁰ This does not mean that corporation do not create political and regulatory difficulties for states. Although, public actors have made great strides through different initiatives to regulate corruption, human rights, labour and environmental issues. Some of the new trends in CSR are but not limited to:

A movement in expansion, movement encompassing more concerns, publication and accountability,²¹ beyond philanthropy,

¹⁵ Quoted in Mullerat R. and D. Brennan (2011) *Corporate Social Responsibility: The Corporate Governance of the 21st Century*- 2nd edition. Kluwer Law International at page 485. Available at <http://books.google.co.uk/books?id=xvqvrYMTUg0C&pg=PA485&lpg=PA485&dq=TONY+BLAIR:+The+21st+century+company+will+be+different.Many+of+the+worlds+best+known+companies+are+already+redefining+traditional+perception+of+the+will+of+the+corporation,+they+are+recognising+that+every+customer+is+part+of+the+community,+and+that+social+responsibility+is+not+an+optional+activity&source=bl&ots=3yYtJo8XZY&sig=aUhn7VfWGv84Dyf-6TJ6V1xEJ3s&hl=en&sa=X&ei=fvrmUM6AAobM0AX55ICoBA&ved=0CDAQ6AEwAA#v=onepage&q=TONY%20BLAIR%20The%2021st%20century%20company%20will%20be%20different.Many%20of%20the%20worlds%20best%20known%20companies%20are%20already%20redefining%20traditional%20perception%20of%20the%20will%20of%20the%20corporation%2C%20they%20are%20recognising%20that%20every%20customer%20is%20part%20of%20the%20community%2C%20and%20that%20social%20responsibility%20is%20not%20an%20optional%20activity&f=false> [Accessed on 02/01/2013]

¹⁶ Fraud detected and suit for bankruptcy at once dominant Houston energy company, available at <http://www.time.com/time/magazine/article/0,9171,1001771,00.html> and <http://www.apfn.org/apfn/enron.htm>

¹⁷ US telecoms giant WorldCom has stunned the business world after admitting a multi-billion dollar accounting fraud. It follows corporate scandals, at Enron and its accountants Andersen, which have traumatized investor trust. Available at <http://news.bbc.co.uk/1/hi/business/2077838.stm>

¹⁸ Bakan J. (2004) *The Corporation: the Pathological Pursuit of Profit and Power*. New York: Free Press at page 41

¹⁹ Ibid Zerk J. at p.25

²⁰ Gilpin R., (2000) *The Challenge of Global Capitalism: the World Economy in the 21st Century*. Princeton: Princeton University Press at page 18-19

²¹ The new technology has made global communication easy as there is no hiding place for corporate operations. The internet provides a lot of information, a ready forum for criticism and commentaries.

commitment of all, outsourcing and branding, relation with core products and services, government and business partnership, sectoral projects, voluntary or mandatory cooperation and most importantly CSR and corporate accountability.²²

My discussion on these dimensions will be limited to normative dimensions of CSR and the law especially the internal governance level, domestic initiatives and international guidelines.

Defining CSR

There has been a major challenge across disciplines on the definition of CSR, different interests groups have separate definitions which changes over time. CSR "refers to the notion that each business enterprise, as a member of society, has a responsibility to operate ethically and in accordance with its legal obligations and to strive to minimise any adverse effects of its operations and activities on the environment, society and human health".²³

According to the ICC, CSR is "a voluntary commitment by business to manage its role in society in a responsible way".²⁴

CSR is 'The continuing commitment by business to behave ethically and contribute to economic development while improving the quality of life of the workforce and their families as well as of the local community and society at large'.²⁵

In 2002 WBCSD changed this definition to "the commitment of business to contribute to sustainable economic development, working with employees, their families, the local community and society at large to improve their quality of life".²⁶

It should be stated that CSR is not philanthropy 'but involves the exercise of social responsibility in how profits are made'.²⁷ CSR goes to the core of business operations and not limited to social and environmental matters.

CSR and business performance

Does financial performance of a company have to be achieved at the expense of CSR? "[T]he firm must be viewed within a complex web made up of socio-economic, political and cultural factors, in which the corporation is embedded".²⁸

Where there is a reason to pursue the long-term interests of the company and its shareholders, directors and shareholders have to look beyond immediate financial performance into how businesses may be run in a more sustainable manner. Therefore corporate objectives beyond the maximisation of the return of investments should be expanded to produce improved, more productive and more sustainable economies and societies in

²² Monitoring and enforcement frameworks for different CSR violations and abuses.

²³ Ibid Zerk J. at 32

²⁴ ICC, A business vision for the 21st century, 11 January 2002.

²⁵ Definition of CSR, by World Business Council for Sustainable Development. Available at <http://www.wbcsd.org/web/publications/csr2000.pdf>

²⁶ Cited in Blowfield M and Frynas J., (2005) Setting New Agendas: Critical Perspectives on Corporate Social Responsibility in the Developing World. *International Affairs* 81 at 499.

²⁷ McBennett D.(2007) Corporate social responsibility beyond law, through law,for law: the new corporate accountability, in McBennett D. et al *The New Corporate Accountability: Corporate Social Responsibility and the law*. Cambridge University Press at pg. 1

²⁸ Page 496

general.²⁹ A sustainable company is one that creates profit for its shareholders while protecting the environment and improving the lives of those with whom it interacts [and] operates so that its business interests and the interests of the environment and society intersect.’

CSR requires companies to “Go beyond the creation of short-term shareholder wealth in pursuit of broader objectives such as sustainable growth, equitable employment practices, and long-term social and environmental well-being”.³⁰ The investment domain is witnessing a trend towards the incorporation of SRI and ESG considerations in investment decision-making, although this trend is yet to become embedded in mainstream investment practice.³¹ The governance framework should recognize that the interests of the corporation are served by recognizing the interests of stakeholders and their contribution to the long-term success of the corporation.³²

Legal Framework

The role of law

In understanding CSR discuss, we would have to emphasise the features of ‘embeddedness’ and the role of the law in this milieu.

Law is part of a social system with the aim of controlling social behaviours, remedy grievances, promote certain defined activities and imposition of duties on certain standards of behaviour. “Legal rules are especially significant in the world of business, with matters such as banking [and] employment all regulated to some extent through law”.³³ In a globalized world like ours, it is difficult to find any area of activity which is not subject to legal control. Law orders human activities and relations through systemic application of the force of politically organized society...³⁴

The law has been a core issue in CSR due to violations on human rights of members of the host communities where businesses operate especially controversial sectors like extractive industries. The law therefore protects, respect, remedy, and restore individuals right against wrong done to their person. In addition, CSR partially represents transparency and accountability of companies which is supported by law, initiatives and principles. In 2003, The Extractive Industries Transparency Initiative (EITI)³⁵ was established to promote, support and improve governance in resource rich countries through verification and full publication of company payments and government revenues from mining, oil and gas. EITI

focuses on extractive industries reform, good governance/anti-corruption and natural resource management. Nigeria did go a step further to implement EITI principles through the enactment of NEITI Act in 2007 which establishes NEITI body, functions which requires reporting from relevant government agencies and from all extractive industry companies.

This initiative recognises that improper management of natural resources creates negative, social and economic impacts. NEITI reports have so far generated diverse opinion, criticisms and discourse from stakeholders.³⁶

CSR, regulation and law

Despite voluntarism of CSR, it is still combined with ‘various rules compelling disclosure of the nature and extent of those CSR activities actually undertaken’.³⁷ Regulation is a rule, principle, or condition that governs procedure or behaviour.³⁸ Self-regulating is where a business enforces or uphold its own rules and laws without external interference.³⁹

Regulation on how corporations can be structured, as well as on the impacts they can have on the environment and society, and their dealings with their workforce and other stakeholders, is the only way that a democratic society can control what is acceptable and unacceptable in corporate behaviour.⁴⁰ Palacios discusses the limits to CSR and the extent to which capitalism can be ‘caring’. The argument advanced is that, ‘by virtue of their very nature, corporations cannot become fully responsible and accountable citizens.’⁴¹ The statement explores paths for action and, for the introduction of binding rules and regulations and the construction of a governance framework capable of restraining the power of businesses.

Governments need both to improve civil and market regulation of corporations, and also to strengthen corporate law. The trend amongst government policy makers has been to encourage corporations to voluntarily self-regulate’.⁴² There are legitimate grounds to be skeptical about the usefulness of voluntary codes of conduct, particularly if there are no provisions for independent verification, worker and third party complaints, or transparency in the monitoring, verification and remediation processes’.⁴³ However, voluntary codes need not be

²⁹ Zhao particularly attribute the 2008 financial crisis to weak governance especially CSR of corporations

³⁰ Williams C. and Conley J., (2005) “An Emerging Third Way? The Erosion of the Anglo-American Shareholder Value Construct” *Cornell International Law Journal* Vol. 38 at 493, 496.

³¹ United Nations Environment Programme Finance Initiative (UNEP FI) Asset Management Working Group (AMWG), A Legal Framework for the Integration of Environmental, Social and Governance Issues into Institutional Investment (2005) 23-27.

³² Organisation for Economic Co-operation and Development (OECD), OECD Principles of Corporate Governance (2004) 46.

³³ Harris P. (2007) An Introduction to Law. Seventh edition, Cambridge: Cambridge University at page 1

³⁴ Garner B. (2007) Blacks Law Dictionary, 8th edition.

³⁵ Available at EITI website <http://eiti.org/eiti/principles> [accessed 01/08/2013]

³⁶ The recent audit report by NEITI reveals poor management in the administration of crude oil fund in Nigeria, this is made possible through a binding law i.e NEITI Act 2007. Available at <http://online.wsj.com/article/BT-CO-20130729-709336.html> [Accessed 01/08/2013]

³⁷ Campbell K and Vick D. (2007) Disclosure law and the market for corporate social responsibility, in McBernett et al, Corporate social accountability

³⁸ Collins English Dictionary: Complete and unabridged at 1365

³⁹ Collins English Dictionary: Complete and unabridged (2003) sixth edition, Harper Collins Publisher at pg 1467

⁴⁰ Corporate Watch Report (2006) what’s wrong with corporate social responsibility. Available at <http://www.corporatewatch.org/?lid=2688> [Accessed on 3/07/2012]

⁴¹ Palacios Juan José (2004). ‘Corporate citizenship and social responsibility in a globalized world’, *Citizenship Studies*. 8(4): 383-402 at 383

⁴² Hertz N. (2004). ‘Corporations on the Front Line’ *Corporate Governance*, 12(2): 202-209 at 202

⁴³ Jeffcott, Bob and Lynda Yanz. (2000). ‘Codes of Conduct, Government Regulation and Worker Organizing: Are voluntary codes of conduct a privatised alternative to state regulation?’

seen as an alternative to state regulation, but can actually complement and reinforce the regulatory role of the state.

Joel Bakan posits that corporations should be left free to govern themselves as they possess good sense of moral conviction.⁴⁴ However, “the emergence of a distinctive body of law and other regulation relating to corporate governance that transcends and, to some degree, reorients the doctrines of corporate law, in ways that resonate for CSR too”,⁴⁵ is feasible. Rationale behind regulation in this era of globalisation is to reduce waste, protect society or third parties from harm of externalities “by compelling the internalisation of spill over costs- on ‘polluter pays’ principles”.⁴⁶

Self-Regulation

The advent of privately made best practice rules, codes of conduct⁴⁷ and corporate governance codes has led to a sweeping change of the relevant regulatory scenery in which companies operate today.⁴⁸ But many of its characters and elements ‘may not’ be the true representation of an official legislation. The proliferation of private, semi-public and quasi-public lawmakers in the fields of corporate and securities law has altered the regulatory landscape so that it has become much tougher to develop a political critique of the processes as they unfold. The shift away from customary forms of law-making and the embrace of myriad ways of norm creation (often summarised as ‘governance’) has had as one of its costs the highly problematic removal of many regulatory changes from the political debate.⁴⁹ Self-regulatory initiatives are necessary for standardisation of lawful behavior, market effect and create liability in contract law or unfair competition.⁵⁰ Also plays important role in providing evidence of control over environmental conduct.

The series of indirect forms of norm-making, and the many ways in which firms have been marketing their commitment to

specific CSR standards,⁵¹ are reflective of an important shift in lawmaking. Ironically, these norms are always not presented as law at all, because they are not derived from the state nor are they equipped with the traditional enforcement instruments that we know from state-made laws. Given their ostensible distance from the state - and their closeness to the market – soft laws are understood as private norms without any real grip in the political sphere of the state's law-making arena.⁵²

Strine suggest that efforts should be made to advance disclosure rules that would ‘enable managers to focus more on sustainable, long-term corporate growth and less on the market's short-term expectations’.⁵³

The different norms of law are deployed to enforce CSR standards, “New legal developments are directly and indirectly fostering voluntary CSR and market pressures, while new legal tools are being evolved, and old ones used creatively, to make what businesses have perceived as voluntary, or beyond law, in fact legally enforceable”.⁵⁴

Domestic Dimension

Despite the self-regulatory instruments of companies, the state as the sovereign make binding laws which ensures coercion, accountability, transparency and disclosure. Governments have been reluctant to adopt and implement CSR policies as mandatory nonetheless ‘played a part in fostering CSR’.⁵⁵ Domestic framework on CSR is grounded in existing laws relating to each components of CSR, or is proposed relating to reporting of CSR. Beyond corporate law, CSR has a close connection with other corporate governance laws directly regulating the system of CSR in its own right. These laws ‘variously cover topics such as employment, workplace health and safety, the environment, public procurements, ethical investment, banking, equal opportunity, non-discrimination, human rights, and a range of other legal topics’.⁵⁶

In this paper, the UK and US legislative dimensions will be discussed.

UK corporate law dimension

Viewed through the prism of CSR, the UK Company Law Review process begun in the death throes of the last century and brought to recognition mid-way through the first decade of this century, culminating in the passage of the most comprehensive

Maquila Solidarity Network. Available at <http://www.maquilasolidarity.org/resources/codes/bluebooklet.htm>. [Accessed on 10/10/2012]

⁴⁴ Joel Bakan, (2004), *The Corporation The Pathological Pursuit of Profit and Power*, Constable, at 110.

⁴⁵ Holligan B., (2007) 21ST Century Corporate Social Responsibility Trends- An Emerging Comparative Body of Law and Regulation on Corporate Social Responsibility, Governance, and Sustainability. *MqJBL* Vol. 4 page 86

⁴⁶ Baldwin R. (2012) *Understanding Regulation: Theory, Strategy, and Practice*. Second Edition: Oxford University Press at page 18

⁴⁷ In the US, all the Fortune 500 companies have introduced codes of conduct. Publication of CSR records have increased with 83 of FTSE 100 companies reporting in 2005. Available at http://www.eiris.org/files/research%20publications/ftse100snaps_hotmay08.pdf [Accessed on 04/01/2013]

⁴⁸ Pettet, B., (1998) ‘Combined Code: A Firm Place for Self-Regulation in Corporate Governance’, *Journal of International Banking Law* Vol. 13 p. 394;

⁴⁹ Zumbansen P., (2007) Varieties of capitalism and the learning firm: corporate governance and labour in the context of contemporary developments in European and German company law. *European Business Organization Law Review*, Vol. 8 (4) at 483

⁵⁰ Glinski C. Corporate Codes of Conduct in MacBarnett et al.(2007)

⁵¹ Companies could be held liable under contract for unfair competition. In Nikes’ case, they were held responsible by civil society that they broke their own code of conduct and some local laws regarding minimum wage, child labour, insurance benefits and working conditions. Its report states “[W]e are a company . . . that is based on a brand, one with a genuine and distinct personality, and tangible, emotional connections to consumers the world over . . .” available at http://reclaimdemocracy.org/kasky_nike_justfacts/ [Accessed on 03/01/13]

⁵² Anna di Robilant, (2006) ‘Genealogies of Soft Law’, *America Journal of Comparative Law*. Vol.54 pg. 499

⁵³ Strine L., (2007) ‘Toward Common Sense and Common Ground? Reflections on the Shared Interests of Managers and Labor in a More Rational System of Corporate Governance’, Available at: <http://ssrn.com/abstract=989624>>.

⁵⁴ McBarnet, D. (2007) “Corporate Social Reasonability beyond Law, through Law for Law” in *The New Corporate Accountability*, Cambridge: Cambridge Press p.9 at p.31.

⁵⁵ Ibid McBarnett at 32

⁵⁶ Ibid Holligan at 98

legislative reform of UK corporate law in more than a century, which has produced reforms of directors' duties, business reviews, and corporate reporting that explicitly factor non-shareholder interests into the new regulatory mix.⁵⁷

New legislation was voted for by the European Parliament to publicly report annually on their social and environmental performance, to establish legal jurisdiction against European companies' impacts in developing countries and for board members to be personally responsible for these practices.⁵⁸ This gave individual member states to decide upon their legislative framework particularly the United Kingdom on her range of regulations.⁵⁹ The 'Enlightened Shareholder Value', principle was introduced by The Department of Trade and Industry, in the company law reform Bill on directors' duty.⁶⁰ Director should "...act in a way he considers, in good faith, would be most likely to promote the success of the company for the benefits of its members as a whole, and in so doing have regard (amongst other matters) to:....(d) The impact of the company's operations on the community and the environment, the desirability of the company maintaining a reputation for high standards of business conduct...."⁶¹ A varied group of stakeholders should be taken into account, on the basis Section 172 can be construed as nothing more than common sense.⁶² The board is not bound by these provisions as it may justify that it has considered them because the list is too broad and unlimited. The Act is loosely drafted, what is the meaning of success, fairly? etc., how will the stakeholders enforce these duties against the directors? And thus, the "must" becomes rather impotent. And as "duty is only as useful in law as it is enforceable"⁶³ It is mere window dressing and all parties are in same position they were before the

Act, 'for all practical intents and purpose'.⁶⁴ Despite these limitations, the Act actually reflects the UK governments desire to further its vision of promoting company's operations that yields simultaneous social, economic and environmental benefits and encouraging responsible business behaviour,⁶⁵ enforceable in the same way as any other fiduciary duty owed to a company by its directors.⁶⁶ The Act is the Modern company law, been the first time directors duties are codified thereby a way of giving legal backing and framework for directors who had CSR initiative.

***The UK 'enhanced' business review reporting*⁶⁷**

In order to ensure corporate governance disclosure, boardroom accountability, and ask the question of how has the directors' performance promotes the company's success, the business review "includes key non-financial information and commentary, orientated towards a forward-looking assessment of matters affecting a company's strategy and operations".⁶⁸ This process contains relevant information on key performance indicators about the company's employees', social, community and environmental matters (including the impact of the company's business on the environment)'.⁶⁹

This is a requirement for companies to address CSR elements in their annual report and accounts, these are referred to as the non-financial matters, must be included to the extent necessary as deemed by the directors, in order to assess how they have performed their duties under Sec. 172. It requires large companies to publish an annual report, review inclusive of the companies operation, for listed companies the business review must show information about environmental, social and community issues, stating the impact of these activities on the community, employees and environment, "it is required to the extent necessary for an understanding of the development, performance or position of the company's business". This is to make company policies as transparent as possible and to encourage meaningful narrative reporting. Directors could decide CSR aspects to be referred to in annual report which means there are ways not to disclose 'many loopholes' and 'non-satisfactory information'. CSR is an important factor in non-financial information, but not the only factor. "The proposed introduction of the strategy report..... [W]ill require companies to be selective about which of the CSR information is relevant to this report".⁶⁹ This obligation on listed companies to include an 'enhanced' business review on the directors report is directed to make policies of companies as transparent as possible and to encourage meaningful narrative reporting although in practice it has had limited impact.⁷⁰

⁵⁷ Holligan at 96

⁵⁸ The Guardian. 26 September 2002. From 2003, French Corporations will have to demonstrate their commitment to CSR by giving detailed accounts of their social and environmental reporting.

⁵⁹ The Business Review 2005, the Operations and Financial Review and Business Review 2006.

⁶⁰ Section 172 of the Company Act 2006. Maintains that the overriding duty of a director is the success of the company, which is now more defined widely to include CSR metrics.

⁶¹ Section 172 of United Kingdom Company Act of 2006. A director of a company must act in a way that he considers, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole, and in doing so have regard (amongst other matters) to-

(a) the likely consequences of any decision in the long term,(b) the interests of the company's employees,(c) the need to foster the company's business relationships with suppliers, customers and others,(d) the impact of the company's operations on the community and the environment,(e) the desirability of the company maintaining a reputation for high standards of business conduct, and(f) the need to act fairly between the members of the company."

⁶² Walmsley K., (2007) The ICSA Companies Act 2006 Handbook. ICSA Publishing

⁶³ Loose P. et al, (2007) *The Company Director: Powers, Duties and Liabilities*. 9th edn, Bristol: Jordan Publishing Ltd. Para.6. 183

⁶⁴ Lynch E., (2012) Legislative Comment, Section 172: a ground breaking reform of director's duties, or the emperor's new clothes? *Company Lawyer* at 200

⁶⁵ Department for International Development, "Corporate Social Responsibility A government update" at <http://www.csr.gov.uk> [Accessed on 10/10/2012]

⁶⁶ United Kingdom, Companies Act 2006. Section 178(2)

⁶⁷ Section 417 of Companies Act 2006, help reduce unnecessary focus on short-term rather concentrate on broad and longer term sense of the enterprise.

⁶⁸ Hallington at pg.112

⁶⁹ Ibid Hoskins at 48

⁷⁰ Pedamon C., (2010) Corporate social responsibility: a new approach to promoting integrity and responsibility. *Company Lawyer* at 176

UK pension fund amendment ACT

In order to foster transparency rather than securing path of investment by the back door, pension fund trustee took cognizance of CSR issues pertaining to the companies in which they have invested. The government successfully took 'a soft touch on the tiller' to achieve attitudinal changes without much regulatory burden. When in year 2000,⁷¹ pension funds were required by recent UK legislation to state whether and how they took into cognizance in their investment decisions social, ethical and environmental considerations.⁷² This was merely a disclosure measure, not a legislative obligation on them. Therefore, pension fund have always chosen to take into account the CSR standards and policies of companies they invest in. This in turn 'had a knock-on effect on companies seeking investment from pension funds.'⁷³ This legislation reveals the importance of CSR to business performance.

US financial reform**The DODD-frank wall street reform and consumer protection ACT**

This Act was enacted in reaction to the financial industry crisis that began in 2007. This is an accountability framework⁷⁴ for Wall Street and big banks that were in worst financial crisis since the economic recession. 8 million jobs were lost, failed businesses and wiped out personal savings.⁷⁵ Accenture says this promulgation is the most dramatic financial services regulatory reform since the 1930's.⁷⁶ Section 1502, a sense of congress promote transparency in the cross border trade of DRC conflict minerals, reduce exploitation by armed groups and to promote local and regional development.⁷⁷ This Act provides for

⁷¹ Pension Fund Amendment Act 2000, an amendment to the Occupational Pension Schemes (Investment) Regulations 1996

⁷² Statement of Investment Principles required the trustees to consider, the extent (if at all), to which social, environmental or ethical considerations are taken into account in the selection, retention and realization of investments. Also consider, the policy (if any), directing the exercise of the rights (include voting rights), attaching to investments.

⁷³ National Association of Pension Funds' (NAPF'S), announcement urging pension funds trustees to ask their investment managers who oversee their funds to consider CSR when investing on their behalf. The Guardian, 22 August 2005, available at

<http://www.guardian.co.uk/money/2005/aug/22/business.pensions> [Accessed on 12/12/12]

⁷⁴ Available at <https://law.lexisnexis.com/infopro/Keeping-Current/LexisNexis-Information-Professional-Update-Newslet///LexisNexis-Information-Professional-Update-Newslet/Dodd-Frank-reform-laws-legislative-history-etc-compiled-into-one-lexiscom-page-for-fast-retrieval-July-2011/archive7-2011> [Accessed on 01/01/13]

⁷⁵ Available at http://banking.senate.gov/public/_files/070110_Dodd_Frank_Wall_Street_Reform_comprehensive_summary_Final.pdf [Accessed on 04/01/2013]

⁷⁶ http://www.accenture.com/us-en/landing-pages/management-consulting/risk-management/Pages/dodd-frank-risk-management.aspx?c=ukrskmpsgs&n=g_Dodd_Frank/a_0_k/dd_frank_act&KW_ID=shsNAJ8aN|pcrid|19849561209

⁷⁷ Exploitation and tradin of conflict minerals originating in the Democratic Republic of Congo. Now source of violence and anti-social behaviour in Congo.

disclosure of conflict minerals, submission of report describing the product whether they are 'DRC conflict free', determine origin and report certification. This is a timely intervention from the congress, a conflict prevention and humanitarian measure.

Regional dimension: the European union

In July 2001 the EU published its green paper⁷⁸ based on the outcome of the Lisbon summit of 2000 which set the strategic goals for Europe, been the first time the European Council made statements about CSR, this was followed by so many other deliberations till the new European Commission produced its 'Communication on CSR'⁷⁹ where a voluntary stance on CSR was maintained. CSR remains a priority for EU and in 2011 published its communication "CSR in EU level will remain voluntary but the commission believes that, given the current economic crises, by renewing efforts to promote CSR now, it will assist the creation of conditions favourable to sustainable growth..."⁸⁰. This move is of importance to stakeholders who believed that CSR legislation is a way they could achieve their goals.

However, at European Union (EU) level, the various normative developments show that soft law mechanisms promoting CSR are regularly converted into "hard" incentives and even into "hard law".

Despite the move from legislation to voluntary actions, some notably developing countries have moved the other way.⁸¹ Indonesia action⁸² was been mandated by law much of which relates to the operations of extractive industries and to ensure that the community gets fair reward and community benefit for the activities taking place in their midst. These new laws makes CSR mandatory concept for companies⁸³, 'Each investor is obliged to....carry out corporate social responsibility.'⁸⁴

International Dimension

While the sovereignty of governmental authorities remains nationally restricted, some of the key hitches of today's world are international problems: global warming, AIDS, corruption, deforestation, and human rights are subjects that have a strong transnational dimension. They cannot 'all' be resolved unilaterally by national governments within their 'geographically limited sphere of influence'.⁸⁵ This normative

⁷⁸ 'Promoting a European framework for corporate social responsibility'; Reference COM(2001) 366 Final.

⁷⁹ March 2006, entitled 'Implementing the partnership for growth and jobs: Making Europe a pole of excellence on corporate social responsibility'.

⁸⁰ Hoskins, T.,(2012) *Corporate Social Responsibility Handbook: Making CSR and Narrative Reporting Work for Your Business*. 3rd ed. ICSA Publishing

⁸¹ Both Indonesia and Philippines passed legislation in 2007 requiring companies to implement CSR programmes

⁸² Limited Liability Company Law 2007 to replace its former law, the Limited Liability Company Law No.5 of 1995. New Investment Law was enacted: Investment Law No. 25 of 2007.

⁸³ 'Companies conducting business activities in the field of and/or related to natural resources have the obligation to carry out Social and Environmental Responsibility'. Article 74(1) of the Limited Liability Company Law 2007 on Social and Environmental Responsibility.

⁸⁴ Article 15(b) of the Indonesian Investment Law No 25,2007

⁸⁵ Andreas S and Guido P., (2009) Globalization and Corporate Social Responsibility, in *The Handbook of Corporate Social Responsibility*. Available at

approach offers a framework for actors to evaluate particular regulatory alternatives to address particular situations. They provide models for reshaping institutional arrangements for the development, application, and enforcement of law to tackle these situations. International organisations especially those under the United Nations have attempted to regulate CSR, due to spark of human rights violations and to properly define terms of agreement with host countries. Another reason was the trade union activism at the international for a on the abuse of corporate power by MNCs.⁸⁶ These are:

- Organisation for Economic Cooperation and Development (OECD),⁸⁷ this guideline sets out “the principles for acceptable behaviour of corporations in the social and environmental sphere globally”⁸⁸
- UN Global Compact,⁸⁹ a voluntary framework to help design a more humane world by enjoining businesses to follow 10 principles,⁹⁰ and internalise in their practices.
- The John Ruggie special representative of the UN Secretary General on the issue of human rights and transnational corporations and other business enterprises.⁹¹

I will briefly discuss the recent initiatives:

The UN Global Compact:

The Global Compact “exists to assist the private sector in the management of increasingly complex risks and opportunities in the environmental, social and governance realms, seeking to embed markets and societies with universal principles and values for the benefit of all”.⁹² This is a strategic policy and initiatives for companies to adopt the ten universal principles of corporate responsibility in the areas of human rights, labour, environment and anti-corruption.⁹³ It is a ‘practical framework for the development, implementation, and disclosure of sustainability policies and practices, offering participants a wide spectrum of work streams, management tools and resources — all designed to help advance sustainable business models and

markets’.⁹⁴ The principle set out are aimed at tackling the problems been posed by the activities of MNCs and promote CSR

The global compact has over hundred 10,000 corporate participants and other stakeholders from over 130 countries, it is the largest voluntary corporate responsibility initiative in the world.⁹⁵ Thereafter, we had the Norms on Responsibility of Transnational Corporations and Other Business Enterprises with Regards to Human Rights (The Norms).⁹⁶ These Norms epitomizes the pervasive influence of private actors in international arena. The first draft appeared in 2000⁹⁷, and adopted in 2003. The Norms steps into CSR debate on human rights and crystalises the relationship between HR and CSR, and posits that international law responds forcefully to MNCs action that violates such rights as the Norm identified processes to make soft law on CSR into hard law.⁹⁸ The ‘Norms’ is an extension of HR standards to the field of CSR which represents a landmark issue of corporate accountability of MNCs for HR abuses, “it constitutes a succinct, comprehensive, reinstatement of the international legal principles applicable to business”⁹⁹ and envisaged a binding framework for mandatory standards on CSR built around national and international tribunal pronouncements on UN member states that adopt it.¹⁰⁰ This framework did not see the light of the day as the UN General Assembly did not ratify

*The Special Representative of the UN Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises*¹⁰¹

Following controversies over the adoption of the Norms, the United Nations Human Rights Commission in 2005 requested that the UN Secretary-General appoint a Special Representative with a mandate for three years.¹⁰² Ruggies report proposes a

⁹⁴ Ibid

⁹⁵ Available at

<http://www.unglobalcompact.org/AboutTheGC/index.html> [Accessed on [24/11/2012]. In 2011 over 80,000 companies had signed up to this initiative around the world

⁹⁶ UN Doc.E/CN.4/Sub.2/2003/12/Rev.2 (2003). Approved 13 August 2003, by UN Sub-Commission on the Promotion and Protection of Human Rights Resolution 2003/L.11, 52 (2003).

⁹⁷ Human Rights Principles and Responsibilities for Transnational Corporations and Other Business Enterprises, UN Doc, 2000 E/CN.4/Sub.2/2000/WG.2/WP.1

⁹⁸ David Kinley et al (2008) *‘The Norms are dead! Long live the Norms!’ The politics behind the UN Human Rights Norms for corporations.* In Doreen McBarnet, et al, *The New Corporate Accountability: Corporate Social Responsibility and the Law.* Cambridge; Cambridge University Press at 460

⁹⁹ Weiss Brodt D., (2003) Norms on the Responsibilities of Transnational Corporations and other Business Enterprises with Regards to Human Rights. *American Journal of International Law*, vol. 97 at 84

¹⁰⁰ This is implied from The Norm frequent use of the phrase ‘shall’.

¹⁰¹ At <http://www.business-humanrights.org/SpecialRepPortal/Home/Protect-Respect-Remedy-Framework>

¹⁰² Available at http://www.unglobalcompact.org/issues/human_rights/The_UN_SMSG_and_the_UN_Global_Compact.html [Accessed on 24/12/2012]

<http://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780199211593.001.0001/oxfordhb-9780199211593-e-018>

[Accessed on 27/12/2012]

⁸⁶ Amao O., (2010) The Foundation for a global company law for multinational corporations. *International Company and Commercial Law Review* 279

⁸⁷ The OECD Guidelines for Multinational Enterprises, OECD Doc. DAF/FE/IME (2000) 20.Text of the Revised version of the OECD Guidelines for Multinational Corporations is available at <http://www.oecd.org/> [Accessed 02/10/2012]

⁸⁸ Macleod S. and Lewis D.,(2004) Power, Influence and Responsibility. *Global Social Policy* Vol.4 No.1 at 77

⁸⁹ It is neither a code or regulation.

⁹⁰ Concerning human rights, labour , environment and corruption

⁹¹ Led by Professor John Ruggie who has built a governance framework comprising three pillars, i.e. ‘Protect, Respect, Remedy,’ to clarify the complementary roles of government(public actors) and companies (private actors) in respect of the protection and realisation human rights, prevention of conflicts and accountability

⁹² Available at

<http://www.unglobalcompact.org/AboutTheGC/index.html> [Accessed on 24/11/2012]

⁹³ Available at

<http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/index.html> [Accessed on24/11/2012]

three-pronged international framework for corporate accountability for HRs, referred to as ‘**protect, respect and remedy**’. These pillars rest on differentiated but complimentary responsibility.

The UNGP provides that States should carry out the duty to **protect** through effective policies, legislation, regulations and adjudication to provide clarity of expectations and consistency for companies in relation to human rights.

MNCs and officials are to **respect** peoples HRs and work in tandem to this rights, and avoid HR abuses “because the responsibility to respect is a baseline expectation, a company cannot compensate for HR harm by performing good deeds elsewhere”.¹⁰³ Businesses should incorporate international best standard in their operations and exercise due diligence mechanisms in protecting human rights

The third pillar is **remedy**,¹⁰⁴ for grievances ‘access to remedy’ in cases of breaches through judicial and non-judicial mechanisms.¹⁰⁵ The second leg of remedy is cleaning up of negative impacts of business operations.

The framework posits that victims are aware of available mechanisms to report and access in cases of abuse.

Finally, this framework is all encompassing because ‘all’ company’s stakeholders are involved and also, expresses the role of law to remedy business impact on the environment. The framework advocates for shared governance as posits in the UN Right to Development. More fundamental issue is how can corporate accountability and justice be ensured, maintained and sustained towards stakeholders in a capitalist environment? This principle is a point of departure for future developments and indeed set an agenda for actions which urgently requires the revision, review and reform of state legislative and policy frameworks.

United state alien tort claims act

Allocation of liabilities is a major accountability issue in CSR¹⁰⁶ especially for damages caused in developing countries. What remedy is available to the people who suffer damage from a “breach” of voluntary Initiatives?¹⁰⁷ Theoretically each state has the right to regulate MNCs activities within its own territory,’ subject to overwhelming obligations under international law’, but many states do not have ‘necessary resources , systems, or political will to regulate CSR

effectively’.¹⁰⁸ Current lack of regulation makes home state regulation a short-term option,¹⁰⁹ an example is **Alien Tort Claims Act**,¹¹⁰ a judicial process of home countries to promote CSR abroad, “which is by far the most robust civil legal mechanism which holds out a possibility of holding corporate entities accountable for their egregious activities committed abroad”.¹¹¹ It is a legal framework which offers possibilities of holding corporate entities accountable for heinous activities committed abroad; HR advocates have found this tool useful, especially in developing nations like Nigeria where there is persistent degradation of the environment and infringement on people’s right to clean environment by oil multinational corporations. Lawyers should take up the wheel of accountability especially in house counsels, now that corporations are conscious of their responsibility.¹¹²

Conclusion

CSR is a trend that has come to stay, a business tool by different actors in the economic and developing world. With the Bhopal explosion, Enron crisis, Shells pollution of the environment and abuse of human rights, and the financial crisis in 2008 which were caused by short-termism strategy of companies. These have all raised the stake of CSR movement, firms are not only to make profits for its shareholders but be responsible for other stakeholders too. Customers, writers, journalists, governments¹¹³ and potential employee are increasingly well informed about CSR standards and principles. Consequently, the justification for self-regulation, national and international initiatives where ‘all’ stakeholders are put into consideration in company decision making. There must be political will to implement transparency and accountability mechanisms and processes put in place to safeguard HRs standards,¹¹⁴ eradicate corruption, and promote labour welfare and a ‘green’ environment.

¹⁰³ Promotion and Protection of all Human Rights, civil, social, economic, political and cultural rights, including the right to development, Protect, Respect and Remedy: A Framework for Business and Human Rights; Report of the Special Representative of the Secretary General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, John Ruggie, A/HRC/8/5, 7 April 2008. Available at <http://198.170.85.29/Ruggie-report-2010.pdf> [Accessed on 20/09/2012]

¹⁰⁴ Just as the latin maxim implies, where there is a breach, there is always a remedy. ‘*Ubi jus remedium*’

¹⁰⁵ Article 31, states that non-judicial mechanisms for remedy must be legitimate, accessible, predictable, equitable, transparent, rights compatible, and a source of continuous learning.

¹⁰⁶ Within group enterprises ‘separate corporate personality: i.e. each member of a group of enterprises is treated a legally distinct and separate from the others regardless of ownership or control.

¹⁰⁷ Self – regulatory, ‘Code of Conduct’.

¹⁰⁸ Joseph, S., (1999) Taming the Leviathans: Multinational Enterprises and Human Rights. *Netherlands International Law Review* Vol. 46 171

¹⁰⁹ Principle of Extraterritoriality, a discussion which is outside the scope of this study.

¹¹⁰ United States Alien Tort Claims Act of 1789, a ‘tort’ being a ‘wrong’ over which the victim can sue in court. Originally set up for offences as piracy on the high seas, which confers jurisdiction on the federal courts in respect of all causes where an alien sues for a tort in violation of the law of nations or a treaty of the United State.

¹¹¹ Fafo Report 467 ‘ Business and International Crimes: Assessing the Liability of Business Entities for Grave Violations of International Law’ (A joint Project of the International Peace Academy and Fafo – report 467, 2004).

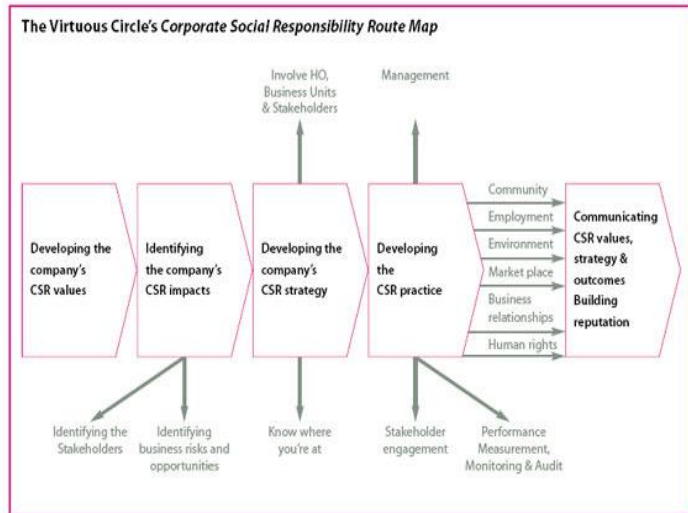
¹¹² Mullerat R., *Quo vadis Corporate Social Responsibility?* (New Trends of CSR). Available at http://www.fbe.org/IMG/pdf/Ramon_Mullerat-4.pdf [Accessed on 12/12/2012]

¹¹³ Governments in some developed states are learning not to turn a blind eye to unethical behaviours. Through ‘polluters pay legislations’, emission and carbon taxes. Also, ‘stakeholder society’ concern, a reason for New Labour government victory in Britain 1999-2001 achieved through Tony Blair successful ethical capitalism speech.

¹¹⁴ For example, Shell in Africa, which through its extractive operation causes environmental degradation, pollution and

Furthermore, capitalism preaches financial bottom line of business, profit maximization for investors and maximization of shareholder values. Paradoxically, a company could be more attractive and productive using the 'triple bottom line' of people, planet and profit. For this writer, *CSR is good capitalism*. Companies should develop, identify and embed CSR strategies in its business practice, however relationship with other stakeholders should be considered, with realization that, CSR 'embeddedness', contributes to business performance.¹¹⁵

Diagram 1: Corporate Social Responsibility Road Map



Source: The Virtuous Circle Limited¹¹⁶

Discussion on different dimension of law reveals that different initiative at different level signifies that CSR and law are not contradictory. Recent trends reflects interaction between business, government, state and regulation and, spectrum of national and international initiatives. Although with self-regulatory measures, state backed enforcement measure is needed to monitor corporations excessive risk to forestall economic breakdown.¹¹⁷

However, the rules of law could either be binding or not, just like self-regulation in form of 'manipulative codes'. Therefore, to ensure responsibility, transparency, accountability and liability of companies, shared governance is the way forward.¹¹⁸ Government should enact laws to protect, safeguard

insecurity within the Niger Delta region. People in the region have lost their right to a clean environment and water.

¹¹⁵ CSR may reduce company's cost on the short term but in the long run increases its market share. Also a researcher Manda Salls, confirmed the indirect huge benefit said ' spending money on the environment adds to profitability in most cases. In Working for Business Leaders, available at www.Temp/trikHHBE.htm

¹¹⁶ Available at <http://www.thevirtuouscircle.co.uk/REPORTS/CSR%20-%20the%20heart%20of%20business/achieving%20html%20folder/achieving%20high%20performance.html> [Accessed on 04/01/2013]

¹¹⁷ Corporations or its directors make decisions leading to risk of harm causing bankruptcy proceedings, just like the case of Enron. Lots of jobs will be lost, and many will fall back to job seekers allowance using tax payers money which could have been used for state development.

¹¹⁸ Ruggies framework of shared responsibility of governance http://www.unglobalcompact.org/issues/human_rights/The_UN

and establish institution to remedy breaches of those rights while corporations should make regulations to respect human and labour rights in every sphere of their operations with the opening for dialogue.¹¹⁹

Society can do with corporations, as well as cannot do without them, CSR is not anti-profit making but making profit in a responsible manner. Therefore, it is imperative to say that CSR is a 'movement' and not a passing fad as postulated by Horrigan.¹²⁰

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¹¹⁹ In unfolding this complex agenda, there persist the need for policy innovation through dialogue amongst duty bearers, rights holders and other stakeholders

¹²⁰ 'The story of CSR in the 21st century is a story of progressive business sensitization to systems and dynamics of governance beyond government, regulation beyond law, and responsiveness beyond responsibility.' B. Horrigan, *The 21st Century's Corporate Social Responsibility Trends*, 2007 at page 1

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