

**REGULATION OF CORPORATE SOCIAL RESPONSIBILITY PRACTICES
IN TANZANIA**

FERDINAND MOSHI PHILIP

**A DISSERTATION SUBMITTED IN PARTIAL FULFILMENT OF THE
REQUIREMENTS FOR THE DEGREE OF MASTER OF LAWS OF THE
OPEN UNIVERSITY OF TANZANIA**

2019

CERTIFICATION

The undersigned certifies that, he has read and hereby recommends for acceptance by the Open University of Tanzania, a dissertation titled; "Regulation of Corporate Social Responsibility Practices in Tanzania" in partial fulfillment of the requirements for the degree of Master of Laws (LL. M) in Corporate , Securities and Banking Law.

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Dr. Benhajj Massoud

(Supervisor)

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Date

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DECLARATION

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Signature

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Date

DEDICATION

This Research is dedicated to my uncle and aunt, Mr and Mrs Damian Mabubu.

Also to my wife Amina Mwaluko and my sons, Ayman and Aydan Moshi Ferdinand.

To my sister Rose Mabubu and her sons, Fortune and Finley.

To my young brother Raphael and my young sister Veneranda.

Lastly to all my relatives and friends.

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I would very much like to acknowledge assistance in the completion of this study work from the followings:-A particular word of gratitude must go to my Supervisor, Dr. Benhajj Masoud, under whose efficient supervision and intellectual guidance this study work was conducted and to all the , named and unnamed friends, colleagues and all people around me, may I say in the best way I can, GOD BLESS YOU ALL! í AMEN.

I stand responsible and corrected for any mistakes and shortcomings that may be found in this research work.

ABSTRACT

CSR is generally concerned with treating the stakeholders of the firm ethically or in a responsible manner. Stakeholders of the firm are all those who are likely to be affected direct or indirectly by the operations of the said firm, they include; the society, employees of the firm, the government, consumers of the firm's products or services, the environment and individual persons within the proximity of the firm's operational area. Stakeholders exist both within a firm and outside. The two terms "Ethically" and "responsible" means treating stakeholders in a manner deemed acceptable in civilized societies. The word "Social" on the other hand, incorporates economic responsibility of firms to its stakeholders. The wider aim of social responsibility is to create higher and higher standards of living, while preserving the profitability of the corporation, for people both within and outside the corporation. This study focuses on the CSR practices in Tanzania and calls for a legislative action intervention to cater for proper CSR practices in the country. It gives an insight understanding of the concept of CSR, provides for the major two perceptions of CSR as given by scholars, it also accounts for the reasons behind growing interest on CSR issues in our contemporary world. The study gives a brief analysis of CSR in Africa particularly Africa South of Sahara and also provides a detailed account of the current regulatory framework of corporate business in relation to CSR issues in Tanzania. Selected case studies in the banking, manufacturing, telecommunication and mining sectors have been picked to show CSR is practiced in Tanzania. The study also visits other jurisdictions with CSR legislations like India, United Kingdom and United States of America and proposes a CSR Model suitable for Tanzania, based on the social cultural and economic set up of the Tanzanian society.

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The Mining Act No. 14 of 2010

The Occupational Health and Safety Act No. 5 of 2003

The Penal Code , CAP 16 R.E 2002

The Petroleum and Gas Act No. 21 of 2015

The Public Corporations Act No. 2 of 1992

The Tanzania Communication Regulatory Authority Act No. 12 of 2003

The Sale of Goods Act Cap 214

The Standards Act No. 22 of 2009

The Surface and Marine Transport Regulation Act No.9 of 2001

LIST OF ABBREVIATIONS

CRDB	Community and Rural Development Bank
CSR	Corporate Social Responsibility
CAP	Chapter
EAC	The East African Community
Ed	Edition
EWURA	Energy and Water Utilities Regulatory Authority
et al.	et alia (and others)
Ibid	ibidem (in the same place)
Ltd	Limited
MDGs	Millennium Development Goals
MNCs	Malt National Corporations
Op. cit	Opera citato (as cited earlier)
Pp	Page
R	Republic
SADC	The Southern African Development Community
SUMATRA	Surface and Marine Transport Regulatory Authority
TBS	Tanzania Bureau of Standards
TCRA	Tanzania Communication Regulatory Authority
TFDA	Tanzania Food and Drugs Authority
TLR	Tanzania Law Reports
UDSM	University of Dar es Salaam
UK	United Kingdom
UN	United Nations

USA United States of America

www World Wide Website

CHAPTER ONE

INTRODUCTION

CSR as a concept has not taken roots in Tanzania, it is still in its young stage, but as corporate practice in the country it is a common phenomenon nowadays. However, successful CSR in any country in our contemporary world calls for both the right understanding of the concept by all players involved in the corporate business and consequently, the right practices by them. Sometimes if not always, it also calls for government intervention, coordination and support to make the activities timely, tangible and above all beneficial to the surrounding communities and the country at large. When this role of the government is missing, corporations use the vacuum to fill in activities that have little or no use to the general public and yet gain a name so called corporate social responsibility.

As we speak, the important role of the state in coordinating and supporting CSR is missing in Tanzania, and this brings about misconception, misuse and malpractice of what could have been an important and useful concept as far as corporate business is concerned in Tanzania. So far in Tanzania, CSR practices still follow the tradition mode of practice and are which are exclusively within the control of the corporations themselves and CSR activities are optional at the will of the firms, unlike in other jurisdiction where a state as a stake holder, has taken control of the said practices by enacting CSR legislations to mandate CSR activities.

This study examines CSR practices in Tanzania to see if they are compatible with the available laws regulating corporate affairs and sees whether the said laws afford for proper CSR practices in the country. It goes father to call for a specific

legislation for CSR in Tanzania, to cater for the need of modern CSR practices as existing in our contemporary world. The study then concludes by offering recommendations on the proper CSR mode to be adopted by Tanzania when enacting the said CSR legislation considering the social cultural set up the Tanzanian society, so as to avoid the existing CSR mal-practices and pave a way for new and modern version of CSR which will be of mutual benefit to business and the society in Tanzania where the understanding of individual rights is still very low.

1.1 Background to the Study

CSR is not a new practice in the business society. It has been debated and practiced in one form or another for more than 4000 years. The core principle of CSR is that, corporations have responsibilities to the society beyond the profit maximization objectives. The principle has a long historical root; as evidenced in the texts of Vedic, Sutra and Jakarta of Buddhism along with Islamic teachings on ethical admonitions of usury in the society for business gains. The origin of the present day corporate social responsibility concept (CSR), dates back to years of early industrialization. In recent years the phrase Corporate Social responsibility and other related terms such as corporate governance, corporate social investment and corporate social disclosure, have become prominent in the business world as far as corporate affairs are concerned.

Academic thinking and research of modern CSR goes back to 1916, when Clark, writing in the Journal of Political Economy, noted that, 'If men are responsible for their actions, business responsibility must include the known results of business

dealings whether these have been recognized by law or not¹. In 1942, Drucker made a step further in addressing the issue of CSR and argued that “companies have social as well as economic purposes”²

The remarkable developments however, came in 1953 with Bowen publishing his work titled “*Social Responsibility of Business*”, where he pointed out that, business decisions have to follow those lines of actions which are desirable in terms of objectives and values of the society³. Next development in the CSR writings and publications came in 1979 with Carroll publishing his work on CSR. Often represented as a pyramid, Carroll’s concept of CSR identified four key dimensions of corporate social responsibility namely economic, legal, ethical and philanthropic (charitable and generous). This dimension means that corporations also are responsible in showing kindness, generosity and concern towards other people.

According to Carroll, the four elements in the pyramid are not random but they represent the historical evolution of CSR, starting with an overarching concern for making profit, which was complemented over time, with concerns about legal then ethical business practices. The fourth has been added recently and reflects the movement towards the idea that above and beyond legal and ethical business practices, business have moral obligations to be good corporate citizens and concern themselves with pressing world problems beyond direct profit⁴.

¹ Dr. P. Katsoulakos (INLECOM) M. Koutsoudium (ATHENS UNIVERSITY), and L. Williams (INLECOM) “A Historic perspectives of CSR Movement” White paper version 1.0, 20th December 2004

² Peter Drucker, “The Future of an Industrial Man”, 1942, retrieved through www.amazon.com

³ Edward Mabaya, Krisztina . Tihanyi, Michelle Nwoga and Joyce Cacho; The Evolution of CSR at Novus International Inc. International Food and Agribusiness Management Review, Vol. 16, Special Issue 3, 2013.

⁴ Ibid

In the 21st century, the concept of CSR gained momentum due to the challenges brought by the changes especially in environmental issues in the world. Also international organizations such as the United Nations and its agencies engineered the rise of the concept in this era, especially with the introduction of the United Nations Global Compact⁵, which is an initiative to encourage business worldwide to adopt sustainable and socially responsible policies and to report on them. Under the compact, companies are brought together with United Nations agencies, labour groups and civil societies, officially launched in the year 2000, in New York.

However, so far, the historical development of CSR is much traced from the United States of America and Europe as shown above. In developing countries, the concept is still at its infancy. It is said that CSR in these countries was introduced in 21st century, contributed by the developments made by the United Nations as far as CSR is concerned. Changes in development strategies focusing on economic growth moved to incorporate the social dimensions of development, exemplified by the global adoption of the United Nations Millennium Development Goals (MDGs) in developing countries including in Tanzania⁵.

In Tanzania, reforms made by the government in 1980s in economic policies especially on liberalization, deregulation and a reduced state role in the economy marked the birth of CSR in the country. Developing functions traditionally associated with the state such as the provision of basic infrastructure, health, education and access to water and electricity had been taken over by a range of civil

⁵ Newell & Frynas, "Does Corporate Social Responsibility Contribute To Development?", 19th May, 2007, accessed through www.tandfonline.com

society, private sector and market actors upon introductions of said reforms. The private sector as service providers, employers, investors and increasing shapers of developing policies, were considered as a central to tackling poverty hence CSR issues started to emerge and the scope broadened in Tanzania, focusing not only on corporate conduct impinging on social, environment and human rights issues (do no harm) but also to incorporate business as a contributing development actor (do more good).

Today, business firms worldwide, especially large firms are often subject to public evaluations regarding their behavior and actions with their stakeholder groups. For this reason a valuable corporate identity is essential for the firms to ensure their existence in the long run. A strong identity can nurture an overall good reputation, strengthen stakeholder relationships, and increase firm performance. In order to achieve and maintain a strong firm identity, firms often engage in CSR activities. One scholar viewed that, "CSR is now viewed as one of, if not the most important issue of our time"⁶. The concept of CSR is by its nature a very dynamic, multifaceted and of global use. To date, CSR has proved to be one among the contentious matters across the world.

It has been assumed however that, CSR is largely a western phenomenon and is most likely to be found in countries with globally-active companies, democratic political structures, and active civil society organizations⁷ The questions asked here is why

⁶Dr. Judy N. Muthuri in her paper Corporate Social Responsibility in Africa: Definition, Issues and Processes; International Centre for Corporate Social Responsibility; Nottingham University Business School Jubilee Campus, Nottingham NG8 1BB Royal Holloway 28th November 2012 quoting (Hopkins, 2007: xiii)

⁷ Ibid quoting (Baskin, 2006)

CSR literature in general focuses much on the importance of CSR in the first world countries? To what extent do corporations operating in developing countries have CSR obligations in the countries they operate?

Many scholars give simple answers to the above mentioned questions as far as CSR in developing and developed countries is concerned. Their views are based solely on the conventional wisdom which suggests that, CSR is more relevant to corporations operating in the developed countries due to elevated community expectations of socially responsible behavior. In contrast there is also a belief that societal expectation in the developing countries mainly centers on economic growth; therefore relegating CSR to be of lesser importance to the society and the firms operating in developing countries. Against this backdrop, this study discusses the practical situation prevailing in the developing world to broaden our understanding of the perceptions and practices of CSR. Tanzania is used as a test case for this purpose because this country is believed to possess the typical characteristics of a developing country.

1.2 Research Problem

The problem that this study seeks to address is the quest for an appropriate legal regime to govern CSR practices in a manner that reflects the contemporary understanding of CSR which associates it with sustainable business performance and generation of profit in a responsible way, ethically, socially and environmentally. CSR issues started to emerge in Tanzania beginning in 1986, when the government embarked on an adjustment program to dismantle the socialist (Ujamaa) economic controls and encourage more active participation of the private sector in the

economy. The program included a comprehensive package of policies which reduced the budget deficit and improved monetary control, substantially depreciated the overvalued exchange rate, liberalized the trade regime, removed most price controls, eased restrictions on the marketing of food crops, freed interest rates, and initiated a restructuring of the financial sector⁸.

However, to date, in Tanzania, CSR is still widely understood as philanthropy⁹ (õdoing good with part of the profitö) and thus refers to charitable community support projects in most cases. This is contrary to what the contemporary global business environment needs. At the globe stage CSR generally refers to sustainable business performance, for example the principle to generate profit itself in a socially and environmentally responsible way. Community involvement and development is part of this, and includes other aspects, such as labor practices and human rights issues at large. It also covers environmental friendly production methods. A fair and transparent operating practice of the business society is a cone stone of CSR in our contemporary world. Generally, the major reason why CSR practices in Tanzania has remained in their traditional way (philanthropy) is the absence of proper regulatory framework in place for the same. Therefore the corporate community is left to decide what real suits itself to be regarded as part of CSR.

In response to this problem, this study proposes to investigate the option for making CSR practices in Tanzania more formal like in other countries. It carries out a systematic investigation into the possibility and reasons for legislating CSR and its

⁸ https://en.wikipedia.org/wiki/Economy_of_Tanzania

⁹ Karin Mader Corporate Social Responsibility in Tanzania: An Overview; Dar es Salaam, June 2012

practices in the country. The study will also consider the need to provide a clear CSR model that suits the Tanzanian social, cultural and economic environment.

1.3 Objectives of the Study

The general objective of this study is to explore, and provide an insight of, the manner in which corporate social responsibility is enforced and practiced in Tanzania.

Specifically, the objectives of the study are:-

- i. To examine the extent to which CSR is regulated in Mainland Tanzania.
- ii. To examine the CSR practices in mainland Tanzania and the extent to which they reflect the current legal regime if any.
- iii. To propose for a legislative intervention on CSR practices in Tanzania.
- iv. To suggest a CSR model suitable for the Tanzanian society.

1.4 Research Questions

This study is governed by the following questions which seek to explore the manner in which Corporate Social Responsibility is practiced in mainland Tanzania and whether there is need for specific regulation for the enforcement of Corporate Social Responsibility in Tanzania.

- i. Is there any specific law that caters for practices and enforcement of Corporate Social Responsibility in Tanzania?
- ii. What is the effectiveness of the present laws in Tanzania in fostering proper Corporate Social Responsibility practices?
- iii. Is there any mismatch between the existing law if at all and the current practices relating to corporate social responsibility in Tanzania?

- iv. What CSR Model is appropriate for Tanzania's cultural, and social economic set up?

1.5 Literature Review

Argandona and Hoivik¹⁰ as quoted in ANGONET and Kapa's Final Report on "Corporate Social Responsibility Situation in the Tanzania Mining Sector, defines Corporate Social Responsibility as an ethical concept that requires for social responsibility from business community and this has existed since before the industrial revolution. The book speaks about Corporate Social Responsibility practices, but it is silent on regulating the same. However, Argandona & Hoivik commented on the practical definition of Corporate Social Responsibility across European countries and noted that, "one global standard for CSR is unlikely"¹¹.

The book has an important contribution in this research as it gives a light on the practical aspect of Corporate Social Responsibility although it is based entirely on Europe and America. It gives a clear indication that it is not quite possible to have universal standard of Corporate Social Responsibility in the world, giving an example of European culture which is more community-oriented, more dependent on unwritten laws or customs, less results-driven or more appreciative of the intrinsic value of activities and with understanding of rights as freedom to participate in social goods and decision¹². My research will focus mainly on legal and practical aspects of CSR among other issues in Tanzania, where the social circumstances are different and the level of understanding of rights to the people is minimum compared with

¹⁰ Ibid

¹¹ Ibid

¹² Ibid

that referred in the above named literature.

Kwesi and Kwasi in their study titled *Corporate Social Responsibility in Ghana*¹³ gave the experience of Corporate Social Responsibility implementation in Ghana and other developing countries, they demonstrates the focus being directed to environmental and philanthropic issues while legal and ethical business practices are ignored. Their book insists that Corporate Social responsibility be voluntary and should not be regulated by any laws, therefore the authors see no need for regulating Corporate Social responsibility unlike my research which has taken a different view that Corporate Social Responsibility aspects should not be voluntarily done by business enterprises, but should be mandated by laws and regulations especially in developing countries like Tanzania where the level of human rights knowledge among the people is very low compared with that in the developed world.

UN Guiding Principles on Business and Human Rights which were developed in 2011, laid out in some detail the steps required for states and businesses to implement the 'Protect, Respect and Remedy' framework on business and human rights. It reaffirms that states have a duty to protect human rights and prevent and sanction abuses by third parties, including business enterprises; it establishes that companies have a responsibility to respect human rights; and it stresses the need for greater access to effective remedy, both judicial and non-judicial, for victims of business-related human rights abuses¹⁴. The UN Guiding Principles on Business and Human Rights further states that, 'It may well be in the long-run interest of a

¹³ Kwesi and Kwasi 'Corporate Social Responsibility in Ghana', *International Journal of Business and Social Science*, Vol.2. No. 17, retrieved through www.ijbssnet.com

¹⁴ United Nations Human Rights Council; UN Guiding Principles on Business and Human Rights, June 2011

corporation that as a major employer in a small community to devote resources to providing amenities to that community or to improving its government. That may make it easier to attract desirable employees, it may reduce the wage bill or lessen losses from pilferage and sabotage or have other worthwhile effects¹⁵.

This was the first time that the Human Rights Council issued authoritative guidance on business conduct in relation to human rights in the history United Nations as far as business activities are concerned; it also marked the first time that the Council had ever endorsed a normative text that governments did not negotiate themselves. The guidelines provides the way forward towards regulating Corporate Social Responsibility practices by statutory laws in a given jurisdiction, which is the concern of this research as far as Corporate Social Responsibility practices are concerned in Tanzania.

Mullan in his article "The rise of corporate social responsibility is bad for democracy" said "Under the auspices of CSR, businesses are expected to look beyond their day-to-day business objectives and challenges and consider how they can 'do good' for society"¹⁶. What Mullan is saying in this article as quoted above is the assumption behind the need to adopt Corporate Social Responsibility practices that reflect the real need of the society that surrounds business firms. The author in one way or another agrees with the fact that large parts of business practices accept the need for CSR actions in our contemporary world and this fact alone provides a

¹⁵ Milton Friedman, The Social Responsibility of Business is to Increase its Profits, N.Y. TIMES MAG., Sept. 13, 1970, at 32, available at <http://www.rohan.sdsu.edu/faculty/dunnweb/rprnts.friedman>.

¹⁶ Phillip Mullan, "The rise of corporate social responsibility is bad for democracy"

check on firms to operate their business in according to what the surrounding community need. What the author didn't mention is the fact that, the needs of the people in CSR are to be reflected in the existing laws and regulations for CSR in a given jurisdiction. This study will point out the importance of regulating corporate social responsibility practices in Tanzania viz a viz the disadvantages of having the same remain unregulated.

Visser in his article entitled "Corporate Social responsibility in Developing Countries"¹⁷, looks at the challenges facing Corporate Social Responsibility in the developing countries. The author points out the sources of these challenges which are rooted in the Millennium Development Goals (MDGs) set out by the United Nations in 2000. He argues that MDG provides for the classification of Corporate Social Responsibility in Developing countries. The author also looks at Corporate Social responsibility in an African context in general and argues that in Africa the CSR research is heavily dominated by south Africa, though other pockets of research exists in Ivory coast, Nigeria, Zambia, Kenya and also mentioned the available body of knowledge for the same in Tanzania.

In this article, also the author showed clearly the distinction of Corporate Social Responsibility practices views in developing world and that of the developed world, through examining the drivers of Corporate Social Responsibility in Developing countries, where he divided these drivers into; (1) Internal drivers¹⁸, composed of political reforms, cultural and tradition aspects of the people in the developing

¹⁷ Wayne Visser, Corporate Social Responsibility in Developing Countries, accessed through www.worldbank.com

¹⁸ Ibid

countries, social economic priorities, governance gaps, market access and crisis responses. (2) External drivers¹⁹, which are associated with, international standardization, investment incentives, supply chain, stake holder's activism. At the end the writer concludes that, in developing countries, the research on Corporate Social Responsibility issues is much undeveloped. This article however didn't cover about practices of corporate social responsibility in developing countries as well as the laws regulating these practices in these countries especially in Tanzania where my research will concentrate on these issues.

Judy N. Muthui, in her paper titled Corporate Social responsibility in Africa, definitions, issues and process²⁰, gives out and the meaning and history of Corporate Social responsibility in general, tracing back to early industrial civilization. She gives also the structure of Corporate Social Responsibility as it exists in this world that, it is prominent in the western world. She sees Corporate Social Responsibility issues as one of, if not the most important issues of our time²¹.

In the African context, the paper accounts for how Corporate Social Responsibility is defined in Africa and points out that, the definitions for the same are ambiguous, and the said definitions as the author suggests, are interchanged with terms such as corporate social investments and corporate citizenship.²² Corporate Social Responsibility in the continent is complicated by issues of laws, poor governance,

¹⁹ Ibid

²⁰ Dr. J.N. Muthui, "Corporate Social Responsibility in Africa, definitions, Issues and Processes", a paper presented at Royal Holloway, 28th November 2012.

²¹ Ibid

²² Ibid

corruption, and corporate irresponsibility at large²³. In this paper an account for the factors that promote and hinder Corporate Social Responsibility in Africa has been given, and the author points out the following factors;- (1) Organizational specific internal challenges example, lack of resources, low executive management commitment in firms, (2) External resources challenges such as the existence of a clear gap in social services provision as companies embrace most the neo governmental role, (3) Regulatory challenges, example, existence of weak or unenforceable regulations, lack of governmental capacity that in Africa, governments have no explicitly governmental incentives for Corporate Social Responsibility, (4) Lack of cohesive social movement to advance civil rights regulations to enforce proper Corporate Social Responsibility practices.

This study gave out the way forward for further research on how to make Corporate Social responsibility issues and practices in a proper place, through developing regulations and institutional structures for the same in Africa, especially in Tanzania where my research takes as its focal point.

The United Nations, in its report titled Corporate Social Responsibility in Developing Countries, What a Scope for Governmental Actions²⁴ stresses the importance of Corporate Social Responsibility be implemented in developing countries, and opines that, "it is the only opportunity for governments in these countries to change the terms in which they interact with the business community."²⁵

²³ Ibid

²⁴ ECOSOC "Achieving Sustainable Development and Promoting Development Cooperation", accessed through www.un.org.

²⁵ Ibid

This report covers only social issues in exclusion of legal aspects of Corporate Social Responsibility in these developing countries which this research intends to cover. However, the report by the United Nations is important in this study as it points out with clear words that, Corporate Social responsibility in developing countries including Tanzania needs to be developed for the benefit of these countries. The researcher is of the view that regulating Corporate Social responsibility in these countries, particularly in Tanzania, is among the steps of making Corporate Social Responsibility useful in developing countries and that is the reason for researching on this area.

Nieto in his work titled, Why Regulating Corporate Social responsibility is a conceptual and Implies Dead Weight”²⁶, he gave out an overview on the ongoing debate in the continental Europe and the world at large about regulating Corporate Social Responsibility. He looks at the major two schools of thought that provide competing views as follow. The first school of thought believes that, regulating Corporate Social Responsibility practices can be effective in implementing the concept; therefore it is a must thing in a given jurisdiction for firms and business enterprises. The second school of thought takes the opposite view and opposes the regulation of Corporate Social Responsibility aspects, considering Corporate Social responsibility as a voluntary and non-regulated exercise, which must be left to individual corporations.

The author generally shows how difficult it has been to regulate Corporate Social Responsibility practices in many jurisdictions, including developing countries.

²⁶Pablo Nieto, “Why Regulating Corporate Social responsibility is a conceptual and Implies Dead Weight”, The European Enterprise Journal, retrieved through, www.aeca.es

However, the author in this article is in favors of having Corporate Social Responsibility not specifically regulated unlike in this study, the author concentrates on the advantages of regulating CSR. In conclusion, as observed here in earlier, a large body of knowledge currently available addresses CSR from the perspective of the United States and Europe. The knowledge base about this phenomenon in developing countries, Tanzania in particular appears to be limited, though is currently growing.

In Tanzania, Corporate Social Responsibility appears at least in the Mineral Policy of 2010, where it outlines that “the Government will require mining companies to implement credible social responsibility policies and encourage mining companies to involve local communities in setting priorities of community development projects and socio-economic aspects during the life span of their projects”²⁷. Studies conducted so far on Corporate Social Responsibility practices in Tanzania shows that the concept itself is yet to be known to most of the officers in corporate bodies especially in public institutions as stated in the GIZ Report.

The report has it that: “Findings of this study indicate that, except for some companies and business associations, all the Government Ministries, Departments and Agencies (MDAs) interviewed did not have CSR policies in place. This implies a lack of awareness on the part of MDAs and a certain reluctance to take on an active role in CSR development. On the other hand, despite the fact that businesses seem to have been more proactive actors, findings suggest that their policies were developed with a relatively limited view of CSR. The only area that features consistently in

²⁷The Mining Policy of Tanzania, 2010, see also The Tanzania Investment Policy, 1997

these policies is community support, with a much weaker emphasis on the areas of ÷market place, ÷work placeø and ÷environmentø. This limited scope of CSR reflected in most of the Companiesø CSR policies, is likely to have a decisive impact on strategy building stages and implementationö²⁸.

1.6 Research Methodology

1.6.1 Research Design

This Dissertation is based exclusively on the analysis of the available pieces of legislations, regulations, case laws and policies and publications in place as well as secondary sources of data/law, which touches CSR aspects in Tanzania. The most important primary sources of data/law in this study are selected pieces. They include the Investment Act, 1990, the Law of Contract Act [CAP 345, R.E 2002], the Fair Competition Act [CAP 285 R.E 2002], the Employment and Labour Relations Act No. 6 of 2006, the Labour Institutions Act, the Occupational Health and Safety Act, the Environmental Management Act, No. 20 of 2002, The Penal Code , CAP 16 R.E 2002, the Capital Markets and Securities Act, The Mining Act Act, the Tanzania Communication Regulatory Authority Act, the Bank of Tanzania Act, the Companies Act, the Oil and Gas Act, The Sale of Goods Act, the Standards Act, the Energy and Water Utilities Regulations Act, the Surface and Marine Transport Regulation Act. They were all looked into in relation to whether and the extent to which they bear elements of CSR in so far as they are in one way or the other deal with corporate business in Tanzania.

²⁸The GIZ report on Corporate Social Responsibility practices in Tanzania: Insights from an in-depth study Pp 13

Secondary Sources of data/law involved critical reading and analysis of relevant government policies that touch on CSR, textbooks, journals and articles. More importantly, the study also collected and reviewed publications of selected firms in Tanzania with a view of establishing their respective CSR practices. Some of such publications were downloaded from the respected firms' website while others were collected from the offices of such firms. The researcher visited the following libraries during this study for the purpose of collecting data, the Open University of Tanzania, the University of Dar es Salaam Library, and the Institute of Judicial Administration (IJA) library at Lushoto. Electronic sources also were used as sources of information where by the researcher also visited and browsed all the relevant websites and search engines, with relevant information on the CSR issues.

1.6.2 Data Collection Methods, Processing and Analysis

Consistent with the foregoing, the study adopted and employed doctrinal legal scholarship as a means of gathering, processing, processing and analyzing data/legal materials for purposes of answering research questions and meeting the study objectives. As pointed out above, primary and secondary data/law was mainly from libraries, selected firms and websites of the selected firms. The critical reading and analysis of the materials involved legal methods such as legal reasoning tools like induction, deduction and statutory interpretation.

The collected data underwent a serious and an in depth analysis. Such preliminary scrutinizing helped the researcher in the determination of whether or not the data collected tallied with the objectives of the research study. The aforementioned method involved summarizing of key findings from the data collected. The data was

narrowed down to the smallest units that tally most appropriately with the objectives of the study and research questions. This helped the analysis and enabling the researcher to draw proper logical conclusion that represents the actual situations with regard to the research problem. The reason behind adopting this methodology was because the research study is essentially legal.

1.6.3 Area of Study

The study was conducted in the field of corporate law, focusing on the CSR practices in Tanzania.

1.6.4 Research Limitations and Setbacks

The researcher met several obstacles during the collection of the relevant data and to some extent impaired the research. Some of the obstacles included lack of sufficient funds and time needed to complete the study, insufficient literature that covers CSR in Tanzanian context.

CHAPTER TWO

AN INSIGHT INTO CORPORATE SOCIAL RESPONSIBILITY CONCEPTS AND THEORIES

2.1 Introduction

Social responsibility is an idea that has been of concern to mankind for many years. Over the last two decades, however, it has become of increasing concern to the business world. This has resulted in growing interaction between governments, businesses and society as a whole. In the past, businesses primarily concerned themselves with the economic results of their decisions. Today, however, businesses must also reflect on the legal, ethical, moral and social consequences of their decisions.

Corporate Social Responsibility therefore, has come up as a significant issue in both, local and international business community and is progressively becoming a mainstream activity. There is a mounting recognition of the momentous effect on how the activities of the corporate sector have on the workforce, clientele, the society, the environment, competitors, business associates, investors, shareholders, governments and others groups. It is also becoming progressively clear that organizations can contribute to their individual wealth and to overall community wealth by taking into account the effect they have on the entire globe when making decisions.

This chapter will discuss the concept of Corporate Social Responsibility in general. It will give the definitions of the phrase, and identify some of the global factors that necessitate the growth of Corporate Social Responsibility concept, scholarly

perceptions on CSR and also it will look on CSR in Africa South of Sahara. The chapter will also endeavor to show that, the maintenance of high ethical standards in the CSR process is not an option but an obligation for all business in our contemporary world. The main objective of this chapter is to impart an in depth knowledge of CSR to the readers.

2.2 Factors behind Growing Interest in Corporate Social Responsibility

There are several factors which explain the growing interest in corporate social responsibility. The first factor is the new concerns and expectations of citizens, consumers, public authorities, globalization and industrial change. The second factor is the increasing influence of social criteria on the investment decisions of individuals and institutions, as investors or consumers. The third factor is the growing concern about environmental degradation. Some scholars have been advocating for the contribution of corporations in environmental conservation to societies as inevitable due to the fact that, most of corporate activities especially those dealing with manufacturing industries have direct impacts on environment.

With multi-corporations raking in millions, it is only justified that they give back to the community²⁹. As we have seen above, corporate social responsibility involves activities that give back to the community, or ensure fairness in the running of activities.³⁰ Therefore, one can say in general that, environmental degradation should be one of the most important concerns as far as Corporate Social

²⁹ Crowther and Rayman-Bacchu, "Corporate Social Responsibility and Ethics" Pp 69, retrieved through www.writemypapers.org

³⁰ Ibid

Responsibility activities are concerned, because environmental conservation has become an increasingly significant for everyone in society today.

2.3 Definitions of Corporate Social Responsibility

The broad range of definitions and theories shows that Corporate Social Responsibility means different things to different people. But all definitions share the belief that companies have a responsibility for the public good. However other scholars emphasize different aspects of Corporate Social Responsibility, such as environmental management, human and workers' rights, transparency, compliance, and stakeholder management³¹. The present-day conception of corporate social responsibility (CSR) insists and implies that companies voluntarily integrate social and environmental concerns in their operations and interaction with stakeholders. The following are some of the definitions of the Corporate Social Responsibility as put forward by different scholars and organizations:-

The European Commission defines CSR as 'a concept whereby companies decide voluntarily to contribute to a better society and a cleaner environment.'³² It is related to complex issues such as environmental protection, human resources management, health and safety at work, relations with local communities, relations with suppliers and consumers. It has to do with a according to Argandona and Hoivik³³ Corporate Social Responsibility is an ethical concept that requires for

³¹ (Garriga & Melé 2004; Blowfield & Murray 2008) Quoted by Newell & Frynas in their essay 'Does Corporate Social Responsibility Contribute To Development?' published by the DEVELOPMENT AID, May 09;2007

³² (European Commission, 2001, p. 5) Quoted by Manuel Emílio Mota de Almeida Castelo Branco in 'Essays on Corporate Social Responsibility and Disclosure', Universidade do Minho, November 2006

³³ Op cit.

social responsibility from business community and this has existed since before the industrial revolution. "Company's sense of responsibility towards the community and environment,(both ecological and social) in which it operates. Companies express this citizenship (i) through their waste and pollution reduction process, (ii) by contributing to educational and social programs and (iii) by adequate returns on the employed resources"³⁴

The World Business Council for Sustainable Development refers Corporate Social Responsibility as "the continuing commitment by business to behave ethically and contribute to economic development while improving the quality of the workforce and their families as well as the local community and society at large"³⁵. According to Kwesi and Kwasi³⁶, who defined Corporate Social Responsibility in the context Ghana and other developing countries, demonstrated the meaning and focus being directed to environmental and philanthropic issues while legal and ethical business practices are ignored.

Jones defined the term Corporate Social responsibility to mean "The notion that corporation have an obligation to constituents groups in society other than stockholders and beyond that prescribed by law or union contract, indicating that a stake may go beyond mere ownership."³⁷ Corporate Social Responsibility as defined by Khoury means "An Overall relationship of the corporation with its stakeholders"³⁸. This includes customers, employees, communities, owners/

³⁴ Op cit

³⁵ Op cit.

³⁶ Op cit

³⁷ Syed Kamran Hameed, "Corporate Social Responsibility (CSR) Theory and Practice in Pakistan" (Jones, 1980; (as cited by Dahlsrud, 2006, p. 8)

³⁸ Ibid

investors, government, suppliers, and competitors. Elements of social responsibility include investment in community area, employee relations, creation and maintenance of employment, environmental stewardship, and financial performance³⁹.

Kilcullen and Kooistra provided on Corporate social responsibility that "The degree of moral obligation that may be ascribed to corporations beyond simple obedience to the laws of the state."⁴⁰ Foran on the other hand defined Corporate Social Responsibility as a "Set of practices and behaviors that firms adopt towards their labour force, and the environment, in which their operations are embedded, also towards authority and civil society."⁴¹

For the purpose of this research paper, Corporate Social Responsibility is defined as voluntary social, cultural, ethical, humane and environmental initiatives taken by the company that exceeds legal requirements. This is a definition chosen from my own understanding and interpretation of what the subject is. This is somehow shorter, and perhaps a wider definition as compared to other definitions above stated. This definition in the researcher's view manages to capture many of the core ideas that are explained above, because, despite the many definitions of Corporate Social Responsibility, the concept does comprise some core principles as follows:-

- i. Corporate Social Responsibility is generally considered to be voluntary and is pointed out as activities that goes beyond what the laws of a given jurisdiction provide.

³⁹ Ibid

⁴⁰ Ibid

⁴¹ Ibid

- ii. Corporate Social Responsibility is about internalizing or managing externalities, e.g. cleaner technology that reduce pollution or management of human right violations in workforce and the surrounding communities. For example a company that voluntarily chooses to invest in cleaner technology may avoid pollution fines where regulation forces the company to internalize the cost of the externalities.
- iii. There should be a multiple stakeholder orientation to emphasize on company's responsibilities towards shareholders, consumers, employees, suppliers, and local communities and all related stake holders.
- iv. Alignment of social and economic responsibilities describes how Corporate Social Responsibility should not conflict with profitability or profit making process.
- v. Corporate Social Responsibility is for many scholars , a way to show practices and values of the firm to the society .
- vi. Real "Corporate Social Responsibility" is about going beyond philanthropy, hence many emphasize that Corporate Social Responsibility should be integrated in the core business of the company and be more than solely philanthropy and community projects.

In the existing range of definitions and ideas as described above, the researcher's perspective of Corporate Social Responsibility concept is that, Corporate Social responsibility is a voluntary social, cultural, ethical, humane and environmental initiatives taken by the company that exceeds legal requirements. This definition carries some if not all of the most important ideas of Corporate

Social Responsibility that should be incorporated in the subject as far as the concept itself is concerned.

2.4 Scholars' Perspectives on CSR

Corporate Social Responsibility studies has so far taken different perspectives as far as the subject is concerned, however, two major viewpoints still hold the leading position as far as Corporate Social Responsibility's studies is concerned. These views are (i) the 'classical view', based on neoclassical economic theory, defined in purely economic profit making terms, focusing on the profit of the shareholders, (ii) the 'stakeholder view', based on stakeholder theory, holds that companies have a social responsibility that requires them to consider the interests of all parties affected by their actions.

2.4.1 Classical View

The classical view of Corporate Social responsibility is further divided into two branches: the 'pure profit-making view'; and the 'constrained profit-making view'. The 'pure profit making view' is exemplified by Carr's (1968) position. According to Carr, 'a company has the legal right to shape its strategy without reference to anything but its profits, so long as it stays within the rules of the game legally set out by law'⁴². The distinctive feature of this perspective is that some degree of dishonesty is acceptable because business people have a lower set of moral standards than those in the rest of society. He compared the ethics of business to those of the poker game. The lower set of moral standards permits

⁴² Manuel Emílio Mota de Almeida and Castelo Branco; Essays on Corporate Social Responsibility and Disclosure; Universidade do Minho; November 2006

what he calls "business bluffing" which includes things like conscious misstatements, concealment of pertinent facts, or exaggeration. Deception is probably a necessary component of a strategy to be successful in business, and thus business people cannot afford to be guided by ethics as conceived in private life.

The "constrained profit-making view" as put forward by Friedman (1998), who believed that, companies should behave honestly: that is, they should not engage in deception and fraud. Friedman argues that, the purpose of the company is to make profits for shareholders. The only responsibility of business is to use its resources to engage in activities designed to increase its profits so long as it stays within the rules of the game, because managers are agents of the shareholders and they have a responsibility to conduct business in accordance with their interest, that is to make as much money as possible and maximize their wealth.

Under this view, because shareholders are the owners of the company, therefore the profits belong to them, requiring managers to pursue socially responsible objectives may be unethical, since it requires managers to spend money that belongs to other individuals. Asking companies to engage in social responsibility activities is considered to be harmful to the foundations of a free society with a free-enterprise and private-property system according to this perspective, Therefore, social problems should be left for the state to address⁴³.

⁴³ Milton Friedman, The Social Responsibility of Business is to Increase its Profits, N.Y. TIMES MAG., Sept. 13, 1970, at 32, available at <http://www.rohan.sdsu.edu/faculty/dunnweb/rprnts.friedman.html>.

On the hand, the classical view is justified mainly on the basis of neoclassical economic theory arguments using notions such as the free market, economic efficiency, and profit maximization. This view may be grounded in three different, but complementary ways: Firstly, shareholders are the owners of the corporation, and managers have no right to act on their own preferences, to make discretionary decisions or to use company's resources to further social goals which cannot be shown to be directly related to profits; Secondly, Companies' role is to produce wealth, therefore, to pursue socially responsible objectives may impair their performance in that role as it interferes with efficient resource allocation; Thirdly, other organizations exist to deal with the kind of function requested by socially responsible actions, such as government, and that companies and managers are not equipped to perform such role.

Generally, proponents of the classical theory believe that. Corporate Social Responsibility is often useful in generating long-term owner value. For some time the arguments that have been presented for strategic Corporate Social Responsibility arise, at least in part, from the classical idea that the sole objective of business is to maximize shareholder's wealth and that a company should engage in Corporate Social Responsibility activities only if it allows value to be created. They argue that decisions regarding Corporate Social Responsibility should be treated by managers "precisely as they treat all investment decisions." Some authors argue that Corporate Social Responsibility "should be considered as a form of strategic investment"⁴⁴ as insisted in this perspective of Corporate Social Responsibility.

⁴⁴ Ibid

2.4.2 The Stakeholder View

Stakeholder theory is based on the notion that, beyond shareholders there are several agents with an interest in the actions and decisions of companies. Stakeholders are "groups and individuals who benefit from or are harmed by, and whose rights are violated or respected by, corporate actions."⁴⁵ In addition to shareholders, stakeholders include creditors, employees, customers, suppliers, and the communities at large. Stakeholder theory asserts that companies have a social responsibility that requires them to consider the interests of all parties affected by their actions.

Management should not only consider its shareholders in the decision making process, but also anyone who is affected by business decisions. In contrast to the Classical view, the stakeholder view holds that "the goal of any company is or should be the flourishing of the company and all its principal stakeholders." It is important to stress that share holders are stakeholders and that dividing the world into the concerns of the two is "the logical equivalent of contrasting apples with fruit"⁴⁶ Many interesting typologies of stakeholders have been proposed. Clarkson's typology of stakeholders is the most widely cited and accepted. Clarkson (1995) distinguishes primary and secondary stakeholders⁴⁷. Primary stakeholders are those "without whose continuing participation the corporation

⁴⁵ Manuel Emílio Mota de Almeida and Castelo Branco; Essays on Corporate Social Responsibility and Disclosure; Universidad do Minho; November 2006, see also MILTON FRIEDMAN, CAPITALISM AND FREEDOM 133 (University of Chicago Press, 1962). See also Craig M. Sasse & Ryan T. Trahan, Rethinking the New Corporate Philanthropy, 50 Bus. HORIZONS 29, 34 (2007), as quoted by Antonio Vives in "Corporate Social Responsibility: The Role of Law and Markets and the Case of Developing Countries"; Chicago-Kent Law Review Volume 83 Issue 1 Symposium: Law and Economic Development in Latin America: A Comparative Approach to Legal Reform Article 12, 2008

⁴⁶ Ibid

⁴⁷ Ibid

cannot survive as a going concern⁴⁸ (shareholders, investors, employees, customers, suppliers, governments and communities that provide infrastructures and markets, whose laws and regulations must be obeyed, and to whom taxes and other obligations may be due⁴⁹, whereas secondary stakeholders are those who influence or affect, or are influenced or affected by, the corporation, but they are not engaged in transactions with the corporation and are not essential for its survival.⁵⁰

Some of the problems with stakeholder theory as proposed by some scholars lie in the difficulty of considering Mute stakeholders (the natural environment) and Absent stakeholders (such as future generations or potential victims). The difficulty of considering the natural environment as a stakeholder is real because the majority of the definitions of stakeholder theory usually treat them as groups or individuals, thereby excluding the natural environment as a matter of definition because it is not a human group or community as are, for example, employees or consumers argue that only humans can be considered as organizational stakeholders and criticize attempts to give the natural environment a stakeholder status⁵¹.

Regarding stakeholder theory, scholars like Donaldson and Preston (1995) argue that it can be used in three different ways: Firstly, it is descriptive/empirical, when it is used to describe, and sometimes to explain, specific corporate characteristics and behaviors. Secondly, it is instrumental, when it is used to identify the connections,

⁴⁸ Ibid

⁴⁹ Ibid

⁵⁰ Ibid

⁵¹ Ibid

or lack of connections, between stakeholder management and the achievement of traditional corporate objectives. And thirdly it is normative, when it is used to "interpret the function" of companies and identify "moral or philosophical guidelines" that should be followed with regard to their "operation and management."

The empirical and the instrumental uses are interrelated inextricably. This suggests a difficulty in relating empirical and normative endeavors. Whereas the former is descriptive in nature and attempts to analyse the way things are, the latter is prescriptive and aims to prescribe how things should be. The normative and instrumental uses probably entail the existence of two conflicting approaches to stakeholder theory. The normative approach to stakeholder theory views stakeholders as "ends"⁵². While the instrumental approach is interested in how stakeholders can be considered in a way that enhances financial performance and efficiency, and thus regards stakeholders as "means"⁵³.

The instrumental approach to stakeholder theory views stakeholders' interests as factors to be taken into account and managed while the company is engaged in maximization of shareholders wealth. The underlying argument is that stakeholders' interests are considered as means for higher level goals, such as profit maximization, survival and growth. Referring to the instrumental use, as stated by Jawahar and McLaughlin⁵⁴, consider that a "fundamental assumption is that the ultimate objective of corporate decisions is marketplace success, and stakeholder management is a means to that end."

⁵² Ibid

⁵³ Ibid

⁵⁴ Ibid

Generally, there are various perspectives of viewing Corporate Social Responsibility as put forward by different scholars; however most of these views share ideas with either the classical views or the stake holder's views in one way or another. The "social activist perspective" for example being one of the views, shares with stakeholder theory the notion that, companies are accountable to all other stakeholders beyond shareholders. Hence, they should behave to actively promote social interests, even when it is not expected or demanded by society. Companies should be involved actively in programs which can ameliorate various social ills, such as by providing employment opportunities for everyone, improving the environment, and promoting worldwide justice, even if it costs the shareholders money.⁵⁵

2.5 Relevance of Corporate Social Responsibility in Africa

Corporate Social Responsibility (CSR) in the African context has not received much attention from the academic sector for many years, though the situation is different in recent years⁵⁶. Regardless of it being not well researched but still we have many companies operating in the continent, therefore making CSR a necessary issue and relevant, to be discussed in the context suitable to the continent itself. Africa is specific in a sense because it is a continent seen to be marked by conflicts, environmental degradation, and dire poverty, thus presenting the corporate sector with the ethical dilemma of prioritising their overall social responsibilities in line with local needs while maintaining the need to remain globally competitive.

⁵⁵ Ibid

⁵⁶ Renitha Rampersad and Chris Skinner "EXAMINING THE PRACTICE OF CORPORATE SOCIAL RESPONSIBILITY (CSR) IN SUB-SAHARAN AFRICA" Corporate Ownership & Control / Volume 12, Issue 1, 2014, Pp 731

In order to shed some light on this issue, Visser revisited Carroll's CSR pyramid from an African perspective, given Africa's low levels of development and high unemployment rates. Visser argued that the economic responsibilities of leading companies in Africa should be at the core of their CSR priorities, followed by philanthropic, legal and ethical responsibilities⁵⁷. As noted earlier, CSR in Africa still lack sufficient literature. But the future is promising, because of the increase of corporate investments and operations in the continent and governments involvement in corporate affairs, CSR issues have started to gain momentum in many African countries.

2.6 Corporate Social Responsibility in Sub Sahara African Countries

In Sub-Saharan African region, under pressure from social movements, public opinion and changing environmental laws, some multinationals have finally agreed to internalize CSR in their activities. Generally, multinationals try to ensure that their activities comply with international standards and the rights of local communities. To do this, they often promote the activities of social development (health, education, human rights, etc.) and try to fight poverty in their areas of settlement. However, the ambiguities found sometimes hamper the scope of CSR practices, thus calling into question their credibility⁵⁸.

In the sub Sahara African region, CSR appear to be more actively practiced most in five countries. These countries are South Africa, Kenya, Nigeria, Ghana and Cameroon⁵⁹. It is also emerging in other countries like Tanzania and other countries

⁵⁷ Ibid. Pp732

⁵⁸ Ibid

⁵⁹ Ibid

found in this region. In each of the five countries named here in above, CSR activities are initially still of a philanthropic nature and mainly focused on donations or voluntary contributions to communities in areas of identified need such as education, healthcare, poverty alleviation and community development. Most of the CSR activities in these countries are now increasingly aligned with core business on the one hand and societal priorities on the other. In most cases current initiatives are budgeted for and properly managed and where CSR activities are strategically chosen to be aligned with core business purposes, they are explicitly policy driven, anchored in relevant legislation and aligned with recognised benchmark standards. In many instances collaboration is being sought with industry forums, government or global institutions and reporting is common practice.

South Africa emerges as the leader in this field. Indeed South Africa has, through the King II and King III initiatives⁶⁰, influenced global CSR practice as ideally integrated within formal financial reporting procedures⁶¹. Even in this country however these gains have clearly failed to make a major impact on the South African society. We still see conflicts between corporations and the people surrounding the operational areas of these corporations especially in mining areas. This is an evidence of poor CSR practices in South Africa, just like in other countries found in South of Sahara.

In general, CSR in Sub Sahara countries is still practiced in a westernised way and understanding. This is much influenced by the influx of Western companies flowing

⁶⁰ Ibid

⁶¹ Ibid

to invest in the region. The region has yet to adopt or develop its own model of CSR practices that reflects the social, cultural and economic set up of the people within the region. Above all, the absence of CSR legislations in Sub Sahara African countries have contributed to the great extent in the absence of clear definitions and practices of CSR in an African context with the region.

2.7 Conclusion

In general, CSR has no universal definition. It has been defined differently by various scholars. However, all definitions agree on one thing, that, corporations have to contribute to the social economic developments of their surrounding society including its workforce. On the other hand, scholars are divided as to whether corporations are duty bound to contribute to the welfare of their surrounding communities. Some scholar have the opinion that, corporations have no duty to contribute to social welfares as this duty defeats the primary objectives of corporate business , and that is to make profit only(Profit making view), but the other school imposes the duty to corporation to contribute part of their profit for social economic development in their operational area. They base their opinion to the fact that, corporations should have regard beyond the share holders, and therefore they should take on board of all stakeholders in their operational programmes.

The study has also indicated that, the ongoing discussions and arguments on the role of business in development-, is a direct result of the new concerns and expectations of citizens, the increasing environmental concerns and the need for pro-poor developments strategies within the communities. These are the major factors that have led to the concept and implementation of Corporate Social Responsibility

programs to receive an increased attention globally. With the spread of globalization, intensification of competition and increased ecological footprint of Multi National Corporations, particularly in developing countries, the activities of businesses which focus on both social and environmental impacts have increased as an integral part of core business operations and management within the firms operating in both developing and the developed countries.

However the concept of Corporate Social Responsibility still finds its roots mainly in the Western world, particularly in the United States and Europe, where individualism and arms-length relationships are predominant. In Africa especially in Sub Saharan African countries, CSR debates and the literature at large have tended to follow developments in the West. This observation invites some immediate questions on the present Corporate Social Responsibility practice model as it is debated today; if it does effectively apply to nonwestern countries.

Other questions include; which elements of the Corporate Social Responsibility model are more essential to make the model as a whole function better in the developing world? Is there any missing Corporate Social Responsibility element which is unique to these countries? These questions need to be addressed in order to develop a CSR model that applies in the African content if not in the Sub Saharan African region in general. The reason for this is the fact that, although we may have the core principles of environmental management, social responsibility and sustainable development as part of any Corporate Social Responsibility model at the globe level, but countries in the developing world especially in Africa may have different priorities depending on national culture, level of economic development

and nature of state-business relationships, therefore we need a CSR model that caters for the African society.

Generally, CSR globally is growing as part of how firms should conduct business while contributing to the welfare of the surrounding communities. This emerging perception of CSR is influenced most by the consumers. Since the cost of gathering information continues to decline, meaning consumers have more information about how firms behave. As consumers become more knowledgeable, they will continue to press companies to enact CSR policies. Therefore, the pertinent question regarding CSR is not whether firms should or should not engage in CSR, but rather what type of CSR is most beneficial, and this could ultimately be of greater benefit to stakeholders than isolated CSR initiatives that appear to be dominant in our contemporary world.

CHAPTER THREE

THE LEGAL FRAMEWORK FOR CORPORATE BUSINESS AND CORPORATE SOCIAL RESPONSIBILITY IN TANZANIA

3.1 Introduction

Corporate business is very essential in social economic development of many countries all over the world. On the other hand, Corporate Social Responsibility (CSR) has been gaining momentum due to growth and expansion of the corporate operations. Employees, government representatives, legislatures, judicial bodies, academic scholars, NGOs and international organisations have been contemplating which role business firms have to play in regard of CSR. Laws have been drafted that promote socially responsible behaviour by companies. International organisations have promoted principles.

Companies have adopted CSR mission statements and programmes, and are sharing their efforts through sustainability reports. NGOs have contacted companies and pointed out how they can operate in a more responsible way, and academics have analysed all. To ensure that, corporate business is carried out responsibly, laws have been enacted to regulate it. Basically, the regulatory framework of corporate business is very wide, it covers multiple areas such as incorporation of the firm, tax issues, operations, management and other compliance issues depending on the type of business involved in a particular firm.

As for CSR as a subject, its legal aspect is linked with many areas of law, including international law, corporate law and corporate governance, tax law, tort law and contract law, investment law, procedural law, labour law, environmental law,

criminal law and all other laws regulating the cooperate sector for protecting consumer rights. All of these areas contribute importantly to the development of CSR legal regime. The link is very essential as it helps much in responding to the serious challenges that this world faces as far as corporate business operations are concerned. To date, there still exist a debate in many countries regarding the legislation of CSR activities, and most of the countries are still reluctant to impose direct laws for regulating CSR. That is the reason why CSR is linked to many law subjects when it comes to regulating the same.

This chapter takes a look at the legal regime for corporate in relation to CSR regulation in Tanzania. In so doing arguments in favour and against regulation of CSR are briefly examined. A success story of CSR regulation in other countries (India in particular) is considered in relation to a consideration of a model that Tanzania should adopt in line with enacting the CSR legislation.

3.2 Legal Regime for Corporate Business in Tanzania

The purpose of regulating corporate business in Tanzania like in any other jurisdiction is to ensure that, companies conduct their business in a manner that complies with the laws of the country. Regulation of corporate business also ensures the protection and safeguard of citizens' rights, that corporate operations should not harm the surrounding communities. Through regulating corporate business, these laws regulate other corporate issues as well including Corporate Social Responsibility in one way or another. Corporate business in Tanzania is regulated by different laws depending on the nature of the business. Below is an analysis of the legal framework for corporate business in Tanzania.

3.2.1 The Executive Agencies Act No. 30 of 1997

The Business Registrations and Licensing Agency (BRELA) is an Executive Agency under the Ministry of Industry and Trade responsible for business administration and regulation of the business laws. It was established under the Government Executive Agencies Act No. 30 of 1997⁶². Within the agency (BRELA) there we have the office of registrar of companies. The registrar of companies has supervisory powers over all companies operating and those with a place business in Tanzania are bound as they are duty bound to follow all directives given by the Agency through the office of registrar of companies as far as corporate business concerned.

3.2.2 The Companies Act, No 12 of 2002

The Act provides for the requirements needed to incorporate a company in mainland Tanzania and for registration of a place of business for those companies incorporated outside mainland Tanzania⁶³. The same law provides for the capacity and formalities of doing business of companies during their operations. The law clearly provides that, the capacity of the company should not be limited by its Memorandum of Association, therefore it can do all other acts that are incidental to its business operations⁶⁴. This law also gives power to the registrar⁶⁵ of companies and members⁶⁶ of the company to inspect or investigate into the affairs of the company if they have a reason to believe that, the company is run contrary to the provisions of the said law or any other law enforce during the existence the company in question.

⁶² S.3

⁶³ The Companies Act, No 12 of 2002. S. 3, 14, 433 and 434

⁶⁴ Ibid. S. 35-44

⁶⁵ Ibid. S. 215

⁶⁶ Ibid. S. 217

The Act also talks about how companies should be managed⁶⁷. It emphasizes on the management especially directors⁶⁸ to act in good faith always when holding the management office of the company for the best interest of its members. In general this law was enacted to provide a regulation and control to companies, business associations and related matters from incorporation up to the date of dissolution. It is the major statute as far as companies operations are concerned both public and private companies operating in Tanzania.

3.2.3 The Public Corporations Act, No 2 of 1992 [R.E 2002]

Public Corporations are those corporations which are controlled by the government as a sole shareholder or those owned jointly between the government of the United Republic of Tanzania on one hand and a specified investor on the other hand. The Public Corporations Act mainly provides for the establishment, management and streamlining of Public corporations in Tanzania. The law gives power to the President⁶⁹ of the United Republic of Tanzania to establish Public Corporations by an order published in the government gazette. The said order shall specify the purpose and functions of the corporation so established. The law continues to provide for the administration and management of Public Corporations and in general the Public Corporations Act emphasizes that, Public Corporations should operate according to the sound commercial principles⁷⁰.

3.2.4 The Capital Markets and Securities Act, No 5 of 1994

The Act established a Capital Markets and Securities Authority (CMSA)⁷¹ for the

⁶⁷ Ibid. S. 110-127

⁶⁸ Ibid. S. 182

⁶⁹ The Public Corporations Act. No.12 of 1992.[R.E 2002] S. 4

⁷⁰ Ibid S. 7

⁷¹ The Capital Markets and Securities Act, No 5 of 1994.S.6

purpose of promoting and facilitating the development of an orderly, fair and efficient capital market and securities industry in Tanzania. It also made provisions with respect to stock exchanges⁷², stockbrokers and other persons dealing in securities, and for connected purposes. The authority has powers to register offer documents⁷³ offered by the companies before they are issued to the general public for subscription of shares.

3.2.5 The Tanzania Investment Act, No. 26 of 1997

The Investment Act mainly regulates investment issues in Tanzania. It was enacted for the purpose of making favourable conditions for investors to invest in the country. The act established a Tanzania Investment Center⁷⁴. The center is an agent for the government as far as investment issues are concerned. The functions of the center are to facilitate, promote and coordinate investments in Tanzania⁷⁵. It also advises the government on proper investment policies to be made. The Tanzania investment center also provides support to local people to invest and engage in local investment and entrepreneurial programmes⁷⁶.

3.2.6 The Income Tax Act, Cap 332 of 2004

The Income Tax Act regulates business operations in Tanzania through imposition of taxes on the income generated from the business and investment⁷⁷. According to this law, a corporation is liable to taxation separate from its shareholders⁷⁸. The law imposes various taxes into corporations such as the corporate tax, property tax which

⁷² Ibid S. 25

⁷³ The Companies Act. No 12 of 2002. S. 49

⁷⁴ The Tanzania Investment Act, No. 26 of 1997. S. 4

⁷⁵ Ibid S.5

⁷⁶ Ibid S.6

⁷⁷ The Income Tax Act, Cap 332 of 2004. S 8 and 9

⁷⁸ Ibid S.53 and 54

is levied from the properties owned by the company. It goes far by declaring offences⁷⁹ and imposing penalties to persons including corporations who will be found guilty of contravening the law of taxation in Tanzania.

3.2.7 The Fair Competition Act, No. 8 of 2003

The Act aims at promoting and protecting effective competition in trade and commerce in Tanzania, it also protects consumers from unfair and misleading market conducts by business operators. It prohibits restrictive trade practices, like making ant competitive agreement, making agreement on price fixing, agreement on collective boycott, agreements regarding collusive bidding or tendering, it also prohibits the misuse of market powers by dominant market actors for the purpose of distorting competition, and lastly it prohibits business operators to engage themselves in misleading or deceptive conducts in business practices⁸⁰.

Unfair business practices conduct such as use of harassment or coercion in business operations, acts of bait advertisement, accepting payment by business people without intention of supplying the intended goods is prohibited⁸¹. This law also stipulates certain practices as offences contrary to the said law; therefore it imposes penalties for such offences and provides remedies to those injured by such offences⁸². This law also establishes a Fair Competition Commission which is an independent body. Its functions include promotion and enforcement of compliance of the law by business operators⁸³. The appeals from the commission are referred to the Fair

⁷⁹ Ibid S. 104-109

⁸⁰ The Fair Competition Act, No. 8 of 2003. S 8,9,10 and 15

⁸¹ Ibid S. 22-24

⁸² Ibid S. 57-60

⁸³ Ibid S. 61-82

Competition tribunalö.⁸⁴

3.2.8 The Banking and Financial Institutions Act, No. 5 of 2006

It provides for comprehensive regulation of the banking business and financial institutions at large with the aim of maintaining the stability, safety and soundness of the financial system for reduction of risk of loss to depositors and all other consumers of banking and financial services. The prohibits banks and financial institutions to operate without license, using the word òbankö without having a valid license is prohibited and also according to this law, a person is not allowed to own more than 20% of voting rights in a banking business therefore ownership of banks is restricted by the lawö⁸⁵. The same law also provides for the supervision, coordination and control mechanisms of banksö⁸⁶. It stipulates which activities are permissible to be done by banks and those which are not permissibleö⁸⁷. The same law provides for the liquidation procedures of banks, seizure and reorganization of banksö⁸⁸.

3.2.9 The Law of Contracts Act, Cap 345 [R.E 2002]

This is the major legislation which regulates commercial contracts in general in Tanzania. It offers a comprehensive mechanism on how contracts are entered by persons whether natural or legal persons like corporations, the performance of the said contracts, consequences of breach of contracts and the remedies there inö⁸⁹.

⁸⁴ Ibid S. 83-91

⁸⁵ The Banking and Financial Institutions Act, No. 5 of 2006. S. 6

⁸⁶ Ibid S 31-35

⁸⁷ Ibid S. 24-30

⁸⁸ Ibid S.50-62

⁸⁹ The Law of Contracts Act, Cap 345 R.E 2002.S.3-75

3.2.10 The Sale of Goods Act, Cap 214 [R.E 2002]

This law regulates the sale of goods (movable properties) between persons (legal and natural persons) to such agreement of sale. Like the law of contract, this law generally provides regulations regarding to a contract of sale of goods. It provides for the formalities to be followed when entering into the sale of goods agreement, the consideration involved in the agreement, the subject matter of the said contract, conditions and warranties involved, the effects of the sale of goods contracts. This law also imposes duties to both sellers and buyers, it also provide for the remedies for breach of contracts⁹⁰

3.3 Regulation of CSR in Tanzania

Basically, Corporate social responsibility is an important part of the regulatory mix, encouraging compliant and beyond compliance behavior⁹¹. Regulation of CSR may be direct or indirect. By direct it means enacting or having a CSR legislation that makes CSR mandatory for business community to comply with. Indirect regulation of CSR means a country will have no CSR legislation, but it has pieces of legislations that contain provisions touching the key elements of CSR, which are the workforce protection, environmental protection, corporate disclosure or transparency, consumer protection and emphasis on community programs.

So far, Tanzania has no legislation that caters for CSR practices in the country. However there are various laws in place which provide a mechanism for CSR regulation in different sectors through touching the key elements of CSR as earlier

⁹⁰ The Sale of Goods Act, Cap 214 R.E 2002. S 6-48

⁹¹ Dr Noeleen Mcnamara: "Corporate social responsibility and compliance: transnational mining corporations in tanzania" MqJICEL (2013) Vol 9(2),

mentioned above, although they do not directly regulate it, therefore it is an indirect mode of CSR regulation. Tanzania through these laws has introduced regulatory bodies in each sector to control corporate operations in the country. The aim of these regulatory bodies is mainly to protect consumers, workforce and environment from being harmed by corporate activities and products. Also regulation of CSR is done through the penal laws which provide for penalties on corporations or their directors in case they commit criminal acts during their operations.

However, the current CSR regulatory framework as it is in Tanzania, doesn't cater for the problems associated with poor CSR practices occurring in the country. The said regulatory framework is weak and generally poor as it doesn't conform to the modern CSR regulation occurring in our contemporary world. Below is a demonstration of how CSR issues are regulated in Tanzania and the weaknesses associated with the said regulation.

3.3.1 Protection of the Workforce

Protection of the workforce is among the components of CSR worldwide. In Tanzania, we have a number of legislations which deal with protection of the workforce. The Employment and Labour Relations Act, No 6 of 2004, is the major legislation as far as employment issues are concerned in Tanzania. This law provides for basic employment standards⁹² to be followed by all employers in the country, it gives a framework for collective bargains between employees and employers. Above all, the law existed with a mechanism of preventing and settling employment

⁹² The Employment and Labour Relations Act, No. 6 of 2004. Part II. S. 12-14

disputes⁹³.

The law maintains that, employers should observe employees rights such as rights to have an employment contract with all other employment entitlement like remunerations, leave, right to join workers associations⁹⁴ (trade unions), rights to fair treatment at working areas, the law prohibits unfair acts to workers like unfair terminations⁹⁵. This law prohibits child labour, working in night shifts for children and pregnant women are also prohibited. This law emphasis on the right to work and enjoy fair remuneration⁹⁶ as provided in the constitution of the United Republic of Tanzania of 1977. Corporations as employers are duty bound to observe the law and maintain their work force in good conditions during the existence of the contract of employment between corporations and their employees.

The Labour Institutions Act, No. 7 of 2004 is another legislation to be looked into in the protection of the workforce as a pillar of CSR. This law protects the workforce in Tanzania by establishing labour institutions. All the established labour institutions are for the purpose of protection, promotion and enforcement of labour rights and preservation of good relationship between employers and employees in working areas. The labour Institutions Act established the following institutions; First is the Labour Economic and Social council with the function among others, is to promote economic growth of employees⁹⁷.

⁹³ Ibid S. 74

⁹⁴ Ibid S. 9 and 10

⁹⁵ Ibid .S. 36-40

⁹⁶ Art. 22 and 23

⁹⁷ The Labour Institutions Act, No. 7 of 2004. S. 3-11

Secondly, Commission for Mediation and Arbitration⁹⁸. The Commission for Mediation and Arbitration settles employment disputes and gives arbitral awards in case the mediation fails among the parties to the mediation. Thirdly, is the Essential Services Commission⁹⁹. Its functions are to designate essential services and to determine disputes about whether or not an employer or employee is engaged in essential services. The fourth institution established is the Wage Board¹⁰⁰. The Wage Board conducts investigations on minimum wages and makes recommendations for the same to the Minister responsible for labour. It also promotes collective bargains between employers and employees through their registered trade unions.

Labour Administration and Inspection Department¹⁰¹ which is led by a Commissioner or Deputy labour commissioner. It also consists of labour officers who have duties of ensuring employers comply with the labour standards as given in the labour laws. The last institution in the list of labour institutions is the Labour Court¹⁰². The labour court (High Court Labour Division) has exclusive civil jurisdiction over labour matters reserved by labour laws for its decision. All these institutions are there to protect the workforce against employers' misconducts during the subsistence and after the termination of the contract of employment. Corporations as employers are bound to comply by this law.

The Occupational Health and Safety Act, No. 5 of 2003, the Act provides for the safety, health and welfare of persons at work in factories and other places of work

⁹⁸ Ibid. S.12-28

⁹⁹ Ibid. S.29-33

¹⁰⁰ Ibid. S.34- 42

¹⁰¹ Ibid. S.43- 49

¹⁰² Ibid. S. 50- 58

places. It gives protection to persons other than persons at work (employees' families and those depending on them) against hazards to health and safety arising out of or in connection with activities of persons at work. The law requires factories and other working places to be registered for close monitoring by the authorities¹⁰³, it imposes obligations to factory owners to take safety measures in working places like provision of medical examination to their intended employees before employing them, to fence their premises¹⁰⁴.

Factory owners are required also to provide accommodation and clothing to their employees in working places, working places should have first aid kits, workers should be supplied with clean drinking water and also factories and working places should have washing facilities for workers¹⁰⁵. The same law imposes a duty to factory owners to control hazardous materials coming from their factories not to harm the surrounding communities¹⁰⁶. It also stipulates offences, legal procedures to be followed when the act is contravened and the penalties for such offences¹⁰⁷.

The legislations discussed above, in brief provide a comprehensive mechanism of the relationship between employers and employees in working place, during and after the termination of a contract of employment especially when such contract is terminated unlawfully. Therefore the laws we have centers in the protection and promotion of the contractual relationship that exist between employers and employees. This is due to the fact that, these legislations do not conform to the need

¹⁰³ The Occupational Health and Safety Act, No. 5 of 2003. S. 15-23

¹⁰⁴ Ibid. S 24-53

¹⁰⁵ Ibid. S54- 59

¹⁰⁶ Ibid S. 66-72

¹⁰⁷ Ibid. S.77- 88

of the present day CSR in relation to protection and promotion of the work force. The above mentioned statutes do not oblige companies to go beyond what is given in these legislations therefore making CSR in working places ineffective.

Contemporary CSR practices call for companies to go beyond the legal requirement in protection of the workforce and incorporate programmes that enhance socialization in working areas. Companies need to have programmes that ensure employees developments, professionally as well as socially, programmes that promote the employer-employees relationship. Companies need to have policies and programmes that promote diversity and respect for human rights and arrangements that create a work-life balance, such as provision of transport to and from the office, creation of suitable environment for religious practices like praying space for workers. These are some of the things that are needed in modern CSR as far as workforce protection is concerned and the laws regulating CSR in a given jurisdiction should take into account to avoid poor CSR practices working areas. So far the employment laws we have in Tanzania are primarily concerned with employment issues only as they are silent on CSR issues in working places, therefore changes are inevitable for proper CSR practices in the country.

3.3.2 Environmental Aspect

CSR initiatives if is well regulated in a given jurisdiction should affect the following levels of corporate structure as far as environmental issues are concerned in corporate operations : (1) there must be environmental disclosure practice by companies regularly, (2) each company should have an environmental policy, (3) environmental impact, and environmental performance.

With disclosure, corporations can improve the transparency of internal operations to display improvements that are being implemented across facilities or assets owned. Environmental policy mandates company CEO's to focus internal efforts to incorporate corporate-wide policies and agendas that will direct the corporation toward its environmental goals. On the other hand, impact deals with defining the effect of environmental initiatives on the environment on the local or national scale while performance represents a set of key performance indicators defined by the environmental CSR policy as benchmarks of achievements over time.

In Tanzania, we have The Environmental Management Act, No. 4 of 2004, as a major legislation and reference with regard to environmental management and protection in the country. The act mainly provides for the legal and institutional framework for sustainable management of environment, it outlines principles for management, impact and risk assessments, prevention and control of pollution, waste management, environmental quality standards, public participation on environmental management, conservation and protection, and also provides for compliance and enforcement mechanisms. This law also provides for the general principles of environmental protection, such as right to clean environment, right to bring action against polluters and the duty to protect environment¹⁰⁸. These principles apply to both legal and natural persons.

Pollution Control, waste management and Environmental Impact Assessments¹⁰⁹ are emphasized in the Act, thereby giving an obligation to corporate bodies to

¹⁰⁸ The Environmental Management Act, No. 4 of 2004. S. 4-10

¹⁰⁹ Ibid S. 81-139

strictly observe the law. The law also requires environmental education to be provided and the public should participate on environmental issues¹¹⁰. Compliance with the act is a must, non compliance with this law by corporations results into penalties to the body corporate and, or to the officers managing the said body corporate¹¹¹.

Also, we have the Petroleum and Gas Act, No. 21 of 2015, which regulates the oil and gas sector in Tanzania. Companies involved in oil and gas business are required by this law to observe safety rules according to the occupational health and safety Act, based on the technological developments involved in oil and gas investment and also should consider the best oil and gas best industrial practices¹¹². Companies involved in the oil and gas investments and business are duty bound to observe the principles of environmental management, to control environmental pollution and failure to do so may result into penalties for non compliance with the law¹¹³.

The Mining Act, No. 14 of 2010 which primarily regulates the mining sector in Tanzania has also emphasized in environmental protection during mineral extractions by insisting that, mining activities should not be conducted in an injurious manner, such that it harms other people¹¹⁴. The Penal Code, Cap 16 R.E 2001, on the hand provides clearly that, nuisance is an offence punishable under the law, and all other offences against health and convenience are punishable under the said law¹¹⁵. Corporations are duty bound to operate in a way that does not cause any

¹¹⁰ Ibid S. 172- 178

¹¹¹ Ibid. S 201

¹¹² The Petroleum and Gas Act, No. 21 of 2015. S. 199-206

¹¹³ Ibid S. 208- 215

¹¹⁴ The Mining Act, No. 14 of 2010. S. 96

¹¹⁵ The Penal Code, Cap 16. R.E 2002. Part XVIII. S. 170-186

nuisance, inconveniences or endanger the health of to the surrounding communities.

As pointed out earlier here in above, environmental CSR involves in the following four aspects which are; environmental disclosure, companies to have environmental policies with them, existence of environmental impact, and environmental performance evaluations. The laws we have in Tanzania, especially the Environmental Management Act, No. 4 of 2004, accommodates only one aspect of which is the requirement of conducting environmental impact assessment¹¹⁶ by companies before the commencement of their operations in a given area.

The remaining three aspects of CSR as far as environmental protection and management are not covered in our laws. This makes regulation of CSR in relation to environment management to be poor in general. Companies are seen to be observing the rules on environmental management when they are in race for obtaining licenses and permits to establish their operations, after that, environmental issues become not part of their priorities. This problem however will be cured with the introduction of a CSR legislation which will focus on CSR, because, the three remaining aspects of environmental CSR cannot be accommodated in a legislation that focuses on environmental management, but can be accommodated in a CSR legislations as they are integral part of CSR itself.

3.3.3 Community Development Programmes

A community is generally defined as a group of people sharing a common purpose, who are interdependent for the fulfillment of certain needs and who live in close

¹¹⁶ Ibid S 81-103

proximity and interact on a regular basis, with shared expectations for all members of the group and responsibility taken from those expectations. In a community there is a sense of feelings of cooperation, commitment to the group welfare, willingness to communicate openly, and responsibility to and for others as well as to one's self. Community development refers to initiatives undertaken by community in partnership with external organizations or corporation to empower individuals and groups of people by providing these groups with the skills they need to effect change in their own communities. It is the combined processes, programs, strategies, and activities that make a community sustainable as compared to economic development which is the marketing of its potential for growth followed by local efforts to act on opportunities. The entire set of approaches to community development practice is considered to be a specialized form of addressing, coordinating and building the social infrastructure at an area.

The United Nations on the other hand gave a wide accepted definition of community development to mean an organized effort of individuals in a community conducted in such a way to help solve community problems with a minimum help from external organizations¹¹⁷. External organizations include government and non-government organizations, and corporations of various types and sizes such as small and medium enterprises (SMEs) and multinational corporations (MNCs). From the above meaning of Community and community development, it is undeniable that CSR has a role to play in the community and community development at large in many ways. Unfortunately in Tanzania, this role of CSR in community development is far from

¹¹⁷ Uluslararası Sosyal Araştırmalar Dergisi The Journal of International Social Research Volume 2 / 9 Fall 2009 Pp 205

being realized due to poor CSR regulations resulting into poor CSR practices that are present in Tanzania. The legislations available regulating the conducts and operations of corporate in Tanzania do not address at all the importance of community development programmes in corporate business.

Therefore it is difficult for the communities surrounded by industries or companies to realise the benefits of companies' activities around them. Even the companies themselves do not give much attention to community development programmes to the surrounding communities because it is not part of their obligations, and this creates a problem that we have especially in mining areas in Tanzania like the Nyamongo Mining area in Mara region, where people have been constantly resisting against the establishment of the said mining company within their community.

Community programmes in CSR usually have advantages that are beneficial to the surrounding communities, the country and companies at large and they include the transfer of technology from the companies to the communities, promotion of human rights, talents developments, poverty alleviation, environmental protection and corporate sustainability. These advantages enjoyed by any the three CSR players above (the community, companies and the country in general) if there exist poor CSR practices in the country, and we cannot cure the problem of poor CSR practices in Tanzania without a proper regulatory mechanism for CSR. So far the laws we have failed to make the Tanzanian community enjoy the fruits of corporate investments through community development programmes as part of CSR.

3.3.4 Consumer Protection

In consumer protection as an aspect of CSR, Tanzania seems to have made a significant development. A number of legislations have been enacted with the purpose of protecting consumers by establishing regulatory authorities (bodies) in each sector to which they apply. These legislations include; (1) the EWURA Act Cap. 414, (2) SUMATRA Act, No. 9 of 2001, (3) the Standard Act, No. 22 of 2009, (4) the TFDA Act, No. 1 of 2003 and (5) the TCRA Act, No. 12 of 2003.

The EWURA Act, under section 4, established the Energy and Water Utilities Regulatory Authority, with the function of promoting effective competition among service providers in the energy and water sector and also protects the interest of consumers. The Surface and Marine Transport Regulatory Authority (SUMATRA), was established under s.4 of the SUMATRA Act, with similar duties and functions like that of EWURA but operates in the surface and marine transport sector. The Standard Act established the Tanzania Bureau of Standard under s.3 of the act. It ensures the quality, safety and standard of products before they reach to consumers.

The TFDA act established Tanzania Food and Drugs Authority or by the acronym "TFDA" under s. 4. Its primary function is to regulate matters related to safety of food, cosmetics, and drugs in general. The TCRA act on the other hand established the Tanzania Communications Regulatory Authority under s.4, also has the duty to ensure compliance of the act by service providers for the interest of consumers. All these laws regulate services and products, provided and manufactured by companies operating within the jurisdictions of these laws.

Consumer protection is one among the basic components of CSR. By protecting consumer rights, then it is obvious that, these laws regulate CSR too as far as consumer protection issues are concerned. We have many times seen the authorities responsible in a given sector, for example the SUMATRA for the surface and marine transport regulating bus fares and ensuring the transportation business is conducted in a safe and secure way for passengers. The TBS and TFDA on different occasions have been destroying products and prohibiting the use of products that are below the required standards as prescribed in the laws or in one way or the other harmful unfit for human uses. The TCRA on its part is doing a commendable job to protect Tanzania from harmful effects of cyber technological developments.

3.3.5 Corporate Transparency (Disclosure)

Corporate disclosure is defined as the communication of information by people inside the public firms towards people outside the firm. The main aim of corporate disclosure is to communicate firm's performance and governance to outside investors and stakeholders¹¹⁸. This communication is not only called for by shareholders and investors to analyze the relevance of their investments, but also by the other stakeholders, particularly for information about corporate social and environmental policies.

Disclosure takes different forms. The first one is financial reporting, essentially financial statements whose contents are defined by accounting standards (for instance the International Financial Reporting Standards). As compliance with good

118 Étienne Farvaque, Catherine Refait-Alexandre and Dhafer Saïdane; Corporate disclosure: a review of its (direct and indirect) benefits and costs Dans *Economie internationale* 2011/4. Pp 3

practice in corporate governance is now required, reporting also concerns governance, for instance, the 'comply or explain' principle has been enforced since 2008 in the European Union¹¹⁹. Reporting must respect specific rules, even specific formats, restricting the discretion of managers, and allowing stakeholders a better understanding of information. Besides reporting, managers also communicate information in a less formal way, for instance by press conferences, by announcement on websites and so on.

Whatever the form the disclosure takes, two other distinctions can be done¹²⁰. The first distinction is based on the opposition between financial and non-financial disclosure. The latter includes information relating to the company's social and environmental responsibility and company's corporate governance as well as information relating to the firm's operating methods or to managers' health¹²¹. The second distinction is based on the opposition between voluntary and mandatory disclosure. Voluntary disclosure is a measure of self-regulation or a response to the expectations of stakeholders and civil society for more disclosure. Mandatory disclosure results from legislation or regulation.

In general, the primary objective of driving any particular organization to undertake transparency in its operations through sustainability reporting is to manage the affairs and conduct corporate business in a way that it can benefit all stakeholders and not the shareholders alone.

¹¹⁹ Ibid Pp 8

¹²⁰ Ibid Pp 9

¹²¹ Ibid Pp 9

In Tanzania, the laws we have mandates financial disclosure only, particularly for banks and financial institutions. The Banking and Financial Institutions Act, No. 5 of 2006, impose a duty to banks and financial institutions to exhibit financial statements¹²² in a public place and to all of their branches. Failure do so attracts penalties as it is a criminal offence per the said law. The Companies Act, No 12 of 2002 Also, have some provisions that insists corporate disclosure through filling the annual returns¹²³ to the registrar of companies every year. By filling annual returns , companies provides information to the government through the registrar of companies about its operations, and failure to do that attracts penalties to the officers concerned.

As for non financial disclosure which is the basis of CSR, the laws in Tanzania are silent on that aspect and therefore, making CSR reporting by companies in Tanzania impractical. If companies do not disclose what they have done as part of CSR it is difficult to during their operations then it is a challenge that needs to be taken in consideration when addressing the issue of CSR regulation.

3.4 Arguments for and Against Legislating CSR

On the globe platform so there is still a debate on legislating CSR. In this debate there are two diverging schools of thought. The first one believes that, regulating CSR can be effective only in implementing Corporate Social Responsibility. Their arguments are based on a perceived need to take decisions and clarifying concepts at a government level in order to prevent Corporate Social Responsibility from

¹²² The Banking and Financial Institutions Act, No. 5 of 2006. S. 45 (1)-(3).

¹²³ Ibid s.128

becoming pure corporate propaganda or a pointless marketing tool. They assume that State intervention is needed in order to level-playing field and ensure an effective implementation of rules on Corporate Social Responsibility¹²⁴.

Opponents of CSR regulations on the other hand consider CSR as a voluntary act, a non-regulated exercise, which must be left to the individual corporations. They have two major reasons why regulation of CSR is wrong as follows; First, It goes in stark contrast against the entrepreneurial mentality, which is at the base of the socially responsible enterprise. The second argument is more philosophical by nature and addresses the semantics of the concept¹²⁵. The idiom ‘corporate social responsibility’ originates as all words and elements of the language to express an idea. It incorporates to the noun ‘responsibility’ two adjectives, ‘corporate’ and ‘social’¹²⁶, to limit its broad meaning. After integrating the three words, their meanings are harmonized, creating a concept as simple or complex as the combination of the three words that form it. To propose more elaborate definitions (meaning thereby to regulate CSR) is a mistaken or deliberate act of confusion.

Therefore, to make clear what is corporate social responsibility we must fix what we understand for responsibility¹²⁷ without this, then regulating CSR is baseless according to the opponents of regulation as far as CSR is concerned, as it will completely defeat the concept and aims of corporate business that is to make profit.

¹²⁴ By Pablo Nieto; Why regulating corporate social responsibility is a conceptual error and implies a dead weight for competitiveness; THE EUROPEAN ENTERPRISE JOURNAL; accessed through www.google.com

¹²⁵ Ibid

¹²⁶ Ibid

¹²⁷ Ibid

3.5 Global CSR Regulation

3.5.1 International CSR Principles

In 2010, the International Standards Organisation (ISO), issued guidelines that should be followed by organisations when planning for CSR programmes and governments when planning for regulations of CSR. The guideline (ISO 26000), contains nine principles¹²⁸. These principles are used as a benchmark, to measure whether CSR is properly practiced or regulated in a given jurisdiction. Below is a summary of the CSR principles contained in the ISO 26000;-

- i. Businesses should conduct and govern themselves with Ethics, Transparency and Accountability. This principle requires that, the ethical conduct in all activities and functions should be the fundamental idea of the responsible business. It insists, that there should be clarity and fairness in all the activities of the business and corporations should report or disclose all actions so that their stakeholders will be aware of the company's operations and results are visible to them.
- ii. Business should provide goods and services that are safe and contribute to sustainability throughout their life cycle. The business should work to improve the quality of life of the people surrounding its operational area and it should not only design its activities and functions which enhance the profitability to the business but also contribute to the realm of society. In other words, the business should not only take care about their internal activities but try to go beyond and also keep eye on the external activities to ensure the betterment of the society as a whole.
- iii. Business should promote the well being of employees. By this principle, corporations are urged to consider the well being of its employees and all other

¹²⁸ ISO 26000 retrieved through www.iosrjournals.org

people connected with its value chain at the time of making and implementing the CSR policies and practices.

- iv. Business should respect the interest of and be responsible towards all stakeholders, especially those who are disadvantaged vulnerable and marginalized. It should be the responsibility of corporate business to go beyond the business boundaries. It should not only take care about the interest of its shareholders but also consider other stakeholders, especially those who are less aware, under privileged and in a marginal or in vulnerable positions in the society.
- v. The Business should respect and promote human rights. It is the responsibility of companies during their operations to protect, promote and respect the human rights through CSR programmes.
- vi. Protection of Environment. Environmental management and protection should be a paramount consideration by business operators.
- vii. Corporations should involve themselves in influencing public policies and regulations.
- viii. Business should try to participate in the inclusive growth motive. The principle requires companies to join hand in solving social problems especially those affecting the nation.
- ix. Corporations should operate in way that they do not harm consumers(consumer protection principle)

These are the nine principles that have been set forward by the International Standards organisation as guidelines to be followed by corporations and business operators to ensure that CSR is properly practiced worldwide. These guidelines can be used to regulate CSR in case there is no legislation for regulating CSR.

3.5.2 CSR Regulation in the United States of America

The United States of America doesn't have a legislation specific for regulating CSR. However, CSR issues have been given a special attention by the state by creating CSR team which is under the Bureau of Economic and Business Affairs¹²⁹. The CSR team leads the Department's engagement with U.S. businesses society in the promotion of responsible and ethical business practices. The mission of the CSR team (office) is: First is to promote a holistic approach to CSR to complement the Economic Business Bureau's mission of building economic security and fostering sustainable development at home and abroad.

Secondly, to provide guidance and support for American companies engaging in socially responsible, forward-thinking corporate activities that complement U.S. foreign policy and the principles of the Secretary's Award for Corporate Excellence program. Thirdly, to build on this synergy, working with multinational companies, civil society, labour groups, environmental advocates, and others to encourage the adoption of corporate policies that help companies "do well by doing good." Regardless of the absence of a specific CSR legislation in the U.S.A still we see a comprehensive mechanism that caters for proper CSR practices. The task force through ensuring its mission is successful, works hand in hand with firms operating in the U.S.A to ensure that, CSR issues are implemented fully and effectively.

3.4.3 CSR Regulation in the United Kingdom

In The United Kingdom, they have integrated CSR and Corporate Governance in the

¹²⁹Amartya Bag; "Corporate Social Responsibility (CSR) laws around the World"; Army Institute of Law, Mohali India. Published in, August 16, 2014. Retrieved through www.google.com

company law. The Companies Act 2006 requires directors¹³⁰ to have regard to community and environmental issues when considering their duty to promote the success of their company and by the disclosures to be included in the Business Review. CSR is, now, an integral part of good governance, for bigger companies in particular in the United Kingdom since the enactment of the Companies Act in 2006. It is not a voluntary thing anymore; it is mandatory and is an indicator of proper corporate governance.

3.5.4 CSR Regulation in the European Union

The European Union through its CSR Commission, have introduced a CSR agenda for action, with the following components: (i) enhancing the visibility of CSR and disseminating good practices. (ii) Improving and tracking levels of trust in business. (iii) Improving self and co-regulation processes. (iv) Enhancing market reward for CSR. (v) Improving company disclosure of social and environment information. (vi) Further integrating CSR into education, training and research. (vii) Emphasising the importance of national and sub-national CSR policies. (viii) Better aligning European and global approaches to CSR¹³¹. The CSR agenda for action plays a big role in regulating CSR issues to member states.

3.5.5 CSR Regulation in India

In 2014, India became the first country in the world to have CSR legislation. In India, CSR issues are governed by clause 135 of the Companies Act, 2013. The said clause makes CSR an obligation to business firms operating in India. Companies in

¹³⁰ Part 10, Chapter 2. S. 170- 177

¹³¹ EUROPEAN COMMISSION: A renewed EU strategy 2011-14 for Corporate Social Responsibility; Brussels, 25.10.2011 COM(2011) 681 final.

India subject to the abovementioned provision are required to give 2% of their net profits to charitable causes¹³². Therefore the law in India has taken a step further not only by mandating CSR activities but also stating clearly the amount in terms of percentage which a company is supposed to give back to the society as part of CSR.

3.6 Advantages of Regulating CSR

Taking United States of America as an example, regulating CSR in the United States has given organizations a competitive advantage over its peers. CSR has improved brand reputation, increased consumer and investor trust, and better integration of CSR in business activities has strengthened company's position in the marketplace and thereby leading to new businesses being introduced.

According to the Global Reporting Initiative (GRI) database, the number of companies in The United States that engaged themselves and published their CSR reports increased from 70 companies in 2007 to more than 540 companies in 2012, thereby making the United States to be among the leading nations with 12.5 percent of companies reporting on CSR globally in 2012¹³³. The same advantages have been experienced by other countries with proper CSR regulations compared to those countries where CSR is not well regulated like in Tanzania. The following are the general advantages available to both, the country and corporations if CSR is regulated and properly practiced;-

132 Esha Chhabra; Corporate Social Responsibility: Should It be A Law? Accessed at www.forbes.com/.../corporate-social-responsibility-should-it-be-a-law/ Apr 18, 2014

133 "Sustainability Disclosure Database.ö (2013). Global Reporting Initiative. Retrieved from <http://database.globalreporting.org/search>

3.6.1 Improvement in the Image of the Corporation

The most obvious advantage that a corporation can obtain by implementing CSR policies is that of an increased goodwill value¹³⁴. This serves a dual purpose. Firstly, people will want to buy the product that the corporation is selling because of its good and clean image. Secondly, other enterprises will want to do business and be associated with the corporation. This increases the corporation's prestige to such a high level that its name may become synonymous with reliability and goodness. People always want to be associated with the best and the most popular, so in that respect, the corporation rises in stature and becomes an important player in its market through CSR activities.

3.6.2 Increased Attraction and Retention of Employees

Companies having solid CSR commitments find it easier to recruit and retain employees¹³⁵. People want to work for companies that care about the well-being of their employees and provide good working conditions. Compassionate attitude towards employees is highly desired by both new recruits and old employees alike. Appraisals, financial assistance in times of need, and attention given to personal achievements and special days (like birthdays) make employees want to remain with the company. This is a huge advantage when there is a tight labor market situation. This will reduce the cost of training new recruits and free up incentives for existing employees. Incentives induce efficient work out from employees. In short, if the company's workforce is happy, the company gets more profits due to increased

¹³⁴ corporate-social-responsibility-advantages-disadvantages, Accessed at <https://myassignmenthelp.com>

¹³⁵ Ibid

efficiency in production.

3.6.3 Regulatory Authorities Become Less Hostile

A corporation with strong CSR programs will not be scrutinized by regulatory authorities as much as companies without CSR programs¹³⁶. The authorities will be lenient in their regulation because they feel that the company must be complying with all regulations as it is supported by firms and people alike for its welfare work. A company with strong CSR programs will always work within regulations to get benefits (other than profits) from these CSR programs. The authorities will give fast-track preference to this company. It may also forego cumbersome paperwork that is required to set up projects if it thinks that this project is going to help the community to improve.

3.6.4 Attracts more Capital Inflow from Various Sources

A company's image plays a huge role in attracting investors¹³⁷. If the company is engaged in CSR programs, its image gets a massive boost, and so, people invest in its operations heavily. This company will attract capital even from abroad, thus, helping the country to get valuable foreign exchange. It will also attract investment from other firms and industries, and it will become a name that can be trusted easily.

3.6.5 Protection of Environmental Degradation

If the company has invested in an environmental CSR program, it will make sure that its operations do not harm the environment in any way. Inventing machines and techniques to reduce the harmful effects of its operational activities will give the

¹³⁶ Ibid

¹³⁷ Ibid

community a clean environment.

3.6.6 Positive Publicity

A popular business principle is that any publicity is good publicity. You should be known to the people to sell your product. A good CSR program will always give good publicity and even act as an advertisement for the company. It also sets the company apart from its competitors. They may be selling a similar product at lower rates, but you are keeping the interests of your environment and community intact, and so the people do not mind a little extra charge for this thoughtfulness.

3.7 Conclusion

In many countries all over the world, CSR revolves around five major areas which are; environmental issues, human resources, community development, corporate transparency and consumer protection. These five major areas of CSR have been also incorporated in the international instrument for CSR which is the ISO 26000. If we have to examine the legal aspect of CSR and its regulatory framework, then we need to understand the laws covering those four areas of CSR in any given jurisdiction. In case there is no CSR legislation in that particular country then, the laws regulating corporate business become major reference as far as regulation of CSR is concerned.

By its nature, corporate business is so diverse. It covers many aspects depending on the type of investment or business which a particular corporation is involved in. Due to the diverse nature of corporate business which is the basis of CSR, then CSR regulations should depend on the laws governing the corporate business so as to

cover all angles attached to corporate business practices.

In Tanzania so far, there is no CSR legislation, however CSR is regulated using the laws in place that regulate corporate business including the penal laws. It is also regulated through other laws covering CSR aspects, like labour laws, environmental laws, and so forth. Tanzania also have established regulatory bodies or authority in different sectors for the purpose of regulating conducts of corporations as far as provision of services and manufacturing of goods are concerned. The aim of establishing these regulatory authorities is to ensure that, consumers are protected from the harmful conducts of corporations. Therefore the bodies so established functions as protectors of human rights particularly consumer rights which is among the concerns of CSR.

However, regulating CSR still faces challenges worldwide. There are competing perceptions on whether or not CSR be mandated by legislations. Despite all these challenges facing CSR regulations, all the major countries in the world still take CSR with a lot of seriousness, may be out of conscience or because the laws that are being formulated. Some countries are governed by various boards in this matter whereas for some countries, strict laws are made. By and large, what we can say for sure is that though the methods of regulating CSR are different, the end result is quite encouraging and similar. Regulation has gained momentum in recent years because CSR itself is seen as more than fulfilling a duty to the society; but also it is used a tool for bringing competitive advantages to the corporate business.

All in all, CSR if regulated and practiced properly, it becomes an excellent tool for the prosperity of companies, the societies and the country in which it is practiced.

The models made for implementation of CSR should be made with more planning and skills so that the effect is deeper and wider, that is to say, the effects of CSR practices should be manifested by all players, the companies, the society and the state at large.

CHAPTER FOUR

CORPORATE SOCIAL RESPONSIBILITY IN PRACTICE IN TANZANIA

4.1 Introduction

Corporate Social Responsibility practice has become one of the greatest challenges in the contemporary globalisation era especially in developing countries like Tanzania. The challenges are more associated with the increase of corporate influences on the daily lives of people in the global economy, sometimes more than those of elected governments. Furthermore non-governmental organizations (NGOs) and pressure groups have become skeptical of corporate power and increasingly concerned about the socio-economic and environmental consequences of corporate activities have also contributed much on the challenges associated with of CSR practices in developing countries.

In order to overcome these challenges, corporations have sought to reassure public opinion by publishing corporate responsibility statements and codes of conduct. However, these measures have often been subordinate to pursuit of profit. For example, in Tanzania, evidence shows that Multinational Corporations operating in Tanzania, have produced statements containing pledges to act in a socially responsible manner, but that their actions have left much to be desired for employees, local communities, the government, and society as a whole.

Consequently, contrary to the claims of the companies to be acting in a socially responsible way and to be committed to improving the economic and social infrastructures and quality of life of local citizens, the widespread poverty in Tanzania remains significant as these statements are not put into actions. There is

therefore a pressing need for reform in order to mitigate the pervasiveness of the social, economic and environmental problems in Tanzania through proper CSR practices.

It is argued that, any attempt to change Corporate Social Responsibility practices and its potential in promoting socio-economic development in Tanzania and developing countries in general should be accompanied by changes in the CSR regulatory systems at both the local and global levels. This chapter generally examines the in deep, the nature and extent of Corporate Social Responsibility practices in Tanzania within socio-political and economic context. It does so by looking at the historical development of corporate economy in Tanzania, in order to consider the duality and dialectical interrelationship between social actors and institutional structures which create, shape, influence and undermine the (re)production of proper Corporate Social Responsibility practices in Tanzania as a developing country.

The aim of this chapter is to draw an attention to CSR players in Tanzania, on the gap available between CSR statements published by firms in Tanzania and what happens in practice. The gap between corporate talk(CSR mission statements) and corporate actions(present CSR practices in Tanzania) shows clearly that, these corporate promises to act in a socially responsible manner may be 'hollow', or a mere fiction designed to legitimise business operations in Tanzania. Furthermore, this chapter will also consider the impacts of corporate social responsibility activities in the targeted community and the role of the developmental state on the conduct of responsible business practices in Tanzania, problems and challenges of Corporate

Social Responsibility practices in Tanzania will also be addressed in this chapter.

4.2 Corporate Social Responsibility Practices in Tanzania

A Historical Context: The origin of corporate business practice in Tanzania dates back to the colonization of Tanzania as was also the case in other developing countries. It was during such colonial period, where companies started to emerge in Tanzania from the external world especially from Europe. At such time, the concept itself of Corporate Social Responsibility in the world had a little significance. Companies had only one primary function, which was maximizing profit in exclusion of all other issues.

A good example is seen in the infrastructures built in this period like the central railway line in Tanzania, from Dar es salaam to Mwanza and Kigoma, which passes through areas where agricultural plantations and other areas which were economically potential. Thus, the primary goal for building this railway line was to promote colonial economy and not for the society surrounding these colonial companies. In other words, it is equal to say that, CSR issues at this particular period considered at all, equally one cannot trace the practical aspects of Corporate Social Responsibility in the Tanzania during this period.

Tanzanian post-independence government inherited not only the legal systems imposed by the colonial power but also an economy that reflected the colonial interests. The nature of the colonial corporate activity which was inherited by post-independence Tanzania was mainly agriculture, heavily relied on imported capital goods, raw materials and consumer goods. The manufacturing sector was indeed

very small. The practices of Corporate Social Responsibility during the early years of independence resembled to that existed during colonial period.

Then came the Ujamaa policy. *Ujamaa*, the Swahili word for 'family hood' was the social and economic policy developed by His Excellency Julius Kambarage Nyerere, the then president of Tanzania from 1964 to 1985. It centered on collective agriculture, under a process called Villagisation. *Ujamaa* also called for nationalization of banks and manufacturing industry, and an increased level of self-reliance at both an individual and a national level. It was introduced as a policy in the Arusha Declaration of 5 February 1967.

The idea for collective agriculture made it possible to provide equipment, facilities, and material for a rural population if they were brought together in 'nucleated' settlements, each of around 250 families. It made the distribution of fertilizer and seed easier, and it was possible to provide a good level of education to the population. Villagisation also overcame the problems of 'tribalisation' which beset other newly independent African countries. *Ujamaa* was brought to an end in 1985 when the Late President Julius Kambarage Nyerere stepped down from the presidency in favor of Ali Hassan Mwinyi, who later blessed economic liberalization in the country. Advantages of Ujamaa *policy included the following*¹³⁸:-

- i. Created high literacy rate
- ii. Halved infant mortality through access to medical facilities and education
- iii. Untied Tanzanians across ethnic lines

¹³⁸ Alistair Boddy Evans, An Article on Nyerere's Social and Economic Policy in Tanzania in the 1960s and 70s. retrieve through www.thoughtCo.com, updated in February, 2017

- iv. Left Tanzania untouched by the 'tribal' and political tensions which affected the rest of Africa.

As for the disadvantages of the Ujamaa policy included;-

- i. Transportation networks declined drastically through neglect
- ii. Industry and banking were crippled
- iii. Left the country dependent on international aid

The Ujamaa policy came with nothing regarding Corporate Social Responsibility. The said State owned corporation also did nothing much as contribution to the society a part of Corporate Social Responsibility and the government on the other hand turned a blind eye on the matter. Therefore it is enough to say that, Corporate Social Responsibility, neither its theory nor its practice, existed in Tanzania during colonialism, and the early years of independence including during Ujamaa time. It is well seen after the reforms of 1985 of economic liberalization in Tanzania. During Globalization era, CSR gained momentum especially in the 20th century down to the 21st century. In his report to the UN Millennium Summit, Kofi Annan, described the world of globalization, ò as a new context for and a new connectivity among economic actors and activities throughout the worldö¹³⁹.

Globalization has been made possible by the progressive dismantling of barriers to trade and capital mobility, together with fundamental technological advances and

139 Shabina Arfat ,öGlobalisation and Human Rights: An Overview of its Impactö, Faculty of Law, University of Kashmir, Srinagar, Kashmir, J&K, India. Published by the American Journal of Humanities and Social Sciences Vol. 1, No, 1, 2013, 18-24 DOI: 10.11634/232907811301270 ISSN 2329-0781 Print/ISSN 2329-079X Online/ World Scholars, retrieved at <http://www.worldscholars.org>.

steadily declining costs of transportation, communication and computing. Its integrative logic seems inexorable, its momentum irresistible.¹⁴⁰ When globalization is interpreted as internationalization, the term refers to a growth of transactions and interdependence between countries. From this perspective, a more global world is one where more messages, ideas, merchandise, money, investments and people cross borders between national-state-territorial units.

Due to globalisation, from 1985, Tanzania made reforms in its economic policies to embrace globalisation. These reforms aimed at transforming Tanzanian economy from state owned to private ownership. These reforms led to the death of Ujamaa policy and consequently the high rise of globalization, liberalization and privatisation concepts which were latter adopted as formal economic policies in Tanzania in early 1990s. The reforms were mainly influenced by the negative impacts of Ujamaa policy, which left Tanzanian economy at stake where, transportation networks declined drastically through neglect, manufacturing industry and banking sectors were not functioning, mostly dying and generally Ujamaa policy left the country totally and heavily dependent on international aid to run its budget¹⁴¹.

Therefore, Tanzania had to adopt the SAPs (Structural Advancement Programmes) as proposed by the World Bank and the International Monetary Fund. Structural Advancement Programmes were used as roadmaps towards economic changes in developing countries, Tanzania being one of them, and there were conditions

¹⁴⁰ Ibid.

¹⁴¹ Ibid

attached to the said countries to be granted financial assistance from the International donors, privatization and economic liberalization being one of the conditions.

Based on the conditions imposed by the International Community through SAPs, privatization and economic liberalization took place in Tanzania and over years, Tanzania private sector has expanded and grown drastically to cover almost all areas of social and economic aspects, including manufacturing industries, mining, transport and communication sectors, health and education sectors, tourism and others. Most if not all these being run by corporate bodies, is local or Multinational corporations.

4.3 An Overview of Corporate Social Responsibility Activities after Liberalization

Economic liberalisation in Tanzania saw the influx of Multinational companies coming to invest in various areas in Tanzania. With the increase of private sector in corporate ownership in Tanzania, the knowledge of CSR also increased, slowly, CSR activities started to emerge. Today CSR activities and awareness has expanded and the government of Tanzania in one way or the other is involving itself in CSR by creating policies that encourage CSR activities in some sectors. The good example is seen in the mining policy of Tanzania of 2009, where CSR has been incorporated in the said policy.

However, there still exist challenges in the initiatives made by the government and other stakeholders to make CSR well known to people and CSR has been still little practiced by small and big business operators in Tanzania. Current studies however

show that, the feature of CSR activities in Tanzania is very promising, taking into considerations of the merging CSR practices in the country, though the current practices also face challenges and problems.

4.4 An Appraisal of the Emerging Corporate Social Responsibility Practices; Problems and Challenges

At large, Corporate Social Responsibility practices in Tanzania, as explained earlier, like in many developing countries are shaped by globalization. Multinational Corporations (MNCs) in the beginning of the 21st century started to invest heavily in the developing world after the introduction of the Structural Advancement Programmes (SAPs) as proposed by the IMF and World Bank. Here is where the challenges facing Corporate Social Responsibility practices in most of developing countries originate. Speaking generally, the following are the challenges facing CSR practices in developing countries including Tanzania;-

The first challenge for corporate social responsibility (CSR) practices in developing countries, Tanzania being among them is framed by a vision that, the concept of Corporate Social Responsibility in these countries was distilled in 2000 into the Millennium Development Goal. It is a developed world concept infused in less developed countries, the founders of it are from a different world compared to the developing world; ãa world with less poverty, hunger and disease, greater survival prospects for mothers and their infants, better educated children, equal opportunities for women, and a healthier environmentö¹⁴² Unfortunately, these global aspirations

¹⁴² Wayne Visser; Corporate Social Responsibility in Developing countries, Pp 473 quoting the (UN,2006: 3) accessed through /<http://www.worldbank.org>

remain far from being met in many developing countries today, including Tanzania.

Secondly, Corporate Social Responsibility practices and definitions in most of developing countries including Tanzania are ambiguous; terms like corporate social investment, corporate citizenship, business ethics are used interchangeably of the operational definition of Corporate Social Responsibility in the sub-Saharan region for example seems to lead towards corporate social investment¹⁴³. It is from this confusion, CSR in these countries meets both a challenge and an opportunity for investors on one hand and society on the other.

Thirdly, Corporate social responsibility goes hand in hand with corporate social disclosure concept, where by firms are supposed to publish annually as to what a particular firm has done for the society through corporate social responsibility programs. In Tanzania it is very difficult to obtain information regarding corporate activities; this problem is available to both private and public corporations. Information concerning employment issues, corporate social investments and other information regarding corporate social responsibility issues are confidential only for firms' management. That's why it is very difficult to verify whether those mission statements for corporate social responsibility as pointed out earlier, are well implemented.

It has been noted by the Legal and Human Rights Commission of Tanzania in their report that, these promises are not documented nor are there written contracts or

¹⁴³Dr. Judy N. Muthuri; Corporate Social Responsibility in Africa: Definition, Issues and Processes; International Centre for Corporate Social Responsibility Nottingham University Business School; 28th November 2012

agreements to evidence their commitments, including terms of conditions, therefore, making it easy to avoid fulfilling their obligations while executing their activities,¹⁴⁴. The same report says that, the extent to which the investors have contributed to their Corporate Social Responsibility in Tanzania is unknown, because the government is apparently uninterested on this. Little of what investors do, can be found in media and in their annual reports which cannot be verified in anyhow¹⁴⁵.

Fourthly, another critical area on Corporate Social responsibility in Tanzania is the absence of proper legal and regulatory framework. This has resulted in continuous mass violations of consumer rights by manufacturers and service providers in the country. Every day in Tanzania we witness mass violations of consumer rights especially in services industry without any proper remedies being awarded to these victims. Taking an example of the public transport sector .The public transport system in this country is very poorly managed, it is characterized by mass killing caused by the everyday increased road accidents, traffic congestions, poor customers services and poor vehicles used for transportation¹⁴⁶, unsurprisingly, bus companies pays no attention to corporate social responsibility and consumer rights continue to be violated everyday without any remedy and the authorities have turned a blind eye on the situation.

On the other hand, **Shukrani K. Mbirigenda** writing on “*Corporate Social Responsibility in Tanzania: Experience of Misconception, Misuse and*

¹⁴⁴ Op cit

¹⁴⁵ Op cit

¹⁴⁶ Benard Kihyo; Tanzania Consumer Advocates Society; 21st September 2014, accessed through www.thecitizen.co.tz

Malpractices”¹⁴⁷, saw the following challenges and problems facing Corporate Social Responsibility practices in Tanzania. The first challenge is on bad-practices. It originates from the definition of the term Corporate Social Responsibility itself. The term ‘Corporate Social Responsibility’ had been ill-defined, mal-practiced and mismanaged by both corporations and governments in Tanzania. It has been abused from left to right by companies and the communities who are supposed to be beneficiaries of Corporate Social Responsibility projects and from centre by the government itself.

Therefore, the abuses are at times intended, and at other times are out of ignorance about what Corporate Social Responsibility is. Taking into account of the failures to properly define Corporate social Responsibility in a Tanzanian context, has given out a rise to poor or bad practices of Corporate Social Responsibility by firms in the country, due to non existence of a clear meaning as to what exactly Corporate Social responsibility means or should incorporate in Tanzanian context.

The Second problem arises out of unclear policies on Corporate Social Responsibility. The existence of unclear policies on Corporate Social Responsibility, or the absence of those policies in other sectors, leaves room for abuse by companies that rush to claim Corporate Social Responsibility for their own advantage. Such advantages can be in the form of advertising their products or/and promoting their brands. Some companies use Corporate Social Responsibility as a strategic tactic to gain public support for their presence in markets, and this helps them to sustain a

¹⁴⁷ Rehema Kilonzo and Tina Kontinen ‘Contemporary Concerns in Development Studies: Perspective from Tanzania and Zambia’ 2015. Chapter 7. Pp . 100-110

competitive advantage over others by using their social contributions to provide subconscious advertising.

The unclear policies also allow some companies to take advantage of inviting top government officials to officiate different business functions, thus indirectly advertising companies' products. This is done without the officials knowing that they are being used for advertisement. However, there might also be cases when these top government officials are aware but choose to look the other way for private gains which fall sometimes in corruption and embezzlement issues. While the officials benefit from these companies the community members represented by these government officials are left empty handed and resentful. When there is ignorance on the part of the government or communities, companies tend to take advantage of the situation as a result of this, we witness Corporate Social responsibility malpractices occurring widely in the country.

Thirdly is the abuse of OECD guidelines. Looking at OECD Guidelines for Multinational Enterprises, companies are expected to contribute to economic, social and environmental progress, with a view to achieving sustainable development. They are also duty bound to respect the human rights around communities affected by their activities, including the employees and the host communities, and in addition encourage local capacity building through cooperation with local communities, including local businesses.

Companies are also asked to refrain from seeking or accepting exemptions that are not contemplated in the statutory or regulatory framework related to environment,

health, safety, labour, taxation financial incentives or other issues, and also develop and apply effective self-regulatory practices and management systems that foster the open relationship of confidence and mutual trust between companies and the communities in which they operate.

OECD guidelines also direct companies to encourage business partners and other associates, such as suppliers and sub-contractors, to apply principles of corporate conduct which are in line with corporate governance and socially responsible citizenship. Companies should in addition avoid improper involvement in local political activities and they must refrain from discriminating or disciplining an employee who makes bona fide reports (whistle blowers) to management or competent public authorities on practices that contravene the law. While these principles are clear and known, few corporations in Tanzania adhere to these principles. Though, experience shows that, non-adherence to OECD CSR principles exists worldwide, not just in Tanzania, but this does not provide an excuse to proper Corporate Social responsibility practices to be implemented in Tanzania.

Lastly is the absence of the central role of the state. The government of Tanzania so far doesn't emphasis much on CSR in its laws or policies. Best CSR practices occur when the government takes its central role of regulating and enforcing the laws. Absence of the government interference on CSR issues in Tanzania creates a gape that provide advantages to business firms in Tanzania to abuse OECD guidelines as pointed out hereinabove. For example, one of the indicators best CSR practices of Corporate in any country is the adherence to the principle of corporate social disclosure.

Corporate social disclosure emphasises that, companies should disclose information about their operations and involvement in CSR to the society. In this case, it is the right of society to know what the business firms are doing as part of CSR, and it is the responsibility of the companies to distribute the information to the society who are consumers of their products. In Tanzania, corporate disclosure do not exist as companies still choose to with hold all information pertaining to their operations, leaving the Tanzanian community with no clue of what is happening on the ground as far CSR is concerned. But this happens simply because the government has neglected to play its role as a central player on CSR issues.

4.5 Selected Corporate Social Responsibility Case Studies

The case studies used in this study have been picked randomly out of the major three sectors which have attracted massive capital investment in the country, these are, the Banking sector, Manufacturing, Mining and Telecommunication sectors.

4.5.1 Corporate Social Responsibility in the Banking Sector

The Community and Rural Development Bank (CRDB) and The National Microfinance Bank (NMB) appear at a front line of CSR activities in the banking sector compared to other banks in Tanzania. Both banks have published CSR Policy statements that stand as directives and evidences that these banks are actively engaged in Corporate Social Responsibility practices in Tanzania. NMB for example allocates 1% of Profit after Tax (PAT) to Corporate Social Responsibility (CSR) activities like education, health and sports. The same applies to CRDB Bank, where it allocates 1% of annual profit to support the community development needs specifically in health, education and environment.

Findings entails that both banks have been showing concern to protect environment. Some of the areas of environmental concerns the banks have been involved include supporting investment in sectors such as agriculture, industry and tourism. They do so by setting funds to support individuals and groups of activists involved in environmental protection and conservation in Tanzania. Also as part of CSR, both banks have been actively participating in different ways in campaigning for that women empowerment in Tanzania. There are various activities being sponsored by these banks, some of which have direct impact over women empowerment in different sectors.

For instance CRDB Bank sponsored the 5th Vodacom Economic Women conference and Business Expo held in Dar es Salaam on 12th May 2013. The conference aimed at building women capacity in perception in various social economic activities in Tanzania. The finance was made possible under its corporate social responsibility scheme. CRDB bank also has a special account known as Malkia Account to fulfill women different dreams¹⁴⁸ which is an evidence of the bank's commitment to women empowerment.

Similarly NMB Sponsored Mama Shujaa wa Chakula in conjunction with Maisha Plus in 2012. "Mama shujaa wa chakula"¹⁴⁹ was an Oxfam design campaign launched in 2011, in Tanzania. Mama Shujaa wa Chakula was aimed at empowering, inspiring and provide support to women and youth in the food production sector by recognizing women's contributions and increasing their visibility. As far as

¹⁴⁸ Ibid

¹⁴⁹ Ibid

community support is concerned, both banks have been engaging themselves in community welfare support programme, in the country. Some of the support practices include donating to sports, disasters and health in communities. For example, as part of community welfare support, CRDB once donated Tanzania shillings 10 million to support rescue efforts for Zanzibar Ferry disaster occurred in 10th September, 2011¹⁵⁰.

As part of CSR, both banks have been contributing substantially to support education in Tanzania, through CSR programs. These banks have been supporting primary to higher level education by giving donations and sponsorship in different activities such as supply of books, desks, library improvements, providing sponsorship in sports games in schools also supporting transports facilities and training of teachers. For example, CRDB Bank handed over 85 desks, worth Tsh 5 million to primary schools at Kiwalani ward, in Ilala district at Dar es Salaam as part of CSR in 2010. Furthermore, the same Bank donated TZS 35 Million to support expansion of UDSM¹⁵¹. Also CRDB Bank donated 5 school buses to the Government through its transportation agency Usafiri Dar es Salaam (UDA) to help curb the growing student transport problem in Dar es Salaam.

Similarly, NMB supported Pugu Secondary School with reconstruction of the affected classrooms that were affected by bomb explosives at Gongo la Mboto barracks in 2010¹⁵². The study has found also that, support to health care by these banks is well recognized. The participation of CRDB and NMB banks into health

¹⁵⁰ Ibid

¹⁵¹ Ibid

¹⁵² Ibid

care is high. NMB for instance, donated TZS 3 Million to Kidodi hospital in Kilombero and beds to schools and hospitals nationwide¹⁵³. CRDB Bank on the other hand has refurbished maternity ward at Dodoma Regional Hospital.

The Bank also donated hospital equipments (32 hospital beds, 32 mattresses, 168 bed sheets, 32 side lockers, 16 drip stands, 64 blankets, 32 pillows and 64 pillow cases)¹⁵⁴. CRDB Bank sponsored the 5th Regional Congress of the Medical Women's International Association (MWIA¹⁵⁵) that was held in Dar es Salaam organized by the Medical Women Association of Tanzania (MEWATA), and attended by over 200 delegates. The conference, focused on progress made in Africa in the health sector and also identification of challenges facing the sector.

These are clear evidences of how CSR is practiced in the banking industry. All these initiatives are done voluntarily, at the will of the banks themselves. The banks dictate everything, from the type of programs to be implemented through CSR, the beneficiaries of the said programmes and how these programmes should be implemented. The community is just a recipient of whatever is given as part of CSR by the banks.

4.4.2 Corporate Social Responsibility practices in Processing and Manufacturing Industries

The processing and manufacturing industry sector in Tanzania faces generally a poor performance as far as Corporate Social responsibility's practices are concerned. The

¹⁵³ Ibid

¹⁵⁴ Ibid

¹⁵⁵ Ibid

study found little information or publications showing that, processing and manufacturing industries are active in Corporate Social Responsibility activities. Most of the companies involved in manufacturing sector have published CSR mission and Policy statements regarding their involvement on Corporate Social Responsibility, however, information or publications on whether these statements are implemented is missing.

For example, Tanga Cement Company through its CSR mission statement says “As part of commitment to sustainable development, we at Tanga cement recognize our social responsibility and aim to visibly play a leading role within the company’s sphere of influence”¹⁵⁶. However there is no any trace as to whether this statement has been put in action by the company and to what extent. The same applies to the Tanzania Portland Company (Twiga Cement) where in 2017-2018, it published its CSR statement, emphasizing its commitment to the Tanzanian community on the following areas¹⁵⁷; (a) preservation of culture, (b) meeting local needs through building infrastructure, involvement in environmental protection and management and support education and training to local communities. The said CSR statement insists that, the company will achieve these goals by using its management to manage the goals¹⁵⁸.

ASAS Group of companies, representing processing industries, also have its CSR mission statement shows how it is committed to CSR through CSR programmes

¹⁵⁶ Tanga Cement Company “the Corporate Social Responsibility Mission and Policy Statement issued by; November 2005, 1st Paragraph, retrieved from <https://www.simbacement.com>

¹⁵⁷ 2017/2018 CSR Mission Statement by Tanzania Portland Cement Company, retrieved through <https://www.twigacement.com>

¹⁵⁸ Ibid

directed on environmental protection. The statement says that, the company does so by working with all stakeholders, including employees, partners, suppliers, farmers and local communities. IN the said CSR statement, ASAS Group of Companies insists its belief to go beyond ethical business¹⁵⁹, meaning thereby, ASAS Group of Companies believes on CSR for communitiesøsocial economical development.

The study found nothing on the ground being implemented by manufacturing or processing industries involving CSR activities. What is available in public are the CSR Mission and Policy statements but reports on whether these statements are being implemented do not exist. It is equal to say that, there is a zero practice on the part of manufacturing and processing industries as far as CSR is concerned, the practice ends with publications of CSR statements but information regarding implantations of these statements remains untraced.

4.5.3 Corporate Social Responsibility Practices in the Mining Sector

The literature available on Corporate Social Responsibility in Tanzania, mainly centers on the mining sector, the sector itself has been facing a lot of criticisms based on what is being done by the companies invested in the mining industry. Corporate Social Responsibility activities done by the companies to communities around the mining areas are done only to stop riots and vandalism to the mining areas by the people of the surrounding communities.

Geita Gold Mine and Buzwagi being the case studies in this category, had their Corporate Social Responsibility programmes, based on the principle of

¹⁵⁹ CSR Mission Statement by ASAS Goup of Companies, retrieved through www.asasgrouptz.com.

compensation or replacement; in other words we call it a reactive Corporate Social Responsibility. These companies started Corporate Social Responsibility activities as a reaction to an event that was perceived would tarnish the companies' image. Schools were built after damage to the school, water supplied after some damage to the local community, and electricity supplied to diffuse some anger among the community members. The whole idea of Corporate Social Responsibility is mainly based on the companies' needs, thus it is decided and implemented by the companies. It is always driven by what the company wants to give and not about what the community needs to have.

The study found that, mostly the aim of these Corporate Social Responsibility activities implemented by mining industry is to acquire license to operate and make the companies accepted in the community so that people living around the mining centers do not vandalize the properties of these companies. It is about the establishment of a good relationship and to do away with any antagonism. In addition, a number of companies spent more costs on Corporate Social Responsibility administrative issues than direct benefit to the communities.

For example, the names given to some of these places where the Corporate Social Responsibility projects were located already said a lot about ownership. Someone going to fetch water at the company water point would refer to it as *ñakwenda chota maji mgodiniö* (literally translated as *ñI am going to fetch water at the miningö*). In the end this brings a problem of sustainability and vandalism as people do not perceive themselves as owners of the Corporate Social Responsibility projects

started in their communities¹⁶⁰, simply because, the mining companies still get hold and control of these projects, before, during and after their establishments.

4.5.4 Corporate Social Responsibility Practices in Telecommunication Industry

The telecommunication sector has been growing rapidly in Tanzania with many Tanzanians now using mobile phones to communicate and make transactions through mobile banking. For the purpose of this study, Tigo Tanzania being the earliest mobile phone company to exist in Tanzania, has been used as a case study for assessing Corporate Social Responsibility activities in the telecommunication industry.

The company is somehow serious compared to other companies as far as Corporate Social Responsibility is concerned in Tanzania. It has a special Manager for managing Corporate Social Responsibility activities (Corporate Social Responsibility Manager), and also it has its mission statement like other companies in Tanzania, which identifies the major areas of which the company invests as part of the Corporate Social Responsibility activity. Tigo CSR mission statement reads;-

*The strategic priorities for our social investment are focused on three thematic areas which are; Digital Inclusion, Education and Business Entrepreneurship. These themes demonstrate our ambition to empower every individual with digital technology while creating a shared value for our stakeholders who are customers, community, government, civil societies, media just to mention a few*¹⁶¹.

Notwithstanding stiff competitions in the telecommunications sector, Tigo Tanzania has continued proving its mettle both in the market place and creating sustainable

¹⁶⁰ Shukrani K. Mbirigenda and Colman Titus Msoka. Community development through corporate social responsibility: some issues from selected companies in Tanzania. Syllabus Review 6 (1), 2015 : 99 - 125

¹⁶¹ Tigo Corporate Social Responsibility Mission Statement. retrieved through <https://www.tigo.co.tz/csr>

social responsibility initiatives across the country as follows:-

In the education sector, Tigo Tanzania is one of the companies that have taken it upon themselves to invest in youth development in Tanzania. With its "a desk for every child campaign"¹⁶² in collaboration with Hassan Maajar Trust (HMT), a local Non-Governmental Organisation (NGO) in the vanguard of improving the learning environment in schools. The initiative is coupled with another programme called "Connected Schools programme", which aims at providing free internet to 350 Public Schools in Tanzania, in a bid to support government e-schools initiative. Tigo has made it clear that the goal of its Corporate Social Responsibility policy is to create a sustainable learning environment and nurturing new creative leaders of tomorrow.

Tigo further extended support into the health sector to the roll-out of the second phase of the new birth registration system which uses innovative mobile technology from Tigo. The new decentralised birth registration and certification system capitalises on the existing health infrastructure and personnel to register newborn babies soon after birth or within 12 months when visiting health facilities for vaccinations. Registration information is uploaded using mobile phone technology to a centralized data-base resulting in real-time data availability, and a certificate is issued the same day. Either, facts show that, between 2020-2013 Tigo Tanzania spent US \$ 150,000 to support cleft lip treatment at the CCBRT hospital benefitting over 1,300 children. Tigo was again committed another US\$ 150,000 for another

¹⁶² Tanzania: Corporate Social Responsibility, a Myth or Reality in Tanzania? A paper presented at the 14th Cape Conference . Published by the Tanzania Daily News Paper on 12th July 2015.

years to support treatment of 1,700 children born with club foot at the same hospital by the year 2015¹⁶³.

Apart from the above, other Tigo community support programs aimed at empowering the society by providing them with ICT based solutions include free internet-connected computers to selected primary schools as well as health facilities across the country. The Tigo Reach for Change Social Entrepreneurship is an annual program that identifies and supports social entrepreneurs with innovative ideas to transform the lives of children in the country. Apart from the funding, they receive mentoring and professional advice from senior employees of Tigo. It has also been rolled out successfully across all Tigo's African operations¹⁶⁴.

In General, the Telecommunication Sector in Tanzania has at least the best CSR practices. Through Tigo Tanzania as our case study, we see the CSR programmes which are formed and implemented by the said company have a direct impact in the society and helps in bringing positive changes especially in the technological aspects. Despite of this compliment, much is still needed to be done for the society to have full benefits of the investments done through telecommunication companies in Tanzania by a way of CSR.

4.6 Appraisal of Corporate Social Responsibility Activities Undertaken in Tanzania

After going through various Corporate Social Responsibility programmes done by the corporate community in Tanzania together with their Corporate Social

¹⁶³ Ibid

¹⁶⁴ Ibid

responsibility Mission Statements, this study found CSR practices in Tanzania to have focused on the following common areas;- (1) Health , (2) Community development, (3) Environmental issues, (4) Education and (5) Self Employment issues. Therefore these are the major areas, where the Corporate Social Responsibility practices in Tanzania are to be examined. Furthermore, most of companies in Tanzania have set out 1%¹⁶⁵ of their annual profit before taxation for corporate social responsibility projects to communities surrounding these firms. However all these CSR programmes are based on charitable means as the implementations of CSR mission statements by firms in Tanzania is on discretionary basis, at the option of the companies themselves.

The issue which remains unanswered centers on whether or not CSR is taken seriously by both the business society and the government of Tanzania. Studies conducted so far in Tanzania regarding CSR and CSR practices in Tanzania show that, both the government and the business society do not regard CSR as part of their business, therefore it is not taken seriously. To date, CSR practices in Tanzania are mainly based on the will and interests of the business community rather than felt needs of laws and of the society at large, even the body of knowledge on this issue in Tanzania, still give a one sided view of Corporate Social Responsibility, as it follows the traditional route of the concept, that is the corporate responsibility to support the surrounding communities in their areas of business¹⁶⁶, but it doesn't account into the broad meaning of corporate social responsibility as it exists in our contemporary world.

¹⁶⁵ Ibid 3rd Paragraph

¹⁶⁶ Op cit

Professor Issa Shivji, among the leading critical writers on this area provides that, the way Corporate Social Responsibility is practiced in Tanzania, observed that, the way CSR is practiced in Tanzania, with no rules or regulations, makes corporate managers in this country to deal with the funds set for Corporate Social Responsibility projects at their will. He insists that this has led to the amount of funds set for Corporate Social Responsibility by corporate investors to be unrealistic and instead they are guided by profit maximization philosophy that has nothing to do with the liberation of the citizens surrounding their investments from abject poverty¹⁶⁷, and this is the reality.

4.7 General Perceptions on Impacts of Corporate Social Responsibility Activities to the Targeted Community in Tanzania

It is generally argued by scholars that, the aim of the Corporate Social Responsibility is to create higher standards of living, while preserving the profitability of the Corporation for its stakeholders both within and outside the corporation. Accordingly there are three ways through which the Corporations promote community development, which are;- (i) charitable donation (ii) development inside the company that initiate new product and (iii) activities that promote sustainable development and antipoverty initiatives.

This argument has manifested itself in Tanzania as well. Today a lot of Social Economic projects are in place, implemented in the community through Corporate

¹⁶⁷ Professor Issa Shivji accessed through www.busiweek.com/index1.php?Ctp=2&pI=1904&pLv=3... Sep 21, 2014 DAR ES SALAAM, Tanzania; quoted from the Daily News,

Social Responsibility activities in various parts the country. Whether the company's Corporate CSR programs influence positively the community's development and enhance peoples' well being is an irrefutable reality based on the above observation. The only remaining truth to unveil is to what extent and how with emphasis to specific country experience such as Tanzania for which this section is dedicated. In this stance the section presents the results regarding Corporate Social Responsibility and community development in Tanzanian scene based on the existing literature for Corporate Social Responsibility available so far as follows:-

According to the Tanzania Investment Report (TIR) (2011)¹⁶⁸; the amount spent by various companies across the country for CSR projects during the years 2008 and 2009 amounted to US\$12.3 and US\$ 11.5 million respectively. It further said that in two years 2008 and 2009 different companies in Tanzania spent about US\$ 23.8 million for Corporate Social Responsibility initiatives, 48.4% being on health, welfare and education. It further divulges and identify education, healthcare, infrastructure (roads), water and environment care as key Corporate Social Responsibility spending activities with relatively low expenditure on microfinance, electricity, Youth and HIV AIDS programs.

These are positive impacts and they imply that poverty reduction and sustainable development will not be achieved through government actions alone. It requires helpful hands from all stakeholders including the business entities through the Corporate Social Responsibility initiatives and the like. With this reality, developing

¹⁶⁸ Flavianus B. Ngweni, Michael L. Bukwimba, Edwin M. Kwesigabo, and Indial D. Kaaya "The Role of Corporate Social Responsibility (CSR) in Community Development in Tanzania", Published by the American Journal of Economics, 2015.

countries, Tanzania in particular, should work closely and institute friendly environment (Policy inclusive) that encourage the CSR activities among corporation if possible make it an obligation for the business society. Drawing an example from India, the Government has the policy which requires any company having a profit above Rs 5 crores (5 hundred millions) to use 3% of its profit to support community development. But in Tanzania, CSR activities are done without an existence of a clear policy and centers mostly on only 1% of firm's income after taxation, at the discretion of the said firm. Therefore regulating Corporate Social Responsibility in Tanzania is inevitable for the country to achieve the best outcomes of the concept in social economic issues.

4.8 Conclusion

As we have seen in the previous chapters, particularly in chapter three, on both local and international scenes, CSR is being taken as an index to measure corporate's business prosperity. As a result of this, any company worth its salt will always want to be seen to be doing something along this line. While CSR understanding and practice is well rooted in advanced economy, the concept is still greatly misunderstood in many developing countries, including Tanzania. These misunderstandings are rooted from the CSR ideology itself, as the idea was born in the developed world, therefore implementing it as it is in the third world country like Tanzania poses a great challenge.

Another challenge is seen in the practices of CSR, as they are confused with the concepts of Corporate Social Disclosure and Corporate Social Investment. The confusion has resulted into a great challenge to the society as far as CSR

programmes are concerned, while to the business community, the confusion has been taken as an opportunity. Another problem associated with CSR practices in Tanzania is corporate transparency thus hindering CSR proper practices in the country. Above all, the governments of Tanzania seem reluctant to involve itself in emphasising on CSR issues in the country. There are no clear policies for the same. Due to the absence of state intervention, CSR is highly abused in Tanzania, as corporations operating in the country do not take it seriously.

In this chapter, we also went through the historical background of CSR in Tanzania, from the pre-colonial period, to colonial and post colonial eras, then we traced CSR during Ujamaa policy and finally we examined CSR during globalisation especially from the economic reforms of 19985 in Tanzania. The history reveals that, CSR started to gain momentum in Tanzania from 1985, following the economic reforms that were introduced in the country. The reforms attracted the influx of private enterprise thereby pushing aside the government as a major player in social economic issues. Unfortunately, these reforms did not touch CSR regulations.

Also, we saw the practical aspects of CSR in Tanzania from the selected case studies in the manufacturing, mining, banking and telecommunication sectors. The practices seem to be centered on the traditional concept of CSR that is philanthropic programmes. The major areas touched by CSR programmes in Tanzania are, health, environment, community development and education. No CSR programmes are seen in areas of consumer protection or workforce development in Tanzania. This fact is based on the findings obtained from the selected case studies.

All in all, one can say in a general statement that, successful Corporate Social Responsibility calls for both the right understanding of the concept and consequently, the right practice. Sometimes it also calls for government coordination and support to make the activities timely and tangible. When this role is missing, corporations can use the vacuum to fill in activities that have little or no use to the general public; yet it gains a name for the corporation. The important role of the state in coordinating and supporting CSR is missing in Tanzania, thereby leading misconception, misuse and malpractice of what could have been an important and useful concept for our legal, social and economical development at large. With the reality of what is happening on the ground in Tanzania as far as CSR practices is concerned and the changing circumstances, perceptions and definitions of what CSR ought to mean in our contemporary world, CSR legislation in Tanzania is inevitable.

CHAPTER FIVE

FINDINGS, RECOMENDATIONS AND CONCLUSION

5.1 Introduction

CSR in general is a concept which has many interpretations. It is typically a concept which has economic, social and environmental dimensions. The concept has increasingly gained interest among businesses society, state governments and other stakeholders affected direct or indirect by corporate investments all around the world. It has triggered an extensive discussion on its meaning among a number of scholars¹⁶⁹ and different CSR perceptions have come out as a result of this discussion.

The increase in interest in CSR however is primarily a result of efforts made by different players, these includes, international organizations, state governments, NGOø, writers on the subject, civil society organizations and individuals in their different capacities. These efforts have contributed to improved labour standards, enhanced environmental conservations and contributed to community development around the globe. In this chapter, the focus is on the study findings, giving out recommendations and above all to provide conclusion.

5.1 Summary of Findings

The findings in this study are summarized as follows;-

- i. CSR have many definitions as it means different thing to different people. So far there is no universal definition of CSR, but all definitions agree on the fact that,

¹⁶⁹ Masato Abe, DEVELOPMENTS IN THE CONCEPT OF CORPORATE SOCIAL RESPONSIBILITY (CSR) CHAPTER II , the Business and Development Section of the Trade and Investment Division of ESCAP, retrieved through <http://www.sustainability-index.com/and> http://www.ftse.com/Indices/FTSE4Good_Index_Series/index.jsp

CSR is about corporation's duty to contribute part of its profit to the surrounding community.

- ii. There are two leading perceptions of CSR, one centers on profit making, therefore insisting that, CSR should not be part of the corporation's plans, as it is not the duty of corporations to assist government on social economic developments of its people rather, corporations are formed for one purpose only and that is profit making in exclusion of all other goals. Another perception is based on the interest of all other stake holders apart from the shareholders. The stake holders' view insists on companies to have regards to all stake holders including the society at large, affected by their operations, therefore CSR is vital in this regard.
- iii. In most countries, CSR revolves around major five areas of interest; these are human resources development, community development, charity programmes, and environmental protection and consumer protections.
- iv. There are several factors that have led to the increased concern of CSR issues globally; these include the increased consumer expectations and awareness on their rights, increased public and state intervention on corporate business and environmental degradation.
- v. CSR in African continent have received much attention in recent years. The concept has been imported from the developed world. Africa has no CSR model of its own, it implements CSR based on the developed world's model. The subject so far is very little researched; the knowledge base for the same in Africa still depends from the developed world.
- vi. In Sub Saharan African region, many nations operating in the region have

integrated CSR programmes following social movements, public opinions and changes made by these countries especially on environmental laws.

- vii. Most of the CSR programmes found in the Sub Saharan African region are in education development, health and poverty eradication.
- viii. Kenya, Nigeria, Ghana, Cameroon and The Republic of South Africa are the leading countries in Africa South of Sahara as far as good CSR practices are concerned in the region.
- ix. In Tanzania, CSR started to gain momentum after the introduction of economic reforms in 1985, where the government allowed the private sector to take a leading role in social economic development in the country. CSR in Tanzania, in general faces many challenges especially in practices due to lack of seriousness on the corporate sector to implement CSR programmes, lack of government intervention for the same and the low level of consumer rights awareness among Tanzanians.
- x. To date, CSR practices in Tanzania follows the traditional route as they are based on philanthropic activities. Furthermore, CSR in Tanzania centers most in education, health and charity activities. There are very few CSR programmes for community development and human resources development.
- xi. Generally, when looking into the legal aspects of CSR, one has to dig deep on the root of CSR which is corporate business. Corporate business by its very nature is covered by many laws depending on the type of business or investment to which a particular company deals with. Therefore CSR is associated with different laws attached to corporate business. Also as it covers other issues like the work force, labour laws are part and parcel of the CSR legal aspects,

environmental and consumer protection laws also are included in the legal aspects of CSR. Also CSR is associated with penal laws.

- xii. So far Tanzania has no specific legislation for CSR, however plans are under way for enacting a CSR legislation. CSR in Tanzania as we speak is regulated through various laws that regulates corporate business and investment, the penal laws and environmental laws as far as environmental conservation is concerned, labour laws for protection of the work force and laws protecting consumer rights in the country. Tanzania also has established regulatory bodies such as the TCRA, TFDA, SUMMATRA, EWURA and TBS for the purpose of regulating CSR through protecting consumers.
- xiii. Globally, CSR regulation faces challenges. There are two competing opinions as to whether CSR should be regulated by legislations or not. Others agree with the idea of regulating CSR but the other school opposes the regulation of CSR and proposes that CSR should be a voluntary act of companies not a mandatory one.
- xiv. However, many countries seem to regulate CSR by different ways, though the outcome is the same. Some countries like India have enacted a CSR legislation mandating all companies operating with India to give 2% of their annual profit to the community through CSR, in UK, CSR has been incorporated in the Company Act of 2006 as it is part and parcel of corporate governance. In USA, they have created a department specifically for regulating CSR while in the European Union; members are guided by a CSR guideline that operates with member states of the European Union.
- xv. Regardless the opposition facing regulating and mandating CSR practices in the world, the findings show that, there are many advantages to all CSR actors

namely the companies themselves, the government and the community at large in the country if CSR is well regulated and practiced.

5.2 Recommendations

Generally the study recommends the following steps need to be taken by both, the Tanzanian government and corporate stakeholders in Tanzania, in order to ensure that there exist proper practices for Corporate Social responsibility;-

- i. The CSR legislation should be enacted to cater for the poor CSR practices in the country. The law should allow for the establishment of CSR clubs for proper management of CSR programmes in the country.
- ii. NGOø, CBOø, civil societies, the government and all other stake holders should come together and help in creating a human rights awareness to the Tanzanian population especially on consumer rights and other human rights issues.
- iii. A CSR policy should be created. The policy should clearly identify the CSR model that Tanzania should take and the best CSR model for Tanzania is a Pro- Poor CSR model as it takes consideration of the social economic and cultural set up of the country.
- iv. More studies, researches, and publications should be conducted in relation to CSR and its practices, hat suit the Tanzanian context. This will enable the business community and the society to come together when formulating and implementing CSR programmes therefore increasing the knowledge and awareness of CSR to all stakeholders and the general public.
- v. While waiting for a CSR legislation and CSR policy to be in place,

corporations have to adhere to the existing pieces of laws regulating CSR.

The government should ensure proper enforcement of the existing laws to cater for poor CSR practices currently existing in Tanzania.

5.2.1 Recommended CSR Model for Tanzania in Line with the CSR Legislation

Tanzania is a third world country characterized by poverty to the majority of its population, poor social services, high illiterate level and low level of human rights awareness among the its people. The CSR model which is suitable for this country is that which will take into consideration of the social, economic and cultural set up of the country. Therefore, apart from the general recommendations provided here in above from roman (i) to roman (v) the study makes a specific recommendation on a CSR model suitable for Tanzania. This study recommends a Pro-Poor CSR Model as the best model for Tanzania based on the aforementioned factors.

This Model will be the best for Tanzania because it gives assurance to the society that their interests as a poor community are given the first priority by corporations when thinking of CSR projects to be implemented. The pro-poor CSR model takes consideration of the welfare of all CSR players, namely the community, firms and the government. Under pro-poor CSR model, CSR becomes a tripartite agreement and each party is duty bound to do his part.

If the government of Tanzania is planning to have CSR legislation or to have a regulatory mechanism for CSR in the country like in other jurisdiction, it should have in mind of the proposed CSR model. The CSR Legislation to be enacted should take into account of the best practices that will bring corporations and the

surrounding society together. Non among the two major CSR players should feel marginalised by the law.

Apart from regulating CSR activities, the said Legislation should be a bridge in creating and fostering a bond of corporation between the business society and the surrounding community through introductions of CSR clubs which will have representatives from the surrounding community to which the corporation operates, representatives from the corporation itself and representatives from the local governments of the areas where the said corporation operates. These clubs will help in discussing and formulating best CSR programmes that are suitable for the communities surrounding the operational area of the corporation, therefore serving the best interests of the said community and the country at large.

5.3 Conclusion

CSR is a new subject in Tanzania and by now, there are still quite a few studies done about this field. Although responsible thinking have become more important and popular, Tanzanian society is still not used to demand bigger responsibility from companies and organisations, and therefore, economical results are still taken more into account. Fortunately, there are already signs of a rising civic society, which might lead to a bigger demand of Tanzanian consumers to companies.

The Author believes that CSR subject will be more and more important by the time, and will have more effects on Tanzanian government, the legislature and all other stake holders. Therefore, the author suggests in general apart from the above specific recommendations, the following to be taken in consideration by all CSR stake

holders in order to change the situation for the better and even faster improvement of CSR practices in Tanzania;

Firstly, there should be efforts to increase public awareness of corporate social responsibility issues in the country from all CSR players. Secondly, all companies operating in Tanzania should take all necessary steps to increase their awareness of what they should do in order to be socially responsible, and what benefits they will get if they opt for proper CSR practices. The government of Tanzania should make CSR reporting compulsory for the companies, so that they will have an obligation to inform the interested groups regularly about company's viewpoints and actions in societal and environmental fields.

All in all, Tanzanian companies should realise that being socially responsible means doing well not only for the companies, but also for whole society. The government should also take CSR seriously and intervene to regulate CSR through enacting CSR legislation. As this current study is one among the few CSR studies in Tanzania, examining the subject of CSR and calling for a legislative action intervention, then the Author believes that the study will be beneficial socially, professionally and scholarly, and that it could be used in future studies as well.

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