

The Role of State Legislatures in the Enforcement of Corporate Social Responsibility in Nigeria: An Appraisal

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Abstract:

The paper examines the role of State legislatures in the enforcement of the doctrine of corporate social responsibilities and the role of state legislature for societal development. Corporate social responsibilities is seen as a concept whereby companies integrate social and environmental concern in their business operation and in their interaction with the stakeholder's voluntary basis. The paper also outline the meaning of corporate social responsibility by different scholars, theories of corporate social responsibilities, corporate social responsibility (special provision bill) 2015, mode of corporate social responsibility and the legality and morality of the doctrine among others. It was observed that there are other subsidiary legislation, Bills, Act and laws that regulate the activities of companies in regards to corporate social responsibility (CSR). The enforcement of CSR is hindered by certain factors as: Corruption, Insincerity on the part of the Companies, road network challenges and insecurity. The paper recommends that in order to ensure absolute compliance of the corporate organizations to their social responsibility to environmental protection, the government will have to create a forum for partnership with the companies by encouraging the companies to install pollution abatement policies.

Key Word: Corporate; Social; Responsibility; Law; Policy.

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I. Introduction

This paper examines the role of legislative in the enforcement of doctrine of Corporate Social Responsibility (CSR) and the Role of the State Legislature for Community Development. It also examines the legality of the doctrine, some practical examples in contemporary Nigerian business environment, the strategies employed by the legislature for community development, existing role that the Nigerian lawmakers plays for the sustenance of the practice of CSR among its companies and corporate entities. A review of the doctrine of CSR shows a dearth of knowledge on CSR policies and practices in Nigerian organizations. The paper identifies how Nigeria views CSR, the growing importance of the CSR and the sources of CSR in Nigeria. The range and scope CSR provided for by the laws and the emerging patterns of CSR in organizations operating in Nigeria is also examined. Lastly, the paper looked at some practical theories of CSR, explores the forces driving or constraining or helping to shape the forms of CSR practices and policies. The paper also throws out the diversity in terms of how CSR is understood and experienced in Nigeria. In addition, the study shows that environmental institutions affect how CSR is appreciated and utilized. The paper suggests some policy implications and how state Legislature can harness the doctrine for state development.

II. Conceptual Definition: Corporate Social Responsibilities (CSR)

The terms "social" and "responsibility" are also often misinterpreted. For some, "social" refers to social issues such as health, education, security and the like-issues generally under the responsibility of governments. Others more correctly define "social" as a reference to society, including the planet and the environment, i.e., the ambit of action of the corporation. For some, "responsibility" stands for accountability for the corporation's actions; for others, a sense of duty toward society; and for others, good judgment (as represented in the Golden Rule, "Do unto others as you would like done unto you").

Corporate Social Responsibilities has been defined in various ways by different writers, thus, there are myriad of definition of CSR. Majority of those definitions attempted to integrate trade dimension to the concepts, i.e., economic and environment dimension. The European Union define corporate social

responsibilities as: a concept whereby companies integrate social and environmental concern in their business operation and in their interaction with their stakeholder's voluntary basis. (European Nation Green Paper 2001) World business council for sustainable development (WBCSD, 1999) define CSR as "the continuing commitment by business to behave ethically and contribute to economic development while improving the quality of life of the work force. MC Williams and Siegels (2001) describe CSR as action that appear to further some social groups beyond the interest of the firm.

European Foundation for quality management (2004) define CSR as a whole range of fundamentals that organization are expected to acknowledge and to reflect in their action. It includes among other things respecting human rights, fair treatment of the work force, customers and supplies.

Corporate Social Responsibility refers to the moral obligation to promote viable societal values for the generation of a peaceful atmosphere within a given society by the firms carrying out their lawful operations in that society. For Helg (2007:7) "Corporate Social Responsibility is the continuing commitment by business to behave ethically and contribute to economic development while improving the quality of life of the workforce and their families as well as of the local community and society at large". Corporate social responsibility is sometimes described as being a tacit contract between business organizations and a hosting community, whereby the community permits the business to operate within its jurisdiction to create job opportunity for its residents and revenue through taxation. Additionally, the community expects the business to preserve the environment and to make the community a better place to live in and to work within through charitable activities (Hurst, 2004).

The Concept of corporate social responsibility projects environmental friendly exploration, a positive impact on the field or locality of a business activity. It suggests incorporating community sustainable thinking in the positive and profitable ways while carrying out business activities (Makower 1994: 4). This concept also has to do with getting your employees to tune in to cutting waste, understanding the correct way to package company's product in a way that is friendly to the environment, and adapting productivity to the challenges of the environment in a developing and changing world. It includes a company's direction to task itself to be responsible to the people by allocating resources to deal with environmental and general development issues. The subject of CSR has been criticized on several fronts. This is because it is seen as a distraction from the fundamental economic role of business (Amaeshi et al 2006) or a nothing more than superficial window-dressing (Amaeshi et al 2006); CSR is seen as aiding business to pose ineffective market-based solutions to social and environmental crises, deflecting blame or problems caused by corporate operations onto the consumer and protecting their interests while hampering efforts to find just and sustainable solutions (Corporate watch 2012). It has also been argued that CSR is more of a Public Relation Issue where the companies act mainly in order to appeal to customers' consciences and desires but with the true intention of benefitting them. CSR helps companies to build brand loyalty and develop a personal connection with their customers. Many corporate charity tie-ins gain companies access to target markets and the involvement of the charity gives the company's message much greater power (Corporate watch 2012).

III. Theories of Corporate Social Responsibilities

The theories of CSR among others include: Stakeholder Theory, Social Contract Theory, Legitimacy etc. According to the Stakeholder Theory, paying attention to the needs and right of all the stakeholders in the business is a useful way of developing socially responsible behavior by managers (Miagnan and Ferrell 2004). A socially responsible organization is seen as one in which obligation to stakeholders' figure prominently in the decision making of the manager. (Clarkson 1995, Donaldson and Preston 1995 Gibson, 2000) stakeholder theory is also an attempt to broaden the perception that there is only one dominant interest namely the stakeholder in public company.

According to Moir, 2001, social contract theory on the other hand holds that business and society are equals partner each enjoying a set of right and having reciprocal responsibilities. The central idea of the social contract theory is how to relate a corporation to society.

Furthermore, the Legitimacy Theory state that CSR is a response to the environmental pressure involving social, political and economic force. According to the theory, organization look for a balance between their action and how they are perceived by outside and what is thought by society to be appropriate (Denga 2002) society perception of the organizations are crucial and may affect their survival if they breach social contract

IV. Corporate Social Responsibility Laws in Nigeria

Currently efforts are being made to discuss making a specific law which caters for CSR. However, it can be argued that there are several Nigerian legislations that incorporate within their provisions certain expectations that directly or indirectly regulate the observance or practice of CSR. For instance, Section 279 (4) Companies and Allied Matters Act 2020 as amended, points out that "the director of a company is to have

regard in the performance of his functions includes the interests of the company's employees in general as well as the interests of its members". Note that companies in Nigeria are not in any way precluded from carrying out social responsibilities towards the environment, what they will be expected to do is to ensure that such intended social friendly policies are embedded in their Article and Memorandum of Association. In other to reinforce responsible behavior various laws have been put in place for the protection of the environment. These laws stipulate criminal sanctions for non-compliance as opposed to voluntary adherence. Examples of these laws include:

National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007:

This act provides for the standards of compliance with environmental protection. It also provides for offences and corresponding punishment as it relates to the environment. Sections 20 to section 29, states the expected standards of ensuring environmental protection. Section 20 particularly relates air quality of the environment. Section 27 deals with the discharge of hazardous substances and related offences. Section 30 provides for the powers of the Officers of the Agency to enter premises, take sample, investigate and even exercise right of seizure. Sections 31 and 32 provide for the offences.

Harmful Waste (Special Criminal Provisions Act, 2015):

Another Act that calls for social responsibility is the Harmful Waste (Special Criminal Provisions Act, 2015). This act prohibits the carrying, depositing and dumping of harmful waste on any land, terminal waters and matters relating thereto. In Section 1(1) prohibits all activities relating to purchase, sale, importation, transit, transportation, deposit and storage of harmful waste. Section 1(2) enumerates the offences. This act provides for the penalty of the imprisonment. The Act makes it a general offence for anyone to deal with harmful waste. It also has provision for the exclusion of diplomatic immunities to foreign nationals who will want to hide under the said Act to perpetrate this offence. Other laws that deal with the protection of the environment can be found in the criminal code. Certain sections of the code specifically provide for the protection of the public health. Sections 234 to 248 of the Criminal Code provides for offences against public health. Section 245 declares as offence the corruption or fouling of the water, spring, stream, well, tank, reservoir or place. Section 247 provides for noxious acts and section 243 provides for exposing and adulteration of food or drinks. Section 244 provides for offences relating to dealings with and in diseased meat and section 246 provides for offences against burial in houses. In spite of the stipulated laws and sanctions, the challenge for the Nigerian state has been a problem of enforceability i.e., the issue often comes down to concerns about how to make companies comply or to what extent could these penalties be enforced against an artificial person in law?

There is also a bill on CSR which has been before the Nigerian National Assembly since 2012 . The CSR Bill seeks to establish the Corporate Social Responsibility Commission ("CSR Commission"). The Commission will see to the formulation, implementation, supervision and provision of policies and reliefs to host communities for the physical, material, environmental or other forms of degradation suffered as a result of the activities of companies and organizations operating in these communities. The Bill proposes five main divisions which respectively provide for the establishment of the CSR Considering the provisions of this Bill, its successful passage in the house will be a welcome development and indeed a great reformation of the practice of CRS in Nigeria and will help in firmly establishing corporate ethics among the firms in Nigeria. Nonetheless it is important to point out that the proposed bill has a number of deficiencies. For instance, the bill does not provide for extensive enlightenment of the Nigerian society on the benefits of CSR and does not reiterate the minimum constitutional duties that are imposed on the Nigerian government. For The CSR Bill has been described as a reactive legislation as opposed to a proactive Law and therefore needs to be subjected to review before passage. It was also argued that CSR contributory charge could be a disincentive to investments in Nigeria in the light of the already existing high and multiple taxes at various strata of the Federal, State and local Governments (Oserogho Associates, 2008). It was therefore recommended that the proposed charge of 3½% could be reduced to a basic minimum charge for all companies and organizations whilst the penalty charge for none compliance with the statutory requirements of the Law could be increased by the same margins of the CSR charge itself (Oserogho Associates, 2008). It has also been pointed out that CSR Bill has failed to follow recent legislative practices which impose criminal liability on both the corporation and all the directors and managers of any corporation or company who are aware of the breach of an existing Law and this therefore should be subjected to the necessary inputs and corrections.

Corporate Social Responsibility (Special Provisions, etc.) Bill, 2015:

This bill is still lying in the National Assembly since 2015 and has as its main objectives to make companies operating in Nigeria play fundamental role in the social, economic and environmental development of the nation. The Bill has 25 Clauses including citation and explanatory memo and applies to every company registered in Nigeria including its holding or subsidiary irrespective of their operational base whether in Nigeria

or outside Nigeria; every foreign company having a branch office or project office or operational office in Nigeria. Exception to the application clause includes: every company which ceases to be covered by the provisions of Clause 2 of this Bill (when it becomes law) for 3 consecutive financial years, till such time when it meets the criteria specified under Clause 2; any company which suggests or is calculated to suggest that it enjoys the patronage of the Government of the Federation or the Government of any State in Nigeria or any Ministry or Department of Agency of Government; Foreign offices, projects and operations of a company registered in Nigeria; any foreign company exempted under any treaty to which Nigeria is a party.

The legal implication of this bill are that when this Bill is passed, every company having a net profit of N500 million or profit turnover of N500 million during any financial year shall comply with the Corporate Social Responsibility Policy as provided under Clause 2 of the Bill, (Clause 3); every company that meets the criteria provided under Clause 2 of the Bill is required to establish and constitute a corporate social responsibility Policy Committee (CSR Policy Committee), (Clause 4); every company is required to spend at least 1% of a company's average net profit in every three immediately preceding financial years for its Corporate Social Responsibility Policy, (Clause 4(3)(e)); there shall be established a Corporate Social Responsibility Fund designated for amount not spent by a company on Corporate Social Responsibility for that particular period. The Fund shall be managed by the CSR Policy department under the direct supervision of the Minister of Finance (Clause 5).

V. General Provisions of the Bill

Duty to Maintain a Corporate Social Responsibility Policy:

Clause 4 provides that every Company shall establish and constitute a Corporate Social Responsibility Policy Committee (CSR Policy Committee).

Functions of CSR Policy Committee:

The CSR Policy Committee shall - Create, formulate and recommend to the company's board, a Corporate Social Responsibility (CSR) Policy which shall indicate the activities to be undertaken by the company; recommend to the Company's Board, the amount of expenditure to be incurred on the CSR Policy activities; monitor periodically the activities of CSR Policy of the Company.

Board Response to CSR Policy Committee's Recommendation:

After receipt of the CSR Policy Committee recommendations the Board shall: - Scrutinize and thereafter approve the CSR Policy of the company for the immediate proceeding 3 years; disclose the approved contents of the CSR Policy in its Pre-Performance Report to the Minister not later than the last day of the month of April of the three immediately preceding financial years; place the company CSR Policy contents on the company's website or any such manner as may be prescribed; ensure that the approved CSR Policy contents are part of the activities of the company's Corporate Social Responsibility Policy which must be executed and undertaken by the company; ensure that the company spends at least 1% of the average net profit of the company in every 3 (three) immediately preceding financial years for its Corporate Social Responsibility Policy; provided that preference shall be given to the local community and immediate environment it operates, in spending the amount earmarked for CSR activities.

Execution of a Company's CSR Policy:

The company shall: Before the company's execution of its CSR Policy, notify the Minister of Finance and the Minister shall delegate officials of his Ministry from the department of CSR Policy to take briefings, to observe and witness the execution; after the spending and execution of the company's Corporate Social Responsibility Policy, the company shall be required to present a CSR Performance Report to the Minister of Finance.

If the company fails to spend such amount specified in its Corporate Social Responsibility Policy, the Board of the company shall, in its CSR Performance Report specify the reasons for not spending the full amount.

On receipt of the CSR Performance Report, the Minister shall either: Approve the CSR Performance report, if the company gives sufficient and convincing reasons to justify its action, after which the Minister shall within 30 days of receipt of that report, direct that the amount not spent on the CSR Policy for that period be carried forward to add to the amount the company will earmark for the next 3 years expenditure of its CSR Policy; or within 30 days of receipt of the company's CSR Performance Report, if not convinced of the reasons proffered by the company for not spending the total amount earmarked for CSR Policy execution direct the company with a Letter of Displeasure to remit and pay the amount not spent on Corporate Social Responsibility Policy for that particular period to a designated account called "Corporate Social Responsibility Fund".

If the company fails to pay or remit the amount stated within 30 days, the company and every officer of that company shall be guilty of an offence and liable on conviction by a court of competent jurisdiction to a fine not less than N100,000 for every day the offence subsists.

Certification of Performance:

If the Minister of Finance is of the opinion that the CSR Performance Report of a company is fully and well executed in accordance with the CSR Policy of the company and the CSR Policy laid-down guidelines, the Minister shall issue a Certificate of Performance to the company within 30 days of receipt of the report.

Management of the CSR Fund:

The CSR Fund is to be managed by the CSR Policy department under the direct supervision of the Minister of Finance. A company in default of not spending the complete amount earmarked for CSR activities for a particular period and the Minister of Finance is not satisfied with the reason provided by the company; the company shall pay in the unspent amount to the CSR fund (Clause 5).

Defaulting companies are to pay-in their fines and outstanding sums to the CSR fund. Moneys in that fund are to be used to execute CSR Policy in the immediate environment and local communities of the companies that paid-in any sum.

Approval by the National Assembly:

Approval of each House of the National Assembly is required for spending money from the fund on a yearly basis. The Minister of Finance shall forward copies of each company's CSR Performance Report for scrutiny and record purposes.

Companies' Liability for Agents:

Negligent Act - Clause 6(1) provides every company shall be liable if it fails to include in its CSR Policy contents, a statement or a Clause that prohibits its employees, agents, contractors, subcontractors from acting in ways that could: Damage the social, economic and environmental lives of the people; adversely affect the standard of living of its area of operation and the host communities; violate the rights of the people; and facilitate the corruption of public officials.

Liabilities:

Where a company fails to include in its CSR Policy, a statement or clause that prohibits employees, agents or contractors from conducts that could damage the environment or violate the rights of people, the company and every officer of the company in default shall be guilty of an offence and liable on conviction to a fine not less than N100,000 for every day during which non-compliance subsists (Clause 6(2)). Clause 6(3) provides that after 6 months of the Bill becoming law and thereafter, companies in breach of any provision shall not be allowed to trade on any stock exchange or capital trade point in Nigeria.

VI. Mode of Corporate Social Responsibility (CSR) Delivery In Nigeria

Generally, there are two modes of delivering CSR in Nigeria: organizations delivering CSR by themselves (internally) and/or paying third parties to do it on their behalf (externally). Internal Delivery Mode requires a corporate entity to take charge of CSR implementation. This mode is divided into three: corporate philanthropy, direct implementation and use of community-based organization or foundation.

Corporate philanthropy:

The word philanthropy is derived from the Greek word meaning "love for mankind" corporate philanthropy refers to giving to a business entity directly to charitable organization or to individual in need with intention to improving the quality of life.

Direct implementation of CSR activities:

In this instance, the business entity established a full-fledged in-house unit for delivering the CSRs without third party involvement.

Community based organization (CBO):

The use of CBO provides opportunity for business entities to provide some CSR with minimal direct exposure of company employee or representative to hostile community members. CBO are civil societies non-profit that operate within a single local community.

VII. Some Practical Examples of CSR In Contemporary Nigerian Business Environment

The strand of CSR practiced in Nigeria is tagged as economic support. In this case the corporate organizations help by providing social amenities like portable water, building and maintenance of schools, maintenance of parks, promotion of basic and primary health care scheme, launching of empowerment schemes for the less privileged etc. lastly, compensatory CSR strand is gradually gaining ground. Organizations compensate the Nigerian government, communities and individuals for certain operational breaches that have occurred during the production process. These three expressions or strand of CSR can be seen in the several organizations in Nigeria such as Dangote Fertilizer plant in Lagos, Lafarge Cement Company Limited in Cross River State, Oil and Gas industries in Niger Delta, United Bank of Africa [UBA], and MTN Nigeria.

First, the Dangote Fertilizer plant in Lagos has a number of focus area. The company are in a broad sense a group of different agents that have a relationship with shareholders. Corporate social responsibility in this regard will provide the following: Job opportunities to Lagos indigene and the society at large and provide infrastructural development and other social amenities to the society at large particularly where the industry is located.

Furthermore, Lafarge Cement industry/company in Cross River State has a number of focus areas for its CSR agenda and constantly tries to focus on the basic needs of society, reaching as many people as possible through its CSR initiatives. The objective is to target all parts of the country with its CSR activities but UBA is presently using Lagos as a test area for its projects and initiatives. Regarding the internal CSR work the focus of the foundation is at present to gain commitment and understanding for the CSR initiatives. Some of the Lafarge CSR initiatives are presented as follows (Helg 2007):

Micro credits:

Lafarge has initiated micro credits to its customers. The Nigerian government has also introduced a micro credit finance programme but interest rates are still as high as 36 percent. The objective for UBA is therefore to give the opportunity for people to take a loan without interest or at least with very low interest rates.

Scholarships:

Lafarge also runs a scholarship programme. The objective is for 108 pupils to be examined each year through scholarships. Lafarge finds it important that the pupils don't feel like "second hand" students because of the scholarships. Therefore, Lafarge has also introduced a grant that is being offered to the school in combination with the scholarship that makes the scholarship beneficial not only for the student but also for the school.

Environment:

Lafarge also works intensively on waste management and environmental issues. For example, a project has been run with the purpose of installing refuse collection centres as well as offering training for people to become refuse collectors. The vision is to create an environmental movement where all companies, large and small, contribute with something in the work of improving the environment.

Moreover, MTN Nigeria Communications Limited provides telecommunication services. MTN Foundation was incorporated in July 2004 to offer a platform for MTN to drive its Corporate Social Responsibility initiatives in Nigeria. Through its efforts, the MTN Foundation has made huge impact and has become a model for good corporate citizenship, endorsed by a wide variety of stakeholders, Government, Regulators, Tax authorities, and the beneficiaries of its numerous projects. MTN Foundation portfolio covers: Economic Empowerment, Education, Health, and Working against Poverty. Some of the activities of the foundation include:

Economic Portfolio Project:

MTNF Rural Telephone Project and the International Finance Corporation (IFC) are projects designed to empower rural entrepreneurs through the provision of equipment to start their own telephone businesses. This is facilitated through micro-finance loans. The project helps to alleviate poverty and create wealth in those rural communities. Since inception to date over 4,500 beneficiaries have been empowered.

Health Portfolio Projects:

The MTN Foundation Partners against Malaria and AIDS in the community. There is also Children-at-risk-empowerment scheme which was designed to provide integrated care and support (i.e., educational, nutritional and psychosocial support) for orphans and vulnerable children (OVC) in Nigeria.

VIII. The Legality and Morality of The Doctrine Of CSR

In Nigeria, the debate on whether CSR should be catered for by law or one that should be left to individuals and organizations morality has long been disputed. While law is a coercive order, morality is a persuasive system. Law seeks to bring about a specific mode of human conduct by force, but morality appeals to the conscience of the individual required. A rule is a rule of morality if by common practice of the community, it applies only to the conscience of the addressee for ultimate compliance, but a rule is a rule of law if by the common practice of the community it will eventually be enforced by a power external to the addressee, i.e., the state or community. The extent to which law can be used to enforce morals has been the subject of expression in some decided cases. In England the House of Lords held that the Queen's Bench Division is the Custodian of good morals and that it has jurisdiction to punish a person for contravening the rules of morality (Corporate watch 2012). It was also held in another case that the Court is the custodian of public morals and it is its duty to preserve the moral welfare of the state (Chamila, 2007). It is worthy of note that the English court in a latter decision took a bold step to revert the position as expressed in the above cases. The House of Lords deciding on the Court's residual powers of enforcement of the supreme fundamental purpose of the law held that, the courts no longer have any residual power to supervise morality in the society. Lord Denning advocate the view that the society reserves the right to use criminal law to preserve morality in the same way as the society uses criminal law to preserve anything it considers essential for its survival. Prof Hart on his part suggested that that it was wrongful to enforce morality through the criminal law without first ensuring that failure to do so will endanger the social fabrics. Notwithstanding the divergent views, both writers agreed to the fact that moral values are very important to the society and that there is need for law to uphold some moral position in the society on different grounds.

Under a democratic government the decision for the enforcement or the non-enforcement of moral values through the mechanism of the law lies strictly within the purview of the power of the law makers of that society. But in as much as such moral values have not been made to carry the force of law, it remains a moral obligation which is within the prerogative power of an individual expected to adhere to such values. An individual has the right to either carry out or neglect to carry out such moral obligations as expected of him. This therefore also applies to corporate organizations, especially as it relates to the societal expectation of carrying out activities that ensures the preservation of the environment as part of their corporate social responsibility.

As at present, there is no law in Nigeria that makes it mandatory for companies to either incorporate environmental preservation into their company policies or enforce the compliance thereto. If there is therefore no legal provision upon which the companies can be held accountable for environmental protection, then no offence can arise and there can never be any sanction. Where there is no offence known to law, a conviction cannot be sustained. This position has been upheld in a Nigeria case where the High Court sitting on appellate jurisdiction held that there was no written law upon which the lower Court convicted the appellant. The court held that the conviction of the appellant was contrary to the provisions of Section 21 (10) of the Constitution of the Federation 1960, which provides that a person shall not be convicted of a criminal offence unless the offence is defined and the penalty therefore is prescribed in a written law. The conviction of the appellant was thereafter quashed. Going by the above, it is obvious that the issue of corporate social responsibility is solely a matter of discretion and one within the powers of the Directors of the company who may refuse to so act. A company may or may not incorporate social responsibility into their fiscal policy. Whichever way it goes, the failure of a company to comply with the social responsibility of environmental protection will not merit any legal consequence because it would not have resulted in the commission of any offence known to law. Notwithstanding the above, there is an instance when an offence will arise against a company for not complying with the environmental standard of the place of its operation. This can arise under the doctrine of vicarious liability, when the company will be held liable for the offence of its employee.

IX. The Role of State Legislature in Corporate Social Responsibility (CSR)

How can the legislature better contribute to enhance Corporate Social Responsibility (CSR) efforts? In order to answer that question, we need to better understand the role of the legislature in promoting and supporting social responsibility initiatives and campaigns. Although social responsibility is more commonly associated with the corporate business sector, it is very important to pay attention to key stakeholders like federal, state, and local governments. In the past few decades, the legislature has joined other stakeholders in assuming a relevant role as drivers of social responsibility and adopting public sector roles in strengthening initiatives.

Although there is no express Constitutional provision in relations to Corporate Social Responsibility. However, there are other subsidiary Legislation, Bills, Act and Laws that regulate the activities of companies in regards to Corporate Social Responsibility (CSR). Section 20 of the 1999 constitution of the Federal Republic of Nigeria as amended, empowered the State to make laws, to protect and improve the environment and safeguard the water, air, forest and wildlife of Nigeria. In addition to this, section 20 of Environmental Impact Assessment

Act of 1992 (EIA Act) provides that the public or private sector of the economy shall not undertake, embark on or authorize projects or activities without prior consideration of the effect on the environment. The Federal Government of Nigeria has promulgated various laws and regulations to safeguard the Nigerian Environment.

The CSR is neither in the exclusive, Legislative nor concurrent list. But chapter five (5) of the 1999 constitution of the Federal republic of Nigeria as amended made provision for the legislative arm of government. The legislature is an organ of the government that comprises the elected representatives from geo-political zones whose primary function is to make laws and change laws and policies for the welfare of the citizenry. In democracy, the legislature plays a crucial role to give voice to the voiceless and ensure effective representative of all interest and cultural affiliations or segments of a country.

Legislative power is law making power or power to make law. The legislative power of the federation is vested in the National Assembly which consists of the Senate and the House of Representative – S.4(1) while the legislative power of the states is vested in the House of Assembly of the State S.4(6).

Section 4(2) (3) provides that the National Assembly shall have exclusive power to make laws for the peace, order and good governance of the Federation or any part thereof with respect to any included in the exclusive legislative list.

In addition, the National Assembly is authorized to make, in respect of matters in the concurrent legislative list (subject to constitutional limitations) and in respect of any matter it is empowered to make in accordance with the provisions of the constitution Section 4 (4).

The state House of Assembly is empowered to make law for the peace, order and good governance of the state or any part thereof in respect of matters not in the exclusive legislative list but concurrent legislative list and any other matter with respect to which it is empowered by the constitution to make laws.

X. Other Functions of the Legislature apart from Law-Making:

It cannot be overemphasized that the principal functions of the legislature is to make laws. But apart from making laws, there are other five ancillary functions that can be identified. These are representative, deliberative, administrative, investigative and quasi-judicial functions. These distinctive functions are performed by the Nigerian Legislature without causing hardship to the doctrine of separation of powers:

The Representative Function:

At the national level, the specific wording of the constitution clearly portrays the representative nature of the legislature. In this connection section 47 instructively provides as follows: “There shall be a National Assembly for the Federation which shall consist of a senate and a House of Representative”. The phrase “House of Representatives” in the above provision bears eloquent testimony to the representative nature of the organ of state. The representative nature of the senate can be inferred from the fact that its members are elected on the state basis. The representative nature of the House of Assembly at the state level is derivative from that of the National Assembly as can be seen from the provision of section 91 of the constitution.

The Deliberative Function:

Before any bill is passed into law, a legislature legally and procedurally, must of necessity know of all the facts in issue. It is gratifying to note that the constitution drafting committee of 1976 recognized the importance of this when it stated as follows: We believe that the legislature, under a democratic system of government, has an important role to play in sustaining the democratic system. Its primary function is to make laws, but in exercising these functions, it must keep itself informed of the needs of society and executed. The legislative process would be incomplete if all the legislatures have to do were to examine bills placed before them without any further. We think that is too narrow a view of legislature functions. “Legislatures must inform themselves of how existing laws are admonished and what defects show up on the administration of the laws. When they make new laws, they are, as a rule. Dealing with political, economic or social problems which exist or are likely to arise as they must be fully informed about those problems (through proper deliberations). Other powers of legislature include: the administration function section 147 (2) and the investigative function, section 88 of the 1999 constitution of the Federal Republic of Nigeria. Conclusively, the Legislature through their oversight functions should make rules and regulations in relation to corporate social responsibility (CSR) to oversee the operational conduct on companies operating within Nigeria

Now that the modern world has become inherently globalized with its economies and political challenges, the framework provided by social responsibility initiatives provides society with a way to learn what successful collaboration looks like among corporations, governments, and society. An area of social responsibility that the government focuses heavily on is social marketing, which is a marketing concept that works to develop and integrate marketing tactics with other approaches to influence behaviors that benefit individuals and communities for the greater social good. Through this type of integrated marketing

communication, governments are able to better disseminate important health information to key publics and target audiences.

The United States Centers for Disease Control and Prevention (CDC) is a key agency within the U.S. federal government that successfully integrates public health initiatives with social and marketing practices. On their website, they have a dedicated gateway page providing resources to help partners build health communication or social marketing campaigns and programs.

According to the Institute for Public Relations, the CDC and many other health-focused and social change agencies use social media channels as a vital way of communicating with their key audiences. A 2012 report analyzing the CDC's social media practices found that the centers efforts were timely, important, and science-and-evidence based and shared pertinent messages of prevention, individual responsibility, safety, and community collaboration. Conclusively, the report stated that the governments who actively use of social media have the potential to influence public health initiatives and beyond on a large scale and garner support for positive social change efforts among policymakers and regulators.

Communications and public relations professionals in the DC metro area who are interested in exploring this kind of work can check out the Washington, District of Columbia office of Ogilvy Public Relations Worldwide (Ogilvy Washington), who currently does work on multiple CDC contracts providing specific communications support in the areas of social marketing, health communication, and public affairs.

In summary, federal, state, and local governments play a large role in helping to solve society's most pressing issues. It is important that all sectors play a part in trying to achieve successful behavior change. Too many companies are waiting for the business case and too many governments have become co-opted or overwhelmed by private interests. Increasing cross-sector social responsibility and establishing more partnerships looks like the answer to increased accountability in the future, and promoting this kind of engagement is exactly how governments can better contribute to social responsibility efforts. The state legislature can employing and effecting their constitutional responsibilities of law making within their jurisdiction or on matters that are in the concurrent list or not in any list at all but for the peace and welfare of its people can engage companies operating within their areas to come up with policies, regulations and rules to achieve CSR objectives.

XI. The Challenges to Corporate Social Responsibility (CSR) In Nigeria

There are several challenges to CSR in Nigeria. These includes the adherence to the conventional business principle which states that the business of an organization is strictly to benefit its shareholders, meaning that business organizations' major motive and target is the ability to make profit, and maximize profit even at the expense of the environment of their operation. This orthodox norm affects negatively all aspects of the society especially as it affects environmental protection. Another challenge to CSR is the inefficiency of legislations. There is little legislation in the area of corporate social responsibility and the ones that are available are either poorly managed or unenforceable. Legislations are made to order the cause of life and event within a society, but when such legislations when made are not adequate not in terms of the volume or variety but in terms of specification, the effect becomes insignificant. Some of the provisions of the existing laws most especially on environmental protection are not adequate in safeguarding the life and rights of the people. For example, the Nigeria Federal Environmental Protection Agency Act which provides for the spiller's liability. It makes it unlawful to discharge such harmful quantities of any hazardous substances in to the Air, or upon the land and the waters of Nigeria or at the adjoining shoreline (see *Hutton v. West Cork Rail Co.*, (1883) 23 Ch. D. 654, p. 673). The violation of this provision has a criminal sanction with the penalty of fine or imprisonment for an individual offender and fine alone for a corporate offender. The question is, if the pollution has caused grievous damaged to a citizen will the fine or damages awarded, be sufficient to remedy the harm done to such individual.

Also, the commission of some of the offences provided for by the existing legislations can only be prosecuted by the State, especially those offences that fall under the public nuisance. Private persons are not given the power to so do, notwithstanding the fact that such an individual might have suffered severely from a grievous harm occasioned by corporate activities. Another challenge to CSR in Nigeria is poor enlightenment within the Nigerian society. The lack of awareness as to the need to be socially responsible to the environment makes people to be ignorant of the effect of their negative or improper dealings to the environment.

The insincerity and insensitivity of the Nigerian Government has also been implicated. For instance, the responses of Nigerian Government to negative corporate activities like gas flaring has not portrayed the government to be sincere enough in ensuring the practice of social responsibility in Nigeria. Insincerity and insensitivity on the path of the government has to do with the system of government that encourages the passive attitude of the corporate organizations towards their corporate social responsibility to the people. In Nigeria, the government seems to concentrate more on generating income from the default or failures of the corporate organizations in meeting up with their social/legal responsibility to the environment. The fund generating drive

of the Nigerian government encourages the non-compliance of the companies to environment laws. Monetary compensations are being accepted in lieu of the companies' obnoxious acts of environmental degradation at the expense of the preservation and conservation of the environment.

XII. Conclusion

This paper examines the doctrine of corporate social responsibility (CSR) in Nigeria and its effects in community development in the light of legal regulations, case law and governmental policies. It also examined the legality of the doctrine or otherwise some practical examples in contemporary Nigerian business environment, legislature and strategies for employing the concept CSR for community development existing role that the Nigerian law plays for the sustenance of the practice of CSR among its companies. A review of the doctrine on CSR shows a dearth of knowledge on CSR policies and practices in Nigerian organizations. The paper identifies how Nigeria views CSR, the growing importance of the CSR and the sources of CSR in Nigeria. The paper also examines the range and scope CSR provided for by the laws and the emerging patterns of CSR in organizations operating in Nigeria. Lastly the paper examines some practical theories of CSR explores what are the forces driving or constraining or helping to shape the forms of CSR practices and policies. The findings reveal that there is diversity in terms of how CSR is understood and experienced in Nigeria. In addition, the paper shows that environmental institutions affect how CSR is appreciated and utilized. The paper suggests some policy implications in the form of support for CSR by the State Assembly by engagement and formulation of rules, regulations, procedures and laws. It is noteworthy that present operations of the corporate organizations in Nigeria have become marred with several negative identities such as insensitivity, corruptions and segregation of the society, thus to crusade a change might pose certain challenges, but this notwithstanding, change is inevitable.

XIII. Recommendations

In order to ensure a safe and easy landing for necessary positive change towards ensuring adequate and efficient practice of corporate social responsibility, are set out: certain recommendations that could help to aid easy and considerable compliance of laws.

- i. In order to ensure absolute compliance of the corporate organizations to their social responsibility to environmental protection, the government will have to create a forum for partnership with the companies by encouraging the companies to install pollution abatement policies.
- ii. The government can also provide fiscal incentives such as tax relief and soft loans to the industries to invest in employing clean and environmentally friendly production methods. In ensuring adequate protection of the environment by corporate organizations the government must weigh the capacity of an intending entrepreneur company and consider their ability of meeting up with the standard of ensuring the safety of the environment before a license of operation is issued to such prospective company.
- iii. For instance, there is a need for more laws to be enacted to protect CSR and the need for firm monitoring of the system of laws. Several of the Nigerian legislations that protect CSR, do not provide for strict compliance modality of its provisions. Such monitoring expectations should include regular audit and review of firm practices and policies.
- iv. It would be necessary for the government and its agencies responsible for environmental protection to make concerted effort in creating awareness to the general citizenry on the need to be socially responsible to the environment.
- v. For future studies it will be interesting to examine CSR policies and practices in specific sectors such as the oil industry.
- vi. It will also make for an interesting study to examine the impact of CSR on communities surrounding the oil sector firms.
- vii. State Assemblies can carry out engagements with corporations operating in the States to come out with regulations, rules, procedures and even laws to enhance CSR.
- viii. The National Assembly should expedite action to pass into law the Social Responsibilities bills pending in the National Assembly since 2008 and 2015.
- ix. State Legislatures should establish CSR as one of its standing committees to provide avenue for continued interface with companies operating within the jurisdiction of the State to encourage and carry out social responsibility objectives.

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