Corporate Social Accountability in Developing Countries: 
A Recipe for the Socially Responsible Corporation

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Abstract

From the Pfizer's clinical trial of the polio drug that killed 11 children in Nigeria and rendered several others blind, deaf and mentally retarded, to the Union Carbide plant in Bhopal, India that killed over 5000 people and caused lifelong health damage to up to 100,000 others, the list of multinational companies' activities that have inflicted costly damage on populations in the developing world in the unconscionable exercise of the corporate power is indeed endless. The growing awareness of the social and environmental impacts of companies' activities has led to the growing emphasis on corporate social responsibility. Many developing countries that however happen to be most affected by corporate social responsibility issues do not seem to have any remarkable corporate social responsibility framework. This article examines the different theories and dimensions to corporate social responsibility and argues that developing countries can make companies to take their corporate social responsibility seriously by imposing disclosure requirements that cover their non-financial performance thereby making them socially accountable for their activities.

1. Introduction

From the Pfizer's clinical trial of the polio drug that killed 11 children in Nigeria and rendered several others blind, deaf and mentally retarded, to the Union Carbide plant in Bhopal, India that killed over 5000 people and caused lifelong health damage to up to 100,000 others, the list of multinational companies' activities that have inflicted costly damage on populations in the developing world in the unconscionable exercise of the corporate power is indeed endless. The growing awareness of the social and environmental impacts of companies' activities has led to the growing emphasis on corporate social responsibility. Many developing countries that however happen to be most affected by corporate social responsibility issues do not seem to have any remarkable corporate social responsibility framework. This article examines the different theories and dimensions to corporate social responsibility and argues that developing countries can make companies to take their corporate social responsibility seriously by imposing disclosure requirements that cover their non-financial performance thereby making them socially accountable for their activities. The article presents a brief literature review of the existing works in the field and then examines the different approaches to corporate social responsibility. The article then makes a case for corporate social accountability in developing countries as a paradigm for ensuring respect for corporate social responsibility principles by transnational companies operating in such countries.
2. Literature Review

Discussions on corporate governance have for many decades arguably revolved around solving the problems posed by the separation of ownership from control in corporation law (Testy, 2002). Ownership and control are separated in public companies because the board of directors and the managers control the business while the shareholders are no more than passive investors. Consequently, corporate governance rules are usually based on the premise that they are necessary to keep management working in the interest of the corporation which is owned by shareholders rather than working in its own self-interest (Testy 2002). This consequently led to the emergence of the ‘shareholder primacy norm’—the belief that directors and managers highest duties are to the shareholders and their wealth maximisation. Globalisation has resulted in trade liberalisation and an unprecedented degree of foreign direct investment (FDI) and multinational companies constantly seek not only new markets for their products but also for carrying out their businesses (Jones 2005). This has resulted in an increasing competition amongst developing countries to attract investments as multinational companies continually seek destinations with the weakest labour and environmental laws (Stiglitz, 2007). The paramount interest of multinational corporations in developing countries is undoubtedly profit maximisation even if it comes at the expense of the local communities in which they operate. As succinctly adumbrated by Stiglitz (2007):

Many instances of corporate evil doing have become rightly infamous, the stuff of legend: Nestle’s campaign to persuade Third World mothers to use infant formula instead of breast milk to feed their children; Bechtel’s attempt to privatize Bolivia’s water (documented in the film Thirst); the U.S. cigarette companies’ half century conspiracy to persuade people that smoking is bad for health even as their own research confirmed that it was...; Monsanto’s development of seeds that produced plants which in turn produced seeds that couldn’t be replanted, thereby forcing farmers to buy new seeds annually; Exxon’s massive Valdez oil spill and the company’s subsequent attempts to avoid paying compensation.

The modern conception of corporate social responsibility began with a debate on the extent to which corporations should be considered mainly as economic entities and the extent to which they should be seen as social entities (Williams, 2002). In the 1990s, consumer groups and civil rights organisations began to invoke the notion of corporate social responsibilities in order to convey their social expectations of corporations particularly in respect of their commercial operations in developing countries (Shamir, 2011). Corporate social responsibility has been defined as ‘a system of governing that incentivizes corporations not only to obey various standards and criteria of “social responsibility” but also to regulate other commercial actors as part of their own socially responsible behaviour’ (Shamir 2011). The European Commission (2001) defined corporate social responsibility as “a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis”. The EC however, in a more recent report described corporate social responsibility as relating to ‘actions by companies over and above their legal obligations towards society and the environment’ (European Commission 2011).

Two major approaches to corporate social responsibility can be gleaned from the existing literature, to wit; the shareholder theory or economic responsibility theory and the stakeholder theory. Hansmann & Kraakman (2001) contend in their work that the ultimate control over companies rest with shareholders and corporate directors have a duty to manage the corporations exclusively in the interest of the shareholders. They argue that the interest of other stakeholders such as employees, customers and creditors protected by the law of contract and other branches of the law but that shouldn’t be within the framework of corporate governance. Their theory therefore rests on the postulate that directors ought to have corporate responsibility to shareholders only under corporate law.

The shareholder theory of CSR is basically to the effect that corporations have no definite social obligations beyond profit maximisation for shareholders and whatever social responsibilities may be owed are sufficiently met when corporation excel in their activities and
contribute in some way to the growth of the economy (Williams, 2002). A variant form of the theory posits that as the company is no more than a juridical personality or a legal fiction, it is incapable of having social or moral responsibilities and it may violate the law if that will result in profit maximisation (Easterbrook & Fischel, 1991).

The stakeholder theory of corporate social responsibility is to the effect that director's social responsibility transcends maximising shareholder's profits within the confines of the law. The theory contends that managers must take into account the consequences of the company's activities as it affects not only the shareholders, but also employees, consumers, the members of the public and the environment (Wallman, 1991).

3. An Examination of the Dimensions to Corporate Social Responsibility

The Shareholder Theory

As already mentioned earlier, the predominant position is the shareholder theory which is to the effect that the corporations' social responsibility is profit maximisation for shareholders and other constituents or stakeholders can be protected through contracts or public regulatory law (e.g. environmental law and anti-discrimination law). The starting point is that by recognizing shareholders vs stakeholder's divide, the shareholder theory adopts a non-neutral position by drawing a distinction between the corporation which is made up of the shareholders and other constituents who are all seen as outsiders (Hansmann & Kraakman, 2001). This view has been challenged on the basis that as an economic matter, public business corporations’ activities are as a result of team production, and the inputs of various constituents including employees, managers and community are all required for the corporation to be successful (Blair & Stout, 1999).

Another important point to note about the traditional position is that it revolves around three premises. The first premise is that a corporation main purpose is profit maximisation. The second premise is that given the fact that the purpose of the corporation is shareholders' profit maximising; the only accountability required is the economic accountability to shareholders. The third premise is that the social responsibility of corporations is sufficiently fulfilled by operating within the confines of the law and the corporation's contractual obligations. The conception of corporations as profit making entities is one that is yet to be empirically proven (Williams 2002). It has been shown that a majority of managers in the US and a vast majority of US citizens do not hold so narrow a conception of the corporate purpose (Dunfee 1999). Thus, if the position of Blair & Stout (1999) on the team production nature of corporations is correct, it only stands to reason that it will be a fallacy to assume that the purpose of corporations is solely wealth maximising for shareholders (Williams 2002). Williams (2002) has eloquently argued that the constraints of public regulatory law and private contract law are insufficient to meet the social and environmental challenges posed by the activities of corporations in an increasingly global economy.

The field of corporate social responsibility investigates the social obligations of companies as citizens in the society in which they operate. The social obligations owed the various constituents is bound to vary by industry. For instance, corporate social responsibility issues in the extractive industries (mining for oil and gas and other minerals) will cover corporation’s involvement with government in infrastructure development and security concerns as well as the environmental impact of the extractive technologies. In the manufacturing industries, corporate social responsibility issues will cover conditions of labour and attendant issues. Corporate social responsibility issues may also cover product safety concerns as well as the health consequences of products like cigarette (FAO, 2001). Another area where corporate social responsibility is relevant is in the area of access to affordable patented drugs in Africa and other developing countries where the purchasing power is low and whether pharmaceutical companies have an obligation to make such drugs available at affordable prices (Zimmerman & Waldholz, 2001).
Theoretically speaking, well designed laws may be sufficient to take into cognisance all the social cost emanating from industrial production and labour relationship (Williams, 2002). For instance, well-designed competition laws can provide a remedy to market monopoly or the abuse of a dominant market position. Properly designed environmental laws can be used to address the adverse environmental effects of extractive technologies in the mining industry and good labour laws can address issues pertaining to conditions of labour and ancillary matters. The reality however is that laws are hardly designed in the ideal sense even in domestic settings and they are hardly able to address all of the social costs of the exercise of the corporate power (Engel, 1979). Another major challenge is that globalisation has significantly limited the sovereign power of countries to impose limits on the exercise of power by multinational companies and capital market investors (Williams, 2002).

There are also certain limits to the protection that can be offered by contract law. For instance, employees and consumers are hardly adequately protected by contract law due to their relatively weak bargaining power. While communities through their political representatives may enter into contracts with corporations in relation to taxation and other social benefits, such arrangements are hardly enough to sufficiently address the corporate social responsibility quandary (Williams 2002). Although the law is very important in structuring the relationship between the society and corporations, the constraints of the law may not sufficiently address the plethora of challenges posed by an increasingly globalised economy.

4. The Stakeholder Theory

The stakeholder theory by positing that responsibility is owed to a wide range of constituents is also somewhat problematic from the traditional corporate theory standpoint as it undermines a key value of corporation law which is accountability (Williams 2002). An expanded duty of corporate social accountability has therefore been propounded as a possible solution to the corporate social responsibility conundrum. Social corporate accountability will involve the public production and dissemination information relating to the exercise of the corporate power to ensure corporate social transparency. This, it is believed, will in turn 'help to produce structural pressures to inculcate humanistic concerns into otherwise brutal global competition' (Williams, 2002).

Stakeholder's theory of corporate social responsibility has led to the emergence of voluntary global corporate standards (Stewart, 2001) and code of conduct to guide the exercise of the corporate power. Apart from the growing emphasis on corporate accountability following on the increasing cases of accounting and earnings money abuses (Monsma, 2006), corporate social responsibility is assuming more significance and is used by civil societies and businesses 'to refer to the commitments or practices a company undertakes that include but also lie beyond legal compliance in addressing its ethical, social and environmental responsibilities as a corporate citizen' (Monsma & Buckley, 2004). The theory that both shareholders and stakeholders expect corporations to have responsibility towards society has gone beyond labour to cover human rights and environmental issues (Davidson, 2002). Many companies have already recognised the varying social expectations arising from the activities of corporations and have since adopted voluntary codes of conduct that cover issues that include consumer rights, anti-corruption, the environment as well as labour and human rights (Murphy, 2005).

Nonetheless, a progressive practice of corporate social responsibility has engendered multifarious management methods requiring a significant degree of corporate transparency and accountability due to the growing influence of the civil societies that influence its meaning and set its accountability requirements (Monsma, 2006). The contemporary stakeholder theory of corporate social responsibility does not only relate to business management practices but also encapsulates ascertainable social and environmental performance based on disclosure practices and financial performance (Case, 2005) which should inform socially responsible investment screening criteria (Newberg, 2005). It has been argued that the socially responsible shareholder is likely to represent the same interests as non-shareholder constituents and other stakeholders thereby rendering otiose the contention that corporate social responsibility is all
about the competition between shareholders and stakeholders’ conceptions of the corporation (Williams 2002). Thus by linking the disclosure of non-financial performance of corporations to socially responsible investment, corporate social responsibility may act as additional indicator of business performance and a standard for comparing corporate performance (Newberg, 2005).

5. Corporate Social Accountability as a Paradigm for Corporate Social Responsibility

Corporate social responsibility is generally appraised by both shareholders and other constituents through an evaluation of a corporation's voluntarily demonstrated public commitment to corporate social responsibility principles (Monsma, 2006). Monsma (2006) has contended that the evaluation of corporate social responsibility requires that companies adopt the following minimum approaches:

“the implementation of a set of integrated social and environmental policies, combined with a senior level signatory pledge to a recognized global code-of-conduct; a management system for implementing and monitoring specific non-financial social and environmental objectives; and an auditable level of transparency preferably in conformity with a reporting process acknowledged by civil society organizations and/or socially responsible investors and rating agencies, regardless of the fact that these commitments are entirely voluntary and unenforceable.”

The United Nations Global Compact is a strategic UN policy initiative for companies that are committed to aligning their processes and policies with ten universally accepted principles in the areas of human rights, labour, environment and anti-corruption. The UN Global Compact is however not a legal instrument but a voluntary initiative for innovation and collective action. The major challenge with corporate social responsibility however has been and continues to be how to ensure the enforcement of the principles it embodies or seek redress when there are incidents of violation (Davidson, 2002; Tietz, 1993). Corporate social responsibility however goes beyond what may be regulated by the law and a company's image and reputation may be adversely affected where it fails to take its corporate social responsibility seriously. Public companies in developed countries are being subjected to an unprecedented degree of scrutiny from investors, the government and the media to demonstrate their commitment to scrupulous corporate governance and evince a significant level of corporate social responsibility (Monsma and Buckley, 2004). Nonetheless, a country with a robust corporate governance structure may impose performance reporting and disclosure requirements that take into account the environmental impacts of a corporation's activities and its social engagement with the community that is so pivotal not only to the survival but also the success of the corporation as a commercial entity. This is particularly so in the extractive industries where the activities of corporations are generally attended by environmental impacts that affect the communities in which they operate adversely. Some corporations tend to invest in countries with weaker regulatory frameworks that do not require any significant corporate social responsibility or accountability on the part of the company. Governments in developing countries should have corporate social responsibility principles that are responsive to the social and economic realities of their people and communities.

6. Conclusion

The protection of consumers' welfare and the environment should be paramount in the exercise of the corporate power and there should be modalities for assessing the non-financial performance of multinational corporations in developing countries. More than ever before, there is a growing need for developing countries to embrace the principles of corporate social responsibility that are not just driven by the interests of consumers and investors in world's richest countries but highly responsive to the needs of their local communities. Securities and investments laws should be designed to include disclosure requirements that present a true picture of the corporation so that investors can make a well informed decision based on a
holistic assessment of the financial and non-financial performance of the company. Whilst corporate social responsibility may involve expectations that may not be justiciable in a law court, imposing reporting and disclosure requirements on companies can be a pragmatic way of ensuring the observance of corporate social responsibility through a corporate social accountability paradigm.

References