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A research report submitted to the School of Social Sciences, Faculty of Humanities, University of the Witwatersrand, Johannesburg in partial fulfilment of the requirements for the degree of Master of Arts, Applied Ethics for Professionals.

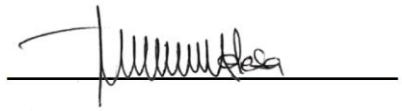
THE ETHICS OF CORPORATE SOCIAL RESPONSIBILITY

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Declaration

I declare that this research report is my own unaided work. It is submitted for the degree of **Master of Arts, Applied Ethics for Professionals,** in the University of the Witwatersrand, Johannesburg. It has not been submitted before for any other degree or examination in any other university.

Signed :



Name: Ngwako Martin Malesa

08 day of March, 2021

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Title: The Ethics of Corporate Social Responsibility

Abstract

This paper seeks to address the question of corporate moral obligation towards social responsibility. The focus is on whether there is a moral obligation on corporations to be socially responsible in addition to their profit motive, or whether social responsibility should be pursued only to the extent that it contributes towards the profit of the business. The question I explore is: “Is corporate social responsibility a moral obligation or a means to an end?” To answer this question, I look at business cases or drivers for investment in corporate social responsibility; whether social responsibility should be undertaken purely for economic reasons or for moral reasons, or for both. I argue that business has a moral obligation towards society beyond economic and legal traditional obligations.

1. Introduction

The question of what corporate social responsibility (CSR) is and what it means has been debated for many decades. The formal writings on the subject can be traced back to the early 1950's. It is during this period that acknowledgements were made that business affects various stakeholders, including society in many ways.

According to Carroll (1999:270), in the early 1950's, authors such as Bowen started to ask: "what responsibilities to society may businessmen reasonably be expected to assume?"

In the recent past, we have seen the emergence of what is called "socially conscious investors" who are not concerned with only the company's bottom line as the sole criterion for investment decisions. For the last four decades, investors' focus has increasingly been on sustainable business practices, such as the triple bottom line as a key consideration (environmental, societal and business responsibilities). The debate still continues today with diverse views on the subject.

Despite progress made in some quarters on CSR, not all companies have embraced the concept of being a socially responsible organisation. This view is also captured by Handy (2002:7), who states that "unfortunately, the majority of companies still see such concepts as sustainability and social responsibility as pursuits that only the rich can afford. For them, the business of business is business and should remain so". Therefore, governments and industry bodies have resorted to passing regulations relating to CSR to force companies to comply. This has, unfortunately, led to only minimal compliance by companies to avoid heavy penalties and being named and shamed.

In South Africa, we have witnessed similar moves through industry transformation charters within the financial, mining and fishing sectors to name a few. These have unintentionally led to minimal compliance by firms in their corporate social responsibility approach. Corporations tend to do the bare minimum to ensure compliance with these transformation charters as they are the social licences for business to operate.

It is against this background that this paper seeks to address the question of corporate moral obligation towards social responsibility. The paper will seek to answer the question: Is corporate social responsibility a moral obligation or a means to an end? That is to say: is there a moral obligation for

corporations to specifically be socially responsible in addition to their profit motive, or should corporate social responsibility be pursued only to the extent that it contributes towards the profit of the business?

I will first outline the context within which the question is framed, and clarify a few concepts used. The essay will then look at the historical trends of CSR as a concept, where it originated and where it is currently.

I will then discuss the two main theories regarded as key to corporate social responsibility, namely the stockholder or shareholder theory and the stakeholder theory in detail. This is deliberate because most of the arguments – either in favour of or against corporate social responsibility – are based mainly on the theoretical foundations of the two theories, with the former (stockholder/shareholder theory) spearheaded by the views of Milton Friedman. Friedman is the main advocate of shareholder primacy and is against corporations' actively participating in corporate social responsibility in as far as a corporation's resources and time are concerned. The second one is the stakeholder theory, which is mainly represented by Edward Freeman's views of business purpose, namely to create value for all stakeholders.

The discussion of the two theories leads to arguments against and for corporate social responsibility, wherein amongst others, I made the argument that corporations cannot survive without the support of its stakeholders. This is followed by a brief discussion of utilitarianism, specifically because it supports my arguments that corporations have a moral obligation to be socially responsible. Utilitarianism advocates that the right action for agents is the action that brings about the best outcome for all affected stakeholders.

The discussions on the key theories and utilitarianism are followed by my answer to the question: "why should corporates have a moral obligation towards social responsibilities?" In reply, I make the following arguments: Firstly, that corporate social responsibility is a moral obligation; lastly, that corporate social responsibility should not be voluntary. I use two case studies as examples of what happens when corporations pursue profits at the expense of society and the environment, namely the Niger Delta case and the Venda Building Society (VBS) Mutual Bank reports.

My conclusion is that a plausible argument can be made in favour of the corporation's moral responsibility towards society, not only as a means towards profit.

2. Towards a Definition and Putting Corporate Social Responsibility into Context

In this section, I provide clarification on the context within which corporate social responsibility is defined and referred to within the essay. There are various schools of thought when it comes to what really constitutes corporate social responsibility. Firstly, there are those who do not see a need for corporations to be involved in social responsibilities. This group views corporate social responsibility within the context of compliance to an applicable market or business legislative framework. The stockholder theory, which will be discussed later in the essay, falls within this category. This theory questions the notion of corporate social responsibility. In its view, business exists for one reason only, namely to make money for the shareholders who have invested resources in the company. Most of those who hold this view are in support of Friedman's arguments on corporate social responsibility. His arguments will be discussed in section 4 of the essay, when looking at stockholder theory.

It is my view that this group regards corporate social responsibility as a means to an end; that is, corporations should comply with only the minimum prescript of the law because non-compliance attracts negative consequences. The group advocates that corporate social responsibility should be considered only if it contributes to the bottom line, and only if it is a legal requirement. The group will consider the return on investment for undertaking or supporting specific programmes aimed at improving the well-being of society or protecting the environment. For example, it tells the corporations to invest in a road network because the business requires it to transport its products to the customers. The group also says a factory should allow emissions into the atmosphere (pollution) only within the regulated limits not because more pollution causes harm to either members of the community, worker or the environment, but because the law requires it. Failure to comply will lead the licence to operate being reviewed or may result in a monetary fine imposed on it.

The second group views corporate social responsibility as a voluntary or discretionary exercise. For instance, Kotler and Lee (2005:3) claim that "corporate social responsibility is a commitment to improve community well-being through discretionary business practices and contribution of corporate resources". From their definition, Kotler and Lee claim that corporate social responsibility is discretionary. That is, corporations are not obligated to be socially responsible, so the business activities or programmes geared towards society development are regarded as optional or voluntary. There are several issues with the definition. Firstly, it confines corporate social responsibility to the contribution of

financial resources. Secondly, the discretionary view means that those businesses who opt not to contribute towards any community development programmes will not be frowned upon as they are viewed to not be in violation of any law or moral standard. Thirdly, and most importantly, it does not address the corporation's obligation to behave responsibly in respecting and protecting the interest of other stakeholders impacted by their operation.

This group confuses corporate social responsibility with corporate social investment. Corporate social investment is an element within corporate social responsibility which focuses on investing financial and other tangible company resources towards the upliftment of the community, employees or the environment. This investment may be done either jointly with other stakeholders, such as government, or by individual corporations. The nature of investment and the amount may vary. Corporate social responsibility is a broader category than corporate social investment. I will be discussing my views later in the essay when arguing that "corporate social responsibility should not be voluntary" (section 7).

The third group regards corporations as having an obligation to behave in a socially responsible manner towards everyone who is affected by their business activities, including the environment. Srivastava et al. (2017:130) conducted an in-depth literature review on corporate social responsibility. They conclude that "corporate social responsibility (CSR) is a concept whereby companies besides their profitability and growth also consider the interest of society and environment, by taking responsibility for the impact of their activities on stakeholders, environment and all other members of the public sphere". This definition, together with Sharma's (2015:4) views that "a business can only justify its existence by fulfilling its obligation to the society", forms the foundation for my arguments later in the report that corporations ought to maintain a balance between making profit and considering the interest of impacted stakeholders.

Within the context of this report, my focus is on the moral role or obligation of business in society. According to Friedman and Miles (2006:22), "social responsibility begins where the law ends. A firm is not being socially responsible if it merely complies with the minimum requirements of the law, because this is what any good citizen would do." In this way, the view differs from the first view described above, and it best describes the context within which CSR is described in the report.

The above-mentioned definitions or context point to the following. Firstly, CSR is about the business contributing to both the development and caring of the society and the environment within which they

operate. Secondly, such contributions should not reflect a mere compliance with the mandatory regulatory requirements. Thirdly, in contributing to social responsibilities, companies will have to sacrifice some of their profits for such a cause. Lastly, corporations are required to maintain a balance between profit interest and the interest of stakeholders impacted by operations and decisions of the business. This is the conception of CSR I have in mind in the rest of the essay.

Finally, I would like to clarify the issue of responsible behaviour as it will be used frequently in the dissertation. There are many views regarding what constitutes socially responsible behaviour by corporations. The view that closely matches my own is that of Campbell (2007:951). He regards socially responsible behaviour by corporations to comprise two issues. “Firstly, they must not knowingly do anything that could harm their stakeholders – notably, their investors, employees, customers, suppliers or the local community within which they operate. Secondly, if corporations do cause harm to their stakeholders, they must then rectify it whenever the harm is discovered and brought to their attention.”

Socially responsible behaviour therefore means that corporations do not put their interests above that of other stakeholders. If they cause harm to other stakeholders (even if unintentionally), they take steps to rectify that harm.

3. Corporate Social Responsibility Historical Trends

In this section, I provide a historical account of how CSR evolved, how the concept originated and where it is today. The reason for this overview is to demonstrate the journey since the concept was first coined, how the views on CSR changed over the years, and what necessitated the shift.

Most writers on CSR estimate that the concept predates the 19th century. However, there is consensus that CSR gained prominence in the 1930's and 1940's,Carrol (2008:25), Tripathi and Bains (2013:789). The real formalisation of the concept of CSR can be traced back to the 1950s. Howard Bowen is regarded by most writers on the subject as the author who first gave a more formal description of the concept of CSR. Accordingly, Lateef (2013:3) stated that "[a]s it were, Bowen's effort by the production of the book turned out to be the first systematic and rationalised account of CSR". This is in reference to Bowen's book first published in 1953, titled *Social Responsibility of the Businessman* and later revised in 2013.

According to Carrol (2008:29), during the 1950's and the 1960's CSR was often referred to as Philanthropy, and it was after the 1970's where the term CSR was used consistently. Philanthropy as a term was associated with charitable activities, and is voluntary. It is also around the 1970's leading into the 1980's which saw a rise in activism against corporations for environmental concerns and negative impacts firms have on the society. One such activism was seen in the Niger Delta during the 1980's and 1990's, which resulted in the Human Rights Watch sanctioned to investigate and report on the actions of the multinational oil companies operating in the area. This forms part of the case studies discussed later in section 7.1.The 1990's also saw the emergence of the concept of corporate citizenship (referred to as CC). According to Valor (2005:193) "the term CC is used to connect business activity to broader social accountability and service for mutual benefit, reinforcing the view that a corporation is an entity with status equivalent to a person." This is a significant departure from how CSR was viewed. It was also an era wherein the stakeholder theory was emerging following its conception in the 1980's. I will not dwell into the stakeholder theory in this section, however, it will be discussed in detail in section 4.2, it is sufficient to state that it was seen as a game changer in the thinking and debates on CSR.

The association of a firm with corporate citizen came with expectations from firms to take interest in society and the environment as opposed to focusing on profit making only. This expectations culminated

in the development of concepts such as the triple bottom line, which measures business not only on the financial performance but on how they treat society and the environment. Various indexes were introduced to measure business compliance such as the of the Corporate Responsibility Index (CRI), which is a barometer for measuring corporations impact on stakeholder through a number of dimensions such as environmental, society, diversity in the workplace and others. According to the PwC CRI (2016:2), the index was established in 2002 and it measure corporations performance on the index on an annual basis. During the same period the environmental, social and governance (ESG) was established around 2001 and many companies globally, specifically those that that are signatories to the United Nations Principles for Responsible Investing have incorporated ESG's in their financial reporting, and are also using same for evaluating companies seeking investment or business partnership's (Atkins,2020:4). It must be noted that corporations participation is voluntary.

There are a number of views about the reasons for the historical evolution of the concept of social responsibility. There are those who argue that the concept first came about as a response by business to counter the bad publicity companies were receiving. This bad publicity was mainly aimed at their negative impact on the environment, either through pollution or simply destroying the environment in the pursuit of production and profit with little regard for health and safety of employees and the community at large. It is believed that business at the time was trying to find ways of repositioning itself to improve public perception. According to Tripathi and Bains (2013:791), this was more prevalent in the 1970's which also saw a rise in the boycotts against multinational companies globally, they described CRS as follows: "CSR also helps to green wash the company image, to cover up negative impacts by saturating the media with positive images of the company's CSR credentials."

Amongst those who share this view is Levitt (1958:41), who states that "self-conscious dedication to social responsibility may have started as a purely defensive manoeuvre against strident attacks on big corporations and on the moral efficacy of the profit system". This claim can be interpreted as viewing CSR to have started as a token of public relations through which companies wanted to project a good image to the public at the time. The view is further supported by Carroll and Shabana (2010:91). It is their opinion that "though CSR came about because of concerns about businesses' detrimental impacts on society (avoiding 'negatives'), the theme of improving society (creating 'positives') was certainly in the minds of early theorists and practitioners". According to Carrol and Shabana, even during the early

days when there were negative views towards business, doing something good towards society was seen as one of the levers business can use to create a positive perception.

Early writings on the subject focused more on arguments for or against business involvement in CSR than on whether business has a moral obligation or what it means to be socially responsible. The debates at the time were on whether there were good reasons for corporate social responsibilities or whether it was necessary at all. Corporate welfare as a term was used interchangeably with CSR, specifically in the early literature. The coining of the term “corporate welfare” and its usage as synonymous to corporate social responsibility is, in my opinion, the source of confusion for viewing the latter within the context of providing basic social welfare services which are government services. The welfare services include provisions of basic healthcare services or infrastructure and education, which I see as a government responsibility in the main. This view will be explored further in the sections on stockholder theory and arguments against corporate social responsibility.

The debates on corporate social responsibility utilised key theories such as the stockholder or shareholder theory and the stakeholder theories, which are discussed later in the report. Stockholder theory argues against and stakeholder theories in favour of corporate social responsibility. The debates around the extent and nature of corporate social responsibility continue even today.

4. Corporate Social Responsibility Key Theories

I am going to look at two key theories relevant to corporate social responsibility in which I explore and analyse the main arguments for each and then contrast them by engaging with their critics. The two theories that I will discuss are stockholder or shareholder theory and the stakeholder theory. The former shaped business attitudes in the 1970s, whilst the latter came about as an alternative or response to the views of the former. The two theories still dominate both academic and professional debates on the role and purpose of business specifically, as they relate to their impact on and contribution to both society and the environment.

4.1 **Stockholder/Shareholder Theory**

4.1.1 Background

As the name suggests, the stockholder theory advocates shareholder supremacy. The arguments centre around a legal business perspective through fiduciary duties or contractual obligations of managers and business executives. Stockholder theory views, mainly represented by Friedman (1970) and supported by others like Hasnas (1998), are that the only social responsibility of a business is profit maximisation, that managers have a responsibility to pursue the interest of shareholders, and that any other responsibility will be acting against their contractual obligations. It is stockholder theory's view that business has no moral obligations to engage in corporate social responsibility.

The above arguments adopt the views of Adam Smith's famous invisible hand theory, which claims that when business focuses on profit maximising, they are in a way achieving the unintended results of benefitting the larger society. "By pursuing his own interest, he frequently promotes that of the society more effectually than when he really intends to promote it. I have never known much good done by those who affected to trade for the public good" (Smith, 1776:2).

Smith argues that when corporations pursue their own self-interest through focusing on profit motive, society benefits largely through the product produced, employment and taxes; there is therefore no need for firms to be morally obligated to engage in social responsibility programmes. Donaldson (1982:60) echoes this idea in his notion of moral disinterest. As Donaldson urges: "Let us note that corporate moral disinterest is not necessarily in conflict with the doctrine that corporations have moral responsibilities. If it could be shown that the best way to satisfy responsibilities is (ironically) to forget

about them and focus on profits, then disinterest might be the optimal policy." Simply stated, the best approach is regarded as moral disinterest, as opposed to corporate interest in being morally sound when considering business decisions. They claim that this approach, although in the main achieving business objectives, does have a trickle-down benefit to other parties.

The stockholder theory argues that business is required to conduct its affairs only according to the requirements of the law. Once business has satisfied the regulatory pre-requisites, they can pursue as much profit as reasonably possible. Proponents of the theory argue that as long as business is done honestly and in compliance with the applicable laws, there is no other obligation.

The view is also shared by Hasnas (1998:22). Hasnas posits that "far from asserting that there are no ethical constraints on managers' obligation to increase profit, the stockholder theory contends that the ethical constraints society has embodied in its law plus general ethical tenets in favour of honest dealing constitute the ethical boundaries within which managers must pursue profitability". This suggests that shareholder theory advocates that the main worries for corporations should be compliance with the applicable laws. The theory believes that the applicable laws will have considered and catered for the relevant moral aspects and that compliance and refraining from corrupt activities is sufficient for corporations. Thereafter, business does not need to worry about other considerations, only about making profit, to which the only limitation is the two considerations of compliance to the laws and conducting business in an honest manner. This is to say that social responsibility should not be the specific concern of business.

Milton Friedman equates shareholder theory to capitalism as an economic system, wherein business is conducted freely according to the market conditions, or simply according to applicable government and industry rules, which provide the only limitation to how much profit can be pursued. In the main, he argues that capitalism is about voluntary cooperation. That is, individuals and business are afforded the freedom to decide how they want to spend their money. He also equates social responsibility to socialism which, in his view, is about governing by force. He decries the state forcing business to pay taxes and, to an extent, taking on the burden of social responsibilities.

With his analogy of equating shareholder theory to capitalism and social responsibility to socialism, Milton Friedman is of the view that the two should not co-exist. That is, business should not be expected to get involved in social responsibility activities. He argues that it is the duty of government to prioritise

and deliver basic services to society through taxation. Therefore, government has the duty to ensure that social responsibilities are taken care of. He therefore decries corporate executives who undertake social responsibilities. He uses strong wording to show his disapproval, stating that businessmen who advocate social responsibilities of a business rather than pursuing the profit on behalf of the shareholders are “preaching pure and unadulterated socialism” (Friedman, 1970:51). In his view, CSR reduces the profit due to shareholders, and it amounts to imposing additional tax to the corporation. According to Friedman, government has a duty to provide social welfare and related basic services to society. Government expects corporations and citizens to pay taxes to be able to provide such services to society. By paying their taxes, corporations have fulfilled their responsibility. Therefore, there should be no further obligation for corporate contribution towards social responsibilities.

Friedman’s views are supported by Hasnas (1998:21) in his claim that “when ‘social responsibility’ in this narrow sense is conflated with social responsibility as a synonym for a business’s or businessperson’s ethical obligations in general, it groundlessly implies that businesses or business persons do, in fact, have an ethical obligation to expend business resources in ways that do not promote the business’s fundamental purposes”. This is his response to the claim that business has an obligation towards social responsibility even if such acts have no direct benefit to the business or its profitability. He argues that business resources should be used only for those courses that contribute to the bottom line. Hasnas will support social responsibilities to the extent that they serve only as a means to a business end for the corporation.

Stockholder theorists use various lines of arguments in defence of their claims. Next, I am going to focus on four such arguments, namely the fiduciary, the personhood, cost and government responsibility arguments.

4.1.2 Fiduciary argument

The key argument that stockholder theory provides is that managers and executives of corporates have fiduciary duties to shareholders only. Such fiduciary duties of managers emanate from the contractual agreement entered with the shareholders. They are employed and contracted to further the interest of the shareholders, which in business is mostly profit. By their very nature, contracts evoke duties, responsibilities and obligations. Managers therefore have no fiduciary obligation to other stakeholders,

but to the shareholders. The view is that managers should simply pursue the interest of the shareholder, whatever that might be, in compliance with the contracts entered.

The fiduciary argument is based on the principle of law, which gives rise to contracts and how they derive their power and protection. Contracts are binding and either party can seek recourse for their enforcement in case of breach by other parties to it. Managers who act against the provisions of their contracts will not be acting in the best interest of the shareholders, and therefore will have failed in their fiduciary duties. This will be a ground for shareholders to seek whatever recourse permissible in line with the contract. Such recourse can include, among other actions, termination of the contract. Alternatively, in the case where the shareholder's resources were spent on activities that do not contribute to the bottom line, they can demand that managers make up the losses incurred. This will include managers spending business resources on social responsibilities. Hasnas (1998:21) states that "the existence of this fiduciary relationship implies that managers cannot have an obligation to expend business resources in ways that have not been authorised by the stockholder regardless of any societal benefit that could be accrued by doing so".

Hasnas's view stresses the strict and prescriptive nature of fiduciary duties. Managers with fiduciary duties do not have room to make discretionary decisions on the basis that there are some derived benefits to others. Managers have no fiduciary duties toward society; their fiduciary obligations are only toward shareholders.

4.1.3 Corporations and personhood argument

The second argument for stockholder theory is that only persons or individuals can have moral responsibilities. Stockholder theorists argue that firms or corporations cannot have moral responsibility as they are not persons. Friedman (1970:51) asks, "what does it mean to say 'business' has social responsibilities? Only people can have responsibilities. A corporation is an artificial person and, in this sense, may have artificial responsibilities, but 'business' as a whole cannot be said to have responsibilities, even in this vague sense."

The view is supported by a number of writers including Mertens (2013:76), who asserts that corporations are formed by individuals as vehicles for achieving set economic goals using their financial resources. Mertens argues that individual businessmen and women as citizens in their own right have

already paid tax on their own hard-earned money to establish businesses to make profit. He regards businessmen and women, and not the corporations, to have social responsibilities.

Mertens's view is reiterated by May et al. (2007:16), who say "that the modern corporation, as constituted, is unfit as a carrier of social responsibility because its raison d'etre is too narrow for the values of social responsibility". Their view is that the purpose of a corporation is to generate profit for the owners, and should not be conflated with other social responsibilities.

The question Friedman asks is whether business within a free-market economy has other responsibilities in addition to profit, specifically social responsibilities. In his view, a business is not a person and therefore could not have a conscience, nor social responsibilities. It is his assertion that "only people can have social responsibilities" (1970:51). Friedman distinguishes between corporations and those employed by the owners or shareholders to advance their interest. His view is that the sole responsibilities of the appointed managers are to pursue stated objectives as agreed or contracted to between the business owners and the managers.

The argument is that owners and managers in their individual capacity can be said to have moral responsibilities. However, managers in their official capacity acting on behalf of the shareholders cannot use the latter's resources, including money, to contribute towards social responsibilities without their permission. In the stockholder theory, as followed mainly by Friedman, such an act will be regarded as stealing or imposing additional tax on the shareholder, which reduces profit. It is only in their personal capacity that managers using their own money, resources and time can contribute towards social responsibility. Mertens (2013:12) reiterates the above in his statement that "when it comes to being an agent, the executive is to maintain the interest of the corporation, which is profit-maximization". This is in reference to Friedman's usage of the term "agent" to refer to managers and executives who are contracted to pursue the interest of the shareholders. Equally, according to stockholder theory, the individual shareholders in their personal capacity are free to spend their own money on social responsibilities or welfare.

Following Friedman's views, the question to be asked is, will he support a situation where shareholders give permission for executives to use the corporation's resources on social responsibilities? Friedman addresses this specific issue, when he categorically states that his argument about executives equally applies to shareholders who may decide either individually or with others to get corporations to

contribute towards social responsibilities. He states: “insofar as they succeed, they are again imposing taxes and spending the proceeds” (Friedman, 1970:54). The answer to the question is no; Friedman will not support it. He feels that corporations should not contribute their resources to activities that are not meant to increase profit in addition to what is required by the law.

Across the globe, corporations are referred to and regarded as entities in their own right. It is not uncommon to hear that a company has been fined for one or other transgression. Therefore, the concept of corporate citizenship or agency is not foreign in the business language. However, the question arises as to what the proponents of corporate citizenship could say about the view that corporations or firms are incapable of having moral responsibilities. Without venturing into the legal view of corporate law and what duties and responsibilities companies have, does it make sense that corporations can be litigated, sued and called upon to answer for their actions by various statutory bodies and institutions, whilst being deemed incapable of having any moral or social responsibilities? Corporations are accountable in law for irresponsible behaviour such as polluting the environment above the legal threshold or causing harm to human beings through their operations.

Carroll (1998:1) argues, for example, that “just as private citizens are expected to fulfil these responsibilities, companies are as well. Corporate citizenship has an economic face, a legal face, an ethical face and a philanthropic face”. By ethical face, Carroll refers to the moral behavioural aspects of the business. According to Carroll (1998:4), “business ethics is concerned with the distinction between corporate behaviour that is good versus bad, fair versus unfair, or just versus unjust”. It is her view that ethical behaviour discussion within the business context is synonymous to moral behaviour (1998:4). When it comes to the philanthropic face, there are varied views on what it means; however, the general view, although not a broader definition, is that it involves corporations giving back to society. Stockholder theorists to an extent seem to agree with Carroll on the first three faces of corporate or business activities. They regard the only social responsibilities of business to be to maximise profit (economic face), as long as they do so within the boundaries of the law (legal face), in an honest manner free from fraud and in a just and responsible manner (ethical face). However, when it comes to social responsibilities, which Carroll refers to as philanthropic face, stockholder theorists disagree that business has any social responsibilities.

According to Donaldson (1982:19), “corporations are considered to be moral agents in a variety of legal contexts […] and are subject to legal guilt, liability, and punishment.” There is literature on what is called the “moral person view” test. According to Donaldson (1982:20), “if corporations are agents, they are also moral agents, because anything which is an agent is also a moral agent.” Donaldson understood that his claim that corporations are also moral agent might be viewed as controversial, hence, he moved to qualify it by contextualizing the definition of an agent as “anything which behaves intentionally. Since corporations do behave intentionally, they are therefore moral agents,” Donaldson (1982:20-21). I agree with Donaldson’s view. If you agree that corporations are set up to fulfil certain requirements such as entering into binding contracts that are economic in nature, and are held accountable for how they carry out such contractual obligations, you cannot therefore, conveniently, say that when it comes to moral obligations, all of a sudden it is incapable of fulfilling them.

Perhaps the most fitting response to the issue of corporations and personhood is the summation by Donaldson that because corporations can be associated with certain actions (positive or negative), they are regarded as having moral responsibility. His summation (1982:19) is as follows:

> These pedestrian remarks show that corporations are taken to be moral agents, at least in their capacity to be subject of predicates such as “is responsible”, “is to blame”, “ought to have foreseen”, and the like. When this fact is coupled with acknowledgement that corporations often do the sorts of things humans do, such as conclude contracts, take precautions, apologize for actions, and make promises, there seems to be a strong prima facie case for granting them moral urgency.

4.1.4 The cost argument

The other argument stockholder theorists advances against corporate social responsibilities is the cost argument, which says that business should incur only costs that are part and parcel of generating profit. Any other additional cost reduces the profit and performance of the business. According to their view, this amounts to devaluing the business and reducing earnings for shareholders. Social welfare is the responsibility of government, and it should be left to them. The cost argument against corporate social responsibility is also echoed by Davis (2001:318), who states that “as a matter of fact, if business is pushed into social obligations, these additional costs will drive out marginal firms in various industries”. What is interesting in Davis’s examples is that he not only argues against expectations for corporations

to go an extra mile in addressing social issues, he also takes issues with regulatory requirements set by both government and industry to meet particular standards, such as environmental standards.

According to Davis's view, business should incur only costs that are directly linked to the production output and should not spend a cent more on matters pertaining to regulatory compliance. This view is completely different from those who advocate that business should comply with only the legislative prescribed requirements. He is against business being expected to incur cost as part of the regulatory compliance. His reasons are that compliance requirements costs reduce the profit due to the shareholders.

Governments set minimum regulatory requirements for different industries based on associated risk to either the health and safety of the citizens, the environment and for sustainability. As an example, before a firm construct a petrol station in south Africa, it is a precondition that an environmental impact assessment studies be conducted by an independent expert to assess the likely impact of the business on the vegetation, river streams, water table, followed by public participation of the affected stakeholders with the aim of raising their issues of concern. A comprehensive report detailing the findings and mitigating controls to be implemented to address areas of concerns identified is then send to the relevant government authorities for approval before a licence is issued or denied. Unfortunately, all this compliance requirements cost money for the firm, however, they are necessary to safeguard human life and the environment.

There are those who claim that governments have found a way of abdicating their social responsibilities by passing laws that require business to put money into social programmes. These programmes entail investing in education, health, public infrastructure and other socio-economic development as part of obtaining permits or licences to do business. Lamenting such practices, especially as it has become government policy (for transformation purposes) for most industries in South Africa, Henderson (2001:114) argues that "one result of all this is to raise the cost of doing business, from which everyone in the community, rich or poor, is liable to be made worse off". This can be a barrier for entrepreneurs or businesses that cannot afford to absorb such additional cost. The other implication is that business is likely to pass the additional cost to the consumers and, at worse, lay-off employees to remain competitive. The view of those who are against this practice by government is that social responsibility, if undertaken at all by corporations, should be on a voluntary basis as opposed to being obligatory.

4.1.5 CSR and government responsibility argument

A further argument against corporate social responsibility is that as long as companies are required to pay taxes in one way or another, they should not be taking further resources and funds from shareholders in order to contribute towards corporate social responsibility. The view is that government cannot have both or benefit more than once. In Friedman's words, "the best solution would be the abolition of the corporate tax" (Friedman, 1962:114). He argues that only when corporate tax is abolished can shareholders be expected to contribute a portion of their profit towards corporate social responsibilities.

Friedman advocates that business should be allowed to focus on its business activities and make as much money as possible without being burdened with responsibilities that belong to government, which are likely to reduce profit margins. Government, on the other, hand should focus on passing laws to be complied with by business, creating a conducive environment for both business and service delivery to the citizens. In essence, Friedman advocates that business is as bad at doing government duties as government is bad at doing business jobs. Each must stay in their lane for efficiency and wealth creation.

It is convenient for those who advocate shareholder supremacy to argue that corporations (as represented by shareholder agents or managers) have only one responsibility, namely to pursue the interest of the shareholders. I would like to briefly give my own critique of these arguments here. Firstly, an argument was made that business responsibility is profit-making, and that social responsibility is a function of the government. People who believe that business and government should work in isolation from each other will find Friedman's assertion that the responsibility of business is business, and that of other writers who reject corporate social responsibility, acceptable. They also advocate that the business of corporations is solely profit maximisation and it should not concern itself with the work of government in society. Equally, if you subscribe to the view that government's only concern should be societal development and their welfare, and that they should not be concerned with the affairs of business, you would also reject corporate social responsibility, whereby corporates are expected to look after the interest of all stakeholders impacted by their business.

However, the real world, especially in today's business environment, does not work that way. Both business and government target society for their product and services. Both business and government

are therefore required to work together for the common good. Corporations in their own right have a social responsibility towards society, which is broader than the welfare role played by government. There will be areas that are common for both corporations and government, where synergies will be required. Hence, there are many platforms where public-private partnerships should be encouraged to ensure integration and alignment of resources to further the provision of goods and services. A corporation that focuses on self-interest and profit maximisation at all cost, without regard for issues of socio-economic development within the society where it operates, may find itself at odds with some of its stakeholders, including government, society lobby groups and investor community.

Henderson (1968:78) disagrees with Friedman's view that corporate managers are not elected by the public and therefore have no mandate or knowledge to tackle socio-economic issues. Her main arguments are that business has become more efficient and skilled in running complex projects and consequently has the capacity to execute and manage society related development projects (in partnership with government). This can be the result of the fact that, through their resources, businesses are able to attract the brightest minds and highly skilled professionals. On the other hand, government has become less efficient and slower in delivering services to the public. It would therefore make sense for government to work hand in hand with business to enhance service delivery to the public.

In concluding the stockholder theory discussion, I would like to highlight five claims they are making, and state my views on each. The first claim is that business and social responsibilities are two separate domains, and that the two should not mix. Business should focus on making profit, whilst social responsibilities should be left to the domain of government.

I hold a different view to this claim. Business exists within a society and their actions directly impact society and the environment. The two cannot be separated. There is mutual dependency between business and society, and the environment. The reasons for my view are discussed in detail in section 5, which deals with arguments for social responsibilities, wherein I argue that corporations cannot survive without the support of its stakeholders.

The second claim is that corporations do their part for welfare by paying tax, which the government uses to provide social services, and that business should not be made to contribute additional resources to society, even if they would result in some good. This claim confuses corporate social responsibilities with financial contributions by business on matters of societal development. Hence, I don't agree with

it, because being socially responsible requires more than financial contributions, as mentioned in the introduction. My view is that this argument against corporate social responsibility adopted a narrow view discussed in the previous sections by reducing it to being about financial contribution. As discussed in section 2, corporate social responsibility is about business contributing to both the development and equally putting the interest of society and the environment at the same level as those of the shareholders.

The third claim is that those employed by corporations (managers and executives) are contracted to pursue the interest of the shareholders and that they have no other obligation towards any other stakeholder. Managers who get involved in social responsibilities will be in breach of their contracts, and violations of their fiduciary duties give shareholders grounds to seek recourse against the managers. There is merit to this claim; however, it negates the fact that managers are equally employed to exercise their duties with diligent and care, which implies that they must ensure they take responsible decisions and action in the cause of performing their duties.

A fourth claim made by stockholder theory is that when businesses focus on profit, they unintentionally fulfil some aspects of social responsibility. This is a convenient self-serving claim by stockholder theorists to avoid accountability for their actions that may negatively impact those affected by their operations. Being socially responsible is about being intentional and deliberate in maintaining a balance between profit and protecting the interest of those impacted by the activities of the corporation.

The fifth claim that opponents of corporate social responsibility advance relates to cost; some of the regulatory requirements for corporations to comply with have cost implications that have a potential to drive them out of business. Corporations and those who put forward the cost argument opine that social responsibility should be voluntary. That is, only those corporations which can afford to undertake social responsibility programmes should do so. This view suggests that the profit motive should be pursued at all cost, even at the expense of non-compliance as they are seen as unnecessary cost to the business. It is my view that companies that cannot afford to meet basic regulatory and environmental standards compliance should not be in business. The minimum regulatory requirements are based on the health and safety tolerable thresholds to prevent harm to people, the environment and other creatures. Corporations which fail to or cannot afford to adhere to the set requirements are likely not going to care about being socially responsible with regard to their operations and their products. It is

my view that compliance with measures geared to protect the safety and health of society and the environment cannot be voluntary; they should be mandatory instead. My view is based on the premise that it should not be an option. For example, allowing factories or companies that manufacture toxic chemicals to have spillages into the environment can potentially result in health hazards or death of anyone coming into with the chemicals. There is a moral obligation on both the corporations and the regulatory bodies to avoid such harm by ensuring compliance as a preventative measure.

Lastly, stockholder theory argues that corporations are not persons and therefore cannot be expected to have any social responsibilities nor moral obligations. My essay argues against this claim in section 7.3.

4.2 Stakeholder Theory

4.2.1 Background

Contrary to stockholder theory, some writers see stakeholder theory as synonymous with corporate social responsibility, whilst others view the theory as accommodating or providing justification for corporate social responsibility. Stakeholder theory views a firm or corporation as comprising a number of key stakeholders with varied interests. The interested and affected stakeholders vary and in the main include investors, employees, suppliers, customers and communities, government, industry bodies and lobby groups (Donaldson & Preston, 1995:69).

A fitting description of what the term “stakeholder” refers to is given by Freeman and Reed (1983:89), as “those groups without whose support the organisation would cease to exist”. Stakeholder theory acknowledges the importance and interdependency of various stakeholders for the survival of a business. This description is a significant departure from the stockholder theory, whose main concern was looking after the interest of shareholders only. Stakeholder theory requires equal attention to addressing the interest of every stakeholder with an interest in and influence on the firm. According to both Freeman and Reed, and Donaldson and Preston, no one stakeholder is regarded as superior to the others. The interests of each stakeholder should matter and be considered when major operational decisions with potential impact on them is taken by corporations.

The question frequently asked about the stakeholder theory is who should be regarded as a key stakeholder in the firm. In other words, which stakeholders have a legitimate claim to the corporation?

I will attempt to answer this question below by looking at what some of the literature on the subject has to say.

4.2.2 Stakeholder legitimacy

As alluded to briefly in the introductory description of the stakeholder theory, the key question asked is what legitimate reasons individuals or groups may have to claim recognition by a corporation as a stakeholder worthy of attention. Authors such as Mitchell et al. (1997:854) and Dentchev and Heene (2003:120) suggest that power, legitimacy and urgency are common criteria for determining who should be regarded as a stakeholder.

Freeman and Reed see power as comprising a combination of a number of aspects, which range "from the formalistic or voting power of stockholders to the economic power of customers to the political power of special interest groups" (1983:93). One stakeholder might have multiple influences and power across a number of spheres (economic, political, etc.). Stockholders have the power to decide on investment decisions, for instance how much money to invest, what type of business to invest in and in which geographic location. Stockholders have both economic power (investment decision) and political power (power to make decisions on who should manage the corporation and how the business should be run). Customers will mainly have economic power; they have power to make purchase decisions about the quality and quantity they are willing to pay for, and the price they are willing to pay. The same will go for government and industry bodies who have the power to give operating licences or required accreditations for the business to operate.

The nature of the power each stakeholder has over the corporation will also give them the urgency with which they are considered when decisions are made. Urgency in this context refers to the order of priority and attention given to the stakeholder in relation to others. It is important for corporations to understand this dynamic of power, legitimacy and urgency when making decisions, as failure to recognise this may lead to resistance from the respective stakeholders.

Freeman and Reed (1983:93) add another criterion for the identification and recognition of legitimate stakeholders, namely "interest or stake". According to their view, such interest "ranges from an equity interest to an economic interest or marketplace stake to an interest or stake as 'kibitzer' or influencer" (Freeman & Reed, 1983:93). This could be interpreted to include stakeholders such as investors,

suppliers, customers and employees; to a large extent, both government and society can fit in this category. It suggests that, in addition to an economic interest, there are stakeholders whose interest may not be directly linked to economic gain, but whose view matters as much. Such stakeholders could include lobby groups, industry bodies and supporters on the ground who may associate themselves with the brand, image or what the company stands for. To complicate this picture, in the modern business era, there are rating agencies, market commentators and social media influencers whose opinions and views can make or break the firm. Corporations can therefore not afford to ignore gaining their support, as each stakeholder has the ability to either positively or negatively impact the day-to-day running of the business.

The above discussions point to the fact that the legitimacy of a stakeholder worthy of recognition by corporations is complex. Firstly, a determination of the extent the stakeholder is impacted by either the decision or activities of the corporation is important, the how part of the such impact is also key. That is whether the impact is economic, social, health and safety, political? Secondly, the power of influence the stakeholder has on the firm is key. As pointed above, investors have the power to disinvest, which has a potential to determine whether the firm continue to operate or close down. Thirdly, the nature of the power and influence determine the urgency to be given to the stakeholder. Lastly, the importance understanding the interest the stakeholders has in the firm. This answers the question of what the grounds are for giving a stakeholder consideration or allowing them to derive given benefits from the relationship with the corporation.

In contrast to stockholder theory that describes the purpose of business as profit maximisation for shareholders, stakeholder theory takes it that “the purpose of business is to create value for all stakeholders” (Horisch et al., 2014:331). Unlike stockholder theory, stakeholder theory advocates for the inclusion of all stakeholders within the business in ensuring sustained financial performance. In their essay on stakeholder theory and sustainability, Horisch et al. (2014:332-333) advocate an integrated approach to issues of business and morality instead of regarding them as separate and in conflict with each other. They see issues of business and morality or social responsibility as inseparable. Freeman (2007:7) describes the view of those who think business and morality are in conflict as the “separation fallacy”. According to the separation fallacy, business activities should be directed solely to profit and making money; social responsibility activities should be done elsewhere by others, and the two have

their own places and should never be mixed. It must be noted that Freeman did not agree with the separation fallacy and was unequivocal in its rejection. His view is that every decision or action that the corporation takes or embarks on does have economic and moral implications. It is always a matter of balancing the cost of making money with the impact on the well-being of the society. That is, we must ask what tolerance corporations have, for example, for pursuing activities that are harmful to the health of the community, for instance.

Freeman provides what I think is a good guide for corporations to use in their decision-making. This guide is in the form of answering four questions, namely: "(1) If this decision is made, for whom is value created and destroyed? (2) Who is harmed and/or benefitted by this decision? (3) Whose rights are enabled and whose values are realised by this decision (and whose are not)? (4) What kind of persons will I (we) become if we make this decision?" (Freeman, 2007:7).

The answer to these questions lies in what Freeman's integration thesis advocates, which claims that business and morality go hand in hand and cannot be separated (Freeman, 2007:8). The first and second questions are about the balancing act of making money in a manner that benefits all affected stakeholders. If the answer is that shareholders will make profit at the expense of environmental pollution, for example, the corporate investment decision should not go ahead unless they are able to put in place mitigating measures that will alleviate the impact of the pollution. The third question asks whether the decision was fair to all stakeholders affected. The fourth question requires what I will call the moral responsibility test. That is, how will I or the corporation be judged for making the decision? Was it a morally responsible decision or not? These questions are also considered later in the essay on my commentary on both the Niger Delta and the VBS cases.

For stakeholder theorists, therefore, there ought not to be a concern for either profitability or social responsibility, but a concern for both. Stakeholder theory calls for the consideration of each stakeholder by corporations in their decision-making and daily operations.

5 Arguments for Corporate Social Responsibility

5.1. Introduction

So far, I have defined and given context to corporate social responsibility by looking at the historical trends and how it evolved over the years. This was followed by contrasting two key theories that have shaped the debates on corporate social responsibilities and continue to do so today, namely the stockholder and stakeholder theories. The two theories have also laid a foundation for arguments for and against corporate social responsibility, with stockholder theory associated with arguments against and stakeholder theory with arguments for corporate social responsibility. In the previous section, I highlighted arguments made against corporate social responsibilities as part of the stockholder discussions, in this section I will look at key arguments for CSR.

In business circles, arguments for corporate social responsibility are equated to arguments about the economic value of embarking on such programmes (mainly the bottom line) that can be accounted for in terms of financial benefit through either positive financial statements or a balance sheet. In this section, I will argue that such views are narrow in a sense and ignore non-monetary aspects of what sustains the business in the medium to longer term, such as the state of the environment and the society within which the business operates.

5.2. Interdependency between corporations and its stakeholders

Corporates exist within the society or, put differently, their very survival depends upon the greater community – be it local or global. Such dependency could range from the supply of labour or required skills to run the business to the market which consumes or buys the product and services. It goes without saying that without the skills necessary to produce the product or to render services, there is no business to talk about. Equally, without an established market to sell the product or services, the business is doomed. It therefore makes good moral and business sense to invest in skills development within the communities in which the business operates, in partnership with government and the communities. Business expects to find a suitably qualified, skilled and healthy workforce in the labour market to employ in order to achieve their goals. The question then is who should invest in the education and health systems that produced the type of employees they (corporations) are looking for? My answer is that besides the state and the individuals, business should also invest in the skills development of the communities within which they operate, as opposed to being a non-contributing beneficiary. It is

both morally sound and good business practice for corporations to give back to society as opposed to taking from it all the time. Corporations will claim that they are not obligated to contribute any resources to society for whatever purpose. I argue against this view in section 7.4 wherein I support my views that corporate social responsibility should not be voluntary, but in this section I argue that corporations cannot survive without the support of other stakeholders. In addition to corporations contributing resources to societal developmental needs, they are called upon to behave in a manner that does not put the well-being of the community at risk. A case in point is the Niger Delta discussed extensively in section 7.1, where multinational oil companies pollute the environment (both the sea and agricultural land) within communities that rely on crop framing and fishing. This could potentially affect the health and quality of life of the very same community the companies rely on for skills. Beside the benefit to the multinational companies in this case to avoid pollution, it is also a moral obligation to at least ensure that the socio-economic standard of communities within which they operate their business is maintained as found or at least improved as a result of their operations.

The extent of corporate involvement in skills development can take many forms, which can range from contributing to schooling infrastructure (building classroom facilities), financial assistance to students through bursaries and scholarships, providing internships or workplace exposure training, and influencing the schools and post-school programmes to align with the business requirements. It is my view that every business will always have an opportunity to contribute to skills development as long as there is a will to do so.

The active involvement of corporations in the socio-economic development of the society is known as corporate citizenship. As citizens, we are called upon through behaviour and actions to discharge and take on certain responsibilities and obligations towards our immediate families and society at large. According to Bowen (2013:63), “the corporation is regarded as a citizen and neighbour in the local community (or communities) in which its establishments are located; hence, it has the obligations and duties of a good citizen and a good neighbour.” In the same way that individual citizens are expected to take certain responsibilities and obligations within the society, corporations are also expected to do so. It is my view that business and society have an interdependent relationship, and neither can survive without the other’s support. The interdependency makes it obligatory for each party to look after the other, and my arguments follow below:

5.3. Corporations cannot survive without the support of its stakeholders

Corporations exist because of its stakeholders. They are created to satisfy a particular need in the market (the word “market” is used interchangeably to refer to customers) in the form of either a product or service. Their customers become one of the stakeholders without whose support by buying the product or service, the firm will have no business. Corporations then have a duty to make customers happy. They have to ensure that their product or service is of acceptable standard in order to be competitive and to retain a good customer base (known as market share). It goes without saying that the first obligation corporations have is to attract customers. They need customers first; profit will follow as a result.

As stated previously in this paper, corporations are made of individual employees. Without employees, there is no corporation or business. Employees produce the product or services rendered to the customers. Employees are also the link or face of the corporation to the market. It is fair to argue that employees make or break corporations. To be sustainable, corporations have a responsibility to hire employees with the right skills, to train, motivate and reward them appropriately. Corporations that fail to take care of their employees are likely to face high staff turnover, which will result in instability and potential loss of production or lack of service to the client. Loss of production or lack of service will result in loss of customers and revenue, which at worst can lead to the demise of the business. Corporations therefore need their employees to survive.

Customers and employees are part of the society and the communities where corporates operate. Whatever happens within these communities has a direct influence on customer behaviour and perceptions. The same goes for employees. If society is unhappy with the company’s conduct, such sentiments will affect how customers react and behave. The same goes too for the socio-economic and well-being of the society. If the overall society’s economic standard is such that most are poor, or their health conditions are not good, this will translate into the quality of the workforce and affordability of customers towards the firm’s product and services. Therefore, corporations cannot be successful where society and communities are not as equally successful.

In their description of typical stakeholders to a business, Freeman and Dmytriyev (2017:10) argue that “all these stakeholders are equally important for the company and any trade-off among the stakeholders should be avoided”. The key stakeholders referred to (dependent on industry or location) would typically

include five (or six) kinds of people, being shareholders, employees, customers, suppliers, society and to an extent government.

It is my argument that business does have a moral obligation and responsibility to each of the stakeholders. However, business has a responsibility and moral obligation to ensure reasonable returns for investors to make it worthwhile for them to stay invested in the firm. However, the question that could be asked is: what constitutes reasonable returns on investment? Shareholder theorists prefer to talk about profit maximisation, namely the highest or best possible returns that shareholders can get without incurring unnecessary additional costs that do not contribute to the bottom line. On the other hand, stakeholder theorists will talk about value creation for stakeholders without going into detail as to what such value creation should look like. My interpretation of value creation in this regard would be the protection of the assets, wealth and environment with the intention of either enhancing or improving the value or returns. It should not be profits for shareholders at the expense of the environment, health and well-being of the community nor loss of life or livelihood, as the Niger Delta case demonstrated.

Corporations have a duty to gain support of its stakeholders. This can be achieved through their behaviour and action towards society. These actions respect and support the interest of society alongside those of the corporation. Society is likely to support corporations to the extent that there is mutual benefit; corporations need society to be successful. Therefore, corporations cannot survive without the support of its stakeholders.

5.4. Societal legitimate expectations and sustainability arguments

I further argue that society has a legitimate expectation that business will fulfil some levels of social responsibility. Failure to live up to such expectation might result in some unhappiness from the community, which could manifest itself in some negative perception or, at worst, protest action which will damage the reputation of the business. The view that business can pursue profit whilst doing good is expanded by Henderson (2001:64), who argues that the closer corporate behaviour and interest in corporate social responsibility are aligned to both internal and external stakeholders, the more likely the business reputation will be enhanced. Internal stakeholders refer to the employees of the corporation, whereas external stakeholders refer to society and other interested bodies outside the business. Expanding on the above argument, an assertion can be made that good company reputation as a corporate citizen is likely to result in sustainable business development as it is more likely to attract

investors, skills and customers compared to competitors whose reputation is not regarded as highly. Business success and reputations are judged not only by the company profits, but how the business conducts itself amongst its stakeholders and the manner in which it achieves results. Corporations that are viewed as morally irresponsible towards their stakeholders and environment, for instance, are likely to go out of business. They are likely to lose customers, investors and employees, and most likely find themselves at odds with the regulators through costly penalties. There is therefore a compelling argument for corporations to give their moral obligation towards corporate social responsibility with the same priority, but profitably. This argument will be developed further in a later discussion, when the Niger Delta case is analysed. The Niger Delta case led to big multinational oil companies such as Shell closing down their operations for an extended period due to protest from the community for various reasons, including polluting the sea and the environment and being an accomplice in human rights violations.

The view that addressing corporate social responsibility is key for sustainability of the business is further supported by Kurucz et al. (2008:90), who claim that "[…] the cost of CSR activities is much less than the potential". When a corporation does good to society, its brand and reputation are enhanced, which in turn attracts investments, customers and talents. It can be argued that investment in corporate social responsibility can have unintended positive results for the corporation. A company with a good reputation as a good corporate citizen is likely to have competitive advantage over rivals through the above-mentioned potential benefits.

Vogel (2005:16–17) holds a similar view. He states that "a more responsibly managed firm will face fewer business risks than its less virtuous competitors: it will be more likely to avoid consumer boycotts, be better able to obtain capital at a lower cost, and be in a better position to attract and retain committed employees and customers". This has been most evident in developing countries, including South African companies, wherein a significant loss of revenue is attributable to loss of production days due to community protest, which results in operations shutting down for a short period or, worse, indefinitely. On the other hand, those companies who are doing well and have a good relationship with communities within which they operate do not suffer the same fate. Although being socially responsible and doing good cannot be quantified in monetary terms, it surely has a long-term positive impact on the business. In their empirical studies of the relationship between corporate social responsibility and profitability

amongst banks in India, Magbool and Zameer (2017:44) concluded that there was a correlation between CSR and profitability, and further stated that “the cost involved in CSR is much less than the return made”. A counter view can be made that there are corporations who are not concerned with social responsibility and yet their businesses are profitable. The answer is that such profitability may not last long. This is in line with the views of Abiodun (2012:49), who concluded in his studies of the Nigerian companies that “profitable organisations in Nigeria do not invest in much in corporate social responsibility and that this has a tendency to threaten their long run existence”.

5.5. Additional arguments

Now that I have argued that corporations cannot survive without the support of its stakeholders, I continue to highlight further arguments for corporate social responsibility. Bowen (2013:28), referring to the businessman, claims that “his additional responsibilities are of two general types: First, in reaching his private business decisions, he is called upon increasingly to consider their broad economic and social effects, and whenever possible to temper his decisions accordingly.” That is, corporates should always assess the impact of their decisions on other stakeholders, and be able to change whenever such decisions are likely to negatively affect others. Bowen regards business as having both economic and social responsibilities. This is the realisation that business does not exist in isolation, but as a larger part of the society and community within which it operates as argued above. The second general type part of the duties of the businessman is about the need to work with the state and to support its policies.

It is my view that business can pursue profit interest whilst doing good. It is therefore not necessary to view the business profitability motive as being in direct conflict with being socially responsible. In contrast, it should be viewed as part of the bigger corporate strategy for sustainable business survival. After all, it is society that supports the business and its continued profitability through the supply of skilled, healthy and motivated workforce.

Another argument given in favour of corporate social responsibility, according to Carrol and Shabana (2010:89), is that it will “ward off government regulation”. The view is that if business fails to voluntarily invest or behave in a socially responsible manner, government will pass stringent regulations to force business to comply with set or imposed programmes, which may not necessarily be favourable to business. According to Frynas (2009), who researched extensively on the topic of corporate social responsibilities within the oil and gas companies globally, corporate social responsibility worked well in

addressing environmental issues. This is mainly because both government and industry bodies (specifically in South Africa, as part of a broader transformation agenda) have set standard measures to be adhered to with huge consequences for non-compliance. These consequences vary from refusal to issue permits, which is a requirement to operate, to heavy fines, as we have seen with major companies such as Shell. Frynas (2009:194) has, however, concluded that “CSR has less potential for addressing problems related to community development and governance”. The reason is that there are no standards set for community development projects by most government and industry bodies. It has been left up to companies to choose what and how to invest in such projects. This is the case because legislated corporate social responsibilities result in companies doing the bare minimum to comply. It is only when corporates view social responsibility as a moral and legal obligation that meaningful changes in behaviour will be realised.

A question can be asked as to why it is not the government responsibility to continuously amend the laws to address all CSR requirements for corporations to follow instead of expecting the latter to go beyond the law? This type of question assumes that the laws will cater for the moral requirements corporations are expected to abide by. It is my view that morality goes beyond the law, it is about doing what is right even if the law makers are not watching. As explained in one of the previous section, moral obligation is about corporations saying, ‘I will not pollute the environment because it is wrong to cause harm to humanity’, as opposed to saying, ‘I will limit pollution to the environment to a particular threshold level, because the law says that I should not exceed the set threshold levels.’

Beside the self-interest reasons for corporations to be socially responsible, there is a moral duty to do so. Corporations have a duty to do what is right and good. The question then becomes: what is regarded as good? Utilitarian moral theory, which is briefly discussed in section 6, provides a road map to navigating through the question. Utilitarianism advocates that for every action, the alternatives that bring out the most good for all affected should be considered above the rest. What this says is that business should not make profit at the expense of society or the environment. Corporations have to balance profitability and the value created or destroyed for other stakeholders affected. This argument is made clear in the discussion of the Niger and VBS cases, and again in section 7.3, wherein I argue that corporate social responsibility is a moral obligation.

6. Utilitarianism

In this section, I am going to briefly give an explanation of utilitarianism as it will be referred to in the next section when discussing arguments for why corporate should have a moral obligation towards social responsibility. The reason for specifically choosing utilitarianism is that, amongst the moral theories, it is most concerned with the outcomes of the choices for all affected, and understand right action in relation to the goodness or badness of the outcomes.

For Marques (2015: 6) "utilitarianism holds the view that the action that produces the greatest wellbeing for the largest number is the morally right one." In the context of this essay, utilitarianism can be thought of as a stakeholder based moral theory concerned with doing good for the majority of affected members. According to Torbjörn Tännsjö (2008:18), utilitarianism is a moral theory that explains what makes an action wrong or right. He describes it as the view that "an action is right if and only if in the situation there was no alternative to it which would have resulted in a greater sum total of welfare in the world". From the definitions, utilitarianism contains a number of aspects which differentiate it from other moral theories. Amongst such aspects is, firstly, that an action (by an agent) is seen as either right or wrong, and nothing in-between. Note that I take the word "agent", to refer to either individual human beings or groups, or institutions such as industry bodies, corporations and governments which have the ability and power to carry out certain actions. Secondly, the right action is the action that yields the most good compared to the sum of all alternatives. Thirdly, and perhaps the most important distinguishing characteristic, is that the right action is the one that yields the most good (which in the definition is described as welfare) for all affected by the action. I would like to add the last distinguishing characteristic, which, although not coming directly from the definition, is also Tännsjö's view. He stated that "the action we ought to do, or the actions that are obligatory for us (these expressions are synonymous), form a sub-class of the actions that are right for us to do" (2008:18). This can be summarised as saying that the right action becomes mandatory or obligatory to the agent.

Jain's (2020:2280) definition , although similar to the one's described above, adds another important specific dimension to the principle, and describe utilitarianism as the view that "an act is morally right if and only if that act maximises the good." The inclusion of the words 'morally right' emphasises the mandatory or obligatory nature of the action. My interpretation of utilitarianism is that it came about from the realisation that human nature, if not governed by set of rules that promote common interest, will

lead to a chaotic state of affairs. Human beings by nature are self-centred; if each is left on their own to pursue their own goals without due consideration for others, it will lead to the flourishing of those that are powerful, who may exploit those less powerful to amass resources for themselves. Utilitarianism therefore advocates that no one's interest should be treated as more important than those of any other. In fact, it views the rightness of action relative to how it brings about the most good to everyone instead of the agent only. It is therefore a self-less moral theory. Commenting on the strength of utilitarianism, Marques (2015:7) states that "the most important appeal of utilitarian approach is its focus on the wellbeing of the majority." The distinguishing characteristics for utilitarianism from other moral theories is the focus on the consequences of the action. It ask the question, is your action going to leave majority in a better state and if the answer is in the affirmative, then the action is considered morally right..

I consider utilitarianism to specifically support my views and arguments on the need for corporations to be socially responsible, the right action is the one that brings the best outcome overall, with the interests of business and of the affected stakeholders taken into account. Utilitarianism views the right action as one that yields the most good. It is concerned with the social welfare of the majority of the people, that is on average leaving the world a better place for many. The key issue highlighted in this section is that the right action becomes obligatory for the agent. According to Gustafson (2013:326-327), "the utilitarian in business asks, how can we do business in such a way that it contributes to the greater good?" I argue in section 7.3 that corporations have a moral obligation towards social responsibility because it results in the most good for all stakeholders.

7. Why corporates should have a moral obligation towards social responsibilities

The question I seek to answer is the following: “Is corporate social responsibility a moral obligation or a means to an end?” I have so far argued, along with many writers, that corporations have a business-related reason for social responsibility. I will now argue that there is a moral reason that is not reducible to the interest of business as business, but something that results in the greater good. I am going to argue that business has a moral obligation towards society beyond economic and legal obligations. The argument is based on the premise that business exists within a society, and that its behaviour towards its stakeholders (employees, customers, society) has a potential to steer their overall well-being either positively or negatively. My arguments are based on the utilitarian moral theory which advocates that the right action for an agent is the action that brings about the most good for all stakeholders affected.

I share the view that business needs to make profit to survive and for the benefit of all stakeholders. However, it should not be profit at all cost (for the shareholders only) to the detriment of other stakeholders. It is my thesis that corporations have a moral obligation towards the society (and equally to shareholders) to ensure that they adhere to moral standards (to behave in a morally responsible manner) in their operations. They should operate within the law, whilst ensuring that some of their profit contributes towards the common good. Corporations cannot justify a one-way approach to an economic process whereby they take all the proceeds for themselves without due consideration to society and the environment, which are most impacted by the operations of those corporations. Corporations should appreciate the interdependency between the corporations, society and the environment, and that each cannot survive without the other. This realisation of a mutual interdependency brings with it a level of performance outcomes that corporations, society and the environment have towards each other, which give rise to expectations and obligations. The view is supported by Gustafson (2017:21) “business is not merely the result of society, business practices and behaviours make up society to a great extent, and certainly shape values, goals and motives, and life style beyond the workplace.” This type of relationship and the resultant obligations will be the focus of the debates to follow in this section.

To support my view further, I will start by discussing the Delta Niger in Nigeria as the first case in point, followed by the VBS case to illustrate and support my arguments that business has a moral responsibility towards society beyond economic and legal traditional obligations.

7.1 The Niger Delta Case

The Niger Delta case is about the actions and, to a large extent, non-action of multinational oil companies in the Niger Delta communities. The Human Rights Watch Report stated that the worst form of human rights violations have taken place by the government of Nigeria on behalf of the companies in pursuit of profit. In summary, in their 1999 report, the Human Rights Watch investigated multinational oil companies, which included Shell (a Dutch-British Company), Chevron and Mobil (both US-based companies), Elf (a French-based company) and Agip (an Italian-owned company). The report depicts a classic case of what happens when corporations pursue profit at all cost with little regard for the impact of their actions and operations on the environment and communities. According to the report, the multinational companies colluded with the government of Nigeria through its security force to suppress legitimate grievances and protest from the local communities. The communities were raising issues of environmental violations by the multinational companies, which were largely from oil spillages that resulted in the pollution of the sea and agricultural land, destroying fish and crop farming. Most of these communities were rural in nature and therefore dependent on fishing and farming for their livelihood, which according to the report was destroyed by the oil spillages.

The report highlighted areas of concern involving money paid to government and contracts awarded to companies associated with top government officials, specifically those in charge of the security forces. Hence, the protection received by the multinational companies from the government was at the expense of the communities; it is reported that money that could have been used for the upliftment of the community was misappropriated. The question to be asked is: did the multinational oil companies have a moral obligation to speak out against the human rights violations of the community members by the government security forces, which were all in the name of protecting the very company's assets and staff members? Secondly, did the companies have a moral obligation to operate in a responsible manner that protected the environment, the sea and the farming land against pollution through their operational activities (if they have a moral obligation, will such actions by Shell pass the moral test)? Thirdly, were the billions of dollars reportedly paid to and misappropriated by the government and the contracts awarded to the people connected to the leaders of the security forces all done in a manner that could be viewed as a morally accepted business practice? These questions are answered later in section 7.5.1.

At the heart of the issue within the report is the alleged silence or complicity of the multinational companies in the reported violations of the human rights of the community members and their leaders, which include brutal assaults, detentions, rape and executions. According to the report, the company Shell was singled out for allegedly entering negotiations to buy weapons, including hundreds of handguns for the Nigerian police (1999:13). Although the company acknowledged such an attempt and negotiations, according to the report, they denied that the purchases were eventually made. In their defence, according to the report, "in January 1996, in response to these allegations, Shell stated that it had in the past imported sidearms on behalf of the Nigerian police force, for the use by the supernumerary police who are attached to Shell and guarded the company's facilities (and other oil company facilities) against general crime" (Human Rights Watch Report 1999:13).

The Human Rights Watch Report (1999:7–9) also reports that proceeds from the oil production by some of the multinational companies meant for the community development went missing and were unaccounted for by the Nigerian government. The worst violations as reported are killings (including that of Ken Saro-Wiwa who was the leader of the movement of the Ogoni People known as MOSOP), assaults, rape and execution of the local community members. According to the report, some of these community members were not even part of the protest actions, but faced such human rights violations under the so-called state of emergencies and curfew imposed on the communities. All this was done in the name of protecting the assets of the multinational companies. Yet, according to the Human Rights Watch Report, the multinational companies failed to distance themselves from such violations or at least to condemn such actions. The Report (1999:16) also described that due to the mounting pressure following the events in the Niger Delta, "the Royal Dutch / Shell group has undertaken a major review of its attitude toward communities and issues of human rights and sustainable development."

It is the view of the Human Rights Watch that corporations have an obligation to ensure responsible behaviour and the protection of human rights in countries where they operate. "Corporations doing business in these states take on a special obligation to implement proactive steps to promote respect for rights and to ensure that they do not become complicit in violations" (Human Rights Watch Report, 1999:3).

My argument in support of the above statement will follow after I have discussed the second business case below.

7.2 The VBS Mutual Bank Case

Following the collapse of VBS Mutual Bank in 2018 due to alleged misappropriation of funds, the Prudential Authority (a financial regulatory body under the South African Reserve Bank) appointed a forensic investigation led by advocate Terry Motau. The findings of the investigation and the subsequent report are the subject of the case study.

According to the bank's website (before it was shut down following its liquidation), VBS Mutual Bank was a mutual bank with its main branches and head offices based in Johannesburg and in the Limpopo province of South Africa. It was established in 1982. In summarising its main business activities, Motau (2018:19) states that "it was principally involved in the taking of deposits from retail depositors, including burial societies and stokvels".

Stokvel is a South African concept, defined as "a type of credit union in which a group of people enter into an agreement to contribute a fixed amount of money for a common pool weekly, fortnightly or monthly" (Lukhele, 2012:2). Such schemes (stokvels) are mostly used as a savings platform by the group for future investments or to assist members during unfortunate events such as death. Most of the stokvels are formed by groups of unemployed individuals as a form of savings for unplanned events such as funeral costs or celebratory occasions such as family weddings.

For several years, according to the report, VBS, with the help of an audit company KPMG, reported some healthy (profitable) financial statements and balance sheets. However, as the investigation report indicated, "the financial statements were, however, materially and fraudulently misstated" (Motau, 2018:23). It was a carefully orchestrated plan to give an impression that the bank was a going concern, whilst in reality it was bankrupt. Investors or customers continued to put their money into a bottomless pit with the hope of reaping some rewards in terms of interest, whereas the bank was insolvent and not supposed to be operating at all. The fact that the regulatory bodies relied so much on certified audited financial statements issued by audit firms that are supposed to give a professional assurance as an independent oversight made it difficult for even the bank's regulatory bodies to establish that VBS was no longer a going concern and that its licence to operate should have been revoked.

In summary, according to the report by Motau (2018:9–10, 16), VBS defrauded depositors of their savings by, among other means, quoting from the report:

- Using bank financial resources to bribe individuals holding powerful positions within the bank and outside to be complicit in violating governance rules;
- Creating fictitious beneficiaries resulting in withdrawals and payments of large sums of money to various perpetrators of a scheme of looting;
- Manipulating the banking system by, among other schemes, creating enormous fictitious deposits and channelling the money to a group of highly connected individuals and entities;
- Colluding with government entities such as municipalities and state-owned enterprises, such as PRASA, to deposit huge sums of money into the bank in exchange for kickbacks for those in authority at these institutions with powers to make the transactions possible.

The overall findings of the report were that “the business of VBS was indeed conducted in a fraudulent manner, which has resulted in the widespread impoverishment of VBS depositors for the benefit of Matodzi and his associates” (Motau, 2018:19). Mr Matodzi, the Chairman of the VBS board, is reported to be the kingpin in the bank’s fraudulent activities and, as a non-executive director, was found to be involved in the day-to-day running of the bank. However, as this is a subject matter on its own and not directly relevant for the topic of corporate social responsibility, it is sufficient to note that in terms of the King IV Report (on Corporate Governance in South Africa), a non-executive chairman of a corporation should not be involved in the day-to-day running of the company. The day-to-day running of a company is left to the management and the executive team, whereas the board led by the chairman has an oversight role to hold management accountable.

According to the report, the misappropriation of funds at the VBS amounted to almost R2 billions of unaccounted funds. This left depositors, who are mainly poor communities and individuals who had been saving through burial societies, as well as pensioners and municipalities without their savings.

The irony with this irresponsible conduct by VBS shareholders and managers is that their mission and purpose statement on their website (http://www. vbsmutualbank.co.za/about-vbs) reads as follows:

> We live and operate among our customers and business partners who are our neighbours and friends; we understand our strategic importance in society by maintaining highest standards of governance, local empowerment and ethics.

> We are here to serve our customers and let them gain financially because of our dedicated assistance. To play a meaningful role in our society. To enable our shareholders to obtain their return on investment.

Their mission and purpose statements portray a bank that is socially responsible, a bank that puts the interest of its customers first and, overall, a good corporate citizen. However, as it is widely reported, these statements are not worth the paper on which they were written. The company has stolen money from the most vulnerable members of the society, namely the poor who entrusted the bank with their hard-earned and probably only savings they have ever made.

It is against the issues raised in the VBS and the Niger Delta cases that I am going to argue the following. First, corporate social responsibility is a moral obligation. Secondly, corporate social responsibility should not be voluntary.

7.3 Why Corporate Social Responsibility is a Moral Obligation

Corporations as agents have a duty to act and behave in a responsible manner towards all stakeholders affected. Corporate actions have an impact on shareholders, society, employees, customers, suppliers and the environment in the main. The list is not exhaustive as there could be other stakeholders that are impacted by a corporation's activities indirectly or indirectly, such as government, and their interests are equally important. Corporations and their shareholders are not more important than other stakeholders. Corporations should not prioritise their own interests at the expense of other stakeholders. Corporations have a responsibility to demonstrate how their actions and activities impact society (negatively or positively) and what value or benefit they have contributed to affected stakeholders.

French (1979:211) dismisses the contrasting view often made by defenders of shareholders' primacy that there is only an explicit contract between managers and shareholders, not with other stakeholders. Their argument is that the only responsibility of business is towards the interest of the owners. French (1979:211) states the following against this view:

> Moral responsibility relationships hold reciprocally and without prior agreements among all moral persons. No special arrangements need to be established between parties for anyone to hold someone morally responsible for his act or, what amounts to the same thing, every person

is a party to a responsibility relationship with all other persons as regard the doing or refraining from doing certain acts: those that take descriptions that use moral notions.

Corporations as legal entities and agents have a number of responsibilities which amongst others include moral responsibilities to other stakeholders such as the communities and employees. They are obligated to do certain things and to behave in a particular way in line with set of moral standards of what is good and what is right. Equally, corporations are obligated to avoid certain actions that are regarded as wrong. So, their duties go beyond those set out in explicit contract and prescribed in regulations.

From a utilitarian view, corporations should make CSR obligatory through policies that addresses the executive decision-making process that doesn't evaluate business viability by evaluating economic returns only. Business decision making process should include the impact of such decisions on affected stakeholders, and should pass both the responsibility and moral tests. Referring to government's legislating mandatory CSR for corporations Jain (2020:2280) states that "making CSR mandatory is ethical as it would distribute the net good across a broader range of people." This was in reference to India, who is regarded as the first country to make CSR mandatory for corporations through 2013 Company Act legislation. The Indian Company Act of 2013, amongst other things make its compulsory for board of companies to have a CSR subcommittee whose responsibilities will include developing a CSR policy, monitoring its implementing and reporting in their annual reports on their activities, including the 2% net of profit contribution towards CSR related activities. This initiative by the Indian government, although it might be seen as legislative driven, has provided the structure and foundation on how to make CSR a moral obligation by corporations. The next step will be to ensure that the CSR related policies are informed by amongst others the acceptable moral standards advocated by the utilitarian principle of maximizing the good for all affected stakeholders.

Using the Niger Delta case to expand on my arguments, the right action for the multinational oil companies was to prevent oil spillages into both the sea and land. The multinational oil companies had a duty to protect the land and the sea, at least to preserve it in the state in which it was found in prior to their operation.

According to the utilitarian theory that I have accepted, the question to ask to determine the right action for the multinational oil companies in the Niger Delta case is, what action would have brought about the

best outcome for all stakeholders involved? By stakeholders, I am referring mainly to the shareholders and the communities. The right action would have been a state where the multinational oil companies were concerned with the best outcome for all stakeholders, which include the concern for the for the health of the environment, without which the community can't flourish. The right action would have been the one that at least resulted in an improved state of the community's well-being, through better economic activities, employment, health, education standard and skills development.

Unfortunately, as we have learned from the case study, it was a one-way economic benefit whereby the shareholders and, to a large extent, government officials derived financial wealth at the expense of the communities whose life worsened. The multinational oil companies in the Niger Delta behaved in an irresponsible manner and their actions can only be judged as wrong. This kind of behaviour will continue to happen in other parts of the world because corporations are not viewed as having a moral obligation to behave in a responsible manner. However, there is a way to prevent incidents such as those in the Niger Delta, which is to hold corporations, as agents, to the same moral standards expected of individual human beings by making social responsibility a moral obligation for corporations. The question is how we make social responsibility a moral obligation and, most importantly, how do we ensure moral compliance. Within the South African context, depending on the size, boards of listed companies are required to put in place a social and ethics committee (Bates, 2018:164) more like the Indian Company Act although not so explicit and mandatory on how much to contribute and on the policy development provisions. The King IV provisions (King Committee on Corporate Governance and King, 2016:45) state that the responsibilities of the Social and Ethics Committee include, amongst other responsibilities, those concerned with society as it relates to the protection of their health, safety, human rights, and the protection of the environment against pollution, waste disposal and biodiversity. Along with their financial performance, listed companies on the Johannesburg Stock Exchange are required to report how they have contributed towards society, the environment and their relationship to affected stakeholders. This is one way of ensuring compliance.

In line with utilitarianism, the right action becomes obligatory for the agent. Being socially responsible is the right action for corporations to take. Corporations therefore have a moral obligation to be socially responsible. They have a moral duty to behave in a responsible manner towards the community (inclusive of employees and customers), the environment and equally to each and every legitimate

stakeholder. Corporations should be concerned about the impact of their decisions and operational activities, and ask themselves whether they can pass both the moral and responsible behaviour tests discussed in section 2, as advocated by Campbell (2007:951), who argues that a socially responsible behaviour passes two key test questions. As a reminder, he states the following in the form of two questions:

> First, corporations must not knowingly do anything that could harm their stakeholders – notably, their investors, employees, customers, suppliers or the local community within which they operate. Second, if corporations do cause harm to their stakeholders, they must then rectify it whenever the harm is discovered and brought to their attention.

The above also support Donaldson's (1982:21) assertion that "the Moral Person view needs somehow to demonstrate that the corporations act intentionally". Corporations have a moral obligation to respect the well-being of society, the environment and to behave in a manner that is responsible. They should be asking whether their operational activities are in line with sustainable environmental standards and requirements to co-exist with all stakeholders into the future.

7.4 Corporate Social Responsibility should not be Voluntary

To be socially responsible is to always act in the best interest of all parties affected by the action. It is a duty for everyone to do the right thing. Making social responsibility voluntary is like saying that obeying the country's law is voluntary. Saying obeying the country's law is voluntary is as good as unleashing a state of anarchy, where there are no rules and everyone does as they please. A state of anarchy compromises society's right to safety, well-being and, to an extent, the right to life. Imagine a world where rules and moral standards are regarded as voluntary. A world where rules are voluntary means there is no accountability and consequences for people's action or non-action. This means that there is no standard upon which human beings are held to regarding what is right or wrong, what is good or bad and what it is that we ought to do. Imagine a world where obeying traffic rules is seen as voluntary. Think about a situation where you approach a green traffic light on the road without knowing with certainty if the cars coming from the opposite end of the red light are going to stop or not. That will be the case if it is voluntary for motorists to stop at a red light. Should the motorist decide to skip a red light and cause an accident, they cannot be held accountable nor face any consequence for their actions.

By regarding corporate social responsibility to be a voluntary exercise, we are saying that corporations should not be held accountable for their behaviour and actions. We are saying that corporations can pursue their profit without being hold fully accountable for the health and safety of their stakeholders affected by their operations, as long as they can proof that they complied to the minimum prescripts of the law. Complying to the minimum prescripts of the law is not always enough. This attitude of viewing corporate social responsibility as voluntary is like giving corporations a licence to get away with wrongdoing.

From the Niger Delta case, we have learned about the extent to which corporations can use the licence to get away with wrongdoing. We have learned that the multinational oil companies were complicit in the human rights violations either through active support of the government security forces or by looking the other way. This is in addition to the multinational oil companies' irresponsible actions of discharging oil into the sea and on land, destroying the livelihood of the community and compromising their health. Because being socially responsible was viewed as voluntary for corporations, the companies were not held to account. Baxi (2015:25) refers to this view of voluntarism as a "moral-free zone" – meaning that corporations "are above any moral obligations to people and environs they hurt and harm". If we cannot afford to have a state where laws and regulations are viewed as optional, why do we see nothing wrong in declaring a moral-free zone in as far as corporate responsibility is concerned? Is this not the highest order of hypocrisy? Without doubt, it is a double standard. Corporations, as discussed earlier, are very powerful entities due to the number of resources they command. Allowing corporations a moral-free zone and telling them that it is voluntary to behave in a responsible manner puts the well-being and lives of the communities at the mercy of corporations.

The fact that shareholders of big corporations do not necessarily have to live in countries and communities where companies they are invested in are operating makes it even worse. Worse, in the sense that shareholders and investors may not even understand the operations of the business invested in. It is therefore the right thing to regard corporate social responsibility as a duty for corporations. Corporations must be accountable for their actions and non-actions. Corporate social responsibility can therefore not be regarded as a voluntary exercise.

7.5 Commentary on the Niger Delta and the VBS Cases

7.5.1 Commentary on the Niger Delta case

First, I will start with the Niger Delta case and attempt to answer the questions I posed earlier about the behaviour of the multinational oil company Shell. The first question was whether Shell acted in a responsible manner befitting a good corporate citizen when they purchased sidearms on behalf of the Nigerian police. Shell was well aware that the Nigerian police was heavy-handed towards its citizens at the time, resulting in the killings of community members and other gross human rights violations. Shell will probably argue that their intention was to protect their staff and assets.

I hold a different view. Shell was in the business of producing oil, not in the business of arms. It was not on a war mission, but in the business of oil production. Part of doing business involves negotiating and engaging with impacted stakeholders on issues of mutual interest. By buying sidearms on behalf of the government police force, Shell was colluding with the government against the people of the Niger Delta. They were complicit in the killings of the community members, which amounted to what I would like to call blood oil, and the profit and subsequent money made thereof was tainted. This is profit at all cost. Corporations that are socially responsible are conscious of the interest of other stakeholders, and will not pursue profit at all cost. Shell was allowed a moral-free zone, which basically gave it a licence to do more harm than good.

A company that is socially responsible would, in the first place, have distanced itself from the actions of the Nigerian police force. A morally responsible company would not have supplied the police force with arms. Responsible behaviour in this case was for Shell to engage the community, seek mediation or even follow the legal process, where required, instead of asking for police or military intervention. If all failed, the morally responsible thing to do was for Shell to close operations until a workable solution was found with the affected stakeholders. However, as long as corporations view being socially responsible as an option and not as a moral obligation, few corporations will go out of their way to do good. Because social responsibility is seen as voluntary to an extent, corporations did not consider it obligatory to avoid polluting the sea and the agricultural land for the Niger Delta communities, which basically destroyed their economic livelihood. Again, because corporations are not held to a moral standard like individual human beings, companies like Shell were not considered morally bankrupt. In fact, there is no moral performance standards upon which corporations are assessed. Corporations

should therefore not be allowed to have a moral-free zone; they must be judged according to moral standards society expects of individuals.

Shell and the other multinational oil companies in the Niger Delta were pursuing self-interests financial gain, and would do whatever it takes to achieve their goal. According to Marques (2015:6) “on the Utilitarian view one ought to maximize the overall good – that is, consider the good of others as well as one’s own good.” Clearly, the multinational oil companies were not concerned about the good of the communities and their impact on the environment, but only their own. Using the utilitarianism moral theory to evaluate the behaviour and actions of the multinational oil companies, we see that they were in no way maximizing the good for most of the affected stakeholders, instead their actions actually did the opposite, it brought more pain to the communities.

Utilitarianism calls for a common focus in pursuing that which is good for the benefit of majority. Using the utilitarianism approach, the multinational oil companies should have found a way of working with the communities and rallying everyone according to what will bring value for all stakeholders concerned. It is my view, that where stakeholders come together to discuss issues of common benefit, they will find amicable way of managing conflicting priorities, and will pursue interests that benefit the majority. This is what utilitarianism advocate for decision makers and stakeholder relationships. Gustafson (2013:330) summarise the above by quoting John Stuart Mill’s conception of utilitarianism, that “so long as they are cooperating, their ends are identified with those of others; there is at least a temporary feeling that the interest of others are their own.”

7.5.2 Commentary on the VBS Case

The VBS case is an example of why the proponents of stockholder theory, who assert that corporations in their make-up cannot be expected to have moral responsibilities, got it wrong. According to such proponents, only human beings are thought to have moral responsibilities. Moral responsibilities forces individuals to think about their actions and decisions, and how they impact others; that is, whether such actions are right or wrong. By claiming that corporations cannot be said to have moral responsibilities, stockholder theorists are basically saying that corporations cannot have a sense of right and wrong, and therefore cannot be held accountable for being irresponsible. It is my argument that through the actions of its managers and executives, VBS was morally accountable to their customers. It is morally wrong to misappropriate money by any standards. VBS managers and directors misled their customers

by promising to not only protect their investments, but to also grow it. As we have learned from the case, this promise was not kept. It cannot be right to say that the only social responsibility of a business is to maximise profit, without due regard of how that profit is made. As stated previously, this self-serving and double standard from the stockholder theorists.

The VBS case supports my view that corporations should not be treated according to a different moral standard than people. Holding corporations to a lesser moral standard or giving it a moral-free zone creates a situation where shareholders and executives can do harm. They know that they will get away without being held to account because they are acting on behalf of the corporation, such as in the VBS case. The worst that can happen to corporations such as VBS is that the shareholders are likely to declare the company bankrupt. However, declaring bankruptcy does not help the clients who have fallen victim and lost their money. Most of them will not get a cent back from their investment and are likely to lose all their deposits. On the other hand, shareholders who have unduly profited from the misappropriation of funds are likely to walk away with the proceeds because VBS as a company is viewed as a separate entity from the shareholders. This is the double standard referred to previously. It is convenient for corporations when they make profits to say that they cannot be held to the same moral standards as people. It is said that they cannot have social responsibilities. But the individuals who make up the corporations are still rewarded.

It is my view that if corporations are held to the same moral standards, they will in turn behave in a manner that is socially responsible. This is because they will have to account for their actions and will be liable to sanctions if they act immorally. This will avoid cases such as VBS in that wrongdoing by corporations can be attended to before they escalate.

According to Mill (2017:12), “the happiness that forms the utilitarian standards of what is right in conduct is not the agent’s own happiness but that of all concerned”. VBS directors were only interested in enriching themselves. They deliberately and intentionally defrauded poor depositors amongst the members of the public and state institutions such as municipalities which are entrusted with promoting the welfare of the citizens. They did not put the interest of the majority of the citizens and depositors first, resulting in the majority of the affected customers losing all their savings. By utilitarian moral standards, VBS directors actions were morally wrong.

8. Conclusion

The aim of this thesis was to argue that corporations have a moral obligation towards society by, among other actions, ensuring that they adhere to ethical standards in their operations, and that they operate within the law whilst contributing to the common good.

According to Donaldson (1982:14), “the point is that regardless of the outcome, the moral issue is the same for corporations as it is for persons.” According to this view, which I subscribe to and have argued for in sections 7.3 and 7.4, we cannot hold individuals and corporations to different moral standards. If we expect individuals to respect life, protect and preserve the environment and contribute meaningfully to society, the same should apply to corporations. Is it acceptable that individuals can establish companies or businesses and use them as a vehicle to behave irresponsibly and unethically and then justify such actions on the grounds that they are not persons? The answer is no, and a plausible argument was made under section 7.3 in support of my view that corporate social responsibility should not be voluntary.

Business, just like individual persons, should be expected to behave according to morally expected standards within a society. Business does not exist in isolation, but within a society with dynamic relationships of interdependences among various stakeholders with legitimate interest and influence. Its very survival is linked to the survival and support of each and every stakeholder, be it shareholders, employees, suppliers, customers or communities.

The view that the sole purpose of business is profit maximisation for shareholders and that other activities that do not directly contribute to the bottom line should not be entertained is an idea that has passed its relevance in the modern business environment.

Most global corporations have a large amount of financial resources at their disposal. They have become more powerful within the society with the potential to influence government decisions. Their executives in this regard are therefore called upon to exercise restraint in ensuring that their companies and managers uphold the highest moral ground and behave in a responsible manner. We have seen in the cases of both the Niger Delta and VBS that corporations colluded with those holding positions of authority in government, which looked the other way when corporations were behaving irresponsibly and even violating the law. In the case of the Niger Delta case, multinational oil companies have even used state institutions to commit the worst human rights violations against their own citizens. There are

many such cases in the world where powerful corporations used their influence to negatively influence government to protect their interests by enriching the few officials in government.

The growing power and influence of business is one of the compelling reasons why corporations cannot be immune from moral conduct and must be duty bound, just like citizens, to behave according to a set of moral standards. The concept of good corporate citizenship, which simply means that business can make profit whilst doing good, sums up the argument. The argument is that corporations have a moral obligation towards social responsibility, and profit and morality are not in conflict, but complementary and part and parcel of good business practice.

Through the discussions of stakeholder theory and the analysis of the Niger Delta and VBS cases, I have explored the arguments for corporate social responsibility. I have argued that pursuing profit at the expense of the environment, together with ignorant behaviour and attitudes towards the plight of the community and their socio-economic development situation, is not desirable or permissible, as it amounts to morally irresponsible corporate behaviour. A compelling argument was made in the essay that moral obligations and responsibility towards society, the environment and other legitimate stakeholders are important business responsibilities and are as imperative as profit.

Business has a moral obligation and responsibility to deliver equally on the four aspects discussed under stakeholder (legitimacy) theory without any trade-off. These aspects are profit, legal compliance, adherence to moral standards and being socially responsible. Only the businesses and managers who understand how to manage the four aspects will survive in today's competitive business environment. As discussed and noted in the Niger Delta case, the cost of being socially responsible is much less than doing the opposite. Ignoring the plight of society and the environment can result in substantial financial losses or closures of the business, and harm to both human beings and the environment. My conclusion is that while corporations have a business-related reasons to be socially responsible, they also have moral obligation, and so should not be socially responsible only as a mere means to an end.

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