Combating Environmental Degradation through Diplomacy and Corporate Governance (Part 2)

Anthony O Nwafor

*Professor of Law, School of Law, University of Venda, South Africa.
Email: Anthony.Nwafor@univen.ac.za*

Doi:10.5901/mjss.2014.v5n20p211

Abstract

Environmental degradation witnessed by communities and regions in most African countries is attributed to failure of governance in the sense of inadequately regulated corporate operations which has given room to the pursuit of profits maximization by corporations in disregard of the interests of the host communities and regions. The results are often manifested in communal expression of anger leading to the destruction of lives and property, endangering the security and unity of the affected nation in extreme cases. The paper seeks to proffer solutions to these national maladies and argues that soft power diplomacy reinforced by exemplary leadership could act as soothing balm to the pains of the aggrieved communities. It emphasizes that mandatory corporate social responsibility approach to the operations of companies would provide solutions to these intractable social and environmental challenges.

Keywords: Environment, Diplomacy, Corporate governance.

1. Enlightened Shareholder Value Approach

Enlightened shareholder value approach to a director's duty entails an obligation on the director to pursue the interests of the company for the benefit of the shareholders by taking due cognizance of all relevant factors including a proper balanced view of the short and long term benefits to the company; the need to sustain effective ongoing relationships with employees, customers, suppliers and others; the need to maintain the company's reputation, and to consider the impacts of its operations in the community and the environment (Deakin & Ajit 2013, UK Company Law Review Steering Group, 2000, Davies 2005). The concept is propelled by the understanding that company's operations have very wide reach and as such all the stakeholders' interests, not just the shareholders, should be considered in the discharge of the responsibilities of directors. This other interests, however, remain subordinate to the shareholders interests (The code of directors' duties 2013, Ramsey 2005) and could be pursued by the directors only to the extent that the protection of those other interests promotes the over-riding interests of the shareholders (Davies 2005). Accordingly, the consideration of ethical, charitable or environmental concerns are important only in the realization that there disregard could, at least in the long-term, lead to losses for the shareholders (What is Corporate Governance 2013). It is in that regard that enlightened shareholder value has been described as involving the requirement of paying attention to typical stakeholder interests as a means of fostering shareholder long-term wealth (Keay 2010).

Proponents of this concept are convinced that protecting the long-term interests of the shareholders requires the company to properly manage its relationships with all of its stakeholders. A company cannot maximize the shareholder value through a systematic exploitation of its stakeholders. Companies that charge too much for their goods and services would lose customers to the competitors. Companies that charge too little may have happy customers but will be unable to meet their other financial obligations or offer new and improved products and services to the customers (Mauboussin 2011). Thus, Martin (2012) had observed that 'if you take care of customers, shareholders will be drawn along for a very nice ride. The opposite is simply not true: if you try to take care of shareholders, customers don't benefit and, ironically, shareholders don't get very far either'. A company that fails to care for its customers could enjoy a short-term benefit, but would fizzle out once the customers are provided with alternatives by the competitors. A business that sells sub-standard products to reduce cost and make quick profit would damage its reputation and therefore destroy competitive advantage in the future (Shareholder value 2013).

The same is true of the community and the environment in which the company operates. A company that takes care of the community and the environment builds good will and ensures the sustainability of its operations in the long-term. The recurrent communal restiveness witnessed in those regions whose environment is vastly degraded by industrial

activities of corporations which consider its immediate profit interests more important than long-term planning and caring for the community and the environment presents a good example. The impact of the degraded environment such as the destruction of farm land, fishing ponds and contaminated water with the resultant health hazards to the inhabitants of the host community have given rise to irrepressible armed resistance to the operations of the corporations leading to bombing of oil pipelines, kidnapping of the workers and demanding of ransom and sometimes outright killing of the employees of such corporations. Those regions have become increasingly dangerous for the operations of those companies which are counting their losses from the stoppage of oil productions, damaged pipelines and loss of personnel, situations which could have been avoided by factoring the stakeholders interests into those companies operations. With the greater awareness of the people of their rights to decent living in a clean and unpolluted environment, the corporations can no longer safely continue to neglect the interests of the community and the environment as though they were still in 1957 when oil was first discovered in one of the Nigerian regions. The South African platinum mines are not faring better. The operations of the mining corporations are in recent years being undermined by incessant strikes by the workers some of which have turned violent leading to the destructions of lives and property. The memories of the Marikana mine workers' strike in 2012 that led to the massacre of thirty four mine workers and injuring seventy eight others by the South African police in a bid to quell the violent strike by the protesting workers shall remain indelible in the records of industrial dispute in South Africa (Marikana massacre 2013).

The dynamics of business and societal change have been accepted by the courts as good reasons for the consideration of stakeholders interests in corporate operations (*Steinway v Steinway & Sons* 1896). In *Teck Corporation v Millar* (1972) Berger J observed that "A classical theory that once was unchallengeable must yield to the facts of modern life.... If today the directors of a company were to consider the interests of its employees no one would argue that in doing so they were not acting bona fide in the interests of the company itself. Similarly, if the directors were to consider the consequences to the community of any policy that the company intended to pursue, and were deflected in their commitment to that policy as a result, it could not be said that they had not considered bona fide the interests of the shareholders". In *A P Smith Manufacturing Co v Ruth F Barlow* (1953) Stein JSC had, while approving a modest donation of the company's fund by the directors to a University for educational purposes, captured the long-term value to the corporation of such corporate philanthropy as follows: "It is from the millions of young men and women who are the products of higher American education that industry has picked, and will have need to pick, its scientists and its business executives. It is the youth of today which also furnishes tomorrow's leaders in economics and in government, thereby erecting a strong breastwork against any onslaught from hostile forces which would change our way of life either in respect of private enterprise or democratic self-government.... I cannot conceive of any greater benefit to corporations in this country than to build, and continue to build, respect for and adherence to a system of free enterprise and democratic government, the serious impairment of either of which may well spell the destruction of all corporate enterprise". Mervel VC had similarly in *Theodora Holding Corporation v Henderson* (1969) reiterated the long-term value of corporate donation where he held that the relatively small loss of immediate income otherwise payable to plaintiff and the corporate defendant's other stockholders, had it not been for the gift in question, is far out-weighted by the overall benefits flowing from the placing of such gift in channels where it serves to benefit those in need of philanthropic or educational support, thus providing justification for large private holdings, thereby benefiting plaintiff in the long run.

These decisions informed the redefining of corporate purpose as was done by Lord Wilberforce in *Howard Smith Ltd v Ampol Petroleum Ltd and Others* (1974) where he held that where the issue borders on the purpose for which power is exercised, the court should begin by considering the power whose exercise is in question and then, having defined the limits within which it may be exercised, ascertain the *substantial purpose* for which it was exercised in the particular case to determine whether it was a proper purpose or not. And in so doing, the court would necessarily give credit to the bona fide opinion of the directors and respect their business judgment as to matters of management.

The reference to *substantial purpose* for which power is exercised is a reaffirmation of favourable judicial disposition to the consideration of stakeholders interests by the directors in the exercise of their powers, so long as the decision reached would, in the bona fide opinion of the directors, ultimately advance the interests of the company and not informed by some by-motive, possibly of personal advantage, or for any other reason (*Hindle v John Cotton Ltd* 1919).

The legislature is not left out on this innovative path espoused by the judiciary. The Nigerian Companies and Allied Matters Act of 1990 provides in section 279(4) that 'the matters which the director of a company is to have regard in the performance of his functions *include* the interests of the company's employees in general, as well as the interests of its members'. The word 'include' as used in that provision, suggests the expansive nature of the interests that could be considered by the director. The interests are not restricted to those specifically mentioned, so long as the ultimate end would serve the interests of the company.

The UK Companies Act of 2006 embodies provisions illustrating the expansive nature of stakeholders interests

which the director shall consider in the exercise of his duty. Such matters and interests as shown in section 172(1) of the Act include the following: '(a) the likely consequences of any decision in the long term, (b) the interests of the company's employees, (c) the need to foster the company's business relationships with suppliers, customers and others, (d) the impact of the company's operations on the community and the environment, (e) the desirability of the company maintaining a reputation for high standards of business conduct, and (f) the need to act fairly as between members of the company'.

But the snag here is that the duties are not enforceable by any of the stakeholders. This is shown by the provision in section 170 that duty is owed by a director, not to any of the stakeholders mentioned in section 172(1), but to the company (Arnold & Haywood in Mortimore QC 2009). The real essence of the statutory formulation is that the director is now under positive duty to consider the interests of the stakeholders unlike at common law where the consideration of such interests is merely permissive (Davies 2005), as such where a director in good faith and in pursuit of the company's interests, makes a decision in the wider interests of the community or the environment he would be protected from blame (Arnold & Haywood in Mortimore QC 2009).

In Lesotho, section 63(1) of the Companies Act of 2011 requires a director to act in good faith and on 'reasonable grounds' in the interests of the company. The Act does not define what it refers to as 'reasonable ground' under that provision. Section 63(1) is, however, subject to subsection 2 of that section which requires a director to act in the same manner as a reasonable director would act in comparable circumstances. A reasonable director would ordinarily be expected to keep abreast with the business and societal dynamics, always feel the pulse of the community and the environment where the company's operation is conducted. In pursuing the company's interests, such other stakeholders interests must be factored in as 'reasonable grounds' for corporate decision making. A director that takes such decision would not be seen to have breached the provision of section 63 but caring for the long-term interests of the company.

South Africa, like Lesotho, does not have any equivalent of the UK Companies Act provision in the sense of providing guides to the director on what should be considered in the performance of his duty. But the law in South Africa has gone a step further in ensuring that corporations are socially responsible by conferring power on the Minister of Trade and Industry to make regulations requiring certain companies identified by their annual turnover, the size of their workforce or the nature and extent of their activities to have a social and ethics committee. The Minister has accordingly responded as shown by regulation 43(1) of the Companies Regulations, 2011 which requires all state-owned companies, listed public companies or companies that have in any two of the previous five years scored 500 points in terms of the regulation to appoint a social and ethics committee whose responsibilities as set out in regulation 43(5)(a) includes the monitoring and reporting on the company's compliance with any relevant legislation, other legal requirements or prevailing codes of good practice on issues of, among others, the environment, health and public safety, including the impact of the company's activities and of its products or services. (Kloppers 2013). This regulation is aimed at elevating the directors' duties to all the stakeholders, apart from shareholders, beyond a mere exhibition of magnanimity and to a mandatory level, but failed short of explicitly empowering the directors in that regard.

It is fairly settled that the laws of the various jurisdictions in focus allow the directors limited freedom, in the performance of their duties, to consider interests of stakeholders, other than the shareholders, (Berle 1954), the next question is: how satisfactory is this position of the law? In the modern world, where there is so much industrial activities resulting in pollution, other environmental degradation, health hazards and even death of humans and animals, should there not be positive and enforceable duty within the realms of companies legislation compelling the directors, in the performance of their duties, to consider the interests of stakeholders at equal length with those of the shareholders? These questions invoke the consideration of the pluralist approach to directors' duty.

2. Pluralist Approach

The pluralist argues for the statutory imposition of enforceable obligation on the director to consider the interests of all the stakeholders in their own rights in the performance of his duty. Shareholders' interests would become merely one of a number of interests the director would weigh against each other when making decisions (Select Committee on Trade and Industry Sixth Report 2013). This is where the difference lies with the enlightened shareholder value approach, in that the latter concept subordinates the interests of other stakeholders to the shareholders interests, and the statute imposes unenforceable obligation on the directors as failure to comply does not attract any legal reproach. Thus, section 172(1) of the UK Companies Act has been described by Hollington (2008) as 'banality'. This was illustrated by the writer with the following poser: 'Suppose the directors fail to take into account, as part of their thinking process, the listed factors – then what? What will the court do about it? The court will not make the business decision itself and so will send it back to the directors, who will in almost all cases reach the same decision, whilst paying lip-service to the listed factors. The pluralist

advocates a more radical view of a director's duty as focused on the maximization of value for the benefit of all stakeholders and not just shareholders (Hollington 2008: 5). The point is made that the only way the director would accord equal and fair consideration to all stakeholders is by statutory compulsion attained by broadening the range of groups to whom directors owe a duty. This would dilute the pressure on companies from institutional investors to provide short-term returns and would improve the company's long-term economic performance (Select Committee on Trade and Industry Sixth Report 2013). The purpose of company law, from the pluralist perspective, is not restricted to the furthering of the interests of the shareholders, but extends to the regulation of the social role of companies which imposes responsibilities on the company to consider the interests of all stakeholders such as the shareholders, employees, customers, the environment and the community (What would Professors Berle and Dodd make of the new Companies Act 2006 provisions on directors duties? 2013).

The antagonists advocate a restrictive view of the purpose of company law as a framework to promote the long-term health of companies, taking into account both the interests of the shareholders and broader corporate social and environmental responsibilities as a matter of corporate convenience. This non-obligatory responsibility of the company to the stakeholders, other than shareholders, is hinged on the conviction that the specific duty of care required of a company to its employees and the society at large are best set out in other legislation covering areas of health and safety, environment and employment (Select Committee on Trade and Industry Sixth Report 2013).

It is not in dispute that stakeholders have in the past relied, and presently still rely, on the general principles of common law and legislation, other than companies' legislation, to seek protection of their interests against adverse corporate operations. Cases of this nature are regularly found in the reports (*Adams v Cape Industries plc* (1990), *Lubbe v Cape Industries plc* (2000) both cases concerned claims for personal injury by employees and the some members of the community in South Africa for asbestos contamination from the same company. *Connolly v RTZ Corporation plc* (1998) uranium mining company in Namibia sued by employee who contracted cancer for failure of the company to provide safe and healthy work procedure, *Chinda and 5 others v Shell-BP Petroleum Development Company* (1974), *Shell Petroleum Development Company v Chief W. W. Amachree and 5 others* (2002), *Oronto-Douglas v Shell Petroleum Development Company and 5 Others* (1997), *Jonah Gbemre v Shell Petroleum Development Company of Nigeria and 2 Others* (2005), *SPDCN v Edamkue* (2009), *Shell Dev Co. Ltd v Otoko* 1990) all bordering on environment degradation arising from oil exploration in the Niger Delta region of Nigeria..

The recurrence of such cases cannot be divorced from the absence of any statutorily enforceable obligation on the director to consider the interests of stakeholders in the conduct of the company's business. Carrying along all the stakeholders would instill in the stakeholders a sense of belonging and not alienation which presently is the effect of the exclusion of such interests from companies' legislation. The inclusion of the stakeholders interests in the companies' statutes would increasingly erase antagonism and suspicion which have bedeviled the operations of some corporations, especially in the developing countries. It would create mutual understanding and conducive operating environments bereft of premeditated attacks on company installations and reduce the number of court cases relating to the adverse consequences of company's operations.

The pluralist approach was found unacceptable in the UK on, among other grounds, that: "From a practical point of view, to redefine the directors' responsibilities in terms of stakeholders would mean identifying all the various stakeholder groups; and deciding the nature and extent of the directors' responsibility to each. The result would be that the directors were not effectively accountable to anyone since there would be no clear yardstick for judging their performance. This is a recipe neither for good governance nor for corporate success"(French, Mayson & Christopher Ryan 2011:492, Arnold & Haywood in Mortimore QC 2009: 254, Committee on Corporate Governance, Final Report 1997).

Identifying stakeholders within the company's operating zone is not such an unaccomplishable task as suggested; neither are the expectations of such stakeholders on the company. The stakeholders and their interests were captured with relish in the statement of Patricia Hewitt (then Secretary of State for Trade and Industry) (2004) as follows: "We expect companies to generate the wealth that provides good public services and a decent standard of living for everyone. We need continuing recognition that wealth-creation demands honest and fair dealings with employees, customers, suppliers and creditors. Good working conditions, good products and services and successful relationships with a wide range of other stakeholders are important assets, crucial to stable, long-term performance and shareholder value. We expect companies to create wealth while respecting the environment and exercising responsibility towards the society and the local communities in which they operate. The reputation and performance of companies which fail to do these things will suffer" (French, Mayson & Ryan 2011: 32 quoting Draft Regulations on the Operating and Financial Review and Directors' Report: A Consultative Document 2004).

The community within the company's operation zone is certainly a stakeholder. Such community would ordinarily expect that the company would in the course of its operations take necessary measures to avoid all incidences of harmful

environmental degradation arising from industrial pollution, offer jobs to members of the community and provide them with the essential amenities of life within the company's capacity. Customers would expect that goods which are of good standard would be provided for them by the company at competitive prices. Similarly, the employees would expect to be paid a living wage and provided safe and healthy work procedures. Interestingly, shareholders expectations on the company are equally not expressed in the companies statute, yet the directors consciously pursue the goal of profit making in realization that the reasonable expectation of every investor is to have some returns on his investment.

In India, unlike in the UK, parliament has taken a bold step by introducing a model provision in section 166 of the Indian Companies Act of 2013 expanding duties of directors to include stakeholders' interests. Section 166(2) provides that '[a] director of a company shall act in good faith in order to promote the objects of the company for the benefit of its members as a whole, and in the best interests of the company, its employees, the shareholders, the community and for the protection of environment'. Section 135(1)(5) of the Act ensures that the consideration of the listed stakeholders interests are not merely directory by providing that every company having net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more or a net profit of rupees five crore or more during any financial year shall spend, in every financial year, at least two per cent of the average net profits of the company made during the three immediately preceding financial years, in pursuance of its corporate social responsibility policy with primary attention given to the company's local area and areas around it where it operates.

An interesting feature of this provision is that it does not only require companies to engage part of their earning on social welfare but lays emphasis on the community or environment in which the operations of the company are centered. Although the specified percentage of the profits to be applied for social goals may seem below the expectations of the pluralist exponents especially when compared with the amount of annual profits of some of those companies that are set aside for the payment of dividends to the shareholders, it is at least a good starting point for a mandatory corporate involvement in the development of their operational zones and caring for the environment.

Ensuring full compliance with such statutory provision would obviously require stakeholders representation on the board. This may seem incongruous with the general view of the shareholders status as the owners of the company. But such narrow perception of the company is now outmoded. It has given way to the modern view of corporation as a corporate citizen and, as such, has social roles which must be performed within the confines of the law.

The other arm of the objection to pluralist approach suggesting that the director's duty would be difficult to enforce is not infeasible. Under the existing law, the director does not owe duty to the shareholders individually but to the company which is seen as the body of the shareholders and, as such, duty owed to the company is a duty owed to the shareholders as a whole. Inclusion of the stakeholders would not alter this settled legal principle as the stakeholders, like the shareholders, would be subsumed within the connotation of company as a whole and protected alike. Enforcement of the duty would remain the same as the stakeholders would seek reliefs only in those circumstances in which the shareholders are empowered by the law, i.e., to the extent that the interest of such stakeholder is adversely affected.

Incorporating stakeholders interests in the companies' legislation is made easier by the various courts decisions and other legislation providing for such duty which the opponents of the pluralist approach contend should be the only sources of protection for the stakeholders. Those courts decisions and legislation could be adapted in the companies legislation, and by so doing, bring the stakeholders into the realms of company's operation as insiders having equal stakes in the success of the company with the shareholders and not merely as subjects of corporate philanthropy.

3. Conclusion

The problems of environmental degradation in most African countries are attributed to failure of governance and corporations neglect of the interests of the host community. These have given rise to violence and abject criminality in some cases. There is need for introspection on the part of government on the style of governance. Diplomatic solution seems to be part of the answer to the intractable problems, and the most appropriate diplomatic approach is the soft power diplomacy. Soft power diplomacy requires exemplary leadership, the leaders must descend to the level of the followers to accord them a sense of importance and care. The flouting of opulence by leaders in the face of abject poverty and feeling of deprivation by the citizens must be avoided. A leader with these qualities would naturally endear himself/herself to the citizens who are voluntarily attracted to and co-opted by the leader along the chosen line of leadership.

Addressing the negative impacts of corporate operations on the environment can no longer be seen as an issue of voluntary corporate social responsibility (CSR). Corporations cannot respond adequately to the social needs without the enabling environment created by the government. Fox, Ward and Howard (2002:1) define enabling environment as 'a policy environment that encourages (or mandates) business activity that minimises environmental and/or social costs and

impacts while at the same time maintaining or maximising economic gains'.

The importance of the CSR makes it imperative that the original voluntary approach to the concept must give way to a strictly regulated government policy approach. Moon and Vogel (2008:318) had observed in that light that "one of the critical dimensions of CSR involves not what firms do voluntarily, but the role they play in affecting government regulation of business. While CSR is often viewed as an alternative to regulation, in many areas, corporations cannot afford to engage in more responsible behaviour unless public policy requires that all firms act in a similar manner".

This public policy demand could be achieved by enacting provisions in the companies statute mandating corporations to respond in specified manners to the needs of the society and the environment. India has shown the way, albeit modestly, by prescribing the ploughing back of two per cent of the corporation's profits to the service of the community and the environment. Other African nations, and most importantly Nigeria, which has over the years been paying enormous prize in both economic and human resources arising from communal and regional restiveness and violence orchestrated by corporations neglect and misgovernance, should borrow a leaf from India. Observance of such provisions in the companies statute would guarantee a healthy environment and ensure the existence of harmonious relationship between the corporations and their host communities.

References

- Deakin, S. & Ajit, (2013), Shareholder Value Reconsidered. [Online]. Available Singhhttp://www.cbr.cam.ac.uk/pdf/Anniv_Conf_Deakin_Singh_Presentation.pdf (December 12, 2013).
- UK Company Law Review Steering Group, (2000).
- Davies, P.L. (2005), Enlightened Shareholder Value and the New Responsibilities of Directors. [Online]. (Lecture delivered at the University of Melbourne Law School 4 October 2005) 5. Available http://cclsr.law.unimelb.edu.au/files/Enlightened_Shareholder_Value_and_the_New_Responsibilities_of_Directors.pdf (December 10, 2013).
- The code of directors' duties (2013). [Online]. Available [dutieshttp://www.out-law.com/page-8206](http://www.out-law.com/page-8206) (December 13, 2013).
- Ramsey, I. (2005), Directors duties and stakeholder interests Viewpoint (Australian Institute of Company Directors). [Online]. Available <http://www.companydirectors.com.au/Director-Resource-Centre/Publications/Company-Director-magazine/Back-editions-2000-2009/2005/May/Directors-duties-and-stakeholder-interests-Viewpoint> January 15, 2013.
- What is Corporate Governance? - A definition. [Online]. Available <http://www.worker-participation.eu/Company-Law-and-CG/Corporate-Governance/What-is-CG> (January 15, 2013).
- Keay, A. (2010), Moving Towards Stakeholderism? Constituency Statutes, Enlightened Shareholder Value and All That: Much Ado About Little?' (Working Paper, 4 January 2010) 19. [Online]. Available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1530990 (February 12, 2013).
- Mauboussin, M.J. (2011), What Shareholder Value is Really About. [Online]. Available http://blogs.hbr.org/cs/2011/10/ceos_must_understand_what_crea.html (February 14, 2014).
- Martin, R.L. (2011), Fixing the Game: Bubbles, Crashes, and What Capitalism Can Learn from the NFL. [Online]. Harvard Business Review Press, Available <http://www.forbes.com/sites/stevedenning/2011/11/28/maximizing-shareholder-value-the-dumbest-idea-in-the-world/4/> (February 13, 2014).
- Shareholder value (2013). [Online]. Available http://en.wikipedia.org/wiki/Shareholder_value (February 13, 2014).
- Marikana massacre: SAPS, Lonmin, Ramaphosa & time for blood. Miners' blood (2013). [Online]. Available at <http://www.dailymaverick.co.za/article/2013-10-24-marikana-massacre-saps-lonmin-ramaphosa-time-for-blood-miners-blood/> (March 5, 2014).
- Steinway v Steinway & Sons* 17 Misc. 43, 40 NYS 718, 720 (1896).
- Teck Corporation v Millar* (1972) 33 D.L.R. (3d) 288 (B.C.S.C.) at 314.
- AP Smith Manufacturing Co v Ruth F Barlow* 26 NJ Super 106 (1953) 97 A 2d 186 (Superior Court of New Jersey, Chancery Division).
- Theodora Holding Corp. v Henderson* 257 A.2d 398 (Del.Ch. 1969).
- Howard Smith Ltd v Ampol Petroleum Ltd and Others* [1974] AC 821, 835 (PC), [1974] UKPC 3, 7.
- Hindle v John Cotton Ltd* (1919) 56 SLR 625 (HL) p. 631 per Viscount Finlay.
- Arnold, M. & Haywood, M. (2009), Duty to Promote the Success of the Company. In S. Mortimore QC (Ed). *Company Directors Duties, Liabilities, and Remedies*. New York: Oxford University Press Inc.
- Kloppers, H.J. (2013), Driving Social Responsibility (CSR) Through the Companies Act: An Overview of the Role of the Social and Ethics Committee. *Potchetstroom Electronic Law Journal* (16) 1, 166.
- Berle, A.A. (1954). *The 20th Century Capitalist Revolution*. New York: Harcourt, Brace and Co. p 169.
- Select Committee on Trade and Industry Sixth Report, 'The Role of Directors. [Online]. Available <http://www.publications.parliament.uk/pa/cm200203/cmhansrd/439/43906.htm> (February 17, 2014).
- Hollington, QC, R. (2008). Directors' Duties Under The Companies Act 2006 - Have the Lunatics Taken Over the Asylum?' (Lecture delivered on 22 April 2008 Ian Fairbairn Lecture Theatre University of Buckingham) 8. [Online]. Available [http://www.newsquarechambers.co.uk/files/Publications/Directors%20duties%20under%20the%20Companies%20Act%202006%20\(Robin%20Hollington%20QC\).pdf](http://www.newsquarechambers.co.uk/files/Publications/Directors%20duties%20under%20the%20Companies%20Act%202006%20(Robin%20Hollington%20QC).pdf) (February 17, 2014).

- What would Professors Berle and Dodd make of the new Companies Act 2006 provisions on directors duties?. [Online]. Available <http://www.ukessays.com/essays/law/berle-and-dodd-companies-act-2006-directors-duties.php> (February 15, 2014).
- Adams v Cape Industries plc* [1990] 1 Ch 933 (CA).
- Lubbe v Cape Industries plc* [2000] 1 WLR 1545 (HL).
- Connelly v RTZ Corporation plc* [1998] AC 854 (HL).
- Chinda and 5 others v Shell-BP Petroleum Development Company* (1974) 2 RSLR 1.
- Shell Petroleum Development Company v Chief W. W. Amachree and 5 others* (2002) FWLR 1656.
- Oronto-Douglas v Shell Petroleum Development Company and 5 Others*, Unreported Suit No. FHC/CS/573/93, Delivered on 17 February 1997.
- Jonah Gbemre v Shell Petroleum Development Company of Nigeria and 2 Others*, Unreported Suit No. FHC/B/CS/53/05, Delivered on 14 November 2005.
- SPDCN v Edamkue* [2009] 14 NWLR pt. 1160 p. 1 (SC).
- Shell Dev Co. Ltd v Otoko* [1990] 6 NWLR pt. 159 (CA).
- French, D. Mayson, S. & Ryan, C. (2011), Mayson, French & Ryan on Company Law (28th ed). New York: Oxford University Press Inc.
- Committee on Corporate Governance, Final Report(1997). London, Gee. para. 1.17.
- Draft Regulations on the Operating and Financial Review and Directors' Report: A Consultative Document (2004) (URN 04/1003) London, DTI.
- Fox, T., Ward, H. & Howard, B. (2002) Public sector roles in strengthening corporate social responsibility: A baseline study 1. Available http://www.observatoritersector.org/pdf/centre_recurso/3_4_fox_01345.pdf (February 15, 2014).
- Moon, J. & Vogel, D. (2008). Corporate social responsibility, government, and civil society. In A Crane, A McWilliams, D Matten, J Moon and D Siegel [Eds]. Oxford Handbook of Corporate social responsibility. (P.318). Oxford:: Oxford University Press.