

**AN INQUIRY INTO THE ETHICS OF CORPORATE
SOCIAL RESPONSIBILITY: A CASE OF THE
KENYAN BANKING INDUSTRY**

BY

JACKOB MATTHEW OLUDHE ONDIK

**A PROJECT SUBMITTED IN PARTIAL FULFILMENT
FOR THE AWARD OF THE DEGREE OF MASTER OF
ARTS IN PHILOSOPHY OF THE UNIVERSITY OF
NAIROBI**

OCTOBER, 2014

DECLARATION

This project is my original work and has not been presented for the award of any degree in any other university.

Jackob Matthew Oludhe Ondik
C50/82055/2012

Date

This project has been presented for examination with our approval as University Supervisors.

Dr. Oriare Nyarwath
Senior Lecturer
Department of Philosophy and Religious Studies
University of Nairobi

Date

Dr. Francis Owakah
Lecturer
Department of Philosophy and Religious Studies
University of Nairobi

Date

DEDICATION

This Project is dedicated to the business community in recognition of their efforts to embrace the corporate social responsibility ideals.

ACKNOWLEDGEMENTS

What triggered my interest in this research topic was the apparent incompatibility of the experiences I acquired in my working life and the ethics I later learned in philosophy classes. The two appeared to be in disparity. It is for this reason that I acknowledge all my philosophy lecturers in the Department of Philosophy and Religious Studies of the University of Nairobi for their illuminating lectures that made the disparity more distinct and worth investigating.

My particular gratitude goes to my supervisors, Dr. Oriare Nyarwath and Dr. Francis Owakah for their incisive critique that inspired and guided this research. In addition, I thank my classmates Muriithi Munene, Eston Mbogo and Cosmas Ongesa for not only being available but continually engaging me in stimulating ethical debates that helped me synthesize my work. Last but not least I would like to thank Beth Nduhiu who transformed my illegible handwritten drafts into a well typed comprehensive document.

My special thanks go to my wife Grace and the family who gave the underlying support and peace that made the workload bearable.

TABLE OF CONTENTS

Declaration.....	ii
Dedication.....	iii
Acknowledgements	iv
Table of contents	v
Abstract.....	vii

CHAPTER ONE

GENERAL INTRODUCTION

1.1 Background of the Study	1
1.2. Statement of the Research Problem.....	3
1.3 Goal and Objectives of the Study	5
1.4 Justification of the Proposed Research.....	6
1.5 Scope and Limitations	8
1.6 Literature Review	9
1.7 Theoretical Framework.....	14
1.8 Research Hypothesis.....	15
1.9 Methodology.....	16

CHAPTER TWO

THE PROFIT MAXIMIZATION APPROACH

2.1. Introduction	17
2.2 Highlights of Friedman’s Article.....	18
2.3 Weaknesses of a Free Market Economy.....	20
2.4 The Problems of Rights	25
2.5 Owners vs Shareholders	34
2.6 Business Responsibility	38
2.7 The Banking Case.....	40

CHAPTER THREE
THE STAKEHOLDER APPROACH

3.1 Introduction	52
3.2 Risk Management	55
3.3 Competitive Advantage	59
3.4 Political Advantages	60
3.5 The Banking Case.....	63
3.6 Weaknesses of the Stakeholder Approach.....	65

CHAPTER FOUR
THE PHILANTHROPIC APPROACH

4.1. Introduction	67
4.2. Duties.....	71
4.3 Motivation of Objectives	78
4.4 Weaknesses of the Philanthropic Approach	83

CHAPTER FIVE
FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

5.1 Findings	86
5.2 Conclutions	87
5.3 Recommendations	88
Bibliography	89

ABSTRACT

Corporate Social Responsibility (CSR) is a concept that has gained a lot of popularity amongst businesses in recent times. Many businesses today will not make any presentation without highlighting their corporate social responsibility initiatives. While this trend has almost become mandatory amongst the business community, scholars and business practitioners hold divergent views on the exact nature and meaning of the term corporate social responsibility. These opposing opinions create confusion as to whether what businesses claim are their CSR initiatives indeed qualify as CSR activities. It is this controversy that this research explores and seeks to reconcile.

Our findings are formulated from a process of literature review, analysis and theoretical arguments, while our illustrative references are drawn from the Kenyan banking industry.

The research has identified three main definitions of Corporate Social Responsibility – the Profit Maximization definition, the Stakeholder definition and the Philanthropic definition. Each of these definitions is underpinned on unique ethical issues. We have isolated and evaluated these issues and advanced arguments for and against each.

In conclusion, we found that what are today touted as CSR initiatives, particularly those in the Kenyan banking industry, lack the elements of CSR and as such cannot be termed CSR programmes. Further, we established that the character traits of most managers and staff of businesses are in tandem with the attributes of ethical egoism. Such attributes promote the objective of profit maximization. Finally, we were persuaded by the arguments of the Stakeholder Approach and therefore adopted the claim that CSR refers to expectations that various stakeholders have of a business at any given time.

CHAPTER ONE

GENERAL INTRODUCTION

1.1 Background of the Study

Activities of most businesses today appear incomplete if they do not include Corporate Social Responsibility (CSR) programmes. In the case of the Kenyan banking industry, some of these programmes are designed as financial packages intended to support bright and needy students pursue further education.

While the banks involved in such philanthropic programmes flag them as their CSR initiatives, critics have however raised objection to this kind of classification. Such critics assert that a philanthropic activity is not a responsibility in which case the financial support given to students by some banks cannot qualify to be categorized as a Corporate Social Responsibility activity. Mark S. Schwartz and Archie B. Carroll in their article “Corporate Social Responsibility: A Three Domain-Approach” , appearing in the *Business Ethics Quarterly*_Vol. 13, No.4 (October 2003) pp 503 – 530 published by Philosophy Documentation Centre quotes Archie Carroll (1979);

Carroll acknowledges that it may in fact be “inaccurate” (1979:500) or a “misnomer” (1993:33) to call such activities “responsibilities” due to their voluntary or discretionary nature. Others agree that philanthropy cannot be considered a responsibility in itself (L’Etang 1994: Stone 1975). In this respect, philanthropy is not considered a duty or social responsibility of business (i.e., an expected act based on what Kantians might refer to as a “perfect” duty), but something that is merely desirable or beyond what duty requires (e.g., a supererogatory act based on what Kantians might refer to as an “imperfect” duty).

If we take the above assertion to be true and accept that philanthropic activities are not CSR activities, then what is CSR? Milton Friedman, a 1976 Nobel Prize winning Economist in his book, *Capital and Freedom*, defines CSR as a responsibility that is purely directed at profit maximization. He states that;

The view has been gaining widespread acceptance that corporate officials have a social responsibility that goes beyond servicing the interests of their stockholders,... This view shows a fundamental misconception of the character and nature of a free economy. In such an economy there is one and only one social responsibility of business – to use its resources and engage in activities designed to increase its profit...” (DesJardin 2006:53).

In Friedman’s definition of CSR, any business activity that has no direct impact on profitability can therefore not qualify to be called a corporate social responsibility. Patrick Primeaux (1995) in his article “Maximizing Ethics and Profits”, raised an objection to Friedman’s concept of CSR. He says that Friedman’s views are;

Too myopic, too focused on bottom-line accounting profits alone and because of that, values the factors of production only in so far as they are useful for production and for rationally–and-numerically determined profits (Primeaux 2005:287).

Primeaux’s arguments appear anchored on Kant’s second Categorical Imperative that states;

Act in such a way that you treat humanity, whether in your own person or in the person of any other, never merely as a means to an end but always at the same time as an end (Kant 1952:268).

Primeaux is therefore alluding to the fact that Friedman's position, which he refers to as 'myopic', uses factors of production "merely as a means to an end". According to Primeaux, CSR must "move beyond bottom-line accounting profits to identify what those profits represent" (Primeaux 2005:291). Primeaux develops his argument on the premise that profits emanate from various factors of production – land, labour, capital and entrepreneur – and unless these factors are identified and properly rewarded, then profit maximization objective on its own is illusory.

The above review highlights the controversy that exists in the nature and meaning of the term Corporate Social Responsibility. To some people, it is expressed in philanthropic activities, to others it is purely the efforts towards profit maximization, while to another group it is a term that expresses the need for a justifiable recognition of and reward to the contribution of all stakeholders.

1.2. Statement of the Research Problem

Recognizing the controversy that exists in the definition of the term CSR, the problem of this research is to identify the clear meaning, nature, ethics and philosophy of the term.

The term CSR envisages that in a society, there are (1) social problems and (2) expectations that a business has an obligation to solve these problems (Fitch, 1976).

It suffices to observe that if at all there were no social problems, then the need for CSR would not arise. For this reason we find it in order to define the nature of a social problem, that if so agreed, CSR would then set out to resolve.

In an article, “The Process of Problem Finding”, Pounds defines a problem as the difference between an existing situation and a desired situation. From this definition, we deduce that a problem is a gap between two states of affairs. While the existing state of affairs (the reality) can be observed and at times measured, the desired state of affairs is arbitrary at worst and at best a prediction produced by some mathematical model. What this tells us is that a desired state of affairs is in most cases a relative state. It can be a different state to different individuals.

In an attempt to differentiate a social problem from a non social problem, Fitch identifies three major characteristics of a social problem:-

- i) Social problems arise out of an awareness by a substantial group of people between some relevant reality and a desired condition.
- ii) Social problems arise from the behaviour of people as opposed to the behaviour of non-human objects.
- iii) Social problems involve behaviour that is advantageous to individuals in a selfish, short run perspective, but harmful to all individuals in a society in the long run.

From the above characteristics we note that people and their behaviour are the main causes of social problems. These problems cause pain, suffering and hinder human happiness. The question that arises from these problems is whether we have a duty to resolve them. This is the core question in social responsibility. Does such a duty extend to business entities? The answer to this question will evolve from our later arguments.

If CSR is meant to solve social problems, then its programmes must have ethical elements that of necessity enhance human wellbeing. This is the central theme that our arguments will rest upon.

1.3 Goal and Objectives of the Study

The goal of this study is to inquire into the ethics of Corporate Social Responsibility. Our arguments will be supported by examples drawn from the behaviour and/or activities found in the Kenyan Banking Industry. Specifically, this research intends:

1. To identify the various meanings and nature of the term Corporate Social Responsibility.
2. To evaluate ethical and philosophical issues inherent in each identified meaning of CSR.
3. To examine areas of agreement amongst the various definitions of CSR.
4. To investigate which meaning of the term Corporate Social Responsibility best describes the activities of the Kenyan Banking Industry.

1.4 Justification of the Proposed Research

Corporate social responsibility is a concept that has gained popularity from the early 1960s and its meaning to date is still a subject of debate by scholars as analyzed under our literature review. This research synthesizes the debate and brings out the clear meaning of the term CSR. It is our hope that such a refocus will help dispel any misconceptions and enable victims of the misuse re-engineer their objectives, recognizing that Corporate Social Responsibility has emerged as an essential tool of improving corporate growth, survival, identity and reputation (Grunig 1979, Kolodinsky *et al* 2010).

The arguments in this research illuminates the subject of business ethics and therefore eradicates the feeling of oxymoronism that has been associated with business ethics (DesJardin 2006:3).

Our choice to draw examples from the Kenyan banking industry is influenced by the fact that; (1) it is one industry whose 'CSR' activities are well publicized and (2) its activities support almost all sectors of the economy and therefore affect many people.

Fundamentally, this project examines the age old beliefs in business. Beliefs that over the years have made the entrepreneurs and more particularly the Kenyan banking entrepreneurs more prosperous than everybody else, what Namit Arora, an Indian writer summarizes in his article, "What Do We Deserve?" appearing in

the May/June 2011, *The Humanist Magazine*, a magazine of social inquiry and social concern;

The problem in the United States is not that a minority has grown super rich, but that for decades now, it has done so to the detriment of the lower social classes. The big question is: why does the majority in a seemingly free society tolerate this, and even happily vote against its own economic interests? A plausible answer is that it is under a self-destructive meritocratic spell that sees social outcomes as moral desert—a spell at least as old as the American frontier but long since repurposed by the corporate control of public institutions and the media: news, film, TV, publishing, and so forth. It parallels a religious spell in more ways than one. Here too, powerful social institutions are invested in clouding our notions of cause and effect. Rather than move towards greater fairness and egalitarianism, they promote a libertarian gospel of the free market with minimal regulation, taxation, and public safety nets. They beguile us into thinking that the lifestyles of the rich and famous are within reach of all, and uphold rags-to-riches stories as exemplary ("if this enterprising slumdog can do it against all odds, so can you!" goes the storyline). All this gets drummed into people's heads to the point that they only blame themselves for their lot and don't think of questioning the rules of the game (Arora 2011:25-28).

Peter Singer argues that "Philosophy ought to question the basic assumptions of the age. Thinking through critically and carefully, what most people take for granted is, I believe, the chief task of philosophy, and it is the task that makes philosophy a worthwhile activity" (Singer 1994:37). Reflecting on these words, this research has questioned some dogmas that have steered Kenyan banking businesses over the years. Are these dogmas consistent with the ideals of the ethics of CSR? Our research has answered this question.

We may fear that given their strategic place in a society's economic system, the activities of the Kenyan banks should not be critiqued. After all, the argument goes, their enterprise has benefited all. To this fear, we take solace in the words of Bernard Rollin, when defending animal rights, where he says "indeed, the abolition of slave trade or the liberation of women appeared similarly paradoxical and economically impossible, yet gradually both were perceived as morally necessary..."(Rollin 1994:36).

Slave trade was abolished and women were granted equal human rights and no economy suffered from these acts despite earlier fears. So is the desire of this research, that we can change the rules of the game and still enjoy greater benefits.

1.5 Scope and Limitations

Core to this study is the understanding of the clear meaning, nature, ethics and philosophy of the term Corporate Social Responsibility. The question of what it is and whether indeed it "exists has been asked numerous times in a variety of ways, with just as many answers" (Hartman 2005, 267). Our scope in this research has therefore been as extensive as the many answers that have been put forward.

Most of the arguments advanced in this research are supported by examples drawn from the activities of some Kenyan banks.

The Kenyan Banking Industry exhibits the characteristics of an oligopoly market structure. This is a market structure that primarily recognizes benefits of cooperation amongst its members. If members cooperate, then they all gain. If

they do not, then others gain while others loss (Lipsey 1976:282-290). This realization has led Kenyan Banks to form a members' club, The Kenya Bankers Association. The purpose of this association is to articulate the interest of its members. The effect of this collaboration is that the activities of one bank can be replicated to reflect what is generally the conduct of the industry. It is on the basis of this argument that we consider an example drawn from one bank to adequately represent the character of the entire industry. We will however endeavour to spread our examples to as many banks as possible.

Our limitation is that our findings lack empirical support. For this reason, we trust that another researcher might choose to pursue such empirical evidence by conducting stakeholders' interviews whose findings will either support or rebut our theoretical arguments.

Similarly, our banking examples have been limited to a few activities. We are cognizant of the fact that banking activities are so many and diverse that it is impossible for a research of this nature to draw upon all of them.

1.6 Literature Review

The literature on Corporate Social Responsibility reveals that the debates on the proper relationship between business and society which gave rise to the term CSR can be traced back to the 1960s (Davis, 1960). Before this time, the contribution of business to society was dependent on the whims of individual businesses. Business had no direct obligation to society. From 1960s onwards questions on "what does the

business person owe society?” begun to emerge (Davis, 1967). The feeling that business had certain obligations to society over and above their profit maximization objective became popular. The precise obligations have however not been agreed upon. This difficulty in defining CSR has therefore made the concept remain vague and ambiguous to some (Makower, 1994).

The term Corporate Social Responsibility addresses two fundamental issues “(1) whether there exists a social responsibility of business and if so (2) how firms can meet and evidence their fulfillment of this responsibility” (Hartman 2005:267). The thread that cuts across these two issues is the question; how do businesses justify their existence? For what purpose do they exist?

In an attempt to answer the above questions, two modules have been advanced, one, the classical module, by Theodore Levitt (1925-2006) and Milton Friedman (1912-2006) and the other, the neoclassical module by Norman Bowie (1942-) professor of philosophy, University of Minnesota and until his retirement in 2009, Elmer L. Anderson Chair of Corporate Responsibility.

In an article, “The Dangers of Social Responsibility”, *Harvard Business Review*, Sept-Oct 1958, Theodore Levitt argued that “Business will have a much better chance of surviving if there is no nonsense about its goals – that is, if long-run profit maximization is the one dominant objective in practice as well as in theory”. (Levitt 1958:49). Similarly, according to Friedman “there is one and only one social responsibility of business – to use its resources and engage in activities

designed to increase its profits so long as it stays within the rules of the game.....” (DesJardin 2006:53). Friedman is therefore telling business managers that their responsibility is “to make as much money as possible while conforming to the basic rules of the society, both those embodied in law and those embodied in ethical custom” (ibid).

The Levitt and Friedman’s module advocates the position that the only goal of a business is to maximize profits for the sole benefit of the shareholder. Any other outcomes are at best accidental and at worst fraudulent on the part of managers. The primary responsibility of management is that of protecting shareholders’ interests which is profit maximization.

The second module, the neoclassical definition of CSR though having emerged as early as in the first half of the twentieth century, was best articulated by Bowie in 1991 when he argued “that something of a consensus has emerged in the past 10 years regarding the social responsibility of business” that requires “that pursuit of profit is constrained by an obligation to obey a moral minimum” (DesJardin 2006:64). Such moral minimum demands that a business distributes its benefits and burdens proportionately to all stakeholders respecting as it does the distribution, the individual rights of the stakeholders.

In this statement, we see the Bowie’s neoclassical module expanding the list of purposes for which a business exists. It introduces the stakeholder’s theory of corporate social responsibility. This theory says that every business decision

generates benefits to specific stakeholders and equally accrues cost that is also paid for by certain stakeholders. For this reason, Bowie argues that the purpose for which a business exists is not only to generate profits for the shareholders but also to reward other stakeholders in the proportion of their individual contributions. Such a demand, the neo-classics argue, is supported by moral considerations of justice and the Kantian deontological theory of duty. Suffice to observe that Bowie only put into perspective an idea that earlier scholars (Davis 1960, 1967, Lerbinger 1965, 1974, Burson 1974) had already recognized.

A third definition of corporate social responsibility has recently emerged, which definition appears to be the one commonly understood by businesses. Here, CSR is defined as a responsibility to perform philanthropic and/or discretionary activities. The history of this definition can be traced back to 1998 when Paul Leonard Newman (1925-2008), an American entrepreneur and humanitarian founded an organization titled “Committee Encouraging Corporate Philanthropy, (CECP)”, whose membership was Corporate Chief Executive Officers (CEOs) and whose mandate was to encourage American companies to commit greater resources to charitable activities. To date, this committee has grown “to include 175 CEOs and through annual Executive Convenings, extensive benchmark research and best practice publications, leads the business communities in developing sustainable and strategic community partnerships through philanthropy” (cecp.co).

The above literature on CSR was found to be general analysis of how the term has been variously defined and the economic and legal benefits that arise from those definitions. Where ethical gains exist, other than in the third definition, such gains appear passive outcomes of decisions that are purely made for purposes of generating economic benefits. Our research has raised new ethical concerns about these definitions.

In regard to business ethics, a lot of literature was explored and such literature confirmed that business actions are evaluated both on deontological, teleological and conventional ethical theories. From deontological perspective, business actions can be evaluated on the basis of virtue ethics, duty ethics, justice principle and ethics of care. Teleology on the other hand assesses business actions from utility and egoism principles. Application of conventional ethical theories on business actions is determined from the principle of ethical relativism, practices that have been accepted as norms by particular industries. Different aspects of these fundamental ethical theories appear inherent in any one particular business decision. No decision can therefore be evaluated purely on one theory (Hartman 2005, Velasquez 2002, DesJardin 2006). With this observation, our literature review has almost encompassed all ethical theories.

Literature reviewed on business ethics, just like that on CSR, was found to be general. In our review the link between the various ethical theories and CSR appear not well articulated. It is this missing link that our research fills up.

1.7 Theoretical Framework

This research will be guided by the theory of duty ethics. It is essentially an investigation into the ethics of business responsibility, where responsibility is defined as that duty that a moral agent owes to society or fellow human beings.

The duty ethics theory was best articulated by Immanuel Kant (1724-1804), a German philosopher who asserted that moral rightness or wrongness of an action is determined by the motive that underlie that action. If the motive is good, then the action is morally acceptable, but if the motive is bad, then the action becomes morally unacceptable irrespective of whether the consequences that arise from such an action benefit a greater number of people or not. In order to evaluate actions, Kant formulated rules that he called Categorical Imperatives which in his *Fundamental Principles of the Metaphysics of Morals*, he stated as follows:

- i) Act only according to the maxim whereby you can at the same time will that it should become universal law.
- ii) Act in such a way that you treat humanity, whether in your own person or in the person of any other, never merely as a means to an end but always at the same time as an end.
- iii) Therefore, every rational being must so act as if he were through his maxim always a legislating member in the universal kingdom of ends (Kant 1952:268-273).

Analysis of the above statements suggest that Kant was advocating for actions whose “motivating power derives from the thought that it is *required by duty*” (Feinberg 1998:603). An action that arises out of duty is therefore an action devoid

of the actor's personal interests. The motive is selflessness and the benefits are evident but not necessarily with a greater net utility.

Duties are associated with actions that are due to someone else in which case they give rise to other people's rights. Duties are therefore correlated to rights – one gets its substance from the other.

Our investigation of business responsibilities therefore has established whether or not business actions are motivated by the requirements of duty. We have evaluated business actions on standards of moral rightness and wrongness, rather than relying solely on economic, legal, accounting and management principles. A business that does not make the morally right decisions faces a number of challenges. “Unethical behaviour not only creates legal risks for a business, it creates financial and market risks as well. Managing these risks require managers and executives to remain vigilant about a company's ethics” (DesJardin, 2006, 4). Our analysis will therefore be a study of ethical standards, values and principles that businesses, especially the Kenyan banking industry, ought to adopt and apply in their practices.

1.8 Research Hypotheses

This research sets out to confirm the following hypotheses

- i) That the type of CSR module a bank adopts is a reflection of the virtues such a bank looks for in her staff at recruitment stage.

- ii) That the management policies of the Kenyan banks rank the objective of profit maximization higher than that of moral obligations.

1.9 Methodology

This research has been done through a process of literature review, critical analyses and theoretical arguments.

Literature review was done on the subject of CSR, business ethics, laws and policies that guide the Kenyan banking practices and on the relevant documents of a few selected Kenyan banks.

The above review identified the various definitions of CSR upon which we analyzed the ethics and philosophies inherent in each. We thereafter evaluated some activities of the Kenyan banking industry against these ethics and philosophies and developed theoretical arguments to support our conclusions.

CHAPTER TWO

THE PROFIT MAXIMIZATION APPROACH

2.1. Introduction

The classical module of CSR asserts that the only reason for which businesses exist is to maximize profits for the shareholders. Profit maximization is therefore the sole motive that drives business action. How this motive relates to the Kantian concept of duty is the subject of this chapter.

Richard G. Lipsey in his book, *An Introduction to Positive Economics* (1976), claims that any of the economic activities that we observe in the world arise from the actions of individuals, businesses and governments. The stage on which these three players meet and perform their acts is what economists call market. Lipsey identifies existence of three types of markets – the free market economy, the centrally controlled market economy and the mixed market economy. A distinctive feature of a free market economy, Lipsey asserts, is that it is the only market where “allocation of resources is determined by production, sales and purchases decisions taken by firms and households” (Lipsey 1976:73). These decisions lead to a scenario where production resources are moved from non-profitable to profitable activities.

The proponents (Levitt 1958 and Friedman 1970) of the profit maximization approach anchor their arguments on the benefits that accrue from free market economy.

2.2 Highlights of Friedman's Article

Amongst the proponents of the classical CSR module, perhaps the best known defender is Milton Friedman. He did this in his now famous 1970 essay “The Social Responsibility of Business is to Increase Its Profits” (Friedman 2005:280-285). This article appears to have been a response to a debate as to whether businesses had social responsibilities over and above their profit maximization objectives. Davis in various essays had earlier asked “Can Businesses Afford to Ignore Social Responsibility?” (1960) and later again raised the question “What Does the Business Owe Society?” (1967). Lerbinger (1965) also provoked similar concerns. It is in answer to these questions that Friedman states in his article that “the discussion of ‘social responsibility’ are notable for their analytical looseness and lack of vigor” (Friedman 2005:218). It is the substance of this robust attack that we want to analyze. But before we do this, we first wish to highlight Friedman's conclusion and the main points of the article.

The conclusion that Friedman makes in the article is that,

in a free-enterprise, private – property system, a corporate executive is an employee of the owners of the business. He has direct responsibility to his employers. That responsibility is to conduct the business in accordance with their desires, which generally will be to make as much money as possible while conforming to the basic rules of the society, both those embodied in law and those embodied in ethical custom (Friedman 2005:281) ... there is one and only one social responsibility of businesses – to use its resources and engage in activities designed to increase its profits ... (Friedman 2005:285).

To support the above conclusion, Friedman in the same article makes the following claims.

First, he alleges that the advocacy that business have a social responsibility outside their profit maximization objective is synonymous to “preaching pure and unadulterated socialism” (Friedman 2005:280). He goes further to allege that “only people can have responsibilities. A corporate 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” (ibid). He does not stop but goes on to state that if it is true that a corporate executive has a social responsibility in his capacity as a businessman, then such a statement means that such a corporate executive “is to act in some way that is not in the interest of his employer” (Friedman 2005:281). He argues that such an action is against the primary responsibility of the executive; and means doing things that he is employed not to do therefore rendering the actions fraudulent. Friedman observes that business executives are least skilled in knowing which actions best solves social problems and asks, “how is he to know what action of his will contribute to that end?” (Friedman 2005:282).

Friedman however recognizes a few cases where business actions can remotely bear the characteristics of a socially responsible action. According to him, actions that qualify under this criteria relate to expenditures incurred for purposes of generating goodwill, which goodwill is later exploited for profit maximization.

Other than this remote semblance, Friedman asserts that CSR is a “fundamentally subversive doctrine” that must be resisted by a free society (Friedman 2005:285).

From the article, we get the feeling that Friedman is a devout capitalist. He espouses libertarian economic ideals of free – market economies, private-property ownership, and limited government controls. These ideals are fundamental for the survival of capitalism. He equates the demand for social responsibility to advocacy for socialism, a doctrine that he detests. He goes further to make a claim, without any attempt to provide evidence, that “the difficulty of exercising ‘social responsibility’ illustrates, of course the great virtue of private – competitive enterprise” (Friedman 2005:283).

2.3 Weaknesses of a Free Market Economy

Friedman defends the structures of a free market economy because of its efficient allocation of resources and its protection of private property rights. Whereas this defense appears teleologically inclined, our concern is to test whether businesses that enjoy this attributes indeed fulfill Kant’s moral dictum. According to Kant, only those actions that are done “in accord with duty” are adjudged morally acceptable. Does a free market economy enhance performance of such duties?

We are told that a free market economy is a form of a perfect market which is mainly a theoretical concept. “Neither the completely free- market economy nor the completely controlled economy has ever existed, at least in the recent history. In practice, all economies are mixed economies...” (Lipsey 1976: 73). This

assertion by Lipsey makes Friedman's basis of free market economies an illusion, and therefore renders his arguments weak.

It is said that in a free market economy, producers will transfer most of their resources to the production of the profitable commodity. If on the other hand, the sale of a particular commodity results into losses, similarly, resources will be released from the production of the loss making commodity and transferred to the production of other more profitable commodities. It is therefore this movement of resources from the production of one commodity to another on the basis of profitability that make economists defend the claim that free market economies allocate resources more efficiently. The question that arises however is whether efficient allocation of resources leads to an effective use of resources?

Efficiency is concerned with cost management. It emphasizes that results should be achieved at the least possible cost hence maximize profit. It does not evaluate the rightness or wrongness of the results. It may therefore promote doing things that need not be done at all or things whose impact to society is negative. It is evident therefore that efficiency approach is underpinned on ethical egoism, an ethical theory whose motive conflicts with actions performed "in accord with duty".

Effectiveness on the other hand is concerned with the nature of impact an action has on society. The more favourable an impact is, the more effective an action is deemed to be. While effectiveness is about satisfying societal needs

(consumption), efficiency is concerned with supplying those needs at the least possible cost (production). Alternatively, it can be said that effectiveness addresses the needs of the various stakeholders of a business while efficiency focuses on the interest of the shareholders only.

The above analysis supports the argument that a society draws more utility from an effective activity than it would from an efficient action. A market system that promotes efficiency over effectiveness is therefore morally weak (Douglas M.E. & Douglas D.N. 1987).

Another weakness associated with efficient utilization of resources has been identified to be the connection such utilization has with the generation of social problems. Since efficiency does not concern itself much with the impact an action bears on society, its promotion has been seen to be the cause of social evils. These evils include pollution, soil degradation and contamination, depletion of resources etc. (DesJardin 2006:56). When firms want to maximize their profit, they seem to place least regard to actions that increase their costs. No wonder then, that unless regulated against, they will exploit resources in a manner that harms the environment. A market structure that promotes such habit, as Friedman's free-market economy, is therefore a dangerous system to human well being and should be resisted.

Another weakness of a free market economy is seen on the production of public goods. Since such an economy only promotes activities that are profitable, it

ignores the production of such public goods like security, roads, electricity, good water, health etc. It is these public goods that enhance a society's general welfare and their absence decreases such welfare. These goods create an enterprising environment that leads to higher productivity and enhanced human well-being. With the noted limitation of a free market economy, it is necessary therefore that if we wish to produce, "preserve and protect such goods, something other than economic market will be needed as our policy mechanism" (DesJardin 2006:56). DesJardin is saying that public goods can only be gotten by deliberate action of the society, most probably through an intervention of a central authority. This observation blunts the apparent assertion by Friedman that a free-market, private property system is a more preferable economic system than the others.

A free-market economy tends to encourage individual pursuit of rational self – interest. This is where when faced with alternatives, one chooses that alternative that maximizes his gain, with least or no regard at all to the effect such a choice has on other players. The players that exist and are affected by a business decision are the business itself and a stakeholder. It is one or both of these players that either benefit or lose from any of the three possible outcomes of a business decision. These outcomes are:

- (i) That both the business and the stakeholder gain but the unit gained by each is relatively small
- (ii) That neither the business nor the stakeholder gain – both lose

- (iii) That either business or the stakeholder gains substantially and the other loses.

What determines the type of outcome is cooperation between the business and the stakeholder. If they cooperate, they both gain. If they do not cooperate, they both lose. If one cooperates and the other does not, the one who cooperates loses and the one who does not cooperate gains substantially. Thus is the scenario that philosophers call a Prisoner's Dilemma (Velasquez 2002:43-45).

Free-market economies tend to encourage business pursuit of rational self-interest, in which case not to cooperate with other stakeholders. Under such situation, business benefits tend to be more than they would otherwise be under cooperation. Examples of such cases are evident in employees' salary structures, prices of supplies / contracts and the abusive exploitation of resources. The net result of these cases is that the business benefits and the other stakeholders' lose, a structure that lowers the standard of living and well being of stakeholders.

From the above arguments, it is evident that free market economy creates a system similar to what Namit Arora detests as captured under one of the Justification paragraphs of this research. Such a system does not promote performance of activities that can be classified as being done "in accord with duty". Rather it promotes activities that are done at the whims of shareholders.

2.4 The Problems of Rights

Free market economies is defended by Friedman on the premise that it protects the natural rights to private property and human freedom (Velasquez 2002). While freedom is arguably a natural right, that of private property is contestable.

When we talk of a private property right in a free market economy, we are largely talking about ownership of the factors of production, that is land, capital and labour. John Locke (1632-1704) an English political philosopher, is credited with the idea that human beings have a natural right to private property. He asserted that the law of nature grants each human being the “right of ownership over his own body, his own labour and the products of his labour and that these ownerships are natural....” (Velasquez 2002:176).

A key ethical issue that arises about private property right is that of acquisition. How is private property, particularly land acquired? Locke asserts that;

Every man has a property in his own person: This nobody has a right to but himself. The labour of his body, and the work of his hands, we may say, are properly his. Whatsoever then he removes out of the state that nature has provided and left it in, he has mixed his labour with, and joined to it something that is his own, and thereby makes it his property.... [For] this labour being the unquestionable property of the labourer, no man but he can have a right to what that [labour] is once joined to, at least where there is enough, and as good, left in common for others (Velasquez 2002:176).

While Locke’s statement appears logical, it is however inconclusive on how the right to land ownership, which free-market economies designate as a private

property, can be justified? Land is a fundamental factor of production and its ownership status need to be well defined.

In the ancient times, land was owned by either the entire community or the rulers. In his book, *The Development of Legal Philosophy*, Paschal B. Miho alludes to how the ancient kings acquired their property;

...some of them had started as highway men, some had been big slave owners who had become tyrants and had appointed themselves kings. Some had been outcasts in their own areas and had organized large gangs of robbers, stolen a lot of property and subjected the inhabitants of distant areas (Miho 1977:32).

It is from these original stolen property particularly land, as asserted by Miho in the above passage that subsequent transfers have been made. But as the lawyers say, one cannot transfer a clean title of a property if he himself did not have one. This is the principle of *nemo dat quod non habet*. With this position, how do we justify the current ownership of private property, land, when we know that the original 'owner' never had any clean title? Protection of such rights is therefore illusory and as Robert Nozick (1938-2002) argues in his 'Entitlement Theory', there is need to rectify the injustices in property holdings which occurred either in the original acquisitions and /or in the subsequent transfers. Until this is done, then claim that private property right especially of the factor of production land, should be protected remains hollow.

J.W. Harris asserts that "political philosophers who allege that in the state of nature, individuals made things their own by occupying what was previously

owned by no one, were anti-historical” (Harris 1997:239). History teaches us otherwise. It tells us that in the ancient society, property were owned communally. “if private property was unknown to our forebears, might not that lend support to claims that it is a dispensable institution” (Harris 1997:240). If Harris’ claim is true then theories of justice that base the arguments on the notion of “state of nature” such as those of John Locke and Thomas Hobbes were illusionary constructs that were devoid of historical realities. If the picture painted by Hobbes of a state of nature where life is “solitary, nasty, brutish, poor and short” were indeed the case, then the human race would not have developed to the age of these modern philosophers (Hobbes 1952). The ‘state of nature’ contention is likeable to John Rawls (1921-2002) idea of ‘original position’ (Rawls 1971). Both are hypothetical scenarios that do not conform with either the past or future reality.

Karl Marx has dealt with issues relating to acquisition of capital. According to Marx, capital is an accrued surplus profit that entrepreneurs, in his words, “bourgeoisies” extract from the “proletariats”. This surplus profit is equivalent to the wages normally underpaid to employees for the services they render. Such underpayments are indeed injustices meted out to workers (Marx 1984:85-86).

Other than the weaknesses of the validity of private property rights as argued above, its membership claim in the category of natural rights is also contestable.

Rights have been defined as “important, normative, justifiable claim or entitlement” (DeGeorge 1999:98). Fitzgerald (1966) adds liberties, powers and

immunities as other categories of rights. Claim rights or entitlements are however, the most important kind of rights since they not only protect certain human interest but also entail correlative duties. When we call anything a person's right, we mean that, that person has a valid claim on society to protect him in the possession of that thing, either by force of law or by that of education and opinion (Velazquez 2002). Protection that rights enjoy therefore emanate from either legal or moral rules.

A moral or natural right is an interest recognized and protected by a rule of morality – an interest the violation of which would be a moral wrong and the respect of which is a moral duty. A legal right, on the other hand, is an interest recognized and protected by rule of law – an interest the violation of which would be a legal wrong done to him whose interest it is, and respect of which is a legal duty (Fitzgerald 1970:218).

Moral rights are therefore entitlement or claims that arise from a system of moral standards independent of any particular legal system. These rights are applicable to human beings because of their nature as persons. Denis G. Arnold in his Essay "The Justification of Human Rights" says the following about the philosophy of a person;

To be a person, one must be capable of reflecting one's desires at a second-order level, and one must be capable of acting in a manner consistent with one's considered preferences...First-order desires are the assortment of desires that occupy one's conscious mind and compete for one's attention. Second-order desires are desires about those first-order desires. When one embraces a particular first-order desire at a second-order level, it becomes a preference. (Arnold 2005:25).

What Arnold is saying is that a person as a human being is always confronted with a multitude of wants. The mere fact of recognizing the presence of these many desires is what he calls the first order level. A human being moves to the second order when he invokes the faculty of evaluating all the first order desires in order to choose some of the desires.

From the above definition of a person, one can deduce that a human being enjoying the qualities of a person is a purposive being. Purposive in the sense that a human being is always in a state of weighing options, options that are resident at his first order level of desires. This process of evaluation is intended to produce results that are in the interest of the person, and for this activity to be successful, a human being must be free and well.

Freedom is here understood as controlling one's behaviour by one's unforced choice while having knowledge of relevant circumstances. Possessing well being entails having the general abilities and conditions required for a person to be able to act in a manner consistent with his or her considered, or second order preferences (Arnold 2005:26).

Having analysed personhood as we have done above, three fundamental natural rights emerge. The first is that a human being has got a right to life with all its attendant well being conditions. This is the right that enables a human being to be in a state of thinking. Without this right being preserved, the existence of the human being is threatened. The second right is that of freedom. The human being must have the freedom to exercise free choice in choosing one of the many desires

he holds in his mind. Last is the right of equality, which recognizes that, for all to enjoy freedom, we must treat each other as equals. These three rights amongst other rights constitute what are called natural rights.

Natural rights are inalienable and need not be coded for they are never donated by any institution or society. The society can only affirm their existence and in the process formulate other legal instruments to ring fence them. Natural rights or human rights are based on moral norms and principles that are usually thought of as being universal “insofar as they are rights that all human beings of every nationality possess to an equal extent simply by virtue of being human beings” (Velazquez 2002:91).

From the above arguments, we note that a fundamental feature of a natural right is that it is universally applicable. Private property right does not enjoy this feature of universality. Private property rights are only cherished in individualistic societies where persons demand the right to serve and protect their own personal interests without taking the interest of society into consideration. This situation is different in a communitarian society (Velasquez 2002:173).

In the local Kenyan society, individualism is practiced largely by the agricultural communities while the pastoralists have always exhibited the tendencies of a communitarian society. The ownership structure (as seen in these two different communities) is limited to land. In all the other factors of production, the concept of private property rights emerge and is accepted. The variation in the status of

private property rights, particularly on land, as seen in the different societies raises doubts on its “naturalness”. For this reason it is apparent that private property rights do not enjoy moral protection but instead is recognized by legal rules.

It’s also argued that private property rights are categorized under proprietary rights as opposed to personal rights. Proprietary rights constitute an individual’s property or estate. While personal rights constitute an individual’s status.

The distinction lies in the fact that proprietary rights are *valuable* and personal rights are *invaluable*. The former are those which are worth *money*; the latter are those that are worth *dignity*. The former are elements of a man’s *wealth*, the latter are merely elements in his *well-being* (Fitzgerald 1970:238-239).

Moral values are concerned with human well-being and not human wealth. If protection of private property rights is meant to enhance the wealth of human beings as opposed to his well being, then such a protection does not enjoy moral support. For us to support the protection that private property rights enjoy as a natural right, we need to see evidence that wealth leads to well-being.

In Epicurus (342-270 BC) philosophy of hedonism, we learn that a man’s well being is largely brought about by pursuit of passive pleasure. According to Epicurus, active pleasure is derived from satisfaction of human beings specific wants and desires. A catalyst of active pleasure is wealth. He asserts that if active pleasure is not well moderated, then it leads to human pain and suffering. He says “a human being’s ultimate goal is not a constant succession of the intense sensual pleasures, but is rather the state of serenity, *ataraxia*, characterized by freedom

from trouble in the mind and pain in the body”. He goes on to state that “happiness involves serenity and is achieved through the simple pleasures that preserve bodily health and peace of mind” (Denise 2002:35-37).

John Stuart Mills (1806-1873) a later British philosopher asserted that human beings can only be happy when they experience two distinct and alternate state of affairs;

...the main constituents of a satisfied life appear to be two, either of which by itself is often found sufficient for the purpose: tranquility and excitement. With much tranquility, many find that they can be content with very little pleasure; with much excitement many can reconcile themselves to a considerable quantity of pain (Mills 1952:451).

The two attributes, tranquility and excitement, of a satisfied life, according to Mills are compatible since “the prolongation of either being a preparation for, or exciting wish for, the other” (ibid). After being in a state of calmness or quietness for quite sometime, one naturally longs for some activity and therefore serenity arouses passion for excitement.

Private property rights protect wealth and wealth on its own does not lead to well-being. It must be blended by peace of mind and absence of bodily pains for human beings to experience happiness and/or a satisfied life. Wealth is therefore neither a necessary nor a sufficient condition for the protection of life. For this reason, it lacks the intrinsic value necessary for its inclusion into the category of natural

rights. It is therefore, not a natural right as is claimed by John Locke and used by Friedman in his defense of free market economies.

Private property rights introduce inequalities and in some cases limit other freedoms available to human beings. Conflicts between nations, communities and individuals are in most cases fights over property. Nations fight over natural resources while communities, like in the case of Kenyan tribes fight over land. Much of the social evils are witnessed where distribution of private property is considered inequitable. From these observations, one can conclude that the private property rights is a source of human conflict and has caused loss of and continues to threaten human life. This threat that private property right has to the fundamental natural right of life, amongst the other arguments given above, disqualifies it from the category of natural rights.

Another criticism to natural rights relates to the status that Friedman assigns to it. According to Friedman, this right should override all other rights. In our country Kenya, the Bill of Rights, Chapter Four of the Constitution identifies and protects a number of rights. Are these rights prioritized?

In our laws the private property rights (and I believe in many other Sovereign Statutes) does not enjoy any special status amongst the family of rights. Its preservation at times conflict with other rights. For example the right to clean and healthy environment may restrict use of certain properties, e.g. zoned development systems which may not allow construction of high rise buildings in particular

areas. Similarly the right to be free from hunger may justify actions of the poor when they access property of the rich for purposes of getting food.

In light of the above observed weaknesses of private property right, its protection as a natural right is therefore erroneous. Similarly, the priority it appears to enjoy over the family of rights is unjustified. It is the pillar upon which capitalism rests and the source of inequalities amongst individuals. For these reasons, it causes more human suffering than well-being. There is need to relook at it in the light of Robert Nozick's proposal that injustices in property holdings should be rectified. A CSR module that promotes the protection of private property rights is therefore weak in values that enhance human well-being.

2.5 Owners vs Shareholders

Friedman asserts that corporate executives are employees of the owners of a business. The owners of a business are said to be the holders of ordinary shares and are normally referred to as shareholders. Suffice to note that other than ordinary shares, there exists other classes of shares, whose holders are best categorized as creditors as opposed to owners. These other classes are found in the family of preference shares (Meigs *et al* 1978:691-714)

Friedman's contention that business have owners could only be correct to the extent of sole proprietorship, partnership and private companies. For publicly quoted companies, they do not have owners; instead they have shareholders whose status differs from that of owners. In the Kenyan banking industry the publicly

quoted banks like Kenya Commercial Bank (KCB), Barclays Bank of Kenya (BBK), Standard Chartered Bank (SCB), Equity Bank, Cooperative Bank etc. control in excess of 80% of the total banking market (CBK statistical report 2013). With this observations, it is logical to assume that when Friedman talked about businesses, much of his defence was for this dominant category, the publicly quoted companies.

An argument that denies that a shareholder holds the status of an owner in a publicly quoted company is based on the recognition “that corporate property rights differ from personal property rights?” (DesJardin 2006:61). While a personal property owner enjoys absolute ownership over his property, the same is not true for a company “owner”, the so called shareholder. A shareholder has absolute ownership over the share he holds and not the company *per se*. He can sell the share as and when he decides to but such a transaction has no impact on the operations of the business. The buying and selling of shares are done outside the organization. They are done in a stock exchange market. This arrangement is designed to protect the social benefits that business generate from the direct disturbances that buying and selling of shares create (DesJardin 2006). Changes in the identities of shareholders do not, in any way, affect business operations.

The above position that shareholders cannot claim the status of owners in a publicly quoted company was further reinforced by Gower when he stated that;

...shareholders have ceased to be regarded as having equitable interest in the company's assets: 'shareholders are not, in the eyes of the law, part owners of the undertaking'. As a result the word 'share' has become something of a misnomer, for shareholders no longer share any property in common'; at the most they share certain rights in respect of dividends, return of capital on a winding-up, voting and the like (Gower 1992:358).

The limited involvement of shareholders in the activities of the business further alienates them from the organization they call their own. "The modern shareholder in a public company has ceased to be a quasi-partner and has become instead simply a supplier of capital" (Gower 1992:9). In this sense, the shareholder assumes a status similar to that of other suppliers e.g. of raw material (creditors), of labour (employees) of legal services (lawyers), of market of finished products (customers) etc. "Just as there is a labour market, there is a capital market. Investors (shareholders) are owed a competitive rate of return on their investment and employees are owed competitive wage and benefit package" (Desjardin 2006:62). Their claim of ownership status is therefore a misnomer. They are simply suppliers of capital looking forward to a capital gain or a revenue return. The volume of transactions in our Nairobi Stock Exchange market gives credence to this claim. Buyers and sellers in this market are there to trade their shares, either for capital or revenue gain, and not to own part of the companies whose shares they are buying.

A practical observation renders the ownership claim a bit absurd. Analysis of the financial accounts of Barclays Bank, CFC Stanbic Bank and Cooperative Bank for the year ended 31st December 2013, reveals that the contribution of the so called

owners, shareholders is negligible. A summarized extract from the financial position from the audited accounts of the said banks as at the same date is shown in table A below:-

Table A

Item	Consolidated Accounts (Figures in KShs. Billions)						
	Notes	Barclays Bank		CfC Stanbic Bank		Cooperate Bank	
<u>ASSESTS</u>		Amount	%	Amount	%	Amount	%
Total Assets		<u>207</u>	<u>100</u>	<u>181</u>	<u>100</u>	<u>231</u>	<u>100</u>
<u>CLAIMANTS</u>							
Customer deposits		151	73	95	53	175	76
Other Liabilities		23	11	53	29	20	9
Owners Equity- Share Capital	1	3	1.5	19	10	8	3
Owners Equity - Others	2	30	14.5	14	8	28	12
Totals		<u>207</u>	<u>100</u>	<u>181</u>	<u>100</u>	<u>231</u>	<u>100</u>

Note 1: Owners Equity- Share Capital comprises paid up par value plus any premium amount on issued shares. This figure represents the actual cash paid by shareholders.

Note 2: Owners Equity – Others comprise reserves and other revaluation accounts which represent the profits that have not been distributed over the years and any capital gains on the assets. The shareholders have always made a claim on this figure but is such a claim justifiable on the basis of their relative contribution?

A comparison of the shareholders actual contribution, note 1, and the customer contribution represented by the value of their deposits indicates that customers have a bigger claim on the business than the shareholders. Consequently, customers bear more risks than shareholders. With such contribution structure, it is our argument that if ownership claims were to be raised, then the best criteria to decide such a case would be on the basis of contribution. If this is done the shareholders would surrender their ownership claim to creditors, who in these cases largely comprise customers.

While we have not identified who owns public companies, we however, feel confident that we have presented a persuasive argument that shows that shareholders are indeed not owners. They are members of the company and just like members of a private club, such members can not claim ownership either of the company or of the club. For this reason, corporate executives do not owe their allegiance to shareholders only, as was claimed by Friedman, but rather to all those who make the business what it is. Any CSR module that promotes this falsehood is therefore bent on exploiting society and cannot therefore enhance the people's standard of living.

2.6 Business Responsibility

To refute Friedman's hypothesis that businesses do not have responsibilities, we wish to reflect on what the theory of ethics teaches us. Ethics is the discipline that helps us judge what is good from what is bad, what is right from what is wrong, what is just from what is unjust, and generally it tells us what is likeable from what

is unlikeable. Hartman says that philosopher Epicurus defined ethics as that discipline that “deals with things to be sought and things to be avoided...” (Hartman 2005:2). From this definition, we find that ethics has two parts, the positive, normative part that summarizes the rules and obligations/duties that govern our behaviour and the negative side that tells us what to avoid. An operating word for normative ethics is ‘morals’, a word which identifies a value system that moral agents are expected to observe.

According to Frankena, a moral agent would only have moral responsibility if such an agent (1) “... is free to do as he chooses (2) ... when such choices and actions have reasons and are reasonably predictable” (Frankena 1973:75). These conditions then suggest that morality assumes rationality and can only be exercised by rational agents. Those agents who have unique abilities that Pratley summaries as “articulated speech, the use of symbols, the capacity to represent meanings in complex and changing languages and the ability to interact with others to discuss, debate and decide, and to act accordingly (Pratley 2003:66).

Given the above requirements of rationality, how then can we apply ethics to business entities such as the Kenyan banks, entities which do not exhibit any of the identified qualities?

Manuel G. Velasquez answers this question in his book *Business Ethics: Concepts and Cases* 5th Edition (2002) by making reference to the works of philosopher John Searle which he paraphrases “in two somewhat technical claims” as follows:-

- I. A corporate organization “exists” only if (1) there exists certain human individuals who are in certain circumstances and relationships, and (2) our linguistic and social conventions lay down that when those kinds of individuals exist in those kinds of circumstances and relationships, they shall count as a corporate organization.

- II. A corporate organization “acts” only if (1) certain human individuals in the organization performed certain actions in certain circumstances and (2) our linguistic and social conventions lay down that when those kinds of individuals perform those kinds of actions in those kinds of circumstances, this shall count as an act of their corporate organization (Velasquez 2002:17-18).

The import of the above quote is that business entities arise out of voluntary actions of individuals and whatever these business entities do, are planned and executed by individuals who have the authority to do so. Individuals underlie business entities and therefore they “are the primary carriers of moral duties and moral responsibilities” (ibid) on behalf of business organizations.

Essentially therefore, the business organization and the individual officers whose choices and behavior determine the sort of activities a business engages in must jointly and severally be held morally responsible for business actions. Friedman’s assertion that businesses have no responsibility is therefore misleading and leads businesses to carry out exploitative activities which are harmful to human welfare.

2.7 The Banking Case

In this section, we wish to briefly discuss one aspect of how profit maximization manifests itself in the Kenyan banking industry. This discussion intends to

highlight some ethical concerns inherent in activities that promote profit maximization.

The Kenyan banking industry, like many other business enterprises, pursues profit maximization as the primary business objective; all other objectives are meant to support this core objective. As to whether bank managements have defined this objective as their CSR is in doubt, for besides it, they have come up with specific programs that they call their CSR initiatives. This could be a case of the misconception that businesses have about CSR.

To achieve this profit maximization objective, the Kenyan banks engage in economic activities which involve (i) identification and enhancement of sources and quantity of revenue (ii) elimination and/or reduction of expense items and expense amounts.

In the case of the Kenya banking industry, over half of its total revenue is generated from credit products. Credit products are usually in the form of either cash or non-cash. Cash credit products are overdrafts, loans and discounts, while the non-cash credit products are letters of credit, guarantees and bonds. It is from these products that banks collect revenue through interest charges levied on amounts disbursed and remain outstanding.

A major expense in the banking industry is interest expense paid on money held in deposit accounts.

The difference between the weighted average rate of interest charged on credit facilities and the weighted average rate of interest paid on deposit accounts is what is called the interest spread.

Determination of individual credit interest rate and the interest spread raise ethical issues that form the subject of our discussion.

To determine credit interest rate, a number of variables are considered one of which is the volume of Non-Performing Loans (NPLs). The higher the volume of NPLs the greater the impact it bears on credit interest rate. Mathematically if this variable is removed from the equation the resultant interest rate would be low. With its inclusion, the rate almost doubles. Banks defend inclusion of this variable on the argument that it cushions them from losses that arise from NPLs. Is this argument morally credible? No.

If the entire portfolio was good and performing, the bank would achieve the same interest revenues by charging a low interest rate. But given the huge percentage of the bad and non-performing loans, the good customers sacrifice more by paying high interest rates in order to sustain the bank's profitability levels. Is it right to penalize good customers for the failures of the bad customers? This is an ethical issue.

Amongst the different types of justice that come to fore, distribution justice is the most applicable in the above scenario. It is the justice that guides distribution of benefits and burdens in a society. This type of justice has been discussed by many

philosophers and William Frankena in summarizing such a discussion in his book, *Ethics*, concludes that “the principle of justice lays upon us the prima facie obligation of treating people equally (Frankena 1973:51). This equality demands first and foremost that each member of the community freely enjoys the benefits arising from his ability and similarly personally carries any accruing burdens. He goes on to assert that;

This is what is meant by equal intrinsic dignity or value of the individual.... We may claim, however that in distributing goods and evil, help, tasks, roles and so forth, people are to be treated equally in the sense indicated, except when unequal treatment can be justified by consideration of beneficence (including utility or on grounds that it will promote equality in the long-run (Frankena 1973:51-52).

The practice of inflating credit interest charges by NPL variable is not in line with Frankena’s doctrine of justice. Justice does not condone penalizing good customers by levying high interest charges on their loans to cushion the losses that arise from bad loans.

Suffice to observe that loan repayment is dependent on two distinct sources, either of which ensures full collection of the principal amount and any interest accrued. These are the primary and the secondary sources. The primary source is determined by the loanees’ cash flows that a lender must confirm prior to giving the loan that it is adequate to meet the repayment installments as they fall due. This is done at the time of appraisal. In the event that the primary source is disturbed in any way that it can no longer sustain the installment repayments, then

the lender resorts to the secondary source, which is security taken. A good security always has three characteristics. These are adequacy, cleanliness of title and easy sellability. When satisfied with these security attributes, a lender then secures the debt by creating a charge on the property taken.

With the above assured methods of collection of debt, no credit facility should therefore be categorized as bad. All given and outstanding credit facilities are therefore recoverable and the application of the concept of bad loans in determining credit interest rates is deceitful and fraudulent. Charging good customers high interest rates as a cushion of bad loans and proceeding to recover the same bad loans through realization of security amounts to double recovery. It is therefore an act of fraud. The remedy to this situation is to set credit interest rates without factoring in the NPL variable. When this is done the resultant rate would be low. This is fair because good customers would not pay for the bad loans and the bad customers would bear the burden for such loans when their properties are sold. The bank would also not be accused of double recovery as is the case now.

If a lender fails to recover a loan from either the primary or secondary source, questions must be raised on the quality of appraisal done. Poor loan appraisal is either a deliberate act on the part of a bank official or an indication of a skills gap. Either of these reasons is an act of mismanagement for which the organization and

its agents should be held liable. Such liability should not be extended to good customers as is currently done through premium interest charges (Perry 1994).

The other ethical concern is on the interest rate spread. In the last two years interest spread has remained above 15% p.a. (Central Bank Statistics, December 2013). While banks have a formula of calculating the credit interest rate, that of determining the deposit interest rate appears arbitrary. Economic theory will however, assert that the forces of supply and demand do set the deposit interest rate. This theory tends not to apply in the Kenyan banking practice. The deposit interest rate is usually tied to the government Treasury Bill rate, but this is only on Time Deposits. Interest rate on Demand deposits is on the whims of individual banks. In most cases, saving and current accounts which when combined hold in excess of 40% of the total bank deposits are non-interest earning accounts (Central Bank Statistics, December 2013). On what moral grounds do banks hold such substantial amount of customer deposits without a commensurate reward?

The relationship existing between a bank and her customer is that of a debtor and creditor. One owes the other. In the case of deposits, the bank owes the customer, and in the case of credit, the customer owes the bank. This relationship was best articulated in the case of *Koley v. Hill* (1848) where Lord Cottenham said;

Money when paid into a bank ceases altogether to be the money of the principal; it is then the money of the banker, who is bound to return an equivalent by paying a similar sum to that deposited with him when he is asked for it. The money paid into the bankers is money known by the principal to be placed there for the

purpose of being under the control of the banker; it is then the banker's money; he is known to deal with it as his own; he makes what profit he can, which profit he retains to himself, paying back only the principal, according to the custom of bankers in some places, or the principal and a small rate of interest, according to the custom of bankers in other places... that being established to be the relative situations of banker and customer, the banker is not an agent or factor but he is a debtor (Drover *et al* 1978:186).

The above case recognizes that the bank is a debtor and for this reason some pay interest while others do not. Why is payment of interest not uniform, and why is the law not making it so? Even though the law is silent on it, it is nevertheless a fundamental moral issue that needs to be addressed.

In *Joachim v. Swiss Bank Corporation* (1921) Lord Justice Atkin stated,

That the banker undertakes to receive money and collect bills for his customer's account, and that money so received is not held in trust for the customer but borrowed from him with a promise to repay it or any part of it during banking hours at the branch of the bank at which it is kept, against the customer's written order addressed to the bank at such branch (Drover *et al* 1978:187).

If indeed it is true that the relationship is as the judges held above then all deposit accounts should be interest bearing. These are monies lent to the bank to do business just as the bank loans money to customers to do business. One leading cannot be free while the other is loaded with interest. The principal of justice requires that we treat these two persons, the bank and the customer as equals.

Individuals who are similar in all respects relevant to the kind of treatment in question should be given similar benefits and burdens, even if they are dissimilar in other irrelevant respects; and individuals who are dissimilar in a relevant

respect ought to be treated dissimilarly, in proportion to their dissimilarity (Velasquez 2002:108).

The bank and the customer are similar in the sense that each lends money to the other and therefore each is simultaneously a creditor and a debtor to the other.

When banks pay interest on all deposit accounts, interest spread will effectively reduce.

The 2013 Central Bank statistics on banks indicated that almost 40% of the total outstanding loans are what could be categorized as retail credit. These are monies lent out to salaried employees and small and micro enterprises (SMEs). The salaried employees use the loans for subsistence and purchase of consumable durable goods. The SMEs use the facilities as working capital. Given the wide interest spread, installment repayments consume a substantial amount of the loanee's income, whether salary or business income. Effectively therefore, the loanee's income hardly services the loan and leaves enough for household consumption and savings. Without adequate savings, the households cannot accrue any capital for investment that would sustain future production and development (Lipsey 1976). This inability to save and invest for future consumption renders bank customers perpetual seekers of credit. They remain in this loop so long as they have some source of income to service their debt. When the sources cease and without any investment, such customers degenerate into poverty (Goodpaster *et al* 2006:364-365).

In the history of bank lending, Retail Credit is a recent development and is categorized as a non-standard, subprime lending (Goodpaster *et al* 2006:360-365). This categorization is because customers of retail credit have higher risk status. This status arises from lack of experience in managing credit, high debt-burden ratio, use of facility for consumption as opposed to income generating activities etc. The types of bank facilities whose beneficiaries bear the identified features are Credit Cards, Salaried Personal Loans, Mortgages, and Hire Purchase arrangements which banks call Asset Finance. Because of the high risk status of the retail credit customers, their products are priced at a higher interest rates and/or fees.

Advocates of retail credit have equated it to predatory lending and identified some of its distinguishing marks and practices as;

- Predatory lending is typified by *lack of transparency*. Predatory loans frequently are accompanied by incomplete, confusing or untimely term disclosures that hide special charges or high rates of penalty interests.
- Predatory lending usually entails *deception* – for example misleading sales claims or marketing practices
- Predatory lenders *inappropriately target customers or inadequately assesses a borrower's repayment capacity*" (Goodpaster *et al* 2006:360).

The above features exist in the retail credit facilities of the Kenyan banks. Goodpaster concluded that this type of lending plays on consumers' lack of financial sophistication. For this reasons it is an immoral activity.

The question then that arises from retail bank loans is whether such products meet the criteria of socially responsible products. Bert Scholten, in his article,

“Corporate Social Responsibility in the International Banking Industry”, appearing in the *Journal of Business Ethics* of May 2009, identifies four indicators that determine a bank’s social responsibility, one of which is to develop;

Responsible financial products that sustain development.

Sustainable development is defined by the World Commission of Environment and Development (WCED) Report on Our Common Future (1987) as that “development that meets the needs of the present without compromising the ability of the future generations to meet their own needs”

Our concern at this moment is to test our Kenyan banks retail credit products against Scholten’s indicator. Do such products meet the criteria that would qualify them enjoy the status of a socially responsible product that sustain development as defined by WCED?

Already, we have noted that repayment of these products exhaust almost the entire income of households leaving them with nothing to save. Without any savings, most households have no investment that future generations would rely upon. Rawls (1971) in his *A Theory of Justice* asserts that an ordered society must provide for future generations through savings. He says;

Each generation must not only preserve the gains of culture and civilization, and maintain intact those just institutions that have been established, but it must also put aside in each period of time a suitable amount of real capital accumulation. This saving may take various forms from net investment in machinery and other means of production to investment in learning and education (Rawls 1971:285).

He goes on;

The process of accumulation, once it is begun and carried through, is to the good of all subsequent generations. Each passes on to the next a fair equivalent in real capital as defined by a just savings principals (Rawls 1971:288),

In any economy, households are the greatest single player. Actions of firms and governments, who are the other players are always directed at households. For effective growth of the economy, savings must therefore be entrenched in households. Households investments are the source of effective sustainable development. They involve and impact many people. Reviewing the retail credit products of the Kenyan banks reveals that they do not encourage the art of savings and as such they comprise the ability of accumulating household capitals for future investments. Without investments, the present generation is not passing any 'fair equivalent in real capital' to the next generation.

From time to time the Kenya government has set up some Funds specifically directed at solving some social problems like youth unemployment, poverty etc. Similarly the donor community develops certain projects to benefit identified needy sectors of the community. The Women Fund, the Youth Fund, the Uwezo Fund and many others are examples of such initiatives. The government and the donor community normally set up prices at which finances from these funds are to be accessed. They then appoint the banks to manage these Funds and Projects. On such appointments, banks load their management fees on to the set government and donor prices. The resultant prices from this action is that the cost of these funds or projects almost assume the usual credit interest rates of the banks. An

example was the Women Fund, which the government advertised to the public that would be available at 5% p.a only for the applicants to be told by banks that the rate is 12% p.a. This common habit of banks raises the question of their moral sensibility. Are they expecting the beneficiaries of these funds to pay for the NPLs? Such habits border on greed and fraud, vices that do not promote human well-being.

The discontent against the interest spread has severally led to attempts to introduce government regulation. The “Donde Bill” of the 1990’s is one such attempt to re-introduce interest rate controls.

We learn from the exposition above that profit maximization objective that is pursued by the Kenyan banks is in most cases deficient of moral values that enhance human well-being. As already said earlier, it emanates from egoistic tendencies of shareholders.

CHAPTER THREE

THE STAKEHOLDER APPROACH

3.1 Introduction

In his defense of classical module of CSR, Theodore Levitt (1958) concludes that there should be “no nonsense” about business objective of profit maximization. He asserts that “business must fight (for profit maximization objective) as if it were at war. And, like a good war, it should be fought gallantly, daringly, and above all not *morally*” (Levitt 1958:50).

Scholars such as Davis 1960, McGuire 1963, Lerbinger 1965, Bowie 1991, Primeaux, 1995 *et al* have faulted the above assertion and instead argued that when pursued as suggested above, profit maximization not only harms but also alienates business from society. They claim that pursuit of the profit objective breeds contempt, has short-term benefits and eventually leads to business collapse (Angello Corlett, 1988).

To resolve the above dilemma, the said scholars together with business practitioners such as Frank Abrams, a 1950’s CEO of Standard Oil Company, New Jersey, have presented a case that appeals for pursuit of a wider business objective. They argue that businesses that want to survive do not mindlessly pursue profits at the expense of people and everything else. Instead they are alive to the fact that caring and cooperation are key. Consequently this group has come up with the neo-classical module of CSR, the Stakeholder Approach.

The Stakeholder Approach to CSR is built on the observation “that every business decision affects a variety of people, benefits some and imposing costs on others.” (Desjardin 2006:66). These people that are affected in one way or another are the ones called stakeholders. Freeman in his essay, “A stakeholder Theory of The Modern Corporation.” (Freeman 2005:112 – 122) defines stakeholders as “either groups or individuals who benefit from or are harmed by, and whose rights are violated or respected by corporation actions” (Freeman 2005:115). He goes further and distinguishes two senses of stakeholder. In a narrow sense, a stakeholder is any group or individual who is “vital to the survival and success of the corporation”. In a wider sense, a stakeholder is “any group or individual who can affect or is affected by the corporation” (Freeman 2005:115).

The stakeholder approach of corporate social responsibility therefore recognizes that each stakeholder has a “legitimate claim on the firm” and their support is ‘vital’ for the ‘survival and success’ of the business. It is justifiable then that the firm rewards these stakeholders in proportion to their contributions. The defenders of this approach conclude that;

...the very purpose of a firm is, in our view, to serve as a vehicle for coordinating stakeholders interests. It is through the firm that each stakeholder group makes itself better off’ (Evans and Freeman 1988:103).

The above conclusion answers the core CSR question that is; for what purpose do businesses exist? It is therefore the definition of the stakeholder approach to CSR.

In order to achieve the stakeholder objective of CSR, defenders of this approach have proposed re-alignment in management responsibility. “Abrams argued that, as management was professionalizing, companies had to think not just about profits but also about their employees, customers and the public at large” (Carroll and Shabana, 2010, 86). Abram’s argument suggests that it is unprofessional for managers to discharge their duties without due regard to the interest of all stakeholders. In this respect, management needs people who will devote their intellect and energy in search of solutions to the myriad demands of stakeholders.

Freeman in his essay also asserts that the responsibility of management in to-days business;

...is a kin to that of King Solomon. The stakeholder theory does not give primacy to one stakeholder group over another, though there will be surely times when one group will benefit at the expense of others. In general, however, management must keep the relationships among the stakeholders in balance. When these relationships become imbalanced, the survival of the firm is in jeopardy (Freeman 2005:118).

The above arguments are in conflict with the classical module of CSR where management is only responsible to the shareholder. Responsibility to other stakeholders is at best accidental and at worst, as Friedman said, fraudulent.

Typical stakeholders of a business in the narrow sense include the shareholders, employees, customers, suppliers, local community etc, whose stakes manifest as follows;

Shareholders have a financial stake in a business. They have invested their money and expect some return whether capital or revenue. Employees have their jobs and usually their livelihood at stake. In return for their labour, they expect security, wages, benefits and meaningful work. Customers' stake manifests itself in the quality of goods and services a business produces. They expect equivalent value for amounts they exchange for these goods and services. Suppliers on the other hand have their stake in the market the business creates for their products, while the local community benefits from the infrastructure, employment opportunities, taxes etc that accrue from the business.

The business must therefore provide fair and equal opportunities for all these stakeholders to realize their individual objectives as contained in their various stakes.

Proponents of the Stakeholder approach to CSR have consequently raised a number of arguments in support of their case; key amongst them are its better risk management strategy, competitive advantage and its ability to enhance a firm's legitimacy and reputation. The fundamental ethical benefit of this approach, they argue, is its capacity to improve the well-being of a people.

3.2 Risk Management

Management decisions produce outcomes that are either predictable on a probability scale or are unpredictable at all. Where the probability of occurrence of unfavourable outcome can be calculated with some degree of confidence, then the

resulting estimate is what business calls a risk. However where such estimate is not possible or credible, then the resulting state of affairs is called uncertainty. Risk and uncertainty are therefore situations that confront every business decision. While management will always avoid engaging in situations whose outcomes are uncertain, they nevertheless venture into actions whose risks are assessable. While uncertainties are not quantifiable, risks are measurable on a scale of 0-1. The lower the risk, the better the business choice. (Brown & Howard, 1984, 731).

Business objectives are usually set as absolute financial targets and/or desired rate of return on specific balance sheets and non-balanced sheets items. Return is defined “as the dividend yield plus the capital gain” realized on an investment (Weston & Brigham 1981:94). As a rate of return, a business sets the desired financial ratios which management later compares with the actual ratios to gauge performance. The common financial ratios usually set by businesses are the balance sheet ratios, operating ratios, activity ratios and efficiency ratios (Brown and Howard, 1981, 589-649).

To achieve the desired ratio or minimize the resultant variance thereof, management must either eliminate or reduce the risks prevalent in that activity. Kurucz *et al*, (2008) asserts that the primary risk to any business reside in stakeholders’ demands. They argue that;

...stakeholders present potential threats to the viability of the organization, and that corporate economic interest are served by mitigating the threats through a

threshold level of social or environmental performance (Carrol and Shabana 2010:97).

If indeed risks reside in the stakeholders, then engagement with these groups is vital in understanding the nature of the risks. Without this knowledge, businesses cannot mitigate the risks. This scenario is analogous to that of a disease. Medical researchers cannot have a breakthrough in any medicine unless they collaborate with patients. Similarly, businesses will never effectively mitigate business risks unless they understand the interest of the different stakeholders.

Jacque L. Etang (1995) acknowledges that communication between the business and its stakeholders is fundamental to CSR because true morality can only emerge consciously. This argument conforms with the Kantian ethical principle that demands that actions should always arise “in accord with duty”. Businesses will only act on the basis of duty if and only if they know with certainty the needs of those to whom their actions are directed. Such knowledge is gained through deliberate interaction.

Fundamentally therefore, Stakeholder approach to CSR encourages networking. This must however not be done in a manner that undermines trust.

The risks inherent in the Kenya Banking Industry have been identified by Central Bank of Kenya (CBK) and listed in their “Risk Management Guideline” as (1) Strategic Risk, (2) Credit Risk, (3) Liquidity Risk, (4) Market Risk, (5) Operational Risk, (6) Information and Communication Technology (ICT) Risk, (7)

Reputational Risk, (8) Compliance Risk and (9) Country and Transfer Risk. The Guideline demands “that banks and banking groups must have comprehensive risk management processes (including Board and Senior Management Oversight) to identify, evaluate, monitor and control or mitigate all material risks...” (CBK 2013:3).

From the above, we note that risk management can only be effectively done if banks access information that will enable them identify the risks. It is only after this information is gotten that evaluation, monitoring and control can proceed.

Risks listed as numbers 1, 2 and 4 are inherent in customers and the general public. A constructive engagement with this category of stakeholders will enable banks know which products, services and quality are acceptable. Such collaboration enables the banks design socially responsible financial products and services – those that meet the needs of customers. As a result customers become more loyal and this enhances sales revenue.

Risks listed as numbers 3,5,6,7 and 8 are best mitigated by staff. CSR that focuses on employees enhances staff motivation, productivity, commitment, emotional attachment and loyalty (Hae-Ryong Kim, *et al.* 2010, 557-569). With satisfied staff, issues of efficiency and effectiveness get appropriately addressed and the resulting benefits accrue both to the staff and the bank.

The risk listed as number 9 is dependent on the political environment a business operates in. This risk can be mitigated by changing a political system. Businesses

do this through the support they give to different political ideologies as presented by political parties.

A corporation that treats all stakeholders as an end in themselves and not as a mere means to an end creates an environment of trust, motivation from a common vision and teamwork. This atmosphere endears confidence and allows the corporation access to information that enables it manage risks and uncertainties more effectively than would otherwise be the case. Business that adopt the stakeholder theory of CSR in their management strategy enjoy benefits similar to those that accrue from Research and Development (R&D) activities. These benefits include amongst others, above normal profits. With better profits, dividends to shareholders also improve (Husted 2005).

3.3 Competitive Advantage

A well natured stakeholder relationship is a prerequisite for risk management and innovation. It gives rise to development of new services, products and identification of new opportunities. All these add up to a competitive advantage. When created, the advantage not only exists with a particular stakeholder but extends to cover the whole value chain of that particular industry.

In the Kenyan banking industry, creating competitive advantage is possible in a number of sectors. Take a case of the coffee sector. The value-chain in this sector is enormous, ranging from coffee farmers, to suppliers of farm inputs, to

transporters, to millers, to coffee auctioneers, to exporters etc. A bank that cultivates a positive trust-based relationship with the lead stakeholder in the industry is likely to enjoy the total business that exists in the value chain. N. Smith recognizes the power of CSR and;

...argues that companies may build their competitive advantage through CSR strategy. He explains; 'a firm's social responsibility, strategy, if genuinely and carefully conceived, should be unique'. This uniqueness may serve as a basis of setting the firm apart from its competitors and accordingly, its competitive advantage (Carrol and Shabana 2010:98).

A firm that adopts a CSR strategy as recommended by Smith enjoys a market dominance since new customers are referred by old customers. This reduces costs and improves profits resulting to better dividend payouts.

3.4 Political Advantages

CSR is increasingly becoming a management tool used by firms to boost their legitimacy and reputation. These two attributes – legitimacy and reputation – are important determinants of a business success. They not only affect corporate financial performance but also determine the degree of legislation an industry undergoes. The more an industry formulates favourable CSR policies that resonate with the various stakeholders, the less are the regulations legislated upon it. Where the CSR is deemed to be at variance with the public interest, government restrains such businesses, through legislation, from pursuing exploitative activities in the name of profit maximization (Collingworth 2005).

Carol and Shabana define legitimacy as “a generalized perception or assumption that actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs and definitions (Carol and Shabana 2010:99). To enjoy legitimacy therefore, a firm must be seen to build a mutual relationship that is acceptable to stakeholders. In this manner, it will galvanize community support and in the process allocate resources in a manner that maximizes stakeholders’ wealth (Gerald D. Keim, 1978).

In section 2.3 of this project, we discussed the Prisoner’s Dilemma where we noted that businesses in pursuit of their rational self interest do not cooperate with stakeholders. Whereas this non-cooperation allows them access to substantial gains, such gains are short lived. With time, stakeholders would realize that they are being used. When this happens they withhold their loyalty which affects the legitimacy and reputation of a business. The net result of wavering legitimacy and poor reputation is suppressed financial performance.

The above observation, the defenders of this approach argue, adds to the claim that the Stakeholder approach of CSR is superior to the Profit Maximization approach.

The Kenyan banking industry plays its politics to gain legitimacy and promote its reputation through its umbrella body, the Kenya Bankers Association. This body formulates guidelines that address relationships between the industry and various stakeholders. Key amongst these issues are the costs of bank products, more

particularly the credit product. Ethical issues relating to credit product have been discussed elsewhere in this project.

The Association also determines the relationship that exists between the industry and its major stakeholder, the employees. It is a major player in the negotiations that determine the employment benefit of the unionisable staff, a group that comprises in excess of half of the total bank employees. How well this relationship is managed is difficult to assess given the grave unemployment situation in the country. In the circumstances, it is difficult to confirm that bank employees enjoy the right to work, that is once employed, they hold the job with some degree of security. It is similarly difficult to affirm if they indeed do meaningful work that is a work that promotes their autonomy, rationality, physical and mental health. Lastly, banks employees' right to participate in management decision-making is equally contestable (DesJardin 2006:97–122).

Performance Management Contracts (PMC) though popular, are weak on participative management principles. Banks, through their Board of Directors or Senior Management, set business objectives which are then passed down to employees. Employees' role in PMC is in designing a strategy of achieving their portion of the total objective. They hardly participate in the setting and apportioning of the business targets to specific business segments.

While the fairness of setting employees performance targets is already questionable, that of appraising the actual performance is much more challenging.

Bank employees are held responsible for and are scored on actual outcomes of the targets assigned to each one of them. This procedure is wrong to the extent that a person is only responsible for the things that he or she “plans and does (or does not do)” and not for what comes afterwards. “What comes afterwards is never simply caused by one actor, but is regarded as the outcome of a complex interrelation between agent, means and circumstances” (Prately 2003:74). An agent may have no control over means and circumstances and therefore it is unjust to hold him or her responsible for the results. However, he/she should be held responsible for the actions he planned to do, on whether he/she did them or not. For this reason, appraising a bank manager on whether he achieved a profit target of Kshs.10 million in a year under review is wrong. Instead, he/she should be appraised on the strategy he/she formulated to achieve the target. Did he/she accomplish the planned customer visits? Did he/she follow up and close all issues raised on customer visits? On these matters the manager has got control, but on whether they indeed lead to a profit of Kshs.10 million is speculative.

On the basis of the above examples, stakeholders will only view the actions of a business as “proper and desirable” if and only if such actions are contributing directly to their welfare. Businesses whose actions meet this criterion enjoy legitimacy and enhanced reputation.

3.5 The Banking Case

The stakeholder approach to CSR demands that whenever a business is developing its values, policies and objectives, the interests of the various stakeholders must be

infused into such instruments. The interwovenness and inseparability of these interests therefore make it easier to achieve them simultaneously.

A review of the various Kenyan banks CSR statements identified the statement of the Barclays Bank of Kenya (BBK) as the one that best fits the characteristics of the stakeholders approach to CSR. In their 2013 Audited Accounts Report, the Bank states that its CSR initiatives are rolled out through their Barclays Citizenship Agenda that comprises three pillars, namely,

- The way we do business – Ensuring our decisions take account of stakeholders’ needs in the short and long term.
- Contributing to growth – Delivering products and service solutions to help people and society progress in a sustainable way.
- Supporting our communities – Helping disadvantaged young people develop the skills they need to fulfill their potential (BBK Audited Report 2013:46).

The Barclays Bank approach to CSR therefore symbolizes a partnership arrangement where the bank in consultation with its various stakeholders formulates policies that are economically beneficial to both. It is unlike the philanthropic programs that come along as aid and which in most cases leave the beneficiaries economically at the same state if not worse off.

Examples of the BBK CSR initiatives are the Youth Entrepreneurship and Empowerment programs where the bank identifies groups of young individuals that they then mentor, train and offer credit facilities “to settle on one idea and start turning the idea into real business” (BBK 2013:46). According to the same Audited Report, some of the businesses that the youth have started from this

partnerships include “planting of tree seedlings, detergent making, dairy farming and poultry keeping” (BBK 2013:46).

As the bank enjoys interest revenue generated from these projects, the youth also realizes income from the same businesses. The approach therefore has a mutual benefit to all.

Another example of BBK CSR initiative is the project of “Lighting Up Rural Kenya” (BBK 2013:47). Here, the Bank has partnered with a solar company, SolarAid, wherein the Bank has set up a £1.3 million (Sterling pound) Fund specifically intended to “provide solar power, education and training opportunities for thousands of people across the country” (BBK 2013:47). The proceeds of this fund are accessed as is done in any credit facility hence accruing benefits both to the bank and the respective customer.

The two products cited above meet Bert Scholten’s Criteria of a socially responsible financial product. Such products, which these products appear to be, must sustain development, both for the present and future generation and are therefore a source of enhancing human well-being.

3.6 Weaknesses of the Stakeholder Approach

This approach demands that business decisions must always consider stakeholder interests whenever such decisions are being made. Whereas this is desirable, it is not practical, more particularly when stakeholder is defined in the wider sense. First, it is not easy to identify all the stakeholders. Some are evident while others

are not. How do businesses cater for those which are not evident? Second is the issue of interests. Interest exist both as direct and indirect. Whereas businesses can estimate the direct interests of some stakeholders, it is impossible to discern all the indirect interests of most stakeholders. For this reason, the cost-benefit analysis that businesses do cannot be inclusive and extensive enough to cater for all the stakeholders with their vast direct and indirect interests. This is the dilemma that businesses have to contend with as they embrace the stakeholder theory of CSR. However, theoretically it appears to have features that are more beneficial to human well-being than those of profit maximization.

CHAPTER FOUR

THE PHILANTHROPIC APPROACH

4.1. Introduction

To many business practitioners and indeed to some scholars, the term Corporate Social Responsibility is understood to mean the act of business giving back to society. In the Kenyan Banking industry, this act of giving back to society is done through philanthropic activities either carried out individually by the respective banks or in partnership with local communities. To these banks, such activities are classified as Corporate Social Responsibility initiatives.

The Concise Encyclopedia defines philanthropy as “voluntary, organized effort intended for socially useful purpose”. These are efforts that are desirable to do but which are not obligatory and therefore not a duty. Individuals or corporations that engage in these efforts exercise discretion and similarly recipients of such efforts have no rights of expectation. They instead should be grateful for the handouts that they receive, wherever such voluntary acts occur.

The philanthropic approach to CSR is ambivalent about the fundamental reason for which business exists. It appears inclined towards the profit maximization approach while at the same time espouses the desire to address social problems. This approach bears a subtle feeling of indebtedness. The business feels it owes something to society.

Two issues arise on the philanthropic approach. One is, if it is indeed a debt, then it is a duty and therefore not a philanthropy. Two, is whether a philanthropic act brings about a sustainable development that ultimately enhances human well-being?

Philanthropic activities come in the form of gifts such as cash, goods, services, expertise, and/or projects. The Kenyan banks that engage in these initiatives do so through registered trust companies they call Foundations and which they fund mostly from appropriation of profits.

The KCB Foundation is one such trust company founded by Kenya Commercial Bank (KCB) in 2007 with the sole objective of “facilitating corporate social responsibility initiatives for the KCB Group”. The foundation supports community programs in the markets where the bank operates in Kenya, Uganda, Southern Sudan, Tanzania and Rwanda. The projects supported are in the sectors of Environment, Education, Health, Enterprise Development and Humanitarian Aid (www.kcb.co.ke).

Equity Bank founded the Equity Group Foundation (EGF) in 2008 for the purpose of creating “lasting, positive impact in the lives of Africans, especially the poor and disadvantaged”. The Bank contends that “EGF evolved directly from Equity Bank Group’s longstanding Corporate Social Responsibility Programme and its fundamental business model to bank those once considered unbankable”. While EGF may have many pillars, the commonly talked about is the education

sponsorship programme under the brand name “Wings to Fly”. This pillar is anchored on a partnership existing amongst the EGF, Master Card Foundation, USAID, UKAid and KfW and have the sole objective of supporting the “top performing yet needy (orphan or vulnerable) students” pursue higher education both at secondary and university levels (www.equitybank.co.ke.)

The Cooperative Bank of Kenya on her part formed her Cooperative Bank Foundation in 2007 “as a recognition of the need to enhance the existing Corporate Social Responsibility (CSR) initiatives by the bank”. The core objective of this Foundation is to pay school fees for needy secondary school students (www.coopbank.co.ke).

In 2014, The Family Group, owners of the Family Bank launched a philanthropic arm, The Family Group Foundation (FGF). At the launch, the bank indicated that the purpose for the Foundation would be “to undertake its corporate social responsibility activities by supporting programs in education, agribusiness, health care and entrepreneurship (Daily Nation newspaper (Kenya) Feb 27, 2014:31).

It is evident from the above exposition that the various banks have explicitly stated that the purpose for which they set the Foundations is to implement their CSR initiatives. They have also intimated that these initiatives will be realized through philanthropic activities directed at enhancing the welfare of society.

Whereas the concerned banks consider their philanthropic activities as CSR initiatives, scholars (Archive B. Carrol 1979, Stone C.D 1975, L.'Etang 1994,

Mark S. Schwartz 2003 *et al.*) have argued that these activities do not meet the criteria of CSR. As already mentioned in section 1.1 of this paper, Carrol asserts that it is 'inaccurate' or a 'misnomer' to call voluntary or discretionary activities a responsibility. The gist of these scholars' arguments is on the meaning of the word 'responsibility'. Their argument is that responsibility is synonymous to duty, and duty is obligatory and not voluntary.

Recognizing the many types of responsibility (role, causal, capacity, etc), Christopher Kutz in his essay, "Responsibility", (Kutz 2011:548-587), acknowledges that role responsibility is the foundation on which responsibility liability lie. It is this type of responsibility that gives rise to duty for which one becomes obligated. It is on this reflection that these scholars contend that philanthropy is never an act of fulfilling any liability in which case it cannot qualify as a responsibility.

Joel Feinberg in his essay "The Nature and Value of Rights" (Feinberg 1998:603-614), observes that "the word 'duty' is associated with actions that are 'due' (or owed) to someone else" and for which the other party has got a right (Feinberg 1998:603). Philanthropic activities do not confer any rights to the recipients. Without the ability to confer any rights, philanthropic activities therefore never achieve the status of responsibility. Instead they are supererogatory actions, those actions that go beyond duty and which are desirable but not essential for the corporation to enjoy legitimacy.

Mary Lyn Stoll in her article “Backlash Hits Business Ethics...” *Journal of Business Ethics*, vol.78, March 2008, argues that “thinking about moral questions undermines productivity and wastes time”. While this claim does not denounce the status of philanthropy as a responsibility, it nevertheless, affirms the old adage that the business of business is business. Business does not exist for charitable activities. Instead their roles are clearly articulated in their Memorandum and Articles of Association. Diversion from these roles leads to a charge of acting in an *ultra-vires* manner (Gower 1992:166-170). It appears then that in an attempt to circumvent their purposes, as properly laid down in their respective Memorandum and Articles of Associations, businesses have invented the route of registering trust companies, the Foundations, to carryout what are otherwise not their responsibilities, the philanthropic activities.

4.2. Duties

That philanthropy is not a CSR activity is an argument that is built on the theory of duty. Defenders of this argument have asserted that moral agents are only responsible for what is appropriately demanded of them. Anything above this mandate is not a duty and can therefore not be a responsibility. For us to admit this argument we need to understand the nature and characteristic of what constitutes a duty.

William David Ross (1877-1971) in his essay, “The Right and The Good”, (Ross 1998:486-496), identifies six categories of what he calls *prima facie* duties. As we list these categories, we will test the nature of the philanthropic activities normally

undertaken by the Kenyan banks against their individual criteria. The purpose of this testing is to determine whether these activities meet Ross' threshold or not. If they do, then they are indeed responsibilities.

The first category comprises two types of duties all relating to actions of a moral agent. Those are duties of fidelity that rests on the promises that one has undertaken and duties of reparation that requires one to compensate those he/she has wronged.

None of the above duties best describes the act of philanthropy. A corporate performs its duty of fidelity by fulfilling the roles outlined in her objects. Failure to undertake these responsibilities would amount to abdication of duty and performing the said roles does not amount to an act of philanthropy. John Rawls acknowledges that "as persons and groups take part in just arrangements, they acquire claims on one another defined by the publicly recognized rules" (Rawls 1971:311). A business operates in a society that has got "just arrangements". The claim that the society has on a corporation are therefore based on the contents of the Memorandum and Articles of Association that define the publicly recognized obligations of the Corporation. Anything else is supererogatory.

Duties of reparation emanate from wrongful acts and it requires the wrongdoer to restore, as much as possible, the victim to his/her original status. Whereas certain wrongful acts can be measurable and therefore compensation easily determinable, others are impossible to measure. While banks can restore the financial status of

their customer who may have been defrauded, they are unlikely to restore someone's reputation, say a customer who for the banks negligence has lost credibility with his creditors.

Analysis of the philanthropic activities that are undertaken by banks through their various Foundations do not appear to address any compensatory issues in which case they fail membership into the category of duties of reparation.

The second category listed by Ross is duty of gratuity. These are duties that one owes to those who have rendered a service to him/her. Such duties manifest themselves under the *quid pro quo* principle that requires that we give out an equivalent value to that which we receive. The Kenyan banks perform this duty in almost all their relationships with the various stakeholders. The question as to whether this duty is commensurate with the quality and quantity of service rendered and received is a subject of justice that is discussed later. Salary and wages payment to employees for services rendered and received is an act of duty of gratuity. Same is the case when banks pay other creditors for goods and services rendered and received. Such payments are not philanthropic for the corporations have a duty to make such payments.

A third category of duty according to Ross, is the duty of justice. Moral agents, of which Kenyan banks are part, ought to treat other moral agents fairly. According to Rawls;

Justice is the first virtue of social institutions, as truth is of systems of thought. A theory however elegant and economical must be rejected or revised if it is untrue; likewise laws and institutions no matter how efficient and well arranged must be reformed or abolished if they are unjust (Rawls 1971:3).

Rawls appears to suggest that of all the virtues, justice is paramount. Business, no matter how efficient and well arranged, must be just. Failure to exercise justice is failure to perform a critical duty. Primarily, justice is;

...concerned with the comparative treatment given to the members of a group when benefits and burdens are distributed, when rules and laws are administered, when members of a group cooperate or compete with each other, and when people are punished for the wrongs they have done or compensated for the wrongs they have suffered (Velasquez 2002:106).

Recognizing the need that justice should satisfy the above requirements, as espoused by Velasquez, Aristotle defined justice as;

...that state of refraining from *pleonexia*, that is from gaining some advantages for oneself by seizing what belongs to another, his property, his reward, his office and the like, or by denying a person that which is due to him, fulfillment of a promise, the repayment of a debt, the showing of proper respect and so on (Rawls 1971:10).

The nature and characteristics of justice as described above makes its dispensation a necessity and not a discretion. Justice manifests itself in the way a business treats its stakeholders – shareholders, employees, customers, creditors etc. Each ought to be treated in a manner fitting Aristotle’s prescription.

The voluntary nature of philanthropic activities as is practiced by the Kenyan banks does not fit in the category of duties of justice as exposed in the above authorities and therefore the claim that they are not responsibilities bear some credence.

The fourth category of duty is that of benevolence. This duty arises when one recognizes that there are some individuals who need support to improve their condition. In providing such support, a benevolent duty is either committed or not. What determines its benevolence status is the motive that derives the act.

Determination of motive is best captured by Joel Feinberg in his earlier referred to article, where he asserts that;

Benevolently motivated actions do good, Kant admitted, and therefore are better, *ceteris paribus*; than malevolently motivated actions; but no action can have supreme kind of worth – what Kant called “moral worth” – unless its whole motivating power derives from the thought that it is *required by duty* (Feinberg 1998:603).

Most of the philanthropic activities undertaken by the Kenyan banks are strategic in nature. They are designed to help the corporation achieve its vision, mission and objectives. If for no other reason, the media attention that these activities draw (which media appears to be managed by the respective banks) is indicative that these activities are deliberate advertising strategies. They serve economic interests of the banks, and therefore the whole motivating power that derives them is not “in accord with duty” but that of economic gain.

Philanthropic activities bear attributes that appear benevolent in nature, however they fail admission into this category on the basis of motive. Duty of benevolence requires a selfless motive yet the philanthropic activities undertaken by the Kenyan banks are based on selfish motives.

The fifth category of duty is that of self improvement. We owe ourselves a duty to improve our status, be it social, economic, religious or otherwise. This duty is built on the ethical theory of psychological egoism, a doctrine that asserts that “the only thing anyone is capable of desiring or pursuing (as an end in itself) is his own self-interest (Feinberg 1998:557). This theory does not talk about what ought to happen, but rather it talks of what actually happens. It is a theory that relates well with the concept of rational self interest, a concept that captures the behaviour of corporations.

Business annual budgets are formulated and guided by the policy of growth, fulfillment of which brings about self-improvement. To the Kenyan banking industry, growth is budgeted for in such items as assets, revenue, profits, outreach (branch network), customers etc.

To realize growth, deliberate costs must be incurred and such costs are not voluntary at all. For this reason, performance of philanthropic activities that emanate from voluntary expenditure does not bring about corporate self improvement. Unless they are strategic, which again raises doubts on their

philanthropic nature, they normally depreciate the economic worth of the business.

The last *prima facie* duty in Ross' list is the duty of non-maleficence. This duty demands that our actions should never be a source of social evils. Example of such a duty, amongst many others, would be not to engage in environmentally unfriendly actions.

In the case of the above example, performance of non-maleficence duty may require banks not to support customers who engage in activities that degrade the environment. Whenever they do so, another duty, that of reparation would put pressure on them to compensate the victims for the resultant sufferings. Compensating activities that banks may therefore take to remedy the situation would not be called philanthropic. They would of necessity be required to compensate and therefore such compensation would not be a voluntary activity. Any attempt to brand them philanthropic is deceitful and fraudulent.

In section 2.7 of this project, we discussed the predatory nature of the retail credit facilities offered by banks. In the same section, we also showed how this type of facility has depressed the economic well being of the employed members of Kenyan society. We concluded that retail credit brings more harm than good and could be the source of poverty that makes society unable to support their children for higher education. Pundits could argue that, realizing that they are the cause of this harm, banks, in an attempt to soothe their guilt, have come up with the

Foundations that now supplement the education of bright students. The philanthropic activities are therefore camouflaged reparations, which if they are, they are indeed a duty and a responsibility. When considered a reparation, such activities lose the title of philanthropy.

4.3 Motivation of Objectives

In this section, we want to briefly discuss what motivates businesses to act in the manner they do. It is this motivation that explains their choice of CSR module.

Business activities are formulated and carried through by individual human beings. These are the managers and staff that are entrusted with the responsibility of planning, directing, controlling and performing the daily activities of the enterprise. This body of individuals form the agents through which businesses realize their objectives. The nature of the objective set and the level of their achievement are dependent on the quality of these agents. Such quality is determined by the type of education and training such agents undergo on areas of technical ability and general management.

Whereas technical ability and general management skills enables the agents to know which actions are most beneficial to the business and which should therefore be undertaken, they in most cases fail to impart the kind of character traits an agent ought to have in order to promote morally acceptable activities. Character traits are what helps agents formulate objectives and strategies that seamlessly work for the benefit of human well-being or against it.

When moral agents have virtuous character traits, business activities that arise from their decisions tend to be morally compliant. Conversely, when such agents exhibit vicious character traits, their decisions lead to business activities that fail moral tests. Virtue and vice are therefore major determinants of the moral quality of an action. For us to understand the genesis of business actions, a review of virtue ethics is essential.

Plato (427-347 BC) opens the virtue ethics theory debate through his dialogues where he uses his major character Socrates in the search for the meaning and interpretation of important ethical concepts e.g. in the dialogue, *Charmides*, he attempts to interpret the meaning of the ethical term temperance while in his dialogue the *Laches*, he analyses the meaning of the term courage. Similarly in the dialogue *Euthyphro* Plato's theme is on the meaning of piety.

Plato argues that the type of life we lead depends on our actions which are themselves, a product of our character traits. He identified those traits that help man in his search for good and categorized them into four virtues, that is wisdom, that governs man's conduct through acquisition of knowledge and reason, temperance that moderates our indulgences, courage that supports man's reasons and justice that not only creates harmony amongst the other three virtues, but also regulates interpersonal relationships.

According to Plato, human beings whose character imbibes the four virtues, always do the right things, otherwise those lacking in such virtues end up

performing vicious acts. A virtuous person is therefore one with dispositions which are relevantly linked to human flourishing.

Aristotle (348–322, BC), another eminent ancient Greek philosopher takes Plato's virtue ethics to another level. While Plato asserted that virtues were fundamental in the performance of the right actions. Aristotle assumes the task of identifying the methodology through which such character traits are developed. He answers the question of how one becomes a good person or how one develops a moral character. To him, a moral character is acquired through education. In his *Nicomachean Ethics*, Aristotle states that; ...“for all who are maimed as regards their potentiality for virtue may win it by a certain kind of study and care”. Since virtue leads to happiness which is the chief good, Aristotle argues that “to entrust to chance what is greatest and most noble would be a very defective arrangement” (Aristotle 1952:345). What Aristotle is arguing here is that virtue is taught and learnt, and being such an important element in our lives we cannot leave its development to chance. We must always endeavour to teach people how to be virtuous.

Aristotle goes on to introduce two important aspects in virtue ethics – that of desire and experience. His argument is that without any desire, no amount of education or training can make an agent behave in a morally acceptable way. What this means is that moral behavior is never a subject of reasoning but rather arises out of feelings or belief. If one does not care about morality, it is hardly possible

that one will care about moral actions. The genesis of moral actions is attitude. Being an element of attitudes, inculcation of virtue therefore begins at birth.

Before inquiring into the nature of good, Aristotle contends that “One must first have received a proper upbringing in moral conduct” (Atkinson and Fredrick 2005:46). Atkinson and Fredrick analyses this assertions and concludes that “ethical inquiry requires a certain disposition – a desire, tendency or willingness to do good as well as sufficient amount of life experience to draw from. This disposition is something that can only be nurtured overtime preferably from childhood on up” (Atkinson and Fredrick 2005:47). The conclusion derived from this is, that virtuous traits cannot be instilled later in life. If we missed them during our upbringing, most likely we will miss them for the rest of our lives.

Experience, on the other hand, argues Aristotle is cardinal. Other than the desire, one must have the “ability to ‘see’ what kind of action is called for under a particular circumstance or to discern what the good would consist of when faced with an actual situation in which a choice must be made” (Atkinson and Fredrick 2005:48). According to Aristotle therefore, people act more ethically when they grow older than when they are young. The argument here is that once the virtuous seed is planted in us during our formative ages, it germinates into a gigantic structure that continuously guides our behaviour. It suffices to note, however, that the seed will never grow when planted at adulthood.

On the basis of the foregoing arguments, it is apparent that our actions are a product of our character. Character traits on the other hand, are like skills. They are taught and learnt but more importantly they are nurtured. They are firmly ingrained in our attitudes. The conclusion that can be drawn from this analogy is that business activities are a reflection of the character traits of the initiator of such actions. If the initiator is of good virtuous character, then the actions will bring forth morally acceptable activities but if the character traits are bad then the emanating actions are equally vicious.

Velasques sums up the key action-guiding implication of virtue theory in a claim that;

An action is morally right if in carrying out the action the agent exercises, exhibits, or develops a morally virtuous character, and it is morally wrong to the extent that by carrying out the action the agent exercises, exhibits, or develops a morally vicious character (Velasques 2002:139).

Character traits are significant in evaluating business actions. While virtues such as integrity, hardworking, reliability, dependability etc. are revered in businesses, others such as selflessness, caring, modesty, benevolence, openness etc could be considered weak. Businesses look for competitive, aggressive, hardworking etc personnel to drive their objectives. The attributes that steer business objectives in most cases are not compatible with the virtues that are considered weak, yet it is the 'weak' virtues that spur activities that bring forth human wellbeing. 'Business

virtues' therefore appear egoistic in nature and are relevant for profit maximization objective.

4.4 Weaknesses of the Philanthropic Approach

Whenever they exist, philanthropic activities are never subjected to the science of management, where options are generated and each is evaluated on the basis of Cost-Benefit Analysis. From this analysis, choices are made on those options which bear the highest net benefits. Unfortunately, in the case of philanthropic activities, such analysis are never done. Instead these activities are brain-children of CEOs and/or Chairmen.

Being deficient of the Cost-Benefit Analysis is not the only short-coming that the philanthropic activities suffer. The decisions that give rise to these activities also never consider the priority needs of the society. They are done on the whims of the promoters whose motivating power is the legacy they want to leave behind. This observation contrasts significantly with the earlier two approaches of CSR, the profit maximization and the stakeholder theory. In these two approaches options are generated and their impacts on the business, whether direct or indirect, are exhaustively weighed before a choice is made. The process of this evaluation is normally done at different levels of management, with the top management role being that of approval. If the idea is generated by the top management, it is nevertheless brought down for Cost-Benefit Analysis before it goes back for authorization. Philanthropic activities decisions are unfortunately never subjected

to this process. They are coined at the top and only come down for implementation.

We had earlier asked the question as to whether philanthropic activities bring about sustainable development. The answer is no. The evidence to support this conclusion is drawn from development economics on the debate of donor aid to the developing world. Arguments have been advanced that aid from the developed world has not been effective in raising the standard of living of citizens of the developing world. Instead partnership on specific economic projects between the developed countries and the developing countries have realized a better sustainable development that has raised the welfare of the population of these countries. For the same reason, the impact of the philanthropic activities of the Kenyan banks bear little benefit to the society, more so given that the community is never consulted on what their priority needs are. A people's well-being would therefore be realized from a consultative partnership approach and not a unilateral philanthropic activity.

Corporate Social Responsibility activities are normally geared towards achieving corporate objectives. At the end of a period, such activities are appraised against actual achievements. This comparison allows management to adjust the activities as appropriate so as to eliminate or minimize any variances.

Philanthropic activities on the other hand have no business objectives to achieve. Though they may make a business appear to be a good citizen, it is difficult to

evaluate their actual contribution to the bottom line. In any case, they are never done with the bottom-line in mind.

Finally, whenever business circumstances become difficult, philanthropic activities are the first to be shelved, while at such times, CSR activities that encourage partnerships with stakeholders are enhanced. It is therefore evident that corporate philanthropy is not part of Corporate Social Responsibility.

CHAPTER FIVE

FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

5.1 Findings

This research has identified a number of findings. Key amongst them are:

1. That, there are three distinct schools of thought about CSR that is the profit maximization module, the stakeholders' module and the philanthropic module.
2. That, the profit maximization approach exhibits features of ethical egoism while the stakeholder approach advocates for a greater utility, justice, rights and care to all those that support a business.
3. That, the profit maximization module and the stakeholder module have a common thread that runs through them. Both recognize that business must not only be done in an ethical manner but also within the law.
4. That, CSR entails performing activities that support the survival of a business. Such activities must undergo a process that involves the following ingredients:
 - (a) Strategic planning
 - (b) Risk management
 - (c) Implementation
 - (d) Monitoring
 - (e) Variance analysis
 - (f) Justified reward and burden distribution system.

5. That, CSR activities have an interwoven and inseparable economic, legal and ethical objectives. The achievement of one objective results into a simultaneous achievement of the other objectives.
6. That, the philanthropic activities, though touted as CSR initiatives are indeed not CSR programmes.
7. That, when business circumstances become difficult, philanthropic activities are shelved, while at such times CSR activities are enhanced.
8. That, staff recruitment policies in the Kenyan banking industry prefer character traits that are competitive and aggressive to those that are modest and benevolent. The former category support policies that sustain egoistic tendencies while the latter promotes welfare to the greatest number of people.
9. That the activities of the Kenyan banking industry are more in tandem with the profit maximization approach.

5.2 Conclusion

The above findings led us to conclude that:

1. The concept of CSR has been misunderstood by a large number of business community, especially the Kenyan banking industry. Programmes that they undertake and define as their CSR initiatives lack the fundamental ingredients of CSR, that of supporting the survival of business.
2. CSR is an ethical management concept that encompasses all principles of good management practice. It requires that management decisions are

made not only on economic and legal consideration but on simultaneous ethical deliberation. Activities that arise from such decisions therefore bear equitable mutual benefits both to the business and the various stakeholders.

5.3 Recommendations

Given the above findings and conclusions, we propose here below a twofold remedy to the misconception and application of the term CSR:

1. To carry out a deliberate exercise of education and training for directors, managers and staff of business entities on the subject of CSR in particular and business ethics in general.
2. To reformulate personnel policies so as to encourage employment of staff with virtuous character. As Aristotle argued, the virtuous character of business agents must be assessed right from their upbringing and when found to exist in the person, continuous training on virtue must be undertaken. It is only then that we will have businesses that are sensitive to social problems and that would therefore formulate CSR activities that would resolve these problems.

Bibliography

- Abrams, F.K. 1951. "Management's Responsibilities in a Complex World". *Harvard Business Review*. XXIX, 29-34.
- Aristotle 1952. "Nicomachean Ethics". In *The works of Aristotle*. Vol II, Great Books of the Western World, Ed. Hutchins R.M. Chicago: William Benton, Encyclopaedia Britannica Inc..
- Arnold, D.G. 2005. "The Justification of Human Rights" In *Perspective in Business Ethics* 3rd Edition. Ed. Hartman L.P. New York: McGraw Hill, Irwin.
- Arora N, 2011. "What Do We Deserve?" *The Humanist Magazine*, May/June 2011. Pp25-28.
- Atkinson, C and Fredrick, C. 2005. "Aristotelian Ethics" in *Perspectives in Business Ethics* 3rd Edition. Ed. Hartman L.P. New York: McGraw-Hill.
- Bannock, G., & Baxter R.E. 2011. *The Penguin Dictionary of Economics*. Eight Edition, London: Penguin Books Ltd.
- Bowie, N. 1991. "New Directions in Corporate Social Responsibility". *Business Horizons* 34(4). 56-65.
- Bowie, N. 1999. *Business Ethics: A Kantian Perspective*. Oxford, Blackwell.
- Brown J.L. & Howard L.R. 1981. *Managerial Accounting and Finance*, 4th Ed. MacDonaldis and Evans, U.K.
- Burson H. 1974. "The Public Relations Function in Socially Responsible Corporation". In *Managing the Socially Responsible Corporation*. (Ed) M. Anshen. New York: Macmillan.
- Cahn, S.M., & Markie, P. 1998. *Ethics – History, Theory and Contemporary Issues*: New York: Oxford University Press.
- Carrol, A.B. & Shabana K.M. 2010. "The Business Case of Corporate Social Responsibility: A Review of Concepts, Research and Practice" *International Journal of Management Review (IJMR)*.
- cecp.co
- Central Bank of Kenya, 2013. *Risk Management Guidelines*, Nairobi, Kenya.
- Clark, L.S, Kinder, P.D., Hotchkiss C. 1991. *Law and Business: The Regulatory Environment*, 3rd Edition. New York: McGraw-Hill, Inc.
- Coleman, J., & Shapiro, S. 2011. *The Oxford Handbook of Jurisprudence and Philosophy of Law*. Oxford, UK.

- Collingsworth, T. 2005. "Corporate Social Responsibility Unmasked". *Proceedings of the Annual Meeting (American Society of International Law)*. Vol. 99 pp 258-265.
- Corlett J.A. 1988. "Schefflevian Ethics and Corporate Social Responsibility". *Journal of Business Ethics*. 7 (1988). 631-638.
- Daily Nation Newspaper (Kenya), February 27th, 2014 pp.31.
- Davis, K. 1910. "Can Business Afford to Ignore Social Responsibility?" *California Management Review* 11(3) (Spring): 70-76.
- Davis, K. 1967. "Understanding the Social Responsibility Puzzle: What does the Businessman Owe to Society?" *Business Horizon* 10(4) Winter: 45-50.
- De George, R.T., 1999. *Business Ethics*, 5th Edition. New Jersey: Prentice Hall.
- Denise, White, Peter Freud. 2002. *Great Traditions in Ethics*. Belmont: Eve Howard Wadsworth.
- DesJardin, J. 2006. *An Introduction to Business Ethics*, 2nd Ed. Boston; McGraw-Hill.
- Evans, W.M. and R.E. Freeman, 1988. "A Stakeholder Theory of the Modern Corporation: Kantian Capitalism" in T.L. Beauchamp and N.E. Bowie (eds). *Ethical Theory and Business*; 3rd Edition, Englewood Cliff pp 97-106.
- Feinberg, J. 1998. "Psychological Egoism" In *Ethics – History, Theory and Contemporary Issues*. Ed. Cahn, S.M. & Markie P. Oxford. U.K.
- Fitch, H.G. 1976. "Achieving Corporate Social Responsibility". *The Academy of Management Review*. Vol.1, No.1 (Janu, 1976) pp.38-46, Academy of Management. (<http://www.jstor.org/stable/257357>).
- Frankena, W.K., 2007. *Ethics*, Second Edition, New Delhi: Prentice-Hall of India.
- Freeman, R.E. 2005. "A Stakeholder Theory of the Modern Corporation", In *Perspectives in Business Ethics*, Ed. Hartman L.P., 3rd Ed. Boston,
- Friedman, M. 2005. "The Social Responsibility of Business is to Increase its Profits" In. *Perspectives in Business Ethics* 3rd Ed. Ed. Hartman L.P. Boston; McGraw-Hill Irwin. 280-285.
- Goodpaster, K.E., Nash, L.L., de Bettignies H-C. 1991. *Business Ethics, Policies and Persons*, 4th Edition. New York: McGraw – Hill, Inc.
- Gower, L.C.B. et al 1992. *Gower's Principles of Modern Company Law*. London: Sweet 7 Maxwell.
- Grunig, J.E. 1979. "A New Measure of Public Opinions on Corporate Social Responsibility". *The Academy of Management Journal* Vol. 22 No.4 pp 738-764.

- Hae-Ryong Kim *et al* 2010. "Corporal Social Responsibility and Employee – Company Identification." *Journal of Business Ethics* Vol. 95 No.4 pp 557-569.
- Hartman, L.P., 2006. *Perspectives in Business Ethics*, 3rd Edition. New York: McGraw-Hill Inc.
- Hobbes, T., 1952. "Of the First and Second Natural Laws and Contracts" *Leviathan*, Great Books of the Western World, Ed. Hutchins R.M., Chicago: William Benton, Encyclopedia Britannica Inc..
- Honderich, T., Ed 1905. *The Oxford Companion to Philosophy*, New York: Oxford.
- Husted, B. 2005. "Risk Management, Real Options and Corporate Social Responsibility". *Journal of Business Ethics*. Vol.60 No.2 pp. 175 – 183.
- Kant, I. 1952, "The Fundamental Principles of The Metaphysic of Morals" *Kant*, Great Books of the Western World, Ed. Hutchins R.M. Chicago: William Benton, Encyclopedia Britannica, Inc..
- Keim, G.D. 1978. "Corporate Social Responsibility: An Assessment of the Enlightened Self Interest Model". *Academy of Management Review* 3(1) 32-39.
- Kolodinsky R.W. *et al* 2010. "Attitudes about Corporate Social Responsibility: Business Student Predictors". *Journal of Business Ethics*. Vol. 91 No.2 pp 167-181.
- Kurtz, P., 1973. "Humanist Manifesto II", *The Humanist*. Vo.33, No.8 pp 4-9.
- Kurucz E.*et al* 2008. "The Business Case for Corporate Social Responsibility in Crane, A., McMillan, A., Matten, D., Moon, J. and Siegel, D. (Eds). *The Oxford Handbook of Corporate Social Responsibility*. Oxford. Oxford University Press pp 83-112.
- Kutz, C. 2011. "Responsibility" in *The Oxford Handbook of Jurisprudence and Philosophy of Law*. Ed. Coleman, J & Shapiro S. Oxford.
- L'Etang, J. 1994. "Public Relations and Corporate Social Responsibility: Issues Arising". *Journal of Business Ethics* 13: 111-1233.
- Lebinger, O. (www-jstor.org/stable/info/255812).
- Levitt, T., 1958, "The Dangers of Social Responsibility", *Harvard Business Review*, Sept-Oct. 1958.
- Lipsey R.G., 1976. *An Introduction to Positive Economics*, Fourth Edition, London: Redwood Burn Ltd.
- Makower, J. 1994. *Beyond the Bottom Line*. New York: Simon & Schuster., U.S.A.

- McGuire J.B. 1963. *Business and Society*. New York: McGraw-Hill.
- McGuire, J.B., Sundgren and Schneeweis, T. 1988. "Corporate Social Responsibility and Firm Financial Performance". *Academy of Management Journal*. 31(4):854-872.
- Mihyo, P.B. 1977. *The Development of Legal Philosophy*. Nairobi: E.A. Literature Bureau.
- Mills J.S. 1952. "Utilitarianism" *American State Papers. The Federalist. On Liberty. Representative Government. Utilitarianism*. Great Books of the Western World, Ed. Hutchins R.M. Chicago: William Benton. Encyclopedia Britannica. Inc.
- Nozick, R, 1974. *Anarchy, State and Utopia*. New York: Basic Books. Inc.
- Oruka, H.O., 2007. *Ethics*, Nairobi: University of Nairobi.
- Plato, 1952. "Charmides". *The Dialogues of Plato*. Trans. Jowett B., Great Books of the Western World. Ed. Hutchins R.M., Chicago: William Benton, Encyclopedia Britannica, Inc.
- Plato_____ "Euthyphro" _____
- Plato_____ "Laches" _____
- Pojman, L.P., 1994. Ed. *Environmental Ethics*. London: Jones and Bartlet, Melrose Terrace.
- Pounds, W., 1969. "The Process of Problem Finding". *Industrial Management Review*. Vol. II No.1 pp 1-1-19.
- Pratley, P., 2003. *The Essence of Business Ethics*. New Delhi: Prentice Hall of India.
- Primeaux, P.S.M., 2005. "Maximizing Ethics and Profits" In *Perspectives in Business Ethics*, Ed.Hartman L.P, Boston: McGraw Hill.
- Rawls, J., 1971. *A Theory of Justice*. Massachusetts: The Belknap Press, Harvard University, Cambridge.
- Rollins, B., 1994. "Sentience is the Criterion for Moral Worth" In *Environmental Ethics*. Ed. Pojman, L.P., London: Jones and Bartlet, Melrose Terrace.
- Ross, W.D. 1998. "The Right and The Good". In *Ethics – History, Theory and Contemporary Issues*. Ed. Cahn, S.M. & Markie P. Oxford. U.K.
- Scholtens, B., 2009. "Corporate Social Responsibility in International Banking Industry", *The Journal of Business Ethics*. Vol. 86, no. 2, May 2009 (pp 159 – 175) published by Springer.
- Schwartz, M.S. & Carroll, A.B. 2003. 'Corporate Social Responsibility: A Three Domain Approach'. *Business Ethics Quarterly*. Vol. 13, No.4 (Oct. 2003)

pp.503-530, Philosophy Documentation Centre
(<http://www.jstor.org/stable/3857969>).

Singer, P.,1994. "All Animals are Equal" In *Environmental Ethics*, Ed. Pojman, L.P. London: Jones and Bartlet, Melrose Terrace.

Smith, N.C. 2003. "Corporate Social Responsibility: Whether or How?" *California Management Review*. 45 pp 52-76.

Stoll, M.L., "Backlash Hits Business Ethics: Finding Effective Strategies for Communicating the Importance of Corporate Social Responsibility". *Journal of Business Ethics*, Vol. 78. No. 1/2 (March, 2008).

Stone, C.D. 1975. *Where the Law Ends*. New York. Harper and Row Publishers.

Urmson, J.O. Ed. 1960. *The Concise Encyclopedia of Western Philosophy and Philosophers*. London: Hutchinson.

Velasquez, M.G., 2002. *Business Ethics; Concepts and Cases*, 5th Edition. New Jersey: Prentice Hall,

Weston J.F. & Brigham, E.F., 1981. *Management Finance*, 7th Ed. Illinois, U.S.A.

www.coopbank.co.ke

www.equitybank.co.ke

www.kcb.co.ke