

RECONCEPTUALISING THE FOCUS OF CORPORATE SOCIAL RESPONSIBILITY INITIATIVES TO ADDRESS THE DIGITAL DIVIDE IN SOUTH AFRICA DURING THE COVID-19 PANDEMIC

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Abstract

One of the objectives of the Organisation for Economic Co-operation and Development's (OECD) Principles of Corporate Governance is to create an inclusive society by nurturing a commercial environment rooted in trust, transparency and accountability. In creating a socially inclusive environment, the acceleration of the fourth industrial revolution (4IR) and its applicability in South African companies must be borne in mind. This acceleration has precipitated a shift in the manner in which South African businesses operate in several ways. For example, various South African companies have embraced several digital technologies such as artificial intelligence and machine learning. The use of these technologies has highlighted the inequality that has plagued South African companies. Additionally, the Coronavirus disease (COVID-19) has widened the digital divide in South African companies. This article highlights the importance of South African companies incorporating information and communications technology (ICT) infrastructure as a key corporate social responsibility (CSR) initiative. The article further argues that CSR initiatives targeting ICT infrastructure could benefit the South African economy and society during the COVID-19 pandemic. In this regard, the authors will demonstrate how the stakeholder approach is vital for corporate growth in South Africa. The authors also argue that concerted efforts by companies to build more ICT infrastructure could lead to a more inclusive society which could promote an efficient economy that attracts investors and enhances domestic and international trade.

Keywords: corporate social responsibility; information and communications technology; stakeholder inclusivity; fourth industrial revolution.

JEL Classification: K22, K24

1. Introductory remarks

Crises usually lead to innovative thinking and systemic change.⁴ There is a growing recognition of the vital links between socio-economic growth and corporate activities among companies in South Africa. The importance of a company's contribution to society in South Africa through corporate social responsibility (CSR) initiatives is indisputable. For example, through various CSR initiatives in South Africa, the living standards of many individuals have been uplifted. CSR initiatives are emerging as powerful channels for economic development in South Africa. The role of companies in society has been highlighted through concerted corporate efforts necessitated by the coronavirus disease (COVID-19) which saw companies play a major role in addressing the effects of the pandemic. For example, some companies assisted the government by providing essential services such as food and medical paraphernalia to members of the public.

When considering several socio-economic issues, it may be tempting to exclusively focus on role of the public sector since it is the government's mandate to provide numerous services such as access to clean water, health services and education.⁵ However, this exclusive focus on the public sector's role may inadvertently result in failure to acknowledge the impact of domestic and multinational companies in South Africa's socio-economic development.

The Group of Twenty (G20) and the Organisation for Economic Co-operation and

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⁴ For example, the global financial crisis of 2007-2008 led directors duties being more scrutinised it was alleged that the fall of some dominant companies in the United States of America (USA) such as Enron and Worldcom could have been linked to lack of directorial accountability. On the other hand, the public health emergency crisis occasioned by the Coronavirus disease (COVID-19) which was first reported in China's Wuhan City in 2019 has resulted in most companies in South Africa resorting to remote working.

⁵ See sections 25(5) and 27(2) of the Constitution of the Republic of South Africa, 1996 (the Constitution).

Development (OECD) seeks to create inclusive societies through its principles of corporate governance.⁶ Since South Africa is a member of the G20, the OECD principles are directly relevant to the South African corporate governance framework. With the increasingly globalised world and the advent of the COVID-19 pandemic, developing countries such as South Africa could find themselves not just competing with each other economically but with developed economies as well.⁷ This places the efforts to promote economic growth at the forefront of developing countries such as South Africa. Further, the competitiveness of entrepreneurship within a particular nation could be directly impacted by the economic growth of that nation.⁸

In this article, the authors seek to reconceptualise the role of companies in society by focussing CSR initiatives that promote information and communications technology (ICT) infrastructure development to close the digital divide in South Africa. The article offers some important insights into the relevance of CSR activities in South Africa in bridging the digital divide gap that has been exposed by the advent of the COVID-19 pandemic. Consequently, this article will contribute to the literature on the importance of CSR initiatives in the development of South Africa.

2. Corporate governance theories and corporate social responsibility

The concept of corporate governance is not statutorily defined in South Africa. However, one of the comprehensive definitions of corporate governance that has assimilated into South African company law jurisprudence is from the OECD. According to the OECD, corporate governance entails the relationships between an organisation's management, board of directors, shareholders and other stakeholders.⁹ This network of various company stakeholders is key to the achievement of corporate objectives. The term CSR usually becomes prevalent in corporate governance discourses when questions of stakeholder protection arise.¹⁰ As such, CSR could provide a useful link between corporate governance and stakeholder protection.¹¹ In this article, this relationship between corporate governance and CSR shall be considered in light of the various corporate governance theories that have impacted South Africa's corporate governance frameworks to date. For the purposes of this article, two corporate governance theories that inform the conceptualisation of the role of companies in society shall be discussed.

The first theory of corporate governance is what can be referred to as the Friedman or the profit maximisation theory.¹² According to Friedman, the only social responsibility of companies is to employ all its resources in those activities which increase corporate profits.¹³ Friedman adds that a company exists for the purpose of profit maximisation as well as to advance the desires of the shareholders/owners of the company.¹⁴ Consequently, Friedman's theory of corporate governance advances the shareholder primacy model.¹⁵ The shareholder primacy model equates the interests of the company with the interests of the shareholders. Consequently, when directors act in the best

⁶ OECD, 'Organisation for Economic Cooperation and Development (OECD) G20/OECD Principles of Corporate Governance' 2015 <https://www.oecd.org/daf/ca/Corporate-Governance-Principles-ENG.pdf>, accessed 10 October 2021.

⁷ E. Popkova, P. Delo, and B.S. Sergi, 'Corporate Social Responsibility amid Social Distancing during the COVID-19 Crisis: BRICS vs. OECD Countries' 55(1) *Research in International Business and Finance* (2021), p. 1, 1-2.

⁸ *Ibid.*, p. 1, 1-2.

⁹ N. Amodu, 'Stakeholder Protection and Corporate Social Responsibility from Comparative Company Law Perspective: Nigeria and South Africa' 64(3) *Journal of African Law* (2020), p. 425, 426; OECD, 'Organisation for Economic Cooperation and Development (OECD) G20/OECD Principles of Corporate Governance' 2015 <https://www.oecd.org/daf/ca/Corporate-Governance-Principles-ENG.pdf>, accessed 10 October 2021.

¹⁰ N. Amodu, 64(3) *Journal of African Law* (2020), p. 425, 426.

¹¹ *Ibid.*, p. 425, 426.

¹² The economist Milton Friedman has been credited with contributing to the conceptualization of the role of companies in society. See Friedman *New York Times Magazine* (1970) as quoted by J.F. Olson, 'South Africa Moves to a Global Model of Corporate Governance but with Important National Variations' 2010(1) *Acta Juridica* (2010), p. 219, 222.

¹³ See Friedman *New York Times Magazine* (1970) as quoted in J.F. Olson, 2010(1) *Acta Juridica* (2010), p. 219, 222; M.M. Botha, and B. Shiells, 'Towards a Hybrid Approach to Corporate Social Responsibility in South Africa: Lessons from India' 83(4) *THRHR* (2020), p. 582, 582-583.

¹⁴ See Friedman *New York Times Magazine* (1970) as quoted by J.F. Olson, 'South Africa Moves to a Global Model of Corporate Governance but with Important National Variations' 2010(1) *Acta Juridica* (2010), p. 219, 222.

¹⁵ M.M. Botha, and B. Shiells, 83(4) *THRHR* (2020), p. 582, 582-583.

interests of shareholders through prioritising profit maximisation, they automatically advance corporate interests.

Friedman's notion that a company exists solely for the purpose of profit-making is juxtaposed to the second corporate governance theory often referred to as the stakeholder approach. The stakeholder approach advances what is known as the Triple Bottom Line (TBL) model of corporate governance/sustainability framework. According to the TBL model, a company's performance on sustainability goals should be evaluated in the context of its social, environmental and economic dimensions.¹⁶ According to Elkington,¹⁷ the TBL model "was supposed to offer a radical new way forward" with businesses expanding their scope from profit-making to "improving the lives of people and the health of the planet".¹⁸

Carroll, a prominent scholar on CSR discourses, states in relation to the stakeholder approach that "business is expected to operate in an ethical fashion. This means that business has the expectation and obligation that it will do what is right, just, fair and to avoid or minimise harm to all the stakeholders with whom it interacts".¹⁹ The stakeholder theory gives birth to a CSR framework that is often linked to corporate citizenship and sustainability and one that is sensitive to stakeholder interests.²⁰ Through the stakeholder approach, there has been extensive literature on CSR to acknowledge the relationship between companies and society as well as the duty of companies to act in the society's best interest.²¹ However, current literature has not examined how CSR initiatives can address the digital divide in South Africa. For the purposes of this article, it is notably submitted that the stakeholder approach does not take away from the profit-making function/objective of companies but rather highlights that it is not the sole purpose.

The growth in pro-stakeholder approach literature can be attributed to varying factors that have highlighted the role of CSR on corporate success in South Africa.²² CSR initiatives have been linked to many positives including the maintenance of a good corporate image, resilience and even profit gains,²³ which therefore, discredits the notion that the stakeholder approach is anti-capitalist.²⁴

As highlighted above, companies play a crucial role in the economic development of a state. As such, corporate activities, especially multinational companies, are bound to be a key topic of discussion when it comes to national policy debates seeking to find solutions that place companies in a position that compliments the state's effort to address socio-economic issues. This is evidenced by the collaborative and cooperative efforts that was necessitated by the COVID-19 pandemic.²⁵ It is submitted that the notion of a company as a creature that solely seeks to advance shareholder interests and profit maximisation is simply unsustainable in contemporary corporate governance discourses. This could be due to the realisation that the private sector, through companies, could play a pivotal role in addressing socio-economic issues such as the digital divide. Some authors describe the profit

¹⁶ M. Tamvada, 'Corporate Social Responsibility and Accountability: A New Theoretical Foundation for Regulating CSR' 5(2) *International Journal of Corporate Social Responsibility* (2020), p. 1, 4.

¹⁷ J. Elkington, '25 Years Ago I Coined the Phrase "Triple Bottom Line." Here's Why It's Time to Rethink It', (2018), <https://hbr.org/2018/06/25-years-ago-i-coined-the-phrase-triple-bottom-line-hereswhy-im-giving-up-on-it>, accessed 28 October 2021; see also J. Elkington, 'Partnerships from Cannibals with Forks: The Triple Bottom Line of 21st-Century Business' 8(1) *Environmental Quality Management* (1998), p. 37, 37–51.

¹⁸ J. Elkington, '25 Years Ago I Coined the Phrase "Triple Bottom Line." Here's Why It's Time to Rethink It', (2018), <https://hbr.org/2018/06/25-years-ago-i-coined-the-phrase-triple-bottom-line-hereswhy-im-giving-up-on-it>, accessed 28 October 2021; see also J. Elkington, 8(1) *Environmental Quality Management* (1998), p. 37, 37–51.

¹⁹ A.B. Carroll, 'Carroll's Pyramid of CSR: Taking another Look' 1(3) *International Journal of Corporate Social Responsibility* (2016), p. 1, 3; M. Tamvada, 5(2) *International Journal of Corporate Social Responsibility* (2020), p. 1, 3.

²⁰ M. Tamvada, 5(2) *International Journal of Corporate Social Responsibility* (2020), p. 1, 3; A. Dahlsrud, 'How Corporate Social Responsibility is Defined: An Analysis of 37 Definitions' 15(1) *Corporate Social Responsibility and Environmental Management* (2008), p. 1, 1–13.

²¹ M. Tamvada, 5(2) *International Journal of Corporate Social Responsibility* (2020), p. 1, 3.

²² J.D. Nyeadi, M. Ibrahim, and Y.A. Sare, 'Corporate Social Responsibility and Financial Performance Nexus: Empirical Evidence from South African Listed Firms' 9(3) *Journal of Global Responsibility* (2018), p. 301, 301.

²³ J.D. Nyeadi, M. Ibrahim, and Y.A. Sare, 9(3) *Journal of Global Responsibility* (2018), p. 301, 301.

²⁴ M.M. Botha, and B. Shiells, 83(4) *THRHR* (2020), p. 582, 584 and H.H. Stoop, 'Towards Greener Companies - Sustainability and the Social and Ethics Committee' 24(3) *Stellenbosch Law Review* (2013), p. 562, 569 agree that a profit link exists between a company's financial performance and its social responsibility strategy, however small it may be.

²⁵ M. Lateef, and A. Akinsulore, 'Covid-19: Implications for Corporate Governance and Corporate Social Responsibility (CSR) in Africa' 12(1) *Beijing Law Review* (2021), p. 139, 141.

maximisation notion as one that “has long been dismissed and is no longer fashionable”.²⁶

Companies cannot simply be thought of in this manner because they play a vital role in the economy of any nation.²⁷ In the context of South Africa in particular, the government does not possess enough resources to address all social problems on its own. As a result, the government requires assistance from the private sector to eliminate or substantially minimise socio-economic problems facing South Africa, especially during the COVID-19 pandemic.²⁸ Therefore, when addressing greater societal issues, it is important that companies care about more than just profit maximisation and also consider societal needs and interests rather than just their shareholders.²⁹ Furthermore, since companies are part of the society/environment they operate in, they also benefit and lose from society’s gains and losses. For example, an illiterate society may not provide a domestic company with the relevant human capital. As such, it is not only economically beneficial for a company to have a more stakeholder-centric approach, but it could also enhance a company’s overall sustainability.

Following this discussion on the relationship between corporate governance theories and CSR, the next section considers the South African CSR perspective. In this regard, a brief historical precis of the South African society, the current state of company law in South Africa and the role of companies in society and how the COVID-19 has further exposed the digital divide in South Africa shall be discussed.

3. The South African CSR perspective

South Africa is a prominent jurisdiction in terms of CSR practice and policy since it is one of Africa’s biggest economies.³⁰ Since the Sullivan Principles in the 1970s and 1980s, South Africa has remained a key jurisdiction in CSR discourse.³¹ The Sullivan Principles are viewed as the predecessor of current CSR frameworks such as the Global Reporting Initiative (GRI).³² South Africa’s progress in terms of CSR since the Sullivan Principles has developed characteristics which, according to Mersham and Skinner,³³ sets it apart from other African countries. Corporate policy and activities in South Africa are regulated by the Companies Act³⁴ and influenced by the King Reports of Corporate Governance (King Reports) and other standards such as the G20/OECD principles of corporate governance. Corporate governance developments and international trends influence the South African company law landscape which necessitated the introduction of the Companies Act.³⁵

It is important to note that the Companies Act does not contain an express provision that mandates companies in South Africa to undertake CSR activities.³⁶ However, Kloppers argues that section 72(4)(a) of the Companies Act may very well be viewed as referring to CSR indirectly.³⁷ The Broad-Based Black Economic Empowerment (B-BBEE) framework has also provided some

²⁶ M. Lateef, and A. Akinsulore, 12(1) *Beijing Law Review* (2021), p. 139, 140.

²⁷ *Ibid.*, p. 139, 141.

²⁸ M.M. Botha, and B. Shiells, 83(4) *THRHR* (2020), p. 582, 584; H.J. Kloppers, ‘Introducing CSR-The Missing Ingredient in the Land Reform Recipe?’ 17(2) *Potchefstroom Electronic Law Journal* (2014), p. 708, 712.

²⁹ M.M. Botha, and B. Shiells, 83(4) *THRHR* (2020), p. 582, 584 argue that the term society in the King IV Report on Corporate Governance 2016 (King IV Report) refers “principally to the broader society or community as part of the triple context in which the organisation operates, and the social and relationship capital that the organisation uses and affects. Society includes the organisation’s internal; and external stakeholders, which in turn form part of the broader society as a whole”.

³⁰ G.M. Mersham, and C. Skinner, ‘South Africa’s Bold and Unique Experiment in CSR Practice’ 11(2) *Society and Business Review* (2016), p. 1, 5; T. Corrigan “‘Good Citizens’: Corporate Social Responsibility in Africa’ 2014 SAIIA Policy Briefing 103 available at https://www.africaportal.org/documents/12807/saia_spb_103_corrigan_20140910.pdf, accessed 26 October 2021.

³¹ G.M. Mersham, and C. Skinner, 11(2) *Society and Business Review* (2016), p. 1, 2.

³² *Ibid.*

³³ G.M. Mersham, and C. Skinner, 11(2) *Society and Business Review* (2016), p. 1, 2.

³⁴ 71 of 2008 (hereinafter, the Companies Act). The Companies Act, loosely put, provides a framework for the incorporation, management and overall activities of companies in South Africa.

³⁵ M.M. Botha, and B. Shiells, 83(4) *THRHR* (2020), p. 582, 583.

³⁶ *Ibid.*, p. 582, 588; see H.J. Kloppers, ‘Driving Corporate Social Responsibility (CSR) through the Companies Act: An Overview of the Role of the Social and Ethics Committee’ 16(1) *Potchefstroom Electronic Law Journal* (2013), p. 166, 167; I.M. Esser, ‘Stakeholder Protection: The Position of Employees’ 70(3) *THRHR* (2007), p. 407, 407.

³⁷ See H.J. Kloppers, 16(1) *Potchefstroom Electronic Law Journal* (2013), p. 166, 167; I.M. Esser, 70(3) *THRHR* (2007), p. 407, 407. See also M.M. Botha, and B. Shiells, 83(4) *THRHR* (2020), p. 582, 588.

guidance on the implementation of CSR activities in South Africa.³⁸ The King Reports, which are a form of soft law, also make reference to CSR of companies.³⁹ Notably, principles of corporate governance contained in the King Reports are in general not legally binding on South African companies.⁴⁰ Consequently, the CSR activities of companies in South Africa are largely unregulated with the exception of companies listed on the Johannesburg Stock Exchange (JSE).⁴¹ This leaves unlisted South African companies to conduct much of their CSR activities on a voluntary basis.

3.1. Inequality in South Africa

South Africa is a unique jurisdiction with an unfortunate history of inequality which mandated its policy framework to be very “society centric” to address past injustices.⁴² As such, South Africa’s corporate governance landscape could not be completely detached from the country’s history. In this regard, the World Bank has said that South Africa is the most unequal society in the world.⁴³ In this article, inequality shall be regarded as an overall concept encompassing economic inequality, income inequality and overall inequality in standards of living. South Africa has a history that is riddled with racial discrimination within the apartheid regime.⁴⁴ It was not until 1994 when South Africa transitioned from a country governed by parliamentary sovereignty to a constitutional democracy that the future of South Africa seemed brighter.⁴⁵ However, in any discourse relating to South Africa, especially one that relates to its socio-economic state, one cannot disregard the impact of its racially divided past. This is because its young democracy is still dealing with the injustices of the past and as such any solutions on the way forward must also address such impact.⁴⁶

The Constitution is a *sui generis*, living document that has been hailed across the world since its inception. It is one that has sought to address the injustices of the past and to protect South Africa’s present.⁴⁷ It is a document whose objectives include acting as a tool of transformation aimed at the betterment of the most vulnerable and marginalised in South Africa.⁴⁸ Therefore, it is submitted that any discourse relating to the dynamics of the South African society ought to have the constitutional transformation project in mind. As such, it is argued that the discourse on the role of companies in the South African society should take into cognisance this mandate if the society is to experience true transformation. As has been highlighted above in the discussion on the conceptualisation of the company in society in light of the main corporate governance theories, there is a tendency within the corporate discourse to shy away from broadening the extent of a company’s role in society in addition to its profit-making function. However, in this article, it is submitted that companies ought to embrace CSR initiatives in society in order to be good corporate citizens.

3.2. South African company law and the role of companies in society

Section 1 of the Companies Act distinguishes between a profit and non-profit company. The

³⁸ Governed by the Broad-Based Black Economic Empowerment Act 53 of 2003 and the Broad Based Black Economic Empowerment Code of Good Practice as provided for by the BBBEE Act.

³⁹ Foreword to the King IV Report.

⁴⁰ King IV Report 35.

⁴¹ Paragraph 3.84 of the Johannesburg Stock Exchange (JSE) Listing Requirements.

⁴² Preamble to the Constitution.

⁴³ World Bank, ‘The World Bank in South Africa’ <https://www.worldbank.org/en/country/southafrica/overview#1> accessed 14 October 2021. It is noteworthy that South Africa has a consumption expenditure Gini coefficient of 0.63. See related discussions by J.C. Mubangizi, ‘Poor Lives Matter: COVID-19 and the Plight of Vulnerable Groups with Specific Reference to Poverty and Inequality in South Africa’ 65(2) *Journal of African Law* (2021), p. 237, 243-244; J.C. Mubangizi, ‘Protecting Human Rights Amidst Poverty and Inequality: The South African Post-apartheid Experience on the Right of Access to Housing’ 2(2) *African Journal of Legal Studies* (2008), pp. 130, 131.

⁴⁴ J.C. Mubangizi, 2(2) *African Journal of Legal Studies* (2008), p. 130, 131; see also H. Melber, ‘Constitutionalism in Democratic South Africa: Celebrations, Contestations and Challenges’ 36(2) *Strategic Review for Southern Africa* (2014), p. 203, 210.

⁴⁵ I.M. Rautenbach, and R. Venter, *Constitutional Law*, 7ed, (LexisNexis South Africa, 2018).

⁴⁶ *Ibid.*

⁴⁷ See the Preamble to the Constitution.

⁴⁸ See the Preamble to the Constitution; I.M. Rautenbach, and R. Venter, *Constitutional Law*, 7ed, (LexisNexis South Africa, 2018).

section defines a profit company as “a company incorporated for the purpose of financial gain for its shareholders.”⁴⁹ A discussion of non-profit companies is beyond the scope of this article. When one considers the definition of a profit company in the Companies Act, the initial conceptualisation of the role of companies in society may be said to align with Friedman’s notion that a company exists solely for profit-making in line with the objectives of its shareholders. However, South African company law has not been immune to the debate between the shareholder and the stakeholder approaches.⁵⁰ It is vital to note that the Companies Act does not provide a definition of “stakeholders.”⁵¹ Further, section 7(d) of the Companies Act acknowledges the broader role of companies in society by stating that one of the purposes of the Companies Act is to “reaffirm the concept of the company as a means of achieving economic and social benefits.”⁵²

Much of the guidelines for the governance of companies in South Africa are contained in the King Reports. The first King Report on Corporate Governance was published by the King Committee in 1994. The Report, which was applicable to public companies, state-owned entities and banks⁵³ provided voluntary guidelines and principles for good corporate governance for South Africa.⁵⁴ Corporate governance developments has since necessitated the King II Report on Corporate Governance (which promoted the TBL approach discussed above),⁵⁵ the King III Report on Corporate Governance (in light of the developments influenced by the 2008 global financial crisis).⁵⁶ The King III Report was applicable to all business entities.⁵⁷ The drafting of King IV Report was prompted by the changes in the role of business and society in the twenty-first century following the changes in the Companies Act.⁵⁸ Also known as South Africa’s “Codex of CSR”,⁵⁹ the King Reports have been widely recognised internationally.⁶⁰

An analysis of the Companies Act together with the King IV Report shows that the main objective of companies in South Africa has gradually developed to consider other stakeholders during the decision-making process.⁶¹ Since a company is regarded as a separate legal entity in South African law, directors of a company are required to act in a manner that is in the best interest of the company.⁶² A number of academics have held that the company means shareholders.⁶³ However, the stakeholder approach requires directors to take into account all stakeholders such as the environment, employees,

⁴⁹ Section 1 of the Companies Act.

⁵⁰ See M.M. Botha, ‘The Different Worlds of Labour and Company Law: Truth or Myth?’ 17(5) *Potchefstroom Electronic Law Journal* (2014), p. 2042, 2042-2043; see also M.M. Botha, and B. Shiells, 83(4) *THRHR* (2020), p. 582, 583.

⁵¹ M.M. Botha, and B. Shiells, 83(4) *THRHR* (2020), p. 582, 593; M. Naniwadekar, and U. Varottil, ‘The Stakeholder Approach Towards Directors’ Duties under Indian Company Law: A Comparative Analysis’ *National University of Singapore 2016/006* (2016), p. 1, 14.

⁵² Section 7 of the Companies Act; see also I.M. Esser, ‘Corporate Social Responsibility: A Company Law Perspective’ 23 *SA Merc LJ* (2011), p. 317, 322.

⁵³ King I Report on Corporate Governance 1994.

⁵⁴ M.M. Botha, and B. Shiells, 83(4) *THRHR* (2020), p. 582, 585; Du Plessis, Hargovan and Harris *Principles of Contemporary Corporate Governance* 4th Edition (Cambridge University Press, Cambridge 2018) 4 point out that issues in corporate governance gained international prominence in the late 1990s and early 2000s in the wake of well-publicised scandals. See also M. Yan, ‘Corporate Social Responsibility versus Shareholder Value Maximization: Through the Lens of Hard and Soft Law’ 40(1) *NW Journal of International Law & Business* (2019), p. 47, 84.

⁵⁵ M.M. Botha, and B. Shiells, 83(4) *THRHR* (2020), p. 582, 585; S. Luiz, and Z. Taljaard, ‘Mass Resignation of the Board and Social Responsibility of the Company: Minister of Water Affairs and Forestry v Stilfontein Gold Mining Co Ltd’ 21(3) *South African Mercantile Law Journal* (2009), p. 420, 424.

⁵⁶ S. Luiz, and Z. Taljaard, 21(3) *South African Mercantile Law Journal* (2009), p. 420, 424; M.M. Botha, and B. Shiells, 83(4) *THRHR* (2020), p. 582, 585-586.

⁵⁷ S. Luiz, and Z. Taljaard, 21(3) *South African Mercantile Law Journal* (2009), p. 420, 424; M.M. Botha, and B. Shiells, 83(4) *THRHR* (2020), p. 582, 585-586.

⁵⁸ M.M. Botha, and B. Shiells, 83(4) *THRHR* (2020), p. 582, 586.

⁵⁹ G.M. Mersham, and C. Skinner, 11(2) *Society and Business Review* (2016), p. 1, 4.

⁶⁰ *Ibid*, p. 1, 4.

⁶¹ See section 7(d) and (i) of the Companies Act; King IV Report 26.

⁶² Sections 76(3)(b), 76(4)(a)(iii) of the Companies Act.

⁶³ Y. Allair, and S. Rousseau, ‘To Govern in the Interest of the Corporation: What is the Board’s Responsibility to Stakeholders other than Shareholders?’ 5(3) *Journal of Management and Sustainability* (2014), p. 1, 11; C.C. Ajibo, ‘A Critique of Enlightened Shareholder Value: Revisiting the Shareholder Primacy Theory’ 2(1) *Birkbeck Law Review* (2004), p. 37, 44; S. Rousseau, ‘The Duties of Directors of Financially Distressed Corporations: A Quebec Perspective on the Peoples Case’ 39 *Canadian Business Law Journal* (2004), p. 368, 380.

and anyone directly or indirectly affected by the company's decisions.⁶⁴

3.3. Corporate social investment in light of South Africa's past injustices and progress to date

In light of South Africa's distinguishable history, its view of CSR is concomitantly distinct. CSR in South Africa is often referred to as corporate social investment (CSI) owing to its history of apartheid.⁶⁵ Global and local companies avoided the responsibility label as it could imply prior support for apartheid policies. Instead, they wanted to see concrete benefits of investments that support them in their businesses.⁶⁶ Civil society also saw it as an investment that would advance development opportunities and create favourable returns for the broader population.⁶⁷ Therefore, in the South African perspective, the view that a company's CSI is overall beneficial and is sustainable is already apparent.

On the regulation front, it has already been highlighted that, firstly the King IV Report, which contains most of South Africa's CSR guidelines, is soft law at best.⁶⁸ Notably, some South African courts have given some legitimacy to the King Reports.⁶⁹ However, this does not resolve the fact that there remains legal uncertainty in terms of companies' CSR activities especially as it relates to regulation and enforcement⁷⁰ except for JSE listed companies. It is vital to state that this article focusses on the "socially good" contributions of companies as opposed to accountability for adverse impact on the entity's behalf. As such, the social and moral argument that views a company as part of a larger society to which it should contribute shall be used when analysing the regulatory and enforcement mechanisms that should be implored in addressing the specific issues raised in this paper, namely, the development of ICT infrastructure to bridge the digital divide in South Africa. Nevertheless, the argument for greater legal certainty in this area is advanced.

Although, the South African corporate governance framework can be said to recognise the importance of CSR in making a company a good corporate citizen as well as acknowledges the greater role of companies when stakeholder interests are concerned, it is not without its criticism.⁷¹ Much of the criticism has been on the regulation and enforcement of CSR with many drawing inspiration from jurisdictions such as India, which has incorporated its CSR mandate in its company law legislations thereby providing legal certainty and better enforcement.⁷² As highlighted by Botha and Shiells⁷³, the provision of stakeholder rights is rendered ineffective if proper enforcement mechanisms are unable to the relevant stakeholders.⁷⁴

⁶⁴ See section 7(j) of the Companies Act; compare section 172 of the United Kingdom Companies Act 2006.

⁶⁵ G.M. Mersham, and C. Skinner, 11(2) *Society and Business Review* (2016), p. 1, 2.

⁶⁶ Ibid, p. 1, 2; L.P. Kruger, 'The Impact of Black Economic Empowerment (BEE) on South African Businesses: Focusing on Ten Dimensions of Business Performance' 15(3) *Southern African Business Review* (2011), p. 207, 207-233; L.P. Kruger, 'South African Managers' Perceptions of Black Economic Empowerment (BEE): A 'sunset' Clause may be Necessary to Ensure Future Sustainable Growth' 18(1), *Southern African Business Review* (2014), p. 80-99.

⁶⁷ G.M. Mersham, and C. Skinner, 11(2) *Society and Business Review* (2016), p. 1, 2; C. Skinner, G.M. Mersham, and R. Benecke, *The Handbook of Public Relations* 11ed (Oxford University Press, Johannesburg 2016).

⁶⁸ See paragraph 3.84 of the JSE Listings Requirements available at <https://www.jse.co.za/content/JSEspecificationsItems/Guidelines%20to%20Listing%20on%20the%20JSE.pdf>, accessed 06 January 2022 states that "[t]he effect of incorporating certain practices from the King Code in the Listings Requirements is to make their implementation mandatory, this is notwithstanding the fact that application of the corporate governance practices in the King Code is generally voluntary".

⁶⁹ M.M. Botha, and B. Shiells, 83(4) *THRHR* (2020), p. 582, 586; Hussain J stated in *Stilfontein Minister of Water Affairs and Forestry v Stilfontein Gold Mining Co Ltd* para 351 that "practising sound corporate governance is essential for the well-being of a company and is in the best interest of the growth of a country's economy especially in attracting new investments. To this end, the corporate community within South Africa has widely, and almost uniformly, accepted the findings and recommendations of the King Committee on Corporate Governance ...".

⁷⁰ M.M. Botha, and B. Shiells, 83(4) *THRHR* (2020), p. 582, 582-593.

⁷¹ Ibid, p. 582, 593.

⁷² Ibid, p. 582, 594.

⁷³ Ibid, p. 582, 583-590.

⁷⁴ Ibid, p. 582, 590; M. Gwanyanya, 'The South African Companies Act and the Realisation of Corporate Human Rights Responsibilities' 18(1) *Potchefstroom Electronic Law Journal* (2015), p. 3102, 3114; H.J. Kloppers, 16(1) *Potchefstroom Electronic Law Journal* (2013), p. 166, 188.

4. ICT and the COVID-19 Pandemic in South Africa

The United Nations Educational, Scientific and Cultural Organization (UNESCO) defines ICT as a “[d]iverse set of technological tools and resources used to transmit, store, create, share or exchange information”.⁷⁵ These technological tools and resources include computers, the Internet, live broadcasting technologies such as radio, television and webcasting, recorded broadcasting technologies such as podcasting, audio and video players and storage devices and telephony services which include fixed or mobile, satellite and video-conferencing.⁷⁶ In this article, two main branches of ICTs shall be explored, namely, telephony and the Internet. The “digital divide” in the context of this article refers to the uneven access to/distribution of ICTs.

One of the priorities of the G20 countries is to address the digital divide between member countries which include South Africa.⁷⁷ Additionally, at its 2017 summit held in Hamburg, Germany, the G20 countries committed to “bridge digital divides along multiple dimensions, including income, age, geography and gender” and to “strive to ensure that all our citizens are digitally connected by 2025”.⁷⁸ Additionally, the G20 has proposed that developing and emerging economies need to adopt an integrated strategy to foster digital skills.⁷⁹ The South African Institute of International Affairs (SAIIA), a public policy think tank with a focus on issues impacting Africa, recently published a policy document on the importance of the development of ICT infrastructure in Africa.⁸⁰ The SAIIA highlighted that the lack of ICT infrastructure is an impediment in the overall economic development of African states.⁸¹ Furthermore, the lack of ICT infrastructure could contribute to the lack of other infrastructure.⁸² The authors of this article are in tandem with SAIIA’s view that the COVID-19 pandemic has undoubtedly highlighted the need for ICT infrastructure.⁸³

Furthermore, the development of ICT infrastructure is within the African Union’s goals and forms part of its current agenda.⁸⁴ In this regard, the African Union has recognised that ICT infrastructure plays a pivotal role in corporate success, governance and society as a whole.⁸⁵ Some of the benefits of an economy with ICT infrastructure as noted by the World Bank include the ability to attract investment and to generate fiscal revenue and the creation of employment opportunities.⁸⁶ In developing countries such as South Africa, a World Bank study also found that each 10 percentage point increase in high-speed Internet connections leads to a 1.38 percentage point increase in economic growth.⁸⁷

The COVID-19 pandemic necessitated greater use of ICTs as most people had to transition to remote learning and working. This exacerbated an already existing issue of inequality in South Africa. A significant number of South Africa’s population who dwell in the rural areas still experience poor

⁷⁵ UNESCO, ‘Information and Communication Technologies (ICT)’ <http://uis.unesco.org/en/glossary-term/information-and-communication-technologies-ict>, accessed 10 October 2021.

⁷⁶ Ibid.

⁷⁷ K. Chetty, J. Josie, N. Gcora, U. Aneja, and V. Mishra, ‘Bridging the Digital Divide: Skills for the New Age’ (2017) https://www.g20-insights.org/policy_briefs/bridging-digital-divide-skills-new-age/, accessed 16 October 2021.

⁷⁸ G20, ‘G20 Leaders’ Declaration: Shaping an Interconnected World’ (2017) <https://www.consilium.europa.eu/en/press/press-releases/2017/07/08/g20-hamburg-communique/>, accessed 14 October 2021.

⁷⁹ Ibid.

⁸⁰ T. ‘Corrigan, ‘Policy Briefing: Africa’s ICT Infrastructure: Its present and Prospects’ (2020) <https://saiia.org.za/research/africas-ict-infrastructure-its-present-and-prospects/>, accessed 16 October 2021.

⁸¹ Ibid.

⁸² Ibid; N. Roztocky, and H.R. Weistroffer, ‘Research Trends in Information and Communications Technology in Developing, Emerging and Transition Economies’, 20 *Annals of the Collegium of Economic Analysis* (2009), p. 113, 113-127.

⁸³ T. ‘Corrigan, ‘Policy Briefing: Africa’s ICT Infrastructure: Its present and Prospects’ (2020) <https://saiia.org.za/research/africas-ict-infrastructure-its-present-and-prospects/>, accessed 16 October 2021.

⁸⁴ African Union, ‘Agenda 2063: The Africa we Want’ <https://au.int/en/agenda2063/overview>, accessed 16 October 2021.

⁸⁵ Ibid; T. ‘Corrigan, ‘Policy Briefing: Africa’s ICT Infrastructure: Its present and Prospects’ (2020) <https://saiia.org.za/research/africas-ict-infrastructure-its-present-and-prospects/>, accessed 16 October 2021.

⁸⁶ World Bank, ‘Information and Communication Technologies: Results Profile’ <https://www.worldbank.org/en/results/2013/04/13/ict-results-profile>, accessed 16 October 2021.

⁸⁷ V. Kathuria, ‘Access and Investment in the ICT Sector for Developing Countries’ 9(1) *Law and Development Review* (2016), p. 1, 4; see also C.Z.W. Qiang and C.M. Rossotto, ‘Economic Impacts of Broadband’, in *Information and Communications for Development 2009: Extending Reach and Increasing Impact* (Washington, DC: World Bank, 2009), p. 35-50.

network connectivity.⁸⁸ This has resulted in a significant portion of the South African population having unequal access to information and experiencing somewhat of a “socio-economic exclusion” since the more digitally-connected society is progressing leaving them behind.⁸⁹ This gap between individuals in rural areas and those with access to ICT infrastructure is expected to increase even in post-pandemic South Africa which necessitates an immediate and targeted response to the issue.⁹⁰ In light of the digital divide that has been exposed by the COVID-19, it is important that South Africa’s national policies are aimed at addressing socio-economic inequality in relation to access to ICTs.

5. Recommendations

CSR in India has obtained greater legal standing than in any other jurisdiction.⁹¹ This has made it the topic of comparative discourse in attempts to find ways of providing more legal certainty regarding CSR activities of companies.⁹² This is underscored by the G20 and the OECD Principles of Corporate Governance, which state that while corporate governance frameworks should promote transparent and fair markets, and efficient resource allocation, they should also be in line with the rule of law and facilitate effective supervision and enforcement.⁹³ Considering the current CSR discourse, a two-pronged approach to effective initiatives for South Africa is advisable. On one hand, there is a need for a comprehensive and effective policy framework on CSR and on the other hand, there is a need for an efficient and effective regulatory framework in South Africa.⁹⁴ It is pertinent that South Africa provides access to the necessary infrastructure that promotes digital skills and making sure this is operational, secure and sustainable. The recommendations below could address some of these aspects in light of the development of ICT infrastructure.

There should be a CSR joint effort for all companies in South Africa. Such initiatives will consist of two main parts namely, policy and action. It has already been highlighted that the Companies Act does not include an express provision addressing CSR obligations. Although the King IV Report provides some guidance and highlights the role of companies in the South African society, there could be more focused efforts to address issues within the South African society. Although socio-economic issues such as unemployment are still prevalent in South Africa, it is suggested that the development of ICT infrastructure would function like a double-edged sword to address these issues as well. This could be made possible through the ability to capacitate individuals in those communities thereby making an inclusive economy with a greater variety of skills that allows disadvantaged people to break away and become part of the digitally-connected economy and society.

Although there has been some major developments regarding CSR principles which include the United Nations Global Compact, Global Reporting Initiatives, Transnational’s Draft Code and the OECD guidelines amongst others, there is no proper monitoring mechanism for the implementation of these principles. For example, in Brazil, a business law established in 2014 mandates that companies must meet certain social obligations, including mandatory CSR obligations, which are intended to address the social and economic issues that affect the citizens of Brazil.⁹⁵ Brazilian companies are obligated by law to address the social and environmental problems of the

⁸⁸ T. ‘Corrigan, ‘Policy Briefing: Africa’s ICT Infrastructure: Its present and Prospects’ (2020) <https://saiia.org.za/research/africas-ict-infrastructure-its-present-and-prospects/>, accessed 16 October 2021.

⁸⁹ Research ICT Africa, ‘COVID-19 Compounds Historical Disparities and Extends the Digital Divide’ (2021) <https://researchictafrica.net/wp/wp-content/uploads/2021/05/Policy-Brief-April-2021-COVID19-compound-historical-disparities.pdf>, accessed 10 January 2022.

⁹⁰ Ibid.

⁹¹ M.M. Botha, and B. Shiells, 83(4) *THRHR* (2020), p. 582, 594; M. Naniwadekar, and U. Varottil, ‘The Stakeholder Approach Towards Directors’ Duties under Indian Company Law: A Comparative Analysis’ *National University of Singapore 2016/006* (2016), p. 1, 7.

⁹² M.M. Botha, and B. Shiells, 83(4) *THRHR* (2020), p. 582, 594.

⁹³ OECD, ‘Organisation for Economic Cooperation and Development (OECD) G20/OECD Principles of Corporate Governance’ (2015) <https://www.oecd.org/daf/ca/Corporate-Governance-Principles-ENG.pdf>, accessed 10 October 2021.

⁹⁴ J. Arrive, and M. Feng, ‘Corporate Social Responsibility Disclosure: Evidence from BRICS Nations’ 25(5) *Corporate Social Responsibility and Environmental Management* (2018), p. 920, 926.

⁹⁵ Ibid, p. 920, 925.

Brazilian people; therefore, CSR initiatives are mandatory.⁹⁶ Alternatively, the Social and Ethics Committee (SEC) in South Africa should be empowered through legislative amendment of the Companies Act to allow it to monitor companies' CSR initiatives.

The specific inclusion of stakeholders' interests under fiduciary duties will also be more consistent with the purpose (economic and social) of the Companies Act as envisaged by section 7.⁹⁷ South Africa could also consider incentivising CSR activities and encouraging them by offering tax relief. There are some arguments that making CSR compulsory and regulating it legal may be akin to taxing companies twice. Regulate accountability front but incentivise contribution to society that does not arise in the interaction with a particular area, for example mining and responsibility to environment. Taxation incentive in the form of credits or deductions to increase corporate participation in CSR and CSI initiatives could enable an acceleration of change by shortening the contribution chain.

6. Concluding remarks

Although the G20 and the OECD principles of corporate governance provide guidelines for responsible business conduct, there is no mechanism to monitor if companies adhere to those guidelines.⁹⁸ With the exception of the JSE Listing Requirements, the South African Companies Act also follows a similar approach. The stakeholder approach which has been advocated for in this article for being beneficial for the achievement of socio-economic developmental goals of South Africa, is not without flaws. This is due to a lack of legal certainty regarding how companies implement CSR initiatives since the CSR regulatory framework in South Africa is primarily on a voluntary basis.⁹⁹

As highlighted above, crises could present opportunities for innovative thinking and systemic change. The COVID-19 crisis is no exception. Furthermore, the COVID-19 pandemic has highlighted the importance of concerted efforts in addressing greater societal issues as companies simply do not exist in isolation from society. Therefore, companies should benefit from a more inclusive economy. The COVID-19 crisis has presented South Africa and Africa in general, with an opportunity to create a more resilient, attractive economy through ICT development. This could be done through a two-pronged approach. Firstly, policy development targeted at the development of ICT infrastructure. Secondly, through targeted action by way of incentivising CSI activities in line with those strategic policy goals in order to shorten the contribution chain and create a faster and positive change in the South African society, for example, through tax credits and deductions.

Bibliography

1. Ajibo, CC., 'A Critique of Enlightened Shareholder Value: Revisiting the Shareholder Primacy Theory' 2(1) *Birkbeck Law Review* (2004), pp. 37-58.
2. Allair, Y., and Rousseau, S., 'To Govern in the Interest of the Corporation: What is the Board's Responsibility to Stakeholders other than Shareholders?' 5(3) *Journal of Management and Sustainability* (2014), pp. 1-16.
3. Amodu, N., 'Stakeholder Protection and Corporate Social Responsibility from Comparative Company Law Perspective: Nigeria and South Africa' 64(3) *Journal of African Law* (2020), pp. 425-449.
4. Arrive, J., and Feng, M., 'Corporate Social Responsibility Disclosure: Evidence from BRICS Nations' 25(5) *Corporate Social Responsibility and Environmental Management* (2018), pp. 920-927.
5. Botha, M.M., 'Responsibilities of Companies towards Employees' 18(2) *Potchefstroom Electronic Law Journal* (2015), pp. 2-67.
6. Botha, M.M., 'The Different Worlds of Labour and Company Law: Truth or Myth?' 17(5) *Potchefstroom Electronic Law Journal* (2014), pp. 2042-2103.
7. Botha, M.M., and Shiells, B., 'Towards a Hybrid Approach to Corporate Social Responsibility in South Africa: Lessons from India' 83(4) *THRHR* (2020), pp. 582-598.
8. Carroll, A.B., 'Carroll's Pyramid of CSR: Taking another Look' 1(3) *International Journal of Corporate Social*

⁹⁶ Ibid, p. 920, 924.

⁹⁷ M.M. Botha, and B. Shiells, 83(4) *THRHR* (2020), p. 582, 597.

⁹⁸ M. Tamvada, 5(2) *International Journal of Corporate Social Responsibility* (2020), p. 1, 4.

⁹⁹ N. Amodu, 64(3) *Journal of African Law* (2020), p. 425, 427; L. Osemeke, and A. Emmanuel, 'Regulatory Multiplicity and Conflict: Towards a Combined Code on Corporate Governance in Nigeria' 133(3) *Journal of Business Ethics* (2016), p. 431, 434.

- Responsibility* (2016), pp. 3-8.
9. Chetty, K., Josie, J., Gora, N., Aneja, U., and Mishra, V., 'Bridging the Digital Divide: Skills for the New Age' (2017) https://www.g20-insights.org/policy_briefs/bridging-digital-divide-skills-new-age/, accessed 16 October 2021.
 10. Dahlsrud, A., 'How Corporate Social Responsibility is Defined: An Analysis of 37 Definitions' 15(1) *Corporate Social Responsibility and Environmental Management* (2008), pp. 1–13.
 11. Elkington, J., '25 Years Ago I Coined the Phrase "Triple Bottom Line." Here's Why It's Time to Rethink It', (2018), <https://hbr.org/2018/06/25-years-ago-i-coined-the-phrase-triple-bottom-line-hereswhy-im-giving-up-on-it>, accessed 28 October 2021.
 12. Elkington, J., 'Partnerships from Cannibals with Forks: The Triple Bottom Line of 21st-Century Business' 8(1) *Environmental Quality Management* (1998), pp. 37–51.
 13. Esser, I.M., 'Corporate Social Responsibility: A Company Law Perspective' 23 *SA Merc LJ* (2011), pp. 317-335.
 14. Esser, I.M., 'Stakeholder Protection: The Position of Employees' 70(3) *THRHR* (2007), pp. 407-426.
 15. Gwanyanya, M., 'The South African Companies Act and the Realisation of Corporate Human Rights Responsibilities' 18(1) *Potchefstroom Electronic Law Journal* (2015), pp. 3102-3131.
 16. Kathuria, V., 'Access and Investment in the ICT Sector for Developing Countries' 9(1) *Law and Development Review* (2016), pp. 1-27.
 17. Kloppers, H.J., 'Driving Corporate Social Responsibility (CSR) through the Companies Act: An Overview of the Role of the Social and Ethics Committee' 16(1) *Potchefstroom Electronic Law Journal* (2013), pp. 166-199.
 18. Kloppers, H.J., 'Introducing CSR-The Missing Ingredient in the Land Reform Recipe?' 17(2) *Potchefstroom Electronic Law Journal* (2014), pp. 708-758.
 19. Kruger, L.P., 'South African Managers' Perceptions of Black Economic Empowerment (BEE): A 'sunset' Clause may be Necessary to Ensure Future Sustainable Growth' 18(1), *Southern African Business Review* (2014), pp. 80-99.
 20. Kruger, L.P., 'The Impact of Black Economic Empowerment (BEE) on South African Businesses: Focusing on Ten Dimensions of Business Performance' 15(3) *Southern African Business Review* (2011), pp. 207-233.
 21. Lateef, M., and Akinsulore, A., 'Covid-19: Implications for Corporate Governance and Corporate Social Responsibility (CSR) in Africa' 12(1) *Beijing Law Review* (2021), pp. 139-160.
 22. Luiz, S., and Taljaard, Z., 'Mass Resignation of the Board and Social Responsibility of the Company: Minister of Water Affairs and Forestry v Stilfontein Gold Mining Co Ltd' 21(3) *South African Mercantile Law Journal* (2009), pp. 420-425.
 23. Melber, H., 'Constitutionalism in Democratic South Africa: Celebrations, Contestations and Challenges' 36(2) *Strategic Review for Southern Africa* (2014), pp. 203-218.
 24. Mersham, G.M., and Skinner, C., 'South Africa's Bold and Unique Experiment in CSR Practice' 11(2) *Society and Business Review* (2016), pp. 1-5.
 25. Mubangizi, J.C., 'Poor Lives Matter: COVID-19 and the Plight of Vulnerable Groups with Specific Reference to Poverty and Inequality in South Africa' 65(2) *Journal of African Law* (2021), pp. 237-258.
 26. Mubangizi, J.C., 'Protecting Human Rights amidst Poverty and Inequality: The South African Post-apartheid Experience on the Right of Access to Housing' 2(2) *African Journal of Legal Studies* (2008), pp. 130-146.
 27. Naniwadekar, M., and Varottil, U., 'The Stakeholder Approach towards Directors' Duties under Indian Company Law: A Comparative Analysis' *National University of Singapore 2016/006* (2016), pp. 1-21.
 28. Nyeadi, J.D., Ibrahim, M., and Sare, Y.A., 'Corporate Social Responsibility and Financial Performance Nexus: Empirical Evidence from South African Listed Firms' 9(3) *Journal of Global Responsibility* (2018), pp. 301-328.
 29. Olson, J.F., 'South Africa Moves to a Global Model of Corporate Governance but with Important National Variations' 2010(1) *Acta Juridica* (2010), pp. 219-247.
 30. Osemeke, L., and Emmanuel, A., 'Regulatory Multiplicity and Conflict: Towards a Combined Code on Corporate Governance in Nigeria' 133(3) *Journal of Business Ethics* (2016), pp. 431-451.
 31. Popkova, E., Delo. P., and Sergi. B.S., 'Corporate Social Responsibility amid Social Distancing during the COVID-19 Crisis: BRICS vs. OECD Countries' 55(1) *Research in International Business and Finance* (2021), pp 1-12.
 32. Qiang, C.Z.W., and Rossotto, C.M., 'Economic Impacts of Broadband', in *Information and Communications for Development 2009: Extending Reach and Increasing Impact* (Washington, DC: World Bank, 2009).
 33. Rautenbach, I.M., and Venter, R., *Constitutional Law*, 7ed, (LexisNexis South Africa, 2018).
 34. Rousseau, S., 'The Duties of Directors of Financially Distressed Corporations: A Quebec Perspective on the Peoples Case' 39 *Canadian Business Law Journal* (2004) pp. 368-398.
 35. Roztock, N., and Weistroffer, H.R., 'Research Trends in Information and Communications Technology in Developing, Emerging and Transition Economies', 20 *Annals of the Collegium of Economic Analysis* (2009), pp. 113-127.
 36. Skinner, C., Mersham, G.M., and Benecke, R., *The Handbook of Public Relations* 11ed (Oxford University Press, Johannesburg 2016).

37. Stoop, H.H., 'Towards Greener Companies - Sustainability and the Social and Ethics Committee' 24(3) *Stellenbosch Law Review* (2013), pp. 562-582.
38. Tamvada, M., 'Corporate Social Responsibility and Accountability: A New Theoretical Foundation for Regulating CSR' 5(2) *International Journal of Corporate Social Responsibility* (2020), pp. 1-14.
39. Yan, M., 'Corporate Social Responsibility versus Shareholder Value Maximization: Through the Lens of Hard and Soft Law' 40(1) *NW Journal of International Law & Business* (2019), pp. 47-85.