

RESPONDING TO THE COVID-19 PANDEMIC: IMPLICATIONS FOR LAW AND DEVELOPMENT IN NIGERIA*

Abstract

The COVID-19 pandemic exposes like never before the ills and weaknesses of the Nigerian society. Several social challenges such as inequality, poor educational and health facilities, and inadequate social amenities, among others, were aggravated by the pandemic. This has necessitated an effective response to prepare for the mitigation of the impacts of any such emergencies in the future. According to the United Nations, such response calls for shared value partnerships and solidarity across the private and public sector, as well as other stakeholder groups. Adopting a desk-based research methodology, the author explores the potential roles of the public and private sectors in mitigating the impacts of such emergency situation in Nigeria. Such roles include the implementation of an effective corporate social responsibility (CSR) regime, promotion of social entrepreneurship, as well as implementation of relevant legal reforms on social protection. The author posits that these will help prepare for, and mitigate the adverse socio-economic impacts of any such future emergencies in the country. Hence, relevant recommendations are proffered to conclude the study.

Keywords: Covid-19 Pandemic, CSR, Social Entrepreneurship, Social Protection, Nigeria.

1. Introduction

Coronavirus (COVID-19), an infectious disease caused by a newly discovered virus, was reported for the first time in China on 31 December 2019. Since its emergence, COVID-19 has spread rapidly in every part of the world necessitating its declaration as a public health emergency of international concern by the World Health Organization (WHO) on 30 January 2020.¹ Although the disease emerged in Asia, it was not long before its outbreak escalated around the globe, with a rapid spread across every country.² Nigeria is one of the African countries with an escalating outbreak of COVID-19 as the number of infected patients in the country gradually increased on a daily basis. As the incidence of the disease escalates, the entire country began to shut down as all political and socio-economic activities were halted. President Muhammadu Buhari made the COVID-19 Regulations on 30 March 2020 ordering a lockdown of States most affected by the disease including Lagos, Ogun, and the Federal Capital Territory.³ Subsequently, several State governments began to lock down their States by restricting movement and socio-economic activities within the States.⁴ The government, through the Federal Ministry of Health, the Presidential Task Force on COVID-19, and the Nigeria Centre for Disease Control also engaged in educating Nigerians about, and providing information on the containment of the disease.⁵ Some of the measures encouraged to contain the disease include those of the WHO guidelines such as, staying indoors, regular washing of hands and cleaning of surfaces, using of hand sanitizers, maintaining social distance, among others. This has exposed more than ever before the poor state of social infrastructural development in the country. The lack of adequate social amenities like decent and affordable housing, effective health care services, electricity and water supply, internet connectivity, etc., made abiding by these guidelines almost impossible. For instance, poor people in congested neighbourhoods of Lagos were worried about how to get extra water to wash their hands regularly in order to curb the spread of the virus. For a majority of these poor people, it is also difficult to remain indoors because of the congestion and the close proximity to one another.⁶ Many of such people, due to affordability, live in the type of houses popularly referred to as ‘face-me-I-face-you’ in Nigeria, where there can be as many as about fifty persons living in a single block of flats.⁷ As succinctly put by a report, when WHO requires the regular washing of hands with soap and running water, it assumes the availability of running water.⁸ Likewise, when it requires self-isolation and social distancing, it is apparently not referring to isolation in a face-me-I-face-you apartment, where residents perpetually live in crowded conditions.⁹

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¹World Health Organization ‘Rolling Updates on Coronavirus Disease (COVID-19)’ available at <<https://www.who.int/emergencies/diseases/novel-coronavirus-2019/events-as-they-happen>> (last accessed 3 April 2020).

² Ibid.

³ This Regulation was made by the President pursuant to sections 2-4 of the Quarantine Act 1926, Cap Q2 Laws of the Federation of Nigeria 2004.

⁴J Asishana ‘BREAKING: Niger Declares Lockdown over COVID-19’ The Nation Newspaper, 23 March 2020; M Odiegwu ‘COVID-19: Wike Locks Down Rivers, Closes all Borders’ The Nation Newspaper, 25 March 2020; J Azania ‘COVID-19: Bello Orders Closure of all Entry Points’ The Nation Newspaper, 25 March 2020.

⁵ Nigeria Centre for Disease Control ‘First Case of Corona Virus Disease Confirmed in Nigeria’ available at <<https://ncdc.gov.ng/>> (last accessed 2 April 2020).

⁶ N Orjinmo ‘Lagos Lockdown Over Coronavirus: How Will my Children Survive?’ (31 March 2020) BBC News (Lagos).

⁷D Ighakpe ‘Improving Access to Affordable Housing by the Common Man’ (14 December 2018) The Guardian (Lagos).

⁸ O Akor ‘Nigeria: COVID-19 Lockdown without Food can compromise Citizens Health’ (1 April 2020) Daily Trust (Lagos).

⁹ Ibid.

Similarly, the poor electricity supply in the country presented a major challenge to the Nigerian population in containing the pandemic. This is because power supply has a direct impact on the achievement of several of the measures put in place to contain the pandemic. For instance, many workers were required to work from home, but the feasibility of this became doubtful as a result of the poor electricity supply and internet connection in the country.¹⁰ The education sector was not left out of the several adverse impacts of the pandemic as pupils and students were forced to stay out of school for a long period of time. While schools in developed societies were able to successfully move teaching online, many students in various communities in Nigeria were unable to continue schooling as a result of several factors including, poverty, lack of stable power supply, and lack of access to reliable and affordable internet connectivity.¹¹ In addition, there were concerns raised about the lack of capacity on the part of government to adequately contain the pandemic as a result of the health system which is ill-equipped to cope with such major outbreak.¹² Particularly, the availability of and accessibility to a stable power supply system was identified as a major challenge to the effective public health response to the pandemic.¹³ ‘Without electricity, many life-saving interventions simply cannot be undertaken’.¹⁴

Moreover, as a result of the lack of funds to stock up on essential commodities, many Nigerians became fearful of hunger rather than the virus. This is more so in a country credited with the poorest population in the world and whose majority work in the informal sector and must work on a daily basis for their livelihood.¹⁵ Although, during this period, the federal government implemented some palliative measures such as conditional cash transfers, and distribution of food rations to vulnerable households, these measures were reported to reach only a minute fraction of Nigerians who actually needed economic assistance.¹⁶

Thus, COVID-19 has challenged Nigeria in fundamental ways, and has exposed like never before the many social challenges such as, poverty and hunger, inequality, poor educational and health facilities, poor social amenities, among others, faced by the populace. Therefore, there is need for an effective response in preparation for, and to mitigate the impacts of, such emergency in the future. According to the United Nations, such response relies on not making ‘business as usual’ for the public and private sector of the economy. In other words, such response calls for shared value partnerships and solidarity across the private and public sectors and other stakeholders in alignment with SDG 17.¹⁷ On this premise, the author explores the potential role of the public and private sector in mitigating the impacts of such emergency situation in the country, and in preparing for any such future occurrences, through a mandatory corporate social responsibility (CSR) regime, promotion of social entrepreneurship, as well as relevant legal reforms on social protection.

2. The Concept of Corporate Social Responsibility

The corporate social responsibility debate dates back to the mid-twentieth century, and has continuously been a widely discussed subject within the academic spheres and among business practitioners.¹⁸ Historically, corporate social responsibility was premised on the belief that corporations are important centers of power and decision-

¹⁰ RAA Gift, RM Olalekan, OE Owobi, *et al.* ‘Nigerians Crying for Availability of Electricity and Water: A Key Driver to Life Coping Measures for Deepening Stay at Home Inclusion to Slow Covid-19 Spread’ (2020) 4/3 *Open Access Journal of Science* 69 at 70.

¹¹ ‘COVID-19: Poverty, Lack of Stable Power Supply Robbing Us of E-Lectures- Indigent Nigerian Students’ (6 May 2020) Sahara Reporters.

¹² Orjinmo ‘Lagos Lockdown over Coronavirus’, above at note 6.

¹³ SA Olowosejeje ‘COVID-19: Nigeria Should Prioritise Power Supply to Health Care Facilities’ (30 March 2020) available at <<https://theconversation.com/amp/covid-19-nigeria-should-prioritise-power-supply-to-health-care-facilities-134444>> (last accessed 26 August 2021).

¹⁴ YJ Chen, N Chindarkar & Y Xiao ‘Effect of Reliable Electricity on Health Facilities, Health Information, and Child and Maternal Health Services Utilization: Evidence from Rural Gujarat, India’ (2019) 7 *Journal of Health, Population and Nutrition* 38.

¹⁵ Bank of Industry ‘Economic Development through the Nigerian Informal Sector: A BOI Perspective’ (The Nigerian Bank of Industry Working Paper Series No. 2, 17 May 2018); Y Kazeem ‘Nigeria has become the Poverty Capital of the World’ (25 June 2018) Quartz Africa; The World Bank ‘Nigeria Releases New Report on Poverty and Inequality in Country’ 28 May 2020.

¹⁶ Human Rights Watch ‘Nigeria: Protect Most Vulnerable in COVID-19 Response’ 14 April 2020.

¹⁷ United Nations ‘Shared Responsibility, Global Solidarity’ (A Virtual Dialogue on SDG 17 and Public-Private Partnerships: COVID-19 Response and Recovery in the Framework of the 2030 Agenda, 29 April 2020).

¹⁸ AB Carroll and KM Shabana ‘The Business Case for Corporate Social Responsibility: A Review of Concepts, Research and Practice’ (2010) 12 *International Journal of Management Reviews* 85; M Nehme and CKG Wee ‘Tracing the Historical Development of Corporate Social Responsibility and Corporate Social Reporting’ (2008) 15 *James Cook University Law Review* 129; E Garriga and D Mele ‘Corporate Social Responsibility Theories: Mapping the Territory’ (2004) 53 *Journal of Business Ethics* 51; L Moir ‘What do we mean by Corporate Social Responsibility?’ (2001) 1/2 *Corporate Governance: The International Journal of Business in Society* 16; AB Carroll ‘Corporate Social Responsibility: Evolution of a Definitional Construct’ (1999) 38/3 *Business & Society* 268 at 269.

making in the society, and corporate activities impact the lives of members of the society in various ways.¹⁹ Also, globalization with its consequences, such as increased industrialization and technology advancement, was viewed as making the negative impacts of corporate activities on the society more intense.²⁰ As a result, there has been a continuous demand for corporations to be responsible for their impacts on the society.²¹ Although corporate social responsibility may not represent an all-encompassing solution to the negative effects of business on the society, it is believed that it guides corporate actions and business activities to align with societal values and objectives.²² In addition, it clarifies the obligations that corporate managers and business practitioners have towards the society in which they operate.²³

Therefore, several definitions and descriptions of corporate social responsibility have been developed over the past decades.²⁴ For instance, corporate social responsibility has been described as ‘*an agenda which seeks to establish a more humane, ethical and transparent way of doing business*’.²⁵ This definition affirms the notion that several business activities affect the society adversely and as such business should take part in addressing such adverse impacts.²⁶ Also, corporate social responsibility has been described from the viewpoint of corporate managers as public trustees and social stewards and as such, has an ethical obligation to assume responsibility for societal welfare.²⁷ Arguably, this viewpoint emanates from the stakeholder theory of the corporation which posits corporate stakeholders beyond the shareholders to include other stakeholder groupings such as employees, environment, consumers, etc. Thus, corporate managers are expected to consider whether their corporate activities are likely to promote the welfare of this wider stakeholder groups, as well as advance the objectives of the society.²⁸

Corporate social responsibility is also described as ‘*corporate philanthropic support of worthy social causes*’.²⁹ From this viewpoint, the obligations of corporate managers are neither restricted to the shareholders nor to the economic interests of the company, but extend to voluntary corporate actions that promote social good in the society.³⁰ Thus, in addition to compliance with legal requirements, corporate managers are expected to take into consideration externalities such as the environment and the society, as much as they are concerned with

¹⁹ HR Bowen *Social Responsibilities of the Businessman* (1953, Harper & Brothers) at 6; RC Moura-Leite and RC Padgett ‘Historical Background of Corporate Social Responsibility’ (2011) 7/4 *Social Responsibility Journal* 528.

²⁰ DC Korten *When Corporations Rule the World* (3rd ed, 2015, Berrett-Koehler Publishers) at 1-2; D Butts *How Corporations Hurt Us All: Saving Our Rights, Democracy, Institutions and Our Future* (2003, Trafford Publishing); R Mokhiber and R Weissman *Corporate Predators: The Hunt for Mega Profits and the Attack on Democracy* (1999, Common Courage Press) at 26.

²¹ AG Scherer and G Palazzo ‘Globalisation and Corporate Social Responsibility’ in A Crane *et al* (eds) *The Oxford Handbook of Corporate Social Responsibility* (2008, Oxford University Press) at 413; B Parker *Globalisation and Business Practice: Managing Across Boundaries* (1998, SAGE Publications Ltd); TP Lyon and JW Maxwell ‘Corporate Social Responsibility and the Environment: A Theoretical Perspective’ (2008) 2/2 *Review of Environmental Economics and Policy* 240; JD Margolis and JP Walsh ‘Misery Loves Companies: Rethinking Social Initiatives by Business’ (2003) 48 *Administrative Science Quarterly* 268.

²² Bowen *Social Responsibilities of the Businessman*, above at note 19. See also AB Carroll ‘Corporate Social Responsibility: The Centerpiece of Competing and Complementary Frameworks’ (2015) 44 *Organizational Dynamics* 87; K McElhane ‘A Strategic Approach to Corporate Social Responsibility’ (2009) *Leader to Leader* 30; A D’Amato, S Henderson and S Florence *Corporate Social Responsibility and Sustainable Business: A Guide to Leadership Tasks and Functions* (2009, Centre for Creative Leadership) at 1.

²³ *Ibid.*

²⁴ MS Fifka ‘Towards a More Business-Oriented Definition of Corporate Social Responsibility: Discussing the Core Controversies of a Well-Established Concept’ (2009) 2 *Journal of Service Science & Management* 312. See also A Dahlsrud ‘How Corporate Social Responsibility is Defined: An Analysis of 73 Definitions’ (2008) 15 *Corporate Social Responsibility and Environmental Management* 1; WS Wan-Jan ‘Defining Corporate Social Responsibility’ (2006) 6(3/4) *Journal of Public Affairs* 176; AB Carroll ‘Corporate Social Responsibility: Evolution of a Definitional Construct’ (1999) 38/3 *Business & Society* 268.

²⁵ MV Marrewijk ‘Concepts and Definitions of CSR and Corporate Sustainability: Between Agency and Communion’ (2003) 44 *Journal of Business Ethics* 95.

²⁶ Such adverse impacts of business activities range from human rights abuse, environmental degradation, etc.

²⁷ WC Frederick ‘Corporate Social Responsibility: Deep Roots, Flourishing Growth, Promising Future’ in A Crane *et al* (eds) *The Oxford Handbook of Corporate Social Responsibility*, above note 21, 522 at 524; PF Drucker *The Practice of Management* (2006, HarperCollins) at 388; S Letza and X Sun ‘Corporate Governance: Paradigms, Dilemmas, and Beyond’ (2002) 2 *The Poznan University of Economics Review* 43.

²⁸ *Ibid.*

²⁹ Frederick ‘Corporate Social Responsibility’ above at note 27.

³⁰ A Kleine and MV Hauff ‘Sustainability-Driven Implementation of Corporate Social Responsibility: Application of the Integrative Sustainability Triangle’ (2009) 85 *Journal of Business Ethics* 517; PC Godfrey and NW Hatch ‘Researching Corporate Social Responsibility: An Agenda for the 21st Century’ (2007) 70 *Journal of Business Ethics* 87; A McWilliams and D Siegel ‘Corporate Social Responsibility: A Theory of the Firm Perspective’ (2001) 26 *Academy of Management Review* 117; GP Lantos ‘The Boundaries of Strategic Corporate Social Responsibility’ (2001) 18/7 *Journal of Consumer Marketing* 595.

shareholders and corporate economic performance.³¹ Corporate social responsibility is further described from the viewpoint of corporations as corporate citizens. On the basis of such corporate citizenship, business organisations are regarded as an integral part of the society in which they operate, and thus have duties and obligations in the society just like natural citizens of the society.³² Corporations, upon registration are granted citizenship by the State not just as economic entities for commercial purposes but also as social entities for general community needs and the promotion of overall societal welfare.³³ Arguably therefore, corporations as citizens are obliged to act in the best interests of the society, and promote State's objectives.

Summarily, CSR presupposes that corporate managers go beyond legal requirements, such as those on environmental and human rights protection, and voluntarily contribute to societal objectives and welfare. It is however noteworthy that traditionally, the relationship between business and society was built on the existence of a regulatory environment whereby government addresses public issues and regulates business behaviour. Hence, government institutions are considered the only institutions that deal with societal welfare while corporations are regarded as economic actors only.³⁴ Therefore, business organizations are not obliged to take on issues of public welfare although they may engage in corporate philanthropy as part of their business strategies.³⁵ However, with increasing globalization, the distinction between the public and the private sector roles has become almost invisible; this is because private actors are often looked up to by society to step in and fill any governance void left by the public sector.³⁶ In other words, the private sector is increasingly been expected to take responsibility for issues of public concern. Hence, within the business and society field, CSR is viewed as an intervention mechanism for filling the governance gap caused by the failure of governments, especially in developing countries.³⁷ This view emphasizes the role of the private sector in community development, and ascribes a public policy role to the sector.³⁸ As corporate citizens, the private sector may be presumed to assume such roles in order to complement the efforts of government especially where such efforts have failed to adequately meet societal needs and expectations. In other words, CSR is perceived as a practice whereby corporations take on certain public sector roles on account of the failure of government, or the inadequacy of governance strategies to meet up with such roles. Such public sector roles that may be taken up by the private sector include building of public infrastructures, as well as provision of affordable and accessible social amenities, among others.

Although corporations are generally viewed as economic entities, an empirical study that used the banking and communication industries as a case study, considers the imperative and benefits of CSR to the Nigerian society.

³¹ C Valor 'Corporate Social Responsibility and Corporate Citizenship: Towards Corporate Accountability' (2005) 110/2 *Business and Society Review* 191 at 192-193. See also A Lindgreen, V Swaen and F Maon 'Introduction: Corporate Social Responsibility Implementation' (2009) 85 *Journal of Business Ethics* 251; D Bielak, SM Bonini and JM Oppenheim 'CEOs on Strategy and Social Issues' (2007) 10 *McKinsey Quarterly* 8; P Hohnen *Corporate Social Responsibility: An Implementation Guide for Business* (2007, International Institute for Sustainable Development) at 2.

³² D Windsor 'Corporate Citizenship: Evolution and Interpretation' in J Andriof and M McIntosh (eds) *Perspectives on Corporate Citizenship* (2001, Greenleaf Publishing) at 39; DJ Wood and JM Logsdon 'Theorising Business Citizenship' in J Andriof and M McIntosh (eds) *Perspectives on Corporate Citizenship* (2001, Greenleaf Publishing) at 83; D Matten, A Crane and W Chapple 'Behind the Mask: Revealing the True Face of Corporate Citizenship' (2003) 45/1-2 *Journal of Business Ethics* 109; C Marsden 'The New Corporate Citizenship of Big Business: Part of the Solution to Sustainability' (2000) 105 *Business and Society Review* 8 at 11.

³³ Frederick 'Corporate Social Responsibility' above at note 27 at 527; S Hamilton 'Corporate Governance from the Perspective of the Share' (2008) 5 *The BSIS Journal of International Studies*; R Hamann 'Can Business Make Decisive Contributions to Development? Towards a Research Agenda on Corporate Citizenship and Beyond' (2006) 23/2 *Development Southern Africa*, 175; A Gamble and G Kelly 'Shareholder Value and the Stakeholder Debate in the UK' (2001) 9/2 *Corporate Governance: An International Review* 110 at 115; RC Warren *Corporate Governance and Accountability* (2000, Liverpool Academic Press) at 130-143; J Dine *The Governance of Corporate Groups* (2000, Cambridge University Press) at 17-21.

³⁴ AG Scherer, G Palazzo and D Matten 'The Business Firm as a Political Actor: A New Theory of the Firm for a Globalized World' (2014) 53/2 *Business & Society* 143; AK Sundaram and AC Inkpen 'The Corporate Objective Revisited' (2004) 15 *Organization Science* 350.

³⁵ AJ Hillman, GD Keim and D Schuler 'Corporate Political Activity: A Review and Research Agenda' (2004) 30 *Journal of Management* 837; ME Porter and MR Kramer 'The Competitive Advantage of Corporate Philanthropy' (2003) 80/12 *Harvard Business Review* 56.

³⁶ AG Scherer and G Palazzo 'The New Political Role of Business in a Globalized World: A Review of a New Perspective on CSR and its Implications for the Firm, Governance and Democracy' (2011) 48 *Journal of Management Studies* 899; SJ Kobrin 'Sovereignty at Bay: Globalization, Multinational Enterprises, and the International Political System' in AM Rugman and TL Brewer (eds) *The Oxford Handbook of International Business* (2001, Oxford University Press) at 181.

³⁷ K Dartey-Baah and K Amponsah-Tawiah 'Exploring the Limits of Western Corporate Social Responsibility Theories in Africa' (2011) 2/18 *International Journal of Business and Social Science* 126; W Visser 'Corporate Social Responsibility in Developing Countries' in A Crane et al (eds) *The Oxford Handbook of Corporate Social Responsibility* (2008, Oxford University Press) at 473.

³⁸ AG Scherer and G Palazzo 'Globalization and Corporate Social Responsibility' in A Crane et al (eds) *The Oxford Handbook of Corporate Social Responsibility* ibid at 413; D Windsor 'Corporate Social Responsibility: Three Key Approaches' (2006) 43/1 *Journal of Management Studies* 93.

The study reveals a strong and statistically significant relationship between CSR and societal progress.³⁹ For instance, the study reveals the impact of the ‘MTN Schools Connect Project’ on access to digital information and infrastructures, as well as information and communication technology by students in Nigeria.⁴⁰ There is also the ‘MTN Foundation Low Cost Housing Project’, which addresses housing challenges through the provision of decent and affordable houses to low-income earners in some remote areas of the country.⁴¹ Another instance identified by the study is the support for healthcare by Guaranty Trust Bank Nigeria. The bank’s healthcare support includes annual structural renovation and equipment purchase, as well as quarterly equipment maintenance for identified children’s hospitals in Lagos State.⁴² This connotes that if the potentials of CSR are properly harnessed, it may help alleviate the several social challenges the country is faced with, and on the long term, contribute immensely to societal welfare and development.

Moreover, it has been argued that CSR presents a win-win situation for the corporate sector and the society alike, as it enhances both corporate and societal sustainability.⁴³ Thus, CSR enhances the continued operation of corporate organizations over the long term, while benefitting the society socio-economically. Likewise, it has been argued that CSR enhances corporate reputation, strengthens corporate-stakeholder relations, improves corporate brand value, and customer loyalty, thus, contributing positively to the business and financial bottom line of corporations.⁴⁴ This argument connotes that CSR creates an enabling environment for businesses to thrive in order to maintain economic stability and financial profitability, while ensuring that societal needs are met in the process. In addition, it has been posited that an effective CSR regime, in addition to its social benefits, sends a signal to the world that international corporate governance standards are taken seriously thus, enhancing the attraction of foreign aids and investments and on the long term, improving national economic growth and development.⁴⁵

In conclusion, it is submitted that since CSR benefits the society and corporate organizations, the Nigerian corporate sector should be encouraged to leverage on the poor socio-economic conditions of the Nigerian society. In so doing, the sector should allow such conditions shape their business strategies and models so as to add socio-economic value to the society, while advancing their corporate growth and profitability.

3. The Concept of Social Entrepreneurship

Social entrepreneurship is a developing concept with various definitions and interpretations. However, there is a general consensus that social entrepreneurs are those that advance positive impacts on social issues. In other words, they maximize wealth as a tool for tackling social challenges.⁴⁶ For instance, social entrepreneurship has been described as ‘the identification of social challenges, and the adoption of entrepreneurial approaches that target the provision of solutions to those challenges’.⁴⁷ It has also been described as ‘a new dimension of business activities that includes social innovation and the resolution of social issues in the society’.⁴⁸ It is a form of hybrid business that prioritizes the achievement of a social objective over profit making.⁴⁹ Social entrepreneurship is also defined as ‘a business strategy with the primary mission of creating social value, by providing solutions to social problems’.⁵⁰

It is noteworthy that there is a subsisting argument that the responsibility of addressing the multifaceted social challenges faced by many developing nations is a daunting one incapable of being effectively carried out by States

³⁹ OD Adeyanju ‘An Assessment of the Impact of Corporate Social Responsibility on Nigerian Society: The Examples of Banking and Communication Industries’ (2012) 1/1 *Universal Journal of Marketing and Business Research* 17.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Ibid.

⁴³ JN Obi ‘Corporate Social Responsibility: How Socially Responsible Are Business Organizations Today?’ (2011) 3/6 *International Journal of Social Science* 1.

⁴⁴ M Porter and M Kramer ‘The Competitive Advantage of Corporate Philanthropy’ (2003) 80/12 *Harvard Business Review* 56.

⁴⁵ D Ahern ‘Replacing ‘Comply or Explain’ With Legally Binding Corporate Governance Codes: An Appropriate Regulatory Response?’ ECPR Standing Group on Regulatory Governance Biennial Conference ‘Regulation in an Age of Crisis’, Dublin, 17-19 June 2010.

⁴⁶ The European Commission and The Organization for Economic Cooperation and Development ‘Policy Brief on Scaling the Impact of Social Enterprises: Policies for Social Entrepreneurship’ (2016, Organization for Economic Cooperation and Development) at 3.

⁴⁷ Organization for Economic Cooperation and Development ‘Fostering Innovation to Address Social Challenges’ (2011, Organization for Economic Cooperation and Development); European Commission ‘Social Economy and Social Entrepreneurship’ (2013) 4 *Social Europe Guide* 31.

⁴⁸ E Pongracz ‘Social Economy and Social Entrepreneurship- The Manifestation of Social Responsibility in the Era of Globalization’ (2020) 74 *SHS Web of Conferences*, no. 04021.

⁴⁹ Ibid.

⁵⁰ TM Dacin, PA Dacin and P Tracey ‘Social Entrepreneurship: A Critique and Future Directions’ (2011) 22/5 *Organization Science* 1203.

alone.⁵¹ This has therefore given rise to the emergence and evolution of social entrepreneurship as an avenue for solutions to social challenges.⁵² Likewise, it is reported that the traditional options, such as foreign aids and investments, adopted by many developing nations towards addressing social challenges has proved inadequate thereby emphasizing the need for new and innovative approaches to development.⁵³ For instance, in spite of various foreign aids and investments, as well as government interventions in developmental projects in Nigeria, the COVID-19 pandemic has made obvious the little or no success achieved at socio-economic development in the country. Such interventions have not enhanced the social welfare of the populace as basic social amenities such as medical care, adequate water supply, accessible power supply, among others, are still grossly inadequate. Thus, since social entrepreneurship is a catalyst for addressing social challenges, it is expedient that it be given prominence to as a significant tool for achieving positive and sustainable social change in Nigeria. For instance, social entrepreneurship can contribute to addressing some of the several social challenges faced during the COVID-19 lock-down. Particularly, social entrepreneurship can contribute to addressing issues of inadequate and inaccessible power supply, non-affordable and poor internet connections, lack of adequate housing and water supply, among several others.

In fact, an empirical study on the impact of social entrepreneurship in Nigeria reveals a positive impact, as it enhances socio-economic development in the country.⁵⁴ The study however reveals that social entrepreneurship is still very much at an incubation stage in the country as the term is still very strange among several segments of the society, and most of the social activities are implemented by not-for-profit organisations.⁵⁵ In another empirical study, it was revealed that lack of education in entrepreneurship studies, lack of fund and government support, inadequate skilled manpower, and comparative disadvantages to business entrepreneurs, are major challenges impeding the growth and development of social entrepreneurship in Nigeria.⁵⁶

4. The Concept of Social Protection

Social protection has been described as a response to vulnerability using various interventionist approaches with the objective of improving resilience to shocks, reducing food insecurity, among others.⁵⁷ It has also been defined as 'a set of interventions aimed at reducing social and economic risks and vulnerability, and to alleviate extreme poverty and deprivation'.⁵⁸ Social protection has further been referred to as 'a mix of policies and programs designed for individuals and households throughout the lifecycle to prevent and reduce poverty and socio-economic shocks by promoting and enhancing livelihoods and a life of dignity'.⁵⁹ Thus, even though there is lack of a general definition of the concept of social protection, there is a general consensus that it is aimed at the reduction of the risk of vulnerability, especially with regard to consumption and access to basic services.⁶⁰ Social protection programs have also been posited as an important aspect of the efforts to fight poverty and hunger, particularly in developing countries.⁶¹ Thus, social protection consists of various intervention mechanisms such as social welfare, social security, social safety nets, social insurance, etc.⁶² Some of the significant functions of social protection that has been highlighted include; contribution to human dignity and social justice, cushioning of the impact of economic crisis among vulnerable populations, provision of basic income security through social transfers such as pensions, income support, etc, provision of universal access to essential social services.⁶³ Within the framework of this study therefore, social protection policies could simply be referred to as shock absorbers in emergency and/or vulnerable situations and circumstances. They are aimed at cushioning the negative effects or

⁵¹ CL Moses and MA Olokundun 'Social Entrepreneurship: An Effective Tool for Meeting Social Challenges and Sustainable Development' (2014) 2/3 *Entrepreneurship and Innovation Management Journal* 158.

⁵² N Alex *Social Entrepreneurship: New Models of Sustainable Social Change* (2006, Oxford University Press).

⁵³ C Seelos and J Mair 'Sustainable Development: How Social Entrepreneurs Make It Happen' (2005) IESE Business School Working Paper Series No. 611; AH Cho 'Politics, Values and Social Entrepreneurship: A Critical Appraisal' in J Mair, J Robinson and K Hockerts (eds) *Social Entrepreneurship* (2006, Palgrave Macmillan) at 34.

⁵⁴ UF Omelogo 'The Impact of Social Entrepreneurship on Wealth Creation in Nigeria: A Case Study of Selected Non-For-Profit Organizations' (2019) 9/6 *International Journal of Academic Research in Business and Social Sciences* 915.

⁵⁵ Ibid.

⁵⁶ A Ogbo *et al* 'The Impact of Social Entrepreneurship on the Sustainability of Selected Small and Medium Enterprises in Nigeria' (2019) 19/2 *Advances in Research* 1.

⁵⁷ N Freeland *Social Protection: Definitions, Objectives and Politics* (2012, United Nations Food and Agriculture Organization).

⁵⁸ Food and Agriculture Organization 'Social Protection' available at <www.fao.org> (last accessed 25 July 2021).

⁵⁹ Federal Republic of Nigeria 'The Draft National Social Protection Policy' (2016) at 20.

⁶⁰ ER Aiyede *et al* 'The Political Economy of Social Protection Policy Uptake in Nigeria' (2015) Partnership for African Social and Governance Research Working Paper No. 002.

⁶¹ Ibid.

⁶² IP Onyeonoru *Social Protection in Nigeria* (2018, Friedrich Ebert Stiftung) at 2.

⁶³ The World Bank *Managing Risk, Promoting Growth: Developing Systems for Social Protection in Africa, The World Bank's Africa Social Protection Strategy 2012-2022* (2012, World Bank); United Nations Development Program *Social Protection for Sustainable Development: Dialogues between Africa and Brazil, RIO+ Global Report* (2016, United Nations Development Program); International Labour Organization *World Social Protection Report 2017-2019* (2017, International Labour Organization).

adverse impacts of such emergency situations on members of the society. Arguably therefore, a comprehensive and viable national social protection regime may be effective in emergency situations such as that of the COVID-19 global pandemic.

There have been various attempts at ensuring social protection in Nigeria. First is the ‘National Provident Fund’ (NPF), a compulsory defined contributory scheme established in 1961 as a poverty alleviation measure. The fund was aimed at the protection of workers in the private sector from financial challenges due to old age, cessation of employment, invalidity, or death.⁶⁴ The NPF was replaced by the ‘Nigeria Social Insurance Trust Fund’ (NSITF) in 1993. The NSITF was established to serve the same aims and objectives as those of the defunct NPF.⁶⁵ Thus, the objectives of the NSITF include the contribution and payment of retirement, survivor, death, and invalidity benefits and grants to participating employees in the private sector.⁶⁶ The enabling Act establishes the Nigeria Social Insurance Trust Fund Management Board, which is responsible for the general control of the Fund and investments of sums forming part of the Fund.⁶⁷ The Board is also responsible for the payment of the various benefits provided under the Act to persons entitled to such benefits.⁶⁸ The Act permits money standing to the credit of the Fund and not immediately required to be expended in meeting the obligations of the Board to be invested from time to time in such proportions as the Board may approve, having regard to contingencies.⁶⁹ The management board is empowered to make regulations giving effect to the provisions of the Act.⁷⁰

Second, is the ‘Workmen’s Compensation Act’ (WCA) 2010, which makes provisions for payment of compensation to employees who suffer from occupational diseases, or sustain injuries arising from accident at their workplace or in the course of their employment.⁷¹ To this end, the WCA establishes an ‘Employees’ Compensation Fund’ (ECF) into which all employers are required to contribute at least 1% of the total monthly payroll on a monthly basis, to serve as compensation to employees or their dependants for any death, injury, disability or disease arising out of or in the course of employment.⁷² The WCA mandates that the ECF be managed by the NSITF Management Board.⁷³ The WCA also establishes an independent investment committee, which is responsible for the analysis and assessment of the investments and proposed investments of the ECF.⁷⁴

Furthermore, there is the ‘Pension Reform Act’ (PRA) 2014. The Act establishes a defined contributory pension plan for employees in the public and private sectors of the economy.⁷⁵ The contributory pension scheme is aimed at the provision of retirement benefits to employees, or death grants to beneficiaries of employees in the public and private sector.⁷⁶

It is therefore safe to conclude that the problem is not an absence of social protection laws in Nigeria, but with the limited scope of coverage of these laws. A look at the provisions of the NSITF Act, the WCA, and the PRA, indicates that the Nigerian social protection laws are strictly aimed at the protection of employees in the formal economy from financial challenges that may arise from retirement, invalidity, injury sustained from workplace accidents, and death. Thus, the coverage of the social protection laws does not extend to protection from financial challenges that may arise from emergency situations such as that of the Covid-19 pandemic. Although the National Pension Commission is empowered to issue guidelines, rules and regulations for the investment and administration of pension funds,⁷⁷ such guidelines and regulations must however conform to the objectives of the law in order not to be null and void. This is because an administrative authority may not exercise its powers beyond the scope of an enabling law. Thus, reacting to the need to use pension funds, which was about N10.2 trillion at that time, as palliatives for workers as a result of the financial challenges arising from the Covid-19 pandemic, pension operators were of the opinion that the PRA has stipulated guidelines on the administration of pension funds.⁷⁸ The Director of the Centre for Pension Right Advocacy, Ivor Takor, also opined that it was impossible for government to take pension funds for any purpose other than that provided by the enabling law.

⁶⁴ The Nigerian Social Insurance Trust Fund ‘About NSITF’ available at:<<https://www.nsitfweb.com.ng>>(last accessed 24 August 2021).

⁶⁵ Ibid.

⁶⁶ The Nigeria Social Insurance Trust Fund Act 1993, s16.

⁶⁷Ibid, s2(1).

⁶⁸ Ibid, s3(1).

⁶⁹Ibid, s28.

⁷⁰ Ibid, s40.

⁷¹The Workmen’s Compensation Act 2010.

⁷² Ibid, s33 & 56.

⁷³ Ibid, s57.

⁷⁴ Ibid, s62 & 63.

⁷⁵ The Pension Reform Act 2014, s3.

⁷⁶ Ibid, s7-9.

⁷⁷ Ibid, s23(6). See also section 3 of the NSITF Act, which vest the power to issue guidelines and regulations for the administration of the NSITF on the NSITF Management Board.

⁷⁸ ‘COVID-19: PFAs under Pressure to Release Pension Fund’ (27 April 2020) Business A.M.

He also stated that even if the money was to be used as palliatives, it was not available in cash as almost 70% had been invested in government treasury bonds.⁷⁹ The question therefore is if the existing social protection laws provide for protection from financial difficulties arising from retirement, invalidity, workplace accident, and even death, why can the same protection not be extended to financial hardship from emergency situations such as that of the Covid-19 pandemic?

The ‘Consumer Advocacy Foundation of Nigeria’ (CAFON) had noted recently that an insurance policy may benefit the society in many more ways than is realized. According to CAFON, one of the most important benefits of such policy, beyond the payment of losses, is the management of cash flow uncertainty.⁸⁰ The various social funds existing in Nigeria, that is, the Nigeria Social Insurance Trust Fund, the Employees Compensation Fund, and the Nigeria Pension Fund, are arguably forms of insurance against loss of income resulting from either a temporary or permanent cessation of employment. The question again is why such funds cannot be harnessed as a form of insurance against loss of income arising from emergency situations such as that of the COVID-19? It is noteworthy that the NSITF Act permits participating employees to apply to have his contributions converted into credits towards the purchase of real property intended for use by himself or his family for residential purposes.⁸¹ The Act also permits a similar application towards the purchase of or acquisition of equity holding in the company where the employee works.⁸² Hence, it is possible for the various enabling laws to make provisions for the conversion of some part of employees’ benefits into credit for use in cases of extreme financial emergencies and difficulty such as that prevalent during the COVID-19 lockdown.

5. Conclusion and Recommendations

In this article, the author highlights the socio-economic impacts of the Covid-19 pandemic on the average Nigerian. The author proceeds to analyze the potential role of the public and private sector in Nigeria, in responding to the Covid-19 pandemic, and in preparation for any such future emergency in the country. The author identifies the role of the public sector to include implementation of an effective CSR regime, formulation of relevant policies on social entrepreneurship, as well as appropriate reform of the existing social protection laws. Likewise, the author identifies the role of the private sector to include implementation of CSR practices, as well as investments in social entrepreneurship. The author’s argument is that, if the potentials of these identified roles are properly harnessed, it may help to mitigate the socio-economic impacts of any such future emergencies, as that of the Covid-19 pandemic, in Nigeria.

Since CSR has been indicated to play an important role in the growth and development of the Nigerian society, it is imperative that an improvement in the depth of participation in CSR by the Nigerian corporate sector be encouraged. It is however noteworthy that CSR is not an entirely strange concept in Nigeria. Based on the proliferation of various corporate governance codes and standards in the country, the Nigerian society expects some form of contributions from the corporate sector. However, leaving such expectations to voluntary initiatives by the sector has been held capable of giving rise to a wide gap between expectations and results.⁸³ Therefore, the author calls for a revisit and the harmonization of the erstwhile corporate social responsibility bills in the country.⁸⁴ This enhances the possibility of the legalization or legislation of CSR in Nigeria. CSR legalization or legislation is beneficial to the Nigerian society as it improves the depth of participation in CSR by the corporate sector thereby, ensuring that society benefits maximally from CSR processes. Beyond the legalization of CSR however, corporate organizations may be encouraged to divert their CSR and other philanthropic activities to the social economy whereby social entrepreneurs can help utilize their CSR funds to benefit the society maximally.

Second, the need for governments to create an enabling environment for entrepreneurial activities to culminate into national development has been emphasised severally.⁸⁵ In other words, in order to maximally harness the potential benefits, there is need to formulate relevant and appropriate policies and strategies that support social entrepreneurs and promote social entrepreneurship. Thus, the provision of an enabling environment, such as tax reliefs, non-cumbersome registration processes, access to interest-friendly loan facilities, etc., will attract more entrepreneurs to social entrepreneurship targeted at solving several social challenges. The government may also

⁷⁹ Ibid.

⁸⁰ Consumer Advocacy Foundation of Nigeria ‘The Benefits of Insurance to Individuals, Organizations and Society’ (2018) available at: <www.cafon.org.ng>(last accessed 3 June 2020).

⁸¹ The NSITF Act above at note 66, s17(a).

⁸² Ibid, s17(b).

⁸³ B Nwete ‘Corporate Social Responsibility and Transparency in the Development of Energy and Mining Projects in Emerging Markets: Is Soft Law the Answer?’ (2007) 8/4 *German Law Journal* 311.

⁸⁴ That is, ‘The Bill for an Act to Provide for the Establishment of the Corporate Social Responsibility Commission’ 2007; and the ‘Corporate Social Responsibility (Special Provision, etc.) Bill 2015.

⁸⁵ S Schaltegger and M Wagner ‘Sustainable Entrepreneurship and Sustainability Innovation: Categories and Interactions’ (2011) 20 *Business Strategy and the Environment* 222; MA Olokundun et al ‘The Role of Social Entrepreneurship and the State in Propelling National Development in Nigeria: A Conceptual Approach’ (2018) 22 *International Journal of Entrepreneurship* 1.

establish and maintain a national development fund which will be funded by the public and private sector based on a prescribed percentage. The government may also implement a policy that allows value-added taxes paid on goods and services consumed in Nigeria to be remitted into the proposed national development fund. The proposed objective of the fund is the promotion of social enterprises and the social economy as an investment priority. To enable accountability, an initiative similar to that of the extractive industries transparency initiative (EITI), may be implemented by the public and private sector, to monitor the disbursement of the fund.

Also, there is need for the promotion of specialized higher education training that studies the features and driving forces of social enterprises. Thus, social entrepreneurship may be developed into the curriculum of various Institutes of higher learning particularly, those of the social sciences. Since most Universities in Nigeria now have 'Centers for Entrepreneurial Studies', social entrepreneurship may be integrated into the curriculum of these Centers. This helps build adequate human capacity for the social economy. In addition, it is expedient that a close relationship is maintained between social and business enterprises in the capital market so that social entrepreneurs do not suffer any financial disadvantage. This may be achieved for instance by the implementation of a sustainable finance policy whereby, financial institutions and other classes of investors dedicate a percentage of their investment funds to social enterprises. This ensures that business entrepreneurs do not displace social entrepreneurs in the capital market.

Furthermore, responsible consumerism, whereby individuals and corporations patronize goods and services of social enterprises must be widely encouraged. This ensures that social entrepreneurs are not displaced out of the economy by business entrepreneurs. To this end, the promotion of responsible consumerism should be the responsibility of everyone in the society, from the consumers, to the media, civil society organizations, and the government.

Lastly, there is a need to reform the existing social protection laws in Nigeria in a way that the scope of their coverage is extended to include a temporary or unexpected loss of income or employment. This is because the existing social funds can serve much more benefits than that of retirement security, noting that retirement only matters to a living individual.