

The Need to Endorse Corporate Environmental Responsibility and the Government Role in Ethiopia

Ayalew Abate Bishaw*

Abstract

In promoting corporate environmental responsibility (CER) governments play key roles. CER develops a common corporate environmental policy framework and commits itself to action areas such as awareness creation, partnering, soft law development and mandating. As such it encourages the business sector to play its role in protecting the environment. In this article an attempt has been made to examine whether the Ethiopian government has played these key roles as mentioned. Accordingly, CER has been described, the government action areas have been identified and elaborated, and whether there is a need to endorse CER in Ethiopia and whether the government plays a role in these areas have been assessed. Pertinent laws and policy documents including the related literature have been consulted and reviewed. The findings show that, although there are convincing reasons for the Ethiopian government to play its own roles, there are only limited efforts. Moreover, some self-initiated business community efforts don't also have government support and monitoring. Therefore, the government needs to develop a common corporate environmental policy framework and commits itself properly to the CER action areas so as to endorse and/or promote CER. Important suggestions are forwarded that can help make decisions in this regard.

Keywords: *Government role, corporate environmental responsibility (CER), business, environmental policy, common comprehensive framework*

Introduction

The role of government in corporate environmental responsibility (CER) has been debated over a century. Since recently, however, because of the failure to develop a common international corporate responsibility (CR) framework,

* Ayalew Abate Bishaw: LLB (Haramaya University), LLM (Alabama University), SJD (Doctor of Legal Science (Jurisprudence) from (Zhejiang University Guanghua Law School), Assistant Professor at Debre Markos University Law School (www.dmu.et.edu.com), Advocate and member of Amhara Regional State Bar Association. I am really thankful to the anonymous reviewers and BDU Law School editorial for their comments. Contacts: Email: tsion.ayelam@yahoo.com, ayalew_abate@dmu.edu.et Mobile No:+251918748526. The author takes all the responsibility in this work.

various states are taking part in promoting corporate responsibility for the business sector to play its own role in protecting the environment. Hence, the government role in promoting CER has got extensive recognition and acceptance.¹ Among the most important action areas that governments are promoting the environmental responsibility of corporations include awareness creation, partnering, voluntary standard setting and mandating.² In the Federal Democratic Republic of Ethiopia where the business sector is recognized foundational to play a role in the economic development endeavor, the role of the government in promoting CER has not yet been explored and researched.

The purpose of this article is to review the policy development of the government of FDRE in relation to promoting CER. Accordingly, the conceptual frameworks for CER and the role of the government in promoting CER are assessed. To this effect, the Ethiopian current government policies such as environmental policy, economic policy and strategies, investment and industrial development policies are reviewed. This approach enables one to see the government's approach to CER from two key perspectives: from the overarching policy frameworks and implementation in terms of specific policies and programmes.

The article is organized into six sections. The first section deals with the definition of CER. In this section, the size and width of CR will be discussed and analyzed. The second section devotes itself to dealing with the government action areas in promoting CER. Hence, in this section action areas that governments in the world are taking to build systems of CER are

¹ See Ramon Mullerat, *Corporate Social Responsibility: A European Perspective*, Miami-Florida European Union Center of Excellence, (2013) Vol.13 No. 6

² Pavel Franc, Jiří Nežyba, Cornelia Heydenreich: *Taking Corporate Social Responsibility Seriously* Ekologický právní servis – Environmental Law Service, Brno, (2006 1st edition) p.7 See also the IOB Study entitled as: *CSR: the Role of Public Policy- a systematic literature review of the effects of government supported interventions on the CSR behavior of the enterprises in developing countries* (April 2013., p 58-63. Further one can see the World Bank Report on Public Policy for Corporate Social Responsibility July 7–25, 2003 accessible at www.worldbank.org last accessed sep 24 2018 on 9:24 am

See also the report from Halina Ward, *Public Sector Roles in Strengthening Corporate Social Responsibility; Taking Stock; Corporate Responsibility for Environment and Development* International Institute for Environment and Development(2004) p. 5-6

Laura Albareda Josep M. Lozano Tamyko Ysa, *Public Policies on Corporate Social Responsibility: The Role of Governments in Europe*. *Journal of Business Ethics* (2007) 74:391–407 DOI 10.1007/s10551-007-9514-1

Constantina Bichta, *Corporate Social Responsibility a Role in Government Policy and Regulation?* Research Report 16, p.10

discussed. From this discussion, the parameters to evaluate the Ethiopian government's performance are set.

The third section presents the review of institutional and policy frameworks in Ethiopia to ascertain whether the government has discharged its role in promoting CER. This section is meant to assess government action areas in promoting CER. The fourth section deals with the government's role in Ethiopia while the fifth assesses CER public policy implementation. The last section provides concluding remarks and recommendations.

1.1. Corporate Responsibility and Environmental Responsibility

1.1.1. Environmental Responsibility (ER):

CER is at the core of corporate social responsibility (CSR).³ CSR includes basically both the economic, social and environmental facets albeit the latter was not clearly and emphatically articulated in the earlier phase of development of CSR.⁴ CER is a relatively contemporary conceptual framework in the corporate world. Therefore, defining CSR sheds light to ultimately understand CER and it is defined herein.

1.1.2. Corporate Social Responsibility (CSR)

There are several definitions of CSR. However, there is no agreed upon definition with a binding effect all over the world. The practices do also vary accordingly. Nonetheless, it has to be noticed that the variation is very contextual and doesn't call for destruction but perspective/approach. In this section, definitions from different but influential departments are forwarded to understand and derive a working definition which can be applied in this study. The first definition is from Pavel Franc et al. They defined CSR as a "concept within the scope of which corporations are expected to behave responsibly during everyday business decisions and during the creation of their strategy concerning employees, suppliers, clients, shareholders, and

³ It is common understanding that corporate social responsibility basically enshrines social and environmental responsibilities of a corporate body, beyond the economy.

⁴ A Review of previous definitions, as shown in this section, reflects the social aspect of the CSR. This may be partly because of the fact that environment has come to be an issue in time second to socio-economic generations. The current tendency shows, however, that more emphasis and separate treatment is being given to the environment.

other stakeholders⁵ that include the environment.” This definition is broad enough that covers all the stakeholders of the business. It clearly explains that CSR is a principle to be followed in everyday decision making and in strategic development.

The second definition is derived from the definitions given by the European Commission (EC). The EC has defined CSR various times.⁶ These definitions reflect the evolution of the development of the concept in the European Union (EU). The third definition is one provided by the World Bank. It defined CSR as:⁷ “the commitment of bank, business to contribute to sustainable economic development, working with the public, employees, their families, community and society at large to improve quality of life, in ways that are both good for business and good for development”.

This definition does not have specific mention of the environment. It takes the banks’ responsibilities as corporate finance institutions. It expressed its own commitment. The fourth definition considered in this article is the

⁵ Pavel Franc etl., Taking Corporate Social Responsibility Seriously, Environmental law service, Brno (2006) 1st edition p. 7. It can also be accessed from: https://frankbold.org/sites/default/files/publikace/taking_csr_seriously.pdf as last accessed 19 Sept. 2018

⁶ Among others the following definitions are considered:

- a) *CSR is essentially a concept whereby companies decide voluntarily to contribute to a better society and a cleaner environment.”*
- b) *“CSR is a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis.”*
- c) *“CSR is behavior by businesses over and above legal requirements, voluntarily adopted because businesses deem it to be in their long-term interest”;*
- d) *“CSR is intrinsically linked to the concept of sustainable development: businesses need to integrate the economic, social and environmental impact in their operations”;*
- e) *“CSR is not an optional “add-on” to business core activities - but about the way in which businesses are managed.”*
- f) *“CSR is the responsibility of enterprises for their impacts on society. Corporate social responsibility concerns actions by companies over and above their legal obligations towards society and the environment. Certain regulatory measures create an environment more conducive to enterprises voluntarily meeting their social responsibilities.*

See Pavel Franc etl (2006), Taking Corporate Social Responsibility Seriously, Environmental law service, Brno 2006 1st edition p. 8 as mentioned in supra note 6. It can be accessed also from: https://frankbold.org/sites/default/files/publikace/taking_csr_seriously.pdf as last accessed 19 Sept. 2018

⁷ See Halina Ward, Public Sector Roles in Strengthening Corporate Social Responsibility: Taking Stock (2004) as accessed from: <http://documents.worldbank.org/curated/en/548301468313740636/pdf/346560CSR1Taking1Stock.pdf>, last accessed 13 Dec. 2019 @11:26 P 9. See also Maimunah Ismail, Corporate Social Responsibility and Its Role in Community Development: An International Perspective (Fall 2009) http://www.sosyalarastirmalar.com/cilt2/savi9pdf/ismail_maimunah.pdf last accessed on 13 Dec. 2019 at 11:15am.

definition from the Corporate Responsibility Coalition. According to this institute, CSR *has been promoted by business as a way of realizing its 'social responsibilities' beyond making a profit for its shareholders.* In contrast to this view, NGOs and trade unions tend to dismiss CSR as a public relations tool at best, and at worst a means for corporations to avoid the creation of regulatory and legal mechanisms as a means of ensuring that they adhere to acceptable standards of conduct. The fifth definition is from the World Business Council for Sustainable Development (WBCSD), 1997. It defined CSR as: “the continuing obligation of corporations to behave ethically and contribute to economic growth while simultaneously striving to improve the quality of life of employees and their families, and the local community and society as a whole.”⁸

The last definition considered is from social capitalist State-China. The Chinese Ministry of Commerce (MoFCOM) defines CSR as “the concrete action taken by Chinese companies to implement the political aspiration of the new communist party collective leadership putting peoples 1st to create a harmonious society.”⁹ The Chinese definition takes CSR as the commitment from the companies. It then reinforces the company's commitment to the political aspiration of the government. The political aspiration of the government is set to be putting people first and is said to create a harmonious society. Though what harmonious society constitutes is not yet defined, still it seems clear that the people, from the triple bottom line (people, profit and planet), is given prime consideration in this definition. In this limited context, this definition may be said to reflect anthropocentrism than eco-centrism. For more definitions, one can refer to the footnote herein below.¹⁰

⁸ Ibid.. For the detail aspect of the definition visit www.wbcسد.org The definition was developed in 1998 for the first World Business Council for Sustainable Development (WBCSD) CSR dialogue in the Netherlands

⁹ Chinese definition of CSR: as accessed from: <http://www.ethicalcorp.com/content/chinese-definition-csr> last accessed on 13 Dec. 2019 @12:03

¹⁰ Definitions of CSR for additional reference include: “...these are the obligations of entrepreneurs to carry out the kinds of procedures, to adopt those kinds of resolutions, and to follow those kinds of directions of negotiations that are desirable with regard to the objectives and values of our society” (Carroll, A. B., Corporate Social Responsibility – Evolution of a Definitional Construct, 1999) “Social responsibility is the obligation of the decision-makers to take steps that lead to the protection and improvement of society as a whole while following their own interests” (Keith Davis and Robert Blomstrom, 1966). “CSR is a way of doing business that meets or exceeds ethical, legal, commercial, and social expectations.” (the international organization Business for Social Responsibility, <http://www.bsr.org/>) “Corporate social responsibility (CSR) represents the voluntary obligation of companies to behave responsibly towards the environment and the community where they do

The aforementioned definitions reflect fundamentally two broad standpoints: compliance with the minimum legal requirements (narrow) and the compliance plus broad concepts that grant them huge obligation to stakeholders. This is also the reflection of the dominant trend in the practice of CSR. The contemporary approach, however, credits the latter approach in that multi-stakeholder dimension of CSR is accepted. It is with this idea that the study is concerned.

1.1.3. The Three Facets of CSR-*the Triple Bottom Lines*

CSR rests on three facets nominated as a *triple-bottom line*.¹¹ The triple bottom lines refer to the economic, social and environmental facets. Accordingly, they comprise the comprehensive responsibilities of corporations in the economic, social and environmental spheres. Each of the triple bottom lines has its own constitute elements.

The first one is economic responsibility. Corporate economic responsibility includes the following¹²: a corporation's business code of conduct and ethics code of conduct, transparency, corporate governance, combating bribery, and shareholders dialogue, behavior towards customers/consumers, behavior towards suppliers, and behavior towards investors. Accordingly, corporations have the responsibility of doing business for profit to the shareholders and at times be responsible for these stakeholders.

Social Responsibility is the other aspect. Corporate Social Responsibility extends to include many things that comprises:¹³ stakeholder dialogue, the health and safety of employees, the development of human capital, observance of labor standards, ban on child labor, balanced employee work and personal life (work-life balance), equal opportunities for men and women and other disadvantaged groups in general. It further includes accommodating issues such as diversity at the workplace, ethnic minority, the disabled and older people, providing requalification for laid-off employees to ensure their further employment, corporate philanthropy,

business." (Business Leaders Forum, an association of international and Czech businesses – <http://www.blf.cz>). One can also access this definitions from: Pavel Franc etl (2006), Taking Corporate Social Responsibility Seriously, Environmental law service, Brno 2006 1st edition p. 7-9. It can be accessed also <https://www.frankbold.org> last accessed 19 Sept. 2018

¹¹ Pavel Franc etl, Taking Corporate Social Responsibility Seriously, Environmental law service, Brno 2006 1st edition p. 7. It can be accessed also <https://www.frankbold.org> last accessed on 19 Sept. 2018

¹² Ibid.

¹³ Ibid.

sponsorship and volunteering, principle of Community engagement, mentoring and consultancy and human rights.¹⁴

The third one is environmental responsibility. This responsibility fundamentally includes the following:¹⁵ environmental friendly production, products and services (e.g. Eco-Management and Audit Scheme (EMAS) and International Organization Standardization (ISO) 14000 series audits, and FSC – Forest Stewardship Council - responsible forest management certification, etc.), environmental business policies (e.g. recycling, the utilization of environmentally friendly products, energy savings, etc.), the decrease of environmental impacts, investment into BAT (Best Available Techniques), the protection of natural resources. ER manifests itself in a strategy that the management of a company decides to follow relating to the level of environmental performance it wishes to attain; the levels ranging from mere compliance with legal requirements to following sustainable development principles.

2. Government Interventions and Action Areas in Promoting CER

As described above especially starting from the world summit on sustainable development (WSSD), governments in the world have shown their keen interest in the development of CER. As such different policy measures have been taken in the work towards promoting CER in the private sector. The most widely accepted types of government intervention usefully distinguished in promoting environmentally responsible business include awareness creation, partnering, soft law and mandating.¹⁶ These intervention

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Various sources like: Pavel Franc, Jiří Nežhyba, Cornelia Heydenreich: Taking Corporate Social Responsibility Seriously *Ekologický právní servis – Environmental Law Service*, Brno 2006 1st edition, p. See also the IOB Study entitled as: CSR: the Role of public policy- a systematic literature review of the effects of government supported interventions on the CSR behavior of the enterprises in developing countries April 2013., p 58-63. Further one can see the World Bank Report on Public Policy for Corporate Social Responsibility July 7–25, 2003 accessible at www.worldbank.org last accessed Sept. 24 2018 on 9:24 am

See also the report from Halina Ward, Public Sector Roles in Strengthening Corporate Social Responsibility; Taking Stock; Corporate Responsibility for Environment and Development International Institute for Environment and Development (2004)p. 5-6

Laura Albareda Josep M. Lozano Tamyko Ysa, Public Policies on Corporate Social Responsibility: The Role of Governments in Europe. *Journal of Business Ethics* (2007) 74:391–407 DOI 10.1007/s10551-007-9514-1

Constantina Bichta, Corporate Social Responsibility a Role in Government Policy and Regulation? Research Report 16, p.10

areas are indeed very common and used in all the themes of CR public policy areas such as education, human rights, poverty, environment, health and safety, participation in society and social inequality.¹⁷ So it is not limited to the environment only. The government does not have any requirement to distinctively apply them. It can use them altogether or may apply some of them at a period and then once only depending on the country's political economy context. For the sake of clarity, the discussion on each is summarized and presented below.

2.1. Awareness-raising

The government policy may first strategically focus on creating awareness about corporate environmental responsibility to enterprises in order to provide them with a deep understanding of the concept for its sustainable practice. It is a very strategic tool that can help the government to disseminate the idea (learning-teaching). It raises their awareness of contributing to sustainable development. It provides them with a common understanding of sustainable development among the company and stakeholders.¹⁸ Most of the time raising awareness is an important first step leading to public sector engagement in CR. Specific examples of policy instruments include tax exemptions for social or philanthropic investments, Internet platforms and award schemes that increase the visibility of CR activities, training and capacity building for small- and medium-sized enterprises (SMEs), and providing funding for research on CR.¹⁹

2.2. Partnering

This is the area where the government is basically involved in building multi-stakeholders environmental protection. The government through such policy framework plans to foster common grounds or agendas for both the government and other private business partners to involve them in running common practices in partnership. Accordingly, public-private partnership or private partnership or public partnership will be created so as to tackle and sustainably manage the environmental problem that the public at large is facing. Partnering instruments lie at the heart of the CR public policy agenda. Partnerships combine the expertise, competencies, and resources of

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Ibid.

the public sector with those of businesses and other societal actors to address action areas within the CR agenda, thus creating benefits for all. In these partnerships, governments may be the initiators, moderators or facilitators. For example, governments can launch multi-stakeholder dialogues, undertake a collective action or capacity building efforts with companies, involve various stakeholders in standard-setting procedures or simply mobilize financial resources. Numerous partnerships have evolved in recent decades to tackle issues such as poverty reduction, access to health and safety, and educational infrastructure.

2.3. Soft law

Soft law interventions to promote CR are non-regulatory interventions. Examples of soft law policies include the promotion of universal principles such as the UN Global Compact and the OECD Guidelines for Multinational Enterprises, the inclusion of corporate responsibility criteria in public procurement procedures, and the establishment of a national action plan on CR. Soft forms of regulation may offer an attractive complement to legislation. Unlike mandatory instruments, which often require long and intensive negotiation processes, soft law instruments can provide a flexible approach that can be easily adapted to a variety of policy fields. However, there is no relevant evidence that shows that Ethiopia is a member to any of the soft laws mentioned hereinabove.

2.4. Mandating

Mandating instruments are often used to set and enforce minimum standards for business performance in CR-relevant areas such as environmental protection, anti-corruption, and labor laws. These standards can come in the form of laws, regulations or sanctions which regulate and enforce business activities. Legal frameworks for corporate responsibility vary widely depending on a country's socio-economic and cultural framework. Although CR is generally considered a voluntary tool, a number of governments have implemented mandatory measures in recent years that oblige companies to report on their CR-associated business activities or to initiate public-private partnerships. The governments of UK and Denmark may be at the forefront when it comes to mandating.

2.5. Major Public Policy Action Areas in CER

The environment is one of the major themes addressed by the CR public policy.²⁰ Many others include diverse areas such as education, human rights, poverty, health and safety, participation in society and social inequality.²¹ The public CR policy areas may vary depending on context-related aspects such as socio-economic and cultural conditions. There is “no one size fits all approach”.²² Therefore, which aspect of the corporate affair is to be addressed by the public policy and how to govern them are critical aspects of the public policy action areas.

In the literature, there are basically at least five cross-cutting action areas to be covered by public policy. These are corporate governance, disclosure and reporting, community involvement and development and production and processing.²³ Taken together, they reflect broad trends in public CR policy development today.

3. The Private Sector Development in Ethiopia and the Need for the Government to Promote CER

3.1. Private Sector Development

Basically, in an analyzing the relation between state and business sectors in Ethiopia, there are three regimes to be taken into account: the imperial regime, the socialist regime and the current regime (Revolutionary Democratic State).

a) The Imperial Regime

At the time of the imperial regime (the reign of Emperor Haile Selassie), there was free market plus state plan for development.²⁴ Consequently, we

²⁰ UN Global Compact and Bertelsmann Stiftung, *The Role of Governments in Promoting Corporate Responsibility and Private Sector Engagement in Development* (2010) as obtained/accessed from: www.vub.ac.be/klimostoolkit/sites/default/files/documents/role_of_governments_in_csr.pdf last accessed on 20 Nov. 2018

²¹ Ibid.

²² Halina Ward, Tom Fox, Emma Wilson, LyubaZarsky, *CSR and Developing Countries; what scope for government action?* (2003) <http://pubs.iied.org/pdfs/G02247.pdf> Sept. 25/2018

²³ UN Global Compact and Bertelsmann Stiftung, *The Role of Governments in Promoting Corporate Responsibility and Private Sector Engagement in Development* (2010) as obtained/accessed from: www.vub.ac.be/klimostoolkit/sites/default/files/documents/role_of_governments_in_csr.pdf last accessed on 20 Nov. 2018 pp. 16-20

²⁴ See the Decree on Commercial Registration of 25 August 1928. The Company law of 12 July 1933. The (Draft) Bankruptcy law (of 12 July 1933). The Imperial Goods Price Control Proclamation No 38

may say that the government was taking the upper hand role in business regulation than the market. This regime co-existed with the birth of CSR in America and Europe. But as there were not big corporations in Ethiopia and the dominant actors in the private sector were small-scale peasants, it is difficult to talk about corporate responsibility. Nevertheless, the attempt to regulate the private sector and recognition of private property rights were manifestations of a government determined to regulate the sector through public policy. Moreover, there was no proof of corporate (both government and private) self- ruling.

b) The Socialist Regime

The other most important period in Ethiopian history to be assessed was the socialist regime that came to power in 1974. This regime is commonly referred to as the military (Dergu) regime. During this period the feudal regime was totally abolished and socialism took root. Central planning and state ownership were exercised and private sectors were marginalized.²⁵ During this period the private sectors were so marginalized it was unthinkable for them to participate actively in the country's economic development, and it was really hard for them to survive. The government did not consider them useful in bringing development for the people because of the political beliefs and ideology of the government.

In the later stages of the military government an understanding regarding the role of the private sector was created and the government adopted mixed

of 1943. The Locally Produced Goods Price Control Proclamation No 53 of 1944. The Ten Years Programme of Industrial Development of 1947. The First five years plan of 1957 to 1961; the second five years plan of 1962 to 1967; the third five years plan of 1968 to 1973. The Commercial Code of the Empire of Ethiopia Proclamation No. 166/1960, *NegaritGazeta*, Year 19, No. 3, Addis Ababa, 5th May 1960. The Business Enterprises Registration Proclamation No. 184/1961, *NegaritGazeta*, Year 21, No. 3, Addis Ababa, 20 October, 1961. The Unfair Trade Practice Decree No 50/1963, *NegaritGazeta*, Year 22, No. 22, Addis Ababa, 2 September 1963 - enacted latter as Unfair Trade Practices Proclamation No. 228/1965, *NegaritGazeta*, Year 24, No. 19, Addis Ababa, 3rd September 1965. The Domestic Trade Proclamation No 294/1971 *NegaritGazeta*, Year 30 No 32, Addis Ababa, 3 September 1971. The Domestic Trade License Regulation No 413/1971 *NegaritGazeta*, Year 31 No 4, Addis Ababa, 22 November 1971. The Regulation of Trade and Price Proclamation No 301/1972 *NegaritGazeta*, Year 31 No 16, Addis Ababa, 17 June 1972

²⁵ See Declaration [on Economic Policy of Socialist Ethiopia] of the Provisional Military Government of Ethiopia (Official English Translation from the Amharic), Addis Ababa, December 20, 1974. Government Ownership and Control of the Means of Production Proclamation No 26/1975, *NegaritGazeta*, Year 34, No. 22, Addis Ababa, 11 March, 1975. Proclamation Relating to Commercial Activities Undertaken by the Private Sector Proclamation No. 76/1975, *NegaritGazeta*, Year 35, No. 18, Addis Ababa, 29th Dec., 1975.

market economy.²⁶ The CER did not have any recognition at all in its modern sense.

c) The Current Regime (From 1991 to the present)

In 1991 the current regime took power and from 1991 to 1995 it was a period of transition towards a bit liberalized (free) market economy.²⁷ Post-1995 the government declared officially that the economic policy follows agriculture-led industrialization, free market with government regulation, government intervention at the time of market failure when the development objective necessitates²⁸ and developmental state approach.

The private sector now has grown up better than ever before.²⁹ Both domestic and foreign investors are doing business on a large scale. Big corporations of both domestic and foreign origin are involved in the

²⁶ See the Regulation of Domestic Trade Proclamation No. 335/1987, NegaritGazeta, Year 46, No. 24, Addis Ababa, 23rd June, 1987; the Domestic Trade Regulations No. 109/1987, NegaritGazeta, Year 46, No. 27, Addis Ababa, 27th August, 1987, the Small-Scale Industry Development Council of State Special Decree No. 9/1989; the Hotel Services Development Council of State Special Decree No. 10/1989; the Joint Venture Council of State Special Decree No. 11/1989; the Council of State Special Decree on Investment No. 17/1990; the Industrial License Council of Ministers Regulations No. 8/1990; the License for Tourist and Hotel Facilities Council of Ministers Regulations No. 9/1990; and the Participation of Foreign Investors Council of Ministers Regulations No. 10/1990.

²⁷ See the Transitional Period Charter of Ethiopia No. 1/1991, NegaritGazeta, Year 50, No. 1, Addis Ababa, 22 July, 1991 and Ethiopia's Economic Policy during the Transitional Period (An Official Translation, Addis Ababa, November 1991)

²⁸ See: The Constitution of the Federal Democratic Republic of Ethiopia Proclamation No 1/1995, Federal NegaritGazeta, Year 1, No 1 Addis Ababa, 21st August 1995 - with focus on the clauses for the making of economic policy. The Rural Development Policies, Strategies and Programs (Amharic Version, Addis Ababa, Hidar 1994 Eth. C. (2001)). The Industrial Development Strategy (Amharic Version, Mega Publishing Enterprise, Addis Ababa, Nehasie 1994 Eth. C.) The Five Years Development Plans: Ethiopia: Building on Progress, A Plan for Accelerated and Sustained Development to End Poverty (PASDEP) (2005/06-2009/10) (Volumes I & II), MoFED, September 2006. Growth and Transformation Plan 2010/11 - 2014/15 (GTP - I), Volume 1 - Main Text, MoFED, November, 2010. Growth and Transformation Plan of 2015/16 - 2019/20 (GTP - II), Main Text, MoFED. The competition laws: The Trade Practice Proclamation No 329/2003, Federal Negarit Gazeta, Year 9, No. 49, Addis Ababa, 17th April 2003 The Trade Practice and Consumers' Protection Proclamation No 685/2010, Federal Negarit Gazeta, Year 16, No. 49, Addis Ababa, 16th August 2010. The Trade Competition and Consumers' Protection Proclamation No 813/2013, Federal Negarit Gazeta, Year 20, No. 28, Addis Ababa, 21st March 2014

²⁹ Solomon Deneke, Private Sector Development In Ethiopia (2001) https://scholarworks.wmich.edu/cgi/viewcontent.cgi?article=1036&context=africancenter_icad_archiv_e_undp, http://www.et.undp.org/content/ethiopia/en/home/operations/projects/sustainableeconomicdevelopment/project_PrivateSector.html, last accessed 09/10/2018. See also the report from the world bank group: https://www.ifc.org/wps/wcm/connect/news_ext_content/ifc_external_corporate_site/news+and+events/news/ethiopia_to_host_world_economic_forum

manufacturing and industrial sector.³⁰ The government has enacted various policy and legislative frameworks. These new developments of the current regime are in fact subjects of this discussion too. However, CER has not been recognized as the core policy of the government. Though various techniques of promoting the private sector has been employed (financial and non-financial incentives), its role in formulating a CER policy for the private sector is far below expectation.

3.2. The Need of Public Policy for CER in Ethiopia

CER has been widely characterized as voluntary and it looks strange to question the need for public policy in protecting the environment. Against the classic views that downsize the triple bottom line concept of the CSR, now there is a change in the trend of corporate responsibility to link the responsibility of corporations to the society at large and the environment.³¹ No matter how much unsettled debates there are relating to the width and breadth of CSR and its features, countries are formulating public policies regarding CER. In the UK a distinct ministry has been established and government policy frameworks are formulated.³² In Denmark, the government has a clear policy of promoting, controlling and enforcing CER.³³

In Ethiopia which is one of the very least developing countries in the world, the intervention of the government in encouraging CSR is expected to be much broader in scope than others just because of the unique position policy the country holds and the imperative need to eradicate poverty and other problems. Thus, there are various reasons that could be mentioned to justify the need for public policy on CER. Among others the reasons may include economic, political, social, legal, cultural and environmental poor private sector recognition of CER.

³⁰ Steurer, R.: The Role of Governments in Corporate Social Responsibility: Characterizing Public Policies on CSR in Europe; in: *Policy Sciences*, (2010)43/1, 49-72, <http://www.wiso.buko.ac.at/papers.html>.

³¹ Pavel Franc etl, *Taking Corporate Social Responsibility Seriously*, Environmental law service, Brno 2006 1st edition p. 7. It can be accessed also <https://www.frankbold.org> last accessed 19 sep 2018

³² Ramon Mullerat, *Corporate Social Responsibility: A European Perspective*; Miami-Florida European Union Center of Excellence (2013). Vol.13,No.6 P. 7-8. It is also available at: www.miami.edu/eucenter Last accessed on 20 Sep. 2018

³³ Ibid.

3.2.1. Economic Reasons

Ethiopia is one of the least developing countries in the world economically. The private sector is not well developed. The government is still acting both as regulator and economic actor, though the liberalized economic policy is said to be adopted since 1991. Therefore, public policy consideration of CSR will contribute to the sustainable development of enterprises and endowments that are state-owned. The private sector in Ethiopia has only a short history of development that underlies its weak capacity to compete at the international level with big multinationals. Therefore, the government's involvement in developing a guideline for CSR could encourage the private sector to adopt its own CSR policy based on the government guideline. Hence, it avoids the risk of the proliferation of various CSR policies.

The Ethiopian government has the constitutional economic duty to 'formulate policies which ensure that all Ethiopians can benefit from the country's legacy of both intellectual and material resources'.³⁴ This duty extends to a government responsibility to 'hold, on behalf of the people, land and other natural resources and to deploy them for their common benefit and development'.³⁵ Based on this, it is clear that the government has the responsibility to hold natural resources on behalf of the people and has to design a policy that ensures common benefits and development. The recent understanding of CSR goes as far as covering the *triple bottom line principle*, implying that businesses should not only serve the economy but also meet social and environmental needs,³⁶ albeit there exists opposing classic view too. The Ethiopian government, therefore, has a special interest in CSR because the respective business efforts can help to meet these economic policy objectives set in the constitution. CSR is now a common body of doctrine that requires businesses to play a leading part in achieving the shared objectives of public policy and making the world a better place.

Finally, the government has an economic interest in CSR as the tax from corporations is a major source of its revenue for a simple reason. The focus on the narrow view of CSR, i.e. keeping the interest of shareholders may

³⁴ Federal Democratic Republic of Ethiopian Constitution; Constitution of the Federal Democratic Republic of Ethiopia, proclamation No. 1/1995, Federal Negarit Gazette 1st year, 1995, Article 89(1)

³⁵ Id, Article 89(5)

³⁶ Steurer, R.: The Role of Governments in Corporate Social Responsibility: Characterizing Public Policies on CSR in Europe policy sciences (2010)43/1, PP. 49-72. It may also be accessed from: <http://www.wiso.buko.ac.at/papers.html>.

affect government interest because of tax dodging from big corporations as the tax administration framework in Ethiopia is not sophisticated. There is also a relative booming of the economy for the last two decades that otherwise affect the environment adversely. The steady increase in investment has also a negative impact on the environment in Ethiopia unless the government properly manages it.³⁷

3.2.2. Political Reasons

The state political economy of Ethiopia is similar to or close to the developmental political economy. According to the developmental state political economy, there is a free market as a principle but with government regulation; there will be a government intervention at the time of market failure and when the development objective necessitates it.³⁸ CSR is one major strand that can encourage the private sector to contribute to the economic, social and environmental development objectives of the country. It has a development objective among others. Therefore, it is the natural political interest of developmental states to develop an interest in CSR management. Moreover, as mentioned above, there are big government endowments in which the government has great economic and political interest. Therefore, the adoption of the concept of CSR has a great contribution to the government to develop the system in government enterprises.

³⁷ As Mizanie Abate (PhD) has described there is a need for the government to prudently regulate the investment sector. See Mizanie Abate Tadess (PhD), *Transnational Corporate Liability for Human Rights Abuses: A Cursory Review of the Ethiopian Legal Framework* 4 Mekelle U. L.J. 34 (2016)

³⁸ See the Constitution of the Federal Democratic Republic of Ethiopia Proclamation No 1/1995, *Federal NegaritGazeta*, Year 1, No 1 Addis Ababa, 21st August 1995 – with a focus on the objective clauses for the making of economic policy (article 89). *The Rural Development Policies, Strategies and Programs* (Amharic Version, Addis Ababa, Hidar 1994 Eth. C. (2001)). *The Industrial Development Strategy* (Amharic Version, Mega Publishing Enterprise, Addis Ababa, Nehasie 1994 Eth. C.) *The Five Years Development Plans: Ethiopia: Building on Progress, A Plan for Accelerated and Sustained Development to End Poverty (PASDEP) (2005/06-2009/10)* (Volumes I & II), MoFED, September 2006. *Growth and Transformation Plan 2010/11 - 2014/15 (GTP - I)*, Volume 1 - Main Text, MoFED, November, 2010. *Growth and Transformation Plan 2015/16 - 2019/20 (GTP - II)*, Main Text, MoFED. *The competition laws: The Trade Practice Proclamation No 329/2003*, *Federal NegaritGazeta*, Year 9, No. 49, Addis Ababa, 17th April 2003 *The Trade Practice and Consumers' Protection Proclamation No 685/2010*, *Federal NegaritGazeta*, Year 16, No. 49, Addis Ababa, 16th August 2010. *The Trade Competition and Consumers' Protection Proclamation No 813/2013*, *Federal NegaritGazeta*, Year 20, No. 28, Addis Ababa, 21st March 2014

3.2.3. Social Reasons

To begin from the very philosophical conception of the idea of CSR, we may refer to the concept of social contract. According to this concept, there is an inherent contract between business and society in that businesses while running their activities need to take into consideration the interest of the society within the rule of the game. From the principle of triple bottom line, society is one major element.³⁹ As long as businesses take societal interests into consideration, together with economic and environmental objectives, the government will have a strong reason for showing interest in CSR. CSR is concerned with the distribution of corporate resources for the public good in which the government has an inherent interest to protect. Therefore, it is very clear that the government has a keen interest in CSR.

3.2.4. Environmental Reasons

The environment is one of the few common conceptions with universal understanding and goal. All the actors at the international level have a venture, albeit the range of participation varies. Stakeholders may include states, NGOs, and CSOs, business groups, multinational corporations and individuals. Currently, almost all stakeholders are working towards a common agenda relating to the environment – meeting sustainable development goals. CSR is understood as one of the major tools in an effort towards meeting sustainable development. In Ethiopia sustainable development is the prevailing constitutional environmental principle in which all stakeholders shall take into consideration the impact their activities can have on the environment.⁴⁰

The environment in many parts of Ethiopia is very fragile and needs the utmost care. There is rapid deforestation, loss in the biodiversity, drought, endangered endemic wildlife, soil erosion and water pollution because of old manufacturing industries. As a result, the government has given special emphasis for its protection and has issued various policies and legislation. Therefore, the public policy interest in CSR is indefensible.

³⁹ See Ayalew Abate Bishaw, Bahir Dar Law Review Journal Vol. 7

⁴⁰ Federal Democratic Republic of Ethiopian Constitution; Constitution of the Federal Democratic Republic of Ethiopia, proclamation No. 1/1995, Federal Negarit Gazette 1st year, 1995), Article 9 and 43.

3.2.5. The Private Sector Low Level of Environmental Commitment and Practice

Since 1991, there has been a rapid expansion of the private sector in Ethiopia.⁴¹ The public enterprises, foreign multi-lateral and transnational investment companies, government-foreign share and equity shareholders, foreign-private share companies, private companies including share companies, private limited companies, general partnerships, private limited partnerships and sole proprietors are doing business at various levels and paces.

Industries such as cement production, gypsum, manufacturing industries, chemical and extraction industries, pipeline and food processing and agricultural industries, brewery factories, leather industries are some of the industries involved in the economic sector and contributing a great deal to the GDP. Private investment has increased and the government is promoting foreign investment. There are various incentives including fiscal and non-fiscal, and there are many changes towards further improvement.

In Ethiopia the private sector does not have a CER framework at a country level or at a private level. The practice of CER is at its very infant stage of development⁴² and is fragmented⁴³ too. It is completely run on a voluntary basis and is usually self-initiated. It is not strategically enforced, too.

Some companies undertake CER by their own initiation. The BGI Ethiopia Brewery can be mentioned in this regard.⁴⁴ It has a self-initiated code of

⁴¹ In Ethiopia the year 1991 is land mark as it refers a shift from command and control economy to a relatively free market economy system.

⁴² Kassaye Deyassa, CSR From Ethiopian Perspective, International Journal Of Scientific and Technology Research (2016), Volume 5, Issue 04, April 2016 ISSN 2277-8616 299, IJSTR©2016 www.ijstr.org, Hailu FK and Nigatu, Practices and Challenges of Corporate Social Responsibility (CSR) in the Hospitality Industry: The Case of First Level Hotels and Lodges in Gondar City, Ethiopia TF.

⁴³ The absence of country level framework and unanimous practice are features of fragmentation.

⁴⁴ They have good CER code of conduct. They are promoting their product alleging that they produce environmentally friendly. See K. Rama MohanaRao, FentayeKassaHailu, Environmental Corporate Social Responsibility of Brewery Firms in Ethiopia International Journal of Applied Research (2016)p.1-7 <http://www.allresearchjournal.com/archives/2016/vol2issue4/PartA/2-3-102.pdf> last accessed on 6 10/2018. At their web: <http://bgiethiopia.com/csr/> it particularly stated that:

“BGI Ethiopia is faithful to the principles of environmental responsibility and goes beyond set environmental protection laws, standards and industry practices. Its commitment to protecting the environment and eliminating production practices with negative environmental and social impact is not a passing fad. It is the logical extension of the quality commitments Castel Group first drew up in the 1990s, which is now consolidated within BGI Ethiopia’s new Environmental Management System. At its core lies a clear economic logic: the company’s future success and sustainable growth will be

corporate environmental governance. Some develop their own code of practice including CER. The floriculture⁴⁵ industry can be mentioned here. The business associations have CSR as their core value but they don't have detailed implementation guideline.⁴⁶ Corporate social responsibility is mentioned as the core value of business practice by the associations. The business practice in Ethiopia is repeatedly, however, reported as affecting the environment. There is no good environmental practice. The horticulture industry, the cement industry (Dejen), the leather industries in Addis Ababa were reported as polluting the environment including by the government media.

The government only requires the private sector to comply with the standards by environmental legislation. The environmental impact assessment proclamation, the pollution control proclamation, the bio-safety proclamation, solid waste management proclamations are some of the legislation by the government. The Ethiopian Standard Agency sets the compulsory standard for products (product quality) and still, the enforcement is satisfactory.⁴⁷ The production processes are not taken into consideration.

In a nutshell, these low standard practices and initiatives from the private sector imply that the government should involve and promote CER through various modalities.

3.2.6. Poor Law Enforcement Practice

Because of lack of resources and other factors, law enforcement in Ethiopia is not effective. This implies that environmental legislation is not enforced and the government needs a public-private partnership for better adoption and enforcement of environmental law and standards. The concept CR as

wholly dependent on achieving a close synergy with the "ecosystem". These principles and values, although costly, resulted in the adoption and implementation of activities that support sustainable protection of the environment. These activities include, but are not limited to, installing water treatment facilities in all breweries and the winery, the adoption of organic and natural farming methods in the Ziway vineyard, putting greater emphasis on proper waste management and recycling, and replacement of energy wasting machineries and practices with a more environmental friendly alternatives."

⁴⁵ Ethiopian Horticulture Producer Exporters Association, Code of Practice for Sustainable Flower Production Version 4.0(2015) , <http://ehpea.com/files/downloads/EHPEA%20Code%20Version%204.0.pdf>

⁴⁶ Chambers of Commerce and Sectorial Association (CCASA), Core Values, (2003) <http://ethiopianchamber.com>, last Accessed on 10/10/2018

⁴⁷ Ethiopian Standardization Agency (ESA) (2016), www.etihstandards.org

explained in the introduction of this paper, however, has a significant impact as well as contribution to law enforcement. It facilitates law enforcement by both the government and the private sector.

3.2.7. Cultural Reasons

Ethiopia has a very deep-rooted culture of assuming responsibility for the family, the community, the country and for nature and the environment. In some rural and remote parts of the country (as is the case in South and South West Ethiopia), people pay a lot of tributes to nature and the environment. Nature is, in fact, the direct source for their feeding, clothing, and housing. They consider destructing nature as the worst of things. In most parts of the South and South West Ethiopia, it is a taboo to cut down trees and pollute water.⁴⁸ In every part of the country, it is strictly forbidden to fell trees found in or near churches. Most people also depend on nature for their food. To disregard nature and the environment is considered as dishonest and is followed by social sanction.

In Ethiopia, the family system is so extended and as per the tradition, every Ethiopian has a responsibility for family members, neighbors and the community in general. For example, one can punish or discipline the child of one's neighbor or a child of a member of the community provided the child is caught doing something considered wrong by the community.⁴⁹ This is because people traditionally assume common responsibility for raising a child with socially acceptable behavior. The same responsibility extends to the environment people use commonly. As laws and policies are required to reflect culture, the government has a good reason for cultivating such practices in institutions strategically. It is against the environmental culture of the society to disregard taking responsibility.⁵⁰

⁴⁸ Jon Abbink Ritual And Environment: The Mosit Ceremony of the Ethiopian Me'en People, *Journal of Religion in Africa* XXV, 2, University of Nijmegen and African Studies Centre, Leiden, the Netherlands.(1995)P. 11. See also from: <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.1000.426&rep=rep1&type=pdf>, Last Accessed 7 Oct 2018 @12:37

⁴⁹ By the custom of the community, you are entitled and have the honor as a community member to take disciplinary measures on children in the village. See from: https://www.younglives-ethiopia.org/sites/www.younglives-ethiopia.org/files/IWP_2016_25.pdf as last accessed on 13 Dec. 2019

⁵⁰ Allan Hoben, *Paradigms and Politics: The Cultural Construction of Environmental Policy in Ethiopia* *World Development*, Vol. 23, No. 6, (1995) pp. 1007-1021,

In a nutshell, as Ethiopia is a developing country facing many problems with ill-designed commitment structure, poor accountability and weak fiscal structure; a new form of regulation that takes its context into consideration is imperative.⁵¹ The other modes of regulation adopted for the developed countries cannot work here. It cannot leave corporations to their own devices to regulate themselves, and at the same time the government can't also fully regulate the private sector alone. Therefore, it is required to promote CER using public policy.

4. The Government Role in Ethiopia

In the previous section, an attempt has been made to justify the basic reasons behind the need for the Ethiopian government to promote CER. Accordingly, it is asserted that the Ethiopian government has strong reasons to promote CER through its public policy. This section discusses the view the government has in relation to CER. Given the need to foster CER in Ethiopia and the emergence of CER in some public and private enterprises, it is appropriate to present the view the Ethiopian government has taken and the ideas that the government is currently trying to promote in relation to CER. As the discussion is limited to assessing the government's role in promoting CER through public policy, only selective and top framework level analysis is made based on the parameters of mandating, partnering, facilitating and awareness creations roles of the government.

4.1. Legislations (Mandating Role of the Ethiopian Government)

4.1.1. The FDRE 1991 Constitution

The FDRE constitution is the supreme law that defines government powers and functions in Ethiopia.⁵² It provides power to the federal government to formulate and implement national policies, strategies, and plans including economic, social and environmental matters.⁵³ The constitution is also the highest policy document that prescribes many of the government objectives

⁵¹ http://shodhganga.inflibnet.ac.in/bitstream/10603/141275/9/09_chapter%201.pdf, See also Johan den Hertog, General Theories of Regulation as accessed from: <https://majandus.ut.ee/sites/default/files/mtk/dokumendid/e35f555bc5922cc21262fabfac7de2fc.pdf>

⁵² See Federal Democratic Republic of Ethiopian Constitution; Constitution of the Federal Democratic Republic of Ethiopia, proclamation No. 1/1995, Federal Negarit Gazette 1st year, 1995), Article 45-51 and article 9

⁵³ Tadele Ferede (PhD), Mainstreaming Sustainable Development at National Level: The Ethiopian Experience (2015). www.unosd.org last accessed on 11 October 2018 p.2

and approaches with respect to the economy,⁵⁴ the society,⁵⁵ culture,⁵⁶ and environment.⁵⁷ Thus, the constitutional stipulation may have enormous implications.

The constitution decreed private property right under Article 40 and freedom of association under Article 30 which are the foundational principles for the development of corporate bodies (business groups) and their engagement in economic development. The right to development and the right to a clean and a healthy environment are also included in the constitution under Articles 43 and 44. The recognition of the right to owning property and the right to clean and healthy environment has its own implication for the business sector as it imposes limitation in using their property so as not to affect the environment and infringe upon others' rights to living in clean and healthy environment. As a matter of principle, every right has a corresponding duty and it is from such a constitutional principle that corporations will be bound with a duty to act within the rule of the game. The phrase "in the manner compatible with the rights of citizens"⁵⁸ clearly shows that there are requirements to acquire, use and dispose of property. Among others, the mode of acquiring, using and disposing of such property is required not to affect the public and individual rights of persons. An example of such citizen and public interest requirement includes the environmental rights⁵⁹ as recognized under Article 44(1). The constitution has many provisions to do with environmental protection and lays the very foundational principles for the environmental policy objectives of the country.

The FDRE Constitution is also the manifestation of radical policy determination to shift towards recognizing the role of free market economy in the country.⁶⁰ It recognizes the role of the private sector in the economic

⁵⁴ See the economic objective in the Constitution Article 89, Federal Democratic Republic of Ethiopian Constitution; Constitution of the Federal Democratic Republic of Ethiopia, proclamation No. 1/1995, Federal Negarit Gazette 1st year, 1995)

⁵⁵ Id, Article 90

⁵⁶ Id, Article 91

⁵⁷ Id, Article 92

⁵⁸ Id, Article 40(1) It reads as: Every Ethiopian citizen has the right to the ownership of the private property. Unless prescribed otherwise by law on account of public interest, this right shall include the right to acquire, to use and, in a manner compatible with the rights of other citizens, to dispose of such property by sale or bequest or to transfer it otherwise.

⁵⁹ Id, see Article 44(1). It reads: "All persons have the right to a clean and healthy environment".

⁶⁰ Id, Article 40

development of the country.⁶¹ It asserts a liberalized economy as the national political economy of the country.⁶² It recognized sustainable development as the right of every person.⁶³ Based on these provisions in the constitution, it can be concluded that the government has shown due respect and regard for the private sector (business community) to play its role in the *triple bottom line*: economy, society and environment.⁶⁴

The constitution also adopts foundational environmental principles related to corporate responsibility. Among other things, it has recognized the principle of sustainable development,⁶⁵ the principle of inter- and intra-generational equity⁶⁶ and precaution.⁶⁷ Sustainable development implies that development endeavors shall be holistic in approach: shall take economic, social and environmental elements into account.⁶⁸ Development shall not compromise future generation interests. It shall not be guided by short-term benefits and shall be feasible and visionary as CER requires.

The second principle, i.e. intergenerational equity, means the current government has a duty to establish a system that could allow the present generation to use resources wisely to pass it onto the next generation without deterioration.⁶⁹ Intra-generation equity means the duty of the current generation to use resources with fair allocation and responsibility.⁷⁰ Therefore, the constitutional environmental principles underscore the responsibility of actors to the environment. As per this constitutional provision, the private sector has the basic obligation to observe constitutional environmental principles. To this effect, the government has a duty to

⁶¹ Ibid.

⁶² Id, see article 31, 40, 41, 42, 43 and 89. The cumulative reading of these provisions and the re-establishment of the chamber of commerce and other economic strategic documents assert the free (liberalized) market policy of the government.

⁶³ Id, Article 43

⁶⁴ Id, See Articles 89-92. The constitution has set political, economic, and social and environmental objectives. It recognized the role the private sector can play in the triple bottom line and traced (referred) them to that effect.

⁶⁵ Id, Article 89(1), Article 43 and Article 92

⁶⁶ Id, Article 89

⁶⁷ Id, See Article 92

⁶⁸ International Institute of Sustainable Development, <https://www.iisd.org/topic/sustainable-development>

⁶⁹ Federal Democratic Republic of Ethiopian Constitution; Constitution of the Federal Democratic Republic of Ethiopia, proclamation No. 1/1995, Federal Negarit Gazette 1st year, 1995)Article 89 and 92

⁷⁰ Ibid..

encourage the private sector to meet its constitutional goals. In this regard, the constitution has set the foundational principles to the promotion of CER.

Generally, this cursory review of the constitutional provisions has indicated that the government has a stake to promote and mainstream the corporate responsibility towards environmental protection. The constitutional duty that the government holds and the principles and rights enshrined in the constitution reinforce the belief that the government has to promote CER in Ethiopia.

4.1.2. Other Legislations of the Federal Government

Environmental legislations are enacted basically in order to set minimum acceptable conduct towards the environment. They are not meant only for the business sector but for all sectors having a stake in the environment. It includes individuals, families, groups, associations, CSOs, government bodies and business. The government is responsible for enacting environmental laws. Others have the duty of enforcing government laws under the threat of sanctions.

In Ethiopia, the government has enacted various environmental legislations mostly in the form of proclamations. These environmental legislations prescribe what is prohibited, permitted and the measures to be taken during violations. Accordingly, the business sectors are duty-bound to observe the laws. Some of the environmental legislation include the environmental organs establishment proclamation,⁷¹ environmental impact assessment proclamation,⁷² the pollution control proclamation⁷³ and other sectoral laws that are related to water,⁷⁴ ozone,⁷⁵ bio-safety,⁷⁶ and waste management.⁷⁷

⁷¹ The Environmental Organs Establishment Proclamation of the Federal Democratic Republic of Ethiopia, Negarette Gazette Proclamation No. 295/2002

⁷² The Environmental Impact Assessment Proclamation of Federal Democratic Republic of Ethiopia, Negarette Gazette 9th Year No. 11 ADDIS ABABA-3rd December, 2002. Proclamation number 299/300

⁷³ The pollution Control Proclamation of the Federal Democratic Republic of Ethiopia, Negarit Gazette of the Proclamation N0.300/2002 Environmental Pollution Control Proclamation, 9th Year, Negarette Gazette No. 11 ADDIS ABABA-3rd December, 2002.

⁷⁴ Water Resource Management Proclamation No. 197/2000 of the Federal Democratic Republic of Ethiopia, 6th year Negarit Gazette No.25 Addis Ababa, 9th March 2008

⁷⁵ Control of Ozone Layer Depleting Substances Proclamation, 17th year Negarit Gazette No.93 Addis Ababa 4th November 2011

⁷⁶ See the Bio-safety (amendment) Proclamation 21st year Negarit gazette No. 66 Addis Ababa 14th August, 2015.

Most of these environmental proclamations lack regulations and directives that enforcement the law.

Beyond the environmental legislation, the government of Ethiopia has legislation to regulate business conduct that includes the commercial code, business practice proclamations, the civil code, the criminal code, and the consumers' protection proclamations. These laws have set the minimum legal standards business has to follow while making a profit. The laws regulate business formation requirements, competition and protect customers' interests. These pieces of legislation don't have specific provisions for the environment.

4.2. Partnering Role of the Government to Promote CER in Ethiopia

Partnering role is creating cooperation between various stakeholders such as multilateral agencies, civil society, business and government towards shouldering environmental responsibility. It involves providing a forum for public-private partnership debate, dialogue, negotiating in standard development and guidelines. In this case, the government and the business sector could get the opportunity to develop an innovative guideline for the business sector to contribute to the environment. They will also be in the position to understand the environmental agenda which helps them later in enforcing the law.

The government of Ethiopia has a very short history of partnering with the business sector. As can also be understood from the evolution of development of the private business sector in Ethiopia, it has only short history. Therefore, there is no well-developed partnership between the government and the private sector. Nevertheless, a partnership between the government and the private sector could play a big role in the economy, and their partnership can contribute enormously to the environment. The government has now enacted public-private partnership (PPP) proclamation and established an agency.⁷⁸The recently enacted proclamation is to support economic growth and improve the quality of the public service. Its review revealed that there is no legal framework for corporate responsibility for the environment.

⁷⁷ Solid Waste Management Proclamation 13th year Negarit Gazette No.13 Proclamation number 513/2007

⁷⁸ The Public Private Partnership Proclamation No. 1076/2018 ("PPP Proclamation")

With an attempt to create a platform for the business sector, the government has amended the well-established chamber of commerce and sectoral association proclamation. The detailed aspect of the proclamation is discussed hereinbelow. Still, however, it shall be remarked that there is no significant partnership between government and the business sector towards environmental responsibility.

4.2.1. Government Role and Chamber of Commerce and Sectoral Association (CCSA) Establishment

The Ethiopian CCSA is the apex organ of the private sector in Ethiopia. It was first established during the reign of Emperor Haile Selassie in 1947.⁷⁹ It was established with the motto of promoting trade and investment relations to basically harness the export and import sector to maintain the balance of foreign exchange. Especially in the late periods of the imperial regime private property right was recognized. The chamber of commerce was established to assist the sector to that effect. It was given big support from the government.⁸⁰ In 1974 the imperial regime was abolished once and for all in Ethiopia and the military junta took power and ruled the country with socialist ideology over seventeen years. During the socialist regime (Derge) it was transformed to align with the political economy of the time, i.e. command market economy.⁸¹ In 2003 after thirteen years following the coming into power of revolutionary democrats (1991) another big reform has been made and the government used it as a channel to reach the private sector.⁸²

Among the objectives of the establishment of the association include the provision of various services to the business community, safeguarding the overall rights and benefits of their members, promotion and publicity of products and services of the country, enhancement of trade and investment of the country, and serving as a bridge between the business community and

⁷⁹ See from: <http://www.ethiopianchamber.com/new-page.aspx> as last accessed on 25th of Sep. 2018 at 4:35pm. The concept was first introduced in 1943. But it was established by Charter No. 90/1947 in 1947.

⁸⁰ See from: <http://www.ethiopianchamber.com/new-page.aspx> as last accessed on 25th of Sep. 2018, at 4:35pm.

⁸¹ The Military regime has enacted proclamation No. 148/1974 that oblige compulsory membership.

⁸² The association has been basically run by the government political ideology. The shift in government politics has made it shift and reform time and again. In 2007 it is once again restructured to attain the current form.

the government.⁸³ Based on this, we may understand that the chamber creates wonderful forum or platform for both the public sector and the business community to work in collaboration to meet the development goals of the country that may include environmental goals. It is thus through this channel that both the government and the private business sector get in touch with each other to discuss as well as embark upon their common undertakings.

Most important in relation to corporate responsibility is the establishment of the chamber of commerce, which includes value clauses. It clearly indicated that among the values promoted included CSR.⁸⁴ Whether the business sector in Ethiopia is really guided on the basis of these value clauses may, however, be questionable. This is because studies on the general understanding of the concept of CSR show a low level of awareness and performance among different sectors.⁸⁵ In its organizational set-up there is also no specific department responsible for CSR and stakeholder to represent the environment. The overall organization is weak and non-functional relating to the environment. There is no mechanism for environmental accountability, transparency, public involvement, and information disclosure. Hence, though the inclusion of CSR in the value promoted is to be considered a good prospect, to implement it on the ground has limitations beginning with its structural arrangement. There is no emphasis given for CER. Environment is not mainstreamed.

4.3. The 1997 Environmental Policy of Ethiopia

The fact that the government has incorporated the CER concept in adopting its environmental policy⁸⁶ is very important because it has helped the government to increase its commitment to promoting CER. Two of the nine policy objectives mentioned, among others, in section two, i.e. the guiding principles, sectoral and cross-sectoral policies reflect the government's

⁸³ See article 3 of the Chamber of Commerce and Sectoral Association Establishment Proclamation, Proclamation No. 341/2003, 9th Year Negarit Gazette No. 61 ADDIS ABABA 1 May, 2003.

⁸⁴ Basic values promoted include commitment to excellence, CSR and transparency and accountability.

⁸⁵ Mathias Nigatu Bimir, CSR learning in the Ethiopian Leather and Footwear Industry, *International Journal of Scientific and Engineering Research*, Vol. 7, Issue 10 (2016) p. 228 -232

⁸⁶ See EPRDF, Environmental Policy (1997). Section one deals with the resource base, section two is about the policy goal, objectives, and guiding principles, section three is devoted for sectoral environmental policies; section four is about cross-sectoral environmental policies, and section five deals with policy implementation

commitment to CER. The two objectives⁸⁷ are stated as "...incorporating environmental concerns into all economic and development activities and valuation of the environmental services, and ensure the empowerment and participation of the people."

According to the first objective, all activities in the country whether run by the government or the private sector, shall consider the environment. Thus, the government entrusts environmental responsibility to all economic and development actors in the country. Obviously, this includes business entities. Environmental protection is mainstreamed and the environmental services are also to be audited. These activities are really promising, though their actual implementation seems protracted.

The second objective refers to the government's concern of citizens' environmental participation and empowerment. The role of citizens and public participation in environmental protection is underscored. So, public participation is the cardinal principle in environmental protection and environmental law enforcement. It paves the way for citizens to challenge government decision making. This means that the Ethiopian government has pledged as per this policy document to the people that they will participate in decision making and will challenge the government's decision affecting the environment and their public interest. Furthermore, as citizens of a country can't simply be powerful (environmentally active participants) only through proclamations. The policy also implies that the government will initiate different ways of reaching the people to create environmental awareness and facilitate the means to empower citizens to stand for public environmental interest. Hence, these policy stipulations are more than just participation. It means that the government has the intention to work closely with citizens and the private sector to protect the environment.

Setting the key guiding principles, this section further revealed that natural resource and environmental management (EMGT) activities shall be integrated laterally across all sectors and vertically among all levels of the organization.⁸⁸ Accordingly, this public policy document has the objective of entrusting environmental responsibility both to the private and government sectors and to whatever activity they engage in and to whatever level they

⁸⁷ Id, Section two 2.2 (h and i)

⁸⁸ EPRDF Environmental Policy (1997) section two 2.3 (p).

are working at. Therefore, one can conclude that, though there is no specific mention of CER, the government through its environmental policy has convinced corporations or the private sector to integrate the environment into their policies and run their businesses responsibly.

The section dwelling on the sectoral and cross-sectoral elements also emphasize what is described in the objectives section. It has explicitly mentioned EIA, environmental education and awareness, community participation,⁸⁹ etc. EIA is a basic tool for environmental management and protection.⁹⁰ Under the implementation section, the policy encourages the establishment of relevant institutional frameworks, mandates differentiation among government organs and coordination in the respective discharge of environmental responsibilities including the private sector.⁹¹

Generally speaking, the Ethiopian environmental policy framework is a comprehensive document with inspirational provisions to mandate especially the concerned government bodies with various responses to its actual implementation. It also encourages citizen participation at various levels. Nonetheless, the policy has in general weak articulation to explicitly recognize and promote the private business sector to play a role in the corporate environmental responsibility. It positions the government dominantly at the very center.

5. Assessment of Government CER Public Policy Implementation

As we can understand from the above discussions of government policy frameworks, there is no clear recognition and incorporation of the CER in Ethiopia. What we have is only a constitutional arrangement, environmental policy framework, environmental legislation and the chamber of commerce proclamation that could potentially be interpreted as the application of CER. However, there is no evidence to show that the government has used CER as a policy option for the business sector to employ and contribute to environmental protection.

As a result, the implementation has gone through only law enforcement and voluntary corporate self-initiative. The law enforcement is achieved

⁸⁹ Id, Section 4 p. 20-25

⁹⁰ Id, Section 4.9 p. 24

⁹¹ Id, Section five 5.1.(b and e)

fundamentally through the application of EIA proclamation for projects that require legally reporting EIA. The environmental law enforcement is one of the lowest and we can't get practical cases from the courts. In Ethiopia there are no fundamentally clear and comprehensive public policies and public programs to implement CER. CER in the business sector is basically run by the initiative of the sector. Nevertheless, climate change and resilience programs, sustainable development strategies, and environmental legislation could be taken as government implementation of CER though its role in the private sector is still very limited.

5.3.1. Assessment of the Existing Institutional Frameworks

The current Ethiopian government has gone through several amendments to the re-establishment of executive organs of the government. The federal executive organs establishment proclamation is the most frequently amended proclamation of all in Ethiopia. Depending on the government strategies and plan, there exists frequent amendment of the law. The environment had been under the Ministry of Agriculture then organized as an authority, then again merged with the agency for forest and climate change at a ministerial level, and now it is organized as a commission.⁹² Other ministries are still changing. Even now the cabinet has decided to lower the number of ministries from 28 executives to 20 and the same proclamation is amended.⁹³ The government has claimed that reducing the government bureaucracy will help reduce costs. From among the current ministries, the Ministry of Agriculture and Natural Resources, the Ministry of Industry and the Environment Commission have specific mandates to protect the environment. However, since any of the activities of the ministries could impact the environment and since the environmental policy requires environmental mainstreaming the activities of the ministries should have included any environment-related responsibility. Or there should have been an organ particularly responsible for CER. A close examination of the existing proclamation proves that many of the government executive organs don't

⁹² See Definition of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia Proclamation, Proclamation No. 916./2015, Federal Negarit Gazette 22nd Year No.12 ADDIS ABABA 9th December, 2015 and Definition of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia Proclamation, Proclamation No. 1097/2018

⁹³ See Definition of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia Proclamation, Proclamation No. 1097/2018

have any role to play in CER. There is also no specific government organ to work towards CER.

6. Conclusions

The role the Ethiopian government has played in establishing a common and comprehensive CER policy framework is insignificant. If some practices exist, they are not organized and strategic ways of establishing a system. The reality in the business sector is no different. There is no organized and strategically adjusted CER. Some corporations and/or investment companies have nominal CER framework but is still fragmented and is based on their personal initiative and not managed in a coordinated way. The government's decision to review the economic policy to establish a free market system is not followed by the embracing of a framework regulating corporate environmental conduct. The development projects and plans don't have any corresponding environmental duties they should comply with when running the project of corporations. There is no organized government action to raise environmental awareness and partnerships are weakly coordinated and integrated. The government doesn't have soft regulatory CER frameworks developed purposefully for businesses to follow in leveraging environmental responsibility. The laws are not adequate and do not involve corporate accountability. They are mostly nominal and the enforcement is weak. The institutional framework is not based on the concept of CER. Moreover, the initiative and practice mostly developed by the self-motivated business companies were not compiled towards a common framework establishment and system creation. The government's role in rewarding and fostering this approach is almost non-existent. The code of conduct and voluntary movements by corporations are not effective, and there is no mechanism for the government to monitor their activities either. The community and active citizens do not have opportunities to participate and get environmental information. Some of the activities by few government organs were simply projects and fund-based and were not mainstreamed. Therefore, the overall assessment shows that there is a need to promote CER by the government in a planned, institutionalized, coordinated and organized manner. The government needs to work towards awareness creation, partnering, soft-law development and mandating via a clear and enforceable legal framework.

7. Recommendations

The following steps or actions are recommended to be taken by the Ethiopian government to harness the potential advantages of CER to accelerate the ongoing sustainable development process. The first is to incorporate CER in the existing government development policy as one of the strategies for development. As a result, CER should be considered as one of the pillars of the forthcoming development policy. The second is to establish an ad hoc task force of experts for CER with a special task to review the existing sectoral policies, rules, and regulations and then prepare a draft national CER strategy. The third one is to approve and promote the CER strategy of the country. Among other points, the strategy shall explain the objectives of adopting CER in the process of development, the expected roles of partners, and the central role of the government in safeguarding or protecting the interest of citizens and the environment in the process of CER operation. The basic intention of the government is to introduce CER into the system. The final step is to work towards institutional and policy framework development related to CER.

