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ORIGINAL ARTICLE

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Challenges of CSR in Sub-Saharan Africa: clarifying the gaps between the regulations and human rights issues

Achille Gildas Ndong Ntoutoume*

Abstract

This paper discusses the practice of Corporate Social Responsibility (CSR) and its challenges in Sub-Saharan Africa. The main purpose is to highlight and clarify the gaps between CSR regulations and human rights abuses caused by business organizations.

From a historical perspective, natural resources have been recognized as a common reason for pushing the CSR agenda in Sub-Saharan Africa, especially with the presence of big businesses in the outcome of globalization. However, despite a development-oriented CSR agenda and therefore on African local needs such as hospitals, housing, and roads, big businesses that have embarked on CSR activities are often involved in human rights violations. This is despite the insertion of human rights in some African state regulations, the UN Global Compact, and the UN Guiding Principles on Business and Human Rights in which those businesses are signatories. This is the case in Gabon, Nigeria, and South Africa whose regulations were established by the respective states indicate business' broader societal priorities directed towards stakeholders (local communities in particular) but in terms of corporate obligations, 'Human Rights appear to be a blind spot in CSR'.

The reasons for that are indicated in the findings of this qualitative inquiry, which reveals deep problems of corporate governance and little understanding of corporate human rights in domestic legislation. According to international law, human rights fulfillment focuses on nation-states as sole bearers. This means other non-state actors have indirect human rights responsibilities. Therefore, the challenge remains to extend and interpret existing domestic and international frameworks to include CSR alongside traditional state obligations. This could make corporate human rights more 'applicable' to businesses.

Previous research by Visser and Amodu has focused on proposing models to respond to the challenges of CSR in Africa. This paper clarifies the challenges of CSR with human rights issues and suggests an extension of the current legislative framework covering CSR. The article is qualitative and has used a Desk Research study approach that includes published academic papers, government documents some secondary data such as case studies, interviews, and discussions.

Keywords Business and human rights, CSR, Stakeholders, Sub-Saharan Africa

Introduction

Corporate Social Responsibility (CSR) is an extension of business governance whereby companies decide to fulfill certain responsibilities that go beyond profit-making. The responsibilities can be economic, social, legal, and/or environmental (Cheruiyot & Onsando, 2016, p. 94), and

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are directed toward stakeholders, in an effort to demonstrate the contributions of the business to CSR and express their relationship to society. Businesses that have embarked on CSR believe in their interdependence with society and, therefore, agree to address societal challenges in their new role as CSR drivers. This approach is supported by various scholars, including Williams, who asserts that the purpose of business is to be inclusive and create value for other constituencies, besides the shareholders (Williams, 2013, p. 43). This latter scholar seeks to demonstrate that business thrives within their societies when CSR is implemented.

Such a contribution from the business sector to the aggregate welfare of stakeholders has been deliberately framed, so that CSR is the voluntary meeting place for companies and stakeholders (Commission of the European Communities, 2001). Although the practice has evolved with this intent, recently the United Nations and certain NGOs, owing to business corporate scandals, have nurtured the idea of rethinking CSR as a voluntary or optional approach (Ruggie, 2013, p. 11). As a result, some African governments have regarded the interest shown by multinational corporations (MNCs) for their natural resources as an opportunity to regulate CSR-driven practices that are both widespread and contested. In particular, countries such as Gabon, Nigeria, and South Africa have regulated CSR practices for businesses associated with the oil and mining sectors for the businesses involved, in order to contribute not only to the upliftment of local communities' livelihoods that suffer due to the business activities, but also to the social development of the country. Hence, these three countries were selected for analysis in the current study to assess how they have successfully mandated CSR as nations that rely heavily on revenues from the oil, gas, and mining sectors and, thus, have drawn considerable attention from MNCs.

Indeed, African governments believe that successful implementation of CSR will serve to advance the developmental agenda of the nation (Frynas, 2005), however, certain challenges remain. For instance, governments and businesses may be unwilling to apply regulations to recurrent scandals facing the businesses, or to grievances expressed by local communities. Moreover, we postulate that while challenges have been raised by various CSR reports throughout African nations where the practice is regulated, none have considered the relevance of human rights (HR) to the provisions, thus causing a gap in current literature. Not only do businesses often overlook HR, but governments also struggle to make them applicable (Ruggie, 2009, p. 5). Indeed, HR in businesses impacted by African regulations are often overlooked and under-investigated, despite their inclusion in the CSR provisions

of certain African states. In fact, HR are regarded as the fourth pillar of CSR across the African continent (Cadet, 2014, p. 432). Hence, the current study seeks to highlight the gaps between CSR regulations and HR abuses in Gabon, Nigeria, and South Africa, all of which have been involved in HR violations despite provisional regulations that should prevent businesses from committing these abuses.

In 2019, Gabonese authorities regulated CSR in the mining and oil and gas sectors. In fact, Article 168 of Law n° 002/2019 of July 16 2019 on CSR urges businesses to improve the well-being of local communities (CHRG, 2019). In South Africa, the 2007 Codes of Good Practice recommends companies improve the lives of disadvantaged people (Triologue, 2021). Meanwhile, Nigeria's various provisions (CAMA, NEITI, and PIA) covering CSR, specifically the CSR Bill, directs MNCs to assist communities that often suffer negative consequences from the MNC industrial and commercial activities (National Assembly of the Federal Republic of Nigeria, 2007).

The current gap between CSR provisions and HR offenses may be due to a lack of understanding regarding HRs protection, or language barriers. Additionally, the specific HR referred to in the provisions might be unclear. Hence, specifying the HR being violated might clarify the regulations and offer a better understanding for businesses, thus, improving proper CSR implementation throughout Africa.

The primary aim of the current study is to clarify the gaps between CSR regulations and corporate HR abuses in Africa to identify the HR applicable to businesses that are often believed to be under state jurisdiction. Hence, the question of how to narrow the gap between regulation and HR abuses in business organizations would need to be addressed.

Theoretical underpinnings of CSR and human rights

The World Business Council for Sustainable Development defines CSR as a commitment expected from businesses for providing essential needs to their employees, other stakeholders, and society at large (World Business Council for Sustainable Development, 2000). This definition is inclusive of HR, and has gradually evolved at the academic and business levels. While prior academic activities had been reported by Bowen (2013), and Abrams (1977) in the 1950s, and Carroll (1979) in the 1970s, the managerial approach was shaped by international bodies, including the European Commission and the Organisation for Economic Co-operation and Development (OECD) in the 1970s, providing guidelines and CSR benchmarks for businesses. However, the CSR practice gained a renewed interest (1990s to 2000s)

with the rise of civil society organizations, between the Rio and Johannesburg Summits on sustainable development in 1992 and 2002, respectively. More importantly, the 2000 Global Compact engaged both governments and business leaders, urging them to be more inclusive in their governance approach, with emphasis on HR, as indicated in their CSR report contained in the Communication on Progress (UN Global Compact, 2005). Following this development, various initiatives were established in Africa, including the Network of African National Human Rights Institutions (NANHRI) created in 1987, or the Organization for the Harmonization of Business Law in Africa (OHADA) created in 1993. Both organizations have implemented frameworks to assist, defend, and redress human rights violations in businesses. Subsequently, various African legislations included CSR.

Importantly, HR are not spared in African CSR provisions. In Nigeria, section 4 of the 2007 regulation appointed an HR lawyer in Commission to control MNCs' actions while promoting HR contained in CSR provisions. Emphasis has been laid on legal standards, particularly regarding the environment and labor (National Assembly of the Federal Republic of Nigeria, 2007). Moreover, the Companies of Allied Matters Act (CAMA) 2020, the Nigeria Extractive Industries Transparency Initiative (NEITI) Act 2007, and the Petroleum Industry Bill 2012, which recently became the Petroleum Industry Act, 2021, include CSR values and similar approaches to HR. The common factor across all provisions is the business environment, i.e., the host communities and impact of environmental activities on the communities. In particular, the CAMA, 2020, in section 305 (3), refers to business leaders having to act in the best interests of the company and the environment, the latter including the host communities (CAMA, 2020). Meanwhile, the PIB in Section D instructs the companies to protect the health, safety, and environment around them. Additionally, the CSR Bill Section 5 (c), states that businesses should provide adequate relief to local communities that suffer from adverse activities (CSR Bill, 2007, p. 1241), while Section 4 makes available a human rights lawyer. From these provisions in Nigeria, the essential HR attended to by the businesses are health and employment. Indeed, most damage done by businesses is environmental, which affects the lives of the communities. In fact, implementation of these regulations by the Nigerian authorities was intended to address long-standing challenges with the Delta communities due to environmental turmoil (Tamuno, 2022). Moreover, the Shell oil spill in 2011 caused significant harm to the Bonga communities in the form of diseases resulting from harmful chemical product exposure (United Nations Environment Programme, International Resource Panel.

Sustainable Consumption,, and Production Branch, 2011, p. 5). This highlights the importance of sufficient health care access within the areas, which can be funded by the MNCs as part of their social contributions related to HR.

The second HR provision within CSR regulations is job provision. Businesses have accepted their roles as CSR drivers and have responded in kind to societal challenges, including employment. The case of the Niger Delta, with the Ogoni communities, revealed lack of community development due to inadequate employment causing the region to be marred by pollution and unemployment (Etekpe, 2009; Ejibunu, 2014, p. 10; Nwankwo, 2015, p. 3). Hence, despite the current laws covering CSR, Shell, in particular, caused tangible long-term consequences in a region in which government and businesses have done little to improve circumstances for the host communities (Idemudia, 2010:4). Hence, health and employment must be clearly specified in reading the provisions.

Similarly in Gabon, where HR, regarding environment and health, are expected to be fulfilled by mining and oil businesses, despite their weak track record. For example, the Oil multinational Perenco was responsible for the oil spill in 2020 in Port-Gentil, which is the seaport and oil hub (BHR, 2021:1). Another business is the mining company Comuf, which was responsible for the radioactivity leakage when they were exploiting uranium in the 1990s in Haut –Ogooué in the south of the country, which affected local communities of the region (Daoud & Getti, 2007). Mining products and tailings have been reported to be responsible for the potential contamination of water.

In South Africa, be it the King Report on Governance for South Africa 2009 or the Companies Act No. 71 of 2008, HR resonate with the social context. In particular, businesses are expected to demonstrate responsibility in implementing policies associated with broad-based black economic empowerment. However, housing is emerging as a challenge facing businesses. Indeed, the right to housing is entrenched and recognized in section 26 of the South African Constitution (2012), something that the local communities have come to expect and demand, when necessary. For example, under the 2006 Social and Labor Plan (SPL), the mining business Lonmin had committed to construct 5500 houses for workers by 2011; the stated beneficiaries were the communities of Rustenburg. However, due to their failure to follow through on these commitments, an employee strike ensued, ultimately resulting in the Marikana massacre of 2012 (Amnesty International, 2016, p. 20).

Therefore, the theoretical underpinning of CSR must be accurately understood by businesses, within the context of local and continental HR laws, regarding social, health, and employment provisions. These are regarded

as salient in Africa as they are persistently violated by MNCs. The legislature and regulations in place to hold businesses accountable for HR violations are summarized in Table 1, clearly demonstrating the plethora of HR legislation in Africa. Businesses have also made statements that have been broadcasted to the public sphere with their memberships of global frameworks.

Based on the HR stipulated in the African provisions or countries’ national policies, the following hypotheses are proposed:

- H1: In Nigeria, job provision can help businesses contribute to community development in their areas of operations and address HR issues.
- H2: In Gabon, health infrastructures can improve the relationships between businesses and local communities.
- H3: In South Africa, better housing for local communities can demonstrate the business’s inclusive approach to CSR, and therefore, to HR.

Existing CSR regulations in Sub-Saharan Africa

Regulation is a deliberate action to create order or influence the behavior of others, often including law (Amodu, 2020, p. 87). In the context of this study, it is the appropriate regulatory system for CSR directed at businesses in Africa. It is commonly believed that CSR was introduced to the Global South by the West, suggesting that business projects are primarily focused on ethics, fair labor issues, and education (Rampersad & Skinner, 2014:2). These are indeed some of the major concerns of mainstream CSR in Africa, with various businesses properly managing CSR projects that align with the state’s identified priorities. These priorities are reflected in relevant regulations and associated with recognized benchmark standards (Rampersad & Skinner, 2014, p. 9). Regarding CSR regulation, understanding and acceptance of African government provisions are often higher when they incorporate local infrastructure development (Amaeshi et al., 2006; Visser, 2008). Meanwhile, all necessary regulations are expected to be driven by MNCs, whose roles within the society are shared with states in a concerted and accountable context (Scherer & Palazzo, 2011, p. 6). Accordingly,

the CAMA, 2020, CSR 2007 Bill, and Petroleum Industry Act were written into law in Nigeria, while the CSR Regulation (2008), and Policy Codes (2019) were established in South Africa and Gabon, respectively.

Nigeria

Section 33 (1) of the 1999 Nigerian Constitution states that people living in Nigeria shall have a right to life, and no one shall be deprived intentionally. The right to life is to be looked at in its broader sense and include the activities that should not harm the individual, but rather protect them. That is, people should be free from harmful economic activities and the environment is to be protected from pollution (Enabulele, 2014, p. 1). This is an illustration of the right to life in a context where the lives of local communities are constantly threatened by business activities.

HR issues are related to Corporate Governance (CG), and Nigeria, along with countries such as the USA or UK, have established CG guidelines with CSR that are applicable to companies (Mrabure & Abhulimhen-Iyoha, 2020). The guidelines specify the allocation of rights of, not only shareholders, but also stakeholders with specific actionable steps described. Further to this idea is CAMA Section 305 (3), which instructs directors to be cognizant of stakeholder protection under the Nigerian primary corporate law, which in turn is consistent with the Nigerian Constitution on its approach to HR. Additionally, within sections 305 (4) and 305 (9) of CAMA, 2020, businesses are instructed to act in the best interests of the company and the environment, both of which are made of the host communities in which they operate. As such, they deal with matters which a business should have regard for and which affect HR.

In the 2007 CSR Nigeria Bill Section (1), the existence of a body known as the Corporate Social Responsibility Commission offers adequate support to host communities who suffer from the adverse industrial and commercial activities of businesses operating in their regions. The bill that was introduced to the Nigerian National Assembly in 2007 is the complete and final legislation encompassing all CSR-related activities in corporate Nigeria (National Assembly of the Federal Republic of Nigeria, 2007, p. 1241). Meanwhile, Section (4)–(1) allocates (a) a

Table 1 Human rights in Africa

Country	Provisions containing human rights in Africa		
	National framework	Continental framework	Global framework
Nigeria	Constitution 1999	AUHR-2005	UNGPs 2011
South Africa	King Report IV 2009	AUHR-2005	OECD 2017
Gabon	Hydrocarbon Code 2019	OHADA 1998	UNGPs 2011

president, (b) human rights lawyer, and (c) person from environmental protection agency. As indicated in Section 5 (c), “The Commission is to conduct research and investigate the needs of host communities.” (National Assembly of the Federal Republic of Nigeria, 2007, p. 1241). Protection of human rights that are embedded in the constitution has been extended to business enterprises for their impact on HR (Igbayiloye et al., 2015, p. 1).

As for the Nigerian Petroleum Industry Bill 2012, sections C and D promote transparency and openness in the administration of petroleum resources, as well as in the protection of health, safety, and the environment (PIB. Petroleum Industry Bill, 2012). Hence, basic HR are the key highlights of the Bill. Besides, the PIB was recently amended to the Petroleum Industry Act (2021) and signed into law in August 2021, granting a special provision called ‘Host Communities Development Trust’ to benefit the host communities where they operate. In fact, the Nigerian government expects businesses to allocate 3% of their annual budget toward host communities that are often affected by corporate HR abuses.

South Africa

The South African Regulation Section 5 (43) emphasizes labor and employment as a key aspect of the management of businesses involved in CSR (South African Company Act, 2008, p. 2). This is especially true for businesses involved in the Johannesburg Stock Exchange (JSE); otherwise large businesses, by size and turnover, are expected to use CSR to address economic disparities and contribute to social development. Section 5 (bb) of the South African Company Act further indicates the need for, “A social and ethics committee that contributes to the development of the communities in which its activities are predominantly conducted or where its services are marketed” (South African Company Act, 2008, p. 2). The provision focusing on the community is meant to facilitate a “closing of the gap” between businesses and unmet HR, as stipulated within the national constitution. Indeed, the South African CSR regulation landscape is well-established in terms of HR, including initiatives like the King Report on Corporate Governance, the Social Responsibility Index of the Johannesburg Securities Exchange, the UN Global Compact, and the OECD Guidelines for Multinational Enterprises (Gajadhur & Nicolaides, 2022, p. 3).

Gabon

The Hydrocarbon Code (Law No. 002/2019 of 16 July 2019) describes best practices in terms of transparency, good governance, and corporate social responsibility. Chapter 2 of the Gabonese Hydrocarbon Code 2019

outlines directives for businesses involved in hydrocarbon activity in the Republic of Gabon to participate in the country’s economic development, in social promotion of the Gabonese, and in development of the hydrocarbon industry. As indicated in Section 168, CSR equates to the welfare of the local community” (CHRG, 2019:49). Moreover, Gabon is a part of the Harmonization of Business Law in Africa (OHADA) that addresses various issues, including CG (Motto, 2016, p. 17), which is meant to focus on HR issues.

Methodology

The methodology employed herein corresponds with the research objective, i.e., to highlight and clarify the gaps between CSR regulations and HR abuses caused by businesses. Using a desktop research approach, secondary data was assessed. The data was collected from individuals living within, or with a comprehensive understanding of, the target countries, legislations related to CSR, businesses, and CSR practice; although not all were necessarily employees or part of the business’ value chain. More specifically, two participants from Nigeria and two from Gabon were selected for the semi-structured interviews; additionally, former colleagues’ contacts in South Africa to have the opinions of the questions posed. The large amount of information obtained from the individuals selected from industries in Nigeria and Gabon provided valuable insights regarding the challenges facing the emerging CSR agenda in Africa from an HR perspective.

Two professionals from Nigeria, including a CSR author and publisher that is employed as a consultant for an oil and gas MNC, as well as a CSR author with a legal background, were interviewed, the conversations from which were subsequently transcribed. In Gabon, an NGO leader offered his views on the issues raised in the questionnaire. He had particular interest in the hydrocarbon industry having worked for governmental departments in charge of mineral resources. The second respondent from Gabon was an employee of a multinational energy company who answered broad questions about CSR that were not necessarily related to HR. Meanwhile, given that I was previously employed in South Africa, my focal points were contacted, including members of NGOs and mining employees. However, host communities were not approached for feedback, given that in-person focus groups are typically best suited for garnering opinions regarding relationships with MNCs. Moreover, the high degree of technicality associated with CSR processes and terminology would have likely impeded acquisition of accurate results. This challenge would have been further compounded by implementation of the recent CSR policy in Gabon, which has made it difficult for some employees, customers, and supply chains to understand

the regulatory dynamics. Indeed, comprehensive employee training in such a sensitive field is not common in the Gabonese corporate culture. Nonetheless, the high-quality participants and data acquired through interviews (Table 2), are sufficient to generalize solutions for common HR challenges, given that not all countries in Africa have CSR regulations and the case of the three mentioned countries could be replicated in those lacking CSR provisions but believing in the relationship between practice and development.

Furthermore, secondary data were derived through content analysis of relevant data from the answers provided by the respondents and MNC employee in Gabon. Content and textual analysis, facilitated data analysis, comprising CSR, BHR, sustainability, reporting, and GRI, and provision of potentially useful explanations (Richard, 2012).

Finally, government data were obtained to understand the laws governing CSR and HR. Other informants provided sensitive materials that the author would prefer not to disclose until they get to the public domain. All participants provided consent for future use of the data.

Data analysis

The objective of this study was to gain insights regarding the challenges of CSR in the context of HR. When asked their opinions on how to close the current gap between CSR and HR, the respondents did not necessarily use the words ‘human rights’, but from their feedback, it was inferred, since they were largely from the industry. The analysis intended to present the data, identify the relationships, and note the key themes reflecting the research, a strategy that was previously applied for managing a large amount of data associated with qualitative analysis (Roberts & Hyatt, 2019, p. 153). In terms of similarities, the three countries

were found to have regulated CSR practice. Gabon and Nigeria did so for the petroleum industry, accounting for much of their economy, whereas South Africa’s approach to CSR was for all business activities, by size; those companies listed on the Johannesburg Stock Exchange/Socially Responsible Index (JSE- SRI) into their business activities (Kabir et al., 2015, p. 5). The CSR provisions provided for all three countries incorporates HR language.

While the CSR practice is well established, to date, its implementation has been voluntary, with regulations only introduced in 2019 in Gabon, whereas in South Africa and Nigeria, CSR bills, policies, and codes (although revisions have been made) can be traced back to the 1990s. Moreover, South Africa regularly discloses CSR expenditures from businesses each year through a publication called *Triialogue* (Triialogue, 2021), which is not the case for Nigeria and Gabon. Additionally, the publishing figures is recommended by international benchmarks, such as the Global Reporting Initiative (GRI) and the UN Global Compact. In Nigeria, it is included in the Extractive Industries Transparency Initiative (NEITI), which was inspired by the EITI, a global project involving an array of companies in the resource sectors (Shaxson, 2009, p. 12) to motivate MNCs to release their business revenues from oil, gas, and mining (EITI, 2002). However, the reporting culture is not ingrained in the corporate culture of Gabon, even for MNCs involved in mandatory CSR. Despite these advancements, HR abuses are widespread.

The study participants described three aspects that adequately explain the challenges facing CSR in Africa:

1. The idea of CSR as philanthropy is still dominant in the mindset of some businesses in Africa

Table 2 Interviewee responses from three countries

Country	Interview
Nigeria Respondent1 (CSR academic)	“We cannot talk about CSR without the government having a role to play. The practice is traditionally philanthropy and many MNCs still regard it as such. They need to think about sustainability in their business as part of an integrated CSR but sophisticated action lacks.”
Nigeria Respondent2 (CSR academic & employee)	“Global South scholars and practitioners cannot afford to see CSR as some western ideas as it is the same everywhere, but only issues vary from one jurisdiction to another.”
Gabon Respondent1 NGO leader	“CSR problems lie in the corporate and state governance. The state interferes in CSR matters and businesses feel they have less to do in terms of its CSR implementation, which is paradoxical for the state in its pursuit of developmental agenda. Businesses take advantage of that. The money allocated by firms to CSR does not follow proper channels and serves the communities. Hence HR issues.”
Questionnaire	
Gabon Respondent2 An employee of a large company	“The business has a well-established CSR Department because it is part of the state requirements but there is no roadmap or monitoring system.”

2. The interpretation of CSR by governments is the key to understanding the practice and overcoming human rights challenges
3. The practice undertaken by businesses has no clear roadmap

CSR regulation in Nigeria has been gradually revised since 1990, with CAMA 1990, 2004, and 2020, to identify the shortcomings and respond to the challenges faced by businesses and address the growing needs of local communities. The inconsistencies or innovations highlight what was raised by Respondent 1 in Nigeria, alluding to the government for implementing CSR. Moreover, under the NEITI, the National Stakeholders Working Group (NSWG) empowered the president to appoint individuals as representatives of different stakeholder groups to monitor the activities of extractive industry companies (NEITI Handbook, 2005). According to Respondent 1, CSR continues to be thought of as business-driven philanthropy in Africa. Hence, with businesses considering CSR philanthropic, the idea of it being mandated seems ludicrous, allowing all types of abuse to occur, including HR violations. This suggested that the government, as a regulator, can ensure that businesses comply with the law, which clearly indicates that the practice paradigm has shifted. The idea was suggested by Respondent 2, who talked about the interpretation of CSR by governments, as the key to understanding the practice and overcoming challenges related to HR. Taking 'sophisticated action' means that the government, as an important stakeholder, needs to monitor the practice, especially since it is also accountable for its actions. This was outlined in PIB 2012, which indicated that businesses are to pay 10% of their net profits toward utilization for communities. That fund is given to the government, as indicated in the reports provided after an audit detailing Shell's CSR activity (KPMG International, 2014). This suggested that the government has a degree of accountability toward communities, which is a key determinant of CSR as it bestows the government, and society, the responsibility to assess businesses' performance (Valor, 2005). Indeed, the 10% funds could serve as a remedy, for example for those host communities that have been victims of HR abuses or are often affected by business activities.

For Gabon, compared to Nigeria and South Africa, whose CSR fund allocations are clearly defined, Articles 168 and 217 indicate that 2% funds from profits are to serve as business CSR contributions to communities (CHRG, 2019, p. 49). However, according to the informant, the money is distributed by appointed members who are government representatives. Thus, if the allocated

funds do not reach the communities, local communities will lack the essential services, such as housing, and basic healthcare, resulting in HR abuses.

Finally, according to the South African informant, businesses have issues with Affirmative Action (AA) and Black Economic Empowerment (BBE). Act 53 of 2003 refers to the Broad-Based Black Economic Empowerment (BBBEE) that formalizes CSR programs (Skinner & Mersham, 2008). Businesses find it hard to cope with the list of social issues surrounding the AA and BBBEE; on one hand, having to allocate resources for individuals who are mostly unskilled and unwilling to learn, and on the other hand, dealing with productivity, thus impeding proper execution of CSI provisions. Meanwhile, other businesses think that most of the social issues faced by them are purely state jurisdiction.

Taken together, the primary challenges facing CSR concerning HR can be narrowed down to the mis-categorization as philanthropy and poor governance. First, the idea of 'philanthropy' is quite pervasive in CSR, due to the Archie Carroll's pyramid that is still widely used by many businesses (Carroll, 1979). Consequently, some businesses tend to overlook the legal framework of the practice. In Africa, the recurrent HRs abuses suggest businesses have not realized that CSR practice has 'advanced' beyond philanthropy (Amaeshi et al., 2006, p. 12). Second, based on the responses, it is clear that the provisions must be clearly understood and contextualized. Failing to do so will result in not addressing African stakeholders' CSR concerns and continuing to prioritize the CSR activities deemed most important by Western shareholders/headquarters (Idemudia, 2022, p. 1). Finally, a roadmap means going beyond the checklist that businesses often use to perform their CSR projects. It is difficult to assess the success of such projects if the businesses are not reminded of their corporate obligations by governments in Africa.

Conclusion

This article provides an overview of the CSR provisions in three African countries and highlights the challenges of the practice regarding HR issues. Human rights are a part of the CSR provisions in Gabon, Nigeria, and South Africa, although corporate abuses persist. Upon investigation and discussion with insiders, the provisions were found to lack clarity and coherence to reflect the socio-economic realities. Therefore, the provisions require an extension of their scope, since CSR is highly contextual, as are HR. Building on the specific sections in the provisions dealing with HR, and based on the respondent's responses, the essential human rights were understood to be health, job provision, and housing, all of which should be incorporated into the

provisions to make them more applicable to MNCs. In particular, their inclusion may limit recurrent environmental harm that has occurred in Gabon and Nigeria, which has affected the health of the host communities, despite them being the focal point of the provisions. The policy of local content and BEE in countries, such as Gabon and South Africa, is why job provision for host communities should be included in the provisions. Similarly, housing for communities, employees, and their families, should be included; bearing in mind that most businesses involved in mining, oil, and gas operate in semi-rural areas, in which basic HR are an issue.

The UN Guiding Principles, which were set in 2011 to specifically monitor HR for businesses, do not detail the specific HR applicable to companies. Therefore, the conclusions of this article advance CSR literature, particularly in domestic legislations with governments in Africa, which are vying for mandatory CSR. Given the importance of HR, it is recommended that governments take on more accountability, while more implications from NGOs are needed. This approach is consistent with the recent African Business and Human Rights Forum held in Accra on October 12 2022, which focused on the promotion of responsible business and engagement with key stakeholders for a better CG approach and understanding of corporate HR. While research with secondary data is daunting in terms of limitations of first-hand data from the business directors, having had access to an employee, with a thorough understanding of CSR, and an NGO, significantly assisted in forming a clear picture of current issues and generating key conclusions. Future research may delve deeper into the benefits of mandatory CSR, exploring whether businesses can bring social development through CSR, and whether the government's role should be participative or merely regulatory.

Abbreviations

AA	Affirmative Action
BBE	Black Economic Empowerment
BHR	Business and Human Rights
CSR	Corporate Social Responsibility
HR	Human Rights
MNC	Multinational Corporations
NGO	Non-Governmental Organization
UN	United Nations
UNGC	United Nations Global Compact
UNGPs	United Nations Guiding Principles for Business and Human Rights

Supplementary Information

The online version contains supplementary material available at <https://doi.org/10.1186/s40991-023-00079-3>.

Additional file 1.

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Author's contributions

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Availability of data and materials

Data supporting the results for this manuscript can be found via the links used and institutional information such as state institutions or agencies. The details of the data are available and how they can be accessed and reused.

Declarations

Competing interests

This manuscript has not been published, presented elsewhere, nor is under consideration by another journal. There are no conflicts of interest to declare.

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