

An analysis of the possibility to implement a CSI tax levy in South Africa: Lessons from Mauritius

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SUMMARY

“The voluntary approach to corporate social responsibility has failed in many cases.”¹ The Mauritius corporate social responsibility (CSR) landscape changed profoundly in 2009 with the addition of sections 50K and 50L to the Income Tax Act 16 of 1995 (Mauritius), making contributions to a CSR fund mandatory. Before 2009, the Mauritius government repeatedly called on the private sector for assistance to overcome unemployment, poverty, and other challenges in their country. Due to an unsatisfactory response to their request and factors such as poverty, and high unemployment levels, the government made the drastic decision to implement mandatory CSR legislation. The main objective of this study was to investigate the factors contributing to the enactment of mandatory corporate social responsibility (CSR) legislation in Mauritius and the possibility to implement similar legislation in South Africa. An analysis of the Mauritius tax legislation and relevant government publications scrutinised, by way of a literature review, revealed that what is referred to as mandatory CSR, is in fact mandatory corporate social investment (CSI). The study further indicated that the same socio-economic factors as those present in Mauritius prior to 2009 and worse apply to South Africa. An analysis of South African CSI practices and contributions indicated that an additional R3.111 billion could have been raised if a 2 per cent CSI levy was applied to after-tax profits of certain categories of companies, as in Mauritius. This represents 1.2 per cent of the South African Department of Social Development’s 2022/2023 budget. It is recommended that similar legislation should be considered for South Africa. It will ensure that all profitable companies in South Africa contribute to CSI and that more funds will be available to address some of the socio-economic needs. The study addressed the gap in empirical research done in Mauritius after 2018 and 2020 and is also the first comparative study conducted on this topic regarding South African law.

1 Suzuki “corporate social responsibility” <https://www.quotemaster.org/corporate+social+responsibility> (last accessed 2022-10-29); David T Suzuki is a Canadian scientist, environmental activist, etc.

1 Introduction

“We all have different inspirations, but one goal: a better world”.² This statement is perhaps now, more than ever, a desperate sigh in the hearts of many South Africans.

On 11 March 2020, the World Health Organisation³ declared the so-called Covid-19 outbreak, a global pandemic. “South Africa had to contend with a massive loss of life and livelihood, increased hunger, poverty and inequality, and many other challenges”,⁴ such as a sharp increase in unemployment,⁵ high government debt,⁶ and deteriorating infrastructure.⁷ Ramaphosa⁸ stated that the government should

create an environment in which the private sector can invest and unleash the dynamism of the economy ... [and] embraces our shared responsibility to one another and acknowledges that we are all in this together ... [as] social partners – government, labour, business and community.

Corporate social investment (CSI) is one option whereby the private sector can fulfil this shared responsibility.⁹ CSI is a component of corporate social responsibility (CSR)¹⁰ and links, according to Carroll,¹¹ with the fourth expectation of stakeholders, namely that a company

2 Argüello “We all have different inspirations, but one goal: a better world.” 2013 <https://theclickbook.wordpress.com/tag/quotes/> (last accessed 2022-02-21).

3 World Health Organisation (WHO) “A year without precedent: WHO’s COVID-19 response” 2020 <https://www.who.int/news-room/spotlight/a-year-without-precedent-who-s-covid-19-response> (last accessed 2022-02-21).

4 Trialogue *The Trialogue Business in Society Handbook* (2021) 1; “Triologue is a niche corporate responsibility consultancy with more than two decades of industry research and experience”. The different publications by Trialogue are also available as pdf downloads at <https://trialogue.co.za/publications/> (last accessed 2020-02-15).

5 Department: Statistics South Africa “Media Releases 1 June 2021” <https://www.statssa.gov.za/publications/P0211/Media%20release%20QLFS%20Q1%202021.pdf> (last accessed 2022-02-21) (hereafter Stats SA (2021)); Department: Statistics South Africa “Media Release 31 May 2022” <https://www.statssa.gov.za/publications/P0211/Media%20release%20QLFS%20Q1%202022.pdf> (last accessed 2022-06-02) (hereafter Stats SA (2022)).

6 National Treasury (South Africa) “Budget Review 2021” <http://www.treasury.gov.za/documents/National%20Budget/2021/review/FullBR.pdf> (last accessed 21-02-2022).

7 Ramaphosa “State of the Nation Address” 2022 <https://www.gov.za/speeches/president-cyril-ramaphosa-2022-state-nation-address-10-feb-2022-0000> (last accessed 2022-02-21) (hereafter Ramaphosa (2022)).

8 Ramaphosa (2022) 3 (own emphasis).

9 Trialogue *The Trialogue Business in Society Handbook* (2019) 79.

10 As above.

11 Carroll “The Pyramid of Corporate Social Responsibility: Towards the Moral Management of Organizational Stakeholders” 1991 *Business Horizons* 41; Carroll “Carroll’s pyramid of CSR: taking another look” 2016 *International Journal of Corporate Social Responsibility* 4-5, and 7.

should be a “good corporate citizen”,¹² or as Visser referred to it, a company’s “ethical responsibility” (as quoted by Omran and Ramdhony).¹³ It is not the objective of this article to propose a single definition for CSI. The authors are, however, of the opinion that the following two definitions, to a great extent, encompass the nature of CSI:

[It] refers to company investment in social development, through the provision of cash, services, products, staff time and more. CSI aims to improve the lives of disadvantaged people across multiple development sectors. It is external to the core function of a business, and is therefore not undertaken to pursue revenue, although there are other benefits to the business.¹⁴

According to CSI Solutions,

CSI encompasses projects that are external to the normal business activities of a company and not directly for purposes of increasing company profit. These projects have a strong developmental approach and utilise company resources to benefit and uplift communities and are not primarily driven as marketing initiatives.¹⁵

If the above two definitions, as well as a few others, are considered, it can be stated that CSI initiatives are mainly characterised as being voluntarily or greatly discretionary,¹⁶ will not form part of the normal business activities of a company, will not be profit-driven, will have a developmental objective and will therefore not (directly) benefit the company financially.¹⁷ It will also, among others, benefit disadvantaged communities, fund social upliftment, and the improvement of the environment in which they do business.¹⁸ It is important to note that CSI

12 “Good corporate citizenship” is defined as “doing what is expected morally and ethically” of the company. See Carroll 1991 *Business Horizons* 41.

13 Omran and Ramdhony “Theoretical Perspectives on Corporate Social Responsibility Disclosure: A Critical Review” 2015 *International Journal of Accounting and Financial Reporting* 41-42.

14 Trialogue “Part 1: Defining Corporate Social investment (CSI)” <https://trialogueknowledgehub.co.za/index.php/307-csi-resources/what-is-csi/1813-what-is-csi> (last accessed 2023-04-17) (hereafter Trialogue “Defining CSI”).

15 CSI Solutions “Why CSI” <https://www.csisolutions.co.za/why-csi.php> (last accessed 2022-09-01) (hereafter CSI Solutions “Why CSI”).

16 Trialogue “Defining CSI”; Mauritius Employer’s Federation *Survey Report on the Practical Implementation of CSR under the new legislation* (2011) 2 (hereafter Mauritius Employer’s Federation (2011)); Ndhlovu “Corporate Social Responsibility and Corporate Social investment: The South African Case” 2011 *Journal of African Business* 81; Carroll and Brown “Corporate Social Responsibility: A Review of Current Concepts, Research, and Issues” in Weber and Wasieleski (eds) *Corporate Social Responsibility* (2018) 46; Kuta “What is Corporate Social Investment?” 2018 <https://bizfluent.com/about-4676602-what-corporate-social-investment.html> (last accessed 2023-04-17).

17 Deloitte Consulting (Pty) Ltd *The economic & socio-economic benefits of R&D-based multinational pharmaceuticals on the South African economy* (2007) 51; Trialogue (2019) 79.

18 CSI Solutions “Why CSI”; Mauritius Employer’s Federation (2011) 4-6; Trialogue (2019) 79.

is not undertaken in isolation and will be “one element of [its] broader CSR agenda”.¹⁹

In South Africa, but also to a great extent in Mauritius, companies tend to use the concepts of CSR and CSI interchangeably. The Mauritius Employer’s Federation for example refers to CSI as “external CSR initiatives”.²⁰ In July 2009 Mauritius amended, among others section 2, of their Income Tax Act 16 of 1995.²¹ In section 2 the concept of CSR (for the purpose of this act) is defined as:

a programme having as main objective to alleviate poverty, to relieve sickness or disability, to advance the education of vulnerable persons or to promote any other public object beneficial to the Mauritian Community.²²

This definition clearly refers to projects outside normal business activities and, if the above discussion is considered, rather to CSI than CSR. For these reasons, this study refers to CSI, whereas the literature referred to CSR, but CSI is implied.

Mauritius experienced certain socio-economic challenges before 2009. High levels of unemployment were but one. It moved the government to appeal to companies to contribute more towards CSI.²³ The companies’ indolent reaction to these requests, the growing need to address key developmental problems, and many other factors played a role when the Mauritian government became the first²⁴ country to make CSI mandatory, by including sections 50K and 50L in the Income Tax Act (Mauritius).²⁵ This legislation compels all companies, except for those holding a “Category 1 Global Business Licence”, to contribute 2 per cent of their “chargeable income”²⁶ towards CSI.²⁷

19 Trialogue “Defining CSI”.

20 Mauritius Employer’s Federation (2011) 2; Jacobs *The tax deductibility of corporate social responsibility expenditure* (LLM dissertation 2015 North-West University) 15; Ndiweni and Sibanda “CSR governance framework of South Africa, pre, during and post-apartheid: a manifestation of ubuntu values?” 2020 *International Journal of Business Governance and Ethics* 365.

21 Income Tax Act 16 of 1995 (Mauritius).

22 S 2 of the Income Tax Act (Mauritius).

23 Pillay *The Changing Nature of Corporate Social Responsibility; CSR and Development in Context – The Case of Mauritius* (2015) 291; Ramdhony “The Implications of Mandatory Corporate Social Responsibility – A Literature Review Perspective” 2018 *Theoretical Economics Letters* 434.

24 India (with the implementation of s 135 of the Companies Act of 2013), and Seychelles (with the enactment of the Corporate Social Responsibility Tax Act 17 of 2013) soon followed in Mauritius’ footsteps. It should however be noted that Seychelles had repealed their CSR Tax Act in April 2021.

25 Gokulsing “CSR matter in the development of Mauritius” 2011 *Social Responsibility Journal* 223-224; Ramdhony 2018 *Theoretical Economics Letters* 433; ss 50A-50K of the Income Tax Act (Mauritius).

26 “Chargeable income” (prior to 2012 “book profits”) = “profit after tax” of the preceding financial year; Mauritius Employer’s Federation (2011) 3.

27 Mauritius: Ministry of Finance, Economic Planning and Development (hereafter MOFED) *The New Corporate Social Responsibility (CSR) Framework* (2016) 2.

With the above in mind, the research question posed is: In a quest to determine whether South Africa should follow in Mauritius' footsteps and implement a CSI levy,²⁸ which factors played a role in the introduction of mandatory CSI in Mauritius, and to what extent are these factors present in the current South African socio-economic situation? A second question to consider is: What was the impact of the CSI levy on Mauritian companies?

In this article, the factors leading to the implementation of a CSI levy in Mauritius and the presence of these factors in South Africa were researched by conducting a literature review. The impact thereof on companies was determined by conducting semi-structured interviews as well as carrying out a literature study. The CSI landscape in South Africa was also researched mainly by making use of a literature study.²⁹

2 Context for the implementation of a CSI levy in Mauritius

Mauritius has a long history of CSI involvement.³⁰ At the beginning of the 21st century, the Mauritian government postulated economic transformation³¹ with the goal of sustainable development for the government, all citizens, the business sector, and XXX (NGOs).³² As part of this approach to development, the government emphasised the “notion of CSR, and, in effect, transforming it into an essential feature of government social policy, by ultimately making it mandatory.”³³

Over a period of 40 years the government's decisions to “regulate CSR” led to the establishment of two parastatal bodies, and lately the implementation of the CSI levy.³⁴ The question to be answered is what influenced the government of Mauritius to take a more direct approach

28 The CSI levy refers to the tax calculated as 2 per cent of chargeable income and payable to the Mauritius Revenue Authority (hereafter MRA); MOFED (2016) 1.

29 A full discussion of the methodological approach may be requested from the authors. It should be noted that South African companies' involvement in CSI, and their attitude towards a possible compulsory CSI, were not researched by way of conducting a quantitative study. This will be done in a further study. The main reason being that similar legislation was not yet drafted for South Africa. The data collected by Trialogue was used, because their research is regarded as reliable, done yearly, and based on the information published by the top 100 JSE-listed companies, as well as interviews conducted with the CSI officers of large companies.

30 Mauritius Employer's Federation (2011) 2; Pillay (2015) 286.

31 Pillay (2015) 286.

32 Gokulsing 2011 *Social Responsibility Journal* 230.

33 Pillay (2015) 287.

34 The two parastatal bodies established were the Sugar Industry Labour Welfare Fund (SILWF) and the Export Processing Zone Labour Welfare Fund (EPZLWF). The SILWF was tasked with the supplying of “housing, community development, scholarship schemes, amenities at social welfare/ community centres and cyclone refugee centres” for the workers of the

by making CSI mandatory? This question is addressed in the following paragraphs.

2.1 Factors contributing to the implementation of a CSI levy in Mauritius

Mauritius, a small island state, transformed itself in less than a decade from a country with a grim economic future, “into a country with one of the highest per capita income among African countries”.³⁵ This economically prosperous period started to deteriorate in the early 1990s. Numerous economic challenges emerged. Many of these challenges contributed to the decision to introduce a CSI levy in July 2009.³⁶

A seminal approach³⁷ (including qualitative document analysis and content analysis) was followed to determine and understand the most prominent of these factors tabled hereunder (Table I).³⁸

sugar industry and their families. The role of the EPZLWF was the same as that of the SILWF, but this time for the workers involved in the export industry. Pillay (2015) 289.

35 Zafar “Mauritius: An economic success story” in Chuhan-Pole and Angwafo (eds) *Yes Africa can: Success stories from a dynamic continent* (2011) 91; Pillay (2015) 272.

36 Pillay (2015) 273-275; Ramdhony 2018 *Theoretical Economics Letters* 434-436.

37 A seminal approach refers to the analysing of documents and “pivotal or landmark studies, [that] are the initial pieces that presented an important or influential idea within a particular discipline. These articles are referred to (referenced) repeatedly in the literature, so you're likely to see the citations again and again.” Massachusetts College of Pharmacy and Health Sciences “Why Look for Seminal Works?” date unknown <https://mcpchs.libguides.com/seminalresearch#:~:text=Seminal%20works%2C%20sometimes%20called%20pivotal,the%20citations%20again%20and%20again> (last accessed 2023-04-17). In the case of this study it included, amongst others, government documents such as budget speeches, minutes, the studies conducted by Pillay and Ramdhony.

38 The table is a summary of the findings, and therefore the original work of the authors of this article. Government documents and publications, which includes but are not limited to budget speeches and minutes of meetings, were scrutinised. Scholarly literatures were also consulted. The frequency with which a specific topic (for this article factors) was discussed, gave an indication of importance. MOFED documents: all budget speeches are available at <https://mof.govmu.org/Pages/Past-National-Budgets.aspx> (last accessed 2022-07-06). The different budget speeches considered was those delivered by Sithanen in the years 2006, 2007, 2008, 2009, 2010 (hereafter referred to as Sithanen (year)); The minutes of the Mauritius National Assembly was scrutinised for conversations on topics (for this study “factors”) regularly discussed, and which needs to be addressed by Government to bring along a better life for the citizens of Mauritius. These minutes are available on <https://mauritiusassembly.govmu.org/Pages/Hansard.aspx> (last accessed 2022-07-26) (hereafter Hansard).

Table I: Factors contributing to the implementation of mandatory CSI in Mauritius

Factor		Notes
(1)	High unemployment rate. ⁱ	In 2006 unemployment was the highest in 20 years. ⁱⁱ Further increased from 7.17 % (2008) to 7.26 % (2009). ⁱⁱⁱ
		The government's theory was that the 2006 policies and legislation were countering their employment/economic growth objectives. In 2006 changes were tabled with the objective to open up the economy and attract foreign direct and local investment. ^{iv}
		In 2008 as well as 2009 Sithanen reported that progress was made to reduce unemployment. ^v
(2)	Infrastructure development, including housing for the poor.	Under the heading "land and social housing", Sithanen ^{vi} highlighted the issue of citizens who are living in poverty. The government needed in 2006 to build and utilise "around 2,000 to 3,000 Arpents of land across the country near existing agglomerations ... In this new scheme, landless families earning less than Rs 8,500 a month will become owners of these serviced lots on a cost recovery basis." ^{vii}
(3)	Declining economic activity/ economy growing at a much lower rate (and "serious imbalance in external trade").	Real GDP (gross domestic product) growth as a per centage of national income declining from 2006 to 2009 (According to Zafar: 3.9 % to 1.5 % respectively; according to Macrotrends 4.87 % to 3.32 %). ^{viii}
(4)	High budget deficit. ^{ix}	Small improvement from 2006 to 2009 (from -3.92 % to -3.36 % of GDP). ^x
(5)	Excessive government debt. ^{xi}	In 2003 it peaked at 44.7 % of the GDP. From 2006 it was lower at 38 % of the GDP, and in 2009, 36.6 % of GDP. ^{xii}
(6)	Companies focussed on CSI in general. Only incur CSI contributions on an ad hoc basis.	After the government called on companies to get involved with CSI, ^{xiii} some companies agreed to contribute "at least 1 per cent of their profits to CSR [CSI] activities", but it was not enough. The reaction to the government's plea was "rather weak". ^{xiv}
		On average the top 100 companies (in Mauritius) committed only 0.68 % of their profits before tax to CSI. A total of 75 % of companies interviewed claimed to have a "CSR budget". Only 28 % of them budgeted for CSI. ^{xv}

		The initiatives undertaken by the companies are related more to corporate philanthropy (CP). Companies who budgeted for CP earmarked the funds for worthy causes managed by non-government organisations (NGOs). In exceptional cases the company would have a fund, managed by themselves, with a beneficiary for a specific cause. ^{xvi}
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- i) Sithanen *Budget Speech 2006/2007* (2006) 12, and 43; Sithanen *Budget Speech 2007/2008* (2007) 3; Sithanen *Budget Speech 2008/2009* (2008) 2, 32, and 51; Zafar (2011) 98. The following Hansard documents all highlighted the problem of unemployment: 0609, 1409, D3109, 3509, 3709 (2009), 1310 (2010), 2913 (2013).
- ii) Sithanen (2006) 1-2.
- iii) Stats Mauritius “Labour force, Employment and Unemployment – Second Quarter 2008” https://statsmauritius.govmu.org/Documents/Statistics/ESI/2008/EI0726/cmpps_Q2_2008.pdf (last accessed 2022-07-16). Also refer to Macrotrends “Labour Force” <https://www.macrotrends.net/countries/MUS/mauritius/unemployment-rate> (last accessed 2023-04-17); The World Bank “Unemployment, total (% of total labor force) (modeled ILO estimate) – Mauritius” <https://data.worldbank.org/indicator/SL.UEM.TOTL.ZS?locations=MU> (last accessed 2022-07-16).
- iv) Sithanen (2006) 1-6.
- v) Sithanen (2008) 1-2.
- vi) Sithanen (2006) 42; Hansard 1310 (2010), 2413 (2013).
- vii) Sithanen (2006) 42; Hansard 1310 (2010), 2413 (2013).
- viii) Zafar (2011) 92; Macrotrends “Mauritius GDP 1976-2023” <https://www.macrotrends.net/countries/MUS/mauritius/gdp-gross-domestic-product> (last accessed 2023-04-25).
- ix) Sithanen (2006) 1; Sithanen (2007) 2, 5, and 23; Sithanen (2008) 2, and 40.
- x) CountryEconomy.com “Mauritius Government, Budget Deficit” <https://countryeconomy.com/deficit/mauritius> (last accessed 2022-06-02).
- xi) Sithanen (2006) 1, 4, 14, and 20, etc.
- xii) The World Bank “Central government debt, total (% of GDP) – Mauritius” <https://data.worldbank.org/indicator/GC.DOD.TOTL.GD.ZS?locations=MU> (last accessed 2022-06-02).
- xiii) Sithanen (2007) 31-32.
- xiv) Pillay (2015) 291. Also refer to Ramdhony 2018 *Theoretical Economics Letters* 433-434.
- xv) Ragodoo “CSR as a tool to fight against poverty: the case of Mauritius” 2009 *Social Responsibility Journal* 25-26.
- xvi) Pillay (2015) 293, and 295-296.

It is believed that these factors contributed to the enactment of the CSI tax legislation (hereafter CSI levy). The frequency with which these factors are mentioned in government documents strongly indicates that they played a major role in the decision. The factors discussed in Table I are considered for South Africa too in Part 4 of this article.

The main objectives with the introduction of the CSI levy were, according to Sithanen,³⁹ to:

- (a) Ensure that the private sector, together with the government “contribute [to] the development of the country”;
- (b) Empower the “less advantaged people” and make available more opportunities for them;
- (c) Utilise the strengths and efficiency of the private sector; and
- (d) Grow the economy, as it was regarded as the “best antidote against poverty”.

The next question to be addressed is whether the CSI levy had the desired effect.

3 Mauritius’ CSI landscape

In this paragraph, the authors attempted to determine whether the mandatory CSI levy⁴⁰ had the desired effect and made a difference in the socio-economic situation in Mauritius. It was found that the literature testing the efficiency of the CSI levy in Mauritius, is limited.⁴¹ To address this gap, interviews⁴² were conducted with the CSR/sustainability managers of five leading private companies in Mauritius. The aim was to understand the companies’ reaction, and subsequently changes in behaviour, to the introduction of the CSI levy.⁴³ The findings were grouped under the following subheadings.

3.1 Existence of CSI before 2009

The interviewees were asked whether their organisations were already involved in some form of CSI, prior to the CSI levy; all participants answered “yes”. At that stage, the organisations were engaged in philanthropy, community engagements, donations, public relations (PR), or sponsorship, which could currently be classified under CSI.

39 Sithanen (2013) quoted by Pillay (2015) 291, 294, and 295.

40 The CSI contribution is paid over partially to a CSR fund, created by the company, as well as the National CSR Foundation (since 2019 the National Social Inclusion Foundation). The regulations stipulate which percentage should be paid to each. It should be noted that it is not the objective of this article to discuss the provisions of the legislation and regulation in detail. The CSR guidelines and how the programmes are managed will also not be discussed in detail.

41 Pillay conducted an empirical study, in 2015, and reported quit extensively on his findings. In 2020, Beebejuan also reported on an empirical study conducted by her, but she did not report extensively with regards to the matter of the efficiency or the CSI levy.

XXX was involved in philanthropy at that time. We were really involved in helping the community and helping people around the same guidelines that we have now around the CSR. (P1)

It was mainly in terms of ... PR activities like social activities, like a sports events, football events, tournaments, or it was like sponsoring children of the employees that were, living in the community for their studies. (P5)

Before 2009, some organisations already adhered to the “UN Global Compact Principles”,⁴⁴ meeting key responsibilities regarding human rights, labour, environment and anti-corruption. One interviewee claimed that they had been actively involved in the community for over 200 years:

And it's difficult for me to say that we were precisely engaged in CSR before 2009, but there has been a long history of the sugar cane industry players, such as xxx helping local communities through the years. And we've definitely done that for the past 200 years with helping village councils, providing them with land to develop a local amenities like, uh, football grounds or even temples, uh, helping also with new roads and providing, land to local authorities such as the central electricity board or, central water authority, for them to install substations for example, um, we've also helped financially employees and their families through the years, even before the creation of the CSR law. (P5)

However, all interviewees admitted that these CSI initiatives were done on an ad hoc basis, confirming the findings of Sithanen, Pillay, and Ramdhony.⁴⁵

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- 42 DeVaney et al “Tips from experts on conducting and reviewing qualitative research” 2018 *Family and Consumer Sciences Research Journal* 400: “Interviews are used to explore the views, experiences, beliefs, and motivations of individual participants”. Interviews were chosen as the “data collecting method” because the previous empirical studies mentioned above, were also conducted by way of semi-structured interviews. This method allows for comparison between this and other studies (see Stumke *Development of an integrated information and Communications Technology competency framework for prospective Accountancy professionals* (PhD thesis 2021 North-West University) 69). The provisions of the CSI legislation, and the data obtained from the literature (studies conducted by Gokulsing (2011), Pillay (2015) and Ramdhony (2017)) were used as a base to draft the interview guide. The same method was applied by Stumke, (2021) 73-78, to draft a questionnaire. The interviews were transcribed and analysed using NVivo 12, a typical qualitative procedure (see Zamawe “The implications of Using NVivo Software in Qualitative Data Analysis: Evidence-Based Reflections” 2015 *Malawi Medical Journal* 13). All participants were informed in advance about the aim of the study and gave their informed consent to participate, in writing. All data reported are anonymous. The identity of the participant and their affiliations have been kept confidential.
- 43 It is important to once again note that terms CSR and CSI was used interchangeably.
- 44 Available at <https://www.unglobalcompact.org/what-is-gc/mission/principles> (last accessed 2023-04-17).
- 45 Sithanen (2007) 32; Pillay (2015) 321; Ramdhony 2018 *Theoretical Economics Letters* 434.

3 2 Changes brought about by the CSI levy

The Mauritius CSI landscape changed profoundly with the implementation of the CSI levy, mainly because CSI was no longer voluntary. Sithanen,⁴⁶ as quoted by Pillay, stated that the main objective of the legislation was to ensure “that the private sector was holding up to their part of the bargain”. All the interviewees concur that the CSI levy brought some structure to how CSI-related initiatives were planned and performed, such as establishing a foundation and recruiting the staff for managing the CSI projects.

You know, we've been doing that at XXX. We have the XXX foundation. Well, it takes some administrative time you know, but we've done it, we've implemented, incorporated the foundation. (P1)

In the way that we have created the Foundation XXX to be able to gather all the CSR funds from our member companies. Before that, all the companies were helping associations or clubs in their region. Now they have to go through the Foundation XXX. We became regulated with the recruitment of one person to manage the foundation. (P5)

3 2 1 Establishment of a foundation (CSI Fund)

The CSI legislation allows companies to establish a foundation to manage their CSI projects.⁴⁷ All interviewees confirmed they established such a foundation, but mostly after 2009. This supports the findings of Soobaroyen and Mahadeo.⁴⁸ One interviewee responded as follows:

For me, the dawning of CSR come [with] the troubles in 1999,^[49] which showed that there were new social issues on the island. My previous job was with XXX and I was on the board of XXX's foundation, and this was the first formal foundation to be created post the Kaya Issues in 1999. (P4)

Some interviewees expressed the view that managing these foundations poses additional administrative and financially unsustainable burdens on them. Pillay⁵⁰ stated that companies had to employ CSI specialists

46 Pillay (2015) 295.

47 Ramdhony *The Influence of Corporate Governance Practices on Corporate Social Responsibility (CSR) Reporting - Evidence from Mauritius* (PhD thesis 2017 University of Southern Queensland) ii, and 101; Sannasee et al “The Accountability and Management Control of CSR Foundations (CSRFs) in Mauritius” in *CIMA Executive Summary Report, Chartered Institution of Management Accountants, Mauritius* (2017) 4, and 6; Beebeejaun “The Corporate Social Responsibility: Legislative Provisions in Mauritius” 2020 *International Journal of Law, Humanities & Social Science (IJLHSS)* 11; MRA *CSR Guide* (2021) 8.

48 Soobaroyen and Mahadeo “Community disclosure in a developing country: insight from a neo-pluralist perspective” 2016 *Accounting, Auditing & Accountability Journal* 466.

49 In February 1999 the capital of Mauritius experienced serious riots forcing them to close businesses, etc.; Vellien “Rioting in Mauritius set off by jail death of singer” *The Gaurdian* (25 February 1999) <https://www.theguardian.com/world/1999/feb/25/7> (last accessed 2022-07-07).

I think CSR was created to help the community. (P1)

We have started working with social partners in our vicinity to develop a plan for, for the region to see how best we could help, meet needs of the community around us. (P4)

A total of 50 per cent of the interviewees believed that it is not enough only to help the community. They argue that CSI initiatives need to empower the people so that they too, in the future, can become members of society that will contribute to economic growth. The following statement supports the opinion

We should, maybe work on it to ensure that we can empower the people and not just assist them. And we are proud to say that 22 of those families have, bridged the gap of poverty and now they are empowered. So, they've been removed from the social list of the government. (P1)

Interviewees also responded that CSI initiatives should aim to be inclusive. Organisations should, for example, strive to adopt best practices in terms of recruitment, involving the community in which they operate.

XXX definitely was engaged into helping the community, creating inclusiveness, create businesses where people are included. (P1)

This statement was echoed by Pillay

For CSR to fulfil its developmental potential, there needs to be a concerted effort to involve all the major players – government, the private sector, civil society – in a strategic framework on sustainable development which is local, inclusive, accepted and perceived as equitable.⁵³

In conclusion, CSI initiatives should benefit society at large, not only through support but also by empowering them so that they will become economically contributing members of the country.

3 4 Areas of intervention for CSI

The CSI legislation (as amended over time), together with the regularly updated “CSR Guide” provided guidelines on how and to which approved programmes CSI funds can be allocated. These programmes relate to “priority areas of intervention” such as socio-economic development, health, and education.⁵⁴

All the interviewees indicated that they would prefer the freedom to choose how to spend their CSI funds (although they also acknowledged that guidelines are necessary). Some argued that having a choice would allow businesses to align their CSI initiatives with the vision and mission of their organisation.

53 Pillay (2015) 341.

54 MRA (2021) 6.

Definitely. I prefer freedom because it enables us to choose specifically projects areas that are sometimes linked to our company. (P3)

I would prefer to have the freedom to choose in which action, I want to invest myself because all this is linked to building a long-term vision. (P2)

Interviewees expressed the opinion that these guidelines are set too broadly. Some question the list of priority areas. Some felt that there could be a difference between what the government considers a priority and what the private sector considers a priority, for the community in which they operate.

Yeah, priority areas. What can I say? It's their decision. The broadness is quite good. There is the issue of being priority. There could be other areas which could be more priority, that should be prioritised above others. And as a company, perhaps our priorities wouldn't be the same as the ones of the state, but yeah, it's like that. (P4)

It was observed that companies primarily focus on four CSI areas: health, poverty, education, and the environment. These CSI initiatives are mainly focussed on a specific region and community:

I can give you a specific example at XXX we strive for all our CSR projects to impact and touch inhabitants of the east because that's where we are most active. (P3)

The above findings support the opinion of Beebeejaun, who expressed the opinion that the given priority areas limit the options to get involved in the direct community and that these should be “widened to also include activities that are beneficial to the public in general”.⁵⁵ It was also reported that health, education, and the environment are the most common areas of intervention by firms in the private sector.⁵⁶

Therefore, even after 23 years, the CSI priority areas remained largely unchanged.

3 5 CSR-/Sustainability managers' views on the CSI legislation

The private sector has reacted in general positively to the CSI levy and the many amendments thereof. The interviewees were generally of the opinion that the legislation has been beneficial to both business and society. However, they have also noted limitations and shortcomings in the CSI legislation and framework.

3 5 1 Positive outcomes of the CSI levy legislation

Most leading businesses were involved in CSI initiatives before 2009, though they used different terminologies such as community activities

⁵⁵ Beebeejaun 2020 *IJLHSS* 17.

⁵⁶ Ragodoo 2009 *Social Responsibility Journal* 26; Pillay (2015) 289; Beebeejaun 2020 *IJLHSS* 12.

and PR for this concept. Although the interviewees perceive this as another tax, they focus on the flexibility of retaining some of the CSI funds for the betterment of their communities.

It provided some sort of a flexibility in terms of how we could use the fund. In fact, [before] instead of 15 per cent corporate taxes, it was 17 per cent corporate tax, but it was the 2 per cent that we had the flexibility to use it towards our community. (P5)

The overall opinion of the interviewees is that the CSI levy is beneficial for society. It engages those who were not previously engaged in CSI initiatives.

I think overall, yes, because it brought more money, being an obligation. Now it has caused more companies to give money, which wasn't the case before. Before it was on the willingness of the company. Yeah. It was voluntary. So, yes, obviously it has brought more money. (P4)

I would say yes because the figures speak for itself in terms of what has happened over the last, what I would say, 12, 13 years. The number of foundations that have come up, the number of projects that have been done. (P5)

Despite the negative comments posted in 3 4 above, interviewees agreed this resulted in a more targeted approach, preventing abuse of CSI funds, for example, spending on people who already have a decent standard of living (P6).

The interviewees also believe that their CSI involvement has enhanced their corporate reputation and bettered their relationship with the community (P5).

Another interviewee elaborated on the sense of accomplishment and pride they feel when they see the positive impact of their CSI initiatives within society.

One of the programs that we support is a XXX program and which is supported by the CSR fund. Yes, so XXX gives an accompaniment to poor families. And we are proud to say that 22 of those families have, bridged the gap of poverty and now they are empowered. So, they've been removed from the social list of the government. So, if we take that particular case, I think without that law, without having CSR, we wouldn't have been able to do something like that. I think CSR has done a very good job. We should not neglect that. (P1)

Lastly, all interviewees confirmed that they budget for and spend more than the required 2 per cent. The following remark summarises the reason:

It is because when you take the 2 per cent, and you do the calculations, It's not enough, I would say, to invest in sustainable or in long-term projects. So, if you want just to sponsor a running NGO or an activity or a festival, fair enough. The money available is fine, but if you really want to invest in the community, engage with the community, bring them forward and bring that

mind set change. We try to keep on the development, economic, social, economic development of the, of the area, that mere 2 per cent is, is just not enough. (P2)

The participants in Pillay's⁵⁷ study held the same views as the above interviewees and contributed more than the required 2 per cent on average.

The participants generally agree that the CSI levy legislation projects a positive spirit, which supports their opinion of Pillay.⁵⁸ It should be noted that this is not in line with the findings of Beebeejaun,⁵⁹ who reported that:

70 per cent of the respondents believe that the future of CSR in Mauritius is bleak and is subject to discriminatory practices and the whims and caprices of the government in force while the benefits derived by the vulnerable groups are yet to be assessed.

However, this study has also captured participants' negative views about the limitations of the legislation.

3.5.2 Limitations and shortcomings of the CSI levy legislation

Since 2009, several amendments have been enacted to the initial legislation. The quantum of 2 per cent had, however, remained unchanged. In 2015 changes were promulgated to allow companies to choose (to some extent) how they want to spend their CSI fund. The latest amendments, however, again partially revoked this freedom. Depending on when the company's CSI fund was established, they must remit between 50 per cent and 75 per cent of the yearly 2 per cent CSI levy to the MRA.

As was seen above, some of the interviewees regard the set priority areas as very limiting. The reason is that programmes that they perceived as more beneficial to society, may not qualify under the approved list. Furthermore, CSI initiatives for the benefit of employees, will not qualify under the priority areas.⁶⁰ The interviewees reported a feeling of unfairness among their employees, who are aware of the CSI initiatives undertaken by their organisation.

[S]econdly that with the CSR fund, employees were not eligible for the CSR fund. In a sense there could be some reasons as to why it was done. So, but when you look at the concept of corporate social responsibility, charity starts at home. So, we got a lot, not only queries, but a lot of protests from our employees who were saying, come on you don't do anything for us. You say it's difficult times, the company has financial issues you can't give so and so, but you are doing a lot of things for the community, so how come? There has

57 Pillay (2015) 331-333.

58 Pillay (2015) 333.

59 Beebeejaun 2020 *IJLHSS* 15.

60 MRA (2021) 7.

been a lot of criticism on that not only at XXX, I know other companies also where people have difficulty to understand this concept. (P5)

Lastly, although the CSI levy was well-received initially, there is consensus among the interviewees that the CSI legislation needs to be reviewed. The challenges currently encountered with the legislation, by companies and NGOs, should be considered, including the additional level of bureaucracy, lack of accountability and transparency, and lack of providing for the long term. They were also of the opinion that the current state lacks the ability to address the issue of poverty. These beliefs echoed the belief of Beebeejaun.⁶¹

3.6 Concluding remarks

Pillay stressed that the CSI legislation is so much more than a tax. She argued that if the guidelines are considered too, the legislation can be regarded as the “blueprint of the role that the private sector in Mauritius needs to play in sustainable development.”⁶² If the above findings are to be considered, it agrees with Pillay’s view. As expected, the CSI levy generated significantly more funds for CSI initiatives. Company management was made aware of the real meaning of CSI. It forced them to consider the impact they can make in a community and to plan and budget for their CSI projects. Although the legislation’s definite shortcomings are a reality, it made a very positive impact. A shortcoming that needs to be addressed is the fact that companies do not believe the list of priority areas published are adequate to allow the company to address the needs of their employees and their immediate community.

4 CSI in South Africa

In 1994 South Africa became a leader in the world of corporate governance with the release of the first so-called King Code. Since then the King Committee on Corporate Governance has published three new versions of this code.⁶³ These codes are typical examples of soft law, advising companies to act in a certain manner.⁶⁴

The release of King II in 2002 had a direct influence on the drafting of the new South African Companies Act 71 of 2008.⁶⁵ King III resulted in the amendment of the reporting requirements for companies listed with the Johannesburg Stock Exchange (JSE).⁶⁶

61 Beebeejaun 2020 *IJLHSS* 9.

62 Pillay (2015) 329.

63 Institute of Directors South Africa “King Reports” https://www.iodsa.co.za/page/king_reports (last accessed 2023-04-17).

64 Skjørseth et al “Soft law, hard law, and effective implementation of international environmental norms” 2006 *Global Environment Politics* 104.

65 Companies Act 71 of 2008; Institute of Directors South Africa *King Report on Corporate Governance for South Africa* (2009) 5.

Unfortunately, these measures mostly relate to the reporting of CSR-related matters and were echoed in most research considering CSR in South Africa. Two publications argued that CSR is to some extent legally driven by the Broad-based Black Economic Empowerment Act 53 of 2003.⁶⁷ To date, no hard law exists that regulates CSI initiatives or financial contributions.⁶⁸

Limited research, on the use of CSI for the eradication of poverty and socio-economic development in South Africa, was found.⁶⁹

4 1 To what extent are the factors of Part 2 present in South Africa?

For this part, the objective was to determine to what extent the factors discussed in Part 2 above are currently prevailing in South Africa. A seminal approach was yet again followed to reach this objective and the findings are projected in Table II.⁷⁰

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- 66 Horn et al “The association between corporate social responsibility and firm value for South African firms” 2018 South African Journal of Economic and Management Sciences 1; Nxumalo Investigating a South African listed company’s corporate social responsibility initiatives in varying economic conditions (Dissertation – Master of Commerce 2020 University of Kwazulu-Natal) iii.
- 67 Broad-based Black Economic Empowerment Act 53 of 2003; Ndhlovu 2011 *Journal of African Business* 73; Kloppers “Driving Corporate Social Responsibility (CSR) Through the Companies Act: An Overview of the Role of the Social and Ethics Committee” 2013 *PELJ* 177.
- 68 Preston and Kloppers “Corporate Social Responsibility Expenditure and its Deductibility for Income Tax Purposes: A South African Perspective” 2018 *International Journal of Social Sciences and Humanity Studies* 153.
- 69 The following researchers, to some extent, researched this topic: Ndhlovu 2011 *Journal of African Business*; Hunma Legally Mandatory Corporate Social Responsibility: Rationale and Implications with Specific Reference to South Africa (LLM dissertation 2013 University of Cape Town); Manchidi Factors Necessary to Enhance the Effective implementation of Corporate Social Investment (CSI) in South Africa (Magister Commercii 2013 University of Johannesburg); Plagerson et al “Social policy in South Africa: Navigating the route to social development” 2019 *World Development* 1-9; Anwana “Social justice, corporate social responsibility and sustainable development in South Africa” 2020 *HTS Teologiese Studies/Theological Studies* 1-10.
- 70 The table is a summary of the findings, and therefore the original work of the authors.

Table II: Extent to which the determined factors (Part 2) are present in current South Africa

Factor		Notes	Comparison with Mauritius
(1)	High unemployment rate.	Covid-19 had a devastating effect on employment. Many businesses had to downsize or close their doors. Official unemployment rate highest ever in 2021. ⁱ	South African (RSA) unemployment rate is almost 4.5 times higher than Mauritius' in 2009. Governments' viewpoints overlap; they cannot bear the sole responsibility to provide for the poor. ⁱⁱ For the last 28 years, the RSA economic policies have failed to bring about economic growth and job creation. "It will require an annual GDP growth rate of about 5% a year just to prevent the unemployment numbers from rising or to accommodate new entrants into the labour market. Also, economic growth alone will not be enough to address the crisis." ⁱⁱⁱ Similar to the views of Sithanen (2006).
		Yearly published statistics, for the last quarter - expressed as percentages for the respective years: 2019, 28.47%; 2020, 32.5%; 2021, 35.3%; 1 June 2022, 34.5%. Youth unemployment (ages 15 to 34) has an average rate of 53% compared to the official rate of 34.5% (2022). ^{iv}	
		RSA's population is about 60 million. Only 15 million are registered taxpayers (25%). A total of 47% of the population depends on government grants. ^v	
(2)	Infrastructure development, including housing for the poor.	2019: a shortfall of 2.1 million homes. ^{vi} 2022: 2500 Schools need to be built in South Africa. ^{vii}	Mauritius: 12 000 Social housing units needed to be built in 2021; More than 70 schools to be renovated, but no mention of a lack of school infrastructure. ^{viii} This is millions less than in South Africa.

(3)	Declining economic activity/economy growing at a much lower rate (and serious imbalance in external trade).	Real GDP growth expressed as a percentage for the respective years: (2006) 5.6 %; (2011) 3.2 %; (2019) 0.1 %; (2020) -6.4 %; (2021) 4.9 % (2022, first quarter) 1.9 %. ^{ix}	The economic activity patterns for the two countries are very similar if the 2006–2009 period in Mauritius is compared to the current situation in South Africa.
(4)	High budget deficit.	Deficit expressed as a percentage of GDP for the respective financial years from 2019 to 2022: -4.3 %, -6.8 %, -19.3 %, -5.7 %. ^x	The South African budget deficit (of GDP) for 2022, is much higher compared to that of Mauritius in 2009. The exceptionally high deficit for the 2021 financial year, is largely attributed to a huge drop in tax income, due to the Covid-19 pandemic, and the fact that state-owned companies had to be bailed out (R308 billion). ^{xi}
(5)	Excessive government debt.	Debt expressed as a percentage of GDP for the respective financial years from 2019 to 2022: 26.2 %, 57.8 %, 58.9 %. ^{xii}	A total of 69.9 % (RSA) compared to 36.6 % (Mauritius). Unlike Mauritius, which was able to reduce government debt, “South Africa’s debt is still rising, despite higher revenue collections”. ^{xiii} Business Tech highlighted the disturbing fact that by November 2021, R1 of every R5 collected by the government was committed to servicing government debt. ^{xiv}

(6)	Companies focussed on CSI in general. Only incur CSI contributions on an ad hoc basis.	Data (to be discussed in more detail in Part 5 2 below) indicates that not all profitable companies contribute financially or in kind to CSI initiatives.	In the past, the South African and Mauritian governments have requested the private sector (regularly) to become more involved in alleviating socio-economic and development problems. ^{xv} RSA – Only 39% of companies budgeted for CSI, an average of 1 to 2% of net profit after tax. ^{xvi} The statistics published, indicate that RSA companies, like those in Mauritius, tend rather to support NGOs (acts of philanthropy).
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- i) Trialogue (2021) 10; Stats SA (2021) 1; Stats SA (2022) 1.
- ii) Ramaphosa (2022) 3, 8, and 10, etc.
- iii) Gqubule “SA’s rising unemployment needs fresh solutions” *Mail and Guardian* (2022-06-02) <https://mg.co.za/opinion/2022-06-02-opinion-sas-rising-unemployment-needs-a-fresh-solution/> (last accessed 2022-07-20).
- iv) Stats SA (2021) 1; Stats SA (2022) 1; Galal “Employment in South Africa – statistics & facts” 2022 [https://www.statista.com/search/?q=Unemployment + South + Africa&qKat = search&newSearch = true](https://www.statista.com/search/?q=Unemployment+South+Africa&qKat=search&newSearch=true) (last accessed 2022-07-20).
- v) Unknown “How many people are on grants in South Africa vs taxpayers” *Business Tech* (2022-02-16) <https://businesstech.co.za/news/finance/559482/how-many-people-are-on-grants-in-south-africa-vs-taxpayers/> (last accessed 2022-06-04); World Population Review “South African Population (Live)” 2022 <https://worldpopulationreview.com/countries/south-africa-population/> (last accessed 2022-06-04); Unknown “Almost half of all South Africans are now on grants” *Business Tech* (2022-05-22) <https://businesstech.co.za/news/finance/583692/almost-half-of-all-south-africans-are-now-on-grants/> (last accessed 2022-06-04).
- vi) Unknown “South African elections: Has the ANC built enough homes?” *BBC News* (2019-05-03) <https://www.bbc.com/news/world-africa-48093711> (last accessed 2022-06-04).
- vii) Molele “Over 2 500 schools still need to be built in South Africa” *Inside Education* (2022-02-11) <https://insideeducation.co.za/2022/02/11/over-2-500-schools-still-needs-to-be-built-in-south-africa-says-ramaphosa/> (last accessed 2022-07-17).
- viii) Mauritius: Padayachy *Budget Speech 2020/2021* (2020) 41.
- ix) The World Bank “South Africa” date unknown <https://data.worldbank.org/country/ZA> (last accessed 2022-07-17); Stats SA (2022) 1.
- x) The high budget deficit in South Africa was every year a point of discussion in the respective budget speeches. For all South African budget speeches refer to National Treasury <http://www.treasury.gov.za/documents/national%20budget/default.aspx> (last accessed 2022-06-03); Mboweni *Budget Speech 2019/2020* (2019) 6; Mboweni *Budget Speech 2020/2021* (2020) 6; Mboweni *Budget Speech 2021/2022* (2021) 20; Department: National Treasury Republic of South Africa *Medium Term Budget Policy Statement* (2022) 31.

- xi) Deloitte “Deloitte commentary on South Africa Budget 2022/23: A balanced budget for trying times” 2022 <https://www2.deloitte.com/za/en/pages/tax/articles/deloitte-commentary-2022-23.html> (last accessed 2022-06-03); Fitch Ratings “South Africa’s Debt Still Rising Despite Higher Revenue” 2022 <https://www2.deloitte.com/za/en/pages/tax/articles/deloitte-commentary-2022-23.html> (last accessed 2022-06-04); Price Waterhouse and Coopers (PwC) “PwC budget highlights” (respective years): PwC 2019 <https://www.pwc.co.za/en/assets/pdf/Budget/2019-budget-pwc-highlights.pdf> (last accessed 2022-06-04); PwC 2020 <https://www.pwc.co.za/en/assets/pdf/Budget/pwc-budget-review-highlights-2020.pdf> (last accessed 2022-06-04); PwC 2021 <https://www.pwc.co.za/en/assets/pdf/pwc-budget-highlights-2021.pdf> (last accessed 2022-06-04).
- xii) PwC “PwC budget highlights” 2019 <https://www.pwc.co.za/en/assets/pdf/Budget/2019-budget-pwc-highlights.pdf> (last accessed 2022-06-04) 11.
- xiii) Fitch Ratings “South Africa’s Debt Still Rising Despite Higher Revenue” 2022 <https://www2.deloitte.com/za/en/pages/tax/articles/deloitte-commentary-2022-23.html> (last accessed 2022-06-04).
- xiv) Unknown “R1 for every R5 raised by South Africa goes towards government debt” *Business Tech* (2021-11-17) <https://businesstech.co.za/news/finance/538734/r1-for-every-r5-raised-by-south-africa-goes-towards-government-debt/> (last accessed 2022-06-06).
- xv) Ramaphosa (2022) 16; Sithanen (2007) 31-32.
- xvi) Trialogue (2021) 40.

It is therefore concluded that the factors that had prompted the Mauritian government to implement a CSI levy, are for the most part also currently present in South Africa. The above-mentioned statistics for Factor 6 are discussed in more detail in the following part.

4 2 South African companies’ level of CSI participation

In the last five years, the South African government annually called upon the private sector to become more involved in addressing socio-economic and development needs.⁷¹ A comment by Ramaphosa, however, articulated a deep-seated doubt by the government, in the willingness of the private sector to get involved in, among other, infrastructure development.⁷²

This Part of the article researched the CSI involvement of South African companies on the hand of data published by Trialogue (for 2019, 2020, and 2021, respectively)⁷³ as well as the South African Revenue Service (SARS).⁷⁴ The relevant data published by Trialogue was

71 Refer to fns 87, 94 and 96 above; Ramaphosa (2022) 16.

72 Horn “Ondernemings, pensioenfondse is kontantkoei vir Cyril se infrastruktuurplanne” *Netwerk24* (2022-02-22) <https://www.netwerk24.com/netwerk24/sake/ekonomie/ondernemings-pensioenfondse-is-kontantkoei-vir-cyрил-se-infrastruktuur-planne-20220222> (last accessed 2022-02-02).

73 Refer to fn 4 above.

74 SARS “2021 Tax Statistics – Company Income Tax – Chapter 3” 2022 <https://www.sars.gov.za/about/sas-tax-and-customs-system/tax-statistics/> (last accessed 2022-06-02).

summarised in Table III (refer to Annexure I below) and the related data published by SARS in Table IV (refer to Annexure II).

It was found that:

- (a) A total of 61.4 per cent of the JSE-listed companies, which formed part of Trialogue's study, did report on CSI matters, which in turn means that 38.6 per cent has not published any data regarding CSI. This contradicts the JSE-listing requirements.
- (b) The estimated CSI expenditure incurred by the participants (of the Trialogue studies) varies between R10.2-, R10.7-, and R10.3 billion for the respective financial years ending 2019, 2020, and 2021.
- (c) It is very important to note that on average 54 per cent of the CSI expenditure incurred (see note (b) above) is related to donations to NGOs. Because this expenditure is deductible in terms of section 18A of the Income Tax Act 58 of 1962⁷⁵ against the taxable income of a taxpayer (subject to certain qualifying requirements), the inference can be made that
 - i the 54 per cent expenditure actually relates to CP;
 - ii companies will rather direct their CSI expenditure towards NGOs in order to get a deduction against their taxable income than invest in other CSI initiatives that will not qualify for such a deduction;
 - iii the real CSI expenditure⁷⁶ amounts to (on average) R4.738 billion – only 46 per cent of the R10.3 billion;
 - iv the companies to a great extent are busy with “window-dressing”, and will therefore, as was “feared” by Ramaphosa, not be that willing to get financially involved with real (non-CP) CSI initiatives, for example, infrastructure development, etc.
- (d) Trialogue reported that companies on average budgeted only 1 per cent of after-tax profits for CSI. This figure, therefore, correlates with the average budget of Mauritian companies before the implementation of the CSI levy.⁷⁷

It can therefore already be concluded that the South African companies, with an average annual income exceeding R1 billion, level of participation in CSI initiatives is very similar to that of the Mauritian companies before the enactment of the CSI levy.

Following the analysing process of the data of Trialogue and SARS, the same data was used to predict the impact on CSI expenditure, if a CSI levy of 2 per cent, similar to that of Mauritius, was to be affected the after-tax profits of South African companies, with a taxable income exceeding R10 million. The calculations done to predict the impact, are explained in Table V (refer to Annexure III below). It was found that an additional R3.111 billion could be made available for real CSI initiatives.

75 Income Tax Act 58 of 1962 (South Africa). A detailed discussion of the provisions of s 18A does not fall within the scope of this study.

76 Real CSI relates to initiatives in communities which does not flow through NGOs.

77 Refer to part 2 1 above.

5 Conclusion

In Part 4 1 above, it was found that all the factors determined in Part 2 1, are to a greater extent, present in South Africa. An alarming discovery is that most South African companies are not involved in CSI. Almost 39 per cent of the JSE-listed companies did not report on CSI initiatives (Table III).

The exercise explained in Table V, indicates that if a 2 per cent CSI levy would have been imposed on companies with a taxable income exceeding R10 million (for 2019 before Covid-19 played any role), an additional R3.111 billion, over and above the average R10.2 billion, could have been generated for CSI initiatives. It could be so much more if such a tax were imposed on all companies, trusts, etc. as in Mauritius. To add some context to this statement; R3.111 billion is 1.2 per cent of the 2022 R257 billion budget of the Department of Social Development (South Africa), which among others is responsible for paying social grants to 18 million beneficiaries.⁷⁸

It was previously stressed that Mauritian companies had the additional financial capacity to contribute more to CSI. It appears that the same is applicable to South African companies. The opinion is held that a CSI levy is an option to compel more companies to get involved in addressing poverty and other socio-economic problems in the country, and hopefully to proceed with their CSI initiatives beyond pure CP initiatives. As with Mauritius, the current Income Tax Act for South Africa can be adjusted to include specific sections that will make CSI contributions mandatory.

In 2009 Mauritius became the first country to implement legislation making CSI contributions mandatory. Several factors such as poverty, unemployment, and the unwillingness of companies to get involved in CSI, were identified as possible contributing factors for the enactment of CSI legislation. The study established that these factors determined are all currently visible in South Africa.

The findings drawn from the data collected with the semi-structured interviews indicated that the reaction, in Mauritius, to the CSI levy was in general positive. The CSI levy guidelines forced them to rethink, plan, and budget for their involvement in the communities. Many companies contributed more than the required 2 per cent because they realised that it was just not enough. The result: much more funds are available for CSI initiatives, such as the eradication of poverty, the building of much-needed infrastructure, etc. However, the interviewees believed the guidelines are restricting other possible CSI initiatives.

78 Zulu "Minister Lindiwe Zulu: Social Development Debt Budget Vote 2022/23" 2022 <https://www.gov.za/speeches/minister-lindiwe-zulu-social-development-%20dept-budget-vote-202223-13-may-2022-0000#:~:text=Our%20budget%20allocation%20for%20the,in%20the%20current%20financial%20year.> (last accessed 2022-07-07).

Almost 50 per cent of the South African population depends on some sort of government grant. With only 25 per cent of the population being registered taxpayers, this is not a sustainable situation. It was established that many companies (almost 39 per cent of those listed on the JSE) did not report any CSI involvement. The authors are of the opinion that South Africa urgently needs a way to encourage all companies to get financially involved in (for example) infrastructure development and eradication of poverty. The government is not able to tackle this seemingly impossible task alone. The government needs the private sector to take and strengthen its hands. If the private sector is not willing to do so voluntarily, it should be considered to introduce a CSI levy.

In conclusion, the authors acknowledge the fact that much more research needs to be done on the topic of regulating CSI. The role of the company versus the role of the government in the development of for example rural communities, is but one topic that should be researched. It is also suggested, as previously indicated, that the same research approach (using semi-structured interviews and questionnaires) should be followed to determine the real CSI involvement etc. of all companies (small and private included). Other taxation options, such as tax incentives, which may encourage CSI spending and involvement, should also be considered. It will also be necessary to consider the impact of different legislative options on the company and its bottom line.

Annexure I:

The following table contains an extract of the relevant financial and mathematical information published by Triologue over a period of three years.

Table III: Summary of Triologue annual “Business in Society Handbooks”⁷⁹ (CSI) reports

Extract of published data	Notes	2019	2020	2021
Number of company participants	1	79	74	69
JSE-listed companies reporting	2	140	105	201
Estimated CSI expenditure by participants	3	R10.2 billion	R10.7 billion	R10.3 billion
- Percentage of non-cash giving		6%	16%	13%
* Goods, products, and services		96%	68%	56%
* Employee volunteering		4%	not reported yet	not reported yet
Most supported development sectors (average) expressed as a percentage of contributions:				
- Education		50%	50%	39%
- Social and community development		15%	15%	17%
- Food security		9%	7%	10%
- Health		7%	9%	not reported yet
- Disaster relief	4	-	-	9%
Average of CSI expenditure granted to national projects		38%	54%	not reported yet
Average of CSI expenditure granted to NGOs	5	54%	54%	53%
Average NGOs income received from South African companies		29%	27%	28%

⁷⁹ Triologue *Triologue Business in Society Handbook* (for the respective years 2019, 2020 and 2021)

Percentage of companies budgeting for CSI of net profit after tax		56 %	49 %	36 %
Size of annual CSI budget of net profit after tax		1 %	1 %	1 %
<i>Notes: The years indicated is the financial year of a participant, ending in the (for example) 2019 calendar year</i>				

Notes on Table III:

- (a) The research was conducted among large companies of which 66 per cent had an annual income exceeding R1 billion. The participants completed a questionnaire or answered the questions via online interviews;
- (b) One of the listing requirements of the JSE is that companies should report on CSR matters in their annual reports. The number above relates to JSE-listed companies reporting on CSI matters. In 2021 there were 327 companies listed with the JSE. A total of 61.4 per cent reported on CSI matters and 38.5 per cent did not;
- (c) The estimated amount is based on an analysis of the amount of CSI expenditure reported by these companies, multinationals operating within South Africa, and state-owned enterprises;
- (d) The Covid-19 pandemic resulted in the new category "disaster relief"; and
- (e) Donations to NGOs (or Public benefit organisations (PBOs)) as referred to in the Income Tax Act) are deductible against the taxable income of any taxpayer in terms of section 18A of the Income Tax Act, to a maximum of 10 per cent of taxable income.

Annexure II:

Table IV contains an extract of relevant statistics published by SARS in May 2022 (most recent).

Table IV: South African Revenue Services: Tax statistics for 2021 (year-end 31 March 2021)⁸⁰

Extract of published data relating to companies	2019	2020	2021
Number	2 020 759	2 548 975	3 112 509
Number assessed	894 796	812 306	704 136
Total number with taxable income > R10 million	6 414	4 593	not reported yet
Total taxable income > R10 million	R626, 074 billion	R350, 583 billion	not reported yet

Note on Table IV:

Depending on certain factors, of which turnover⁸¹ is one, it can be assumed that the information reflected above relates to the large companies included in the Trialogue study.

The data in the respective tables were compared, adjusted, and discussed to conclude the final secondary objective, namely to determine the possible effect of implementing a 2 per cent CSI levy.

- The following calculations (Tabled in Table IV below) are based on data published by Trialogue's data (Table III) and SARS;
- The taxable income reflected above (Table IV), is the net amount after section 18A of the Income Tax Act, donations to NGOs were deducted, but before tax. For Table III it is presumed the companies did deduct the full 54 per cent under section 18A;
- To calculate the CSI levy, Mauritian companies must calculate 2 per cent of "chargeable income", which is very similar to South Africa's income after tax; and
- To compare R10.2 billion and R10.7 billion "estimated CSI expenditure by participants" for 2019 and 2020, respectively (refer to Table III), to an estimated 2 per cent of after-tax profits, some adjustments were made to the total amount of "Taxable income exceeding R10 million" (Table IV). The adjustments are explained in Table V.

80 South African Revenue Service "2021 Tax Statistics – Company Income Tax – Chapter 3" 2022 <https://www.sars.gov.za/about/sas-tax-and-customs-system/tax-statistics/> (last accessed 2022-06-02).

81 Turnover is income before the deduction of any expenses. For a small business corporation, it may not exceed R20 million (see s 12E(4) of the Income Tax Act).

Annexure III:

The data summarised in Tables III and IV above, was used in the following calculations, and lead to the conclusion that an additional R3.111 billion could be generated through a 2 per cent CSI levy.

Table V: Calculation of 2% CSI levy based on “profits after tax”

Adjustment:		Calculation	2019	2020	Note
			R	R	
(1)	“estimated CSI expenditure by participants” = calculated as percentage of “after-tax profits”:		10.2	10.7	billion
(2)	“estimated CSI expenditure” as an amount before tax	R10.2 billion + 28% = R10.7 billion + 28% =	13.056	13.375	billion
(3)	Determine 54% of “estimated CSI expenditure” before tax (the percentage section 18A deductions against taxable income)	R13.056 billion x 54% = R13.375 billion x 54% =	7.050	7.223	billion deducted in terms of section 18A.
(4)	Taxable income before section 18A deduction	R626.074 billion + R7.050 billion = R350.583 billion + R7.223 billion =	633.124	357.806	billion
(5)	After-tax profits (28% tax deducted):	R633.124 billion less 28% = R357.806 billion less 28%	455.849	257.620	billion
(6)	A 2% of after-tax profits	R455.849 x 2% = R257.620 x 2% =	9.117	5.152	billion
(7)	Only 46% of “estimated CSI expenditure” as an amount before tax relates to CSI	R13.056 billion x 46% = R13.375 billion x 46% =	6.006	6.153	billion
(8)	Compare (6) with (7) to determine the deficit in estimated CSI expenditure	R9.117 billion - R6.006 billion = R5.152 billion - R6.153 billion =	3.111	-1.001	billion