

CSR AND THE ARAB SPRING REVOLUTIONS: HOW IS CSR *NOT* APPLIED IN EGYPT?

AHMAD A. ALSHORBAGY*

ABSTRACT

Through assessing the corporate practices in Egypt's economic and historical context and exploring the relationship between CSR and the Egyptian January Revolution, this article sheds light on the ineffective role exercised by corporations and the failure to realize CSR's proclaimed objectives. Corporations' irresponsible practices indicate the insufficiency of CSR legal framework in Egypt, where corporations exploit to further their interests at the expense of social interests. It also sheds light on the government's inadequate role in promoting CSR and facing its challenges. The problem with CSR is augmented by the lack of a binding international legal framework for CSR, despite the vital role exercised by corporations in the global governance order. This calls for a broader understanding of CSR that conforms to the social demands of modern societies. Developing a coherent CSR legal framework is imperative to help realize social justice and sustainable development.

Abstract.....	1
Introduction.....	2
I. Egypt's Revolutions: Causes and Aspirations.....	4
II. CSR in Egypt: A Schizophrenic Private Sector in a Feeble Society	8
III. The Egyptian CSR Legal Framework.....	16
IV. Global Governance and CSR: An Ineffective Framework	26
V. Conclusion	29

* Commercial Law Assistant Professor, Alexandria University Law School. S.J.D. '12, LL.M. '08, the University of Virginia School of Law; B.A. '06, Alexandria University Law School. The author would like to thank Ms. Eman Zidan for her excellent research assistance. The author can be reached at: a_almoatasseem@yahoo.com.

INTRODUCTION

Capitalism is a dynamic system that renews itself by developing new methods to rise up to production challenges and overcome any financial crises. To face the new century's challenges, capitalism embraced corporate social responsibility (CSR) principles. These challenges are elevating human rights standards, labor rights, curbing corruption, and preserving the environment.¹ All of which are basic demands of the Egyptian Revolutions as well as the rest of the so-called Arab Spring uprisings.² Through assessing the corporate practices in Egypt's economic and historical context, this article sheds light on the ineffective role exercised by corporations and their failure to realize CSR's proclaimed objectives. This directly reflects on the relationship between CSR's legal framework and corporations' role in bridging social gaps, and proposes an expansive take on development orthodoxies.

Coupled with the poor distribution of resources, Egypt's economic decline brought about a revolution in the social stratification, which contributed to holding this development back. The massive inequality and the rising perception of wealth disparity among Egyptians were among the major factors that led to Egypt's January Revolution.³ This ongoing economic crisis has to do not only with the government's ineffective economic strategies but also with its pervasive corruption. Combined with the profound political problems caused by the insidious corruption of public officials, many of whom were also businessmen, the

¹ See UNITED NATIONS GLOBAL COMPACT, THE TEN PRINCIPLES OF THE UN GLOBAL COMPACT (2000), available at <https://www.unglobalcompact.org/what-is-gc/mission/principles> [hereinafter TEN PRINCIPLES].

² See generally FACT FINDING COMMISSION, FACT FINDING COMMISSION REPORT ON EGYPT'S JANUARY 25 REVOLUTION(2011), available at http://www.ffnc-eg.org/assets/ffnc-eg_final.pdf; see also M. CHERIF BASSIOUNI & MOHAMED HELAL, ALJOMHORIA ALTHANEYA FI MISR [THE SECOND REPUBLIC IN EGYPT] (2012); Behnam Rastegari, *The Egypt's Revolution: Causes and Developments from Legal Perspective*, Aceh Development International Conference (2012), available at https://www.academia.edu/799126/The_Egypt_s_Revolution_Causes_and_Developments_from_Legal_Perspective; Radwa S. Elsaman & Ahmad A. Alshorbagy, *Doing Business in Egypt After the January Revolution: Capital Market and Investment Laws*, 11 RICH. J. GLOBAL L. & BUS. 43 (2011); Gokhan Akcesme, *Economic Motives Behind the 2011 Egyptian Revolution* (Sept. 2014) (unpublished Master dissertation) (on file with Naval Postgraduate School).

³ Elsaman & Alshorbagy, *supra* note 2, at 49.

dreadful economic situation was the fundamental cause of the January Revolution.⁴

On all economic, social, and political levels, corporations exercised a negative role in the deteriorating Egyptian circumstances; or at the least did not play a positive role in improving them. In pre-revolutionary Egypt, CSR was mostly confused with philanthropic practices.⁵ While corporate abilities were vastly used to promote the economic and political interests of their controllers, the social role of corporations was limited to the minimum. Except for citizens' increased awareness and activism, nothing seems to have changed in the corporate social practices in post-revolutionary Egypt.

An assessment of Egypt's CSR regulatory framework reveals its ineffectiveness. Although efforts have been made to promote it, CSR practices are still underdeveloped. Many challenges need to be addressed in this regard. The government role in promoting CSR is limited, for example. CSR relies heavily on benevolent activities and is mostly confused with philanthropy. Businesses lack legal and economic incentives to adopt CSR. Moreover, the insufficiency of this regulatory framework should be understood in the light of today's globalized world where multinational corporations (MNCs) dominate the world economy.⁶

Considering the internationally-driven voluntary legal framework of CSR,⁷ which enables corporations to set the standards they want to be held liable for, CSR only exacerbates corporate hegemony.⁸ In many ways, MNCs' powerful resources allow them to meddle with other states' policies and influence their citizens' rights.⁹ Altogether, these considerations suggest that unless a coherent set of rules is developed to regulate CSR, it will only function as a tool to prettify capitalism and

⁴ See Duncan Green, *What Caused the Revolution in Egypt?*, GUARDIAN, Feb. 17, 2011, <http://www.theguardian.com/global-development/poverty-matters/2011/feb/17/what-caused-egyptian-revolution>.

⁵ Mohamed Arafa, *Corporate Social Responsibility and the Fight Against Corruption: The Concept of CSR in Egypt After the 2011 Revolution*, in CORPORATE SOCIAL RESPONSIBILITY IN COMPARATIVE PERSPECTIVE 198 (Frank Emmert ed., 2014).

⁶ See generally Iris Halpern, *Tracing the Contours of Transnational Corporations' Human Rights Obligations in the Twenty-First Century*, 14 BUFF. HUM. RTS. L. REV. 129, 140–51 (2008).

⁷ See, e.g. *id.* (reviewing CSR development internationally in relation to human rights).

⁸ Ahmad A. Alshorbagy, *Almas'uoleya Alijtima'yia lil Sharikat Fi Majal Huqoq Alinsan Almadaneya Wal Seyayseya* [*Corporate Social Responsibility for Civil and Political Human Rights*], MAJALLAT AL-HOQOUQ LIL BEHOUTH ALQANONIA WAL IQTESADEYIA [ALEXANDRIA SCH. L.J. LEGAL & ECON. SCI.] (forthcoming 2016) (manuscript at 37–53).

⁹ *Id.* (manuscript at 22–30).

further corporations' interests and increase the capitalist hegemony at the expense of other social constituencies.

Part I of this Article explains the reasons for the Arab Spring revolutions, especially the Egyptian Revolutions, and highlights CSR principles' relationship to such causes. To illustrate this relationship, Part II provides several examples on corporations' ineffective social role in Egypt and their failure to mitigate the Revolution's causes even after the lapse of more than three years. Part III describes and assesses CSR legal framework in Egypt. Part IV analyzes CSR legal framework and demonstrates how corporations misuse CSR principles to promote private interests over social interests, which defeats CSR declared goals. In conclusion, Part V emphasizes the importance of the CSR legal framework evolution and suggests broader perspective of development; one that exceeds mere reasonable GDP rates and includes other social, cultural, and political aspects.

I. EGYPT'S REVOLUTIONS: CAUSES AND ASPIRATIONS

Charged with a new sense of positivity and motivated with hope for a fresh start, Egyptians took to the streets with three main demands: bread, freedom, and social justice in the January 25, 2011 Revolution.¹⁰ These rather simple demands bound the Egyptians together as they became the Revolution's slogan. They represent a wide range of causes that inspired Egyptians with different backgrounds and varied aspirations to take part in a uniquely solidified uprising, a solidarity that soon disappeared after successfully overthrowing Hosni Mubarak. The Revolution's diverse and spontaneous social fortitude led to a later confusion among Egyptians, who did not plan on how to set their priorities.¹¹

Various groups of well-educated middle-class Egyptian youth sparked the revolution.¹² Through their education and access to open

¹⁰ Paul Sedra, *The Revolution and History*, JADALIYYA (Jan. 25, 2013), <http://www.jadaliyya.com/pages/index/9764/the-revolution-and-history>.

¹¹ M. CHERIF BASSIOUNI, CHI. COUNCIL ON GLOBAL AFF., *THE FIGHT FOR DEMOCRACY IN EGYPT'S LIBERATION SQUARE: BACKGROUND PAPER 1* (2011), available at <http://mcherifbassiouni.com/wp-content/uploads/Egypt-Update-background.pdf>.

¹² Doaa S. Abdou & Zeinab Zaazou, *The Egyptian Revolution and Post Socio-Economic Impact*, 15 TOPICS IN MIDDLE EASTERN AND AFRICAN ECONOMIES 92, 103 (2013) (describing Egypt's January Revolution as the youth revolution); Green, *supra* note 4 (describing the youth conditions that created a new sociological type of Egyptians and was a main reason for the revolution).

media, these youth were exposed to the world. These information sources nurtured their political understanding of notions like freedoms and human dignity. Social media also created fora where they were able to communicate their ideas and establish a political dialogue, and functioned as a channel for unofficial media made by regular citizens, which made news accessible. This youth exposure and positivism coupled with the information technology steered a virtual revolution that foreran the January Revolution.

It was by that time when these fine young Egyptians came to realize that “man shall not live with bread alone.”¹³ For almost sixty years, Egyptians lived under successive oligarchic and autocratic regimes. In a typical praetorian state under Gamal Abdel-Nasser’s reign, Egypt underwent a systematic political razing that estranged Egyptians from any political activity.¹⁴ Mubarak thus did not invent the exclusionary regime, but built upon the previous regimes and developed it. Of course, the tools and techniques employed by the Mubarak regime were different from those applied before. As national and international circumstances changed, the Mubarak regime strived to draw a picture of a democratic regime, while instilling its authoritarian roots.¹⁵ In this sense, Mubarak moved Egypt towards becoming a neo-patrimonial state, in which the ruler retains the loyalty of political elite and key sectors not by legitimate means but via using state resources to satisfy their material interests.¹⁶

Under Mubarak’s reign, the regime only allowed de jure democratic participation through the creation of stale political parties and tacit agreements with the regime’s real opposition. These agreements

¹³ See BASSIOUNI & HELAL, *supra* note 2, at 25 (citing Matthew 4:4 “Jesus answered, ‘It is written: ‘Man shall not live on bread alone, but on every word that comes from the mouth of God.’”). See also, Sedra, *supra* note 10 (“[o]ne of the most durable tropes of the January 25 Revolution is that the ‘barrier of fear’ finally fell away that day, permitting the formerly quiescent Egyptians to rise up against the Mubarak regime.”).

¹⁴ See generally SELMA BOTMAN, EGYPT FROM INDEPENDENCE TO REVOLUTION, 54, 155–56 (1991). Mohamed Arafa, *Towards a Culture for Accountability: A New Dawn for Egypt*, 5 PHOENIX L. REV. 1, 8–9 (2011).

¹⁵ BASSIOUNI & HELAL, *supra* note 2, at 27–29.

¹⁶ See generally Michael Bratton & Nicolas Van de Walle, *Neopatrimonial Regimes and Political Transitions in Africa*, 46 WORLD POLITICS 453, 458 (1994) (“In neopatrimonial regimes, the chief executive maintains authority through personal patronage rather than through ideology or law. As with classic patrimonialism, the right to rule is ascribed to a person rather than an office. In contemporary neopatrimonialism, relationships of loyalty and dependence pervade formal political and administrative system and leaders occupy bureaucratic offices less to perform public service than to acquire personal wealth and status.”) (citation omitted).

permitted the opposition, mainly the Muslim Brotherhood, a limited and superficial involvement in the political life.¹⁷ The fear of their iron-fisted political command that grew stronger over the years, combined with the dreadful economic conditions, cultivated people's reluctance to participate in the political life.¹⁸ Indifferent to public affairs, Egyptians were involuntarily kept busy securing their living.

Despite the profound political problems,¹⁹ the revolution's igniter was the dreadful economic situation and high inflation rates.²⁰ Although Egypt achieved promising economic growth rates in the years before the revolution,²¹ the per capita rates remained unsatisfactory.²² The majority of Egyptians did not benefit much from such economic progress but rather suffered abject poverty.²³ This was grounded in the unfair wealth distribution, which increased wealth disparity between the various social classes.²⁴ "The unfair distribution of wealth augmented by the corruption

¹⁷ BASSIOUNI & HELAL, *supra* note 2, at 30–31.

¹⁸ Radwa Elsaman & Ahmed Eldakak, *Is the Middle East Moving Toward Islamism After the Arab Spring? The Case Study of the Egyptian Commercial and Financial Laws*, 12 RICH. J. GLOBAL L. & BUS. 1, 6–7 (2012) ("For instance, abuse by police went unchecked for more than two and a half decades while the incumbent regime remained in power. Police suppressed social freedoms, practiced torture, constructed detention camps, committed security abuse, and destroyed institutions in a clear violation of the basic human rights of Egyptian nationals.").

¹⁹ Other serious political problems existed. These include Gamal Mubarak's grooming for his father's succession and the related constitutional amendment that had been tailored in an exclusive manner to keep at bay any political figures, in addition to the blatant rigging of parliamentary elections. For an inclusive account of these reasons, see BASSIOUNI & HELAL, *supra* note 2, at 23–74 for an inclusive account of these reasons.

²⁰ Elsaman & Alshorbagy, *supra* note 2, at 49.

²¹ Elsaman & Eldakak, *supra* note 18, at 8–9 ("Forty-four percent of all Egyptians used to be categorized as 'extremely poor to near poor,' more than 10 percent were unemployed — almost 90 percent of whom were between the ages of 15 and 24 — and inflation was almost 12 percent."). GDP Growth (Annual %), WORLD BANK, <http://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG/countries/EG?display=graph> (last visited Feb. 15, 2015) (according to the World Bank data, Egypt's annual GDP between 2006 and 2010 was 6.8, 7.1, 7.2, 4.7, 5.1 respectively. The rates dropped down after the 2011 revolution to reach 1.8, 2.2 in 2012 and 2.1 in 2013).

²² According to the World Bank, Egypt's GNI per capita amounted only to \$2730 in 2011. See *Global Economic Prospects: Generate Custom Dataset*, WORLD BANK, <http://www.worldbank.org/en/publication/global-economic-prospects/data?region=MNA> (last visited Feb. 15, 2015).

²³ Elsaman & Alshorbagy, *supra* note 2, at 49.

²⁴ *Id.* at 43–44. See also Matthew Partridge, *How the Economic Policies of a Corrupt Elite Caused the Arab Spring*, NEW STATESMAN (June 7, 2011), <http://www.newstatesman.com/blogs/the-staggers/2011/06/economic-arab-egypt-region>.

of public officials and businessmen steered economic growth in the direction of the powerful few.²⁵

Nonetheless, this utter poverty only indicates a more fundamental problem with the regime. That is, successive failure of the government's economic strategies.²⁶ A major factor for this failure is the severe corruption, which was both reason and result. A typical power and money marriage occurred in Egypt under Mubarak, in which powerful businessmen monopolized public offices.²⁷ According to the Transparency International Corruption Perceptions Index, Egypt ranked ninety-eighth worldwide and twelfth in the region with a score of 3.1 in 2010, based on perceptions of the degree of corruption from businessmen and country analysts.²⁸ The manifold and stern corruption drove 90% of Egypt's wealth into the hands of about 200 families, who were enabled and protected by the government.²⁹ These elites often held public offices in the government and won parliamentary seats, which opened avenues of rent-seeking.³⁰ They not only benefited from their positions, but also lobbied to prevent any change of the then status quo.³¹

Altogether, the strangling political situation, deteriorating economic conditions, and blatant corruption were pivotal factors that furnished the way for the January Revolution. These factors are all directly related to the different aspects of CSR. Public officials and businesspersons mostly used their corporations' abilities to attain private benefits over public benefits. They harnessed all rent-seeking techniques

²⁵ Elsaman & Alshorbagy, *supra* note 2, at 49; *see also* LISA A. BLAYDES, *COMPETITION WITHOUT DEMOCRACY: ELECTIONS AND DISTRIBUTIVE POLITICS IN MUBARAK'S EGYPT 196-99* (2008) (highlighting the increasing business influence in the Egyptian Parliament since Al-Sadat began the open-door policy and the alliance that developed between the regime and the rent-seeking elites).

²⁶ Rastegari, *supra* note 2, at 4. *See generally* AHMAD SAYED ALNAJJAR, ALINHEYAR ALIKTSADI FI ASR MUBARAK: HAQA'IQ ALFASAD WAL BATALA WAL RUKUD WAL DOYOUN [THE ECONOMIC BREAKDOWN IN MUBARAK'S AGE: THE TRUTH OF CORRUPTION, UNEMPLOYMENT, RECESSION, AND DEBT] (2005).

²⁷ Partridge, *supra* note 24.

²⁸ Corruption Perceptions Index 2010, TRANSPARENCY INTERNATIONAL, <http://www.transparency.org/cpi2010/results> (last visited Feb. 15, 2015).

²⁹ Arafa, *supra* note 5, at 186.

³⁰ AHMAD A. ALSHORBAGY, *PROTECTING MINORITY SHAREHOLDER RIGHTS IN EGYPTIAN PUBLIC CORPORATIONS: A COMPARATIVE STUDY IN CORPORATE GOVERNANCE AND SECURITIES REGULATION 16* (2012) (describing the last Egyptian government before the January Revolution as the "Businessmen Government").

³¹ BASSIOUNI & HELAL, *supra* note 2, at 35.

to avoid any change that put their private interests in danger.³² The following Part demonstrates how corporations were used as a cover for rent-seeking and corrupt practices.

II. CSR IN EGYPT: A SCHIZOPHRENIC PRIVATE SECTOR IN A FEEBLE SOCIETY

Attempting to overcome Nasser's nationalist economic policy legacy, Anwar Al-Sadat launched an open door policy (*inftah*) that aimed to liberalize trade and markets through expanding the private sector's role.³³ Despite its limited success,³⁴ the new policies paved the way for further economic reform. By the 1990s, Mubarak's pack of economic reforms and privatization program paid off, resulting in the revitalization of Egypt's private sector.³⁵ Today, the private sector continues to play a vital role in Egypt's economy.³⁶

Hence, it is imperative to embrace CSR policies in Egypt to prune corporate practice. To illustrate the corporations' social effect and highlight its relationship to Egypt's revolution, this Part provides several examples of corporate practices in Egypt before and after the January Revolution. It also sheds lights on the corporations' role in the revolution.

Pre-revolutionary Egypt—considering its relative political stability, its promising growth rates, and its large and growing markets and consumer base—was one of the most attractive destinations for

³² Rastegari, *supra* note 2 (explaining that the Egyptian revolution was not merely political. It was rather a demonstration of outrage regarding state corruption, which has risen dramatically among both the society and the government.).

³³ For a brief account of modern Egyptian economy and its transformation from nationalism to capitalism, see ALSHORBAGY, *supra* note 30, at 12–16.

³⁴ *Id.* (“Several factors deterred the development of a strong private sector, including the weak protection of property rights and the fear of a new wave of nationalization. Egypt's strategic alliance with the then communist Soviet Union also hindered economic reform. Moreover, the existence of a powerful nationalist wing that resisted the transformation dictated maintaining the public sector's role in the economy. President Al-Sadat attempted to overcome these impediments by extending constitutional protection for private property rights. On the international policy level, in the aftermath of the 1973 war, Egypt started building its relationship with the United States and gradually extricating itself from Soviet influence.”).

³⁵ *Id.* at 14–16 (describing Egypt's economic status under Mubarak's policies).

³⁶ In the fiscal year 2010–2011, the private sector's contribution to Egypt's GDP amounted to over 62%. Even after the revolution the percentage continues over 60%. RANA M. A. IBRAHIM, DOR ALMAS'UOLEYA ALIJTIMA'YIA FI THEL SEYADT TRYQAT ALINTAJ ALR'AAS MALEYA [CORPORATE SOCIAL RESPONSIBILITY'S ROLE UNDER THE RULE OF CAPITALIST MODE OF PRODUCTION] 313 (2014).

investors in the MENA (Middle East and North Africa) region. Although corporations had become a key player in the Egyptian economy and had thus realized great profits, they rarely assumed their social responsibilities.³⁷ Indeed, CSR was mostly confused with philanthropic practices. As a result, corporations' social contributions were typically limited to some charity work, such as providing a number of scholarships to help students or donating money for a certain cause.³⁸ Nonetheless, whether national or multinational, corporations got caught maximizing their profits while paying very little or no attention to the social interests of Egyptians.

Not only did corporations ignore CSR notions, but they also harnessed all of their abilities to exploit the fragile legal framework in all possible ways that extend to all aspects of CSR. With labor rights, for instance, most privatized corporations conducted massive layoffs.³⁹ Moreover, they consistently employed workers through short-term temporary contracts to avoid granting them full employment rights, such as socially insuring them according to law, let alone the substandard wages and working conditions.⁴⁰

Examples of corruption are too numerous and conspicuous to name. These include corporations benefiting from the privatization program by buying deliberately undervalued public assets and real estate without due process,⁴¹ securing loans without collateral and fleeing

³⁷ *Id.*

³⁸ See generally *id.* at 350–421 (exploring in details the developmental role exercised by corporations as part of their CSR policies in the various areas of poverty, education, healthcare, labor and environment. Most of these practices are rather philanthropic, however).

³⁹ *Id.* at 319.

⁴⁰ See Willem van Eekelen, Loretta de Luca & Nagwa Ismail, *Youth Employment in Egypt* (Int'l Labour Office, Skills Working Paper No. 2), available at http://www.ilo.org/wcmsp5/groups/public/—ed_emp/—ifp_skills/documents/publication/wcms_104021.pdf (“employers may try to bypass the regulations by hiring temporary workers. This could also have an impact on productivity, as temporary workers are likely to receive less on-the-job training than regular employees. The Government is aware of the need to adjust the regulations to the changing needs of the labor market”). See also Ghada Barsoum, *No Jobs and Bad Jobs*, 10 CAIRO REV. GLOBAL AFF., Summer 2013, available at <http://www.thecairoreview.com/essays/no-jobs-and-bad-jobs/>.

⁴¹ See e.g., *Egypt Reaches LE9 Billion Settlement Over Madinaty Real Estate Project*, AHRAM ONLINE (Feb. 25, 2015), <http://english.ahram.org.eg/NewsContent/1/64/123939/Egypt/Politics-/Egypt-reaches-LE-billion-settlement-over-Madinaty-.aspx> (*Madinaty* is a high-standard new residential city built on 8 thousand acres owned by Talaat Moustafa Group Holding who directly bought the land from the Egyptian government in 2005 for much less than its actual value.).

away,⁴² and lobbying to issue laws serving their corporate interests or to prevent ones that are detrimental to them.⁴³

The case is not different with human rights, whether social and economic, or civil, political, and cultural. By definition, rent-seeking necessarily involves detrimentally influencing individual rights.⁴⁴ Bolder examples also exist. Consider the right to life, which is the most prominent human right. In a tragic accident, over one thousand Egyptians perished when the ferry “Al Salam Boccaccio 98,” traveling from Saudi Arabia to Egypt, sank in the Red Sea in 2006.⁴⁵ The ferry was owned by the “Al Salam for Maritime Shipping” company controlled by the parliamentarian, Mamdouh Ismail.⁴⁶ Despite the striking gross

⁴² See, e.g., BLAYDES, *supra* note 25, at 192–93 (providing examples of financial sector scandals involving public officials and parliamentary members. One example is the then famous scandal known as the “loan deputies” scandal. A group of 31 businessmen, among them were 5 parliamentary members, secured “sweetheart” loans in millions of dollars by exploiting their positions and connections. Another example involved Abdullah Tayel, who was known to be a close associate of the ruling National Democratic Party (NDP) leaders such as Kamal Alshazly. Tayel was sentenced to a ten years in jail for profiteering, forging official documents, and facilitating the embezzlement of L.E. 262 million in his capacity as the executive manager of Misr (Egypt) Exterior Bank.).

⁴³ See *id.* at 196–98 (describing how enticing running for parliamentary elections had become in Egypt before the revolution as it opens many avenues for rent-seeking. For instance, businessmen controlled over 50% of parliament’s seat in the 2005 elections. The NDP candidate list contained about 25 business tycoons with the famous steel magnate Ahmad Ezz on top of the list.); Ahmed Eldakak, *Approaching Rule of Law in Post-Revolution Egypt: Where We Were, Where We Are, and Where We Should Be*, 18 U.C. DAVIS J. INT’L L. & POL’Y 261, 276–82 (2012) (describing the aspects of rule of law absence in pre-revolution Egypt, represented by two legislative scandals. The first is the constitutional amendments scandals and the second is the antitrust law scandal. Both scandals signify legislative corruption and demonstrate how legislations were aimed at furthering the monopoly of power instead of fighting it.). See also Alshorbagy, *supra* note 8, at 20–22 (explaining how businessmen used their corporations’ economic and social abilities to secure their seats in the parliamentary elections. This is carried out as part of corporate political or campaign spending, which is not directly regulated. In Egypt, electoral campaign expenditures are organized by Law No. 38 of 1972 concerning the People’s Assembly. According to article 11 of this law, companies, which the state is not a partner in, are not prohibited from participating in electoral campaigns. While only restricting the candidate himself, the law does not impose any restrictions on campaign expenditures carried out by a private party in support of any candidate. It does not further require candidates or political parties to disclose any information regarding the financing of their campaigns or its sources.).

⁴⁴ For a detailed account on CSR influence on individual human rights in Egypt and elsewhere, see Alshorbagy, *supra* note 8, at 28–34.

⁴⁵ See INTERNATIONAL MARITIME ORGANIZATION - MARITIME KNOWLEDGE CENTER, INFORMATION RESOURCES ON THE AL SALAM BOCCACCIO 98, available at <http://www.imo.org/en/KnowledgeCentre/InformationResourcesOnCurrentTopics/InformationResourcesOnCurrentTopicsArchives/Documents/AL%20SALAM%20BOCCACCIO%2098%20January%202010.pdf> (last updated Jan. 2010).

⁴⁶ BLAYDES, *supra* note 25, at 194.

negligence in this accident,⁴⁷ the government's official report considered it an "act of fate," discharging Ismail from the manslaughter charge.⁴⁸ An American court aptly described a similar case, where the corporation weighed maximizing profits against human rights, saying the company engaged in "a cost benefit analysis balancing human lives and limbs against corporate profits."⁴⁹

It is thus clear that corporations in pre-revolutionary Egypt were socially irresponsible. While they contributed to Egypt's economic development, this cannot be interpreted as a CSR contribution, but rather was an inevitable result of corporations carrying out their activities. This is true especially when corporations readily and steadily ceased every opportunity for rent-seeking. Even corporate philanthropic practices should not be confused with CSR. There are several reasons charitable contributions should not be confused with CSR. First, charitable contributions do not fit within CSR principles as defined by the UN Global Compact.⁵⁰ Second, several corporations use these charitable contributions in marketing themselves and their products.⁵¹ While this is not per se a violation of the principles of CSR, it gives these corporations a comparative advantage over other firms that do not have the means to market themselves in similar ways. Meanwhile, many of those corporations violate their social responsibilities towards their employees, customers, environment, and society in general.⁵² As put by the Fact Finding Committee Report on Egypt's January 25 Revolution:

Of note is that the private sector completely neglected the social aspect of development and limited its activities to services, marketing, and importing. And, a social class appeared, whose interests conflict with establishing national industries. . . [Egyptians

⁴⁷ To start with, the vessel's marine certificate did prohibited it from undertaking journeys longer than 20 nautical miles and that safety measures were not enforced, and the ship was overloaded. Moreover, although the vessel had time to report the accident to the Safaga Port Authority, it failed to do so. Ismail strangely ordered a second nearby ship owned by his company not to stop and help rescue the sinking ship. *Id.* at 194.

⁴⁸ *Id.* at 194–95.

⁴⁹ *Grimshaw v. Ford Motor Co.*, 119 Cal. App. 3d 757, 813 (1981) (this is a case about a car accident. Due to a design flaw in the car, a rear-ended crash resulted in a fire, which eventually killed the driver and caused serious injuries to the 13 years old passenger Richard Grimshaw. During the trial, it was revealed that the company knew of the defective design, but chose not to implement a new design, which would have cost the company as low as \$15.30 per car.).

⁵⁰ TEN PRINCIPLES, *supra* note 1. See generally John G. Ruggie, *The Global Compact as a Learning Network*, 7 GLOBAL GOVERNANCE 371 (2001).

⁵¹ IBRAHIM, *supra* note 36, at 337.

⁵² *Id.* at 335–66.

watched] rich businessmen with connection to the ruling party that allows them to loot the nation's wealth, and corruption dominated the Egyptian life destroying every glimmer of hope . . . Had this money been invested in Egypt for job creation or production, it would have been better.⁵³

In addition to their irresponsible social practices, which are among the Revolution's main causes, corporations played a vital role in the Revolution, directly reflecting on CSR. A good illustration of the corporations' role is that mobile and internet service providers suspended service for several days during the uprising, when Egyptians needed communication the most.⁵⁴ Resting on some arbitrary law provisions that gave the government the authority to make decisions related to the management of telecommunications in cases of threats to national security,⁵⁵ Aladly, the then Interior Minister, made a decision to cut off mobile and internet services, by which all service providers, national and multinational, abided.

The decision's enforcement brought about disastrous outcomes. All economic levels suffered economic losses in the millions, in addition to losses incurred by the service providers themselves. Most significantly, Egyptians lost all adequate means of communication in a time of extreme chaos and when events were just about to take a violent turn.⁵⁶ For these reasons, Egypt's Administrative Court found that this decision did not target national security, as its main objective was to

⁵³ FACT FINDING COMMISSION, *supra* note 2, at 32–33.

⁵⁴ Mobile service was suspended in some selected areas on the 28th of January (known as the “Day of Rage”) until the 29th of January, whereas the internet broke down from the January 27th until February 2nd. See Fatema Abo-Shanab, Ra'ees “Alqawmy Lil’Itsalat”: Qarar “Aladly” Qat’e Alitslalat Qanony 100% [“National Telecommunication Regulatory Authority” Chairman: “Aladly’s” Decision to Cut Off the Communications Is 100% Legal], ALMASRYALYOUM, (Aug. 2, 2014), <http://www.almasryalyoum.com/news/details/390506>.

⁵⁵ Law No. 10 of 2003 (Telecommunication Regulation), Feb. 2003, art. 67 (Egypt) (“The State competent authorities shall have the power to subject to their administration all Telecommunication Services and networks of any Operator or Service Provider and call operation and maintenance employees of such services and networks in case of natural or environmental disasters or during declared periods of general mobilization in accordance with the provisions of Law No. 87 of 1960 or any other cases concerning National Security.”); see also *id.* art. 65–69. It bears mention that the referred to Law No. 87 of 1960 in this article, is another arbitrary law decree issued by Nasser to amend an obsolete Law No. 10 originally promulgated in 1914. *Inter alia*, this law makes forming a mob of more than 5 persons punishable by law. See Mohamed Basal, *Misr: 100 A'am min Qwanin Taqyeed Altazahor* [Egypt, 100 Years of Laws Restricting Demonstrations], AL SHROUK NEWS, (Oct. 30, 2013, 14:46), <http://www.shorouknews.com/news/view.aspx?cdate=30102013&id=abb97da1-078e-406e-b07c-7394c709058a>.

⁵⁶ See Abo-Shanab, *supra* note 54.

protect the ousted regime.⁵⁷ The court further explained that this decision violated several constitutional rights, and consequently fined Mubarak, Prime Minister Nazif, and Aladly a sum of LE 540 million.⁵⁸

Notwithstanding the conspicuous unconstitutionality of any such legal provision, which consequently makes the administration's decision null and void, the telecommunication companies' application of such a decision, despite their losses, only indicates a desperate corporate tendency to support the regime based on their mutual interests. A tendency of social irresponsibility has long existed in Egypt. By suspending their services, corporations not only committed an express infringement of their obligations towards their customers, but they also fundamentally violated Egyptians' human rights. Of course, some of the concerned corporations attempted to make it up to their customers after the regime ouster, but some damages are too severe to be remedied by free mobile phone minutes.

Nevertheless, do these corporate responses denote a change in corporate behavior in post-revolutionary Egypt? In fact, no significant change has occurred. These telecommunication companies were compelled to do so; meanwhile Egypt endured an unprecedented political upheaval. To be sure, admitting their complicity and compensating for it is a step further in holding Egyptian corporations socially responsible, a step that has hardly been seen in Egypt before. The companies were also compensated for their losses.⁵⁹

Except for the masses' increased awareness and their fresh sense of activism, corporations do not seem to have changed their social attitude in post-revolutionary Egypt. For example, in the Revolution's aftermath, waves of labor strikes pervaded Egypt to claim workers' rights.⁶⁰ Eventually, a binding decision setting the minimum wages of public employees at LE1200 (roughly \$174) was passed in 2013.⁶¹

⁵⁷ Dina Zayed, *Egypt Court Demands Details of Web and Phone Blackout*, REUTERS (Aug. 8, 2011, 4:08 PM), <http://uk.reuters.com/article/2011/08/08/uk-egypt-court-mubarak-idUKTRE7773ER20110808>.

⁵⁸ Case no. 21855/65J/2011/Administrative Judicial Court (Division of Economic and Investment Litigation) (Egypt). However, the three appealed the decision, and the case is still pending before the Supreme Administrative Court. Abo-Shanab, *supra* note 54. The Court adjourned the case to May 21, 2016.

⁵⁹ Shereen El Gazzar, *Egypt to Pay Operators for Service Disruption*, WALL ST. J., May 29, 2011, available at <http://www.wsj.com/articles/SB10001424052702303745304576353480392651062>.

⁶⁰ *Egypt Sets LE1200 as Minimum Wage for Government Workers*, AHRAM ONLINE, (Sept. 18, 2013), <http://english.ahram.org.eg/NewsContent/3/12/81942/Business/Economy/Egypt-sets-LE-as-minimum-wage-for-government-workes.aspx>.

⁶¹ *Id.* (the minimum wage was set at LE700 in June 2011 and raised to LE1200 in 2013).

Despite all the controversy around this wage increase and although the decision has not been fully implemented due to Egypt's dire economic predicament,⁶² ongoing sincere endeavors are made to effectuate it in all government's administrative bodies.

Nonetheless, efforts to set a minimum wage standard in the private sector have failed repeatedly.⁶³ Arguing that a high minimum wage may raise unemployment levels by burdening small businesses, private corporations spare no efforts to prevent any increase in labor rights. This argument may be true for small business organizations but it hardly applies to corporations. Yet, the corporations demanded that before imposing a minimum wage on the private sector, the government amend labor and pensions laws as well as offer employees better health, education, and transportation systems to alleviate burdens on workers.⁶⁴ A French MNC took a step further, suing the Egyptian government over wage stabilization promises.⁶⁵ Labor rights provide one example, but this relentless irresponsible social attitude persists in all aspects of CSR.⁶⁶

This raises some important issues and poses a set of critical questions. First, do corporations bear social responsibilities in such dreadful economic times? As mentioned, corporations in Egypt benefited much in pre-revolutionary Egypt while keeping CSR considerations to a minimum. Would it be too much, however, to ask corporations to act responsibly in the aftermath of two revolutions that left Egypt politically

⁶² See Jano Charbel, *Falling Short: Egypt's New Minimum Wage, The Haves and Have Nots*, MADA MASR (Feb. 17, 2014, 16:57), <http://www.madamasr.com/sections/economy/falling-short-egypts-new-minimum-wage-haves-and-have-nots> (highlighting the new minimum wages drawbacks such as that it is not applied on the national levels or across sectors. Moreover, the LE 1200 minimum wage standard is an outdated one, which does not take into consideration the currency's devaluation and the rising inflation rates); Shanta Devarajan & Tara Vishwanath, *Is Higher Minimum Wage the Solution?*, MADA MASR (Feb. 28, 2014, 17:16), <http://www.madamasr.com/opinion/higher-minimum-wage-solution> (asserting that the new public sector's minimum wage exacerbates inequality in Egypt since it ignores the private sector and most importantly informal sectors).

⁶³ This is despite the fact that over 70% of Egypt's labor force work under the umbrella of the private sector.

⁶⁴ Marwa Hussein, *Minimum Wage Rules Set for Egyptian Public Sector; Fate of Private Sector Uncertain*, AHRAM ONLINE (Nov. 1, 2013), <http://english.ahram.org.eg/NewsContent/3/12/85278/Business/Economy/Minimum-wage-rules-set-for-Egyptian-public-sector.aspx>.

⁶⁵ *Veolia Propreté v. Arab Republic of Egypt*, ICSID Case No. ARB/12/15, (filed June 25, 2012) (ongoing); Luke Eric Peterson, *French Company, Veolia, Launches Claim Against Egypt Over Terminated Waste Contract and Labor Wage Stabilization Promises*, INVESTMENT ARBITRATION REPORTER (June 27, 2012), available at http://www.iareporter.com/articles/20120627_1.

⁶⁶ Alshorbagy, *supra* note 8, at 23–24 (describing the media's role in influencing individuals' human rights and freedoms).

unstable and economically distressed?⁶⁷ Although these uninviting investing conditions easily drive corporations away fearing for their profits,⁶⁸ it is genuinely socially irresponsible to abandon a society in turbulent times. This is particularly true when a society accepts corporations as a member therein and grants them legal personality.⁶⁹

A second crucial question, related to the first, is whether MNCs would act the same in their home states? And if not, then is the notion of CSR reduced to a merely futile ethical value or even rendered a dead letter? This suggests that MNCs consistently abuse the fragile national legal frameworks of developing countries and exploit their economic needs to maximize their profits without regard to the social considerations of these states. It also furthers the premise that, absent a binding law, corporations will not voluntarily apply the same due diligence level or care for social constituencies. The profit maximization norm that binds corporations to maximize their profits reinforces this result.

If history can teach us a lesson, it would be that corporations have strived to maximize their profits through externalizing their costs notwithstanding any social interests.⁷⁰ The global economic crisis of 2008 is a recent reminder that corporations will have no reason not to take advantage of any legal gaps unless they are legally obliged to do otherwise through a binding legal framework.⁷¹ From this premise, the next Part analyses CSR legal framework in Egypt before exploring its relationship to the global governance regime.

⁶⁷ IBRAHIM, *supra* note 36, at 315.

⁶⁸ Abdou & Zaazu, *supra* note 12, at 99 (“Foreign investment in Egypt deteriorated after the revolution from 6.8 to 2 USD Billion for the fiscal year 2010/11. The main indices of Egypt’s stock exchange (EGX 30 and EGX 100) both dropped by 10.5% and 14% after the revolution, (ECES, June, 2011). As well as the growing deficit in trade balance, which exceeded the 28 billion dollars in 2011, and the fall in foreign direct investment is less than 2 billion dollars after they had crossed the \$113 billion a few years ago.”).

⁶⁹ Building on the privity theory, a corporation is said to be a member of the society bound by its social contract. See Hakeem O. Yusuf, *Oil on Troubled Waters: Multinational Corporations and Realizing Human Rights in the Developing World, with Specific Reference to Nigeria*, 8 AFR. HUM. RTS. L.J. 79, 97–101 (2008).

⁷⁰ See Cynthia A. Williams & John M. Conley, *Trends in the Social [Ir]responsibility of American Multinational Corporations: Increased Power, Diminished Accountability?*, 25 FORDHAM ENVTL. L. REV. 46, 83 (2013); Kent Greenfield, *The Disaster at Bhopal: Lessons for Corporate Law?*, 42 NEW ENG. L. REV. 755, 758–59 (2008).

⁷¹ Williams & Conley, *supra* note 70, at 83.

III. THE EGYPTIAN CSR LEGAL FRAMEWORK

As with corporate law, different statutes form the CSR's legal framework in Egypt.⁷² The rules of corporate law are mainly contained in Companies' Law No. 159, enacted in 1981,⁷³ and its executive regulation No. 96 that was issued in 1982.⁷⁴ The Companies' Law regulates the incorporation and management of corporations, partnerships limited by shares, and limited liability companies.⁷⁵ Additionally, it contains the default rules that fill the gaps of other laws related to companies, such as Investment Law No. 8 of 1997.⁷⁶ The Capital Market Law No. 95 of 1992,⁷⁷ and its executive regulation No. 135 of 1993,⁷⁸ also play an important role in the corporate governance that shapes CSR.

Several other laws also relate to the different aspects of CSR. Labor law, for instance, defines the employees' rights and duties in their relationship with their employers, *i.e.* corporations in this case.⁷⁹ The Environmental law that imposes a set of duties upon corporations to preserve the environment is another example of a CSR related statute.⁸⁰ While emphasizing their freedom to carry out economic activities, Consumer Protection law defines consumers' basic rights against

⁷² ALSHORBAGY, *supra* note 30, at 16–17.

⁷³ Law No. 159 of 1981 (Companies' Law), *Al-Jarida Al-Rasmiyya*, 1 Oct. 1981, vol. 40 (Egypt), translated in *Law No. 159 of 1981 (Companies' Law)*, available at <http://www.investment.gov.eg/content/EN/macro/Lawno159oftheyear1981En.pdf>.

⁷⁴ Ministerial Decree No. 96 of 1982 (Executive Regulation of Companies' Law No. 159 of 1981), *Al-Waqa'i al-Misriyah*, 23 June 1982, vol. 145 F (Egypt).

⁷⁵ ALSHORBAGY, *supra* note 30, at 17.

⁷⁶ See generally Law No. 8 of 1997 (Investment Incentives Law), *Al-Jarida Al-Rasmiyya*, 11 May 1997, vol. 19 (Egypt), translated in *Law No. 8 of 1997 (Law of Investment Guarantees and Incentives & its Executive Regulations)*, available at http://www.egypt-law.com/Investments_law.pdf.

⁷⁷ Law No. 95 of 1992 (Capital Market Law), *Al-Jarida Al-Rasmiyya*, 22 June 1992, vol. 25 bis (Egypt), translated in *Law No. 95 of 1992 (Capital Market Law)*, available at https://www.imolin.org/doc/amlid/Egypt/Egypt_Capital_Market_Law_1992.pdf; see generally Law No. 93 of 2000 (Central Depository Law), *Al-Jarida Al-Rasmiyya*, 18 May 2000 (Egypt), translated in *Law No. 93 of 2000 (Central Depository Law)*, CHEMONICS INT'L, INC. (2000), http://pdf.usaid.gov/pdf_docs/Pnacj500.pdf.

⁷⁸ Minister of Economics and Foreign Trade Decree No. 135 of 1993 (Executive Regulations of the Capital Market Law), *Al-Jarida Al-Rasmiyya*, 8 Apr. 1993, vol. 81 F (Egypt).

⁷⁹ Law No. 12 of 2003 (Unified Labor Law), *Al-Jarida Al-Rasmiyya*, 7 Apr. 2003, vol. 14 bis (Egypt), translated in *Law No. 12 of 2003 (Unified Labor Law)*, THE MIDDLE EAST LIBRARY FOR ECONOMIC SERVICES, <http://www.egypt.gov.eg/english/laws/labour/>.

⁸⁰ Law No. 4 of 1994 (Environment Protection Law), *Al-Jarida Al-Rasmiyya*, 3 Feb. 1994, (Egypt), translated in *Law No. 4 of 1994 (Environment Protection Law)*, MINISTRY OF STATE FOR ENVIRONMENTAL AFFAIRS, <http://www.ecaa.gov.eg/en-us/laws/envlaw.aspx>.

manufacturers and importers.⁸¹ Another example is the Income Tax law, which discounts corporate donations to associations, Egyptian NGOs, educational, and health institutions from taxable profits.⁸² Many other laws regulating different aspects of corporate activities contribute to CSR statutory framework.⁸³

Realizing the importance of responsible business practices and attempting to cope with the international evolution of CSR notions, the Egyptian government worked on the institutionalization of CSR to ensure CSR's further development. Early in 2004, the national network of the Global Compact, labeled the Global Compact Network Egypt (GCNE), was formally launched with some fifty companies participation.⁸⁴ In 2008, the Egyptian Corporate Responsibility Center (ECRC) was established by a joint initiative between the United Nations Development Program (UNDP), the Egyptian Ministry of Investment (MoI), and the Egyptian Institute of Directors (EIoD) to act as a nexus for the GCNE members and to promote socially responsible practices among businesses in Egypt.⁸⁵ These endeavors led to the network's expansion reaching ninety-one members by the end of 2014⁸⁶ and increasing to 159 active participants as of March 2016.⁸⁷

⁸¹ Law No. 67 of 2006 (Consumer Protection Law), *Al-Jarida Al-Rasmiyya*, 20 May 2006, (Egypt), translated in Law No. 67 of 2006 (Consumer Protection Law), http://www.wipo.int/wipolex/en/text.jsp?file_id=191764.

⁸² Law No. 91 of 2005 (Income Tax Law), *Al-Jarida Al-Rasmiyya*, 9 June 2005, (Egypt), translated in Law No. 91 of 2005 (Income Tax Law), MINISTRY OF FINANCE, <http://www.mof.gov.eg/MOFGallerySource/english/IncomeTaxLaw.pdf>.

⁸³ See *supra* Part II.

⁸⁴ IBRAHIM, *supra* note 36, at 322. See generally GLOBAL COMPACT NETWORK EGYPT, GOVERNANCE STRUCTURE FOR THE GLOBAL COMPACT EGYPT NETWORK, available at http://www.ecrc.org.eg/uploads/SupportingMaterials/documents/Governance%20Structure%20for%20the%20Global%20Compact%20Egypt%20Network_Final.pdf (for more on the Egyptian National Network of Global Compact and its structure) (last visited Sept. 8, 2015).

⁸⁵ *Egypt*, UNITED NATIONS GLOBAL COMPACT, <https://www.unglobalcompact.org/engage-locally/mena/egypt> (last visited Sept. 8, 2015). See also *Who We Are?*, EGYPTIAN CORPORATE RESPONSIBILITY CENTER, <http://www.ecrc.org.eg/WhoWeAre.aspx> (last visited Sept. 8, 2015).

⁸⁶ GLOBAL COMPACT NETWORK EGYPT, ACTIVITY REPORT 2014 at 9 (2014), available at <http://www.ecrc.org.eg/backend/uploads/news/editor/yearbook.pdf>.

⁸⁷ See *Our Participants*, UNITED NATIONS GLOBAL COMPACT, https://www.unglobalcompact.org/what-is-gc/participants/search?page=1&search%5Bcountries%5D%5B%5D=53&search%5Bkeywords%5D=&search%5Bper_page%5D=50&search%5Bsort_direction%5D=asc&search%5Bsort_field%5D=joined_on&utf8=%E2%9C%93 (last visited Sept. 8, 2015).

Furthermore, the EIoD,⁸⁸ in cooperation with Standard & Poor's and Crisil, created the Egyptian Environment, Social and Governance (ESG) Index (S&P/EGX ESG) in 2010. As the second of its kind among emerging markets,⁸⁹ the S&P/EGX ESG Index is used as a proxy to measure CSR practices in Egyptian listed corporations.⁹⁰ This is an important step to assess the participant companies' compliance with the CSR principles.

On designing the index, two screens were employed. The first screen, focusing on environment & social indicators, is based on output obtained from the mapping of Global Reporting Initiative (GRI), Global Compact (GC) and Millennium Development Goals (MDG). The second corporate governance screen adopts Standard & Poor's existing corporate governance methodology.⁹¹ The evaluation process depends mainly on companies' disclosed information relating to the ESG screen indicators available in the public domain, such as a company's annual report, website, bulletins and the disclosure made on the stock exchanges.⁹²

Other organizations also contribute to the CSR institutional framework in Egypt. The Egyptian government established the Social Contract Center in 2007 as a joint initiative between the Information and Decision Support Center (IDSC) at the Egyptian Cabinet and the UNDP. As the Center strives to accomplish its mission,⁹³ it has

⁸⁸ *Who We Are*, EGYPTIAN INST. OF DIRECTORS, <http://www.eiod.org/WhoWeAre.aspx> (last visited Sept. 8, 2015) (stating the organization is affiliated to the Egyptian Financial Supervisory Authority, which is Egypt's financial markets regulator, "[t]he Egyptian Institute of Directors (EIoD) was established in 2003 as the first institute focusing on corporate governance in the Arab Region. It aims at spreading awareness, knowledge, and best practices of corporate governance in Egypt, the Middle East, and North Africa (MENA) region in a way that meets the legitimate expectations and best interests of various stakeholders, and in different types of organizations such as listed, non-listed, family-owned and state-owned enterprises (SOEs).").

⁸⁹ IBRAHIM, *supra* note 36, at 328.

⁹⁰ *S&P/EGX ESG Index Overview*, EGYPTIAN EXCHANGE, <http://www.egx.com.eg/english/OverviewS-P-EGX.aspx> (last visited Sept. 8, 2015).

⁹¹ For the detailed index methodology, see EGYPTIAN INST. OF DIRECTORS ET AL., EGYPTIAN CORP. RESPONSIBILITY CTR., *S&P/EGX ESG INDEX* (n.d.), *available at* http://www.ecrc.org.eg/backend/uploads/index/S_P%20EGX%20ESG%20Index.pdf (last visited Sept. 8, 2015).

⁹² *Id.*

⁹³ *About Us*, SOCIAL CONTRACT CTR., <http://www.socialcontract.gov.eg/English/About-Us> (stating its mission is to "support, monitor and evaluate the equitable and integrated development policies & initiatives through effective community participation based on principles of 'Equality, Participation and Accountability.'").

developed several programs related to social responsibility.⁹⁴ Proposing a set of projects to be implemented in the poorest villages with validated economic feasibility studies, the Social Responsibility Map is the premier program developed by the Social Contract Center.⁹⁵ In addition, jointly funded by the European Union, the Egyptian Government and the Egyptian private sector, the Industrial Modernization Center (IMC) was established in 2000 to give an impetus for a sustainable, modernized, vibrant, and competitive Egyptian industry.⁹⁶ Among its activities, IMC runs a Social Entrepreneurship Program, which offers a wide variety of technical support and capacity building services to its clients.⁹⁷

After briefly identifying the CSR's legal framework in Egypt, a few remarks investigate its quality and effectiveness:

First, while measures have been taken to promote CSR in Egypt, corporate practice remains considerably socially irresponsible.⁹⁸ This is primarily because CSR initiatives are mostly steered by NGOs and private entities.⁹⁹ It also begs an important question on the government's role in defining CSR and determining its contours. The World Bank identified four principal public sector roles, including mandating, facilitating, partnering, and endorsing CSR.¹⁰⁰ The government can mandate CSR adoption by defining the minimum standards for business performance in laws and regulations. As a facilitator, the government encourages companies to engage with CSR through assisting in setting standards, providing guidelines for management systems, and reporting. In partnering, the government can collaborate directly with companies and civil society organizations to tackle complex social and environmental problems. This partnership, which can take place on

⁹⁴ *Social Responsibility*, SOCIAL CONTRACT CTR., <http://www.socialcontract.gov.eg/English/Program/Program-Details/84> (last visited Sept. 8, 2015).

⁹⁵ *Id.*; see also IBRAHIM, *supra* note 36, at 325.

⁹⁶ *Who We Are*, INDUS. MODERNIZATION CTR., <http://www.imc-egypt.org/index.php/en/imc> (last visited Sept. 8, 2015).

⁹⁷ *Social Entrepreneurship Program*, INDUS. MODERNIZATION CTR., <http://www.imc-egypt.org/index.php/imc/item/80-social-entrepreneurship-programme> (last visited Sept. 8, 2015).

⁹⁸ See *supra* Part II.

⁹⁹ See IBRAHIM, *supra* note 36, at 334 (highlighting that CSR initiatives in Egypt and the brunt of carrying out its activities lies primarily with the branches of MNCs operating in Egypt).

¹⁰⁰ TOM FOX, HALINA WARD & BRUCE HOWARD, THE WORLD BANK, PUBLIC SECTOR ROLES IN STRENGTHENING CORPORATE SOCIAL RESPONSIBILITY: A BASELINE STUDY 3 (2002), available at http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2005/12/19/000090341_20051219091246/Rendered/PDF/346550CSR1CSR1interior.pdf.

different levels, is mutually beneficial and central to CSR's agenda. Governments can play another role endorsing CSR through raising awareness and leading by example.¹⁰¹

Drawing on the World Bank's classification of public sector engagement in CSR,¹⁰² the Egyptian government roles in promoting CSR appear inadequate. Although Egypt's government has been a partner to CSR initiatives and seems keen on its promotion in Egypt, the government adopts no clear strategy in doing this.¹⁰³ To be sure, the GC initiative debut in Egypt was sponsored by the UNDP and Mansour Group, a private holding company, and is run by a steering committee consisting completely of private entities.¹⁰⁴ Instead of being a CSR initial driver, the Egyptian government then reacted through partnering with the United Nations and other private entities to establish the GCNE, the ECRC, and the S&P/EGX ESG Index.¹⁰⁵

Given that CSR is contextual not only in terms of its corporate environment but also in terms of its national environment,¹⁰⁶ the government's reflective role may have negatively influenced the culture dissemination of CSR in Egypt. Not only was little explained about the merit of adopting the GC initiative, but this adoption also did not consider the particularity of Egypt's economic, social, and political conditions, and the overall context within which the CSR principles would be interpreted and complied with.¹⁰⁷ This is especially significant when issues related to CSR principles on the national level should be equally addressed to the private sector as well as other constituencies not covered under the GC, such as public entities and the informal sector

¹⁰¹ *Id.* at 3–6.

¹⁰² See generally Ashraf Shamseldin, Strengthening Corporate Social Responsibility in the MENA Region: Case Study of Egypt 22–27 (Jan. 2006) (unpublished manuscript), available at http://www.ecrc.org.eg/backend/uploads/resources/Articles_Strengthening%20Corporate%20Social%20Responsibility%20in%20the%20MENA%20Region-%20Case%20Study%20on%20Egypt.pdf (discussing in-depth this classification in Egypt).

¹⁰³ *Id.* at 38.

¹⁰⁴ TEN PRINCIPLES, *supra* note 1. According to the current list of active participants to the GCNE, the Cabinet IDSC was the first public sector organization to join the initiative in 2007 three years after its launch. See *Our Participants*, *supra* note 87.

¹⁰⁵ See *supra* pp. 25–27.

¹⁰⁶ Shamseldin, *supra* note 102, at 37–38; Virginia Harper Ho, *Beyond Regulation: A Comparative Look at State-Centric Corporate Social Responsibility and the Law in China*, 46 VAND. J. TRANSNAT'L L. 375, 388 (2013) (providing that “governments’ approaches to CSR are informed by each country’s political, economic, and cultural context, as well as by existing relationships between business, government, and civil society.”).

¹⁰⁷ *Id.*

businesses that constitutes a significant part of the Egyptian economy.¹⁰⁸ This reflects on the government's limited role as a CSR facilitator and endorser.

It seems that the Egyptian government embraced CSR's global perception as it is, and did little to customize it to the Egyptian circumstances, to change its voluntary nature, or increase compliance. It is not clear whether the government's motivation is to use CSR as a mechanism to make up for governance deficits and meet the new social demands,¹⁰⁹ or just to superficially cope with trendy international practices. Should the government consider CSR as a potential ameliorating factor, it has to be more engaged in tuning the mode and standards of CSR and encouraging a societal governance approach based on the recognition and pursuit of shared values and interests.¹¹⁰

Second, the problem with CSR is not only related to the lack of enforceable regulations, but has also to do with the sufficiency and effectiveness of the existing ones.¹¹¹ On the one hand, the voluntary nature of the internationally derived CSR initiatives is largely not complied with in Egypt. For the most part, companies comply with CSR principles in Egypt insofar as these principles are embodied in enforceable regulations.¹¹² To illustrate, the 108 active participants of the GCNE form a small fraction of the huge number of companies operating in Egypt,¹¹³ let alone the informal sector. If anything, this indicates the

¹⁰⁸ *Id.* See also Jeremy Moon, *Government as a Driver of Corporate Social Responsibility Governance: The UK in Comparative Perspective*1 (Int'l Ctr. for Corporate Soc. Responsibility, Research Paper Ser. No. 20-2004, 2004) ("CSR needs to be understood as part and parcel of a wider system of national societal governance incorporating government institutions, business organizations and non-governmental organizations."). It bears mentioning that the informal sector in Egypt consists of around 18 million establishments amounting to 65-70% the size of the formal economy according to a recent estimation of the Egyptian Center for Economic Studies. Doaa Farid, *Informal Sector Volume Records Around EGP 1.5Tn: ECES*, DAILY NEWS EGYPT, Sept. 23, 2014, available at <http://www.dailynewsegypt.com/2014/09/23/informal-sector-volume-records-around-egp-1-5tn-eces/>.

¹⁰⁹ See Harper Ho, *supra* note 106, at 378 (explaining the many factors beyond regulatory goals that motivate governments to promote CSR. Among these are the government's desire to fill governance gaps created by state's institutional weakness, legitimizing law and state policy, and limiting the negative externalities of corporate practices. Moreover, CSR promotion helps attract more investment and improve private sector competitiveness, and solve complex social and environmental problems through public-private sector partnerships.).

¹¹⁰ Moon, *supra* note 108.

¹¹¹ See generally Halpern, *supra* note 6.

¹¹² Shamseldin, *supra* note 102, at 36.

¹¹³ According to the latest quarterly report of the Egyptian General Authority for Investment and Free zones (GAFI), the number of new companies established only in the fourth quarter of the financial year 2013–2014 reached 2252 with an issued capital of EGP 3657.99 million. This only

public sector's failure to create sufficient incentives for voluntary compliance with CSR initiatives.

On the other hand, the national enforceable statutes seem insufficient. First, the existing statutory framework does not cover all the divergent aspects of CSR, which gives companies—especially multinationals—the opportunity to abuse this legal vacuum and externalize their production costs.¹¹⁴ Moreover, it is rather difficult to assess corporations' motives and their CSR perception absent a defined proxy to measure CSR practices in Egypt. The S&P/EGX ESG Index only covers the top thirty listed companies in the Egyptian stock market and does not include smaller companies or those that are not active in the market.¹¹⁵ Absent such a measurement, companies may lack clear economic incentives to promote CSR. Furthermore, the limited role of an institutional investor's control in Egyptian market,¹¹⁶ and the individual investor and consumer's weak awareness of CSR practices, reduces their impact on corporate behavior.¹¹⁷

In addition to the lack of economic and commercial incentives, the ineffectiveness of the enforceable laws related to CSR is another reason for the government's inadequate role in mandating CSR. The inefficacy of the CSR legal framework is ascribed to the varying conditions and motivations of Egypt and other states in promoting CSR.¹¹⁸ To be sure, the success of a rule depends on the existence of a functional legal and institutional infrastructure that can support its application. The rule of law in pre-revolutionary Egypt was described as partially absent,¹¹⁹ and remains weak in Egypt today.¹²⁰ Also, considering

indicates the large number of companies operating in Egypt. MONA FARID BADRAN ET AL., GENERAL AUTHORITY FOR INVESTMENT AND FREE ZONES, QUARTERLY REPORT: FOURTH QUARTER 25 (2014), available at <http://www.gafi.gov.eg/English/MediaCenter/Publications/Fourth%20Quarter%202013%202014.pdf>.

¹¹⁴ See *supra* Part II.

¹¹⁵ See *S&P/EGX ESG Index Overview*, *supra* note 90; *S&P/EGX ESG Index*, S&P DOW JONES INDICES: MCGRAW HILL FINANCIAL, <http://us.spindices.com/indices/equity/sp-egx-esg-index-us-dollar> (last visited Apr. 10, 2016).

¹¹⁶ ALSHORBAGY, *supra* note 30, at 34 (describing the structure of Egyptian corporations and securities market).

¹¹⁷ Shamseldin, *supra* note 102, at 37.

¹¹⁸ Ahmad A. Alshorbagy, *On the Failure of a Legal Transplant: The Case of Egyptian Takeover Law*, 22 IND. INT'L & COMP. L. REV. 237 (2012) ("the quality of legal rules is of little significance to the success of a transplant as the rules are not peculiarly designed for particular societies. Rather, the act of transplanting the rule is what really matters.").

¹¹⁹ Eldakak, *supra* note 43, at 276.

¹²⁰ *Id.*

its political, economic, and social predicaments, Egypt's institutions are faced with complex challenges, which hamper their development and make them incompetent in several aspects including promoting, regulating, and supervising CSR application.¹²¹

Third, there is a profound misconstruction of CSR perception and misconception of its intuition. Despite being common CSR strategies for businesses,¹²² philanthropy and investment in community development initiatives are not the only or the most important CSR strategies. Although CSR may have been traditionally conceived as philanthropic behavior, CSR has developed beyond this benevolent premise. Many view CSR as an intrinsic value to corporations since it sustains their business.¹²³ Thus, "CSR is about 'how business is performed' not just its involvements outside the firm."¹²⁴

It follows that businesses are not only obliged to consider social interests when carrying out their activities, but also to abstain from any activity that may harm social constituencies. GC principles themselves impose duties on businesses not to infringe on social rights. For example, the GC human rights principles certainly go beyond the traditional philanthropic perception of CSR to require businesses to "support and respect the protection of internationally proclaimed human rights," and to "make sure that they are not complicit in human rights abuses."¹²⁵ This understanding is reinforced by open-ended modern corporate governance models such as the team production model, which posits that the purpose of corporate governance includes serving non-shareholders stakeholders' interests¹²⁶ and is not limited to maximizing shareholders' profits.¹²⁷

¹²¹ Alshorbagy, *supra* note 118, at 238–39 (explaining how the lack of robust infrastructure and institutional incompetence contributed to the failure of transplanting the French takeover rules into the Egyptian legal system).

¹²² FOX, WARD & HOWARD, *supra* note 100, at 10.

¹²³ Moon, *supra* note 108, at 3.

¹²⁴ *Id.*

¹²⁵ TEN PRINCIPLES, *supra* note 1, princ. 1–2.

¹²⁶ Margaret Blair & Lynn Stout, *A Team Production Theory of Corporate Law*, 85 VA. L. REV. 247 (1999) (explaining that since corporations are built up out of many constituencies' contributions, the model considers these other constituencies to be team players that provide firm-specific investments. As such, a corporation is a team production entailing different resources from each team member.); Lynn Stout, *Investors' Choices: The Shareholder as Ulysses: Some Empirical Evidence on Why Investors in Public Corporations Tolerate Board Governance*, 152 U. PA. L. REV. 667, 680 (2003); Steven Wallman, *Understanding the Purpose of a Corporation: An Introduction*, 24 J. CORP. L. 807, 810 (1999).

¹²⁷ For a comparison between American corporate governance models, see ALSHORBAGY, *supra* note 30, at 48–52.

The practice in Egypt, however, demonstrates that the traditional understanding of CSR as philanthropic behavior still dominates Egyptian businesses. Either at public or private sectors' levels the majority of CSR initiatives focus on charity.¹²⁸ Rather than incorporating social interests in their decision-making process, for example, the most prominent method for CSR initiatives companies use, is to establish a separate entity affiliated with them in the form of non-profit organization, *i.e.* an association, to carry out charitable projects.¹²⁹ Focusing on charitable rather than developmental activities limits CSR's effective role in bridging social gaps and realizing sustainable development.

To be sure, philanthropic activities may contribute to battling poverty and serving some social interests, however, it misses on other essential aspects of CSR, such as respecting and protecting human rights, improving labor rights, valuing consumer rights, and preserving the environment. That is why many companies involved in such charitable activities may simultaneously be infringing on the rights of other social stakeholders.¹³⁰ Additionally, these activities are indeed employed as marketing tools to promote the company's or its controller's reputation. Oftentimes, these practices are politically driven and are used to enhance the relationship with the political regime by providing certain services and benefits in specific sectors and areas.¹³¹ This is not to suggest the complete absence of good CSR practices.¹³² Some CSR activities are

¹²⁸ IBRAHIM, *supra* note 36, at 353–66 (classifying CSR practices in Egypt into three categories. The first encompasses merely philanthropic practices that focus primarily on economic and educational needs. The second category includes companies which dedicates some considerable resources for social activities focusing on the activities that promotes their agenda rather than that meets the actual social needs. The third category contains the fewest number of companies, which are keen on considering social needs and embracing CSR.).

¹²⁹ Mansour Foundation for Development, The Lead Foundation, Amer Charitable Foundation and Sawiris Foundation for Social Development are examples of non-profit organizations established by businesses in Egypt to carry out philanthropic activities as part of their CSR policies. *See* DENIS J. SULLIVAN, PRIVATE VOLUNTARY ORGANIZATIONS IN EGYPT: ISLAMIC DEVELOPMENT, PRIVATE INITIATIVE, AND STATE CONTROL 110–16 (1994) (detailing the non-profit organizations and NGOs practice in Egypt).

¹³⁰ *See supra* Part II for examples.

¹³¹ IBRAHIM, *supra* note 36, at 340–42.

¹³² GLOBAL COMPACT NETWORK EGYPT, *supra* note 86, at 26–31 (providing a few case studies of responsible firm practices such as adopting an environmental-friendly technology regarding consumer plastic bags in one famous supermarket chain, launching innovative project to boost the use of environmental-friendly alternative technology in cement production facilities, and improving blue-collar workers' social and environmental workplace initiative).

increasing, but they remain lacking compared to the Egyptian market size and number of firms.¹³³

Another confusion with respect to CSR perception in Egypt is that it is voluntary and beyond regulation.¹³⁴ This partially incorrect perception is supported by the confusion of CSR with philanthropic practices. Philanthropy is a core value in Egypt's culture, which carries weight within public and private firms.¹³⁵ Governments around the world attempt to promote CSR in different manners.¹³⁶ In addition to the enforceable regulations relating to CSR, a certain amount of soft laws and quasi-legislative regulation, which aim at promoting this broader understanding of CSR, have developed. Hence, the need to shift this conventional understanding in Egypt to the adoption of a broader approach to CSR is imperative.

Fourth, as it is imported, the CSR Egyptian legal framework completely ignores the rules of Islamic Sharia'a, although it is considered the main source of legislation under the Egyptian Constitution.¹³⁷ Article 2 of the Egypt's constitution states that "Islam is the religion of the State and Arabic is its official language. The principles of Islamic Sharia'a are the main source of legislation."¹³⁸

Conceived as a comprehensive way of life, Islam encourages corporate social responsibility as a means of social solidarity and community building, all of which are central goals of Islam.¹³⁹ This suggests that corporate governance under Islamic law should have an open-ended purpose that not only considers shareholders' interests but

¹³³ See *id.* at 17–20 (For example, the network conducted only 5 awareness sessions followed by capacity-building trainings for the recognition of human rights on the corporate level in 2014; 4 like workshops were held for labor standards awareness, 3 sessions related to CSR environmental aspect, and 2 capacity-building programs focused on anticorruption.).

¹³⁴ Moon, *supra* note 108, at 3.

¹³⁵ GLOBAL COMPACT NETWORK EGYPT, *supra* note 86, at 19–20.

¹³⁶ Harper Ho, *supra* note 106, at 387–96 (distinguishing between two main models applied by developed countries to promote CSR. The first is the U.S. market-driven model in which the government tries to motivate companies to reach and exceed legal requirements through providing incentives, but the impetus of responsible practices depends on self-regulation. The second model adopted by the EU is the relational model that emphasizes cooperation and joint responsibility between private and public sectors and focuses on the partnership between them.)

¹³⁷ See Elsaman & Alshorbagy, *supra* note 2, at 47–48 (explaining Islamic law effect on Egyptian legal system). Of note is that this article had been copied from the former 1971 constitution into the 2012 and 2014 constitutions with no amendments.

¹³⁸ CONSTITUTION OF THE ARAB REPUBLIC OF EGYPT, 11 Sept. 1971, *as amended*, Jan. 18, 2014, art. 2.

¹³⁹ See Timur Kuran, *The Absence of The Corporation in Islamic Law: Origins and Persistence*, 53 AM. J. COMP. L. 785, 795 (2005).

also accounts for the interests of non-shareholder stakeholders. It follows that in comparison with today's free market economies, the state may have an elevated role in regulating corporate governance and promoting CSR.¹⁴⁰ The tenets of Islam are not divergent from the United Nations GC principles. Indeed, the limited literature available on this topic suggests that Islamic law is superior to the UN principles of CSR in having a clearer codification of ethical standards as well as a set of explicit enforcement mechanisms.¹⁴¹ Absent a codification of Islamic Sharia's principles and values, however, practices demonstrate non-compliance with them. Even Islamic financial institutions work on restructuring conventional finance products and services that make no real difference to the socio-economics of the nation nor contribute to the welfare of those who need it most.¹⁴² Codifying Islam's ethical values or embracing them in codes of conduct may provide an important tool for CSR endorsement and promotion in Egypt at least through motivating companies to adopt such ethical values in their decision-making process.¹⁴³

IV. GLOBAL GOVERNANCE AND CSR: AN INEFFECTIVE FRAMEWORK

The pervasive irresponsible corporate behavior in Egypt indicates major flaws in the national legal framework. This is intensified by the legal discussion resulting from the lack of an international binding framework for CSR. That is, corporations, especially MNCs, engage in an international practice through their transnational activities, but are

¹⁴⁰ See Haider Ala Hamoudi, *Muhammad's Social Justice or Muslim Cant: Langdellianism and The Failures of Islamic Finance*, 40 CORNELL INT'L L.J. 89, 95-96 (2007) (arguing that the dominant contemporary approach in Islamic jurisprudence, especially Islamic finance, is excessively rigid and allows judges and jurists relatively little control over the interpretation and development of legal rules).

¹⁴¹ See generally JOHN ZINKIN & GEOFFREY WILLIAMS, ISLAM AND CSR: A STUDY OF THE COMPATIBILITY BETWEEN THE TENETS OF ISLAM AND THE UN GLOBAL COMPACT (2006), available at <http://ssrn.com/abstract=905201>; Muhammad Adnan Khurshid, Abdulrahman Al-Aali, Ahmed Ali Soliman, Salmiah Mohamad Amin, *Developing an Islamic Corporate Social Responsibility Model (ICSR)*, 24 COMPETITIVENESS REV. 258 (2014); Jawed Akhtar Mohamed, *Corporate Social Responsibility in Islam* (2007) (unpublished Ph.D dissertation, Auckland University of Technology) (on file with the Auckland University Library); Nicholas H. D. Foster, *Islamic Perspectives on the Law of Business Organizations II: The Sharia and Western-style Business Organizations*, 11 EUR. BUS. ORG. L. REV. 273, 292-306 (2010).

¹⁴² Hanaan Balala, *Islamic Finance and Banking ala M-Pesa* 14 (unpublished manuscript) (on file with author).

¹⁴³ Arafa, *supra* note 5, at 201 (arguing that the traditional understanding of CSR as a philanthropic practice is inspired from and encouraged by the religious values of Islam and Christianity).

only subject to national legal systems, *i.e.* the Egyptian legal system in this case. Such domestic laws are unable to regulate some aspects of corporate activities, which typically fall under the umbrella of public international law, such as human rights.

Consequently, a holistic understanding of status quo of CSR and its proper assessment in Egypt may not be drawn without regard to the dominating mode of worldwide governance.¹⁴⁴ It is granted that a state applies its domestic laws in its territory to any corporation holding its citizenship. Given the transnational nature of multinational corporate activities, and their role in the different societies they operate in, however, domestic laws sometimes fall short of regulating the various aspects of corporate activities. The role of MNCs is not limited to economic and developmental social aspects but extends to meddling with states' policies, influencing cultures, and altering beliefs and traditions.¹⁴⁵

The economic and social role of MNCs assumed added significance following the fall of the Soviet Union, which marked the demise of Socialism. Since then, a new economic order has begun to emerge.¹⁴⁶ In addition to the traditional influence of the neoliberal capitalist states, non-state actors including financial and trade institutions, and private corporations have had a great impact on national conditions.¹⁴⁷ The United Nations' financial organs, such as the International Monetary Fund and the World Bank, successfully applied pressure on developing countries in need of direct investments to adopt structural economic adjustments, including liberalizing their economy and expanding private sector roles, essentially capitalist features.¹⁴⁸

Coinciding with this was the General Agreement on Tariffs and Trade ("GATT") and the establishment of the World Trade Organization ("WTO"), which leveraged a great deal of policy control over developing nations by imposing asymmetric trade liberalization requirements.¹⁴⁹ Along with the surge in the number of bilateral investment treaties ("BITs") that followed as well as regional trade agreements, trade liberalization policies and privatization created huge pressures on

¹⁴⁴ See Moon, *supra* note 108, at 1 (explaining that the term *governance* denotes the system that provides direction to the society. In this sense, *governance* is wider than the government alone represented in the formal institutions and organizations and process of public order.).

¹⁴⁵ Alshorbagy, *supra* note 8, at 28.

¹⁴⁶ Halpern, *supra* note 6, at 142.

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

developing countries, which had no choice but to give in to the new evolving order of global capital,¹⁵⁰ which came to be described as a system of global governance.¹⁵¹

Empowered with their enormous capital, vast financial and social abilities, and in their role as the most common foreign direct investment tool, MNCs became a lead player in the new global governance order.¹⁵² On both national and international levels, corporations lobby to set policies favorable to their interests. Nationally, corporations exercise a range of rent-seeking mechanisms to maintain their operations in as deregulated an environment as possible and inhibit unfavorable regulations,¹⁵³ which enables them to exploit the fragile legal systems to maximize their profits while externalizing their costs.¹⁵⁴ Meanwhile MNCs exert a similar influence on the international level to avoid the creation of a binding legal framework for their activities.¹⁵⁵

The omnipresent MNCs activities throughout the world on the one hand, and the increasing awareness of these activities' wide effect on societies and their members' fundamental rights on the other hand, made it difficult for corporations to sustain the status quo. Corporations had to exert more effort to face the new challenges that emerged with the neoliberal system of global governance. These challenges include elevated human rights standards, labor rights, curbing corruption, and preserving the environment. To absorb the growing demands of committing corporations to these CSR perceptions, corporations promoted a voluntary CSR framework.¹⁵⁶

¹⁵⁰ *Id.* at 142–43.

¹⁵¹ See Klaus Dingwerth & Philipp Pattberg, *Global Governance as a Perspective on World Politics*, 12 GLOBAL GOVERNANCE 185, 191 (2006) (describing the term “global governance” as “a heuristic device to capture and describe the confusing and seemingly ever-accelerating transformation of the international system.” In this sense, global governance is a new paradigm that acknowledges that “a plethora of forms of social organization and political decision making exist that are neither directed toward the state nor emanate from it.”).

¹⁵² See *id.*; Halpern, *supra* note 6, at 142–43.

¹⁵³ See *supra* note 43, and accompanying text (describing how businessmen were enticed to secure their seats in the Egyptian parliament). However, this practice is not limited to Egypt, it is rather a worldwide one that takes place even in the most developed countries. For example, in the US, the insurance sector secretly funneled huge amounts of money advocating against the Obamacare plan, while pretending to support it. See Rick Ungar, *Busted! Health Insurers Secretly Spent Huge to Defeat Health Care Reform While Pretending to Support Obamacare*, FORBES, June 25, 2012, <http://www.forbes.com/sites/rickungar/2012/06/25/busted-health-insurers-secretly-spent-huge-to-defeat-health-care-reform-while-pretending-to-support-obamacare/>.

¹⁵⁴ Alshorbagy, *supra* note 8, at 51–53.

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

Embracing voluntary CSR initiatives such as the United Nations Global Compact is not really a corporate initiative, but rather a reaction to the changing and growing demands of the era. It is a capitalist strategy to hinder the formulation of a looming international binding legal framework, especially after the development of this area of law as part of international law *jus cogens* applicable to states and international organizations. Through their influence, this strategy enables corporations to set the standards for which they will be held liable.¹⁵⁷

In this sense, soft laws are a new soothing tool capitalism utilizes to face production challenges. Renewing itself by implementing new tools and introducing new techniques has been a defining trait of capitalism. Corporate practices, however, clearly demonstrate that corporations hold steadfast to the profit maximization norm, which is another main pillar of capitalism. Even embracing CSR through soft laws does not indicate a corporate will to deviate from such a norm towards a more social approach to production. Motivations for voluntary CSR approaches have repeatedly proven insufficient.¹⁵⁸ This reduces CSR to a beautifying tool rather than a renewing one for capitalism.

While soothing the greediness of capitalism, CSR cultivates the MNCs' hegemony in the globalized governance order. Using it as a marketing mechanism to promote themselves, CSR also increases MNCs' control over smaller corporations in the developing markets, which do not possess the abilities to compete with these giants. All these considerations call for the development of a coherent set of international binding rules to hold corporations accountable for their social practices and prevent them from exploiting the fragile national legal system, a system that aims at realizing sustainable and just development.

V. CONCLUSION

While exploring the relationship between CSR and the Egyptian January Revolution, this Article highlights the ineffective CSR legal framework on both national and international levels. Reviewing the Revolution's political, social, and economic causes demonstrates the negative role corporations contributed to the underdevelopment stance of Egypt.

¹⁵⁷ *Id.* at 53–54.

¹⁵⁸ See John M. Conley & Cynthia A. Williams, *Engage, Embed, and Embellish: Theory Versus Practice in the Corporate Social Responsibility Movement*, 31 J. CORP. L. 1, 13–18 (2005).

Following Egypt's transformation to capitalism and the liberalization of its economy, the Egyptian private sector focused only on profit maximization, completely ignoring its social responsibility towards Egyptian society.¹⁵⁹ With the exception of some philanthropic practices, very few Egyptian corporations acknowledged their CSR in pre-revolutionary Egypt. After the January Revolution, although Egyptians' awareness of their rights has grown, corporate practices do not seem to have changed much. This is illustrated by the many corporate practices in the different aspects of CSR in Egypt.

Corporations' irresponsible practices indicate the insufficiency of legal framework for CSR in Egypt, which corporations exploit to further their interests at the expense of social interests. It also sheds light on the government's inadequate role in promoting CSR and facing its challenges. The Egyptian government needs to adopt a clear CSR policy and provide incentives to businesses to promote it. Moreover, the traditional definition of CSR as benevolent acts needs to be replaced by a broader understanding, which includes accounting for social interests in corporate decision-making.

The problem with CSR is augmented by the lack of a binding international legal framework for CSR, despite the vital role exercised by corporations in the global governance order. The huge corporate influence nationally and internationally in this capital dominated governance system underscores the inadequacy of regulating corporate behavior by domestic laws only. The current international soft approach to CSR also proves to be ineffective as it furthers corporations' interests and instills their global hegemony absent a real competition from smaller corporations. Taken together, this calls for subjecting corporations to a coherent binding international legal framework—a framework that helps realize social justice and sustainable development.¹⁶⁰

¹⁵⁹ See *supra* Part II.

¹⁶⁰ See Jonathan D. Ostry, Prakash Loungani, & Davide Furceri, *Neoliberalism: Oversold?*, 53 FIN. & DEV. 38 (2016) (underscoring the fact that after forty years, neoliberalism may be increasing inequality and stunting economic growth).