RULES CHANGED IN THE MIDDLE OF THE RACE : SUSTAINABLE DEVELOPMENT & REPORTING RULES

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Sustainable development is a term widely used by politicians all over the world even though the concept still lacks a uniform definition. The principle of sustainable development is aimed at preserving the environment and social wellbeing whilst achieving growth and attempting to meet the needs of the people. The Brundtland Commission established in 1983[1] to promote this concept described that "sustainable development is development which meets the needs of the present without compromising the ability of the future generations to meet their own needs".

Sustainable Development was based on following pillars :

- Economic Growth
- Environmental Protection
- Social Equality,

One may argue that developed world earned abundance by exploiting human and material resources unhindered by the theory of sustainable development. In some instances developed countries caused the near destruction of the earth's environment in their pursuit of growth and prosperity. The developed world has finished the race and is already past the winning post.

The idea of sustainable development is a new concept. Thus new rules of the game have been introduced in the middle of the race, to those who are still in the race. The imposition of these rules can be interpreted as a form of protectionism imposed to impede the growth of the developing countries.

Or else, it can be argued that the developed countries were so engrossed in the pursuit of only the economic growth and it was fairly late that they realized the trail of destruction left by them. The new rules so created applied (albeit not retrospectively) to those who have finished the race as well as to those who are still in the race. As such no damages were payable by those who have violated the new rules.

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[1] Formally known as the World Commission on Environment and Development (WCED), the Brundtland Commission's mission is to unite countries to pursue sustainable development together. The Chairman of the Commission, Gro Harlem Brundtland, was appointed by Javier Pérez de Cuéllar, former Secretary General of the United Nations, in December 1983

The rules of sustainable development have crept beyond the principal components of the governments and are increasingly being incorporated in to the private corporate entities. Some even opt to call it "Tipple Bottom Line" reporting. In Sri Lanka, almost all of the annual reports of the blue chip corporate entities had at least a chapter devoted to sustainability. And the Banking and Financial sector annual reports are no exception.

Development of sustainability reporting

Standard performance indicators, such as those displayed in annual reports or profit and loss statements, do not measure or disclose the economic, environmental and social impacts of an organization's decisions. Awareness of an organization's impact becomes even more difficult in an interconnected global economy.

The attempt to understand the global impact has led to the growth of an important movement within society. One result of this movement is the growing number and variety of non-governmental organizations (NGOs) around the world. The agendas or the objectives of these organizations can be categorized to any one of the pillars of sustainable development.

Business contexts and business models have changed in the face of these demands from civil society and consumer movements, coupled with other changing business conditions. As a consequence, businesses and other organizations have had to adopt novel products, services, decision-making processes and management systems.

Studies have shown that, the development of these movements can be divided into three phases.[2]

- **First Phase**

During the first phase, until the end of the 1970s, the focus was on governments. This phase also saw the creation of the large international NGOs. In the 1960s and 1970s, pioneers in the civil society movement launched international organizations such as Amnesty International, World Wildlife Fund (WWF), Friends of the Earth and Greenpeace, which also had some national counterparts.

- **Second Phase**

In the 1980s and 1990s, the second phase, the link between environmental and social issues was established and the spotlight shifted to the business world. The search began for a 'sustainable development model' which would take into account economic, environmental and social aspects.

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[2] GRI Sustainability Reporting: A common language for a common future (GRI Publication)

A new generation of NGOs were formed in response to large-scale environmental disasters, political movements, and international reports on the state of the environment and society. This movement brought transparency and ethics into the discussion. The business community was also recognized as a fundamental part of the solution.

During this second phase, the movement for measuring the scale of impacts, for common goals and transparency was initiated. A large number of Corporate Social Responsibility and similar organizations were founded all around the world. Also in these two decades the needs of consumers changed, opening up new business opportunities.

A wave of regional, national and international requirements for labeling and certification, directed at production centres, shops and supermarkets, led to the foundation of international and national quality control institutes. Labeling aimed to provide buyers with information on the quality of the production process, but could also cover different social, economic and environmental aspects. The 1990s saw the advent of the first 'environmentally and socially responsible products', which had come to stay.

- **Third Phase**

The third phase, which began around 2000 and continues today, has seen the regional, national and international agenda change yet again. There is now a clear understanding that the problems are widespread and global, and businesses of all sizes and types need to be involved in the solution. 'Corporate Governance' has been put on the agenda.

Another important factor is the advent of the information technology and growing world wide web of virtual connections, as internet connections become faster and easier.

From the perspective of an organization, this situation of increasing civil society activity poses several challenges. Consequently, the more an organization understands its position on the general economic, environmental and social map, the better it can adapt, contribute to and take advantage of it.

One of the implications of these challenges is that an organization must be prepared to talk more openly and consistently about its activities. It should also re-evaluate the main values behind its output of products and services.

Some of the most influential initiatives promoting sustainability reporting in the private sector include,

- Global Reporting Initiative
- UN Global Compact
- United Nations Convention against Corruption
- Transparency international

Global Reporting Initiative

It was in the second phase described above that the Global Reporting Initiative (GRI) was founded in 1997 as a project under Ceres. Ceres was a Boston (US) based national network of investors, environmental organizations and other public interest groups working with companies and investors to address sustainability challenges such as global climate change.

In 2002 GRI became an independent international NGO and its secretariat has since been located in Amsterdam, The Netherlands. Its main role was to set up a multi-stakeholder process to define guidance to organizations on what issues they should measure and report on.

The GRI Sustainability Reporting Guidelines have been developed by hundreds of individuals from more than 30 countries, from business, academia and NGOs. GRI aims to create a common language for all types and sizes of organizations to manage and report on their performance, irrespective of the geographical location of the entity.

The GRI reporting process, is a process in which an organization:

- ***Prepares*** *& understands the economic, social, and environmental impacts of its activities;*
- ***Connects*** *& enters into dialogue with stakeholders about these impacts;*
- ***Defines*** *the aspects and indicators that are the most important for reflecting its economic, environmental and social contributions;*
- *Sets goals &* ***Monitors*** *its results; and*
- ***Communicates*** *all of these steps to its stakeholders.*

The GRI Guidelines also set out Principles for the reporting process to help the organization improve the quality of the information and the quality of the reporting process. It is claimed that by using the GRI reporting process, the organization will gain a better understanding of its relation to its business context and can better adapt, contribute and take advantage of it.

This understanding also helps organizations to identify what contribution they can make towards solutions which will shape the future in a sustainable way. And also it helps to identify the limitations and opportunities which this call for transparency brings to their business.

The GRI reporting principles are promoted by the annual report publishing contractors in Sri Lanka. During the financial years 2012/13 almost all of the listed companies in Sri Lanka seem to have incorporated GRI principles in one form or another.

UN Global Compact

The UN Global Compact is a strategic policy initiative by the United Nations developed for businesses that are committed to aligning their operations and strategies with ten principles in the areas of human rights, labour, environment and anti-corruption.

It is claimed that by participation in UN Global Compact, businesses can help ensure that markets, commerce, technology and finance advance in ways that benefit economies and society. UN Global Compact has over 10,000 corporate participants and other stakeholders from over 130 countries. As such it is the largest voluntary corporate responsibility initiative in the world.

Endorsed by chief executives, the Global Compact is a practical framework for the development, implementation, and disclosure of sustainability policies and practices designed to formulate sustainable business models and markets.

The ten principles of UN Global Compact categorized under its main pillars are as follows.

Human Rights

- *Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights; and*
- *Principle 2: make sure that they are not complicit in human rights abuses.*

Labour

- *Principle 3: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;*
- *Principle 4: the elimination of all forms of forced and compulsory labour;*
- *Principle 5: the effective abolition of child labour; and*
- *Principle 6: the elimination of discrimination in respect of employment and occupation.*

Environment

- *Principle 7: Businesses should support a precautionary approach to environmental challenges;*
- *Principle 8: undertake initiatives to promote greater environmental responsibility; and*
- *Principle 9: encourage the development and diffusion of environmentally friendly technologies.*

Anti-Corruption

- *Principle 10: Businesses should work against corruption in all its forms, including extortion and bribery.*

The initiative seeks to combine the best properties of the UN, such as moral authority and convening power, with the private sector's solution-finding strengths, and the expertise of a range of key stakeholders. The participation in UN Global Compact is voluntary but accountable.

UN Global Compact incorporates a transparency and accountability policy known as the Communication on Progress (COP). The annual posting of a COP is an important demonstration of a participant's commitment to the UN Global Compact and its principles. Participating companies are required to follow this policy, as a commitment to transparency and disclosure is critical to the success of the initiative. Failure to communicate will result in a change in participant status and possible expulsion.

Criticism of UN Global Compact

Many civil society organizations believe that without any effective monitoring and enforcement provisions, the Global Compact fails to hold corporations accountable. Some of the critics argue that companies can misuse the Global Compact as a public relations instrument for "bluewash", as an excuse to oppose any binding international regulation on corporate accountability.

Some of the criticism includes:

- The compact contains no mechanisms to sanction member companies for non-compliance with the Compact's principles;
- A corporation's continued participation is not dependent on demonstrated progress;
- The Global Compact has admitted companies with dubious humanitarian and environmental records in contrast with the principles demanded by the Compact.

As of end September there were 40 Sri Lankan corporate entities participating in UN Global Compact. Out of these participants there was only one Licensed Commercial Bank. Other financial sector participants from Sri Lanka were one leasing company and an asset management company [3]

United Nations Convention Against Corruption

The United Nations Convention against Corruption (UNCAC) is a multilateral convention negotiated by members of the United Nations. It is the first global legally binding international anti-corruption instrument. The Convention was adopted by the General Assembly of the United Nations on 31 October 2003 at United Nations Headquarters in New York.

UNCAC introduces a comprehensive set of standards, measures and rules that all countries can apply in order to strengthen their legal and regulatory regimes to fight corruption. It calls for preventive measures and the criminalization of most forms of corruption. This includes both public and private sectors. And it makes a major breakthrough by requiring Member States to return assets obtained through corruption to the country from which they were stolen.

3 http://www.unglobalcompact.org

Chapter VI of the UNCAC had stipulated that the developing countries needed assistance of the developed countries to combat the cancerous menace of corruption, both in the public and private sectors as coming under the ambit of the UNCAC, since all those who are custodians of public monies are accountable as trustees thereof.

It should be noted that Sri Lanka has ratified the convention in March 2004.[4]

Article 21 & 22 UNCAC states as follows.

Article 21. Bribery in the private sector

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally in the course of economic, financial or commercial activities:

(a) The promise, offering or giving, directly or indirectly, of an undue advantage to any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting;

(b) The solicitation or acceptance, directly or indirectly, of an undue advantage by any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting.

Article 22. Embezzlement of property in the private sector

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally in the course of economic, financial or commercial activities, embezzlement by a person who directs or works, in any capacity, in a private sector entity of any property, private funds or securities or any other thing of value entrusted to him or her by virtue of his or her position.

UNCAC also requires the members to prohibit the following acts carried out for the purpose of committing any of the offences established in accordance with this Convention.

(a) The establishment of off-the-books accounts;
(b) The making of off-the-books or inadequately identified transactions;
(c) The recording of non-existent expenditure;
(d) The entry of liabilities with incorrect identification of their objects;

4 http://treaties.un.org/Pages/ViewDetails.aspx?mtdsg_no=XVIII-14&chapter=18&lang=en

(e) The use of false documents; and
(f) The intentional destruction of bookkeeping documents earlier than foreseen by the law.

As a signatory to the UNCAC, Sri Lanka is obligated to implement legislation to cover the covenants of the convention. Current Sri Lankan legislation against bribery & corruption includes.

- Bribery Act no 11 of 1954 (as amended)
- Declaration of Assets and Liabilities Law, No. 1 of 1975,
- Commission to investigate allegations of bribery or corruption Act, No. 19 of 1994
- Penal Code (as amended)

However it is noted that the current Sri Lankan legislation related to bribery and corruption covers most of the covenants with respect to only the public servants. [5]

Other initiatives by Transparency International

Transparency International has advocated a set of policy initiatives in Corporate Reporting aiming the private sector, governments, investors and the civil society organisations. [6]

To multinational companies:

- Anti-corruption programmes should be publicly available.
- Companies should publish exhaustive lists of their subsidiaries, affiliates, joint-ventures and other related entities.
- Companies should publish individual financial accounts for each country of operations.
- A transparent and informative corporate website, available in at least one international language, should be the standard communication tool for all multinational companies.
- In view of their significant impact, financial companies should considerably improve their reporting on all transparency-related issues and should, in particular, extend their anti-corruption programmes to cover agents and intermediaries acting on their behalf and prohibit facilitation payments.

To governments and regulatory bodies:

- National governments and the European Union should require companies under their jurisdiction to disclose all subsidiaries, affiliates, joint-ventures and other related entities.

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[5] Under the Bribery Act of 1954 (As amended) public servant includes employees of the institutions described in the schedule to the act. This schedule includes all state sector banks.

[6] June 2012 Transparency International is the global civil society organisation leading the fight against corruption. Through more than 90 chapters worldwide and an international secretariat in Berlin

To investors:

- *Institutional and private investors should demand reporting on anticorruption programmes, organisational transparency and country-by-country reporting and factor this information into their investment decisions.*
- Risk rating agencies as well as corporate responsibility indices should include transparency measures as an integral part of their evaluation process.
- Accounting standards relating to financial accounting as well as to corporate social responsibility reporting should include corruption-relevant disclosures.

To civil society organisations :

- Civil society organisations should get involved in the monitoring of multinational businesses located or operating in their countries to promote greater transparency.
- Civil society organisations should focus advocacy efforts on multinational businesses located or operating in their countries to improve the depth and scope of their commitments to transparency, and in particular, to improve their level of anti-corruption reporting.

The call for sustainability reporting by the organizations

The general quality of life on the planet depends on decisions made by many individuals. Every organization, whether it is a global corporation, government agency, small business, large company, has an impact on the area around it. But the impact of its actions has a wider geographical and social reach.

Decisions made by executives, managers and employees on the production of goods or services, selection of suppliers, hiring of new employees, working conditions, transportation of any type, waste management, and hundreds of other routine activities, produce economic, environmental and social impacts.

As a result, there is a growing expectation in society for companies, governments and other organizations to make sound decisions and to be more accountable for their actions. Since the private sector has become the global engine of growth, the search lights have been focused on the private sector.

Companies are being asked to provide more information to their investors, consumers, clients, employees, government agencies, and communities, and are being encouraged to ask the same from their suppliers and partners. They have also been asked to show how they take the environmental and social perspectives into account in their activities.

If an organization wants to gain respect and enhance credibility, it is essential that it can show that it understands the connections between its activities and their impacts, and take them into account in everyday decisions.

Traditionally the stakeholders of corporate bodies were satisfied with a report of few pages narrating the philanthropic activities conducted by the company during previous year. However in most of the instances a part of the marketing budget is spent on these activities. Naturally these activities categorized as CSR (corporate social responsibility) was aimed at gaining marketing mileage to the company. As such questions were being asked.

- Are philanthropic activities enough to build up an organization's reputation and show its commitment to working for a better future?
- Is an external communication campaign what the organization needs to show its commitment to society?

This called for more focused and accountable sustainability related reporting initiatives aiming at the private sector.

The new rules sustainability reporting requirements seem unfair to those who are still in the race for growth. But considering the trail of irrevocable destruction left behind by those who have finished the race, it seems only fair to minimize any further damage.

Besides it is the entities in the emerging markets that are contributing to the world economic growth. Let us, the emerging markets, ensure that at least we run the race for growth by following the proper path. Unlike those who finished the race before us.

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- http://www.unglobalcompact.org
- https://www.globalreporting.org }