Manufacturing amnesia: Corporate Social Responsibility in South Africa

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Under what circumstances do South African firms act to improve the country's socio-economic and environmental order? What do these actions tell us about the country's transformation process, aimed at eradicating past racial inequality? And do these actions contribute to setting South Africa on a path to sustainable development?

This article aims to use a national-level case-study of an emerging economy to interrogate what has become known as the sphere of 'Corporate Social Responsibility' (CSR) in South Africa.[1] It shows first that firms generally prefer the notion of corporate social investment (CSI) to that of CSR. It goes on to isolate some of the factors that have encouraged and stimulated 'responsible' corporate behaviour. In analysing this behaviour, it stresses both accomplishments and contradictions. It then raises questions about those firms that remain outside the net of commitments to better social and environmental practice. Finally, it argues that corporate voluntarism has not dealt effectively with the problem of redress and that more regulatory mechanisms may be necessary to effect genuine reconciliation.

Business, apartheid and reconciliation

Scholarship is divided on the question of whether business[2] contributed to the downfall of apartheid. Liberal writers attribute to the role of business the gradual admission of black workers into semi-skilled positions, the removal of workplace segregation and the sponsorship of urban reform in the face of government intransigence.[3] Radical writers argue that business had introduced the migrant

[1] My views owe much to my participation in the UN Research Institute on Social Development (UNRISD) project on promoting CSR in developing countries, led by Peter Utting and sponsored by the Macarthur Foundation (2000–2004), in which I jointly coordinated the South African case-study. These views were formulated in discussions with co-researchers at the Sociology of Work Unit in the University of the Witwatersrand, especially Andries Bezuidenhout, Ralph Hamann and Rahmat Omar.

[2] While I recognize the heterogeneity of business in South Africa, generalizations here largely refer to the more formally organized parts of the private sector.

[3] Epitomized in the work of Michael Lipton, Merle Lipton, Lawrence Schlemmer and R. W. Johnson.

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labour system, single-sex hostels, workplace segregation, the racial division of labour and racially discriminatory salaries.[4] Moreover, they point out, business helped in sanctions-busting operations, received subsidies from and paid taxes to the apartheid state, and provided services, technologies and weapons directly used for oppression. Radicals felt that business initiatives countering the practice of apartheid were made only in response to skills shortages and urban unrest.

During the first years of transition to democracy, business was somewhat nervous of any substantial or radical economic change. It realized that it had to accommodate new priorities, but there was some uncertainty as to how far it would need to transform. From the late 1980s onwards business delegations had been going to see the ANC leadership in exile in Lusaka, in order to establish common ground. After the change of regime occurred, business was mollified by the apparent continuity of fiscal and financial governance. The ANC initially made use of both politicians and officials attached to the former administration in the Department of Finance (now the National Treasury) and the Reserve Bank, and when it eventually replaced them with its own personnel, many of the latter had by then been imbued with the principles of orthodox economics, having been trained at universities abroad or served as interns at institutions such as the World Bank.

Within two years of achieving power, the ANC had replaced its initial populist redistribution plan—the Reconstruction and Development Plan (RDP)—with a monetarist programme for Growth, Employment and Reconstruction (GEAR). GEAR foresaw more privatization, deregulation and trade liberalization. It was formulated under World Bank influence and implemented without any public debate. Although this irked the ANC's communist and trade union allies, it reassured the private sector that wholesale redistributive measures were no longer likely.

As the spectre of radical redistribution gradually receded, the private sector began to assert its priorities and identity more strongly. It began to seduce former liberation fighters into a culture of golf days, cigar bars, conspicuous consumption and recognition in the social pages. It also began to collaborate with a number of government programmes. It still retained misgivings about the pace of privatization (which it regarded as too slow) and black economic empowerment (which it thought was too fast). It felt that new legislation governing working conditions, guaranteeing minimum wages for farm and domestic workers, and requiring affirmative action, was too punitive. It was also much more cautious than government about assigning economic risk to new investment. Nevertheless, in general it regarded South Africa as a more favourable operating environment than had been the case during apartheid, and export-oriented industries gained windfalls from the severely undervalued rand.

Business also escaped any serious retribution in the hearings of the Truth and Reconciliation Commission (TRC). The TRC heard much evidence of how

[4] These writers include Harold Wolpe, Martin Legassick, John Saul, Stephen Gelb and Mike Morris.

large corporations had made profits on the back of human rights violations, yet did not seek to exact any recompense for the victims of this injustice. Indeed, some organizations of victims have had to litigate in other jurisdictions to obtain compensation, with the South African government strongly contesting their right to do so. The pervasive ideology of reconciliation—embodied in the almost universally revered figure of President Mandela—embraced the business community and absolved it of any culpability.

Redefining responsibility

Business in South Africa therefore generally eschews the notion of 'corporate social responsibility', despite the wide use of this term among practitioners and in the literature. Instead, it favours concepts of 'corporate social investment' and 'corporate citizenship': concepts that ask no questions about legacy, memory, history, justice, or moral and ethical responsibilities.

A good corporate citizen is defined by key South African analysts as 'One that has comprehensive policies and practices in place throughout the business, that enable it to make decisions and conduct its operations ethically, meet legal requirements, and show consideration for society, communities and the environment',[5] while a corporation's typical self-definition of corporate social investment runs as follows: 'CSI encompasses projects that are external to the business or outward looking projects undertaken for the purpose of uplifting communities in general and those which have a strong developmental approach. It also includes projects with a focus on social, developmental or community aspects where the investment is not primarily driven as a marketing initiative.'[6]

Both definitions try to project ideas of good practice. Neither assigns to firms any moral or ethical responsibility for past malpractice. There is little acknowledgement of the legacies of social and environmental injustice perpetrated by business under apartheid. The CSI definition sees business and development as entirely separate activities, development or 'upliftment' being 'external' to business. This bifurcation says much about the corporate perception of production systems as non-developmental, requiring business to make separate interventions to address development. 'Responsibility' would imply taking action to acknowledge, recognize and offer redress for apartheid-era violations of human rights. However, under post-apartheid democracy, firms operating in South Africa have made no such admissions, nor any restitution.

Similarly, apartheid gave firms licence to commit vast environmental damage, which included compromising the ecology and the health of workers and those who lived near industrial plants. In most cases the victims were black people. Not only are firms resisting settlement in class actions brought in such cases, but where settlement has become inevitable, as for example in the case of Cape plc

5 Trialogue, *The good corporate citizen: pursuing sustainable business in South Africa* (Cape Town: Trialogue, 2004), p. 8.

6 Altron Group, *Policy document and implementation guidelines* (Johannesburg: Altron Group, 2004), p. 3.

with respect to victims of asbestosis (a case brought in the UK courts), the South African state absolved Cape and its successors of any responsibility for environmental rehabilitation of asbestos-blighted lands (on which people continue to live and hence remain victims).[7] South African courts, and the Department of Water Affairs and Forestry, have absolved the former parastatal steel company Iscor (now privatized as Mittal Steel South Africa) of any responsibility for polluting the groundwater of smallholder communities in the catchment surrounding its Vanderbijlpark steel mills. Other examples of the impunity with which firms in South Africa continue to pollute severely occur in coal-fired power generation, aluminium smelting and other forms of ore beneficiation, paper and pulp production, and petroleum refining. It took more than a decade to resolve the case of Thor Chemicals, a British company that had attempted to use its South African subsidiary to 'recycle' mercury. Poor storage of the irrecoverable mercury had resulted in deaths, comas, brain damage and other forms of mercury poisoning to on-site workers and downstream residents.[8]

The end of apartheid brought some expectations of an environmental dividend. As noted above, the burdens of environmental pollution had fallen disproportionately on the black community. To ensure a captive workforce, bleak townships had been placed close to the most offensive of industries. There was hope that new legislation would compel industry to limit the pollution which had created severe health problems in communities around the Vaal Triangle, south Durban,[9] Cape Town's Caltex refinery, Richard's Bay, the platinum belt and elsewhere.

However, ten years of democracy have passed and a major clean-up of such areas is still awaited. There has been no compulsion on firms to change their behaviour, and voluntary mechanisms provided for in the National Environmental Management Act (NEMA) have not succeeded. New air-quality legislation may have some effect, but this will depend on how the law is implemented.[10] The price of coal remains cheap for bulk users, since the externalities (health and environment costs) have never been included; South African electricity

7 See Jock McCulloch, *Asbestos blues: labour, capital, physicians and the state in South Africa* (Oxford: James Currey, 2002); L. Braun and J. Trimbur, *Asbestos and asbestos-related diseases: what do people need to know?* (Kuruman: Moffat Mission Trust, 2002); Halina Ward, *Governing multinationals: the role of foreign direct liability*, RIIA Energy and Environment Programme briefing paper, n.s. 18 (London: Chatham House, 2001), and Marianne Felix, 'Risking their lives in ignorance: the story of an asbestos-polluted community', in Jacklyn Cock and Eddie Koch, eds, *Going green: people, politics and environment in South Africa* (Cape Town: Oxford University Press, 1991).

8 Mark Butler, 'Lessons from Thor Chemicals: the links between health, safety and environmental protection', in Lael Bethlehem and Michael Goldblatt, eds, *The bottom line: industry and the environment in South Africa* (Cape Town: University of Cape Town Press, 1997), pp. 194–213.

9 See David Wiley, Christine Root and Sven Peek, 'Contesting the urban industrial environment in South Durban in a period of democratization and globalization', in Bill Freund and Vishnu Padayachee, eds, *(D)urban vortex: South African city in transition* (Pietermaritzburg: University of Natal Press, 2002), pp. 223–56; Sven Peek, 'Doublespeak in Durban: Mondi, waste management, and the struggles of the South Durban Community Environmental Alliance', in David McDonald, ed., *Environmental justice in South Africa* (Athens: Ohio University Press, 2002), pp. 202–19.

10 Jill Stanford, 'Tough new air-quality law on the way', *Engineering News*, 1–7 Oct. 2004, p. 21.

utility Eskom continues to burn the lowest-quality coal for domestic energy generation. South Africa has attracted transnational investment in aluminium smelting, despite not having sources of the raw material, bauxite. The ore is imported, transformed and largely re-exported. The smelting process is highly energy-intensive, so the value added locally is mainly the cheap electricity. Firms avoid having to pay the externalities, transferring this burden to local communities. Plants in South Africa would not gain licences in Japan, Canada or EU countries; the question thus arises whether environmental arbitrage has turned the country into a pollution haven for beleaguered transnationals.

On the one hand, firms—particularly those in the minerals, energy and chemical sectors—have been reluctant to comply with new legislation, knowing that enforcement is weak. Simultaneously, the state has not been willing to confront aberrant firms, on the grounds that stricter enforcement might lead to job losses or disinvestment. Proposed changes in the legislation covering compulsory environmental impact assessment have been seen by the state as a way to 'streamline' development,[11] but by critics as an attempt to dilute environmental standards.

Many firms operating in South Africa have implemented more stringent environmental management systems since the advent of democracy. However, these systems have not always been applied in such a way as fundamentally to challenge the existing *modus operandi*. For example, over 90 per cent of electricity production continues to rest on the burning of low-quality coal. Steel and paper/pulp manufacturing techniques are badly outdated, and the plants at which they are used, built in the 1950s, would not be permitted to operate if they were located, say, in the EU. The management systems themselves often fail to address the big picture; most are voluntary and self-regulated, and so do not apply any real pressure to comply with externally set criteria.

Nevertheless, firms do implement these systems because they are keen to be seen to care for the environment and the social fabric of the country. Some are able, through corporate social or environmental spending, to construct a benign public image for themselves. A key example is Sappi, a company which grows large tracts of alien eucalyptus and pine plantations for timber or conversion into pulp and paper. Its plantations are monocultures which squeeze out biodiversity, deplete local water resources, alienate land and compromise ecosystems; it pays poverty wages; its paper mills rely on extremely dirty technologies. Yet Sappi has a public reputation as green-oriented, because of the resources it devotes to widely distributed nature publications and numerous other environmental projects. Its rival, Mondi, whose socio-environmental practices are similar, sponsors a major project on wetland protection and rehabilitation. Firms' social responsibility spending is therefore often aimed at deflecting criticism of their unsustainable practices.

11 South African Department of Environmental Affairs and Tourism, *Environmental impact management: the second amendment to the National Environmental Management Act (1998): a simple guide* (Pretoria: DEAT, n.d. [2004?]).

The construction of reputation, whether to evade historical accounting or to disguise contemporary violations, favours the notion of 'corporate social investment'. Under the new democracy, new private direct investment has actually been very limited, and often the state has to lead the way, through its Industrial Development Corporation taking large stakes in new infrastructural projects. Firms have nevertheless encouraged the impression that voluntary social investment is making a significant contribution to the well-being of their stakeholders and of the country as a whole.

In truth, reviews of corporate giving have consistently shown that the extent of such intervention is rather limited. One complication in setting out to assess how much is being done is that there are no standardized ways to measure such giving. Should it include sports sponsorship? Should it include acts of support for social projects which may simultaneously be brand promotion exercises? Notwithstanding these and other methodological complexities, a number of surveys have tried to quantify CSI in South Africa.

In the late 1990s the Centre for Development and Enterprise, based in Johannesburg, conducted two surveys to ascertain levels of corporate social spending. The first of these targeted 75 large corporations, eliciting a 34 per cent response rate. A second survey randomly chose 545 firms of all sizes. The first survey found that an average of R580 million was spent annually on CSI projects,[12] amounting to R7.7 million per firm in the 1997 financial year. Extrapolating these results to the entire corporate sector, the CDE researchers estimated the annual total at between R4 and R5 billion, amounting to 0.26 per cent of turnover for large corporations and 0.15 per cent for small and medium-sized enterprises.[13]

Trialogue, publisher of a regular *Corporate social investment handbook*, surveyed the 2002 spending of 100 large South African companies and found that they had spent a total of R2.2 billion on CSI that year. This was estimated as a rise of 7.8 per cent on the previous year, but was still an increase below the rate of inflation. Within the sample, it appeared that 5 per cent of these leading companies were contributing 30 per cent of the total, while 75 per cent of the firms contributed less than a quarter of the spending.[14] The following year's study revealed that the CSI spending of the largest 100 firms had reached R2.35 billion, 6.8 per cent up on 2002, with average spending on CSI per firm of R13 million. Although more than half the 100 companies sampled had raised their spending, the reported total amounted to just over 1.5 per cent of government expenditure on education, health and social services in the 2003 financial year (R153 billion).[15] This seems a very weak contribution, even though a key observer feels that South Africa's corporate social spending record is one of the highest in the world.[16]

[12] Although the rand (R) oscillates in value, at the time of writing (early 2005) there were approximately R6 to a US dollar, R8 to a euro, and R11 to a UK pound.

[13] Centre for Development and Enterprise, 'Corporate business in a wider role: brief results of two CDE surveys on resource flows from business to society in South Africa', *CDE Focus*, June 1999.

[14] *Business Day* (Johannesburg), 24 Dec. 2002.

[15] Vanessa Hockey, ed., *Corporate social investment handbook*, 6th edn (Cape Town: Trialogue, 2004).

[16] Comment to the author by Paul Kapelus, Director, African Institute for Corporate Citizenship, Johannesburg, 9 Feb. 2005.

The perception that business provides only weak support for communities is reflected in the results of a national survey on giving, in which two-thirds of the respondents felt that business should pay more taxes to help the poor. The author of the survey report remarks: 'In a country where between 45% and 55% of the population lives in poverty ... [T]he link between past discrimination and current support for a redistributive project is clear.'[17]

In fact, firms get more credit than they deserve. First National Bank, in a scenario-building exercise which resulted in a publication based on the predictions of 77 prominent South Africans, stated that 'corporate social responsibility projects are going a long way to alleviate poverty, and to prove that South Africans do not see this challenge as one for government alone'.[18]

The gap between companies' claims and their practice has become more evident with the emergence of numerous civil society watchdog bodies. Coalitions of organizations (including trade unions) came together to contest the cases of Thor, St Lucia, Cape plc and Mittal Steel, while environmental justice NGOs challenged the pollution resulting from oil refineries and the mining industry.[19]

Civil society organizations have also challenged the notion of corporate responsibility, arguing that the term 'accountability' is more appropriate. The World Summit on Sustainable Development (WSSD) became a fulcrum for expression of the contending positions. Business, backed in part by the UN,[20] advocated an extension of partnerships with governments and NGOs. Many NGOs, however, demanded that business account for its numerous environmental crimes and that the international community develop a convention to regulate the behaviour of transnational corporations, and condemned the 'greenwash' (use of pro-environmental language to mask bad practice) of the companies and its UN-backed version, 'bluewash'.[21] However it may be redefined, the practice of CSR in South Africa continues to be informed by global trends and attitudes.

Shaping CSR in South Africa

Companies often use local spending to try to guarantee broad acceptability, giving them a 'social licence to operate'. Formerly the offer of jobs was enough

[17] David Everatt, *A nation of givers? Social giving among South Africans: findings from a national survey* (Johannesburg: SA Grantmakers' Association, National Development Agency, Centre for Civil Society, 2004), p. 30.

[18] First National Bank of South Africa Ltd, *South Africa 2014: the story of our future* (Johannesburg: FNB, 2004).

[19] The NGOs include groundWork (based in Pietermaritzburg) and Group for Environmental Monitoring (Johannesburg), assisted by the Legal Resources Centre's Environmental Justice Project. See also the article by Peter Lund-Thomsen in this issue of *International Affairs*.

[20] Anne Zammit, *Development at risk: rethinking UN–business partnerships* (Geneva: South Centre/UN Research Institute for Social Development, 2003).

[21] groundWork was responsible for coordinating South Africa's first Corporate Accountability Week, which took place in the run-up to the WSSD. See also Ralph Hamann, Nicola Acutt and Paul Kapelus, 'Responsibility vs. accountability: interpreting the World Summit on Sustainable Development for a synthesis model of corporate citizenship', *Journal of Corporate Citizenship* 9, Spring 2002, pp. 20–36.

to provide such a guarantee. Often the spending has been linked to promotion of the company's reputation and specific corporate branding. However, external pressures also provide some incentives. These can be loosely classified according to five sources.

When there is pressure from the state

In South Africa the regulatory functions of the state are relatively well developed, perhaps with the exception of aspects of environmental governance. Regulation of the environment is quite fragmented: functions are split among a number of national departments, nine provincial departments, and specialized regulatory bodies for competition, electricity, biosafety and nuclear matters. Simultaneously, a number of areas have experienced deregulation, particularly agricultural marketing, which has had a specific set of impacts on food security and the environment.

The multiplicity and poor coordination of regulatory bodies, and the turf battles among them, make up only one aspect of the problem. Another one is capacity, particularly in the environmental protection bureaucracy. For example, until recently there were only five centrally based air-quality control officers for the entire country.[22]

The state has recognized to some degree its own incapacity to regulate effectively, by placing within its environmental legislation provisions for voluntary conflict resolution.[23] In doing so, it was taking a leaf out of the book of Netherlands practice, without necessarily enjoying the same institutional context.[24] The reasoning behind the introduction of co-regulatory policy instruments was based on a critique of exclusive reliance upon directive-based ('command and control') regulatory measures, which set standards for compliance and enforced them after a monitoring process. The criticism is that enforcement is often inadequate or mechanistic, promoting 'end-of-pipe' rather than holistic approaches to waste and pollution management, stifling technological innovation, and stressing supply-side solutions rather than behavioural change on the part of firms.[25]

Known in the South African legislation as environmental management co-operative agreements (EMCAs), these new provisions are seen as voluntary

[22] This situation may change with the passage of the Air Quality Act during the 2005 parliamentary session.

[23] The new South African legislation was formulated in a multi-stakeholder participatory process known as the Consultative National Environmental Policy Process (CONNEPP). The suggestions for voluntary procedures emerged from the business sector, and were ultimately accepted by the government drafters. The law became known as the National Environmental Management Act (NEMA), Act 107 of 1998. For an account of business intervention to remove the caveats attached to the EMCAs, see Chris Albertyn and Gill Watkins, eds, *Partners in pollution: voluntary agreements and corporate greenwash*, 'South African People and Environment in the Global Market' series (Pietermaritzburg: groundWork, 2002), pp. 7–8.

[24] See the Netherlands, Ministry of Housing, Spatial Planning and Environment, *National Environmental Policy Plan* (The Hague: VROM, 1989), and subsequent iterations.

[25] Jonathon Hanks, 'Promoting corporate environmental responsibility: what role for "self-regulatory" and "co-regulatory" policy instruments in South Africa?', in Peter Utting, ed., *The greening of business in developing countries: rhetoric, reality and prospects* (London: Zed, 2002), pp. 191–3.

accords between the government and 'any other person—or community' for the purpose of implementing the law.[26] To date two EMCAs have been piloted, in the chemicals and petroleum-refining industries respectively. In 2000 the deputy minister of environment and tourism, Rejoyce Mabudafhazi, initiated these agreements in the context of increasing pressure to respond to air pollution crises in south Durban, the Vaal Triangle and Cape Town,[27] and also to showcase effective Type II agreements in the run-up to the WSSD.[28] The EMCAs were constructed in two tiers, first creating bilateral agreements between government and industry, and later adding site-level agreements between specific facilities and individual local authorities. The aim was to improve environmental performance in the areas of water, air and waste management.

Implementation of the EMCAs was attended by a number of difficulties. The Dutch model had not been well understood, and the different parties were uncertain of their rivals' intentions. The bilateral phase of agreement between central government and industry attracted heavy criticism on the grounds of exclusion of civil society and other tiers of government, and for seeking binding agreements in the absence of detailed pollution control legislation. Later attempts to engage with the excluded role-players were, according to Acutt, 'at best *ad hoc*, and led to perceptions of regulatory capture'.[29] Trust had broken down, mainly because the process had been mismanaged, and NGOs responded with a strong statement against bilateral collusion between government and industry in the lead-up to the passage of anti-pollution laws and standards.[30] In the face of waning confidence in the EMCAs as the WSSD approached, the government had to drop the idea, and little more has been heard of them. The failure of the EMCAs means that voluntary agreements of this kind are unlikely to be revived in the short or medium term. Other mechanisms for settling environmental conflict will have to be perfected.

Another arena in which the state is responsible for urging business to act is the formation of sectoral agreements on implementing black economic empowerment (BEE). Detailed negotiation has to date produced such agreements in the petroleum, mining, finance and tourism industries. In each sector, government, labour and business agree to the terms of a BEE charter, which lays out specific targets for the achievement of changes in spheres such as ownership, employment, tender and procurement processes, and promotion and training opportunities, as well as local economic development. Targets

[26] Section 35 of NEMA. See also South African Department of Environmental Affairs and Tourism, *Environmental management cooperative agreements: a guide for their design and use* (Pretoria: DEAT, 2002).

[27] Nicola J. Acutt, *Perspectives on corporate responsibility: the South African experience with voluntary initiatives*, CSERGE Working Paper ECM03–05 (Norwich: University of East Anglia, 2003), p. 14. Acutt's valuable research on voluntary initiatives also forms part of her doctoral dissertation.

[28] Albertyn and Watkins, *Partners in pollution*, p. 13. In contrast to binding conventions (Type I), Type II agreements were seen as voluntary, non-binding partnerships between governments, business and civil society. These were supposed to be negotiated in advance of the 2002 summit, and thus did not require the consent of delegations.

[29] Acutt, *Perspectives on corporate responsibility*, p. 16.

[30] Albertyn and Watkins, eds, *Partners in pollution*, p. 13.

differ from sector to sector, but are monitored in the form of detailed score-cards for each firm.

In the mining sector, great controversy arose with the leaking in July 2002 of the targets for the draft BEE scorecard, which foresaw the acceleration of black ownership of the sector to 51 per cent within ten years. The markets reacted drastically to this proposal. Within one day, the JSE Securities Exchange fell to its lowest level in eight months, with its resource index falling 5 per cent and the gold industries' index shedding almost 12 per cent.[31] These reductions, amounting to R25 million of shareholder value, were said to reflect a global failure of investor confidence in the charter's targets. The government back-tracked, reopening negotiations with a broad group of stakeholders, including traditional and emerging mining houses, and labour unions. The result was a new scorecard published in October 2002, which not only reduced the target for black equity ownership to 26 per cent within ten years, but espoused a 'broad-based socio-economic' version of BEE which included local economic and community development as well as improved health, safety and environ-mental practice.[32] The new scorecard gained the approval of all the stakeholders.

The debacle attending the mining charter illustrated that although there was a role for the state in stimulating business practices in the direction of social transformation, certain limiting factors (in this case, international investor confidence and the corporate conservatism of the reluctant Chamber of Mines, representing traditional owners) impinged on the process. As in the case of the EMCAs and other voluntary agreements, while the state may propose, it is the stakeholders that ultimately dispose.

When the state fails

In the post-apartheid decade business has responded in different ways to perceived state failure or incapacity to address major social issues adequately. One such intervention was the formation of a coalition entitled Business Against Crime, aimed at providing extra resources to an underpaid, poorly trained police service. South Africa has a high crime rate and a reputation for ineffec-tive policing. Private security arrangements add huge costs to doing business.

A far larger problem than crime is the high incidence of HIV/AIDS infection, estimated at 11.4 per cent of the population over the age of two, and over 24 per cent of the workforce. Over 4 million out of a population of 44 million are infected with the virus.[33]

[31] Ralph Hamman and Andries Bezuidenhout, 'Corporate social responsibility in the mining industry of South Africa', paper presented at a workshop organized by the Sociology of Work Unit at the University of the Witwatersrand in conjunction with the United Nations Research Institute for Social Development, Johannesburg, 22 May 2003, p. 41–2.

[32] For the final charter, see www.dme.gov.za/minerals/mining_charter.htm.

[33] Duncan Innes, David Dickinson and Lindsey Henwood, 'Business responses to HIV/AIDS in South Africa's top 25 companies', unpublished report to UNAIDS/UNRISD, undated [2003?], pp. 1–2.

High levels of poverty and migration account for the wide extent of the infection. Continued use of migrant labour, especially in the mining industry, has ensured the spread of the disease into every remote corner of the subcontinent. Despite enormous public education programmes, ignorance, stigma and a culture of silence remain in place.[34] Young women are believed to be the most vulnerable demographic group, partly due to entrenched patriarchal attitudes that give women little control over their male partners' option to have unprotected sex. Public figures resist being tested openly for HIV, and a number of key politicians have died without disclosing their HIV-positive status. President Thabo Mbeki has dabbled with the ideas of AIDS dissidents who deny a link between the virus and the syndrome, and claim that anti-retroviral drugs are toxic. A number of dissident scientists have secured places on the presidential advisory committee on AIDS. The minister of health, Manto Tshabalala-Msimang, herself a medical doctor, has gone on record as recommending garlic, olive oil and the African potato as panaceas for people infected with AIDS and adequate substitutes for pharmaceuticals. There has been huge government resistance to the provision of retroviral drugs to sero-positive individuals with a view to retarding the opportunistic infections associated with AIDS. Challenges from civil society, in particular the very active Treatment Action Campaign, which has used litigation effectively, have resulted in a reversal of the government's refusal to provide anti-retroviral medication to people with AIDS. However, the implementation process is likely to take years, and it may be 2008 before the drugs are effectively available throughout the country.

Because of its impact on the economically active segment of the population, the effects of the disease are likely to lead to a decimation of the workforce, a significant loss of skills to the economy, and the removal of breadwinners from households. The phenomenon of AIDS orphans and child-headed households is already very extensive. In rural areas, food security is seriously compromised by a major loss of household agricultural producers.

Responses by industry to the pandemic have been 'slow, partial and erratic'.[35] A 2002 survey of business response conducted by the South African Business Coalition on HIV/AIDS found that a large proportion (48 per cent) of companies with over 500 employees have yet to conduct actuarial risk assessments, while only 22 per cent provide anonymous HIV testing, which gives more reliable feedback. Later the same year a survey with different respondents concluded that over 75 per cent of the companies surveyed had no idea of the prevalence of HIV/AIDS in their firms, and that over 60 per cent had no

[34] Some leaders have, to their credit, begun to speak out openly about the deaths of their adult children as a result of the infection. These include former President Nelson Mandela, and former Home Affairs Minister Mangosuthu Buthelezi, both of whom lost children in 2004–5.

[35] David Dickinson, 'Corporate South Africa's response to HIV/AIDS: why so slow?', *Journal of Southern African Studies* 30: 3, 2004, pp. 627–50.

strategy to manage the disease in their workplaces.[36] These figures indicate a very weak response by the private sector, despite estimates indicating that the economic costs of absenteeism, illness, high turnover and loss of skilled workers, and the draining of employee benefits as a result of the disease will reduce profits by 20 per cent in the first decade of the century.[37] Dickinson has shown that the voluntary activities of staff (which he calls 'informal CSR') exceed the formal commitments of many firms.[38]

Nevertheless, because the state has been unable or unwilling to respond systematically to reducing the impacts of the pandemic, the more farsighted employers have begun to act.[39] While the state continues to debate their toxicity, business has begun to provide HIV-infected workers with anti-retroviral drugs. Other measures taken include the introduction of voluntary counselling and testing (VCT), issuing of free condoms and treatment of opportunistic diseases; firms have also realized that action should not be confined to the workplace, but that help should also be offered to partners, dependants and local sex workers, and should take into account rural linkages through labour migration. There should be mechanisms for the emulation of the more successful corporate HIV strategies, and for spreading programmes to small and medium-sized enterprises. A more comprehensive dialogue should be initiated between business and the state to clarify their respective roles in the provision of prevention and treatment programmes.

Sugar is a product contraindicated by the medical profession for cancer patients and those with compromised immune systems. South Africans eat on average 31kg per person per year. The evidence is visible in high levels of obesity, dental caries, high blood pressure, heart disease and diabetes in the population. None of these health costs are borne by the industry. This link is, of course, contested by the sugar industry, which is not only one of the most important funders of nutrition and dental research in South Africa, but is also involved in generic advertising and promotion of the product. The South African Sugar Association—which unites growers and millers—uses its own nutrition department to 'address misinformation about the link between sugar and health', targeting journalists, health workers and patients in state hospitals and clinics. It produces educational materials to 'correct the message about sugar and assist in the overall education of the patient'. It also sponsored a Nutrition Society of

[36] Innes et al., 'Business responses', p. 3.

[37] D. Strugnell, 'The XIII International AIDS Conference: has it broken the silence?', *Innes Labour Brief* 12: 1, Sept. 2000, pp. 37–42.

[38] David Dickinson, 'Corporate social responsibility (from below) in the era of AIDS', paper commissioned by the Sociology of Work Unit, University of the Witwatersrand, Johannesburg, 2004.

[39] Case-studies that have been conducted to date in some detail include: Anglo American Corporation, De Beers, Sasol (Innes et al., 'Business responses'); Anglocoal, Eskom (UNAIDS, *The business response to HIV/AIDS: impacts and lessons learned* [Geneva: UNAIDS, 2000]); BMW and Unilever (Caroline Schaer and Anja Thomsen, 'Corporate HIV/AIDS social responsibility in South Africa: a comparative case study of two multinational corporations', unpublished CMI dissertation, Copenhagen Business School, 2004). In addition, 16 South African companies contributed to a survey for UNRISD and UNAIDS, reported in Jem Bendell, *Waking up to risk: corporate responses to HIV/AIDS in the workplace*, UNRISD Programme on Technology, Business and Society, paper 12 (Geneva: UNRISD/UNAIDS, 2003).

South Africa symposium on the 'misinformation about sugar' which it feels is spread in HIV/AIDS education.[40]

When there is pressure from abroad

As the South African economy continues to liberalize, globalization affects certain strata, in particular exporting companies, companies with external investments, companies which have relocated offshore (this has been referred to as the 'depatriation' phenomenon) and companies whose chains of supply extend beyond national borders. All these tend to be sizeable, leading corporations. In most interviews conducted by Bezuidenhout et al., respondents rated the pressures of globalizatioin as a 'very significant' contributor to CSR.[41]

The number of larger South African firms trying to position themselves as global players has increased. Examples here are Sasol (petrochemicals), which has spread into Europe, the United States and the Gulf; Sappi and Mondi (pulp and paper), which are active in the United States and Europe; and Eskom (power utility) and MTN (mobile telephony), which are more oriented towards investment in Africa. This ambition has played a role in their gradual shift from cosmetic, public-relations-type CSR towards making real changes in the integration of environmental and social issues into their core activities.

The depatriation of firms such as SA Breweries (renamed SABMiller, now the world's fourth largest brewing firm), Anglo American, BHPBilliton (formerly Gencor), Dimension Data, Old Mutual and Liberty Life has created further pressures on them to increase commitments to a triple bottom line approach.[42] The desire of such firms to seek listing on the London or New York Stock Exchange has mandated express conformity with global reporting standards and higher levels of external scrutiny and auditing of compliance. Both the listings procedures and the exigencies of asset managers and other potential large-scale investors have set extensive preconditions based on fulfilment of CSR criteria.

Global codes of conduct have also impacted on the more globalized South African firms. Eskom and Sasol were among companies to join the UN Global Compact, requiring conformity with nine central principles. The Global Reporting Initiative, which requires comprehensive social and environmental reporting, has also attracted adherents among larger firms. In addition to these codes, the second King report on corporate governance for South Africa has also recommended that firms comply with the AA1000 standard and the Global

[40] South African Sugar Association, *Annual report 2001/2* (Mount Edgcombe: SASA, 2002), p. 22; David Fig, 'Corporate social responsibility in the South African food and drink sector', paper presented at a workshop organized by the Sociology of Work Unit at the University of the Witwatersrand in conjunction with the United Nations Research Institute for Social Development, Johannesburg, 22 May 2003, pp. 18–19.

[41] Andries Bezuidenhout, David Fig, Ralph Hamann and Rahmat Omar, 'A political economy of corporate social responsibility in South Africa', paper presented at a workshop organized by the Sociology of Work Unit at the University of the Witwatersrand in conjunction with the UNRISD, Johannesburg, 22 May 2003, p. 38.

[42] The triple bottom line is an accounting mechanism which, in addition to recording firms' financial transactions, also measures their social and environmental performance.

Sullivan Principles of Corporate Social Responsibility.[43] More popular are the ISO 14000 series of environmental management standards, and sectoral codes such as the Forestry Stewardship Council or the Responsible Care programme in the chemical industry.

The problem with such codes is that their technical nature often masks broader social and environmental problems. An agreement to raise standards incrementally does not challenge the fundamental ethics of the industry. For example, the timber products industry receives certification for over 54 per cent of its South African forests from the Forestry Stewardship Council. Yet the industry continues to pay poverty wages, outsources production to remove employees from its books, and has a devastating effect on biodiversity, land use, and water and air quality. None of these issues are reflected in the certification, which provides Sappi and Mondi with green labels on their products to reassure consumers of their environmental bona fides. Similarly, Eskom, probably one of the keenest members of the Global Compact, is one of the country's worst polluters, undertaking massive industrial burning of low-quality coal and production of nuclear waste in its power stations. In 2003, KPMG awarded British American Tobacco South Africa the prize for the best annual sustainability report, without questioning the nature and impact of its product.

When there is pressure from below

The political transition in South Africa was marked by a high degree of continuity between the old society and the new. In consolidating its control over government, the new ruling party made bureaucratic alliances with old guard officials of the apartheid era, and ultimately absorbed the former ruling National Party into its own ranks. A number of party and trade union leaders, including leaders of the once-militant ANC Youth League, entered the business world, taking advantage of BEE opportunities to accumulate vast wealth. The final years of struggle had seen the formation of an elaborate network of 'civics', or community organizations, which fell apart once the ANC attained power. The trade unions, once vigilant whistleblowers against corporate malpractice, entered into an alliance with the ANC in 1994 which has tended to weaken its position when challenging corporate malpractice or neo-liberal government policies. With the massive shedding of jobs in the first years of democracy unions lost membership, which also tended to weaken their voices. A tripartite structure, the statutory National Economic Development and Labour Council (NEDLAC), was created to oversee economic legislation, but has been managed in such a way that it seldom plays a watchdog role.[44] One exception was the case of the environmental minister introducing legislation to end free retail distribution of

[43] Institute of Directors in Southern Africa, *King report on corporate governance for South Africa 2002* (King II) (Johannesburg: IoD, 2002), pp. 226–74. The first King report had confined itself to boardroom ethics.

[44] 'NEDLAC at ten', *South African Labour Bulletin* 30: 1, Feb.–March 2005, pp. 28–32; Eddie Webster, 'NEDLAC: corporatism of a special type?', *South African Labour Bulletin* 30: 1, Feb.–March 2005, pp. 33–5.

Table 1: Systematic challenges to corporate malpractice by South African civil society

Corporation(s)/sector	Organization	Head office
Oil refineries	groundWork	Pietermaritzburg
Nuclear industry	Earthlife Africa	Johannesburg, Cape Town, Pretoria
Biotech corporations	Biowatch South Africa, Safeage	Cape Town
Timber and pulp sector	Timberwatch Coalition	Durban
South Durban industrial basin	South Durban Community Environmental Alliance	Durban
Ecological debt	Jubilee 2000 South Africa, Economic Justice Network	Johannesburg, Cape Town
Finance and industry (claims for reparations)	Khulumani (victims of apartheid)	Johannesburg
Gold mining	Group for Environmental Monitoring	Johannesburg
Coal mining	Environmental Monitoring Group	Cape Town
Platinum mining	North-West Environmental Alliance	Rustenburg
Steel industry	Vaal Environmental Justice Alliance	Vaal Triangle
Pharmaceutical industry	Treatment Action Campaign	Cape Town, Johannesburg
Privatized water industry	Water Coalition, various affiliates	Johannesburg, Durban, some district municipalities
Electricity utilities	Soweto Electricity Crisis Campaign	Soweto

plastic bags, a highly visible element of the waste stream. NEDLAC intervened to ensure relief from the most stringent aspects of this proposal and to ensure that the 17,000 jobs in the plastic bag industry would have more protection.[45]

In general, South Africa has a weak tradition of independent, investigative journalism. The major print and electronic media are owned by large corporate

[45] Shirley Miller, 'Corporate social responsibility in the South African chemicals industry', paper presented at a workshop organized by the Sociology of Work Unit at the University of the Witwatersrand in conjunction with the UNRISD, Johannesburg, 22 May 2003.

groups, linked to the commanding heights of the economy. Journalists often merely rewrite corporate press releases rather than questioning corporate practice. The number of crusading journalists with integrity is very small. Even the small independent *Mail and Guardian*, a national weekly, has distanced itself from the critical social movements, and sponsors awards under the banner Greening the Future, which go to the usual large corporations for their CSR initiatives, often overlooking their fundamentally unsustainable practices. The paper also publishes *Earthyear*, an environmental magazine which relies extensively on corporate advertorial.

Thus it is left to a number of activist community organizations and NGOs to conduct a critique of the extensive corporate malpractice in South Africa (see table 1). These include groupings critical of the impact of privatization of state assets, those challenging the legacy of apartheid debt, urban movements opposed to the cutting off of water and electricity supplies from the poor, and the environmental justice movement, which links pollution-blighted communities, trade union branches and watchdog organizations.[46] As Peter Lund-Thomsen points out,[47] they have used a number of linked strategies—lobbying, campaigning, capacity building, litigation—to draw public attention to the culprits. The campaigning groups have not always been sufficiently well resourced to take on their corporate opponents effectively. However, expertise and pressure alike are growing, with increasing research conducted by the NGOs themselves and a growing number of public-interest law firms taking up litigation on their behalf.

When there is peer pressure

A number of firms and industrial associations are trying to set standards for others to follow. The leading firms tend to be those trying to globalize their assets, or those heavily dependent on markets elsewhere. Led by Eskom, some business leaders in 1992 established the Industrial Environmental Forum, based at Eskom's head office and largely resourced by a few large firms. In the run-up to the WSSD, the IEF adopted the name of Business Council on Sustainable Development—South Africa, stressing its affiliation to the World Business Council on Sustainable Development. In the wake of the event the BCSD-SA has undergone a third metamorphosis, this time becoming a desk of the broader representative body, Business South Africa. In some ways this indicates that it not an external project of a body based in London, but an integral part of the domestic business culture. However, the collapse of BCSD into the National Business Initiative also indicates that the few leading firms at its head were unwilling to bankroll the project.

[46] For a list of key campaigns, see table 1.

[47] In this issue: Peter Lund-Thomsen, 'Corporate accountability in South Africa: the role of community mobilizing in environmental governance', *International Affairs* 81: 3, May 2005, pp. 619–33.

One result of the influential second King report mentioned above, itself an initiative by the Institute of Directors, was a move by the JSE Securities Exchange (formerly the Johannesburg Stock Exchange) to take more account of the social and environmental performance of corporations. In May 2004 the JSE launched a Social Responsibility Investment Index (SRII), modelled on and in conjunction with the FTSE4Good index. Parallel to this, the National Business Initiative is developing an index based on the UK Business in Environment Index (BiE), which will apply to non-listed companies (and thus cover the parastatal companies such as Eskom). Compliance with these new indices, as with the Global Reporting Initiative, is a complex process which has spawned a number of specialized consultancy firms. It is as yet unclear whether the indices will serve to direct investment towards firms which can claim better sustainability practices.

Who remains out of the net? Perhaps two categories of firms need particular scrutiny: the small and medium-sized enterprises (SMEs) and the larger BEE firms. Jeppesen and Granerud point out that closer scrutiny of SMEs is required since they employ approaching 50 per cent of the workforce in Africa. Many embody patriarchal forms of management, they argue, and could learn from CSR models in order to modernize.[48] Currently it is likely that, in general, SMEs fail to employ CSR practices, remaining as they do outside the networks of large employers, without the same imperative of protecting brand reputation, and under little compulsion to deal with stakeholders. An exception is when SMEs are linked to the supply chains of big firms, and are required by them to uphold certain standards. This is relatively common in, for example, the food and drink sector.[49]

Companies that have scored well on BEE have tended not to be big spenders in terms of CSR. Southall and Sanchez show this,[50] and also point to contradictory views in the black business community. One view sees emergent black entrepreneurs as having a responsibility for capital accumulation and expanding black ownership of the economy, while another argues for a reciprocity between them and the communities from which they sprang. Pressure to play the latter role may be seen in some quarters as distracting black business from the former imperative, in a situation in which their hold over capital is still fragile. Many black entrepreneurs see CSR as being for 'white' firms to atone for past sins, and therefore their own contribution to CSR spending remains minimal.[51]

[48] Søren Jeppesen and Lisa Granerud, 'Does corporate social responsibility matter to small and medium enterprises? The case of South Africa', unpublished paper, Department of Intercultural Communication and Management, Copenhagen Business School, 2004, p. 13.

[49] Fig, 'Corporate social responsibility in the South African food and drink sector', p. 8.

[50] Roger Southall and Diane Sanchez, 'Corporate social responsibility and black economic empowerment in South Africa', unpublished paper commissioned by the Sociology of Work Unit, University of the Witwatersrand, 2004, p. 9.

[51] Southall and Sanchez, 'Corporate social responsibility and black economic empowerment', p. 11.

Has CSR been effective?

From most of the evidence presented, it seems there are few grounds for confidence that firms will carry out a more equitable post-apartheid transformation voluntarily. On occasion, when the state's own measures lag behind the needs of business, as for example in the sphere of HIV/AIDS support, some firms have taken limited initiatives to introduce new social practices. However, even these have been very selective, uneven and slow. In terms of employment equity, affirmative procurement, augmentation of black shareholding and so on, the state has often had to intervene, through legislation or through the drafting of sectoral charters, to put business on the road to transformation.

However, where the law provided for voluntary agreements on the curbing of pollution, these have not worked out in practice. The two EMCAs put in place have been abandoned for the present, mostly because of strong objections from civil society actors on the grounds that the process was not inclusive enough, and that voluntary agreements could not replace the urgent need for standard-setting, adequate monitoring and sanctions for non-compliance.

The environmental dividend expected after apartheid has not materialized. While pious principles are embodied in the democratic constitution and elaborated in chapter 2 of NEMA, in practice it is still extremely difficult for citizens and communities to exercise their rights. Environmental litigation is still in its infancy, and so far there have been few instances of the courts finding for environmental justice. Politically, the environment is still something of a Cinderella sector, given very little attention by the ruling party, and there is a general failure to integrate environmental concerns into mainstream planning, development and macroeconomic policy. For example, the presidency contains an elaborate shadow bureaucracy which matches all departments of government, save for the environment.

Firms are still reluctant to promote strong environmental standards. In their absence, civil society has done some 'barefoot monitoring', discovering the extent to which communities are bearing a heavy industrial pollution load. For example, with assistance from the Bucket Brigades, the Zamdela community adjacent to the Sasolburg oil-from-coal, chemicals and petroleum refinery complex was able to challenge Sasol, whose scientists reluctantly agreed that they had not detected the excessive amount of benzine their plants were emitting. Lobbying for higher standards in areas such as air and water quality may pay off if the imminent legislation is backed up with serious implementation measures.

The political will needs to be in place for South Africa to create world-class standards for environmental compliance. Such standards are not going to be implemented voluntarily by industry, which currently enjoys the global advantage of being able to operate in a jurisdiction that is laxer than those in the OECD countries. It is only after these standards have been set and met that we can begin to look seriously at CSR, and to discuss the benefits firms might gain from going beyond compliance on a voluntary basis.

Perhaps there needs to be a further charter which will involve acceptance by business of its role in achieving environmental justice: taking real responsibility for social and ecological rehabilitation and the restitution of resources to the many South Africans whose rights were compromised; introducing cleaner technologies; moving away from dirty energy use; developing an ecologically sustainable framework for trade, transport, manufacturing, services, mining and energy production; and eliminating all threats to food security and biodiversity. Only when firms can demonstrate their partnership in these sorts of project will one be able to talk seriously of a CSR discourse. Meanwhile, what passes for CSR is often greenwash, distracting the gullible into believing that business has a serious sustainability agenda.

Business is powerful enough to construct discourses of its own, even within the terms of 'sustainability' (itself a highly elastic concept). It has used important global moments (Rio, WSSD) to set up irresistible notions of partnership, accommodation, win–win situations, synthesis and compromise. The discourse overemphasizes the extent of its voluntary contribution to socio-economic and environmental progress, while continuing to mask malpractice, and seducing South Africans into forgetting, absolving, effacing old scars, and—most resonant here—reconciling. However, even South Africa's Truth and Reconciliation Commission played by certain rules, granting amnesty only after full confession. Firms in South Africa have first to confess and then to set out plans for their own contribution to reconciliation. Until that time, there will be little trust and few real partnerships. While business in South Africa uses CSR to manufacture amnesia, the imperative for other sections of civil society remains that of keeping memory alive and continuing to tell the truth.