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CLAREMONT McKENNA COLLEGE

CORPORATE SOCIAL RESPONSIBILITY

IN SOUTH AFRICA'S MINING INDUSTRY:

REDRESSING THE LEGACY OF APARTHEID

SUBMITTED TO

PROFESSOR J. EMIL MORHARDT

AND

DEAN GREGORY HESS

BY

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Table of Contents

Chapter 1: Introduction	1
Chapter 2: Evolution of CSR	4
What is CSR?	4
Why CSR?.....	6
Critics of CSR	9
Chapter 3: South African Perspective.....	12
CSR in South Africa.....	12
Broad Based Black Economic Empowerment	18
CSR in the South African Mining Industry.....	23
Broad-Based Socio-Economic Empowerment Charter for the South African Mining Industry.....	28
Mineral and Petroleum Resources Development Act	31
Chapter 4: Anglo American	33
Anglo American & CSR	33
Compliance with the Mining Charter.....	37
Chairman’s Fund	38
The Socio-Economic Assessment Toolbox (SEAT).....	39
Anglo Zimele.....	41
Extractive Industries Transparency Initiative	43
Chapter 5: Conclusion.....	44
Works Cited	47
Appendices.....	53

Chapter 1: Introduction

“A business that makes nothing but money is a poor kind of business.”—Henry Ford¹

Over the past several decades, the concept of Corporate Social Responsibility (CSR) has become increasingly prominent in corporate strategy reflecting a general global spread of management concepts, ideologies and technologies. Once, the government was considered the exclusive social change agent and problem solver; now, companies are taking a larger and more active role in social and community projects through CSR programs. This thesis examines how in recent years, concerns about the social responsibility and the sustainability of industries have become increasingly important and mainstream, especially seen in the Republic of South Africa’s mining industry.

South Africa is a young democracy with a multi-cultural and multi-ethnic population of about 49 million people. The country’s diversity is the basis for its nickname of ‘the Rainbow Nation’. However, the legacy of apartheid is still prevalent in the country. The variety of social needs in South Africa in areas such as education, health care, job creation, and entrepreneurial development offer a wide spectrum in which industries can intervene by utilizing CSR initiatives. Beyond solving pending social issues, CSR initiatives aim to empower local individuals to contribute to their own

¹ Neil Fourie, “Corporate Social Responsibility—Evaluating Three South African Companies’ Initiatives,” (MBA Thesis, Nelson Mandela Metropolitan University Business School, 2005), 12.

communities' economic growth and development. CSR can also result in efficiency gains since addressing societal concerns such as energy, water usage, protection of the environment, and employee safety can increase company productivity and consequently, profitability and share value.² Ultimately, CSR plays a particularly unique role in South Africa "where there is a vital need for profitable enterprise, emphasis by the government on economic inclusion of the poor, the constitutional requirement of civic participation and environmental protection, and a strong tradition of local self-help and social networks."³ CSR can links these strands together to create a more sustainable, integrated, and socio-economic balanced South Africa.

CSR is particularly relevant in the mining industry globally given the industry's extractive nature. In the mining industry, significant pressure comes from interest groups and nonprofit organizations that have a tendency to target mining companies for their alleged lack of consideration and accountability to the environment and in the communities in which they operate.⁴ A push for CSR in the mining industry is especially prevalent in South Africa where mining has dominated the country's economy for so long. CSR can help rid South Africa's mining industry of its long history of instability and conflict that characterized class and race relations in the country. While historically neither the profits nor the costs of the mining industry have been equitably distributed

² Micaela Flores-Araoz, "Corporate Social Responsibility in South Africa: More than a Nice Intention," Consultancy Africa Intelligence, 02 Sep. 2011, <http://www.consultancyafrica.com/index.php?option=com_content&view=article&id=835:corporate-social-responsibility-in-south-africa-more-than-a-nice-intention&catid=82:african-industry-a-business&Itemid=266>.

³ Ralph Hamann, "Mining Companies' Role in Sustainable Development," *Development Southern Africa*, 2003, 238.

⁴ Flores-Araoz.

among stakeholders, CSR programs can be a powerful mechanism in restoring social justice in South Africa, as seen by the mining company Anglo American.

Chapter 2: Evolution of CSR

What is CSR?

Generally, CSR refers to the voluntary involvement or investment of companies in social projects that help advance the community in which they operate.⁵ Even though the concept of CSR has been developing since the 1950s, there is still not a universally accepted definition. The World Business Council for Sustainable Development (WBCSD) defines CSR as “the continuing commitment by business to contribute to economic development while improving the quality of life of the workforce and their families as well as of the community and society at large.”⁶ The WBCSD also recognizes that there is no universal standard for CSR initiatives and that CSR takes on different meanings depending on a community’s culture, religion, and governmental or legal framework.⁷ The European Commission simply defines CSR as “the responsibility of enterprises for their impacts on society.”⁸ The European Commission stresses that while CSR concerns voluntary actions beyond businesses’ legal obligations, strategic and multidimensional CSR programs have become increasingly important for businesses in

⁵ Flores-Araoz.

⁶ “Corporate Social Responsibility,” World Business Council for Sustainable Development, <<http://www.wbcsd.org/work-program/business-role/previous-work/corporate-social-responsibility.aspx>>.

⁷ Ibid.

⁸ “Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions,” *European Commission*, 25 Oct. 2011, 6 <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0681:FIN:EN:PDF>>.

remaining competitive. In her book *In Good Company: An Anatomy of Corporate Social Responsibility*, Dinah Rajak defines corporate social responsibility as “a movement promising to harness the *global* reach and resources of transnational corporations (TNCs) in the service of *local* development and social improvement”.⁹

While most definitions of CSR are generally vague, in each case, the economic, legal, ethical and philanthropic responsibilities that firms have towards their stakeholders are emphasized as a means to link the market economy to sustainable development. There is also a general consensus that CSR asks a business to voluntarily go beyond legal compliance. While commerce and the social community were once viewed as antithetical, the two concepts are now being coupled together in what is referred to as “compassionate capitalism” or “the new humane face of capitalism,” which unites the demands of social issues with desires of profit maximization.¹⁰

Corporations are moving away from operating to satisfy and protect exclusively shareholders, and toward incorporating the interest of stakeholders, including employees, customers, suppliers, the environment and the community, as well. Stakeholder interests include human rights, employee welfare, and climate change. The impetus for corporate governance was the common agency problem that arose when the ownership of public companies became detached from the control of the companies. Managers of companies could abuse their control to their own advantage and to the detriment of the owners. Thus, corporate governance was introduced to ensure that the owners of companies act in

⁹ Dinah Rajak, *In Good Company: An Anatomy of Corporate Social Responsibility* (Stanford, California: Stanford University Press, 2011), 1.

¹⁰ Rajak, 2.

the interest of the company's shareholders.¹¹ In addition to shareholders' interests, the understanding of accountability in business widened to include stakeholders' interests in the form of CSR.

Adopting CSR programs requires consideration of the "triple-bottom line," which refers to people, planet and profit. The triple-bottom line reflects a company's economic, ecological, and social effects.¹² This shift in corporate values is not commonly attributed to an internal change in corporate conscience, but rather a reaction to external pressures. A representation of these priorities can be seen in Archie Carroll's Pyramid of Corporate Social Responsibility (See Appendix A). The pyramid represents the four linked responsibilities with weighted importance that corporations face: economic responsibilities, legal responsibilities, ethical responsibilities, and philanthropic responsibilities.¹³

Why CSR?

One explanation of why companies adopt CSR practices is the stakeholder theory.¹⁴ The theory holds that companies have a social responsibility that requires them to consider the interests of all stakeholders affected by their actions. The expectation is

¹¹ G. J. Rossouw, A. van der Watt, and D. P. Malan, "Corporate Governance in South Africa," *Journal of Business Ethics*, 2002, 289.

¹² Flores-Araoz.

¹³ Wayne Visser, "Revisiting Carroll's CSR Pyramid," *Corporate Citizenship in Developing Countries: New Partnership Perspectives*, (Herndon, VA: Copenhagen Business School, 2006), 34.

¹⁴ Tendai Mariri and Crispen Chipuza, "Corporate Governance, Corporate Social Responsibility and Sustainably," *Journal of Human Ecology*, 2011, 98.

that stakeholders and businesses working together in hopes of mutual gain will have a significant impact on the business. By creating a shared vision between the business and its stakeholders, innovative solutions can resolve formerly gridlocked problems.¹⁵ This theory is the opposite of the economic agency theory which argues that obliging businesses to spend resources on concerns other than the pursuit of profit goes against the notion of a free society. However, the stakeholder theory is increasingly being globally accepted by businesses as a framework for all business decisions.¹⁶

Bishop William Lawrence University Professor at Harvard University Michael E. Porter and Managing Director of FSG Social Impact Advisors Mark R. Kramer partnered with each other to publish “Strategy and Society: The Link Between Competitive Advantage and Corporate Social Responsibility”, winner of the 2006 McKinsey Award as the most influential Harvard Business Review article of the year. Porter and Kramer argue that the relationship between CSR and business incentives should be viewed as an interrelated one, rather than an antithetical one. They suggest that if businesses were to consider how CSR could strategically fit in with their respective core practices, they would discover “that CSR can be much more than a cost, a constraint, or a charitable deed—it can be a source of opportunity, innovation, and competitive advantage.”¹⁷ Integrating CSR into a company’s core business rather than viewing CSR as an ad-hoc

¹⁵ Gabriel Eweje, “The role of MNEs in Community Development Initiatives in Developing Countries,” *Business and Society*, 2006, 101.

¹⁶ Mariri and Chipuza, 98.

¹⁷ Michael E. Porter and Mark R. Kramer, “Strategy & Society: The Link Between Competitive Advantage and Corporate Social Responsibility,” *Harvard Business Review*, 2006, 80.

philanthropic investment is not only in the best interest of the company, but also in the best interest of society in terms of having a lasting impact.¹⁸

Porter and Kramer outline the four prevailing justifications for CSR: moral obligation, sustainability, license to operate, and reputation. Proponents of the moral justification argue that companies have a duty “to do the right thing” and honor ethical values. In terms of sustainability, companies should look at the triple bottom line to operate in ways that secure long term needs by avoiding socially detrimental and environmentally wasteful behavior in the present. The issue of sustainability is an issue of trade-offs for the sake of the future. The license to operate argument is pragmatic since every company needs governmental approval to receive a license to operate. Concerns about reputation is an issue of satisfying external parties. A long term commitment to social responsibility can beneficially distinguish a company.¹⁹ Researcher Heledd Jenkins agrees with Porter and Kramer and refers to this reasoning as the legitimacy theory.²⁰ The legitimacy theory is based on the notion that by showing stakeholders that a business is dedicated to complying with the stakeholders’ expectations, said business can better its reputation and effectively respond to legitimacy threats.²¹

Overall, Porter and Kramer emphasize the importance of CSR for both business and for stakeholders by explaining that “successful corporations need a healthy society...any business that pursues its end at the expense of the society in which it

¹⁸ Ibid, 81.

¹⁹ Ibid, 82.

²⁰ Heledd Jenkins, “Corporate Social Responsibility and the Mining Industry: Conflicts and Constructs,” *Corporate Social Responsibility and Environmental Management*, 2004, 27.

²¹ Ibid, 28

operates will find its success to be illusory and ultimately temporary.²² Since corporations and society are mutually dependent on each other, business decisions and social policies should benefit both sides and have a shared value. A business or a society that pursues policies that benefit its own interests at the expense of the other risks finding itself on “a dangerous path...a temporary gain to one will undermine the long-term prosperity of both.”²³ Efficient uses of natural resources allow businesses to be more productive while safe working conditions attract customers as well as lower the internal costs of accidents.²⁴

In terms of attracting investors, investors are becoming increasingly more selective when making decisions. Investors are not only interested in high returns on investment, but also in knowing that the organizations where they invest are socially and ethically responsible.²⁵ Thus, it is important for local businesses to adjust to international trends towards CSR to ensure that investments stay local.

Critics of CSR

Critics of CSR argue that a business’s single goal is to maximize profit for their shareholders. Nobel Prize winning economist Milton Friedman argued, in 1962, that “Few trends could so thoroughly undermine the very foundations of our free society as

²² Porter and Kramer, 83.

²³ Porter and Kramer, 84.

²⁴ Ibid.

²⁵ Fourie, 7.

the acceptance by corporate officials of a social responsibility other than to make as much money for their stockholders as possible.”²⁶ Friedman believed that government agencies, not corporations, were responsible for social development. By businesses addressing social responsibilities, they were interfering with the effective and efficiency economic activity of firms.

However, in the context of South Africa, Friedman’s argument can be disputed as inapplicable and outdated. First, Friedman’s argument holds in a well-ordered controlled state, but cannot be translated to an area defined by widespread poverty, illiteracy, weak and corrupt national governments, monopolization, and inadequate international regulatory bodies. Second, the globally evolving sustainability agenda requires an integrated effort from the private sector and civil society. Consequently, companies are expected to be increasingly accountable for their operations. Third, more and more studies are being conducted showing that CSR is good for profits. By being socially and environmentally conscious, businesses become more efficient in terms of production since less energy and material needs are required. Consequently, bottom line profits increase. Lastly, Friedman sees economic self-interest as the only motivation for businesses. However, business ethics has become increasingly important in terms of operations and decision-making.²⁷

In 1999, Ann Bernstein, former director of South Africa’s Centre for Development and Enterprise, argued that “corporations are not institutions established for moral purposes. They are functional institutions created to perform an economic task...This is their primary purpose. They are not institutions designed to promote some

²⁶ Hamann, “Mining Companies’ Role in Sustainable Development,” 240.

²⁷ Hamann, “Mining Companies’ Role in Sustainable Development,” 241.

or other form of morality in the world.”²⁸ Bernstein believed that letting businesses in South Africa solely focus on maximizing economic profits, for itself and for its shareholders, would result in modernization and development, and ultimately democracy.²⁹

Generally, while advocates believe CSR is the solution to addressing social issues that the public sector has neglected or failed to accomplish, critics view CSR as an empty promise designed to appease the public. Critics aim to expose the flaws of CSR, such as the gap between the rhetoric of CSR and pursuing corporate interests driven by profit.³⁰ Overall, opponents to CSR advocate for a stronger role for the state in ensuring corporate accountability and that CSR in businesses is used to mask the true impact of business activity.

²⁸ Rajak, 79.

²⁹ Ibid.

³⁰ Ibid.

Chapter 3: South African Perspective

CSR in South Africa

The National Party, a former political party in South Africa founded in 1915, instituted apartheid in South Africa in 1948. Apartheid, Afrikaans for “the status of being apart,” codified laws mandating racial categorization to create a white supremacy. Since non-whites were excluded from the political system, respectable jobs, and good education, poor people of European background disproportionately benefited and experienced much social, economic, and political mobility at the debilitating expense of the rest of the South African population.³¹

The South African general election in April 1994 based on universal suffrage formally marked the end of three and a half centuries of British colonialism, white rule, and apartheid and the beginning of democratic regimes focused on combating the social imbalances formed under apartheid.³² In repose to this political transition, South Africa is currently going through an economic transition as an emerging market economy. South Africa’s first president Nelson Mandela began his presidency prioritizing growth and development plans to revitalize the economy. Specifically, he stressed the potential

³¹ Andrew Linford, “Inequality Trends in South Africa,” *GeoCurrents*, 17 May. 2011, <<http://geocurrents.info/economic-geography/inequality-trends-in-south-africa>>.

³² Flores-Araoz.

benefits of the new government creating public-private partnerships to address developmental challenges.³³ Mandela's platform is the basis to the CSR programs seen today. CSR is an important economic mechanism for enterprises to use to assert social and moral order not only locally, but internationally as well, especially in a post-apartheid South Africa.

CSR can take different roles depending on the specific needs of a country. For example, "to Chinese consumers the hallmark of a socially responsible company is safe, high-quality products. For Germans it is secure employment. In South Africa what matters most is a company's contribution to social needs as health care and education."³⁴ Editor of Online Magazine, Marydee Ojala agrees that a challenge in implementing CSR is that "society has been exceptionally ambivalent...communities at different times and in different places establish different constraints within which business is expected to fulfill this purpose."³⁵ In a 2005 report, Trialogue, a South African company that specializes in publishing works on good corporate citizenship and corporate social investment in South Africa, identified thirteen areas that CSR impacts in South Africa: black ownership and control, corporate governance and ethics, employee equity, employee relations and support, employee skills development, health and safety, HIV and AIDS, preferential procurement and enterprise support, supply chain compliance, product development,

³³ Jennifer Field, "Mining Corporate social Investment in South Africa," Kellogg School of Management, 01 Apr. 2007, <http://www.kellogg.northwestern.edu/Departments/International/InternationalFocus/article/2007_Mining_Corporate_Social_Investment_in_South_Africa.aspx>.

³⁴ Fourie, 12.

³⁵ Eweje, 96.

marketplace stewardship, corporate social investment, environmental impact of operations.³⁶

In this unique context, Visser speculates that Carroll's American Corporate Social Responsibility pyramid would take a different form (See Appendix B). The four corporate responsibilities remain the same, but they are each weighted slightly differently. Economic responsibilities still has the highest priority, but rather than being followed by legal responsibilities, in South Africa, it is more likely that philanthropic responsibilities receive the second highest priority, followed by legal responsibilities, and finally ethical responsibilities. Visser does not suggest that this is how the business environment *should* be, but rather what is actually being practiced.³⁷

While South Africa's transition to democracy was mainly a political transition, socio-economic structures remain to be troubled by the legacy of the apartheid regime. Apartheid has created a business environment unique to South Africa. Since many agree that businesses contributed to as well as benefited from apartheid rule, it is commonly thought that those businesses would "be expected, or even summoned, to assist in the righting the wrongs of the past."³⁸ Hamann views the role of CSR in South Africa as being "particularly apposite...where there is a vital need for profitable enterprise, emphasis by the government on economic inclusion of the poor, the constitutional requirement of civic participation and environmental protection, and a strong tradition of

³⁶ "The Good Corporate Citizen", Trialogue, 2005.

³⁷ Visser, 49.

³⁸ Olufemi A. Babarinde, "Bridging the Economic Divide in the Republic of South Africa," *Thunderbird International Business Review*, 2009, 359.

local self-help and social networks.”³⁹ CSR can link these needs in South Africa to create a more sustainable and socio-economic just environment.

South Africa contains some of the most unequal cities in the world; the country has one of the highest Gini coefficients in the world of 0.62.⁴⁰ The Gini coefficient measures economic disparities of a society where a coefficient of 0 indicates that everyone in the country has the same income and a coefficient of 1 indicates that all the income goes to one person (See Appendix C). Thus, while South Africa has arguably the most developed democracy in Africa, it also has the most economic inequality. Inequality in the country is highly correlated with race, stemming from the systematic restrictions of apartheid. Incorporating CSR into South Africa businesses can help correct these economic inequalities.

The state has made large strides in terms of drastically affecting South Africa’s business environment and encouraging CSR. In 1992, the Institute of Directors in Southern Africa (IoD) published the King Report on Corporate Governance in South Africa. This report was the first global corporate governance code to talk about the interest of stakeholders and about accountability beyond that of shareholders. The King Committee recognized that “a proper balance needs to be achieved between freedom to manage, accountability and the interests of the different stakeholders.”⁴¹ Ten years later,

³⁹ Hamann, “Mining Companies’ Role in Sustainable Development,” 239.

⁴⁰ “Cheerleaders and Naysayers,” *The Economist (US)*, 02 Mar. 2013, <<http://www.economist.com/news/special-report/21572381-who-making-right-call-about-africas-future-cheerleaders-and-naysayers>>.

⁴¹ Rossouw et al, 209.

the revised 2002 King Report (King II) describes what is meant by the term “Triple Bottom Line Reporting.”⁴²

King II was the first global corporate governance code to include a section on integrated sustainability reporting, requiring that businesses annually report on the nature and extent of its social, transformation, ethical, safety, health and environmental management policies and practices.⁴³ Although King II is voluntary, it is a listing requirement for the Johannesburg Securities Exchange (JSE). In 2003, in the spirit of King II, the JSE created a Socially Responsible Investment Index. Nicky Newton-King, general counsel and director of new business at the JSE Securities Exchange announced that “corporate governance is a big issue for emerging markets, particularly within South Africa, not least because of the pioneering work of the King committee.”⁴⁴ In 2009, the King Report was further revised into what is now King III.

Although the state’s transparent support helps foster CSR, that is only one side of the required partnership. Businesses are gradually adopting strategic CSR programs, but many South African companies still interpret CSR as merely Corporate Social Investment (CSI). CSI is characterized by philanthropic activities that are not necessarily embedded in the company’s core strategy. Initially, companies lacked integration between CSI and their business plans. A common sentiment among mining employees was that:

the view that CSR is primarily CSI is a result of how things were structured, in the sense that businesses thought that they needed to pay what some people referred to as blood money, but it never needed to be part of the business processes. So in order to operate, they needed to do

⁴² Fourie, 17.

⁴³ Visser, 44.

⁴⁴ Fourie, 7.

*some charity work or CSI, but it has never been key to their own business strategy.*⁴⁵

This phenomenon is a problem because businesses that separate CSI from core businesses practices are not only not taking accountability for their activities, but are further perpetuating root social problems. Often, such businesses will be accused of ‘greenwashing.’⁴⁶

Rajak argues that the major difference between CSI and CSR is that CSI reflects a focus on individual philanthropic leaders and managers, whereas CSR is more concerned with “ ‘the good company’ as an entity of its own, independent of the people who inhabit it, a moral being in its own right: ‘a corporate citizen’.”⁴⁷ Trialogue’s 7th edition of the CSI handbook commends South Africa’s progress toward meaningful CSI and states “it is gratifying to observe that CSI has evolved from a ‘feel-good’ charitable side-show to an industry that is large, strategic, and integral to South Africa’s transformation effort...our successful CSI programmes are leading edge in world development terms.”⁴⁸

For CSI to have a profound impact in South Africa, companies need to acknowledge that CSR encompasses much more than investing some percentage of after-tax profit in social development. CSR concerns how profits are made in the first place.⁴⁹ Thoughtful CSR initiatives include, when choosing what specific social issue to address, selecting issues that intersect with its particular business to ensure an integrative strategy. Businesses should not prioritize a social issue based on “whether a cause is worthy but

⁴⁵ Ralph Hamann, “Corporate Social Responsibility, Partnerships, and Institutional Change,” *Natural Resources Forum*, 2004, 283.

⁴⁶ Ralph Hamann and Paul Kapelus, “Corporate Social Responsibility in Mining in Southern Africa: Fair Accountability or Just Greenwash?” *Society for International Development*, 2004, 88.

⁴⁷ Rajak, 73.

⁴⁸ Fourie, 8.

⁴⁹ Hamann, “Mining Companies Role in Sustainable Development,” 238.

whether it presents an opportunity to create shared value—that is, a meaningful benefit for society that is also valuable to the business....typically the more closely tied a social issue is to a company's business, the greater the opportunity to leverage the firm's resources—and benefit society.”⁵⁰ Thus, for CSR to have the best chance of alleviating South Africa of its apartheid legacy, corporate-community relationships should be based upon a mutual benefit and respect.

Broad Based Black Economic Empowerment

The end of apartheid meant a black majority ran the government, but a white minority still ran the economy. In 1994, the ANC announced its Reconstruction and Development Programme (RDP) to eradicate the long legacy of socioeconomic inequality. The RDP recognized poverty alleviation and a stronger economy as deeply interrelated and mutually supporting objectives and addressed some of South Africa's most severe socioeconomic issues such as housing, clean water, electricity, land reform, healthcare, and public works. However, the RDP was criticized by businesses for being too liberal and void of concrete long term goals. Consequently, in 1996, the ANC announced the Growth, Employment and Redistribution (GEAR) initiative, which effectively replaced the RDP. GEAR was an orthodox economic policy intended to reduce the country's budget deficit, public debt and government spending, as well as

⁵⁰ Porter and Kramer, 84.

restructure the state-owned assets and keep interest rates high. By 2000 when GEAR expired, GEAR had successfully reduced inflation, reassured international investors, and created at least 400,000 jobs. However, GEAR did not make a significant amount of progress in ameliorating the socioeconomic inequalities and many of GEAR's targets were not fully reached.⁵¹ Thus in 2001, the government, under the country's second post-apartheid president Thabo Mbeki, created the concept of Black Economic Empowerment (BEE) as the country's newest growth strategy.

Mbeki's creation of BEE was based on an understanding of South Africa's past. Apartheid created a racially divided economic system in which whites, with greater access educational opportunities and higher incomes, were disproportionately represented in the leadership and ownership of South African companies and resources. In Nelson Mandela's 1992 address to the African National Congress (ANC), Mandela recognized the importance of using affirmative action as a governmental tool to redress the racially divided apartheid-produced society:

What we are against is not the upholding of standards, as such but the sustaining of barriers to the attainment of standards, the special measures that we envisage to overcome the legacy of past discrimination are not intended to ensure the advancement of unqualified persons, but to see to it that those who have been denied access to qualifications in the past can become qualified now, and that those who have been qualified all along but overlooked because of past discrimination are at least given their due.⁵²

Mbeki also recognized this need for affirmative action in response to South Africa's past and asserted that "all societies necessarily bear the imprint, the birthmarks of their own past...A penetrating understanding of our country today requires also that we look at its

⁵¹ Babarinde, 367.

⁵² Linda E. Lucas, *Unpacking Globalization: Markets, Gender, and Work*, (Lanham: Lexington Books Press, 2007), 178.

past.”⁵³ Based on this understanding and the right to equality protected in the South African Constitution, the new South African government introduced the Black Economic Empowerment Act in 2001. The goal of BEE was to eradicate social and economic inequalities inherited from the apartheid era and empower the previously disadvantaged by promoting black participation and involvement in the country’s economy through a legally binding framework in the public sector. The Act also called for a BEE Commission intended to address specific concerns and provide a better understanding of BEE. The BEE Commission acted on the belief that if left alone, markets would tend to reinforce the existing inequalities and structural racism.⁵⁴

As the application of BBE broadened to include issues beyond ownership and management such as rural development and poverty alleviation, BBE was redefined as Broad-Based Black Economic Empowerment (BBBEE) in 2003 by the Broad-Based Black Economic Empowerment Act.⁵⁵ Beyond addressing racial imbalances, BBBEE aims to “strengthen the socio-economic spectrum of the country over the basis of equality and fairness.”⁵⁶ BBBEE contains a variety of legal and regulatory measures as well as specific verification and certification tools evaluated using the generic BBBEE scorecard (See Appendix C).

Unlike previous policies promoting black capitalism that were criticized for their lack of transparency and still only benefiting politically connected individuals, “BBBEE

⁵³ “Black Economic Empowerment Commission 2001 Report,” Black Economic Empowerment Commission, <http://www.kznhealth.gov.za/TED/commission.pdf>, 2001.

⁵⁴ Stefano Ponte, Simon Roberts, and Lance van Sittert, “Black Economic Empowerment, Business and the State in South Africa,” *Development and Change*, 2007, 942.

⁵⁵ Ben Thornley, David Wood, Katie Grace and Sarah Sullivant, “Case Study 10: Broad Based Black Economic Empowerment,” *Pacific Community Ventures*, Jan 2011, 3
<http://www.pacificcommunityventures.org/uploads/misc/case_studies/10-BBBEE.pdf>.

⁵⁶ Flores-Araoz.

seeks to move beyond the simple substitution of black owners and workers for white ones by restructuring economic institutions comprehensively and focusing on direct and indirect empowerment and human capital development.”⁵⁷ BBBEE goes beyond increasing the levels of black ownership by also promoting the general uplifting of historically disadvantaged individuals and communities through human resource and skills development.

Even though BBBEE is voluntary for the private sector, this comprehensive framework has had a large impact on the business environment in the country since companies that do not comply with the BBBEE scorecard receive negative ratings, which hinder their ability to operate in the country.⁵⁸

The system is an example of government procurement since companies receive contracts from the government based on their BBBEE score. These BBBEE scorecards measure the compliance of companies and are also used to convey the positive social impact of a company to potential investors.⁵⁹ The scorecard assesses the seven elements of BBBEE: ownership, management control, employment equity, skills development, preferential procurement, enterprise development, and socio-economic development. In Ralph Hamann’s study on institutional change and the drivers of CSR in South Africa, he found that all of the subjects he interviewed agreed that “the BEE scorecard was acting as the most important catalyst for CSR-related change in the companies...there has been a confluence of motives, spearheaded most recently by the BEE scorecard.”⁶⁰ Beyond compliance, many companies have found the objectives of the BEE scorecard to be in

⁵⁷ Thornley et al, 4.

⁵⁸ Flores-Araoz.

⁵⁹ Thornley et al, 5.

⁶⁰ Hamann, “Corporate Social Responsibility, Partnerships, and Institutional Change,” 286.

their long-term self-interest. Overall, BBBEE creates opportunities to finance equity transfers to blacks to expand diversity and equality in corporate ownership.

The BBBEE framework is also a mechanism that certifies and verifies CSR activities. The last element that the scorecard measures, socioeconomic development, directly relates to CSR by measuring to what extent companies give resources and carry out initiatives to improve the situation of and to promote access to the economy for historically disadvantaged South Africans.⁶¹

On one hand, BEE symbolizes South African post-apartheid recovery. Kloppers and Plessis argue that “the BEE Act is probably the most aggressive legislative step taken by the post-apartheid government to address the legacies left by a system based on discrimination, inequality and suppression of the masses.”⁶² BEE can correct the consequences of the a system that used race to not only control access to South Africa’s economic resources, but also to exclude the majority of South Africans from these resources.

On the other hand, the success of BEE in transferring ownership roles to blacks is debatable. Despite the fact that 90% of South Africa’s population is non-white, only 2-20% of the JSE-listed corporations are owned by blacks.⁶³ Furthermore, over 75% of private sector companies do not meet BBBEE requirements.⁶⁴ However, research suggests that there is a positive correlation between the BBBEE compliance of a

⁶¹ Christian Ardelean, Staffan Lindstrom, Sara Mikkila, Christian Pitulia, Anders Tenfalt, and Sara Thunstrom, “A Comparative Study Regarding Corporate Social Responsibility in Swedish and in South African Companies, (Bachelor Thesis: Chalmers University of Technology, 2001), 4.

⁶² Kloppers and du Plessis, 97.

⁶³ Thornley et al, 5.

⁶⁴ Ibid.

company and its profit growth.⁶⁵ Furthermore, dismantling BBBEE could be interpreted as a political abandonment of black economic empowerment, especially since “BEE corresponds to a negotiated definition of what CSR means in the South African context.”⁶⁶ Many businesses in South Africa consider BEE as a prerequisite for their CSR initiatives.

CSR in the South African Mining Industry

The 2002 World Summit on Sustainable Development (WSSD), also known as Earth Summit II, held in Johannesburg, South Africa, reaffirmed an international commitment to sustainable development. At the WSSD, countries worked together to draft the Johannesburg Plan of Implementation (JPOI). In South Africa, it is widely recognized that partnerships between the private sector and other relevant stakeholders, such as civil society and non-governmental organizations (NGOs), are crucial in meeting socio-economic development goals. The JPOI encourages industries to improve social and environmental performance through voluntary initiatives and endorses public-private partnerships.⁶⁷ Specifically, paragraph 44 of the JPOI identifies, for the first time, the potential positive contribution of mining to sustainable development, as well as calls for the participation of all stakeholders:

⁶⁵ Ibid.

⁶⁶ Ralph Hamann, Tagbo Agbazue, Paul Kapelus, and Anders Hein, “Universalizing Corporate Social Responsibility?,” *Business and Society Review*, 2005, 10.

⁶⁷ L Mabuza, N Msezane, and M Kwata, “Mining and Corporate Social Responsibility Partnerships in South Africa,” *Africa Institute of South Africa*, 2010, 1, < <http://www.ai.org.za/wp-content/uploads/downloads/2011/11/No-15.-Mining-and-Corporate-Social-Responsibility.pdf>>.

44. Mining, minerals and metals are important to the economic and social development of many countries. Minerals are essential for modern living. Enhancing the contribution of mining, minerals and metals to sustainable development includes actions at all levels to:

(a) Support efforts to address the environmental, economic, health and social impacts and benefits of mining, minerals and metals throughout their life cycle, including workers' health and safety, and use a range of partnerships, furthering existing activities at the national and international levels, among interested Governments, intergovernmental organizations, mining companies and workers, and other stakeholders, to promote transparency and accountability for sustainable mining and minerals development;

(b) Enhance the participation of stakeholders, including local and indigenous communities and women, to play an active role in minerals, metals and mining development throughout the life cycles of mining operations, including after closure for rehabilitation purposes, in accordance with national regulations and taking into account significant transboundary impacts;

(c) Foster sustainable mining practices through the provision of financial, technical and capacity-building support to developing countries and countries with economies in transition for the mining and processing of minerals, including small-scale mining, and, where possible and appropriate, improve value-added processing, upgrade scientific and technological information, and reclaim and rehabilitate degraded site.⁶⁸

The mining industry is especially meaningful for South Africa in terms of economic, social, and historical reasons. Economically, South Africa is the largest export nation in the world of numerous minerals, such as gold, platinum, manganese and chromium and its mining industry accounts for more than 50% of the country's exported goods.⁶⁹ The mining sector is at the heart of the South African economy, contributing to 18.7% of the country's GDP and directly employing 13.5 million people.⁷⁰ The South African mining

⁶⁸ "Johannesburg Plan of Implementation," *World Summit on Sustainable Development*, 2002, <http://www.johannesburgsummit.org/html/documents/summit_docs/2309_planfinal.htm>.

⁶⁹ Christian Ardelean et al., 4.

⁷⁰ "Carroll: Mine Violence Caused by Legacy of Apartheid," *Mail & Guardian*, 05 Dec. 2012, <<http://mg.co.za/article/2012-12-05-carroll-mine-violence-caused-by-legacy-of-apartheid>>.

industry, among the biggest in the world, is especially complex given that “the current sustainability practices cannot be separated from the political history of the sector and the socio-economic conditions of the mining populations”.⁷¹ While the mining industry contributes to the regional and national economy in terms of providing export revenues, employment and infrastructure development, the industry is also responsible for a wide range of negative impacts related to land-use, environmental pollution, and mine closure. Negative impacts include the disruption of river flows, degradation of land and forest resources, disturbance of local communities and of traditional lifestyles of indigenous people; the discovery, extraction and processing of mineral resources is widely regarded as one of the most environmentally and socially disruptive business operations.⁷² However, surprisingly, the first evidence of concerted efforts to redress the consequences of apartheid rule came from the mining industry.

Historically, there has been a great amount of tension between mining companies and the communities where they operate. This tension stems from the inequity of apartheid since “the activities of the mining houses were inextricably linked with colonial and subsequently *apartheid* policies through the migrant labor system.”⁷³ Mining companies were at once notorious for:

neglecting their mining producing communities during the apartheid regime. The mining communities lacked electricity, housing, potable water, and their farmland were destroyed by the mining activities. Even though they claimed to have done many things to correct the wrongdoing of the past, they have not done anything to improve the lives of people living in the mining areas. It is the government that have embarked on

⁷¹ Mariri and Chipunza, 95.

⁷² Heledd Jenkins and Natalia Yakovleva, “Corporate Social Responsibility in the Mining Industry: Exploring Trends in Social and Environmental Disclosure,” *Journal of Cleaner Production*, 2006, 272.

⁷³ Hamann, “Corporate Social Responsibility, Partnerships, and Institutional Change,” 279.

*notable housing and electrification projects. What are the companies that neglected the communities doing? They are only after their profits.*⁷⁴

Before the South African Constitution was introduced in 1996, the mining sector heavily exploited South Africa's rich mineral resources. Mining companies, often owned by non-South Africans, would abandon mines without any regard of their environmental damage and social destruction they were leaving behind.⁷⁵ It is noteworthy that the mining industry, as opposed to any other industry, is currently taking the lead in CSR initiatives given the inherently unsustainable nature of mineral extraction.

The South African Constitution recognizes the state's obligation to protect citizens' socio-economic rights such as the right to housing, clean water and medical assistance. The objectives of local government, as outlined in Chapter Seven of the Constitution, are to promote social and economic development, to ensure service provision in a sustainable manner, and to provide a safe and healthy environment.⁷⁶

However, as the government realized its limited resources and skilled personnel, mining executives began to recognize that it is nearly impossible for a business to effectively or sustainably operate in an unstable environment. This dynamic resulted in public-private partnerships and an understanding that "CSR may contribute to the general uplifting of those historically disadvantaged people that have been discriminated against for centuries."⁷⁷ Businesses developed the practice of consulting the community about the environmental impact of its projects; community and stakeholder interests began to be reflected in business strategies.

⁷⁴ Eweje, 111.

⁷⁵ Kloppers and du Plessis, 92.

⁷⁶ Mabuza, et al., 2.

⁷⁷ Kloppers and du Plessis, 93.

South Africa's mining sector has dominated its economy for so long not only because of its contribution to South Africa's GDP, but also because of the large percentage of the South African population that is employed by the industry. Mining companies often justified the damage its operations caused, such as disputes over land use, pollution, and the impact of mine closure, with a cost-benefit analysis. Mining companies argued that financial benefits outweighed social and environmental damage.⁷⁸ However, following the huge social and economic pressures caused by the Soweto uprising and riots in 1976, mining companies established the Urban Foundation to improve infrastructure and education facilities in South Africa's townships, including Soweto.⁷⁹ Yet, given the industry's previous human rights abuses, anti-apartheid activists regarded these early initiatives as 'a smokescreen' that did not properly recognize underlying problems and injustices.⁸⁰

During South Africa's transition to democracy, two major trends were seen in the mining industry, both affecting CSR in the industry. The first trend is as South Africa's capital markets were reintegrated with international markets, mining companies experienced increasing pressures to meet international expectations. Most of the large mining companies started to be listed in one of the main stock exchanges, especially London.⁸¹ Listed companies became incentivized to increase their CSR to meet corporate governance codes and appeal to investors. As expectations increased internationally, policies changed locally.

⁷⁸ Jenkins, 24.

⁷⁹ Hamann, "Corporate Social Responsibility, Partnerships, and Institutional Change," 279.

⁸⁰ Ibid.

⁸¹ Ibid, 280.

The second trend was an increase in State sovereignty over mineral resources. By 2002, all mining companies were required to renew their mining licenses contingent on their compliance with the BEE scorecard for the broad based socio-economic empowerment charter for the South African mining industry.⁸² However, companies continued to be accused of letting the competitive motivation to improve their image for investors dominate the need to adequately coordinate CSR programs with all stakeholders at the local level. This fixation on the competition among mining companies not only prevented a sincere engagement with the underlying causes of social problems, but also obstructed the creation of effective cross-sectoral collaboration.⁸³ To actually make a difference in the industry, mining companies must evaluate the effects of its core practices.

Broad-Based Socio-Economic Empowerment Charter for the South African Mining Industry

According to the BEE Act, the government can make industry specific charters that will govern the way that industry promotes and enforces BEE. In October 2002, the Broad-Based Socio-Economic Empowerment Charter for the South Africa Mining Industry (The Mining Charter) was enacted by the Chamber of Mines of South Africa, the Department of Minerals and Energy, the South African Mining Development

⁸² Ibid.

⁸³ Ibid, 288.

Association and the National Union of Mineworkers.⁸⁴ The vision of the Mining Charter is to support “the pursuit of a shared vision of a globally competitive mining industry that draws on the human and financial resources of all South Africa’s people and offers real benefits to all South Africans....to create an industry that will proudly reflect the promise of a non-racial South Africa.”⁸⁵ The Charter is a legally binding commitment by the industry to increase the access of previously disadvantaged individuals to South Africa’s mineral resources and their associated economic benefits.

The Charter recognizes the history of economic injustice in South Africa and provides a formal stated intention from the mining industry to “adopt a proactive strategy of change to foster and encourage black economic empowerment and transformation at the tiers of ownership, management, skills development, employment equity, procurement and rural development.”⁸⁶ The Charter also recognizes that BBE is especially important in the mining industry given the barriers to entry into the mining industry by historically disadvantaged South Africans and the relative slow progress of employment equity in the industry.⁸⁷

The act presents a list of undertakings that all stakeholders in the mining industry must follow. The undertakings, identified as the seven pillars of BBBEE, are: Human Resource Development; Employment Equity; Migrant Labour; Mine Community and Rural Development; Housing and Living Conditions; Procurement; Ownership and Joint Ventures; and Beneficiation. These undertakings are assessed using the Scorecard for the

⁸⁴ “Broad-Based Socio Economic Empowerment Charter for the South African Mining Industry,” *ATNS*, <<http://www.atns.net.au/agreement.asp?EntityID=4286>>.

⁸⁵ “Scorecard for the Broad Based Socio-Economic Empowerment Charter for the South African Mining Industry,” *Anglo Gold*, <<http://www.anglogold.com/NR/rdonlyres/073848D0-93CE-4BF1-AF56-8574C4C1F4C1/0/MiningCharter.pdf>>.

⁸⁶ *Ibid.*

⁸⁷ *Ibid.*

Broad Based Socio Economic Empowerment Charter for the South African Mining Industry (See Appendix D). Furthermore, the undertakings that require government compliance are divided into the following sections: Exploration and Prospecting; State Assets; Licensing; Financing Mechanism; Regulatory Framework and Industry Agreement; and Consultation, Monitoring, Evaluation and Reporting.⁸⁸ The Mining Charter was one of the first industry charters released following the BBBEE Act and is more government-led with more concrete sanctions than more recent industry charters, such as The Tourism Charter, and the Financial Services Charter.⁸⁹

Following the enactment of the Mining Charter, the proportion of mergers and acquisitions (M&As) with a BEE dimension increased, in terms of the number of deals as well as the value of M&A activity. Between 1998 and 2002, the proportion of M&As connected to BEE was 10–15 percent. However, between 2003 and 2005, the proportion increased to 24–32 percent.⁹⁰ While the Mining Charter has made noticeable progress towards socio-economic justice, many applications of the Charter are criticized for creating a new black business elite comprised of “a new and growing class of wealthy, successful black South African capitalists.”⁹¹ There is a small group of black business moguls, including leaders such as the head of the BEE Commission Cyril Ramaphosa, who are disproportionately benefiting from BBBEE, while the majority of the historically disadvantaged South Africans (HDSAs) remain just as socio-economically poor as before BBBEE.⁹² Since 1994, the proportion of blacks in the lowest income segment has

⁸⁸ Ibid.

⁸⁹ Ponte et al, 944.

⁹⁰ Ibid, 947.

⁹¹ Ibid.

⁹² Ibid.

remained high in South Africa; HDSAs that were deprived of decent education by the apartheid regime have not experienced an increase in income opportunities under BEE.

Mineral and Petroleum Resources Development Act

The Mineral and Petroleum Resources Development Act (MPRDA), passed in June 2002, represents a legislative commitment to achieving equitable access to and sustainable development of South Africa's mineral and petroleum resources. The act grants all mining rights with the state and requires companies to convert their old order mining rights into new order rights. In order to do this, companies must meet a number of social and labor targets that overlap with the targets in the Mining Charter.

Furthermore MPRDA emphasizes rectifying the legacy of apartheid. The preamble outlines the State's role in the mining industry:

*affirming the State's obligation to protect the environment for the benefit of present and future generations, to ensure ecologically sustainable development of mineral and petroleum resources and to promote economic and social development; recognizing the need to promote local and rural development and the social upliftment of communities affected by mining; reaffirming the State's commitment to reform to bring about equitable access to South Africa's mineral and petroleum resources; being committed to eradicating all form of discriminatory practices in the mineral and petroleum industries; considering the State's obligation under the Constitution to take legislative and other measures to redress the results of past racial discrimination.*⁹³

Ultimately, the adoption of the Mining Charter and the MPRDA suggest the mining industry's new commitment to function within a new and different legislative framework.

⁹³ "Mineral and Petroleum Resources Development Act," *Republic of South Africa Government Gazette*, 5.

In terms of CSR, the most important objective of the Act is Section 2(i) which ensures that mining companies contribute toward the socio-economic development of the areas in which they operate.⁹⁴ However, the Act does not explicitly state how this objective should be achieved and consequently, it is left up to the industry to adopt the spirit of the Act in a meaningful way. The extent to which businesses choose to subscribe to the Act is voluntary and can be seen through the degree of their CSR programs.

In compliance with the act, when applying for a new mining right, a company must submit a mine works plan, environmental management plan, and a social and labor plan. Mining operations are further required to submit annual compliance reports. This legislation indirectly reinforced CSR into the mining industry. The rise of CSR in the South Africa mining industry has demonstrated that the “moral high-ground once occupied by NGOs has been usurped, so to speak by the former targets of their campaigns.”⁹⁵ The mining companies that were once the “pariahs of capitalism”⁹⁶ are the very same companies that are taking the lead in the CSR movement.

⁹⁴ Kloppers and du Plessis, 102.

⁹⁵ Rajak, 8.

⁹⁶ Ibid.

Chapter 4: Anglo American

“For Anglo American, there is simply no choice or trade-off. Sustainable development is not merely an adjunct to the business—a ‘nice to have’ add-on. It is part of our DNA, embedded in our culture and is fundamental to the way we do business.”

—Anglo American CEO Cynthia Carroll⁹⁷

Anglo American & CSR

Although South Africa’s government has made significant progress in implementing legislation promoting CSR, the role of government is limited. In a 2004 report published by Trialogue on corporate citizenship in South Africa, only 10% of South Africa’s top companies reported “abiding by laws and regulations” as their one principal motivation for pursuing corporate citizenship.⁹⁸ Businesses with the desire to adopt strong CSR practices draw from other sources of motivation such as moral obligation and reputation. Anglo American can be studied as a model example of CSR.

Sir Ernest Oppenheimer founded Anglo American in 1917 with a focus on sustainable initiatives “decades before ‘sustainability’ became a buzzword.”⁹⁹ Upon the founding of the company, Oppenheimer stated “the aim of this Group is, and will remain, to earn profits for our shareholders, but to do so in such a way as to make a real and

⁹⁷ “Report to Society 2008,” *Anglo American*, 7.

⁹⁸ Visser, 43.

⁹⁹ “Report to Society 2008,” *Anglo American*, 8.

lasting contribution to the communities in which we operate.”¹⁰⁰ Today, Anglo American is the world’s largest natural resource company and largest producer of platinum, as well as a major producer of diamonds, copper, nickel, iron ore and metallurgical and thermal coal. The corporation has operations across the world, but the majority of its operations and its heart remain in South Africa. The company is the largest private sector employer not only in South Africa, but also on the whole continent, with 76,000 permanent employees and 24,240 contractors.¹⁰¹

Anglo was originally listed on the Johannesburg Securities Exchange, but in 1998 Anglo American became the first South African company to switch its primary listing to the London Stock Exchange, making its listing on the JSE secondary. This switch assuaged investors’ concerns of the risk of investing in a primary JSE company during a time of political uncertainty. Attesting to these investor sentiments, the year following Anglo’s move to London, profits increased by 24%.¹⁰² Also at this time, Anglo American began pursuing programs of global diversification. Due to the company’s expansive influence and reach, “in South Africa, mining became virtually synonymous with one company in particular: The Anglo American Corporation.”¹⁰³

Historically, Anglo American was represented as having two clashing identities. The first identity was as a pioneering institution led by visionary philanthropists, such as Harry Oppenheimer and Gavin Relly, working to uplift South Africans. The dueling identity was as a harsh and technical business led by engineers focuses solely on profit,

¹⁰⁰ Ibid.

¹⁰¹ Pádraig Carmody, “Between Globalisation and (Post) Apartheid,” *Journal of Southern African Studies*, 2002, 262.

¹⁰² Ibid, 265.

¹⁰³ Rajak, 19.

which meant extraction at any cost.¹⁰⁴ Through CSR, Anglo American has proved critics wrong and shown that these two apparently antithetical identities are in fact, perfectly complementary in corporate hegemony.

Rather than try to mask the company's past, Anglo has designed its CSR programs centered on amending the company's origins and past practices. Chris Carrick, an Anglo American executive, recognizes the unique role Anglo American can play in redressing apartheid by noting how the company has demonstrated a:

*break from the company's paternalistic past and simultaneously appeals to that past as the basis for Anglo's modern-day corporate citizenship; so creating a corporate biography which effectively re-makes the past to confront the political and social challenges of the dynamic present.*¹⁰⁵

Anglo American is commended for the way its CSR programs directly confront particular political challenges related to the mining industry.

Since mining will continue to have a prevailing role in South Africa, as Anglo Chairman Sir John Parker projected in the company's 2001 Sustainability Report, Anglo recognizes its "duty to be especially vigilant in ensuring that we mine responsibly, engender trust and deliver a fair share of the benefits during the time of our operations to host governments and communities, leaving them with a firm foundation for a sustainable future."¹⁰⁶

The company has fulfilled this duty to act responsibility that Parker mentions through its emphasis on progressive CSR initiatives. For example, in August 2002, Anglo American demonstrated its commitment to the fight against HIV by becoming the

¹⁰⁴ Ibid, 73.

¹⁰⁵ Ibid, 83.

¹⁰⁶ "Sustainable Development Report 2011," *Anglo American*, 2.

first major company to offer free anti-retroviral therapy (ART) to all of its employees.¹⁰⁷

Due to tangible examples of the company's commitment to good corporate citizenship such as this, Anglo American is deservedly recognized in the mining industry as "a champion of CSR."¹⁰⁸

On their website, Anglo American promises that "we remain firmly committed to sustainable development. Operating safely and responsibly is embedded in everything we do, and we continue to assess the economic, social and environmental risks and benefits of every decision."¹⁰⁹ Anglo American acts in accordance with the Mining Charter as well as its own corporate citizenship principles. The company has completely integrated responsible practices in its core business strategy as well as valued meaningful partnerships with the community as seen by its assertion that all of its operations have a social and labor plan (SLP) geared towards improving health and welfare, education, and infrastructure within its mining communities. To achieve these integrated practices, Anglo American goes through an extensive consultative process with local municipalities and host communities to ensure that its projects are sustainable, as well as meeting stakeholders' needs and expectations.¹¹⁰

¹⁰⁷ Rajak, 116.

¹⁰⁸ Rajak, 3.

¹⁰⁹ "Sustainable Development," *Anglo American*, <<http://www.angloamerican.com/development>>.

¹¹⁰ "Social Investment," *Anglo American*, <<http://www.angloamerican.co.za/sustainable-development/our-difference/social-investment.aspx>>.

Compliance with the Mining Charter

Following the Mining Charter, in line with BEE, Anglo American streamlined its South African operations to concentrate on seven core mining operations: coal, base metals, ferrous metals, industrial minerals, gold, diamonds, and platinum. The rest of the company's assets were sold to BEE companies. Selling assets to BEE companies has become a significant element of Anglo's CSR, as well a reflection of the company's commitment to empowerment and transformation.¹¹¹

Article Two of the 2002 Mining Charter sets a target "to achieve 26% historically disadvantaged South African (HDSA) ownership of the mining industry assets in 10 years by each mining company."¹¹² Committed to this goal, Anglo American implemented many initiatives aimed at creating management-level recruits, such as math and science programs for children in mining areas and university scholarships. According to Anglo American's 2008 Report to Society, the company surpassed the Mining Charter's targets. By 2011, 51% of Anglo American employees in South Africa at management level were HDSA. Furthermore, women made up 15% of South African employees and nearly 22% of management positions.¹¹³ This Report asserts Anglo American's influence over mining reforms and states Anglo American "aims to be the leading global mining company. We are committed to delivering operational excellence in a safe and responsible way, adding value for investors, employees, governments and the communities

¹¹¹ Rajak, 100.

¹¹² "Broad-Based Socio-Economic Empowerment Charter for the South African Mining Industry," *Western Cape Government*, < <http://www.westerncape.gov.za/Text/2004/5/theminingcharter.pdf>>.

¹¹³ "Sustainable Development Report 2011," *Anglo American*, 22.

in which we operate.”¹¹⁴ Anglo American’s dedication to its stakeholders can be seen through its three main CSR programs: The Anglo American Chairman’s Fund, The Socio-Economic Assessment Toolbox (SEAT), and Anglo Zimele.

Chairman’s Fund

The Anglo American Chairman’s Fund, started in the 1950s, but was transformed into the first formally structured corporate social investment (CSI) initiative in South Africa in 1973.¹¹⁵ In 1977, the Sullivan Principles were introduced in South Africa which required American companies doing business in South Africa to contribute a percentage of their profits towards charitable causes. The Sullivan Principles prompted big businesses in South Africa to establish “trust funds,” helping to shape the Anglo’s Chairman’s Fund dedication to social investments.¹¹⁶

After South Africa became a democracy, the Fund capitalized on opportunities to engage directly with the government to continue to promote long-term sustainability in the country. Furthermore, the Fund is unique to traditional CSI initiatives since it supports capital funding and infrastructural development.¹¹⁷

The Fund’s contribution to BEE and post-apartheid recovery has increased over the years seeing that the Fund has shifted its focus from its original purpose of supporting

¹¹⁴ “Report to Society 2008,” *Anglo American*, 1.

¹¹⁵ Babarinde, 360.

¹¹⁶ Fourie, 14.

¹¹⁷ “Deepening Transformation”, *Anglo American*, 2008, 39.

white academics to supporting more hands-on black education initiatives. This shift in the late 1970s and 1980s was a demonstration of quiet resistance to apartheid.¹¹⁸

Today the Fund continues to focus on education development initiatives. The Fund contributes 25% of Anglo's CSI in South Africa, focusing on a wide array of social issues such as education, HIV/AIDs, health, welfare and development, environment, entrepreneurial development, policy and advocacy and arts, culture and heritage. In 2008, the Fund invested in more than 250 projects, spending R76.8 million on CSI, R21.7 million of which was spent on health and HIV/AIDs-related projects in disadvantaged communities.¹¹⁹ Appropriately, in 2008, recognizing the Fund's success, Trialogue reported that the Fund was awarded first place in the Excellence in Corporate Social Investment category for the eighth consecutive year.¹²⁰ The Fund's admirable reputation and leadership recognition is not only a reflection of its corporate success, but also of Anglo American's deep commitment to CSR in the country where its rooted.

The Socio-Economic Assessment Toolbox (SEAT)

Since today, a mining company's prosperity is inseparably linked to its ability to create a positive impact in the community, Anglo recognizes building relationships and supporting local communities in its philosophy and business strategy, especially seen through the Socio-Economic Assessment Toolbox (SEAT). In 2003, Anglo American

¹¹⁸ Rajak, 81.

¹¹⁹ "Deepening Transformation", *Anglo American*, 2008, 37.

¹²⁰ "Report to Society 2008," *Anglo American*, 15.

developed SEAT to help managers measure the impact on the company and on the communities of Anglo's actions. Anglo American recognizes SEAT as the "cornerstone of our stakeholder engagement process."¹²¹

Anglo uses SEAT to engage with and earn the trust of its stakeholders through improved management of its social and economic impacts, enhance partnerships, and environmental stewardship. The key driver for the development of SEAT was to maintain the company's social license to operate. Each SEAT Report evaluates specific Anglo operations' effectiveness by observing Total Indirect Employment, CSI Employment, and Total Employment Added.¹²²

SEAT looks at local social and economic issues related to Anglo operations and provides managers with international best-practice guidance. Core objectives include assessing existing initiatives, providing an analytical framework that facilitates operations in assessing their overall sustainability, and being a useful resource in developing a Community Engagement Plan. The benefits of SEAT include a better understanding of local communities, improved stakeholder relationships, new and improved partnerships, enhanced reputation for the company, increased availability of local suppliers, and a strengthened license to operate.¹²³

In 2007, SEAT was updated to ensure that the framework was not purely conforming to requirements, but setting new benchmarks in terms of social, economic,

¹²¹ "Stakeholder Engagement," *Anglo American*, <<http://www.angloamerican.co.za/sustainable-development/society/stakeholder-engagement.aspx>>.

¹²² Anel Marais, "Assessing Corporate Social Responsibility in Terms of its Impact on Sustainable Community Development," (Master for Philosophy in Community and Development Thesis, University of Stellenbosh, 2010), 81.

¹²³ *Ibid*, 83.

and institutional development.¹²⁴ SEAT was further updated in 2012 to continue to support a transparent relationship with Anglo American's stakeholders. This latest version of SEAT includes a broadened focus of communities and stakeholders, increased emphasis on risk assessment, as well as an established link with the UN Framework on Business and Human Rights.¹²⁵ Since its launch, SEAT has effectively been used at over 50 operations in 16 countries.¹²⁶ The framework differentiates Anglo American from other mining companies.

Anglo Zimele

Anglo Zimele, established in 2000, is Anglo American's small and medium enterprise (SME) that focuses on supporting aspiring entrepreneurs. The word 'zimele,' derived from the African languages Zulu and Xhosa, translates to 'to be independent' or 'to stand on one's own two feet'. Anglo Zimele is a "a commercial firm with a 'social purpose': 'to empower black entrepreneurs' through the provision of a supply chain fund, business start-up loans and equity, and advice on a variety of aspects of business practice from corporate governance and accounting to health, safety and environmental

¹²⁴ "Anglo American SEAT Process Helps Effect Real Socio-Economic Change in Communities," *SME South Africa*, 21 Nov. 2012, <<http://www.smesouthafrica.co.za/index.php/sme-focus/sme-news/corporate/4195-anglo-american-seat-process-helps-effect-real-socio-economic-change-in-communities>>.

¹²⁵ "SEAT Toolbox: Socio-Economic Assessment Toolbox Version 3," *Anglo American*, Jun. 2012, 7<<http://www.angloamerican.com/~media/Files/A/Anglo-American-Plc/development/SEAT-v3-overview-21-06-12.pdf>>.

¹²⁶ *Ibid*, 6.

responsibility.”¹²⁷ The enterprise is divided into three separate funds: the Supply Chain Fund, the Anglo Khula Mining Fund, and the Small Business Start-up Fund. The funds provide equity, loans, mentoring, and access to value-enhancing opportunities to sustainable and economically viable enterprises. Anglo Zimele provides these funds in regard to their corporate governance, management, legal, accounting, company secretarial, public relations, safety, health and the environment.¹²⁸

Former Anglo American CEO Tony Trahar first presented Anglo Zimele as the company’s commitment to addressing the legacies of the apartheid era and pledge to good corporate citizenship. Anglo Zimele aims to ensure that when Anglo’s mine gates eventually close, that host communities are “equipped with the capacity and know-how to build a viable and sustainable future.”¹²⁹ By 2008, the 228 businesses supported by Zimele funding were responsible for employing 10,419 staff members and had a combined turnover of R1.3 billion (\$157 million).¹³⁰ The Anglo Zimele model of job creation is now being applied to other countries, including Brazil, Chile and Peru. Anglo Zimele demonstrates Anglo’s dedication to go beyond mining and leave a positive and lasting legacy by supporting local communities and raise the standards of sustainably in the industry.

Hamann recognizes that special attention needs to be given to SMEs since they have been experiencing significant challenges in fulfilling CSR standards such as lack of mentorship, infrastructure and access to financial services. SMEs comprise a very important component of South Africa’s economy; about 95% of the total business sector

¹²⁷ Rajak, 105.

¹²⁸ “Sustainable Development Report 2011,” *Anglo American*, 39.

¹²⁹ *Ibid*, 3.

¹³⁰ “Report to Society 2008,” *Anglo American*, 23.

is estimated to be comprised by SMEs, accounting for about 46% of total South African economic activity.¹³¹ Even though SMEs play a crucial role in sustainable development in South Africa, they have little organized representation or research focused on them. For example, only 13% of small companies have an HIV/AIDS policy, as opposed to 90% of large companies, even though CSR is arguably an inherent part of SME activity since small companies have much more direct interaction with their suppliers, customers, and local communities.¹³² Anglo, especially through Zimele, recognizing the importance and long term impact of providing SMEs with the resources they need.

Extractive Industries Transparency Initiative

While CSR initiatives have been significantly progressing, corporate governance practices often exhibit some level of corruption. One attempt to address this corruption in South Africa has been the United Kingdom led Extractive Industries Transparency Initiative (EITI). This initiative aims to increase revenue transparency by setting a standard in which companies and governments work together to disclose payments and the receipt of payments. Anglo American supports the EITI “as a means of increasing stakeholder confidence, reducing opportunities for embezzlement and stimulating debate around how revenues are allocated most effectively in resource-dependent economies.”¹³³

¹³¹ Hamann et al, 13.

¹³² Hamann et al, 14.

¹³³ Visser, 45.

Chapter 5: Conclusion

While South Africa has made significant strides economically and politically since apartheid formally ended nineteen years ago and its Constitution was enacted seventeen years ago, the country still faces many social challenges such as poverty, unemployment, and health care. Given a growing economy and rises in per capita income since, the decline in poverty since 1994 has been relatively small. Furthermore, the post-apartheid country is still defined by extreme inequality.

These inequalities are apparent in the mining industry. This is most recently seen in the August 2012 Marikana miners' strike at a mine owned Lonmin in Marikana, South Africa. Violence between the South African Police Service, Lonmin security, and the National Union Mineworkers (NUM), and strikers resulted in 44 deaths and at least 78 injuries. Almost of the deaths and injuries were a result of a police massacre of striking miners. The strike symbolizes the deep-rooted violence that still remains in the South African mining industry as well as the unresolved legacy of apartheid.¹³⁴

Many investors are dissuaded by the unpredictability surrounding South African mining policies. CEO of Anglo American Cynthia Carroll observed that companies are deterring away from making large long term capital investments "for fear of arbitrary and unpredictable regulatory change."¹³⁵ After continuous displays of the decline of South

¹³⁴ Peter Hain, "South Africa: A Crisis for business Over Social Reform," *The Guardian*, 22 Apr. 2013, <<http://www.guardian.co.uk/commentisfree/2013/apr/22/south-africa-crisis-business>>.

¹³⁵ "In the Pits," *The Economist (US)*, 25 Aug. 2012, <<http://www.economist.com/node/21560903>>.

Africa's mining industry, such as violent strikes and being ranked 54th out of 93 mining jurisdictions in a survey of the attractiveness of countries to mining investors by the Fraser Institute, current president of South Africa Jacob Zuma announced in his State of the Nation address that land ownership and mining sector reform will be the African National Congress (ANC)'s top priorities in 2013.¹³⁶

The State has played a crucial role in defining and motivating CSR initiatives. However, for CSR to be effectively executed in South Africa, and especially in the mining industry, businesses' CSR practices need to emphasize accountability and fairness. Accountability corresponds to identifying and mitigating the impacts of core business practices and fairness focuses on helping the most vulnerable stakeholders. The more mining companies integrate accountability and fairness into their core practices and in the cultural context of their areas of operation, the more influence businesses can potentially have not only on the sustainability of the country, but also on the country's deeply ingrained social injustices.

Despite pioneering efforts from Anglo American and other large South African companies, there is still a wide gap between the highly ethical stance adopted by a minority of typically large multinational companies like Anglo American and the widespread reality of corruption.¹³⁷ Unfortunately, Anglo American's dedication to comprehensive CSR is more of an exception in South Africa, rather than the normal case. Corporate citizenship has come a long way in South Africa, but CSR is viewed as almost

¹³⁶ "Zuma Says Land, Mining Reform Priority, but Few Details," *Expatica*, 15 Jan. 2013, <http://www.expatica.com/za/news/south%20african-news/zuma-says-land-mining-reform-priority-but-few-details_255460.html>.

¹³⁷ Visser, 45.

exclusively relating to big businesses. Often, SMEs do not bother to comply with CSR measures since they feel as if their operations can go unnoticed. In this regard, there is much room for improved CSR.

CSR is unique in that it has the power to adapt to a country's particular historical context to uplift its people and influence old practices. Thus, CSR can exhibit a dual purpose of both redressing a legacy of exploitation as well as paving the future. CSR will continue to be particularly important considering South Africa's new role as a member of the BRICS nations as of 2010. South Africa's 2011 National Development Plan, which outlines the country's vision for 2030, is based on the premise that to eliminate poverty and create an innovative economy, "South Africa needs to write a new story in the years ahead."¹³⁸

¹³⁸ "National Development Plan," *National Planning Commission*, 11 Nov. 2011, 4 <<http://www.npconline.co.za/medialib/downloads/home/NPC%20National%20Development%20Plan%20Vision%202030%20-lo-res.pdf>>.

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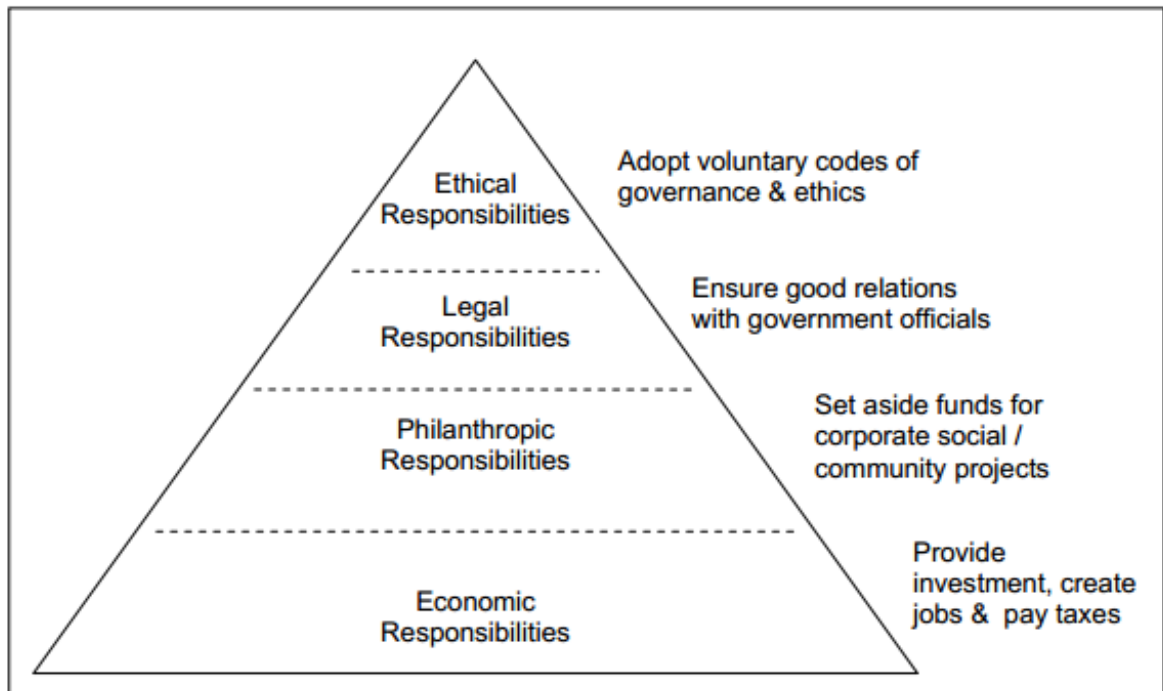
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Appendices

Appendix A: Carroll's Pyramid of Corporate Social Responsibility¹³⁹

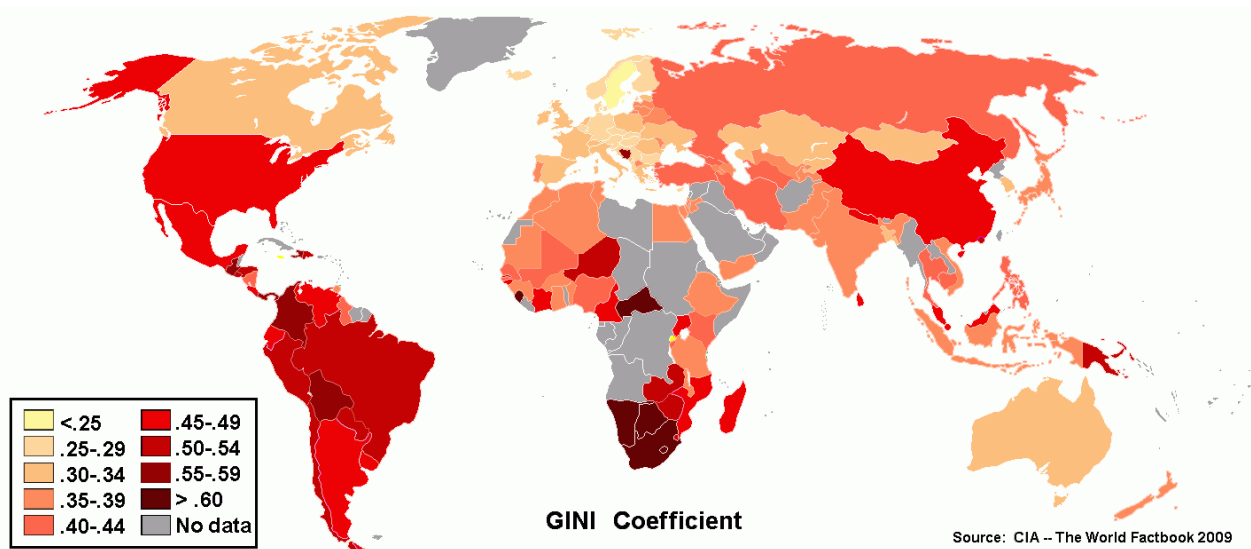


¹³⁹ Wayne Visser, 34.

Appendix B: South Africa's Corporate Responsibility Pyramid¹⁴⁰

¹⁴⁰ Wayne Visser, 37.

Appendix C:

Global Gini Coefficients¹⁴¹

¹⁴¹ "Gini Coefficient," *CIA The World Factbook*, 2009.

Appendix D: Generic Black Economic Empowerment Scorecard¹⁴²

Indicator	Weighting	Code series reference
Ownership	20 points	100
Management control	10 points	200
Employment equity	15 points	300
Skills development	15 points	400
Preferential procurement	20 points	500
Enterprise development	15 points	600
Socio-economic development initiatives	5 points	700

¹⁴² Henk Kloppers and Willemien du Plessis, 99.

Appendix E: BEE Scorecard for the Broad Based Socio-Economic Empowerment Charter for the South African Mining Industry¹⁴³

NOTES	DESCRIPTION	5 YEAR TARGET		10 YEAR TARGET
	Human Resource Development			
1	<ul style="list-style-type: none"> Has the company offered every employee the opportunity to be functionally literate and numerate by the year 2005 and are employees being trained? 	Yes	No	
	<ul style="list-style-type: none"> Has the company implemented career paths for HDSA employees including skills development plans? 	Yes	No	
2	<ul style="list-style-type: none"> Has the company developed systems through which empowerment groups can be mentored? 	Yes	No	
	Employment Equity			
	<ul style="list-style-type: none"> Has the company published its employment equity plan and reported on its annual progress in meeting that plan? 	Yes	No	
3	<ul style="list-style-type: none"> Has the company established a plan to achieve a target for HDSA participation in management of 40% within five years and is implementing the plan? 			
	<ul style="list-style-type: none"> Has the company identified a talent pool and is it fast tracking it? 	Yes	No	
4	<ul style="list-style-type: none"> Has the company established a plan to achieve the target for women participation in mining of 10% within the five years and is implementing the plan? 			
	Migrant Labour			
5	<ul style="list-style-type: none"> Has the company subscribed to government and industry agreements to ensure non-discrimination against foreign migrant labour? 	Yes	No	
	Mine community and rural development.			
	<ul style="list-style-type: none"> Has the company co-operated in the formulation of integrated development plans and is the company co-operating with government in the implementation of these plans for communities where mining takes place and for major labour sending areas? Has there been effort on the side of the company to engage the local mine community and major labour sending area communities? (Companies will be required to cite a pattern of consultation, indicate money expenditures and show a plan). 	Yes	No	
	Housing and Living Conditions			
6	<ul style="list-style-type: none"> For company provided housing has the mine, in consultation with stakeholders established measures for improving the standard of housing, including the upgrading of the hostels, conversion of hostels to family units and promoted home ownership options for mine employees? Companies will be required to indicate what they have done to improve housing and show a plan to progress the issue over time and is implementing the plan? 	Yes	No	
7	<ul style="list-style-type: none"> For company provided nutrition has the mine established measures for improving the nutrition of mine employees? Companies will be required to indicate what they have done to improve nutrition and show a plan to progress the issue over time and is implementing the plan? 	Yes	No	
	Procurement			
	<ul style="list-style-type: none"> Has the mining company given HDSA's preferred supplier status? 	Yes	No	
	<ul style="list-style-type: none"> Has the mining company identified current level of procurement from HDSA companies in terms of capital goods, consumables and services? 	Yes	No	
8	<ul style="list-style-type: none"> Has the mining company indicated a commitment to a progression of procurement from HDSA companies over a 3 – 5 year time frame in terms of capital goods, consumables and services and to what extent has the commitment been implemented? 	Yes	No	
	Ownership & Joint Ventures			
9	<ul style="list-style-type: none"> Has the mining company achieved HDSA participation in terms of ownership for equity or attributable units of production of 15 percent in HDSA hands within 5-years and 26 percent in 10-years? 			15% 26%
	Beneficiation			
	<ul style="list-style-type: none"> Has the mining company identified its current level of beneficiation? 	Yes	No	
10	<ul style="list-style-type: none"> Has the mining company established its base line level of beneficiation and indicated the extent that this will have to be grown in order to qualify for an offset? 	Yes	No	
	Reporting			
	<ul style="list-style-type: none"> Has the company reported on an annual basis its progress towards achieving its commitments in its annual report? 	Yes	No	

¹⁴³ “Scorecard for the Broad Based Socio-Economic Empowerment Charter for the South African Mining Industry,” 4.