African Journal of BUSINESS ETHICS

Official Journal of

BEN-Africa

The Business Ethics Network of Africa

Volume 8. No 2. 2014

African Journal of Business Ethics

(Official Journal of BEN-Africa)

ISSN 1817-7417

Reviewers

The African Journal of Business Ethics values and acknowledges the following academics and industry experts who kindly participated in the peer review process for this edition:

David Benatar (University of Cape Town, South Africa)
Louise du Toit (Stellenbosch University, South Africa)
Schalk Engelbrecht (KPMG, South Africa)
Willem Fourie (University of Pretoria, South Africa)
Madelyn Geldenhuys (University of Johannesburg, South Africa)
Daniel Malan (University of Stellenbosch Business School, South Africa)
Kato Plant (University of Pretoria, South Africa)
Willem Punt (FirstRand Limited, South Africa)
Deon Rossouw (Ethics Institute of South Africa)
Arnold Smit (University of Stellenbosch Business School Executive Development, South Africa)
Pedro Tabensky (Rhodes University, South Africa)
Theo Veldsman (University of Johannesburg, South Africa)
Elme Vivier (Human Sciences Research Council, South Africa)
Suzette Viviers (Stellenbosch University)
Minka Woermann (Stellenbosch University)

African Journal of BUSINESS ETHICS
Vol. 8, No. 2, 2014

Table of Contents

The role of self-leadership in becoming an ethical leader in the South African work context

Ebben van Zyl

ABSTRACT

Unethical behaviour has reached unacceptable levels in South Africa. Ethical leadership is an important source of ethical influence, and therefore provides an impetus for finding ways of managing ethics in an organisational context. Ethical leadership, however, is influenced and affected by self-leadership. The objective of this conceptual and theoretical research, therefore, was to indicate how self-leadership can contribute to leaders becoming ethical leaders within the current South African work context. The social learning theory can be made applicable to self-leadership and ethical leadership, and was used as the basis for this study. It is indicated that self-leadership strategies can have an effect on ethical behaviour of leaders.

Key words: self-leadership, leadership, ethical leadership

INTRODUCTION

Economies around the world have been severely affected by the global crisis (Dorasamy, 2010). Despite wide-ranging policy responses, intense financial strains and economic slack have not totally disappeared (Dorasamy, 2010). Governments are struggling with ways of managing the emergent economic challenges, while preparing their economies to thrive in a future economic landscape characterised by increasing uncertainty ((World Economic Outlook, 2009:5). While the South African government has responded with strategies to address the effects of the crisis, it can be argued that any response should be underpinned by government's commitment to maintaining ethical leadership.

Within South African businesses, actions are embarked upon with regard to focused and structured attempts at managing ethics (Van Vuuren & Eiselen, 2006). Within the South African context, the recommendations of the King I Report on Corporate Governance, published in 1994, and, to an even greater extent, the recommendations of the King II report, published in 2002 (Van Vuuren & Eiselen, 2006), clearly stipulate the institutionalisation and management of ethics as a primary focus of good governance. The King paradigm of corporate governance is built on the premise that governance is not only an ethical imperative, but also that ethics has to be governed, and

Ebben van Zyl
Department of Industiral Psychology
University of the Free State
205 Nelson Mandela Drive
Bloemfontein
9300
South Africa
T: +27 51 401 3653
E: vanzyles@ufs.ac.za

***Ebben van Zyl** is a professor in the Department of Industrial Psychology at the University of the Free State. He was employed at the University in 1994, and chaired the Department of Industrial Psychology from 1 January 2004 to 1 January 2007.*

He has published 41 scientific publications and 42 research projects, and presented 42 papers at national and international conferences on topics related to industrial psychology.

ethical performance reported on (Van Vuuren & Eiselen, 2006). Despite the abovementioned actions, unethical behaviour still remains a big problem in the South African business world (Van Zyl, 2012:50).

In the Human Development Report, 2007, South Africa was ranked twenty-first out of 177 countries, and considered a middle-income country (Swedish International Development Cooperation Agency, 2008). In spite of this, there are major differences in income between the rich and the poor, and South Africa is one of the countries in the world where wealth is most unequally distributed (Swedish International Development Cooperation Agency, 2008). About 15 million out of 47.7 million inhabitants are considered very poor, and the unemployment rate is about 30% (Swedish International Development Cooperation Agency, 2008). High unemployment figures can lead to unethical behaviour and high crime levels (Van Zyl & Lazenby, 2012). De Koker (2007) is of the opinion that crime (including economic and white-collar crime) has reached unacceptable levels in South Africa. De Koker (2007) also indicated that fraud and unethical behaviour are a reality in South African public and private companies, and that something should be done to improve the situation.

One way to go about it is for organisations to humanise the way they manage people. This means that leadership has to be proficient, so that subordinates can identify and go along with it, and leaders should serve as role models through their own ethical and moral actions in the workplace (Van Zyl & Lazenby, 2012). Ethical leadership is an important source of ethical influence, and therefore provides an impetus for finding ways of managing ethics in organisational context (Van Zyl & Lazenby, 2012). Van Zyl (2001) stated that ethical behaviour by leadership, in particular, can have an important effect on the ethical behaviour of employees. Stead, Worrel, and Stead (1994:110) put it as follows: "The institutionalisation of high ethical standards in corporations stems from the character of persons who occupy the relevant positions. Leaders cannot expect ethical behaviour from employees if they do not behave ethically themselves. Leaders are the most significant role models in the organisational setting; they therefore have a major socialising influence on lower-level employees and ethical behaviour in an organisational context." (Worrel & Stead, 1994).

Ethical leadership is influenced and affected by self-leadership (Van Sandt & Neck, 2003). Van Sandt and Neck (2003) are of the opinion that self-leadership through self-influence processes may have an effect on moral actions and ethical leadership in organisations. Under conditions of self-leadership, leaders play a greater role in influencing higher-level management decision making and strategic processes. In terms of a cybernetic control process, leaders are more involved in setting the ethical standard, as well as acting to achieve and maintain the standard once it is set (Van Sandt & Neck, 2003:376).

The aim of this conceptual and theoretical research therefore, was to indicate how self-leadership can contribute to leaders becoming ethical leaders within the current South African work context.

SELF-LEADERSHIP

Definitions

Dion (2012:6) and Neck and Houghton (2006) defined self-leadership as both thoughts (cognition) and actions (behaviour) that people use to influence themselves. It implies that individuals receive their motivation and control from their inner self.

Manz and Neck (1999:589) conceptualised self-leadership as a comprehensive self-influence perspective that concerns leading oneself towards performance of naturally motivating tasks, as well as managing oneself to do work that must be done, but is not naturally motivating.

According to Van Zyl (2012) and Hauschildt and Konradt (2012), when thinking of self-leadership, the focus is on self-influencing processes rather than hierarchical control processes. The focus is also on self-observation, self-discovery, and self-development strategies (Manz & Simms, 1991). In the self-leadership approach, the modelling of self-leadership behaviour is emphasised, to enable subordinates to also learn the behaviour (Manz & Neck, 1999).

Origins of self-leadership

According to Alves, Lovelace, Manz, Matsypura, Toyasaki and Ke (2006), the concept of self-leadership emerged out of the notion of self-management, and relates to the process of influencing oneself. Manz and Neck (1991) provided a comprehensive historical overview of the concept of self-leadership and how it is different from related concepts, including self-regulation and self-management. According to Manz and Neck (1991), self-regulation theory is a descriptive framework to explain how people behave, whereas self-management is a prescriptive framework to suggest how people should behave. However, both these theories do not indicate what types of behaviours should be displayed and why, which is the concern of the self-leadership theory (Ho & Nesbit, 2013).

Self-leadership is generally portrayed as a broader concept of self-influence that subsumes the behaviour-focused strategies of self-regulation, self-control, and self-management, and then specifies additional sets of cognitive-orientated strategies derived from intrinsic motivation theories (Segon, 2011), social cognitive theories (Bandura, 1986), and positive cognitive psychology (Seligman, 1991). Thus, drawing from these well-established theoretical foundations, self-leadership comprises specific sets of behavioural and cognitive strategies to shape individual outcomes.

Self-leadership strategies are often divided into three basic categories: behaviour-focused strategies, natural reward strategies, and constructive thought patterns (Houghton, Dawley & DiLiello, 2012; Manz & Neck, 1999; Manz & Sims, 1991).

Behaviour-focused strategies involve the self-regulation of behaviour through the use of self-assessment, self-reward, and self-discipline (Manz & Neck, 1999). These strategies are designed to foster positive, desirable behaviours while discouraging ineffective behaviours. Behaviour-focused strategies are particularly useful in managing behaviour related to the accomplishment of necessary but unpleasant tasks. These strategies include self-observation, self-goal setting, self-reward, self-correcting feedback and practice, management of cues, and proactive networking and teamwork.

Natural reward strategies involve seeking out working activities that are inherently enjoyable (Manz & Simms, 1991). These strategies also include the focusing of attention on the more pleasant or gratifying aspects of a given job or task, rather than on unpleasant or difficult tasks. Naturally rewarding activities tend to foster feelings of increased competence, self-control, and purpose (Norris, 2008).

Constructive thought pattern strategies involve the creation and maintenance of functional patterns of habitual thinking (Manz & Neck, 1999). Specific thought-orientated strategies include the evaluation and challenging of irrational beliefs and assumptions, mental imagery of successful future performance, and positive self-talk.

ETHICAL LEADERSHIP

Definition

Zuma (2000:6) defined ethical leadership as leading in a manner that respects the rights and dignity of others. As leaders are by nature in a position of social power, ethical leadership focuses on how leaders use their social power in the decisions they make, the actions they are engaged in, and the ways in which they influence others (Zuma, 2000). Leaders who are ethical demonstrate a level of integrity that is important for stimulating a sense of trustworthiness, which is important in order for followers to accept the vision of the leader.

Dirks and Ferrin (2002:612) indicated that the character and integrity of the leader provides the basis for personal characteristics that direct a leader's ethical beliefs, values, behaviour, and decisions. Individual values and beliefs impact the ethical decisions and behaviour of leaders (Papa, Daniels & Spiker, 2008).

Wolmarans (2014) provided a comprehensive definition of ethical behaviour: "Ethical leadership can be defined as the demonstration of normative appropriate conduct through personal actions and interpersonal relationships, and encouraging such conduct through two-way communication with followers. Ethical leadership therefore is not about a process but rather about a way of being and making the right choices (and helping others to make the right choices)."

Origin of ethical leadership

Attempts at defining ethical behaviour and ethical leadership probably go back to prehistory. Ethical behaviour and leadership are the cornerstones of ancient Greek philosophy and most major world religions (Dirks & Ferrin, 2002). The word *ethics* is derived from the Greek word *ethos* or *ethikos*, which refers to the character of man, as well as man's ability to distinguish right from wrong (Fox, 2010). Ethical leadership has its origin in ethical behaviour or ethics (Marx & Els, 2009). Ethical behaviour, in the simplest terms, is knowing and doing what is right. The difficulty lies in defining 'right.' Different individuals, different cultures, and different religions define it in different ways. The accepted treatment of women and attitudes toward slavery in different cultures and at different times in history provide prime examples of how what is 'right' can vary (Fox, 2010).

In older leadership literature, little mention is made of the ethical dimension of leaders (Bass, 1990). However, Yukl (2002) devoted part of a chapter to the topic, suggesting increasing interest in the phenomenon. Previous survey research suggested that traits such as credibility, integrity, honesty, and fairness are associated with perceptions of effective leadership (Bass, 1990; Kouzes & Possner, 1993). Yukl (2002) also linked ethical leadership with exceptional leadership, such as Burns's concept of transformational leadership (1978).

Marx and Els (2009) and Fox (2010) did more recent work on ethical leadership. According to Marx and Els (2009), ethical leadership has two elements. First, ethical leaders must act and make decisions ethically, as must ethical people in general. Secondly, ethical leaders must also *lead* ethically – in the ways they treat people in everyday interaction, in their attitudes, in the ways they encourage, and in the directions in which they steer their organisations or institutions or initiatives (Marx & Els, 2009).

Fox (2010) indicated that ethical leadership is both visible and invisible. The visible part is the way the leader works with and treats others, his behaviour in public, and his statements and actions. The invisible aspects of ethical leadership lie in the leader's character, in his decision-making process, in his mind-set, in the set of values and principles on which he draws, and in his courage to make ethical decisions in tough situations (Fox, 2010).

Some important components of ethical leadership can include:

- The ability to put aside your ego and personal interests for the sake of the cause you support, the organisation you lead, the needs of the people you serve, and the greater good of the community or the world.
- The willingness to encourage and take seriously feedback, opinions different from your own, and challenges to your ideas and proposed actions.
- The encouragement of leadership in others.
- Making the consideration and discussion of ethics and ethical questions and issues part of the culture of the group, organisation, or initiative.

- Maintaining and expanding the competence that you owe to those who trust you to lead the organisation in the right direction and by the best and most effective methods.
- Accepting responsibility and being accountable.
- Understanding the power of leadership and using it well – sharing it as much as possible, never abusing it, and exercising it only when it will benefit the individuals or the organisation you work with, the community, or society (Fox, 2010).

Towards an integrated self-leadership and ethical leadership theory, utilising the social learning theory

Bandura (1986) proposed the social learning theory (SLT), which includes three variables, namely behaviour (actions), internal attributes (cognitions and emotions), and environmental factors (within and outside of the organisation).

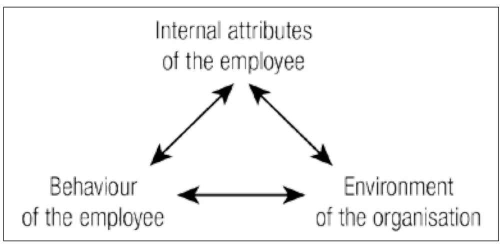


Figure 1: Social learning theory (Van Sandt & Neck, 2003:374).

These three variables interact reciprocally with each other to explain individual behaviour.

The SLT was extended by Van Sandt and Neck (2003) to ethical behaviour. According to this theory, ethical human behaviour (including leaders' ethical behaviour) can best be explained via a set of continuous, reciprocal interactions among three primary sets of variables: the person, the behaviour of the person, and the environment (Van Sandt & Neck, 2003:373). According to the SLT, the person, the environment, and the focal behaviour reciprocally interact to explain individual action.

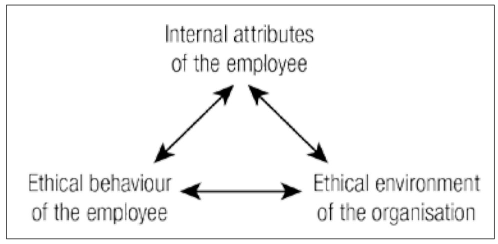


Figure 2: Social learning theory application to leadership ethical behaviour (Van Sandt & Neck, 2003:374).

Van Sandt and Neck (2003:374) suggested that the ethical behaviour of a leader is influenced by internal aspects (including cognitions and emotions) and the ethical environment (including the existence of ethical codes of conduct and an ethical climate) of the organisation. Internal and external environmental factors can also be reciprocally impacted by ethical behaviour (Van Sandt & Neck, 2003:374) (see Figure 2).

Van Sandt and Neck (2003) indicated that the SLT of ethical behaviour includes all the critical variables influencing ethical behaviour (i.e. cognitive, emotional, environmental, and behavioural determinants). The authors therefore suggested that effective and ethical leadership behaviour may be grounded in the SLT.

Van Sandt and Neck (2003:375) and Lyons (2001) also stated that other effective leadership behaviours can also be grounded in the SLT. According to them, one such leadership perspective is self-leadership. Although self-leadership behaviour will be affected mostly by the internal attributes of leaders (cognition and emotions), environmental factors (such as the way the environmental climate is empowering the leader to identify and implement self-leadership strategies) will also have an effect on self-leadership behaviour (see Figure 3, where self-leadership and ethical leadership behaviour are integrated in the SLT).

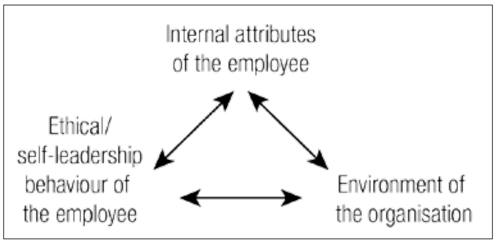


Figure 3: Social learning theory application to ethical leadership/self-leadership behaviour (Van Sandt & Neck, 2003:374).

The role self-leadership can play in creating ethical leadership within the South African work context, will now be discussed.

THE ROLE SELF-LEADERSHIP CAN PLAY IN CREATING ETHICAL LEADERSHIP WITHIN THE SOUTH AFRICAN WORK CONTEXT

Self-observation (observing one's own actions and thoughts, or getting someone else to do that) and self-assessment (performing a more formal assessment of behaviours and thoughts), according to Van Sandt and Neck (2003:377), involve systematic data gathering about one's own behaviour and cognition. Self-observation and self-assessment are the important first step in the self-leadership process because, it is argued, people cannot influence their own actions if they are inattentive to relevant aspects of their behaviour (Bandura, 1986). According to Rest (1994), moral character in the form of ego strength, perseverance, strength of conviction, and courage are necessary to carry out moral behaviour to its end result. The practices of self-observation and self-assessment can help establish insights regarding the causes of one's behaviour that relate to ethical practices, and provides the basis for change (for instance, if leaders observed unethical thoughts and actions when faced with clients who are willing to pay extra money for preferential treatment, these thoughts and actions, together with the causes for these thoughts and actions, should be identified and rectified).

Another effective behaviour-focused self-leadership strategy involves setting goals for oneself (Alves, Lovelace, Manz, Matsypura, Toyasaki & Ke, 2006). Research indicates that specific and challenging goals result in improved performance (Van Sandt & Neck, 2003). Also, the effectiveness of goals can be improved if they are publicly stated, focus on behaviour change, and are short-range instead of distant (Dion, 2012). Self-goal setting with regard to ethical behaviour amongst leaders in the South African work context should therefore be very specific and short-range (for instance: "I am going to think and act according to my own ethical convictions, regardless of difficult ethical circumstances or the lack of specific ethical organisational policies"). Leaders in the South African work context can also inform colleagues of their ethical intentions and ethical actions in difficult situations, which can help to create a climate of ethical thoughts and behaviour in the work place. Regular meetings amongst leaders, where self-goals with regard to ethical behaviour are discussed and encouraged, can help leaders to attain goals.

Self-reward (self-administering positive consequences to increased desired behaviour) and self-correcting feedback and practice (the self-administration of negative consequences to reduce undesired behaviour) are both forms of consequent modification (Van Sandt & Neck, 2003; Becker, 2010). Research supports the proposition that self-reinforcement can be effective in self-leadership. Van Sandt and Neck (2003) concluded that self-reinforcement has consistently produced positive outcomes. On the other hand, research evidence has not supported the efficacy of self-punishment as a self-leadership tool (May, Hodges, Chan & Avolio, 2003). Thus, research suggests that an employee who is working towards an ethics-related goal should reward himself/herself (for instance, with a dinner celebration) when improvement is made, but should not dwell on self-criticism if an ethical goal is not achieved in a timely manner (May, Hodges, Chan &

Avolio, 2003). Within the South African work situation, leaders should not only create positive consequences for themselves when desired behaviours are attained, but also create positive consequences for colleagues when incidents of desired behaviour are reported (for instance, when a leader has identified and reported unethical conduct in the work situation).

The management of antecedents to behaviour (i.e. cues) encompasses the gradual limiting of discriminative stimuli that evoke undesirable behaviour (for instance, unethical behaviour), while increasing cues for more desirable behaviour (Van Sandt & Neck, 2003; Kemp, 2002). For the leader in the South African work context seeking to foster continuous personal improvement with regard to ethical behaviour, placing a sign on his/her desk that reads: *What is the right thing to do?* provides a visual stimulus that cues desired behaviour (e.g., considering the most ethical action to take in difficult ethical situations).

The final behaviour-focused self-leadership strategies are teamwork and proactive networking. Van Sandt and Neck (2003) are of the opinion that employees adept at facilitating proactive teamwork – that is, acting in ways that promote the benefit of others (and not only focusing on acting in ways that benefit themselves) – are the most ethical employees in the workplace. Networking is significantly related to proactive teamwork, but implies a broader stance (Van Sandt & Neck, 2003; Lange, 2001). Networking implies the employee viewing everyone in the organisation as a teammate and a potential source of help when needed. In support of the abovementioned, the Moral Approbation Model of Jones and Ryan (in Van Sandt & Neck, 2003), focuses on the fact that people act in ways that tend to gain support and approval from their reference group. In the South African work situation, leaders should focus more on working collectively in solving unethical behaviour, and share concerns/successes with regard to unethical conduct.

Effective leaders can physically and mentally redesign their tasks to make them more naturally rewarding (Palomino & Martinez, 2011). This is accomplished by choosing to complete tasks in ways that enable the work to be naturally rewarding. Value is obtained from doing the job itself (pride in workmanship). For example, emphasising ethics and honesty in a leader's job should contribute to a sense of meaning and purpose that extends beyond earning a salary (Van Sandt & Neck, 2003). Van Sandt and Neck (2003) and Mishra and Sharma (2010) are of the opinion that a sense of meaning and purpose in the job may foster feelings of increased competence, self-control, and purpose. Leaders in the South African work situation may choose to focus on pride in their workmanship or the intrinsic value of their work, which may contribute to the reduction of unethical behaviour.

Constructive thought pattern strategies like utilising rational beliefs, positive self-talk, and mental imagery can contribute to ethical conduct amongst leaders in South Africa. According to Van Sandt and Neck (2003) and Holftreter (2003), rational beliefs can help in situations where dysfunctional thinking is based on some common dysfunctional assumption. For example, consider a leader who is of the opinion that the company's code of conduct does not uphold his/her personal code. He/she may conclude that there is no way he/she can work for that company and still adhere to his/her personal code of ethics. An example of a more rational belief is that, although the company's code of conduct seems to exhibit a lower standard his/her own, that doesn't mean that he/she must quit his/her job or act in less ethical ways. This employee should decide to follow his/her own ethical standards while performing to the best of his/her abilities, and this may convince management and colleagues that the organisation can be profitable while exhibiting a higher level of ethical conduct.

Self-talk can be defined as what we covertly tell ourselves (Van Sandt & Neck, 2003). Through repeated use, positive or constructive self-talk can become internalised, so that the leader learns to use it automatically and silently at a mental level to constructively enhance his/her own ethical behaviours.

Mental imagery of successful future performance refers to the process of imagining successful performance of a task before it is actually completed (Van Sandt & Neck, 2003). By applying this within the South African work situation, leaders may focus on how ethics in conduct should be adhered to at all times, which may reduce unethical conduct amongst leaders.

FINAL COMMENTS

Much attention has been given to the need for more ethical and moral behaviour within South African public and private companies. Despite this, unethical behaviour still remains a big problem in the South African business world. The managerial/leadership hierarchy is an important source of ethical influence and, therefore, if leaders can act in an ethical manner, ethical conduct in South African companies may improve. This means that leadership has to be proficient, so that subordinates can identify and go along with it, i.e. leaders should serve as role models trough their own ethical and moral actions in the workplace.

Ethical conduct amongst leaders in the South African work context can be improved by focusing on certain self-leadership strategies. If South African leaders can be made aware of the advantages of self-leadership and trained in applying it in everyday work situations, unethical conduct in the South African organisational context may be reduced.

REFERENCES

Alves, J. C., Lovelace, K. J., Manz, C. C., Matsypura, D., Toyasaki, F. & Ke, K. 2006. A cross-cultural perspective of self-leadership. *Journal of Managerial Psychology*, 21:338-359.

Bandura, A. 1986. *Social foundations of thought and action: A social cognitive theory.* Englewood Cliffs: Prentice-Hall.

Bass, B. M. 1990. *Bass and Sodgill's handbook of leadership.* New York: The Free Press.

Becker, W. S. 2010. Ethics in human resources: An exercise involving new employees. *Journal of Human Resources Education*, 4(4):27-34.

Boshoff, E. & Van Zyl, E. S. 2011. The relationship between locus of control and ethical behaviour among employees in the financial sector. *Koers*, 76(2):20-31.

De Koker, L. 2007. Financial crime in South Africa. *Economic Affairs*, 27(1):34-38.

Dion, M. 2012. Are ethical theories relevant for ethical leadership? *Leadership and Organisation Development Journal*, 33:4-24.

Dirks, K. T. & Ferrin, D. L. 2002. Trust in leadership: Meta-analytic findings and implications for research and practice. *Journal of Applied Psychology*, 87:611-628.

Dorosamy, N. 2010. The impact of the global crisis on ethical leadership: A case study of the South African public sector. *African Journal of Business Management*, 4:2087-2096.

Elliot, R. T. 2010. Examining the relationship between personality characteristics and unethical behaviours resulting in economic crime. *Ethical Human Psychology and Psychiatry*, 12(3):269-276.

Fox, E. 2010. Integrated ethics: An innovative program to improve ethics quality in health care. *The Innovation Journal*, 15(2):12-24.

Hauschildt, K. & Konradt, U. 2012. A conceptual framework of self-leadership in teams. *Work and Organisational Psychology*, 13(1):1-20.

Holtfreter, K. 2005. Is occupational fraud 'typical' white-collar crime? A comparison of individual and organizational characteristics. *Journal of Criminal Justice*, 33:353-365.

Ho, J. & Nesbit, P. L. 2013. Exploring self-leadership across Eastern and Western cultures. *Journal of Service Science and Management*, 6:241-249.

Houghton, J. D., Dawley, D. & Di Liello, T. 2012. The abbreviated Self-Leadership Questionnaire: A more concise measure of self-leadership. *International Journal of Leadership Studies*, 7(2):216-231.

Hunt, J. G. 1991. *Leadership: A new synthesis.* Thousad Oaks: Sage.

Kemp, S. 2002. *South Africa's dismal corporate ethics.* Pretoria: Van Schaik.

Kouzes, J. M. & Posner, B. Z. 1993. *Credibility.* San Francisco: Jossey Bass.

Lange, M. 2001. *Welcoming remarks.* Presented at workshop: The moral renaissance: Government, politics and spirituality, 3-4 May 2000, Johannesburg, South Africa.

Lyons, A. 2011. *Leadership ethics and the corporate ethics function: Leveraging HR to mitigate the risk.* Capstone Paper, Master of Professional Studies in Human Resource Management. Georgetown: Georgetown University.

Manz, C. C. & Neck, C. P. 1999. *Mastering self-leadership: Empowering yourself for personal excellence.* Englewood Cliffs: Prentice Hall.

Manz, C. C. & Simms, H. P. 1991. *Superleadership: Leading others to lead themselves.* New York: Berkeley.

Marx, B. & Els, G. 2009. The role of the audit committee in strengthening business ethics and protecting stakeholders' interests. *Africa Journal of Business Management*, 4(1):5-15.

May, D. R., Hodges, T. D., Chan, A. Y. L. & Avolio, B. J. 2003. Developing the moral component of authentic leadership. *Organisational Dynamics*, 3:247-260.

McGee, J. A. & Byington, J. R. 2009. The threat of global white-collar crime. *Journal of Corporate Accounting & Finance*, 2:25-29.

Mishra, N. & Sharma, G. 2010. Ethical organisation and employees. *Asian Journal of Management Research*, 4:59-80.

Neck, C. P. & Houghton, J. D. 2006. Two decades of self-leadership theory and research. *Journal of Managerial Psychology*, 21:270-295.

Norris, E. 2008. An examination of self-leadership. *Emerging Leadership Journeys*, 2:43-61.

Papa, M. J., Daniels, T. D. & Spiker, B. K. 2008. *Organisational communication: Perspectives and trends.* Los Angeles: Sage Publications.

Palomino, P. R. & Martinez, R. 2011. Human resource management and ethical behaviour: Explaining the role of training in the Spanish banking sector. *Ramon Llull Journal of Applied Ethics*, 2:69-88.

Rest, J. R. 1994. *Moral development: Advances in research and theory.* New York: Praeger.

Segon, M. 2011. Managing organisational ethics: Professionalism, duty and HR practitioners. *Journal of Business Systems, Governance and Ethics*, 5(4):13-25.

Seligman, M. E. P. 1991. *Learned optimism.* New York: Alfred Knopf.

Stead, W. E., Worrell, D. L. & Stead, G. S. 1994. An integrative model for understanding and managing ethical behaviour in business. In J. Drummond & B. Bain (Eds.), *Managing business ethics*, pp. 100-130.

Swedish International Development Cooperation Agency. 2008. Trends in International unemployment. Stockholm: Aarhus.

Van Sandt, C. V. & Neck, C. P. 2003. Bridging ethics and self-leadership: Overcoming ethical discrepancies between employee and organisational standards. *Journal of Business Ethics*, 43:363-387.

Van Vuuren, L. J. & Eiselen, R. J. 2006. A role for HR in corporate ethics? South African practitioners' perspectives. *SA Journal of Human Resource Management*, 4(3):22-28.

Van Zyl, E. S. 2001. Management modelling behaviour: An important requisite for the implementation of business ethics. *Koers*, 66(3):233-239.

Van Zyl, E. S. 2012. The relation between self-leadership and certain personality traits among a group of first-line supervisors. *Journal of Social Sciences*, 31(2):159-165.

Van Zyl, E. S. & Lazenby, K. 2012. The role of leadership in reducing unethical behaviour and white-collar crime in organisational context. *Acta Criminologica*, 25(2):58-68.

Wolmarans, J. 2014. The effect of core ethical values on ethical leadership, organisational justice, ethical climate and leader effectiveness. Unpublished Master of Commerce thesis. Stellenbosch: Stellenbosch University.

World Economy Outlook. 2009. *World economic and financial surveys: Crisis and recovery*. Washington: International Monetary Fund.

Yukl, G. 2002. *Leadership in organisations*. Upper Saddle River: Prentice Hall.

Zuma, J. 2000. *The need to restore the moral fibre of our nation.* Paper presented at seminar: The moral renaissance – government, politics, ethics and spirituality, 3-4 May 2000, Johannesburg, South Africa.

The development and initial validation of the work convictions questionnaire (WCQ) to measure approaches to ethical decision making in the workplace: Part 2

Estelle Boshoff, Martina Kotzé & Petrus Nel

ABSTRACT

Researchers have indicated that the individual's ethical decision-making approach influences the manner in which ethical problems are managed and decisions are made. It became apparent from the literature that there is a need for the development of a reliable and valid work ethics questionnaire that determines individuals' ethical decision-making approaches. A work ethics questionnaire, the Work Convictions Questionnaire (WCQ), based on six main approaches that influence ethical decision making, was developed and administered to a sample of 524 respondents. Both exploratory factor analysis and confirmatory factor analysis

Estelle Boshoff
Faculty of Economic and Management Sciences
Department of Industrial Psychology
University of the Free State
Nelson Mandela Drive
Bloemfontein
9300
South Africa
T: +27 51 401 3820
E: boshoffe@ufs.ac.za

Tina Kotzé
Faculty of Economic and Management Sciences
UFS Business School
University of the Free State
Nelson Mandela Drive
Bloemfontein
9300
South Africa
T: +27 51 401 7304
E: kotzem@ufs.ac.za

Petrus Nel
Faculty of Economic and Management Sciences
Department of Industrial Psychology
University of the Free State
Nelson Mandela Drive
Bloemfontein
9300
South Africa
T: +27 51 401 3823
E: nelp1@ufs.ac.za

Estelle Boshoff *holds a PhD from the University of the Free State (UFS). As part of her PhD she developed a work ethics questionnaire which determines individuals' ethical decision-making approaches as well as their level of ethical behaviour. She is a registered Industrial Psychologist and is employed by the UFS as a lecturer. She teaches research methodology and is coordinator of the honours programme. Her focus areas are ethics, psychometric assessment and research methodology.*

Tina Kotzé *is a NRF-rated researcher at the UFS Business School and the Head of Department of Industrial Psychology at the University of the Free State. She is the author and co-author of various publications in national and international academic journals and has delivered various papers at international conferences, mostly in the field of psychometric assessment and organisation psychology, i.e. quality of work life, disability in the work place, emotional intelligence and leadership.*

Petrus Nel *obtained his PhD, specialising in industrial psychology, from Stellenbosch University. His areas of expertise, as well as lecturing responsibilities, are research methodology and statistics. In addition to lecturing, he also supervises postgraduate students (specifically masters and PhD). As a registered industrial psychologist he regularly evaluates the psychometric properties of questionnaires in terms of reliability and validity. He is currently investigating the usefulness of item response theory and Bayesian analysis in survey research.*

were used to evaluate the psychometric properties of the WCQ. Two competing conceptualisations of the WCQ (one factor and six factors) were evaluated. From the statistical analyses, the six-factor structure exhibited an acceptable fit and high reliability. It can therefore be concluded that the WCQ provides a reliable and valid measure for the six approaches to ethical decision making.

Keywords: ethical decision making in the workplace; work ethics questionnaire; Work Convictions Questionnaire (WCQ); measurement of ethical decision-making approaches

INTRODUCTION

This article forms part of the reporting of a research project relating to the conceptualisation and measurement of approaches that influence ethical decision making in the work context. The objectives of the research project were, firstly, to investigate, by means of a literature review, the predominant ethical issues that organisations face, and, secondly, the various decision-making approaches that may influence ethical decision making in the work context. In the results of this research, which have been published previously in the African Journal of Business Ethics (Boshoff & Kotzé, 2011), six main approaches, together with certain corresponding sub-approaches were identified and integrated within a holistic framework of ethical decision making. A further objective of the study was to develop a valid and reliable measurement instrument based on this holistic framework, in order to enable researchers and managers to measure the dominant ethical decision-making approaches in the work context, at both organisational and individual levels. This article reports on the development of this instrument, as well as the measurement properties thereof, in order to determine how accurately the questionnaire measures these proposed six ethical decision-making approaches. This measuring instrument is of a descriptive nature, as it does not measure how 'wrong' or 'right' the specific approach is within the context of work, but purely which approaches are mostly being utilised within the organisation. A subsequent objective of the study was the development of a measuring instrument able to measure the level of ethical behaviour within an organisation, based on the approaches used in a specific situation within the work context. The results of the research related to the latter objective will be reported in a future article.

A brief overview of the measurement instruments currently available to measure ethical decision-making approaches, the rationale for the development of a new measurement instrument, as well as a description of the development of the Work Convictions Questionnaire (WCQ), is provided below. A discussion of the research design, results, conclusion, and recommendations follows.

MEASUREMENT OF ETHICAL DECISION-MAKING APPROACHES

Individuals' ethical decision-making approaches influence the manner in which ethical problems are managed on a daily basis and behavioural decisions are made within organisations. Ethical decision making includes analysing information and using criteria, either subjective or objective, to compare possible alternatives. Eventually, the choice made by the individual will be based on the individual's ethical decision-making approach. Therefore, it is imperative for organisations to be aware of the ethical approaches that are followed by employees, especially those of key decision makers.

From the literature, it is evident that the role of various ethical approaches in managerial decision making has been empirically investigated (Kujala, Lamsa & Penttila, 2011). An overview of the literature revealed the three most prominent questionnaires used during research on ethical decision-making approaches, including Reidenbach and Robin's Multidimensional Ethics Scale (MES) (Kujala *et al.*, 2011), Neumann and Reichel's Attitudes Towards Business Ethics Questionnaire (ATBEQ) (Price & Van der Walt, 2013), and Forsyth's Ethics Position Questionnaire (EPQ) (MacNab, Malloy, Hadjistavropoulos, Sevigny, McCarthy, Murakami, Paholpak, Natarajan & Liu, 2011).

One of the most frequently used measures in the field of ethical decision-making approaches is the Multidimensional Ethics Scale (MES), originally developed by Reidenbach and Robin in 1988, and further refined in 1990. The purpose of this scale was to explore the ethical evaluative criteria that individuals use when making moral decisions (Kujala *et al.*, 2011). This scale is based on the assumption that individuals use more than one rationale in making ethical judgments, and that the importance of those rationales is a function of the problem situation faced by the individual (Kujala & Pietiläinen, 2007). In the original development of the scale (MES-30), five ethical approaches, namely justice, relativism, deontology, utilitarianism, and egoism were measured using 30 items. By means of exploratory factor analysis, Reidenbach and Robin also developed an eight-item short form scale (MES-8) that measures three ethical decision-making approaches, namely moral equity, relativism, and contractualism (McMahon & Harvey, 2007). The factor structures of both the MES-8 and the original 30-item pool were examined by McMahon and Harvey (2007), in order to verify the dimensionality thereof. Results of confirmatory and exploratory factor analyses failed to support conclusively that either of the two versions of the instrument provides a clearly multidimensional assessment of ethical perceptions. Both instruments were, instead, dominated by a general factor measuring general ethical perceptions. In this regard, McMahon and Harvey (2007) indicated that numerous studies examined the psychometric properties of the MES-8, with some confirming the three-factor structure, while others indicated a two-factor structure, and yet others a one-factor structure. Furthermore, McMahon and Harvey (2007) raised the concern that, during the development of the MES, a range of scenarios were used to measure ethical judgements. Yet, only a few of these scenarios were examined in order to determine the psychometric properties of the questionnaire. Also, the factor structure was examined using a separate factor analysis for each scenario, instead of focusing on variability across scenarios.

In 1980, the Ethics Position Questionnaire (EPQ) was developed by Forsyth (n.d.), to measure personal moral philosophy along two dimensions: relativism and idealism. According to Forsyth (n.d.; Davis, Andersen & Curtis, 2001), those who score high on the idealism subscale reflect a fundamental concern for the consequences of their actions. Said individuals seek to avoid harm, by assuming that good consequences can, with the proper action, always be obtained. Those who receive high scores on the relativism subscale tend to espouse a personal moral philosophy based on the rejection of moral universals (Forsyth, n.d.). A critical analysis of this questionnaire (Davis *et al.*, 2001), by means of construct validity and confirmatory factor analysis with independent samples, indicated the existence of three factors – idealism, relativism, and veracity, which challenges the assertion of a stable two-factor structure. Confirmatory factor analysis suggested that the *Veracity* dimension is a unique factor, while the discriminant validity of the Veracity Scale was supported by factor loadings. Furthermore, the internal consistency reliability of this scale was reasonably high. Additional analyses examined the relationship between the EPQ factors (idealism and relativism) and moral judgments, indicating a stronger effect of idealism compared to that of relativism. Therefore, it appears that idealism provides a stronger impact on moral judgement (Davis *et al.*, 2001). In light of the aforementioned discussion, Davis *et al.* (2001) questioned the utility of the EPQ, and recommended more theoretical development and psychometric testing of the EPQ.

In 1987, the Attitudes Towards Business Ethics Questionnaire (ATBEQ) was developed by Neumann and Reichel (Preble & Reichel, 1988; Price & Van der Walt, 2013), in order to measure attitudes towards business ethics. The ATBEQ is based on the business theories of social Darwinism, Machiavellianism, objectivism, and ethical relativism (Preble & Reichel, 1988; Price & Van der Walt, 2013). Even though each of the 30 questions directly relates to one of these theories, the actual mapping was not provided (Price & Van der Walt, 2013). The instrument has been used in various empirical studies relating to attitudes toward business ethics (Moore & Radloff, 1996; Price & Van der Walt, 2013; Sims & Gegez, 2004), yet, the psychometric properties of the questionnaire have not been confirmed, despite recommendations to refine the instrument (Moore & Radloff, 1996; Price & Van der Walt, 2013; Small, 1992). In a study by Price and Van der Walt (2013), the results of a principal component did not reflect the ethical philosophies around which the questionnaire was originally built. Instead, the results rendered 11 uncorrelated factors that showed a clear ability to describe the attitudes. Moore and Radloff (1996) further indicated that, although this questionnaire has the potential to measure differences in ethical business attitudes, further refinement is necessary regarding construct validity, design, and scoring, in order for it to become a practically reliable and valid measuring instrument.

From the above, it seems that the measurement of ethical decision-making approaches may be problematic. The different approaches to measuring ethical decision making across studies have led to inconsistencies relating to the nature of approaches to ethical decision making. Additionally, the psychometric properties of some of these instruments are either questionable or not available.

In light of the above, the need arose for a recent, valid, and reliable measuring instrument focusing on the most prominent ethical decision-making approaches as identified in the literature. This study helps to fill this gap by means of the development of such a measurement instrument, and by determining the reliability and validity thereof.

Aim of the study

The aim of this study was, firstly, to develop a valid and reliable measurement instrument based on the six ethical decision-making approaches identified in Boshoff and Kotzé (2011), in order to be able to measure the approaches most utilised within the work context at both organisational and individual levels. Secondly, the aim was to evaluate the measurement properties by means of a measurement model/framework and estimates of reliability, in order to determine how accurately the questionnaire measures these proposed six ethical decision-making approaches.

DEVELOPMENT OF THE WORK CONVICTIONS QUESTIONNAIRE (WCQ)

The development of the Work Convictions Questionnaire (WCQ) was based on the holistic framework of approaches that influence ethical decision making. This framework, including a discussion of the six ethical decision-making approaches, was discussed thoroughly by Boshoff and Kotzé (2011). In naming the questionnaire, the word *ethics* was replaced with *convictions*, in order to limit the possibility of socially desirable responses.

Figure 1 presents the proposed holistic framework of ethical decision making, which integrates the six main approaches regarding ethical decision making (Boshoff & Kotzé, 2011). A short summary of the six approaches for which items were developed for purposes of the questionnaire will follow.

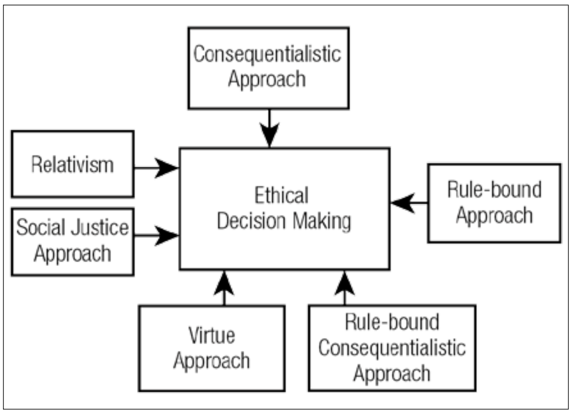


Figure 1: A holistic framework of approaches that influence ethical decision making

The rule-bound approach

This approach rests on the premise that whether an action or decision is right or wrong, acceptable or unacceptable, depends on whether or not it complies with an accepted moral rule or universal principle (Boshoff, 2009; Esterhuyse, 1991; Malloy & Zakus, 1995; Rae, 1995). A variety of interpretations of whether an action or decision is right or wrong, acceptable or not, exists within this approach. This includes ethical rationalism, the principle of prohibition, contractualism, and moral and legal rights. In the workplace, employees and employers are confronted with ethical issues pertaining to the rule-bound approach. Various examples of how the rule-bound approach applies within the work context can be distinguished. These examples include the moral obligation of organisations to deliver safe products (Trevino & Nelson, 2007), as well as to adhere to policies and rules that protect the privacy and confidentiality of clients (Ashley, Powers & Schunter, 2002; Trevino & Nelson, 2007), which guide recruitment and selection processes (Swanepoel, Erasmus, Van Wyk & Schenk, 2003), remuneration (Trevino & Nelson, 2007), performance management (Malan & Smit, 2001), and the health and safety of employees (Trevino & Nelson, 2007). Employees also have a responsibility to adhere to the policies and rules of the organisation regarding whistle-blowing (Desjardins, 2006), fraud, theft, and bribery (Malan & Smit, 2001; James, 2002; Trevino & Nelson, 2007).

The consequentialistic approach

The consequentialistic approach focuses on the consequences of an action or decision, in order to determine the moral quality thereof. Consequentialism therefore rests on the premise that no action or decision is inherently good or bad, acceptable or unacceptable. Only the consequences of the action or decision will determine the acceptability thereof (Boshoff & Kotzé, 2011; Esterhuyse, 1991; Garofalo, 2003; Malloy & Zakus, 1995; Trevino & Nelson, 2007). Within the context of decision making in organisations, an example is providing false and misleading information regarding the possible negative effects of a product, consequently putting the safety and health of customers at risk (Boshoff & Kotzé, 2011; McCall, 2006; Malan & Smit, 2001;). Another is business decisions and activities that may result in environmental problems (Boshoff & Kotzé, 2011; Gibson, 2007). The actions of employees may also result in negative consequences for the organisation. For instance, employees who are unproductive may cost organisations a great deal, and may have a negative effect on the survival of an organisation within a highly competitive global market (Boshoff & Kotzé, 2011; Malan & Smit, 2001).

The rule-bound consequentialistic approach

According to the rule-bound consequentialistic approach, the acceptability of an action or decision is determined by whether it complies with a rule, while the acceptability of the rule depends on the consequences resulting from the application thereof (Boshoff, 2009; Esterhuyse, 1991; Malloy & Zakus, 1995). Since the moral status and applicability of the rule are determined by the consequences thereof, the possibility that random exceptions can be made is not excluded. Within the workplace, employees and employers are confronted with ethical issues on a daily basis, where decisions cannot merely be guided by rules, norms, or policies on the one hand, or merely by judgment of the consequences of said decisions, on the other. In such cases, it is essential for the individual to weigh rules and consequences against one another, and to make a decision within the context of that specific issue.

The virtue approach

The rule-bound approach, the consequentialistic approach, and the rule-bound consequentialistic approach can be classified as action-orientated ethical approaches. In contrast, the virtue approach focuses, not on the action itself, but on the character of the person conducting the action. According to Aristotle (1972; Garofalo, 2003), only those with a 'good' character are able to do good, and the development of such a character is dependent on the development of virtues (Aristotle, 1977; Rossouw & Van Vuuren, 2004; Rossouw, Prozesky, Van Heerden & Van Zyl, 2006). From an organisational perspective, it is of critical importance that employers/management and employees make decisions from a virtue-based approach, and then direct their behaviour accordingly. Some of the virtues that stand out in the work context are those of honesty, integrity, loyalty, and reliability (Boshoff, 2009; Desjardins & McCall, 1996; Malan & Smit, 2001). Dishonest behaviour may include bribery, corruption, and fraud (Gordon & Miyake, 2001; Malan & Smit, 2001), theft (Gross-Schaefer, Trigilio, Negus & Ro, 2000; Trevino & Nelson, 2007), as well as unproductivity (Malan & Smit, 2001).

The social justice approach

The social justice approach is based on the principle of fairness and equality (Weiss, 1998), with the belief that each person must have an equal opportunity in life to strive for meaning and happiness (Boshoff & Kotzé, 2011; Stead, Worrel & Stead, 2013). An action or decision is right or wrong, acceptable or unacceptable, depending on whether it results in a fair and equal division of opportunity for all, regardless of irrelevant factors such as race, religion, gender, and age (Solomon, 1994; Boshoff, 2009). Therefore, the following factors, among others, must be taken into account when the justice principle is applied from an organisational perspective to determine whether individuals received their 'legitimate share' in terms of equality (each individual is the same); merits (the individual's actual contribution); diligence (the amount of work completed, irrespective of the contribution); ability (diligence and results are weighed up against one another to determine what the person can actually do); moral virtue (to set an example or to be a 'good person,' whether it has any effect on results or not); responsibility (willingness to take the blame or to make critical decisions); need (that which a person needs to be able to live comfortably and to be as productive as possible); contractual obligations (previous contracts concluded and promises made must be fulfilled, irrespective of the merits of the matter); and reward for risks taken (compensation for risks taken in order to support a good cause) (Boshoff, 2009; Solomon, 1994). Therefore, in order to determine the acceptability of an action or decision, the justice approach includes certain aspects of the rule-bound, the consequentialistic, and the virtue-based approaches.

Relativism

Ethical relativism is based on the premise that no universal moral principles or objective moral truths or standards exist. The acceptability or unacceptability of any action or decision is not absolute or unchanging, but relative to the individual's own personal preferences (ethical subjectivism), or to the beliefs and values of the culture to which the individual belongs (cultural relativism) (Pojman, 2000; Rae, 1995; Rossouw & Van Vuuren, 2004; Weiss, 1998). Ethical subjectivists are of the view that individuals establish their own moral standards for the judgment of their actions (Weiss, 1998; Rossouw & Van Vuuren, 2004), and that ethical behaviour and decisions are therefore based on their own subjective values (Rossouw & Van Vuuren, 2004; Weiss, 1998). According to ethical subjectivists, each person's ethical judgments are only valid for that specific individual, and are not applicable to other individuals, as the values upon which other people base their ethical judgments may differ (Rossouw & Van Vuuren, 2004). In contrast to ethical subjectivists, cultural relativists are of the opinion that what is ethically correct in one culture may be unacceptable in another. Moral standards may vary between cultures, as a result of each culture's own customs, practices, convictions, and value structures (Weiss, 1998; Boshoff, 2009), which means that there are no universally valid moral principles that apply to all people regardless of their cultural context (Pojman, 2000).

In the development of the WCQ, items for the questionnaire were constructed in a way that attempted to include all six approaches underlying ethical decision making. The first version of the WCQ consisted of 210 items: 95 items from the rule-bound approach, 34 items from the consequentialistic approach, 17 items from the rule-bound consequentialistic approach, 20 items from relativism, 24 items from the virtue approach, and 20 items from the social justice approach.

These items do not focus only on individuals' opinions regarding ethical issues, but also on patterns of behaviour. Hypothetical questions, behavioural questions, as well as situational questions were included in the questionnaire. The following are examples of questions relating to the different approaches included in the questionnaire (WCQ):

Rule-bound approach: *To me, business is a game without rules* and *I have the right to join a strike that is not protected by the Law on Labour Relations*;

Consequentialistic approach: *Only information that will enhance sales of a product should be included in an advertisement* and *I consider only the consequences of an action to determine whether it is acceptable, regardless of whether or not a regulation prohibits the action*;

Rule-bound consequentialistic approach: *I have violated an organisational regulation, as following this rule in that specific situation would have had negative consequences for innocent parties;*

Relativism: *If punctuality is not an important moral value within my culture, management does not have the right to reprimand me if I am late for meetings* and *Although there are certain organisational rules that apply to everyone within the organisation, I would obey only those that I feel are applicable to me*;

Virtue approach: *Loyalty to the organisation is an important quality of a good leader* and *In my organisation, I am known as someone with integrity*;

Social justice approach: *It is unethical when someone is paid less on the basis of his/her race for the same work as a person of another race* and *An organisation has the right to refuse to appoint someone on the grounds of his/her religious convictions.*

Both short questions and scenarios (descriptions of an event or situation where an individual is required to make a decision) were used to measure the individual's ethical decision-making approach. During the wording of the questions/scenarios, specific attention was paid to formulation errors such as double-barrelled questions, leading questions, emotionally loaded questions, and questions that may lead to socially desirable answers (Bless, Higson-Smith & Sithole, 2013). In addition, complex and clumsy wording of items was avoided, and the questions/scenarios were stated in a clear, non-ambiguous manner, in order to avoid different interpretations of the questions (Bless *et al.*, 2013). Respondents indicated on a five-point Likert scale whether their opinion of a particular statement was: 1 (*Do not agree at all*), 2 (*Sometimes agree*), 3 (*Often agree*), 4 (*Often true of me*), or 5 (*Always agree*). The selected items were then presented to a panel of specialists for assessment and evaluation. Although all the items stayed intact after the evaluation, some items were rewritten, as the panel was of the opinion that the wording was still too complex. Furthermore, the feedback from the panel indicated that the construct of ethics, as well as the approaches regarding ethical decision making, were well covered. Therefore, the questionnaire was shown to have the necessary content- and face validity.

A discussion of the research design to support the aim of determining the psychometric properties of the WCQ follows.

RESEARCH DESIGN

Research approach

In order to achieve the aim of the study and to execute the research, the current study employed a cross-sectional design with a survey data-collection technique.

Research participants

The WCQ was applied to a sample of 524 participants from different strata within the private and public sectors, using non-probability sampling and, specifically, convenience sampling. This technique was used because only those employees willing to participate in the study were included in the sample. With regard to the biographical information of the respondents, the majority were male (58%), while 41% were female. One per cent (1%) of the respondents did not indicate their gender. Regarding age, the majority of respondents (71%) were 40 years or younger, of which 35% fell in the age category of 20 to 30 years, and a further 36% in the age category of 31 to 40 years. The minority of respondents (2%) were older than 60 years, while 26% fell in the age category of 41 to 60 years. One per cent (1%) of the respondents did not indicate their age. Regarding the marital status of the respondents, the majority of respondents (54%) were married, while 38% were single. The minority of respondents (7%) were divorced, with a further 1% not indicating their marital status. Regarding tenure, the majority of respondents (59%) fell in the tenure category of 5 years or more, of which 18% fell in the tenure category of 6 to 10 years, 13% in the tenure category of 11 to 15 years, 13% in the tenure category of 16 to 20 years, and another 13% in the tenure category of 21 to 30 years. The minority of respondents (2%) fell in the tenure category of more than 30 years, while 38% fell in the tenure category of 5 years or less. Three per cent (3%) of the respondents did not indicate the length of their service. With regard to the respondents' qualifications, the majority of respondents (92%) had a qualification of Grade 12 or higher, of which 35% had only a Grade 12 qualification, 36% fell in the qualification category of Grade 12 + 1-3 years tertiary education, and 21% fell in the qualification category of more than Grade 12 + 3 years tertiary education. The minority of the respondents (6%) had Grade 11 or less, while 2% did not indicate their highest academic qualification.

The statistical analyses employed to test the reliability and validity of the six ethical decision-making approaches follows.

Statistical analyses

To determine the most appropriate structure for the WCQ, both exploratory factor analysis (EFA) and confirmatory factor analysis (CFA) were used (Byrne, 2005). EFA was used to determine which items had significant factor loadings (0.3 and above) (Hair, Black, Babin, Anderson & Tatham, 2006). For example, 34 items were originally written to operationalise the consequentialistic approach. These 34 items were subjected to an EFA, assuming that these items only measured a single construct (e.g., consequentialism). Only items with significant factor loadings on this unidimensional structure for consequentialism were retained. The same process was applied to the remaining five approaches. When EFA is used for scale development (i.e. questionnaire design), the process requires that the developers use both qualitative and quantitative judgment to interpret the results (Worthington & Whittaker, 2006). For example, using a qualitative stance, the developers can consult relevant ethical theories to determine whether the items are theoretically relevant to the construct. In addition, the EFA results were also judged on the basis of the Kaiser-Meyer-Olkin measure of sampling adequacy (KMO), as well as Bartlett's test of sphericity. For the obtained factor solution to be interpretable, the value associated with the KMO statistic should be 0.6 and above, while a significant result ($p \leq 0.05$) is required for Bartlett's test of sphericity (Field, 2005). In the present study, those items that were retained were used to determine the reliability associated with that specific approach. Cronbach's alpha was used to estimate the reliability. Values of 0.6 and above were deemed indicative of acceptable reliability (Hair *et al.*, 2006). As stated by Worthington and Whittaker (2006), "using EFA procedures requires researchers to use inductive reasoning, while patiently and subtly adjusting and readjusting their approach to produce the most meaningful results."

To test the theory that the WCQ provides an accurate measure of the six approaches, CFA was used. The data were treated as continuous. Through analysing the covariance matrix, the data were assessed for normality (Jackson, Gillaspy & Purc-Stephenson, 2009). Mardia's coefficient was used to determine whether the data violated the assumption of normality (Byrne, 2005). The results suggested that the data deviated from normality in terms of skewness and kurtosis. Bootstrapping, data transformation, and item parcelling may be used to remedy non-normality. Outliers can also be deleted. However, these approaches are not recommended (Brown, 2006). Trimming or changing the data to achieve multivariate normality may not always reflect the true nature of the empirical data (Hair *et al.*, 2006; Field, Miles & Field, 2012). A more appropriate approach is to use the robust maximum likelihood method of estimation when analysing non-normal data for the purposes of CFA (Brown, 2006).

To deal with model complexity (in terms of the number of items per latent variable), item parcelling was employed. Item parcels were used to evaluate model fit for both the rule-bound and the consequentialistic approaches. Due to the fact that the WCQ consists of 140 items, parcelling was again used to evaluate model fit. The purpose of item parcels is to act as indicators of the same latent construct. However, before items can be used in the creation of parcels, the unidimensionality of the items must be determined (Bandalos, 2002; Hagtvet & Nasser, 2004). In keeping with acceptable practice (Little, Cunningham, Shahar & Widaman, 2002:166), the factor loadings identified through the EFA were used to anchor the various parcels. Thus, parcels would contain both high and low factor loadings.

All the analyses related to the CFA were conducted using EQS 6.1 (Bentler, 2006). Several fit indices were used, including the Satorra-Bentler Scaled Chi-square, Root Mean Square Error of Approximation (RMSEA), Standardised Root-Mean Square Residual (SRMR), and the Comparative Fit Index (CFI). Values close to 0.95 for CFI are considered indicative of good model fit. It is suggested that values close to 0.06 are indicative of acceptable fit for RMSEA, while values smaller than 0.08 are acceptable for SRMR (Hu & Bentler, 1999). In addition, Akaike's Information Criterion (AIC) is used in the comparison of competing measurement models, with smaller values representing a better fit of the proposed model (Byrne, 2005).

In summary, the current study employed best practice with regard to scale development research (Worthington & Whittaker, 2006) by using both EFA and CFA to determine the most appropriate factors structure for the WCQ and its sub-dimensions. In addition, the developers subjected the items of the questionnaire to subject matter experts, to obtain their opinions and judgments regarding the content of the WCQ.

RESULTS

Table 1 provides a summary of the EFA results for each of the six decision-making approaches.

Table 1: Summary of exploratory factor analysis results

Dimension/ Approach	Before factor analysis			After factor analysis			
	Number of items	KMO	Bartlett's test	Number of items	KMO	Bartlett's test	Alpha
Rule-bound approach	95	0.907	0.000	61	0.943	0.000	0.951
Consequentialistic approach	34	0.865	0.000	29	0.902	0.000	0.891
Rule-bound consequentialistic approach	17	0.829	0.000	10	0.843	0.000	0.778
Relativism	20	0.774	0.000	11	0.801	0.000	0.763
Virtue approach	24	0.865	0.000	12	0.915	0.000	0.865
Social justice approach	20	0.886	0.000	17	0.900	0.000	0.840

From Table 1, it is evident that all the latent constructs have acceptable levels of reliability, ranging from 0.763 to 0.951, after the removal of items with non-significant loadings.

The CFA results for each of the six decision-making approaches are presented in Table 2.

Table 2: Confirmatory factor analysis results: dimensions/approach

Fit Index	Rule-bound approach (parcels)	Consequentialistic approach (parcels)	Rule-bound consequentialistic approach	Relativism	Virtue approach	Social justice approach
S-B X^2	127.9580	86.8875	122.1216	244.5650	147.2102	351.7335
df	54	27	35	44	54	119
CFI	0.975	0.965	0.900	0.800	0.931	0.860
RMSEA	0.051 (0.040; 0.063)	0.065 (0.050; 0.080)	0.069 (0.056; 0.082)	0.093 (0.082; 0.105)	0.057 (0.046; 0.068)	0.061 (0.054; 0.068)
SRMR	0.025	0.037	0.057	0.077	0.046	0.066

The goodness-of-fit statistics for all six approaches are reported in Table 2. It is note-worthy that the majority of the six approaches have acceptable levels of fit (e.g., CFI, RMSEA, and SRMR). However, the relativism, social justice, and rule-bound consequentialistic approaches have room for some improvement in terms of overall fit, in terms of the CFI.

Goodness-of-fit statistics for each of the three competing conceptualisations of the WCQ are provided in Table 3.

Table 3: Summary of confirmatory factor analysis results

Fit Index	Six-factor structure	Three-factor structure	Unidimensional factor structure
S-B X^2	965.6347	491.5225	1716.7177
df	390	186	404
CFI	0.937	0.950	0.855
RMSEA	0.051 (0.049; 0.057)	0.056 (0.050; 0.062)	0.079 (0.075; 0.083)
SRMR	0.051	0.049	0.070
AIC	185.635	119.522	908.718

In order to determine the most accurate representation of the WCQ, three competing measurement models were evaluated: the original six-factor structure, a unidimensional structure, and a three-factor structure. The latter was informed by the weaker fit, as evidenced by the following three approaches: the rule-bound consequentialistic approach, relativism, and the social justice approach (see Table 2).

It is clear that, although the original six-factor structure of the WCQ shows evidence of acceptable fit, it is outperformed by the three-factor structure, specifically when looking at AIC. The evaluation of a measurement model that assumes the WCQ measures a single construct is, however, not supported.

The correlations among the ethical decision-making approaches are provided in Tables 4 and 5.

Tables 4: Phi matrix (original structure)

Dimension/approach	1	2	3	4	5	6
1. Rule-bound approach	1					
2. Consequentialistic approach	0.47	1				
3. Rule-bound consequentialistic approach	0.39	0.36	1			
4. Relativism	0.40	0.34	0.28	1		
5. Virtue approach	0.44	0.34	0.30	0.29	1	
6. Social justice approach	0.60	0.48	0.42	0.41	0.53	1

Table 5: Phi matrix (three-factor structure)

Dimension/approach	1	2	3
1. Rule-bound approach	1		
2. Consequentialistic approach	0.47	1	
3. Virtue approach	0.44	0.34	1

If the original structure of the WCQ is retained, it is noteworthy that the majority of approaches have moderate correlations, ranging between 0.29 and 0.60 (see Table 4). Of interest is that the virtue approach seems to exhibit the lowest correlations with the other approaches. A similar pattern seems to emerge when looking at the correlations in Table 5.

DISCUSSION OF RESULTS

The items operationalising the rule-bound approach (consisting of 61 items) were highly reliable ($\alpha = 0.95$). In addition, the items measuring both the consequentialistic approach (29 items; $\alpha = 0.89$) and the virtue approach (12 items; $\alpha = 0.87$) also had high reliabilities. The measurement models representing the first two ethical decision-making approaches exhibited excellent fit to the data, while the virtue approach exhibited a good fit. It can therefore be concluded that the WCQ provides valid and reliable measures of the rule-bound, the consequentialistic, and the virtue approaches to ethical decision making.

From previous research on ethical decision-making approaches (e.g., Chryssides & Kaler, 2005; Desjardins, 2006; Esterhuyse, 1991; Garofalo, 2003; Gibson, 2007; Kline, 2005; Malloy & Zakus, 1995; Pojman, 2000; Rae, 1995; Rossouw *et al.*, 2006; Rossouw & Van Vuuren, 2004; Solomon, 1994; Trevino & Nelson, 2007; Weiss, 1998), it appears that these three approaches (rule-bound, consequentialistic, and virtue) are the most prominent. Malan and Smit (2001), as well as Garofalo (2003), also identified certain shared values within a labour context, which are found in most organisations, such as adaptability, transparency, taking others into account, openness, respect for all, service, incorruptibility, integrity, fairness, effectiveness, impartiality, loyalty, honesty, quality, competence, accountability, striving for excellence, diligence, and caring for others. When focusing on these shared values, the importance of these three main decision-making approaches is clearly evident. These values require employees to focus, not only on the consequences of their actions, but also on the rules and virtues that guide ethical behaviour within the work context.

With regard to the other three decision-making approaches (rule-bound consequentialistic approach, social justice approach, and relativism), the items that measure the rule-bound consequentialistic approach (10 items) exhibited an acceptable level of reliability ($\alpha = 0.95$). However, the goodness-of-fit statistics (e.g., CFI) may indicate room for some improvement. The weaker fit may be attributed to respondents having answered these questions in such a manner that they did not focus on both the rule, which guides a specific action, and the consequences of the action. Therefore, the possibility exists that respondents only focused on either the rule *or* the consequences, without weighing them against each other. The weaker fit may also be attributed to the possibility that the rule-bound consequentialistic approach might be linked to higher levels of moral reasoning, associated with Kohlberg's final stage of moral development (Kohlberg, 1969; Louw & Edwards, 2005). According to Kohlberg (1996; Louw & Edwards, 2005), only a small percentage of individuals reach this stage.

With the regard to the social justice approach (consisting of 17 items), the items exhibited an acceptable reliability ($\alpha = 0.84$). However, the unidimensional conceptualisation of this construct seems to leave room for some improvement, as evident by the weaker fit in terms of CFI and, to a lesser extent, RMSEA. The weaker fit may also be attributed to a possible overlap between this approach and the rule-bound, the consequentialistic, and the virtue approaches. According to Esterhuyse (1991; Boshoff & Kotzé, 2011), the social justice approach is based on the stance that each person must have an equal opportunity in life to strive for meaning and happiness (which forms part of utilitarianism, one of the dimensions of the consequentialistic approach). Weiss (1998; Boshoff, 2009) added that this approach is based on the principle of fairness and equality – both virtues. Furthermore, the philosopher John Rawls (1971; Boshoff & Kotzé, 2011; Weiss, 1998) established two sets of rules (rule-bound approach) upon which the justice principle is based: firstly, all people must receive equal treatment and, secondly, all people must, on the grounds of their position and status, have equal access to those opportunities established by society. From the aforementioned discussion of the social justice approach, it is apparent that this approach includes certain aspects of the rule-bound, the consequentialistic, and the virtue-based approaches in determining the acceptability of an action or decision.

The 11 items used to measure relativism also exhibited acceptable levels of reliability ($\alpha = 0.76$). Yet, the unidimensional conceptualisation of this construct, as evident by the weaker fit in terms of CFI, and to a lesser extent RMSEA, seems to leave room for some improvement. It should be noted that this weaker fit may be attributable to fact that the questions included in the WCQ focus on both subjectivism (which states that the acceptability of a decision is relative to individual personal preferences) and cultural relativism (according to which the acceptability of a decision is relative to the culture to which the individual belongs). Therefore, it may be considered to regard these two sub-dimensions as two separate approaches, instead of sub-dimensions of the same approach.

Note, however, that although the fit statistics indicated a weaker fit for these three approaches (rule-bound consequentialistic approach, social justice approach, and relativism), their reliabilities (refer to Table 1) appear to be satisfactory. All three these constructs are well-defined in terms of the items – as highlighted by their reliabilities, as well as the opinion of expert judges who rated these items. Therefore, these approaches can indeed still be included in the WQC.

Despite the fact that the WCQ seems to have acceptable psychometric properties, it is also necessary to compare it to other ethical decision-making instruments (as discussed previously) that also measure ethical decision-making approaches. When comparing the WCQ to the EPQ (Forsyth, n.d.), the findings of the current study seem promising. Davis *et al.* (2001) investigated the most appropriate factor structure associated with the EPQ. The latter instrument consists of 10 items measuring idealism, with another 10 items measuring relativism. Davis *et al.* (2001) tested three different models: a unidimensional structure, a two-dimensional structure consisting of idealism and relativism, and, finally, a three-dimensional structure (idealism, relativism, and veracity). Unfortunately, these authors focused mainly on the CFI (ranging from 0.43 to 0.91) as a measure of fit. It is clear that both the six-dimensional and the three-dimensional conceptualisation of the WCQ have a much better fit than the EPQ.

Another well-known instrument often used in ethics research is the Multidimensional Ethics Scale (MES) (Kujala *et al.*, 2011). Two versions of the MES were developed. The 30-item version (MES-30) consists of five dimensions: (a) deontology, (b) utilitarianism, (c) relativism, (d) egoism, and (e) justice. A shorter version, consisting of just eight items (MES-8), measures three distinct dimensions: (a) broad-based moral equity, (b) relativism, and (c) contractualism. McMahon and Harvey (2007) investigated the psychometric properties associated with both these versions. These authors found support for the three-dimensional structure of the MES-8 (McMahon & Harvey, 2007), as described earlier. Unfortunately, a meaningful comparison can only be made using the CFI value. The MES-8 (three dimensions) had a CFI of 0.97. Both the three-dimensional (CFI = 0.94) and the six-dimensional (CFI = 0.95) structures of the WCQ had comparable values.

When comparing the WCQ to the ATBEQ, the psychometric properties of the WCQ seem to be superior to those of the ATBEQ. No psychometric properties were communicated by the developers of the ATBEQ (Preble & Reichel, 1988). In a South African study, the ATBEQ produced a Cronbach alpha of 0.69 across all 30 items. The factor analysis results of the ATBEQ were less stable, with up to 11 factors being suggested (Price & Van der Walt, 2013).

CONCLUSIONS AND RECOMMENDATIONS

Regarding the six ethical decision-making approaches identified from the literature, the items that measured the rule-bound approach, the consequentialistic approach, and the virtue approach showed high reliabilities. The measurement models representing the rule-bound approach, as well as the consequentialistic approach, exhibited excellent fit to the data, while the virtue approach exhibited a good fit. It can therefore be concluded that the WCQ provides valid and reliable measures of these three ethical decision-making approaches.

With regard to the other three decision-making approaches (rule-bound consequentialistic approach, social justice approach, and relativism), the items that measured these approaches exhibited an acceptable level of reliability. Although the fit statistics indicated a weaker fit for these three approaches, all three these constructs (approaches) are well-defined in terms of the items, as highlighted by their reliabilities, as well as the opinion of expert judges who rated these items. Therefore, these approaches can indeed still be included in the WQC.

Given the fact that the unidimensional conceptualisation of the WCQ did not receive any support, it is evident that the WCQ should be treated as a multi-dimensional construct that measures several well-defined ethical decision-making approaches. Support for the latter conceptualisation was also obtained from the moderate correlations among the various decision-making approaches.

The following recommendations are made for future research and for practical application of this study. Firstly, it is recommended that future studies focus on determining whether a possible overlap exists between the social justice approach and the rule-bound, consequentialistic, and virtue approaches. After said studies have been conducted, the questionnaire should be adapted accordingly, if necessary. Secondly, it is recommended that a measurement model/framework, based on possible sub-approaches/-dimensions relating to each of the main approaches regarding ethical decision making, be developed and statistically evaluated. This will address the possible overlap between some of the main approaches, as indicated in this article. Thirdly, it is suggested that the psychometric properties of the WCQ be adapted and tested based on the above-mentioned measurement model/framework, in order to identify, not only the main ethical decision-making approaches, but also the sub-approaches associated with each main ethical decision-making approach followed by employees. Fourthly, it is suggested that the Rasch model (Fox & Bond, 2007) be applied to evaluate the psychometric properties associated with the WCQ. The Rasch model will make it possible to determine the difficulty levels associated with each of the decision-making approaches. For example, is it more difficult for an individual to exhibit behaviours associated with the rule-bound approach than with the virtue approach? These results may then assist with the development of possible interventions.

Fifthly, it is recommended that interventions be developed and implemented in order to improve ethical behaviour in organisations. Should organisations wish to remain part of the highly competitive global market, a renewed focus on ethical behaviour will be imperative. In this regard, the WCQ provides an important aid to organisations in determining the manner in which ethical problems are approached by current and potential employees. With this knowledge, the necessary interventions can be implemented in a proactive manner where necessary. Finally, the WCQ can also be a useful aid during the recruitment of employees.

The value of this study stems from the fact that it addresses the need for a reliable and valid work ethics questionnaire that provides an indication of the approach followed by employees during ethical decision making.

REFERENCES

Aristotle. 1972. *The Nicomachean ethics of Aristotle.* Translated by D. Ross. London: Oxford University Press.

Aristotle. 1977. *The ethics of Aristotle: The Nicomachean ethics.* Translated by J. A. K. Thomson, revised by H. Tredennick. England: Penguin Books.

Ashley, P., Powers, C. & Schunter, M. 2002. *From privacy promises to privacy management.* Proceedings of the 2002 Workshop on New Security Paradigms, Virginia Beach, Virginia.

Bandalos, D. L. 2002. The effects of item parceling on goodness-of-fit and parameter estimate bias in structural equation modeling. *Structural Equation Modeling*, 9:78-102.

Bentler, P. M. 2006. *EQS 6: Structural equations program manual.* California: Multivariate Software.

Bless, C., Higson-Smith, C. & Sithole, S. L. 2013. *Fundamentals of social research methods: An African perspective.* 5th Edition. Cape Town: Juta Education (Pty) Ltd.

Boshoff, E. 2009. Die ontwikkeling van 'n werksetiekvraelys gebaseer op 'n holistiese filosofiese model van etiese besluitneming. Unpublished doctoral thesis. Bloemfontein: University of the Free State.

Boshoff, E. & Kotzé, M. 2011. The conceptualization and measurement of philosophical approaches that influence ethical decision-making in the work context: Part 1. *African Journal of Business Ethics*, 5(1):36-49.

Brown, T. A. 2006. *Confirmatory factor analysis for applied research.* New York, NY: Guilford Press.

Byrne, B. M. 2005. Factor analytic models: Viewing the structure of an assessment instrument from three perspectives. *Journal of Personality Assessment*, 85:17-32.

Chryssides, G. D. & Kaler, J. H. 2005. *An introduction to business ethics.* London: Thomson Learning.

Davis, M. A., Andersen, M. G. & Curtis, M. B. 2001. Measuring ethical ideology in business ethics: A critical analysis of the Ethics Position Questionnaire. *Journal of Business Ethics*, 32:35-53.

Desjardins, J. 2006. *An introduction to business ethics.* 2nd Edition. Boston: McGraw-Hill.

Desjardins, J. R. & McCall, J. 1996. *Contemporary issues in business ethics.* 3rd Edition. Belmont: Wadsworth Publishing Company.

Esterhuyse, W. 1991. *Sake-etiek in die praktyk.* Pretoria: J. L. van Schaik (Edms.) Bpk.

Field, A. 2005. *Discovering statistics using SPSS.* 2nd Edition. London: SAGE Publications Ltd.

Field, A., Miles, J. & Field, Z. 2012. *Discovering statistics using R.* Thousand Oaks, California: Sage Publications.

Forsyth, D. R. (n.d.) Studying our social world. [Online] Available: http://donforsyth.wordpress.com/ethics/ethics-position-questionnaire [Accessed 1 August 2013].

Fox, C. M. & Bond, T. G. 2007. *Applying the Rasch model: Fundamental measurement in the human sciences.* 2nd Edition. Mahwah, N.J.: Erlbaum.

Garofalo, C. 2003. Toward a global ethic: Perspectives on values, training and moral agency. *International Journal of Public Sector Management*, 16(7):490-501.

Gibson, K. 2007. *Ethics and business: An introduction.* New York: Cambridge University Press.

Gordon, K. & Miyake, M. 2001. Business approaches to combating bribery: A study of codes of conduct. *Journal of Business Ethics*, 34:161-173.

Gross-Schaefer, A., Trigilio, J., Negus, J. & Ro, C. S. 2000. Ethics education in the workplace: An effective tool to combat employee theft. *Journal of Business Ethics*, 26:89-100.

Hagtvet. K. A. & Nasser, F. M. 2004. How well do item parcels represent conceptually defined latent constructs? A two-facet approach. *Structural Equation Modeling*, 11(2):168-193.

Hair, J. F., Black, W. C., Babin, B. J. Anderson, R.E. & Tatham, R. L. 2006. *Multivariate data analysis.* 6th Edition. Upper Saddle River, New Jersey: Prentice Hall.

Hu, L. & Bentler, P. M. 1999. Cut-off criteria for fit indexes in covariance structure analysis: Conventional criteria versus new alternatives. *Structural Equation Modeling*, 6(1):1-55.

Jackson, D. L., Gillaspy, J. A. & Purc-Stephenson, R. 2009. Reporting practices in confirmatory factor analysis: An overview and some recommendations. *Psychological Methods*, 14(1):6-23.

James, H. S. 2002. When is a bribe a bribe? Teaching a workable definition of bribery. *Teaching Business Ethics*, 6(2):199-217.

Kline, J. M. 2005. *Ethics for international business: Decision-making in a global political economy.* London: Routledge.

Kohlberg, L. 1969. Stage and sequence: The cognitive-developmental approach to socialization. In D. A. Goslin (Ed.), *Handbook of socialization theory and research.* Chicago: Rand McNally College Publishing Company.

Kujala, J., Lamsa, A. & Penttila, K. 2011. Managers' moral decision-making patterns over time: A multidimensional approach. *Journal of Business Ethics*, 100:191-207.

Kujala, J. & Pietiläinen, T. 2007. Developing moral principles and scenarios in the light of diversity: An extension to the Multidimensional Ethics Scale. *Journal of Business Ethics*, 70(2):141-150.

Little, T. D., Cunningham, W. A., Shahar, G. & Widaman, K. F. 2002. To parcel or not to parcel: Exploring the question, weighing the merits. *Structural Equation Modelling*, 9:151-173.

Louw, D. A. & Edwards, D. J. A. 2005. *Psychology: An introduction for students in Southern Africa.* 2nd Edition. Sandton: Heinemann Higher & Further Education (Pty) Ltd.

MacNab, Y. C., Malloy, D. C., Hadjistavropoulos, T., Sevigny, P. R., McCarthy, E. F., Murakami, M., Paholpak, S., Natarajan, S. & Liu, P. L. 2011. Idealism and relativism across cultures: A cross-cultural examination of physicians' responses on the Ethics Position Questionnaire (EPQ). *Journal of Cross-Cultural Psychology*, 42(7):1272-1278.

Malan, F. & Smit, B. 2001. *Ethics and leadership in business and politics.* Lansdowne: Juta.

Malloy, D. C. & Zakus, D. H. 1995. Ethical decision-making in sport administration: A theoretical inquiry into substance and form. *Journal of Sport Management*, 9:36-58.

McCall, J. J. 2006. Deceptive advertising. In F. Allhoff & A. Vaidya (Eds.), *Business ethics* (Volume III). London: SAGE Publications.

McMahon, J. M. & Harvey, R. J. 2007. Psychometric properties of the Reidenbach-Robin Multidimensional Ethics Scale. *Journal of Business Ethics*, 72:27-39.

Moore, R. S. & Radloff, S. E. 1996. Attitudes towards business ethics held by South African students. *Journal of Business Ethics*, 15:863-869.

Pojman, L. P. 2000. *Life and death: Grappling with the moral dilemmas of our time.* 2nd Edition. Belmont, CA: Wadsworth Publishing Company.

Preble, J. F. & Reichel, A. 1988. Attitudes towards business ethics of future managers in the U.S. and Israel. *Journal of Business Ethics*, 7(12):941-949.

Price, G. & Van der Walt, A. J. 2013. Changes in attitudes towards business ethics. *Journal of Business Ethics*, 113:429-440.

Rae, S. B. 1995. *Moral choices: An introduction to ethics.* Grand Rapids, Michigan: Zondervan.

Rawls, J. 1971. *A theory of justice.* Cambridge, Massachusetts: Harvard University Press.

Rossouw, D., Prozesky, M., Van Heerden, B. & Van Zyl, M. 2006. *Ethics for accountants and auditors.* Cape Town: Oxford University Press.

Rossouw, D. & Van Vuuren, L. 2004. *Business ethics.* 3rd Edition. Cape Town: Oxford University Press Southern Africa.

Sims, R. L. & Gegez, A. E. 2004. Attitudes towards business ethics: A five nation comparative study. *Journal of Business Ethics*, 50:253-265.

Small, M. W. 1992. Attitudes towards business ethics held by Western Australian students: A comparative study. *Journal of Business Ethics*, 11:745-752.

Solomon, R. C. 1994. *Above the bottom line: An introduction to business ethics.* 2nd Edition. Orlando: Harcourt Brace College Publishers.

Stead, W. E., Worrel, D. L. & Stead, J. G. 2013. An integrative model for understanding and managing ethical behaviour in organizations. In A. C. Michalos & D. C. Poff (Eds.), *Journal of Business Ethics: Celebrating the first thirty years of publication.* Oxford: Butterworth-Heinemann Ltd.

Swanepoel, B., Erasmus, B., Van Wyk, M. & Schenk, H. 2003. *South African human resource development: theory and practice.* 3rd Edition. Lansdowne: Juta.

Trevino, L. K. & Nelson, K. A. 2007. *Managing business ethics: Straight talk about how to do it right.* 4th Edition. USA: John Wiley & Sons, Inc.

Weiss, J. W. 1998. *Business ethics: A stakeholder and issues management approach.* 2nd Edition. Orlando: Harcourt Brace College Publishers.

Worthington, R. L. & Whittaker, T. A. (2006). Scale development research: A content analysis and recommendations for best practice. *The Counseling Psychologist*, 34:806-838.

Corporate governance, integrated reporting, and stakeholder management: A case study of Eskom

Shaun Vorster & Christelle Marais

ABSTRACT

King III recommends the use of integrated reporting to report on an organisation's corporate governance practices and triple-bottom-line (TBL) performance. This article qualitatively evaluates Eskom's response to their stakeholders' TBL interests and expectations. Eskom's 2012 integrated report did not fully disclose stakeholder management at the rational level, i.e. it did not identify, group, and map its stakeholder groups with their respective TBL interests and expectations. Through content analysis, applying deductive coding on the Eskom 2012 integrated report, it was found that, at a transactional level, the report meaningfully disclosed the utility's engagement with the majority of stakeholders' TBL interests and expectations.

Keywords: business ethics; corporate governance; integrated reporting; King III; stakeholder management; sustainability; triple bottom line

INTRODUCTION

Eskom, a state-owned utility, generates 95 per cent of electricity used in South Africa. It is one of the single largest contributors to South Africa's gross domestic product (GDP), and, through employment creation and skills development, has a massive local social impact (Inglesi-Lotz and Blignaut, 2011; Eskom, 2011a).

Shaun Vorster*
University of Stellenbosch Business School
P.O. Box 610
Bellville
7535
South Africa
T: +27 83 775 3517
E: shaun.vorster@gmail.com

Christelle Marais
University of Stellenbosch Business School
P.O. Box 610
Bellville
7535
South Africa
E: christelle.marais@accenture.com

** Author to whom correspondence should be addressed*

***Shaun Vorster** serves as Extraordinary Associate Professor at the University of Stellenbosch Business School. He previously served as special adviser to the South African Minister of Environmental Affairs and Tourism. In this capacity, he was extensively engaged in international negotiations on climate change. In 2013, he was a finalist for the global MBA Student of the Year Award of the International Association of MBAs. He furthermore holds a doctorate in political science.*

***Christelle Marais** is a strategy consultant at a global management consulting firm, where her key areas of interest are sustainability and corporate governance. She holds a master's degree in business administration (MBA, cum laude) from the University of Stellenbosch Business School.*

From government's vantage point, reliable and affordable access to electricity is a key enabler of social and economic growth and development (Inglesi-Lotz & Blignaut, 2011). Yet, the utility faces an imbalance between the rapidly-growing demand and its supply capacity constraints (Kiratu, 2010). Simultaneously, Eskom relies heavily on coal as its primary source of energy and, consequently, is one of the largest emitters of greenhouse gases on the African continent. The utility also has a significant water consumption footprint, and directly affects air quality and health in local communities (Department of Environmental Affairs and Tourism, 2007; Eskom, 2011b; Eskom, 2012b).

In this context, the organisation's triple-bottom-line (TBL) performance is a key sustainability concern, where a TBL is understood to include the financial, social, and environmental measures of sustainability, or 'people', 'planet' and 'profit' in more colloquial terms. A multitude of stakeholders – including employees, government as shareholder and regulator, capital markets, unions, suppliers and contractors, communities, environmental non-governmental organisations (NGOs), and the media – represent an extensive and varied list of TBL interests and expectations in relation to Eskom. These interests and expectations can be grouped under the three value components of sustainability, reflecting a classical trade-off between economic value-creation, social value–creation, and environmental value-preservation. To be able to navigate and negotiate these trade-offs in a meaningful way requires of Eskom to adopt best practice corporate governance, and develop integrated reporting and stakeholder management capabilities and processes.

A stakeholder-inclusive approach is emphasised in the third King Report on Corporate Governance (King III). King III defines business ethics as "the ethical values that determine the interaction between a company and its stakeholders" (Institute of Directors of South Africa (IoDSA), 2009:51). King III is a principle-based governance framework that emphasises the use of integrated reporting as communication vehicle for reporting on an organisation's corporate governance practices and triple-bottom-line performance (World Finance, 2013; IoDSA, 2009; Institute for a Democratic Alternative for South Africa (IDASA), 2010). King III applies to private and state-owned enterprises (Braxton, 2011).

Eskom participated in the development of all three versions of King III (World Finance, 2013), and has received public accolades for adopting King III (Maoto, 2013; Ernst & Young, 2009; Eskom, 2011a). Eskom is also participating in the International Integrated Reporting Council's (IIRC) pilot programme for the development of an integrated reporting framework (IIRC, 2011; IIRC, 2012). The IIRC's reporting guidelines highlight the importance of disclosing stakeholder management in the integrated report, and stipulate that an integrated report should provide insight into an organisation's stakeholder relationships, stakeholder interests and expectations, as well as the organisation's response thereto (IIRC, 2011).

To date, very little of Eskom's integrated reporting journey, corporate governance practices, and stakeholder management processes has been documented and reviewed. Hanks (2005) benchmarked Eskom's 2005 annual report against the sustainable development reporting practices of global utility corporations, while Fabrikus (2004) used Eskom in a case study on trends and perceptions in respect of sustainability reporting and corporate governance. Khoza and Adam (2005) described Eskom's corporate governance as that of a state-owned enterprise, whereas Pillay (2010) focused on the stakeholder engagement between the National Energy Regulator of South Africa (NERSA), the Department of Energy, Eskom, and various energy sector stakeholders. No systematic research has, however, focused on the disclosure of Eskom's stakeholder management through its integrated reporting.

Consequently, to address this knowledge gap, the research objective was to make an assessment of what Eskom's 2012 integrated report disclosed in terms of its management of stakeholders' TBL interests and expectations, with a focus on the transparency and responsiveness of the product (i.e. integrated report), rather than the process (i.e. integrated reporting).

To lay the basis for this analysis, described in Sections 3 to 5, the literature review in Section 2 describes the conceptual link between corporate governance, integrated reporting, and stakeholder management. Based on frameworks and benchmarks identified in Section 2, Section 3 outlines the research questions and methodology. Section 4 identifies and maps Eskom's stakeholders, and records their TBL interests and expectations, which, in turn, constituted the basis for the analysis, reported in Section 5, of Eskom's response to these. Finally, in Section 6, conclusions are drawn, and recommendations are made.

THEORETICAL CONTEXT: THE CONCEPTUAL LINK BETWEEN CORPORATE GOVERNANCE, STAKEHOLDER MANAGEMENT, AND INTEGRATED REPORTING

The most widely-used definition of corporate governance is that of the Cadbury Committee (1992:14), which described it as "the system by which companies are directed and controlled." In this context, "system" refers only to the "financial aspects of corporate governance" (Cadbury Committee, 1992:14). Shleifer and Vishny (1997) elaborated on this definition by describing corporate governance as an assurance measure towards attaining a favourable return on investment for shareholders. Their view had been based on Friedman's (1970) agency theory, which holds that the primary objective of an organisation is to maximise shareholder profit. Greenwood (2004) described this as a "share-centred view", where corporate actions are determined by shareholders' short-term need for profit maximisation and share-price performance, often to the detriment of "good practices and ethical considerations" (Abraham, 2012:283). This shareholder-centred view is sometimes regarded as a major contributor to the global financial crises of 2008 (Stiglitz, 2009, cited by Spitzeck & Hansen, 2010:379).

Following the global financial crisis, organisations are increasingly expected to not only self-regulate by complying with legislative requirements, but to also act in a morally and ethically defensible way by considering stakeholders whose interests are affected by the organisation (Eccles & Krzus, 2010; KPMG, 2010; Cavico & Mujtaba, 2014).

Consequently, there has been an increased recognition of a more stakeholder-inclusive approach to corporate governance, which forces organisations to accept accountability towards all stakeholders who "can affect and [are] affected" by the organisation (Freeman, 1984:1), instead of a narrow group of shareholders with financial interests in the organisation (Greenwood, 2004; KPMG, 2010; IoDSA, 2009). The Organisation for Economic Cooperation and Development (OECD) defined this stakeholder-inclusive approach to corporate governance as "a set of relationships between a company's management, its board, its shareholders and other stakeholders" (OECD, 2004:11). Thus, the focus of at least one approach to corporate governance has shifted to an emphasis on stakeholder relationships (Van der Laan Smith, Adhikari & Tondkar, 2005). In this respect, it should be acknowledged that there is an on-going debate between the proponents of, respectively, stakeholder- and shareholder-oriented approaches to corporate governance, and it has been observed that, rather than a convergence on the ethics of corporate governance, there is divergence of approaches (see, e.g., Rossouw, 2009; Hansmann & Kraakman, 2000).

In South Africa, both private and state-owned companies are subject to King III, a best-practice governance framework that emphasises good business ethics as an integral part of the "interaction between a company and its stakeholders" (IoDSA, 2009:51). This stakeholder-inclusive approach to corporate governance and business ethics implies that decisions made by the board of an organisation must be in the best interests of the organisation, whilst also considering "the legitimate interests and expectations of stakeholders" (IoDSA, 2009:4, 11). These legitimate interests and expectations of stakeholders encompass more than just the financial performance of an organisation, as stakeholders are increasingly challenging organisations to act sustainably by delivering on the three TBL value components (Adams, Frost & Webber, 2007; Cavico & Mujtaba, 2014; Eccles & Krzus, 2010; Elkington, 1998).

A key requirement of King III is that organisations view sustainability as part of organisational strategy (Ernst & Young, 2009), with good governance implying integrated performance across all three value components (Khoza & Adam, 2005:35). This then informs annual sustainability reports and/or integrated reports (Henriques, 2007; Gray & Milne, 2004).

Historically, in seeking transparency and accountability, financial reporting was viewed as organisations' primary form of disclosure and communication with stakeholders (Eccles & Krzus, 2010). However, this falls short of full transparency (Weybrecht, 2010), and stakeholders now expect organisations to also include non-financial performance in reporting (Eccles & Krzus, 2010). Companies have generally responded by including sustainability reporting, either in their annual shareholders reports or in stand-alone reports (Weybrecht, 2010; Global Reporting Initiative, 2011; International Corporate Governance Network, 2008). For such reporting, the Global Reporting Initiative (GRI) framework is the most widely used guideline (Epstein, 2008). Similarly, AccountAbility's AA1000 is a set of principle-based assurance standards that support integrated reporting and assurance by helping organisations become more accountable, responsible, and sustainable through stakeholder engagement and involvement (AccountAbility, 2011; Terry, 2008).

Integrated reporting requires more than simply combining a company's financial and sustainability reports; it also suggests that sustainability should be entrenched in an organisation's strategy (Eccles & Krzus, 2010). Integrated reporting has therefore migrated from simply reporting to a process that assists organisations in prioritising sustainability issues at a strategic level (Jeyaretnam & Niblock-Siddle, 2010; Fava & Smith, 1998; Emerson, 2003). In addition, it enables an organisation to better understand stakeholder expectations, societal pressures, environmental risks, and challenges (Rea, 2011), as well as to evaluate, in this context, its ethics, values, and governance. An integrated report also provides a holistic view of an organisation's financial and non-financial performance (IoDSA, 2009).

The importance of organisations recognising and managing stakeholders' expectations has been explored by numerous authors (Hasselhoff, 1976; Dill, 1976; Davis & Freeman, 1978; Mitroff & Emshoff, 1979; Emshoff, 1980; Mason & Mitroff, 1982; Rowe, Mason & Dickel, 1982).

Freeman (1984) put forward stakeholder theory as a normative framework (Donaldson & Preston, 1995). Freeman (1984:46) also advanced the classic definition of stakeholders, namely "any group or individual who can affect or is affected by the achievement of the organisation's objectives."

Freeman's (1984) stakeholder theory is based on two major assumptions. The first is that an organisation cannot survive without the support of its stakeholders, "as the firm can be viewed as a set of interdependent relationships among primary stakeholders" (Hillman & Keim, 2001:127). The second is that organisations experience turbulence caused by sources of internal and external change. *Internal change* refers to changes in an organisation and its managers' relations with stakeholders, such as the organisation's owners, employees, customers, and suppliers. In turn, *external change* refers to actions of stakeholders, such as government, competitors, consumer advocates, special interest groups, and the media, that affect the organisation (Freeman, 1984:13).

Stakeholder theory postulates that a critical role of the management of an organisation is to assess, prioritise, and integrate stakeholders' needs (Freeman, Harrison & Wicks, 2007; Lim, Ahn & Lee, 2005; Grant, 1991). This is referred to as *stakeholder management* (Freeman, 1984).

According to Freeman (1984), an organisation's stakeholder management capability can be analysed at three levels:

i) **The rational level:** At this level, stakeholders, as well as their interests in and expectations of, an organisation are identified.

ii) **The process level:** This level refers to processes created to manage stakeholder interests. Organisations must design and implement processes that will support stakeholder management (AccountAbility, 2011:14).

iii) **The transactional level:** This level of analysis provides insight into the organisation's style of response to stakeholder concerns, which is also referred to as the 'strategic posture' of an organisation (Roberts, 1992).

The rational level of stakeholder management

The rational level of stakeholder management focuses on stakeholder identification and classification, as well as the identification of stakeholders' interests and expectations (Perrini, Russo, Tencati & Vurro, 2011; O'Riordan & Fairbrass, 2008; Reed, 2008). When identifying stakeholders and their interests in and expectations of an organisation, stakeholder classification is important to better understand these stakeholders, their relevance, and their importance in terms of engagement (AccountAbility, 2011), as well as how they should be managed (Epstein, 2008). This level of analysis is also critical for integrated reporting, as the "reasonable expectations and interest of stakeholders are a key reference point" for decisions such as the report's "scope, boundary application of indicators and assurance approach" (GRI, 2011:10).

There are different approaches to classifying stakeholders (Epstein, 2008; Clarkson, 1995; AccountAbility, 2011). Classification of stakeholders into primary and secondary stakeholders can be based on an organisation's ethical/moral obligation (Phillips, 2003), stake and influence (Freeman, 1984), involvement in the organisation (Achterkamp & Vos, 2003), and resource dependency (Freeman, Martin & Parmar, 2007).

Primary stakeholders generally include external stakeholders, such as customers, communities, suppliers, and the natural environment, while internal stakeholders include employees and investors (Galbreath, 2006). These stakeholders have contractual relationships with an organisation; they have a claim, rights, or an interest in the organisation, and have the ability to influence and/or supply critical resources to the organisation (Freeman, Martin & Parmar, 2007; Phillips, 2003).

Secondary stakeholders, or 'stake-watchers,' include the media and special interest groups. Although secondary stakeholders have no contractual obligation towards organisations (i.e. they are independent), they greatly influence public opinion about the organisation (Clarkson, 1995; Frooman, 1999; Fassin, 2012).

Another way to classify stakeholders is to consider that an organisation operates across three environments, namely the (i) organisational, (ii) transactional, and (iii) contextual environments (Hichert, 2011). Within each of these, there are stakeholders who affect and are affected by the organisation. In the **organisational environment**, the organisation has control over the internal processes, structures, and functions of stakeholders. Stakeholders within this environment may include management and employees (Freeman, 1984). In the **transactional environment**, the organisation both influences and is influenced by stakeholders over whom it has no direct control (Emery & Trist, 1965). Stakeholders within this environment may include customers, suppliers, shareholders, investors, and local communities (Freeman, Harrison & Wicks, 2007). Finally, the stakeholders in the **contextual environment** affect the organisation, although the organisation has little or no influence over them. Here, stakeholders often fulfil the role of 'referee,' impacting the rules of the game. Stakeholders within this environment may include competitors, the media, trade unions, government, regulators, NGOs, industry experts, and academia (Freeman, Harrison & Wicks, 2007).

At the rational level of stakeholder analysis, an organisation's stakeholders can be grouped on a stakeholder map (Freeman, 1984). Stakeholder maps are tailored to specific circumstances, and, in some instances, stakeholders could fulfil multiple roles (Freeman, Harrison & Wicks, 2007). For the purpose of this article, the authors use a three-tier stakeholder map to group stakeholders within each environment (see Figure 1, in Section 4).

The process level of stakeholder management

Regarding the process level, Freeman, Harrison, and Wicks (2007:67) noted that an organisation's focus should not end with the identification of stakeholders and their interests and expectations, but should also "build into their standard operating procedures a concern with creating value for these stakeholders." These processes include establishing governance structures, policies, objectives, targets, management systems and processes, and measurement and monitoring of performance or assurance (AccountAbility, 2011).

The transactional level of stakeholder management

Transactional level refers to an organisation's interaction with stakeholders, and can include day-to-day transactions such as buying and selling, wage negotiations with unions, and paying dividends to stockholders (Freeman, 1984), as well as stakeholder engagement through focus groups, opinion polls, panels, and formal groups (Epstein, 2008).

The AA1000 approach to stakeholder engagement is based on three principles, namely (i) inclusivity, (ii) materiality, and (iii) responsiveness (AccountAbility, 2008). Stakeholder **inclusivity** and consideration of their interests and expectations in organisational decision making and strategy are critical for enhanced TBL performance (IoDSA, 2009). The second principle, **materiality**, refers to an organisation's ability to identify the "relevance and significance of an issue to an organisation and its stakeholders" (AccountAbility, 2008:10). A material issue reflects an organisation's TBL performance (GRI, 2011), which can affect the organisation's and its stakeholders' "actions, decisions and performance" (AccountAbility, 2008:12). Finally, **responsiveness** refers to an organisation's response (i.e. decisions, actions, and communication) to stakeholder issues that affect its TBL performance (AccountAbility, 2008).

The World Business Council for Sustainable Development (WBCSD) (2012) expanded on these principles by adding the principles of measurement and transparency. Measurement of the stakeholder engagement process is critical to ensure on-going improvement of and responsiveness to stakeholders' expectations and interests. Transparency implies disclosure of information to stakeholders about the organisation's decisions, activities, and impacts.

Clearly, a broad distinction can be drawn between an integrated report (the product) and integrated reporting (the process). This article focuses on the product (i.e. the 2012 Eskom integrated report) as the unit of analysis, and, specifically, in terms of Freedman's (1984) typology, disclosure at the rational and transactional levels of stakeholder management.

RESEARCH QUESTIONS AND METHOD

In the context of the notion of a stakeholder-inclusive approach to corporate governance, as well as the disclosure thereof through integrated reporting, as emphasised by King III, the primary research question was:

- **$RQ_{primary}$:** Based on Freeman's (1984) rational and transactional levels of analysis for stakeholder management, what did Eskom's 2012 integrated report disclose in terms of addressing stakeholder's TBL interests and expectations?

To explore all dimensions of the primary research question, three secondary research questions were considered:

- **RQ_1:** At the rational level, which stakeholders affect or are affected by Eskom within its contextual, transactional, and organisational environments?
- **RQ_2:** At the rational level, what are the different stakeholder groups' TBL interests and expectations?
- **RQ_3:** At the transactional level, did Eskom's 2012 integrated meaningfully disclose aspects related to addressing the stakeholders' TBL interests and expectations, specifically organisational challenges, current and future initiatives, and performance against indicators?

RQ_1 was addressed by identifying, grouping, classifying, and mapping Eskom's stakeholders within the contextual, transactional, and organisational environments in which they operate. RQ_2 builds on RQ_1, and was addressed by identifying the TBL interests and expectations per stakeholder group. The interests and expectations were summarised on a grid, categorised as economic, social, and environmental interests and expectations per stakeholder group. This grid (as per RQ_2) was then used as a framework for the assessment to answer RQ_3.

Primary and secondary data used to draw a stakeholder map (RQ_1) and identify their TBL interests and expectations (RQ_2) included legislation, government policies, stakeholder submissions during public consultation processes, as well as public information, such as media articles, research papers, and Eskom's website and annual reports. To close information gaps, data were supplemented and validated through interviews with a limited number of carefully selected external stakeholders and Eskom's internal management. Interviews included face-to-face and telephonic engagements, using semi-structured questions (see Table 1). The stakeholder map (compiled to answer RQ_1) and the TBL interests and expectations grid (formulated to answer RQ_2) were based on a content analysis of these interviews, as well as the secondary literature mentioned above.

TABLE 1: PROFILE OF INTERVIEWEES

Organisation	Role of interviewee	Interview focus area
Eskom	Chief Advisor: Climate Change and Sustainable Development	Integrated reporting and stakeholder management
Eskom	Senior Manager: Climate Change and Sustainable Development	Integrated reporting and stakeholder management
Eskom	General Manager: Stakeholder Relations	Stakeholder management
NERSA	Regulatory Specialist: Electricity Division	TBL interests and expectations of Eskom
Department of Public Enterprises	Acting Chief Director: Financial Analysis	TBL interests and expectations of Eskom
Energy Intensive User Group	Chairman	TBL interests and expectations of Eskom
The IIRC's Reporting Committee	Member of the working group	Integrated reporting

Source: Authors' own.

Deductive coding was used to provide a qualitative assessment of Eskom's disclosure of stakeholder management at the transactional level in its 2012 integrated report, in order to answer RQ_3. The grid that emerged in answering RQ_2 was used as the basis to define 'codes' or concept phrases, which were then linked to text passages or quotations in the 2012 integrated report. The TBL interests and expectations identified at the rational level were used to assess the report at a transactional level against five aspects that relate to the AA1000 (AccountAbility, 2008) and WBCSD (2012) principles of inclusivity, materiality, responsiveness, measurement, and transparency.

The five aspects that informed the assessment were:

i) Disclosure of organisational challenges in meeting each of the identified TBL interests/expectations;

ii) Disclosure of initiatives under way to address stakeholders' TBL interests and expectations;

iii) Disclosure of future initiatives planned to address each of the identified TBL interests and expectations;

iv) Disclosure of performance indictors for stakeholder groups' TBL interests and expectations; and

v) Disclosure of organisational performance in addressing stakeholder groups' TBL interests and expectations.

The Atlas.ti 7 qualitative data analysis tool was used for coding. Once all codes were linked to quotations in the entire 2012 integrated report, and double-checked during a second reading, it was possible to perform a qualitative assessment of the TBL interest and expectations.

The following sections (Sections 4 and 5) present the findings of this assessment, respectively at the rational and transactional levels.

RATIONAL LEVEL: WHO ARE ESKOM'S STAKEHOLDERS, AND WHAT ARE THEIR TBL INTERESTS AND EXPECTATIONS?

This section addresses RQ_1 and RQ_2. First, Eskom's stakeholders were identified, grouped, classified, and mapped, whereafter the TBL interests and expectations of these stakeholder groups were categorised.

Eskom's stakeholders were grouped into 13 stakeholder groups. These stakeholder groups were classified as primary and secondary stakeholders, and mapped within the environment in which they operate (see Figure 1).

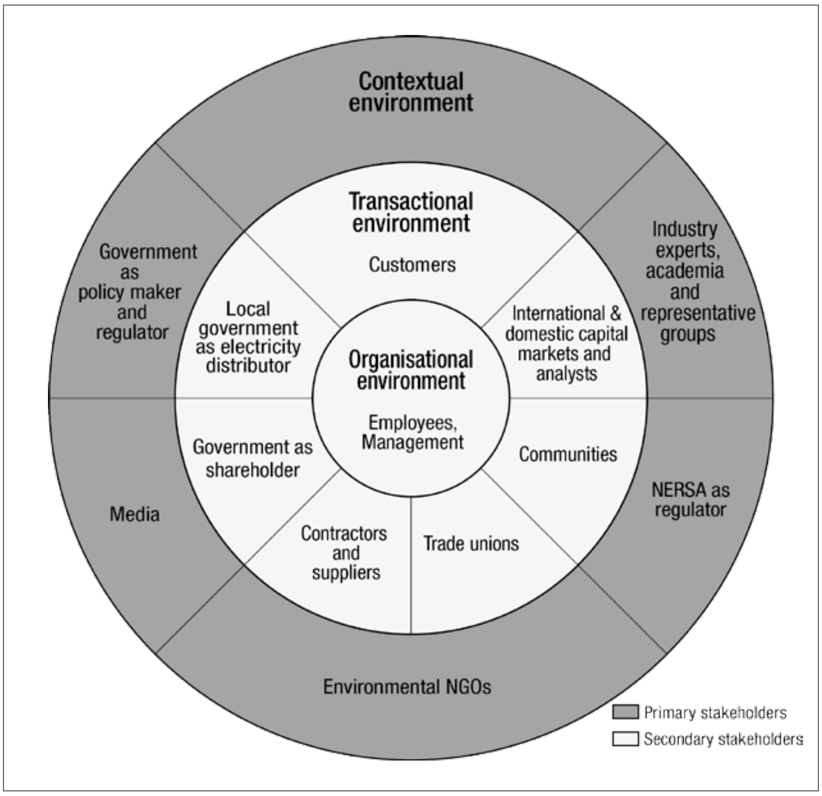


Figure 1: Eskom's stakeholder map. [Source: Authors' own]

Eskom's primary stakeholders include those within the organisational and transactional environments that either (i) have a contractual relationship with Eskom, such as local government as electricity distributors, employees, and management; (ii) have a claim, rights, or interests in the organisation, such as government as shareholder, international and domestic capital markets and analysts, communities, trade unions, and customers; or (iii) supply critical resources such as contractors and suppliers (Phillips, 2003; Freeman, Harrison & Wicks, 2007).

Secondary stakeholders have no contractual obligation towards Eskom, but have the ability to influence the organisation, as well as public opinion, about the organisation (Clarkson, 1995; Frooman, 1999; Fassin, 2012). Secondary stakeholders in Eskom's contextual environment include government as policy maker and regulator, the media, environmental NGOs, NERSA as regulator, industry experts, academia, and representative groups.

Freeman, Harrison and Wicks (2007) noted that stakeholders could fulfil multiple roles. This is evident in the different roles of governmental entities, e.g., government as policy maker and regulator (secondary stakeholder within Eskom's contextual environment), government as shareholder, NERSA as regulator (secondary stakeholder within Eskom's contextual environment), and local government as electricity distributor (primary stakeholder within Eskom's transactional environment).

At Eskom, this process of stakeholder identification, categorisation, and management uses two approaches. The first of these is to monitor the media in order to identify issues that can affect Eskom's reputation. The relevant stakeholders are identified accordingly. The second approach is to proactively identify and categorise stakeholders based on the utility's commercial, social, and environmental impact on these parties, and, in turn, their impact on the utility (Rambharos, 2012; Jameson, 2012). Once identified, Eskom prioritises stakeholders through the use of a stakeholder prioritisation matrix (Jiya, 2013).

In its integrated report, Eskom identified only seven stakeholder groups, namely (i) employees and unions; (ii) government, parliament, and regulators; (iii) lenders, analysts, and investors; (iv) industry experts, academia, and the media; (v) business groups, civil society, and NGOs; (vi) suppliers and contractors; and (vii) customers (Eskom, 2012a). These stakeholder groups correspond roughly with those identified in Figure 1. Yet, the report does not fully disclose how stakeholders were identified, grouped, or classified.

In the authors' considered view, Eskom should unbundle the categories of stakeholder groups. As an example, consider that Eskom's 2012 integrated report clustered employees and trade unions into a single stakeholder group. Employees, however, operate within Eskom's organisational environment, while trade unions operate within Eskom's transactional environment. Similarly, Eskom clustered government, parliament, and regulators into one stakeholder group. Government as policy maker and regulator and NERSA as regulator operate within Eskom's contextual environment. However, local government as electricity distributor operates within Eskom's transactional environment. Furthermore, Eskom should consider distinguishing between business groups and NGOs. NGOs operate in Eskom's contextual environment, while business groups most often operate in the transactional environment.

In order to identify the TBL interests and expectations of Eskom's major stakeholders, the most significant legislative and policy instruments applicable to Eskom first had to be identified. This analysis is presented in Figure 2.

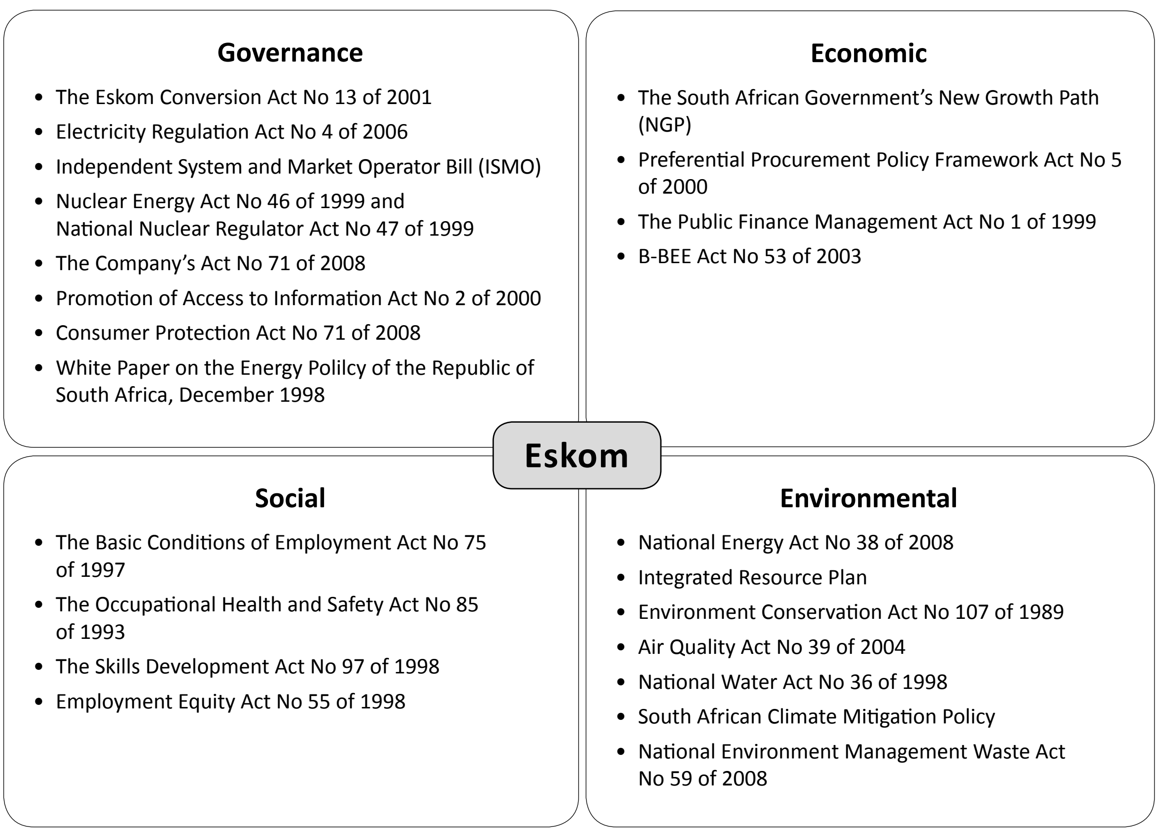


Figure 2: Legislative and policy instruments affecting Eskom and its stakeholders. [Source: Authors' own]

Based on the analysis of legislative and policy frameworks, two broad stakeholder groups in Eskom's contextual environment were identified:

i) Government as policy maker and regulator (including national government, the Department of Energy (DoE), the Department of Environmental Affairs, the Department of Trade and Industry (DTI), the Department of Water Affairs, National Treasury, the Department of Labour, and the Department of Higher Education and Training); and

ii) NERSA as regulator.

Based on an analysis of the media, personal interviews, company-specific literature, and public consultation submissions, three further stakeholder groups within Eskom's contextual environment were identified:

i) industry experts and representative industry groups;

ii) environmental NGOs; and

iii) the media.

The TBL interests and expectations of these respective stakeholder groups within Eskom's contextual environment are summarised in Table 2.

Table 2: The TBL interests and expectations of stakeholders, within Eskom's contextual environment

Stakeholder group	Economic	Social	Environmental
Government as policy maker and regulator	• Ensure the implementation and maintenance of good corporate governance practices [1, 2] • Access to information on the economic impact of Eskom's business operations [2, 3, 4] • Provide an enabling environment to meet the objective of government's NGP, i.e. ensure reliable, affordable electricity, and increase electrification and opportunities for employment [5, 6] • Reduce the monopolistic structure of Eskom [7, 8] • Implement preferential procurement and affirmative action in policies and practices to ensure transformation [9, 10] • Comply with economic legislation as applicable to SOEs and corporate entities [11] • Comply with governance legislation [11] • Increase technology transfer and investment in research and innovation [12]	• Drive social development through advancing electrification of South Africa [5, 6] • Ensure a safe and healthy working environment for employees and contractors [13, 14] • Investment in training and skills development for Eskom employees, prospective employees, and contractors [1, 14] • Enhance employee health and wellness practices, with specific emphasis on HIV/Aids initiatives [14, 15] • Manage business operations in a way that does not unfairly affect any consumer [16] • Access to information on the social impact of Eskom's business operations [2, 3, 4] • Protect workers and job seekers from unfair discrimination [9] • Transformation of the workforce to ensure demographic representation at all levels [10] • Stakeholder engagement [17] • Comply with social legislation as applicable to SOEs and corporate entities [11]	• Access to information on the environmental impact of Eskom's business operations [2, 3, 4] • Environmental impact assessments (EIAs) for the construction and upgrade of facilities for commercial electricity generation and supply [18, 19] • Management and control of environmental pollutants [20] • Acquire a licence for hydro-energy projects (implement responsible water management practices) [21] • Identify and implement methods to reduce emissions [22] • Increase renewable and nuclear energy in the energy mix [22] • Integrate carbon capture and storage (CCS) with existing and new coal-fired electricity plants [22] • Energy-efficiency technology research and innovation [12] • Implement, monitor, and manage energy-efficiency measures [22] • Comply with environmental legislation as applicable to SOEs and corporate entities [11]

Stakeholder group	Economic	Social	Environmental
NERSA as regulator	• Secure sustainability of electricity supply [23] • Secure electricity tariffs that are affordable for Eskom's customers [23, 24] • Secure Eskom's investment in infrastructure to meet capacity demands [24] • Increase competitiveness of sector through introduction of IPPs [24] • Access to information on the economic impact of Eskom's business operations [4] • Increased accessibility of electricity to the South African population [24] • Comply with economic legislation as applicable to SOEs and corporate entities [4] • Comply with governance legislation as applicable to SOEs and corporate entities [4]	• Access to information on the social impact of Eskom's business operations [4] • Comply with social legislation as applicable to SOEs and corporate entities [4]	• Implement renewable energy programmes [24] • Access to information on the environmental impact of Eskom's business operations [4] • Comply with environmental legislation as applicable to SOEs and corporate entities [4]
Industry experts, academia, and representative groups	• Establish strategic partnerships and improved transparency to better understand economic impact of business operations [25, 26] • Reliable electricity supply [27, 28, 29, 30] • Affordable tariffs [27, 28, 29, 30] • Research and innovation [2]	• Establish strategic partnerships and improved transparency to better understand social impact of business operations [25, 26]	• Establish strategic partnerships and improved transparency to better understand environmental impact of business operations [25, 26] • Energy-efficiency technology research and innovation [12]
Environmental NGOs			• Compliance with environmental legistlation [31] • Increase electricity generation from renewable energy sources to lower carbon emissions, as well as particulate and gaseous emissions [32, 33] • Reduce pressure on South Africa's scarce resources, such as water, and implement effective water management initiatives [33] • Access to information on the environmental impact of Eskom's business operations [4] • Energy-efficiency technology research and innovation [12]
Media	• Access to information on the economic impact of Eskom's business operations [4, 25]	• Access to information on the environmental impact of Eskom's business operations [4, 25]	• Access to information on the environmental impact of Eskom's business operations [4, 25]

1. RSA, 2008a; **2**. BDO, 2008; **3**. RSA, 2008a; **4**. RSA, 2000b; **5**. RSA, 2012; **6**. Inglesi-Lotz & Blignaut, 2011; **7**. Kiratu, 2010; **8**. RSA, 2011; **9**. RSA, 1998b; **10**. RSA, 2003; **11**. RSA, 2001; **12**. Franz, 2001; **13**. RSA, 1993; **14**. RSA, 1999; **15**. RSA, 1997; **16**. RSA, 2008b; **17**. IoDSA, 2009; **18**. RSA, 2010a; **19**. RSA, 2010b; **20**. RSA, 2004; **21**. Sparks, 2006; **22**. Tyler, 2009; **23**. Geldard, 2013; **24**. NERSA, 2013; **25**. Freeman, Harrison & Wicks, 2007; **26**. ERC, 2013; **27**. SACCI, 2013; **28**. Goldman, 2013; **29**. Baxter & Kruger, 2013; **30**. Kritzinger, 2013; **31**. Alfreds, 2012; **32**. Hendley, 2012; **33**. Eskom, 2012b.

Following a similar logic, but more systematically focusing on value chain components, Eskom's stakeholders and their TBL interests and expectations in its organisational and transactional environments were identified. These stakeholder groups' TBL interests and expectations are summarised in Table 3, at the end of this section.

Within Eskom's governance function, two stakeholder groups within its transactional environment were identified, namely:

i) government as shareholder, i.e. the Department of Public Enterprise (DPE); and

ii) international and domestic capital markets and analysts, including Treasury, domestic and international debt capital markets, and rating agencies such as Standard and Poor's and Moody's.

Within Eskom's human resource function, two stakeholder groups were identified, namely:

i) employees and management operating within Eskom's organisational environment; and

ii) trade unions operating within Eskom's transactional environment.

Within Eskom's construction, maintenance, and primary energy operations, two stakeholder groups in the transactional environment were identified, namely:

i) communities affected by Eskom's construction and current operations; and

ii) suppliers and contractors contributing to the new-build programme and maintenance operations, as well as suppliers of primary energy (i.e. coal suppliers) and logistics services and transport infrastructure (e.g., Transnet).

Finally, within Eskom's generation-, transmission-, distribution-, and client service operations, three stakeholder groups were identified, namely:

i) local government as electricity distributor, i.e. municipalities;

ii) consumers, including those within the industrial and manufacturing, residential, mining, commercial, transport, and agricultural sectors, as well as electricity users in the Southern African Development Community (SADC) region; and

iii) suppliers and contractors, such as independent power producers (IPPs).

Table 3: The TBL interests and expectations of stakeholders within Eskom's transactional and organisational environments

Stakeholder group	Economic	Social	Environmental
Government as shareholder	• Good corporate governance practices [1] • Access to information on the economic impact of Eskom's business operations [2, 3] • Electrification [4] • Support government's prerogative of introducing more competition within the electricity sector [5] • Comply to economic legislation as applicable to SOEs and corporate entities [6] • Comply with governance legislation [6] • Increase technology transfer and investment in research and innovation [7] • Reliable electricity supply [8] • Cost-reflective tariffs [3] • Improvement of maintenance and operational efficiency [8] • Reduction of Eskom's dependence on the fiscus for new-build programmes [8] • Economic assurance mechanisms and risk management [9] • Increase generation- and distribution capacity [10] • Balance supply and demand factors Eskom [10] • Improve revenue collection [11, 12] • Sustainable energy supply [10] • Embed sustainability within the corporate strategy and operations [11] • Secure Eskom's assets, such as distribution cables, equipment, information [10]	• Social assurance mechanisms and risk management [9] • Health and safety of contractors, employees and customers [4, 12] • Access to information on the social impact of Eskom's business operations [2, 3] • Successful implementation of Competitive Supplier Development Programme to ensure development of local supplier industries [8] • Increase customer focus, interaction, and communication, and restore reputational damage [13] • Attract and retain employees with critical and core skills required to ensure a high-performance utility [13] • Ensure security of resources, such as Eskom's assets, information, knowledge, and people [13] • Comply with social legislation applicable to SOEs and corporate entities [6]	• Environmental assurance mechanisms and risk management [9] • Comply with environmental legislation [3] • Access to information on the environmental impact of Eskom's business operations [3] • Energy-efficiency technology research and innovation [3] • Reduce carbon footprint [13] • Lower particulate and gaseous emissions [13] • Reduce impact on natural ecosystem [13] • Waste management [13] • Water management [13] • Access to information on environmental performance [2]
International and domestic capital markets and analysts	• Good credit rating [1] • Good corporate governance practices [1] • Access to information on the economic impact of Eskom's business operations [2]	• Access to information on the social impact of Eskom's business operations [2]	• Access to information on the environmental impact of Eskom's business operations [2]

Stakeholder group	Economic	Social	Environmental
Employees and management	• Fair wages and remuneration [14] • Access to information on the economic impact of Eskom's business operations [2] • Transformation [15]	• Safe working environment [16] • Enhancement of employee health and wellness practices [16] • Fair labour practices [14] • Training and skills development [17] • Access to information on the social impact of Eskom's business operations [2]	• Access to information on the environmental impact of Eskom's business operations [2]
Trade unions	• Fair wages and remuneration [18, 19] • Access to information on the economic impact of Eskom's business operations [2] • Affordable tariffs [20, 21, 22, 23]	• Safe and healthy working environment [7, 16, 18] • Access to information on the social impact of Eskom's business operations [2] • Training and education of members [12]	• Access to information on the environmental impact of Eskom's business operations [2]
Communities	• Employment [18, 19] • Infrastructure provision near new-build sites [13] • Electrification [4, 25] • Reliable electricity supply [26, 27] • Affordable tariffs [26, 27] • Access to information on the economic impact of Eskom's business operations [2]	• Access to information on the social impact of Eskom's business operations [2] • Public safety during new-build construction and operations; and creating awareness of dangers of illegal connections [28]	• Access to information on the environmental impact of Eskom's business operations [2]
Suppliers and contractors	• Fair wages and remuneration [18, 19] • Increased access to participation in the electricity sector for, for example, independent power producers (IPPs) [29] • Preferential procurement practices for previously disadvantaged entities [30] • Transformation [17]	• A safe and healthy working environment [18, 19] • Enhancement of employee health and wellness practices [16] • Fair labour practices [14] • Training and skills development [15]	
Customers	• Quality and reliable electricity supply [26, 27, 31] • Affordable tariffs [32, 33] • Access to information on the economic impact of Eskom's business operations [6] • Electrification [7]	• Public safety [28] • Access to information on the social impact of Eskom's business operations [2] • Increase customer focus, interaction, and communication, and restore reputational damage [10]	• Access to information on the environmental impact of Eskom's business operations [2]
Local government as electricity distributor	• Reliable electricity supply [26, 27] • Affordable tariffs [26, 27] • Electrification [4]		

1. Khoza & Adam, 2005; **2.** RSA, 2000b; **3.** Molathwe, 2013; **4.** RSA, 2012; **5.** Kiratu, 2010; **6.** RSA, 2001; **7.** Franz, 2001; **8.** DPE, 2011; **9.** IoDSA, 2009; **10.** Eskom, 2012b; **11.** Mantshantsha, 2012; **12.** Buthelezi, 2013; **13.** Eskom, 2011b; **14.** RSA, 1997; **15.** RSA, 2003; **16.** RSA, 1993; **17.**RSA, 1998a; **18.** Faku, 2013; **19.** Paton, 2013; **20.** Cosatu, 2013; **21.** SACTWU, 2013; **22.** De Wet, 2012; **23.** Cloete, 2013; **24.** NUM, 2013; **25.** IRC, 2011; **26.** Strydom, 2013; **27.** Sapa, 2013; **28.** RSA, 2008b; **29.** Roy, Disenyana & Kiratu, 2010; **30.** RSA, 2000a; **31.** Rossouw, 2013; **32.** Flanagan, 2012; **33.** EIUG, 2013

TRANSACTIONAL LEVEL: HOW DOES ESKOM RESPOND TO STAKEHOLDERS' TBL INTERESTS AND EXPECTATIONS THROUGH ITS INTEGRATED REPORT?

This section assesses the disclosure of stakeholder management at the transactional level in Eskom's 2012 integrated report, more specifically whether the report addressed the TBL interests and expectations as identified in Tables 2 and 3. The authors used the TBL interests and expectations identified at the rational level (RQ_2) to code Eskom's 2012 integrated report. In total, 47 TBL interests and expections were identified, defined, and coded. During the coding process, different disclosure aspects were assessed. These are summarised in Table 4, and described in more detail below.

Table 4: Disclosure of challenges, initiatives under way, future initiatives, and performance per TBL interest and expectation

TBL interest/expectation (I&E)	The report disclosed:				
	Challenges in meeting this I&E	Initiatives underway to address the I&E	Future initiatives to meet this I&E	Key performance indicators for this I&E	Performance against an indicator for this I&E
1. Good corporate governance		■	■		
2. Access to information: economic performance		■	■		
3. Stimulate economic growth		■			
4. Electrification	■	■	■	■	■
5. Employment		■	■		■
6. Increase competitiveness of sector	■	■	■	■	■
7. Transformation		■	■	■	■
8. Comply with governance legislation		■	■		
9. Comply with economic legislation		■	■		
10. Research and innovation		■	■		■
11. Reliable electricity supply	■	■	■	■	■
12. Increase generation-, transmission-, and distribution capacity	■	■	■	■	■
13. Affordable tariffs	■	■			
14. Health and wellness of employees	■	■			■
15. Drive social development		■	■	■	■
16. Safe working environment	■	■	■	■	■
17. Tranining and skills development		■	■	■	■
18. Access to information: social performance		■	■		
19. Consumer protection		■			
20. Stakeholder engagement		■			
21. Comply with social legislation	■	■	■		■
22. Public safety	■	■	■		■
23. Access to information: environmental performance		■	■		

TBL interest/expectation (I&E)	The report disclosed:				
	Challenges in meeting this I&E	Initiatives underway to address the I&E	Future initiatives to meet this I&E	Key performance indicators for this I&E	Performance against an indicator for this I&E
24. Lower carbon emissions	■	■	■	■	■
25. Lower particulate and gaseous emissions	■	■	■	■	■
26. Reduce impact on natural ecosystem	■	■	■	■	■
27. Waste management			■	■	■
28. Water management	■	■	■		
29. Diversify energy mix	■	■	■		■
30. Energy efficiency		■	■	■	■
31. Comply with environmental legislation	■	■	■	■	■
32. Improve maintenance and operational efficiency	■	■	■	■	■
33. Financial sustainability	■	■	■	■	■
34. Implement economic assurance mechanisms and risk management		■			■
35. Minimise reputational damage	■	■	■		
36. Sustainable resources	■	■	■		
37. Balance supply and demand factors	■	■	■	■	■
38. Good credit rating	■	■			
39. Embedding sustainability in business practices		■			■
40. Improve revenue collection	■		■	■	■
41. Attract and retain key skills		■			■
42. Resource security	■	■	■		■
43. Implement social assurance mechanisms and risk management		■			■
44. Improve customer service	■	■	■	■	■
45. Implement environmental assurance mechanisms and risk management		■			■
46. Fair wages and remuneration		■			
47. Fair labour practices		■			

Source: Authors' own, based on Atlas.ti 7 coding.

Eskom's 2012 integrated report addressed the majority of the identified TBL interests and expectations of its stakeholder groupings – to varying degrees and on the basis of different disclosure aspects. The relevant aspects are: disclosure of (i) challenges in addressing the interests and expectations, (ii) initiatives underway and planned to address interests and expectations, and (iii) Eskom's performance in addressing them.

Most of the disclosures seem to have focused on stakeholder concerns, which correspond with Eskom's over-arching strategic objectives, and coincide with Eskom's stakeholder engagement matrix, which was disclosed in the integrated report. Stakeholder interactions seem to have been based on identifying issues that were deemed 'material' to the 2012 integrated report and gaining stakeholder feedback on risks and issues in meeting Eskom's strategic objectives.

This finding was not surprising, as the integrated report stated that "material" issues disclosed in the report had been determined through "extensive consultation with the company's stakeholders" (Eskom, 2012a:8), and defined *material issues* as those that "have the potential to significantly affect the company's achievement of its strategic objectives" (Eskom, 2012a:42).

Challenges addressed included those faced by the organisation for the reporting period. This finding was equally unsurprising, as the report defined its disclosure as related to "qualitative and quantitative issues arising in 2011/12 that are material to Eskom's business operations and strategic objectives" (Eskom, 2012a:8). The predominant challenges disclosed in Eskom's report related to the utility's ability to meet the deadlines for the new capacity expansion programme, as expressed in the report: "The central challenge facing this [capacity expansion] programme is to remain on schedule" (Eskom, 2012a:49). The challenges that were disclosed in the report also emphasised the "significant health and safety risks associated with an electricity business" (Eskom, 2012a:44) for employees and the public, the impact of Eskom's operations on the natural environment, as well as operational and funding challenges in meeting electrification targets and the capacity expansion programme. However, challenges in meeting stakeholder concerns related to employment, transformation, stakeholder engagement, skills development, fair labour practices, and embedding sustainability within business practices were not mentioned in the report.

Importantly, the report disclosed challenges (Column 1) experienced in meeting roughly half of the TBL interests and expectations. In terms of ensuring transparency, one would have expected the report to disclose the challenges in meeting most of the TBL interests and expectations identified. The report did, however, disclose the initiatives that were under way (Column 2) at the time to address the majority of stakeholder TBL interests and expectations identified, and related those initiatives to Eskom's strategic objectives. In doing so, the report disclosed the eight strategic objectives to meet Eskom's purpose to "provide sustainable electricity to grow the economy and improve the quality of life of people in South Africa and in the region" (Eskom, 2012a:26). Performance in terms of the identified indicators for each of the strategic objectives was disclosed. However, the report failed to assign performance indicators and disclose performance in respect of many of the other TBL interests and expectations (Columns 4 and 5).

The 2012 integrated report outlined "business operations as they stand now", and presented "Eskom's assessment of the period ahead" (Eskom, 2012a:8). The 'period ahead' included priorities and focus areas for the following five years for each operational unit within Eskom's value chain. The five-year priorities and focus areas disclosed in the report included about 40 per cent of the interests and expectations identified (Column 3). The report, however, did not focus on any future initiatives beyond the five-year horizon. According to King III, "today's stakeholders also want assurance on the quality of … forward looking information" (IoDSA, 2009:12). Although the Eskom report disclosed future initiatives to address identified TBL interests and expectations, the report could have been more forward-looking by placing greater emphasis on disclosing future initiatives beyond its five-year strategic goals.

Column 4 indicates which of the TBL interests and expectations had been assigned performance indicators. It also indicates whether performance in respect of these interests and expectations was disclosed (Column 5), be that by way of comparison to set targets, the performance of previous years, international benchmarks, or through the disclosure of performance highlights and/or lowlights. On balance, the 2012 integrated report disclosed performance in respect of initiatives to address the majority of TBL interests and expectations identified by the authors. Ideally, however, all of the identified TBL interests and expectations should have been allocated a performance indicator, to ensure accurate performance measurement and assessment. It is also important to note that the report did not disclose any form of measurement to assess the effectiveness of Eskom's stakeholder engagement process, responsiveness to stakeholders' interests and expectations, or on-going improvement thereof.

The report discloses that Eskom has aligned to King III's governance and ethical business conduct requirements through establishing an ethics management programme. Although the programme is managed by the executive management committee, the corporation's board bears the ultimate responsibility in this regard. The programme includes the establishment of a code of ethics that guides internal and external business courtesies *vis-à-vis* stakeholders (Eskom, 2012a). This is consistent with King III's emphasis on establishing "ethical values that determine the interaction between a company and its stakeholders", as well as the recommendation that responsibility for a company's ethical conduct should ultimately remain with the board (IoDSA, 2009:51).

CONCLUSION AND RECOMMENDATIONS

The objective of this study was to assess Eskom's stakeholder management outcomes by evaluating the extent of disclosure in its 2012 integrated report. As there is no recognised all-encompassing framework with which to assess disclosure of stakeholder management in an organisation's integrated report, this study suggested possible frameworks – based on the relevant theory – within which to conduct the assessment of Eskom's 2012 integrated report. The corporate governance focus was two-pronged: (i) the three pillars of sustainability, of which the TBL interests and expectations of stakeholders are a proxy, and (ii) integrated reporting as a communication vehicle.

The study was informed by the conceptual link between corporate governance, integrated reporting, and stakeholder management, including the relationship between the latter and business ethics. The primary intent of an integrated report is not necessarily the disclosure of stakeholder management as such, but rather to combine traditionally silo-based information (i.e. financial and the TBL) into "a coherent whole", in order to illustrate "the connectivity between them and explain how they affect the ability of an organization to create and sustain value in the short, medium and long term" (IIRC, 2011:16). However, because of the strong linkages, King III takes that mandate further, and recommends that "the board should disclose, in its integrated report, the nature of the company's dealings with stakeholders and the outcomes of these dealings" (IoDSA, 2009:47), including the ethical dimensions. Stakeholder management is, in other words, an important component of ensuring both a stakeholder-inclusive approach to corporate governance and achieving transparency and accountability.

The primary framework for analysis in this study was two of Freeman's (1984) proposed levels of stakeholder management, namely the rational and the transactional level.

i) The rational level: At this level, it was assessed whether the report had disclosed the identification, grouping, and mapping of stakeholders and their TBL interests and expectations.

ii) The transactional level: At this level, it was assessed whether the report had disclosed outcomes against stakeholder TBL interests and expectations.

In developing its 2012 integrated report, Eskom broadly followed the IIRC's framework for integrated reporting. The IIRC's framework (2011:13) advocates that the report should provide insight into an organisation's stakeholder relationships, stakeholder interests and expectations, as well as the organisation's response thereto.

The authors concluded that Eskom's 2012 integrated report had not provided a detailed overview of stakeholder management at the rational level. The authors identified and mapped 13 stakeholder groups, whereas Eskom's 2012 integrated report had identified only seven. In order for Eskom to improve transparency of stakeholder management at the rational level, it is recommended that future integrated reports disclose considerations on the basis of which stakeholders are identified, grouped, and mapped. Furthermore, Eskom should consider basing their stakeholder grouping on a recognised framework and unbundling their broad clusters of stakeholder groups. Stakeholder classification is important in order to better understand these stakeholders, their relevance, and their importance in terms of engagement (AccountAbility, 2011; Epstein, 2008). Eskom's grouping of stakeholders tends to cluster together stakeholders that operate in different environments, which makes it difficult to systematically manage and report on their divergent TBL interests and expectations.

On balance, though, Eskom's 2012 integrated report disclosed meaningful stakeholder management at the transactional level. The report disclosed responsiveness to stakeholder groups on the majority of TBL interests and expectations identified by the authors. Stakeholder engagement was disclosed through a stakeholder engagement matrix included in the report. However, the majority of interactions seemed to have been focused on determining material issues relating to Eskom's achievement of their strategic objectives. This creates the perception that stakeholder interaction is not aimed at identifying TBL interests and expectations, but rather at managing risks in achieving Eskom's strategic objectives. The report did disclose some of the challenges in achieving the TBL interests and expectations identified by the authors, yet focused on challenges per operational unit within Eskom's value chain. The report did disclose initiatives that were underway at the time to address the majority of stakeholder TBL interests and expectations identified. Although the report disclosed performance against indicators for the majority of TBL interests and expectations identified, ideally, all of the identified TBL interests and expectations should, in future, be allocated a performance indicator, to ensure accurate measurement and assessment. It is also important to note that the report did not disclose any form of measurement to assess the effectiveness of Eskom's stakeholder engagement process, responsiveness to stakeholders' expectations and interests, or the on-going improvement thereof.

Although it disclosed the following five years' priorities and focus areas, addressing about 40 per cent of the interests and expectations identified by the authors, it was neither exhaustive, nor did it extend beyond the five-year horizon. Future reports should ideally disclose how Eskom aims to ensure the sustainability of their initiatives over the near- as well as the long term.

Finally, despite the highlighted concerns, this study found that Eskom has embarked on a complex journey to integrate stakeholder management with the utility's transactional business practices, and to use the integrated report as a key tool to communicate with the company's stakeholders. Eskom has also established a code of ethics that guides business interaction with primary and secondary stakeholders. From a corporate governance perspective, the above represent meaningful moves towards a stakeholder-inclusive approach.

It would have value to use the methodology and frameworks employed in this study to benchmark the disclosure of stakeholder management for different electricity utilities' integrated reports, in order to assess, comparatively, their transparency and accountability. Furthermore, the methodology can be used to benchmark the disclosure through integrated reporting between subsequent integrated reports of the same organisation, in order to assess progress.

REFERENCES

Abraham, S. E. 2012. Information technology, an enabler in corporate governance. *Corporate Governance*, 12 (3):281-291.

AccountAbility. 2008. AccountAbility Principle Standard 2008. [Online] Available: http://www.accountability.org/standards/aa1000aps.html [Accessed 14 December 2011].

AccountAbility. 2011. AA1000 Stakeholder Engagement Standard 2011. [Online] Available: http://www.accountability.org/images/content/3/6/362/AA1000SES%20 2010%20PRINT.PDF [Accessed 15 September 2012].

Achterkamp, M. C. & Vos, J. F. J. 2003. *Making sense of sustainable innovation through stakeholder involvement.* SOM Research Report 03B26. Groningen: University of Groningen.

Adams, C., Frost, G. & Webber, W. 2007. Triple bottom line: A review of the literature. In A. Henriques & J. Richardson (Eds.), *The Triple Bottom Line: Does it all add up?* (3rd ed.). New York: Earthscan.

Alfreds, D. 2012. Activists welcome Eskom report. [Online] Available: http://m.news24.com/news24/Green/News/Activists-welcome-Eskom-report-20121123 [Accessed 6 January2013].

Baxter, R. & Kruger, D. 2013. *Chamber of Mines submission to NERSA on Eskom's MYPD 3 application.* [Online] Available: http://www.nersa.org.za/Admin/Document/Editor/file/Consultations/Electricity/Presentations/Chamber%20of%20Mines%20of%20South%20Africa.pdf [Accessed 6 June 2013].

BDO. 2008. Practical guidelines to implementing the new Companies Act. [Online] Available: http://www.bdo.co.za/documents/Practical%20guide%20to%20Companies%20Act.pdf [Accessed 13 January 2013].

Braxton, C. 2011. The Companies Act, MFMA/PFMA and King III in perspective. [Online] Available: http://www.accountancysa.org.za/resources/ShowItemArticle.asp?ArticleId=2270&Issue=1107 [Accessed 25 May 2011].

Buthelezi, L. 2013. Eskom chases up non-payment. [Online] Available: http://www.iol.co.za/business/companies/eskom-chases-up-non-payment-1.1455693 [Accessed 12 June 2013].

Cadbury Committee. 1992. *The financial aspects of corporate governance.* London: Burgess Science Press.

Cavico, F. J. & Mujtaba, B. G. 2014. Social responsibility, stakeholders, sustainability and corporate governance. In J. Mueller & P. Wells (Eds.), *Governance in action globally – strategy, process and reality.* New Zealand: RossiSmith Academic Publishing.

Clarkson, M. B. E. 1995. A stakeholder framework for analysing and evaluating corporate social performance. *Academy of Management Review*, 20(1):92-117.

Cloete, K. 2013. *NUMSA presentation on Eskom's multi-year price determination 2013/14-2017/18 (MYPD3) – "The Overall Union Position."* [Online] Available: http://www.nersa.org.za/Admin/Document/Editor/file/Consultations/Electricity/Presentations/National%20Union%20of%20Mentalworkes%20of%20South%20Africa.pdf [Accessed 6 June 2013].

Cosatu. 2013. Comments on Eskom's MYPD3 application. [Online] Available: http://www.nersa.org.za/Admin/Document/Editor/file/Consultations/Electricity/Presentations/COSATU%20Eastern%20Cape.pdf [Accessed 6 June 2013].

Davis, P. & Freeman, E. 1978. Technology assessment and idealised design. In M. Elton, W. Lucas & D. Conrath (Eds.), *Evaluating new telecommunication services.* New York: Plenum Press.

De Wet, P. 2012. Eskom price hike: 'Daylight robbery' will unite us. *Mail & Guardian*, 26 October. [Online] Available: http://mg.co.za/article/2012-10-26-00-eskom-price-hike-daylight-robbery-will-unite-us [Accessed 7 January 2013].

Department of Public Enterprises (DPE). 2011. *Department of Public Enterprise Strategic Plan 2011-2014.* [Online] Available: http://www.info.gov.za/view/DownloadFileAction?id=147567 [Accessed 5 June 2013].

Department of Tourism and Environmental Affairs. 2007. Long term mitigation scenarios: Strategic options for South Africa. [Online] Available: http://www.erc.uct.ac.za/Research/publications/07Scenario_team-LTMS_Scenarios.pdf [Accessed 1 June 2012].

Dill, W. R. 1976. Strategic management in a kibitzer world. In L. Anshoff, R. Declerk & R. Hayes (Eds.), *Strategic management to strategic planning.* New York: John Wiley and Sons.

Donaldson, T. & Preston, L. E. 1995. The stakeholder theory of the corporation: Concepts, evidence, and implications, *Academy of Management Review*, 20(1):65-91.

Eccles, R. G. & Krzus, M. P. 2010. *One report.* New Jersey: John W. Wiley & Sons, Inc.

Elkington, J. 1998. *Cannibals with forks: The triple bottom line of the 21st century business.* Gabriola Islands, BC: New Society.

Emerson, J. 2003. The blended value proposition: Integrating social and financial returns. *California Management Review*, 45(5):35-51.

Emery, F. E. & Trist, E. L. 1965. The causal texture of organisational environments. *Human Relations*, 18(1):21-32.

Emshoff, J. 1980. *Managerial breakthroughs.* New York: Amacom.

Energy Intensive User Group (EIUG). 2013. *A national price path for South Africa.* A presentation delivered at the MYPD3 Public Hearing on 30 January 2013. [Online] Available: http://www.nersa.org.za/Admin/Document/Editor/file/Consultations/Electricity/Presentations/Energy%20Intensive%20Users%20Groups%20Southern%20Africa.pdf [Accessed 5 June 2013].

Energy Research Centre (ERC). 2013. About ERC. [Online] Available: http://www.erc.uct.ac.za/about_erc.htm [Accessed 7 June 2013].

Epstein, J. E. 2008. *Making sustainability work: Best practices in managing and measuring corporate, social, environmental and economic impacts.* San Francisco: Greenleaf Publishing.

Ernst & Young. 2009. Final King III Synopsis – September 2009. [Online] Available: http://www.saica.co.za/Portals/0/Technical/EY%20Final%20King%20III%20Synopsis.pdf [Accessed 25 December 2012].

Eskom. 2011a. *Eskom Factor Report 2011.* [Online] Available: http://www.eskomfactor.co.za/introduction.php [Accessed 12 January 2013].

Eskom. 2011b. *Integrated report 2011 – Partnering for a sustainable future.* [Online] Available: http://financialresults.co.za/2011/eskom_ar2011/downloads/eskom-ar2011.pdf [Accessed 4 April 2012].

Eskom. 2012a. *Eskom – Shift performance, grow sustainability, Integrated Report for the year ended 31 March 2012.* [Online] Available: http://financialresults.co.za/2012/eskom_ar2012/ [Accessed 6 November 2012].

Eskom. 2012b. *Eskom – Shift performance, grow sustainability, Divisional Report for the year ended 31 March 2012.* [Online] Available: http://financialresults.co.za/2012/eskom_ar2012/ integrated-report/downloads/full_downloads/03_eskom_divisional_report2012.pdf [Accessed 2 February 2013].

Fabrikus, K. 2004. Trends and perceptions of sustainable reporting and corporate governance: a case study of Eskom. Unpublished MBA dissertation. Grahamstown: Rhodes University.

Faku, D. 2013. Eskom in talks to sort out new plant. [Online] Available: http://www.iol.co.za/business/companies/eskom-in-talks-to-sort-out-new-plant-1.1500040 [Accessed 1 July 2013].

Fassin, Y. 2012. Stakeholder management, reciprocity and stakeholder responsibility. *Journal of Business Ethics*, 109(1):82-96.

Fava, J. A. & Smith, J. K. 1998. Integrating financial and environmental information for better decision making. *Journal of Industrial Ecology*, 2(1):9-11.

Flanagan, L. 2012. Eskom seeks shocking price hikes. [Online] Available: http://www.iol.co.za/the-star/eskom-seeks-shocking-price-hike-1.1408512 [Accessed 1 July 2013].

Franz, L. 2001. R6-million boost for techno development. *Engineering News*, 22 June. [Online] Available: http://www.engineeringnews.co.za/article/r6million-boost-for-techno-development-2001-06-22 [Accessed 2 July 2013].

Freeman, R. E. 1984. *Strategic management: A stakeholder approach*. Boston, MA: Pitman.

Freeman, R. E., Harrison, J. S. & Wicks, A. C. 2007. *Managing for stakeholders – Survival, reputation and success*. United States of America: Yale University Press

Freeman, R. E., Martin, K. & Parmar, B. 2007. Stakeholder capitalism. *Journal of Business Ethics*, 74(4):303-314.

Friedman, M. 1970. *The social responsibility of business is to increase its profits*. [Online] Available: http://www.umich.edu/~thecore/doc/Friedman.pdf [Accessed 15 January 2013].

Frooman, J. 1999. Stakeholder influence strategies. *Academy of Management Review*, 24(2):191-205.

Galbreath, J. 2006. Does primary stakeholder management positively affect the bottom line? Some evidence from Australia. *Management Decision*, 44(8):1106-1121.

Geldard, C. 2013. Regulatory specialist: Electricity Division, National Energy Regulator of South Africa (NERSA), Pretoria: Personal communication, 8 March.

Global Reporting Initiative (GRI). 2011. Sustainability Reporting Guidelines Version 3.1. [Online] Available: https://www.globalreporting.org/reporting/latest-guidelines/g3-1-guidelines/Pages/ default.aspx [Accessed 12 December 2011].

Goldman, D. 2013. Comments on Eskom's MYPD application. [Online] Available: http://www.nersa.org.za/Admin/Document/Editor/file/Consultations/Electricity/Presentations/SAPOA.pdf [Accessed 6 June 2013].

Grant, R. M. 1991. The resource-based theory of competitive advantage: Implications for strategy formulation. *California Management Review*, Spring:114-135.

Gray, R. & Milne, M. 2004. Towards reporting on the triple bottom line: Mirages, methods and myths. In A. Henriques & J. Richardson (Eds.), *The triple bottom line: Does it all add up?* (3rd ed.). London: Earthscan, pp. 70-80

Greenwood, D. J. H. 2004. Enronitis: Why good corporations go bad. *Columbia Business Law Review*, 3:773-848.

Hanks, J. 2005. Eskom 2005 annual report: A benchmarking review of Eskom's sustainable development reporting practices. 16 June 2012.

Hansmann, H. & Kraakman, R. 2000. The end of history for corporate law. *Georgetown Law Journal*, 89(2):439-468.

Hasselhoff, F. 1976. A new paradigm for the study of organisational goals. In I. Anshoff, R. Declerk & R. Hayes (Eds.), *Strategic management to strategic planning.* New York: John Wiley and Sons.

Henriques, A. 2007. CSR, sustainability and the triple bottom line. In A. Henriques & J. Richardson (Eds.), *The triple bottom line: Does it all add up?* (3rd ed.). New York: Earthscan, pp. 26-33.

Hichert, T. 2011. *Business' contextual environment.* Presentation prepared for a course on the business environment as part of an MBA programme. Bellville: University of Stellenbosch Business School.

Hillman, A. J. & Keim, G. P. 2001. Shareholder value, stakeholder management, and social issues: What's the bottom line? *Strategic Management Journal*, 22(2):125-139.

IIRC. 2012. *Integrated reporting draft framework outline.* [Online] Available: http://www.theiirc.org/wp-content/uploads/2012/07/Draft-Framework-Outline.pdf [Accessed 11 June 2013].

Inglesi-Lotz, R. & Blignaut, J. 2011. South Africa's electricity consumption: A sectoral decomposition analysis. [Online] Available: http://econrsa.org/papers/w_papers/wp203.pdf [Accessed 6 January 2013].

Institute for Democracy in South Africa (IDASA). 2010. The governance of power: Shedding a light on the electricity sector in South Africa. Electricity governance initiative of South Africa. [Online] Available: http://electricitygovernance.wri.org/news/2010/02/idasa-launches-new-electricity-governance-initiative-report [Accessed 13 April 2010].

Institute of Directors in Southern Africa (IoDSA). 2009. *King code of governance for South Africa 2009.* [Online] Available: http://www.ecgi.org/codes/documents/king3.pdf [Accessed 5 January 2011].

Integrated Reporting Committee (IRC). 2011. Framework for integrated reporting and the integrated report. [Online] Available: http://www.sustainabilitysa.org/Portals/0/IRC%20of% 20SA%20Integrated%20Reporting%20Guide%20Jan%2011.pdf [Accessed 16 December 2011].

International Corporate Governance Network. 2008. ICGN statement and guidance on non-financial business reporting. [Online] Available: http://ec.europa.eu/enterprise/ policies/sustainable-business/corporate-social-responsibility/reporting-disclosure/swedishpresidency/files/background_documents/ statement_and_guidance_on_non-financial_reporting_-_international_corporate_governance_ network_en.pdf [Accessed 15 September 2012].

International Integrated Reporting Council (IIRC). 2011. Towards integrated reporting – communicating value in the 21st Century. [Online] Available: http://theiirc.org/wp-content/uploads/2011/09/IR-Discussion-Paper-2011_spreads.pdf [Accessed 1 December 2011].

Jameson, I. 2012. Senior manager: Climate change and sustainable development. Eskom, Sandton: Personal Communication, 10 January.

Jeyaretnam, T. l. & Niblock-Siddle, K. 2010. Integrated reporting: A perspective from Net Balance. In R. G. Eccles, B. Cheng & D. Saltzman (Eds.), *The landscape of integrated reporting: Reflections and next steps.* Cambridge: Harvard Business School.

Jiya, L. 2013. General manager: Stakeholder relations, Eskom. Sandton: Personal Communication, 7 March.

Khoza, R. J. & Adam, M. 2005. *The power of governance – enhancing the performance of state-owned enterprises.* Gauteng: Pan Macmillan & Business in Africa.

Kiratu, S. 2010. *South Africa's energy security in the context of climate change mitigation.* Canada: The International Institute for Sustainable Development.

KPMG. 2010. Integrated reporting – closing the loop of strategy. [Online] Available: http://www.kpmg.com/ua/en/issuesandinsights/articlespublications/pages/integrated-reporting-closing-the-loop.aspx [Accessed 11 November 2012].

Kritzinger, W. 2013. *Presentation to NERSA.* [Online] Available: http://www.nersa.org.za/Admin/Document/Editor/file/Consultations/Electricity/Presentations/Agri-%20Eastern%20Cape.pdf [Accessed 7 June 2013].

Lim, G., Ahn, H. & Lee, H. 2005. Formulating strategies for stakeholder management: A case-based reasoning approach. *Expert Systems with Applications*, 28:831-840.

Mantshantsha, S. 2012. Eskom's R3.2 bn problem – the Soweto headache. *Financial Mail*, 11 December. [Online] Available: http://www.fm.co.za/economy/local/2012/12/11/eskom-s-r32bn-problem [Accessed 12 July 2013].

Maoto, M. 2013. Eskom given top honours in SOE governance award. [Online] Available: http://www.nkonki.com/integrated-reporting/eskom-wins-in-nkonki-state-owned-companies-integrated-reporting-awards-2012 [Accessed 30 January 2013].

Mason, R. & Mitroff, I. 1982. Challenge strategic planning assumptions. New York: John Wiley and Sons.

Mitroff, I. & Emshoff, J. 1979. On strategic assumption making. *Academy of Management Review*, 4(1):1-12.

Molathwe, L. 2013. Acting Chief Director: Financial Analysis, Department of Public Enterprise (DPE). Interview. Pretoria. 19 February.

National Energy Regulator of South Africa (NERSA). (2013). *Presentations – NERSA Strategic Plan (2012/13-2016/17) and Annual Performance Plan (2013/14-2015/16).* [Online] Available: http://www.google.co.za/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=2&ved=0CDAQFjAB&url=http%3A%2F%2Fwww.sapvia.co.za%2Fwp-content%2Fuploads%2F2013%2F04%2FNERSA-Strategic-Plan-Annual-Performance_PPC-preso.ppt&ei=PBuvUcDXE4mM7QaHiICgCA&usg=AFQjCNGF-qO1E3azGcmtMzDqnkIXwo3jrg&sig2=JovcSxNPKLuu1RvxGgby5w&bvm=bv.47380653,d.d2k [Accessed 5 June 2013].

National Union of Mineworkers (NUM). 2013. *Constitution of the National Union of Mineworkers*. [Online] Available: http://www.num.org.za/AboutUs/Constitution.aspx [Accessed 23 July 2013].

O'Riordan, L. & Fairbrass, J. 2008. Corporate social responsibility (CSR): Models and theories in stakeholder dialogue. *Journal of Business Ethics*, 83(4):745-758.

Organisation for Economic Cooperation and Development (OECD). 2004. OECD Principles of Corporate Governance. [Online] Available: http://www.oecd.org/corporate/ca/orporategovernanceprinciples/31557724.pdf [Accessed 17 December 2012].

Paton, C. 2013. Trade union rivalry rears its head at Eskom's Kusile power station. *Business Day*, 9 May. [Online] Available: http://www.bdlive.co.za/Feeds/BusinessDay/2013/05/09/trade-union-rivalry-rears-its-head-at-eskoms-kusile-power-station [Accessed 1 July 2013].

Perrini, F., Russo, A., Tencati, A. & Vurro, C. 2011. Deconstructing the relationship between corporate social and financial performance. *Journal of Business Ethics*, 102:59-76.

Phillips, R. 2003. Stakeholder legitimacy. *Business Ethics Quarterly*, 13(1):25-41.

Pillay, S. 2010. A critical analysis of the role of stakeholder engagement in establishing the renewable energy sector in South Africa. Research report submitted in partial fulfilment of the requirements for the degree of Master in Business Administration. Pretoria: University of Pretoria, Gordon Institute of Business Science.

Rambharos, M. 2012. Chief Advisor: Climate Change and Sustainable Development. Eskom, Sandton. 10 January.

Rea, M. 2011. King III and GRI + 12. A 2011 review of sustainability reporting in South Africa. [Online] Available: http://www.sustainabilityservices.co.za/2011ReportsKing/ King%20III%20 &%20GRI+12%20Research%20Report%20 -%20MHR%20-%20Final.pdf [Accessed 16 December 2010].

Reed, M. S. 2008. Stakeholder participation for environmental management: A literature review. *Biological Conservation*, 141:2417-2431.

Roberts, R. W. 1992. Determinants of corporate social responsibility disclosure: An application of stakeholder theory. *Accounting Organizations and Society*, 17(6):595-612.

Rossouw, G. J. 2009. The ethics of corporate governance: Global convergence or divergence? *International Journal of Law and Management*, 51(1):43-51.

Rossouw, M. 2013. Chairman, Energy Intensive Users Group of Southern Africa (EIUG), Houghton: Personal Communication, 11 January.

Rowe, A., Mason, R. & Dickel, K. 1982. *Strategic management and business policy*. Reading: Addison Wesley.

Roy, S., Disenyana, T. & Kiratu, S. 2010. *Clean investments in developing countries: Domestic barriers and opportunities in South Africa*. Canada: International Institute for Sustainable Development.

RSA. 1997. Basic Conditions of Employment Act 75 of 1997. [Online] Available: http://www.denosa.org.za/upload/acts/Basic_Conditions_of_Employment_Act.pdf [Accessed 28 May 2013].

RSA. 1998a. Skills Development Act 97 of 1998. [Online] Available: http://www.nqf.org.za/download_files/nqf-support/Skills%20 Development%20Act%20 (No.%2097%20 of%201998).pdf [Accessed 28 May 2013].

RSA. 1998b. Employment Equity Act 55 of 1998. [Online] Available: http://www.agsa.co.za/Portals/1/ACTS/EEA.pdf [Accessed 28 May 2013].

RSA. 1999. Nuclear Energy Act 46 of 1999. [Online] Available: http://www.energy.gov.za/files/policies/act_nuclear_46_1999.pdf [Accessed 4 June 2013].

RSA. 2000a. Preferential Procurement Policy Framework Act 5 of 2000. [Online] Available: http://www.info.gov.za/view/DownloadFileAction?id=68218 [Accessed 29 May 2011].

RSA. 2000b. Promotion of Access to Information Act 2 of 2000. [Online] Available: http://www.info.gov.za/view/DownloadFileAction?id=68186 [Accessed 10 June 2013].

RSA. 2001. Eskom Conversion Act 13 of 2001. [Online] Available: http://www.info.gov.za/view/DownloadFileAction?id=68118 [Accessed 13 January 2013].

RSA. 2003. Broad-Based Black Economic Empowerment Act 53 of 2003. [Online] Available: http://www.info.gov.za/view/DownloadFileAction?id=68031 [Accessed 2 February 2013].

RSA. 2004. National Environmental Management: Air Quality Act 39 of 2004. [Online] Available: http://www.info.gov.za/view/DownloadFileAction?id=67978 [Accessed 2 February 2013].

RSA. 2008a. Companies Act 71 of 2008. [Online] Available: http://www.info.gov.za/view/DownloadFileAction?id=98894 [Accessed 2 February 2013].

RSA. 2008b. Consumer Protection Act 68 of 2008. [Online] Available: http://www.info.gov.za/view/DownloadFileAction?id=99961 [Accessed 31 May 2013].

RSA. 2010a. National Environmental Management Act, Listing Notice 1: List of Activities and Competent Authorities Identified in terms of

Sections 24(2) and 24D. GN 544. [Online] Available: http://www.info.gov.za/view/DownloadFileAction?id=125455 [Accessed 2 February 2013].

RSA. 2010b. National Environmental Management Act, Listing Notice 2: List of Activities and Competent Authorities Identified in terms of Sections 24(2) and 24D. GN 545. [Online] Available: http://www.info.gov.za/view/DownloadFileAction [Accessed 2 February 2013].

RSA. 2011. Independent System and Market Operator Bill. [Online] Available: http://www.jutalaw.co.za/media/filestore/2012/03/b_9_-_2012_independent_system_and_market_operator.pdf [Accessed 4 June 2013].

RSA. 2012. The new growth path: The framework. [Online] Available: http://www.info.gov.za/view/DownloadFileAction?id=135748 [Accessed 10 March 2012].

Sapa. 2013. Eskom vows to keep the lights on 'at all costs.' *City Press*, 22 April. [Online] Available: http://www.citypress.co.za/business/eskom-vows-to-keep-the-lights-on-at-all-costs/ [Accessed 1 July 2013].

Shleifer, A. & Vishny, R. 1997. A survey of corporate governance. *Journal of Finance*, 52(2):737-775.

South African Chamber of Commerce and Industry (SACCI). 2013. *MYPD3 presentation.* [Online] Available: http://www.nersa.org.za/Admin/Document/Editor/file/ Consultations/Electricity/Presentations/SACCI.pdf [Accessed 5 June 2013].

Southern African Clothing and Textile Workers' Union (SACTWU). 2013. *NERSA public hearing.* [Online] Available: http://www.nersa.org.za/Admin/Document/Editor/file/Consultations/ Electricity/Presentations/SACTWU.pdf [Accessed 6 June 2013].

Sparks, D. 2006. Energy and the Environment. In H. Winkler (Ed.), *Energy policies for sustainable development in South Africa: Options for the future* (pp. 88-103). Cape Town: University of Cape Town, Energy Research Centre.

Spitzeck, H. & Hansen, E. G. 2010. Stakeholder governance: How stakeholders influence corporate decision making. *Corporate Governance*, 10(4):378-391.

Strydom, T. J. 2013. Blackouts loom as Eskom feels the heat. *Times Live*, 20 March. [Online] Available: http://www.timeslive.co.za/thetimes/2013/03/20/blackouts-loom-as-eskom-feels-the-heat [Accessed 1 July 2013].

Terry, G. 2008. *Green – Why corporate leaders need to embrace sustainability to ensure future profitability.* Cape Town: SAICA.

Tyler, E. 2009. Aligning South African energy and climate change mitigation policy. [Online] Available: http://www.erc.uct.ac.za/Research/publications/09Tyler_Policy_alignment.pdf [Accessed 6 April 2012].

Van der Laan Smith, J., Adhikari, A. & Tondkar, R. 2005. Exploring differences in social disclosures Internationally: A stakeholder perspective. *Journal of Accounting and Public Policy*, 24(2):123-151.

Weybrecht, G. 2010. *The sustainable MBA: The manager's guide to green business.* West Sussex: John Wiley & Sons.

World Business Council for Sustainable Development (WBCSD). 2012. Empowering Stakeholders. [Online] Available: http://www.wbcsd.org/Pages/EDocument/EDocumentDetails.aspx?ID=15260&NoSearchContextKey=true [Accessed 11 December 2012].

World Finance. 2013. Eskom: South Africa's largest electricity supplier on good corporate governance. [Online] Available: http://www.worldfinance.com/strategy/esg/eskom-south-africas-largest-electricity-supplier-on-good-corporate-governance [Accessed 4 March 2011].

From inequality to equality: Evaluating normative justifications for affirmative action as racial redress

Susan Hall & Minka Woermann

ABSTRACT

We investigate whether, and to what extent, Nozick's entitlement theory and Rawls's theory of justice as fairness can normatively ground affirmative action policies. Our findings are that, whereas the Nozickean project offers no guidance for large-scale redress, the Rawlsian position supports affirmative action as redress, but only in its softer forms. Therefore, if one accepts the assumptions of equal liberty and fairness upon which Rawls's theory is based, one is left with two alternatives: either to reject Rawls's theory because it fails to support quota systems, or to accept Rawls's theory and reject quota systems as a legitimate form of redress. We argue for the latter option.

Keywords:

Rawls, affirmative action, apartheid, quota systems, principle of rectification, justice as fairness, procedural justice, diversity

INTRODUCTION

Twenty years after the advent of democracy, and despite sustained economic growth during the post-apartheid period (Lundahl & Petersson, 2009:22), South Africa remains rent by vast inequalities in income, education, and access to resources and services. While there is some evidence that there has been progress in reducing inequality between population groups in areas such as income distribution (Van der Berg, 2011:128; Lundahl & Petersson, 2009:8) and access to basic services (Seekings, 2007:22), the pace of change remains frustratingly slow, and levels of interracial inequality remain extremely high (Leibbrandt *et al*., 2012:33).

In particular, the pattern of income distribution and employment in South Africa remains tied to the hierarchy of racial classification institutionalised by the apartheid government. Whites continue to top the pay scale, followed

Susan Hall *
Department of Philosophy
Stellenbosch University
Private Bag X1
Matieland
7602
South Africa
E: shall@sun.ac.za

Minka Woermann
Department of Philosophy
Stellenbosch University
Private Bag X1
Matieland
7602
South Africa
E: minka@sun.ac.za

** Author to whom correspondence should be addressed*

***Susan Hall** is a lecturer in the Department of Philosophy and the Centre for Applied Ethics at Stellenbosch University. Her PhD, completed in 2012, focused on the ethics of human enhancement. She currently teaches environmental ethics, business ethics and bioethics.*

***Minka Woermann** is a senior lecturer in the Department of Philosophy, and is Head of the Unit for Business Ethics and Public Integrity in the Centre for Applied Ethics at Stellenbosch University. She is the editor-in-chief of the* African Journal of Business Ethics *and the author of* On the (im)possibility of business ethics: Critical complexity, deconstruction, and implications for understanding the ethics of business *(Springer, 2013).*

by Indians and coloureds, with black aggregate earnings remaining the lowest (Van der Berg, 2011:121-122). According to the South African Institute of Race Relations, in 2011, "the median monthly wage for African earners was R2 380, for coloured earners R3 030, for Indian earners R6 800, and for white earners R10 000" (2013a) and black employees remained woefully under-represented in senior management (2013b:254). Levels of unemployment follow similar patterns – in 2009, "narrow unemployment was 28.8 per cent for blacks, against 4.6 per cent for whites; coloureds (21.6%) and Indians (12.7%) occupied intermediate positions" (Van der Berg, 2011:127).[1] It is indisputable that the racial discrimination legally entrenched by the colonial and Union governments[2] and under the apartheid regime[3] contributed greatly to this pattern of inequality (Van der Berg, 2011:120; Seekings, 2007:2).

Addressing these disparities in income and employment has been a major concern of government since 1994, and affirmative action has been introduced as part of an arsenal of socio-economic policies directed towards this goal, given that "most income inequality originates in the labour market, through the distribution of jobs and the wage formation process" (Van der Berg, 2011:133). Notably, affirmative action, under the Employment Equity Act of 1998, is explicitly referred to as a form of "redress" for the "disparities in employment, occupation and income" that have resulted from "apartheid and other discriminatory laws and practices" (1998:1).

1 In 2011, blacks made up 79.2% of the national population, coloureds 8.9%, Indians 2.5 %, and whites 8.9 % (Van der Berg, 2011:17).

2 For example, the Mines and Works Act (1911), the Natives Land Act (1913), and the Natives (Urban Areas) Act (1923).

3 For example, the Group Areas Act (1950), the Black Building Workers Act (1951), the Black Labour Relations Regulation Act (Black Labour and Settlement of Disputes Act) (1953), the Industrial Conciliation Act (Labour Relations Act) (1956), and the Environmental Planning Act (1967).

Legally prescribed affirmative action clearly influences how businesses[4] (may) operate in post-apartheid South Africa. In other words, affirmative action amounts to state interference in the employment practices of business, which is motivated by the need to reduce inequality and to bring about more equitable representation in the workplace. State interference in business activities in order to reduce inequality may be merited if we accept that (at least some) businesses have some degree of moral culpability for previous injustices that resulted in inequality, or, at minimum, that businesses operating under apartheid benefited from these historical injustices. The Truth and Reconciliation Commission institutional hearings on the role played by business during apartheid found that "most businesses benefited from operating in a racially structured context", and that certain sectors, such as the mining industry, "were involved in helping to design and implement apartheid policies" (1998:58). The broad nature of these findings have been criticised for their "blunt, systemic, view of the relationship between business and apartheid", and for failing to pay sufficient attention to "gradations of moral behaviour under apartheid" (Nattrass, 1999:381). However, this does not entirely undermine the idea that at least some businesses have some degree of moral responsibility for post-apartheid inequality, or at least benefited from the unjust policies that contributed towards this inequality, and therefore have a corresponding moral obligation to contribute towards its rectification.

Even if we reject this conclusion, business may nonetheless have a moral duty to take action to reduce inequality in employment and income. This is because, as agents with great social power, it is generally accepted that business has a moral responsibility towards society in

4 Currently, the Employment Equity Act is applied to businesses with more than 50 employees or whose annual turnover is more than that set down in Schedule 4 of the Act (1998:3).

general – in other words, to all stakeholders who can affect or be affected by business operations – and not only to shareholders. This includes both negative responsibilities (a duty to refrain from causing harm to society) and positive responsibilities (a duty to contribute actively to the good of society). This assertion would not exclude businesses that clearly have no moral culpability for apartheid, such as those established after 1994. In addition, business may have good instrumental reasons for wishing to see inequality reduced, given that on-going economic inequality contributes towards political instability, which, in turn, has a negative impact upon financial development (Roe & Siegel, 2011).

Even if we accept that it is imperative to rectify inequalities resulting from past injustice, and that business has a role to play here, the question remains whether affirmative action is a morally appropriate means to achieve this goal. This remains controversial, and is frequently the topic of public debate. In this paper, we seek to examine this question by investigating possible normative grounds for affirmative action as redress for past injustice.[5] We will do so by evaluating the possible implications of two paradigmatic theories of distributive justice, namely Robert Nozick's entitlement theory of justice and John Rawls's theory of justice as fairness. These two distributive models have been highly influential in twentieth century political philosophy, providing theoretical grounding for libertarianism and liberalism respectively.[6] If we are unable to find grounds for affirmative action in either of these two theories, which offer competing normative frameworks for thinking about economic justice, this may imply that there is insufficient justification for affirmative action (at least as a form of redress), or that an alternative theoretical framework must be found in order to provide such justification.

ENTITLEMENT, RESTITUTION, AND AFFIRMATIVE ACTION

It may seem odd to seek normative justification for affirmative action in the work of Robert Nozick. Nozick is, after all, a libertarian who argues in *Anarchy, State, and Utopia* that "the minimal state is the most extensive state that can be justified", and that "any state more extensive violates people's rights" (1974:149). It therefore seems unlikely that one could discover in Nozick moral grounds for affirmative action, which entails extensive state interference in the employment practices of business.

Aside from the libertarian rejection of any state intervention beyond the protective services of the minimal state, it also seems likely that Nozick would take issue with the goals of affirmative action. The Employment Equity Act in South Africa is directed towards upsetting or revising the "disparities in employment, occupation and income within the national labour market" (1998:1), and seeks to bring about a less racially skewed and more egalitarian pattern of distribution. In other words, the current pattern of distribution and disadvantage is seen as undesirable, and a more equitable pattern of distribution is sought. However, Nozick rejects "patterned principles of distributive justice" that consider the "total

5 As we are focusing here on interracial inequality in income distribution and employment resulting from historical racial discrimination, we will only examine justifications for race-based affirmative action. In other words, we do not focus on other forms of affirmative action that are included under the Employment Equity Act, such as affirmative action in favour of women or people with disabilities, although it is possible that our argument may also have implications for these forms of affirmative action.

6 While we choose to focus on these two theories because of their profound influence, we acknowledge that other theories of distributive justice, for example, communitarian theories, are available. It is beyond the scope of this paper to explore these alternative theoretical models.

picture of holdings" (1974:168). For Nozick, what matters is not the overall pattern of distribution in society, but rather whether each individual is entitled to what he or she has. As long as this is the case, any pattern of distribution is just, and there can be no justification for attempts to bring about (or maintain) a more egalitarian distributive pattern in society, as this would involve interfering in the free economic choices of individuals.

However, a Nozickean justification for affirmative action *may* possibly be found in the principle of "rectification of injustice in holdings" (1974:152).[7] Despite Nozick's rejection of any patterned (re)distribution of holdings, he follows this rejection with an important parenthesis: "An exception is those takings that fall under the principle of the rectification of injustices" (1974:168). In order to interrogate whether affirmative action could be justified as just such an exception, we must provide a short overview of Nozick's entitlement theory of justice.

As described above, Nozick rejects any patterned principle of distributive justice. Rather, he argues for an entitlement theory of justice, which is historical, and which is concerned, not with a desired pattern of distribution, but rather with whether each individual is entitled to what he or she has. The entitlement theory is composed of three principles. Each individual is entitled to what he or she has, if: (1) a holding arises from a just original acquisition, or (2) a holding arises from a just transfer. The third principle (3) states that nobody is entitled to any holding that was not acquired in accordance with (1) or (2) (Nozick, 1974:151). Any pattern of distribution is just (no matter how unequal), as long as holdings have been acquired and transferred justly. As long as this is the case, any redistribution is morally illegitimate, including redistribution to bring about a more egalitarian distribution, as this would deprive individuals, whose holdings are redistributed, of what they are entitled to.

However, this does not seem to imply that redistribution in the South African context is necessarily morally illegitimate. Indeed, such redistribution may be required as a matter of justice under the entitlement theory. It is the third principle that is relevant here. Where holdings in society have been acquired or transferred in a way that is incompatible with principles (1) and (2), entitlement is absent. In other words, Nozick acknowledges that:

> *Not all actual situations are generated in accordance with the two principles of justice in holdings: the principle of justice in acquisition and the principle of justice in transfer. Some people steal from others, or defraud them, or enslave them, seizing their product and preventing them from living as they choose, or forcibly exclude others from competing in exchanges.* (1974:152)

In such situations, Nozick sanctions a principle of rectification. According to this principle, historical injustices in the acquisition and transfer of holdings must be rectified. To the extent that it is possible, we should try to bring about the situation (the distribution of holdings) that would have obtained, had the injustice not occurred (1974:153). If we agree that legally sanctioned racial discrimination during the colonial era and under apartheid gave rise to the flouting of the principles of justice in acquisition and transfer, then the resultant pattern of distribution that we are left with is unjust. Examples abound of this kind of racial discrimination in South African history. Aside from the questionable original acquisition of land by white settlers, and the long history of interpersonal discrimination, which undermined fair economic competition, legally sanctioned policies such as racially based land tenure (including forced removals) and job reservation would undoubtedly have flouted Nozick's principles of just acquisition and transfer. If these injustices had not occurred, we can assume that black South Africans, under conditions of fair competition, would have acquired a far greater share in the labour

7 Such a move is not unprecedented – see, for example, Valls (1999).

market and the economy, and that the pattern of employment and income distribution would have looked quite different today.

If this is indeed the case, and if the principle of rectification requires that we ought to attempt to bring about the distribution of holdings that would have realised, had injustices not occurred, then extensive state intervention to bring about such a distribution could be warranted, even under libertarian theory, which holds that, in the normal run of things, "the minimal state is the most extensive state that can be justified" (1974:149). Nozick admits as much, acknowledging that "past injustices might be so great as to make necessary in the short run a more extensive state in order to rectify them" (1974:231). It seems that this is precisely the situation that we are faced with in South Africa.

The question remains, however, whether affirmative action is a morally appropriate method for the rectification of historical injustice under the entitlement theory of justice. On the face of it, it seems that this could be the case. Nozick's full principle of rectification runs as follows:

> *This principle uses historical information about previous situations and injustices done in them (as defined by the first two principles of justice and rights against interference), and information about the actual course of events that flowed from these injustices, until the present, and it yields a description (or descriptions) of holdings in the society. The principle of rectification presumably will make use of its best estimate of subjunctive information about what would have occurred (or a probability distribution over what might have occurred, using the expected value) if the injustice had not taken place. If the actual description of holdings turns out not to be one of the descriptions yielded by the principle, then one of the descriptions yielded must be realized.* (1974:152-153)

Affirmative action seems to be one way of achieving this (probably in conjunction with other sorts of interventions). As noted above, we can assume that, in the absence of the historical injustices perpetrated by the colonial and apartheid states, black South Africans would have acquired a far greater share in the labour market, and the inequalities in income distribution would have been far less. If affirmative action is able to bring about a situation in which previously dispossessed South Africans are better able to access the labour market and, particularly, management positions, along with the higher salaries that these positions attract, this would at least bring us closer to the situation (the pattern of distribution) that would have resulted in the absence of the identified historical injustices.[8] Note that this moral justification for affirmative action is not concerned with bringing about diversity in the workplace, because such diverse representation is valuable in itself (an argument which is frequently raised in favour of affirmative action in South Africa[9]). Rather, it focuses only upon rectifying historical injustices in the acquisition and transfer of holdings, and would therefore no longer be morally justified once this rectification has been achieved (in other words, once one of the descriptions of holdings that would have come about in the absence of historical injustice has been achieved).

It seems then that a prima facie case can be made for affirmative action in South Africa, based on the principle of rectification. However, there is a further objection to be considered. The entitlement theory of justice is focused on

8 Of course, this assumes that affirmative action would indeed have this effect, rather than simply benefiting a small minority of black people who are already advantaged. This criticism was recently raised by Benatar, who argues that affirmative action in South Africa is "most likely to benefit those who were least disadvantaged" (2008:282). While this point deserves further consideration, space does not allow us to pursue this here.

9 For a discussion and critique of arguments for affirmative action that appeal to the value of diversity, see Benatar (2008:288-299).

individual entitlement – Nozick's argument is premised on the primacy of individual property rights. The goal of rectification, according to this theory, is to ensure that the holdings of individuals conform to what would have been the case in the absence of historical injustice in the acquisition and transfer of holdings. In other words, it seems that "Nozick would recognise only individuals, not groups, as legitimate victims" of injustice (Van Wyk, 2001:181), and therefore that only individuals ought to be targeted for restitution under the principle of rectification. This also appears to be the implication of Nozick's strong rejection of patterned principles of distribution. Group-based affirmative action, which requires that members of designated groups be given preference, as practised in South Africa, seems to undermine this focus on individual entitlement. Does this mean that affirmative action cannot be considered an appropriate method for rectifying historical injustices in acquisition and transfer? In order to answer this question, we need to look at some of the practical difficulties in applying the principle of rectification under Nozick's theory.

RECTIFICATION IN PRACTICE: BACK TO PATTERNED DISTRIBUTION?

While Nozick's principle of rectification is theoretically simple – identify where historical injustices in acquisition and transfer have occurred, and ensure that they are rectified – in practice, the application of this principle is extraordinarily complex (Valls, 1999:301). This is especially the case in situations like the South African context, where innumerable injustices have occurred over a number of years, affecting vast swathes (indeed, the majority) of the population. The principle of rectification asks us to determine what pattern(s) would (probably) have occurred if these injustices had not taken place, and realise one of these patterns. However, if this requires us to determine what holdings *individuals* would have possessed in the absence of legally entrenched historical injustice in South Africa, this task seems to be so complex so as to be impossible. In some cases (for example, where forced removals took place), it is possible to identify specific victims who can be compensated. However, in terms of income and employment distributions, the multiple variables that have contributed towards the current state of affairs would be, for all intents and purposes, impossible to tease apart, and the impact upon the holdings of specific individuals would be impossible to quantify.

Unfortunately, Nozick provides little practical guidance as to how the principle of rectification should be applied. He leaves as open questions, for example, how far back we should go historically in terms of rectifying injustice, and how our obligations would differ in situations where descendants of the original beneficiaries and victims of injustice are involved, rather than the original actors, although he ventures that, ideally, "theoretical investigation will produce a [fully worked out] principle of rectification" (1974:152). However, he does acknowledge that there may be situations in which (a) there are multiple possibilities for descriptions of holdings that could have occurred in the absence of historical injustice, which would be difficult to choose between (1974:153), or (b) where historical information is insufficient to arrive at any full description of (individuals') holdings as they would have been in the absence of historical injustice (1974:231). In these situations, however, it seems that libertarian theory, with its strong focus on individual property rights, offers us no solution. Rather, Nozick suggests that we would need to revert to the principled patterns of distribution that he previously strongly rejected. In the first case, where there are multiple descriptions of holdings that could have occurred in the absence of historical injustice, he suggests that we may need to choose between these on the basis of "considerations about distributive justice and equality that I argue against"

(1974:153). In the second case, where we lack sufficient historical information to determine the situation that would have pertained in the absence of historical injustice (which seems to be precisely the situation that we are faced with in South Africa), Nozick is forced to advocate for the adoption of Rawlsian principles which he has previously devoted a great deal of energy to debunking:

> *[A]ssuming that (1) victims of injustice generally do worse than they otherwise would and (2) that those from the least well-off group in the society have the highest probabilities of being the (descendants of) victims of the most serious injustice who are owed compensation ... then a rough rule of thumb for rectifying injustices might seem to be the following: organize society so as to maximise the position of whatever group ends up least well-off in the society.* (1974:231)

This may provide a justification for group-based affirmative action in the South African context, as opposed to individual restitution, but, paradoxically, only if affirmative action can be justified by Rawlsian principles (a question we will turn to next). What the preceding discussion does seem to show, however, is that the entitlement theory of justice is unable to cope with situations where distribution has been heavily skewed by historical injustice, as is the case in South Africa, without abandoning (at least in the short term) its commitment to the minimal state and to sacrosanct individual property rights – in other words, to its own libertarian foundations. In these situations, the entitlement theory is forced to rely upon patterned principles of distributive justice that it has previously situated itself in opposition to. In other words, under Nozick's theory, rectification is required in cases where it can be established that the principles of transfer and acquisition have been flouted. However, where we cannot identify precisely what the situation would have been in the absence of historical injustice, but it is clear that injustice has severely skewed the pattern of holdings in society, rectification may require that society should be organised "so as to maximise the position of whatever group ends up least well-off" (Nozick, 1974:231). Therefore, in societies marred by historical injustice, like South Africa, Rawlsian principles (or some other patterned principles of distribution) must first be applied, before Nozickian recommendations as to the minimal state and the protection of individual property rights can be instituted. For the time being, therefore (until rectification has been achieved), Nozick's entitlement theory of justice is of little use to us, as it cannot tell us how rectification ought to proceed without sacrificing its own premises.

THE RAWLSIAN VIEW OF JUSTICE AS FAIRNESS

Having demonstrated both why Nozick's theory cannot ground a defence of affirmative action as a form of redress (and thus of distributive justice) without abandoning its libertarian foundations, and why the issue of such a defence cannot be side-stepped in the South African context, we now turn to the question raised above, namely whether affirmative action can be justified by Rawlsian principles.

Before addressing this question, however, it is necessary to provide background to Rawls's conception of justice, as put forward in *A theory of justice* (1971/1999). For Rawls, justice primarily concerns the question of fairness, and in order to determine what fairness implies, we must place ourselves in "the original position of equality" (1999:11), understood as "a purely hypothetical situation characterized so as to lead to a certain conception of justice" (1999:11).

Rawls contends that our sense of justice is influenced by our position in society (which, in itself, is largely the outcome of natural chance and historical contingency). The only manner in which we can counteract our prejudices and partisan interests is by hypothetically placing ourselves behind the so-called "veil of ignorance" (1999:11). Behind the veil of ignorance, we know nothing about ourselves or about our standing in society, which means that "all are similarly situated and no one is able to design principles that favour his particular position" (1999:11). Rawls therefore argues that we should choose the principles of justice in the original position, since it is "the appropriate original status quo" (1999:11), and is thus "an initial situation that is fair" (1999:11).

Rawls further postulates that, in the original position, we will act in a manner that is rational, conservative, and self-interested. In other words, we will not gamble with our futures, or sacrifice our interests for the interests of others. These conditions translate into a concern for the worst-off in society, as everyone would be worried that – once the veil is lifted – they would fall into this demographic. Given these basic shared views, Rawls argues that we would come to a consensus regarding two principles of justice: the first dealing with our basic liberties, and the second dealing with the distribution of wealth and income and institutional design. These principles read as follows:

> *First: each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others.*
>
> *Second: social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone's advantage, and (b) attached to positions and offices open to all.* (Rawls, 1999:53)

Principle 1 is referred to as the Equal Liberty (EL) Principle, Principle 2 (a) is referred to as the Difference Principle (DP), and Principle 2 (b) is referred to as the Fair Equality of Opportunity (FEO) Principle. Rawls gives preference to the first principle, arguing that "infringements of the basic liberties protected by the first principle cannot be justified, or compensated for, by greater social and economic advantage" (1999:53-54).

One last important remark to be made before turning to the issue of affirmative action is that Rawls presents his theory of justice as ideal theory. This means that he examines the conditions for justice in circumstances where on-going injustices are absent, and where present distributions are not the outcome of specific historical contingencies such as social engineering (Taylor, 2009:479). With reference to Rawls's conception of ideal theory, Thomas Nagel (2003:82) argues that ideal theory is helpful, in that it enables you to measure societies against the ideal of justice, and thereby allows you to characterise societies as unjust when they fall short of this ideal. However, Nagel also argues that ideal theory "does not tell you what to do if, as is almost always the case, you find yourself in an unjust society, and want to correct that injustice" (2003:82). This latter case falls within the scope of what Rawls terms "non-ideal theory", which clearly encompasses questions regarding affirmative action, defined as a measure "to deal with the unjust consequences of an unjust history" (Nagel, 2003:82).

Rawls's strict delineation between ideal and non-ideal theory explains why he never directly commentated on the justness of affirmative action, except for one passing comment on *A theory of justice* that appears in *Justice as fairness: A restatement*, which reads as follows:

> *The serious problems arising from existing discrimination and distinctions based on gender and race are not on its agenda … This is indeed an omission in* Theory*; but an omission is not as such a fault … Whether fault there be depends on how well that conception articulates the political values necessary to deal with these questions. Justice as fairness, and other liberal conceptions like it, would certainly be seriously defective should they lack the resources to articulate the political values essential to justify the legal and social institutions needed to secure the equality of women and minorities.* (Rawls, 2001:66)

The question of whether affirmative action can be justified by Rawlsian principles therefore hinges on whether Rawls's notion of justice as fairness does indeed hold the resources for normatively grounding affirmative action, especially in the South African context, and it is this question that will guide the remainder of the analysis. This analysis – which will largely be informed by Robert Taylor's detailed exploration of a Rawlsian perspective on affirmative action[10] – will focus on three aspects: the scope of affirmative action interventions; EL and FEO, and the logical ordering of these principles; and the limit-conditions of non-ideal theories and their consequences for assessing the outcomes of social policies, specifically affirmative action policies.

A RAWLSIAN PERSPECTIVE ON THE LEGITIMATE SCOPE OF AFFIRMATIVE ACTION

Up to this point in the argument, affirmative action has been treated generically as a socio-economic policy aimed at dismantling the entrenched patterns of racial inequality that characterise South African society in general, and the workplace in particular, and that are the legacy of the apartheid era. However, in order to determine whether Rawlsian principles can normatively ground these policies, it is necessary to distinguish between different categories of affirmative action. In this regard, we take as our lead Taylor's (2009:478-479) adaptation of Nagel's (1973:349-351, 356) taxonomy, which is cited below in condensed form:

- Category 1: Formal Equality of Opportunity: *... requiring inter alia the elimination of legal barriers to persons of color, women, and so forth as well as the punishment of private discrimination against them.*
- Category 2: Aggressive Formal Equality of Opportunity: *self-conscious impartiality achieved through sensitivity training, external monitoring and enforcement, outreach efforts, and so forth as a possible supplement to category 1.*
- Category 3: Compensating Support: *special [measures] all designed to compensate for color- or gender-based disadvantage in preparation, social support, and so forth [in order] to help recipients compete more effectively.*
- Category 4: Soft Quotas: *'compensatory discrimination in the selection process,' such as adding 'bonus points' to the selection of indices of persons of color or women in ... hiring processes, but without the use of explicit quotas.*
- Category 5: Hard Quotas: *'admission [or hiring] quotas,' perhaps 'proportional to the representation of a given [historically oppressed] group in the population.'*

The South African Employment Equity Act (1998) draws from most of these categories in framing its aims and its purpose, as set out in the Summary of the Employment Equity Act, 55 of 1998, issued in terms of Section 25(1). Statements from the summary that substantively support these categories are provided below:

- Category 1: "The purpose of this act is to achieve equity in the workplace by promoting equal opportunity and fair treatment in employment through the elimination of unfair discrimination"; and, "Affirmative action measures implemented by a designated employer must include measures to identify and eliminate

10 The question of a Rawlsian account of affirmative action is not dealt with extensively in the extant literature. Apart from Robert Taylor's analysis, which is summarised here, and Samuel Freeman's short treatment of the problem in his book, titled *Rawls* (which is cited, in part, later on in this article), the only scholars to have published an extended treatment of the problem are Edwin Goff (1976) and Elisabeth Rapaport (1981). However, as pointed out by Taylor (2009:477), both these treatments are problematic, albeit for different reasons (namely, Goff's neglect of Rawls's partial-compliance applications and Rapaport's failure to distinguish between ideal and non-ideal conditions).

employment barriers, including unfair discrimination, which adversely affect people from designated groups."

- Category 2: "Affirmative action measures implemented by a designated employer must include measures in the workplace based on equal dignity and respect for all people."
- Category 3: "Affirmative action measures implemented by a designated employer must include making reasonable accommodation for people from designated groups in order to ensure that they enjoy equal opportunities and are equitably represented in the workforce of a designated employer."
- Category 4 and 5: "Affirmative action measures implemented by a designated employer must include measures (i.e. preferential treatment [category 4] and numerical goals [category 5]) to ensure the equitable representation of suitably qualified people from designated groups … and to retain and develop people from designated groups …"

In order to interrogate whether the Employment Equity Act can be justified according to Rawlsian principles, it is necessary to determine whether, and to what extent, Rawls's theory can plausibly be used as normative support for these categories under both ideal and non-ideal circumstances.

Taylor (2009) argues that, given ideal circumstances, Category 1 affirmative action interventions will always be justified, due to FEO: FEO requires *formal* equality of opportunity, which means that, in principle, there should be no barriers to entry into the workplace (including barriers such as discrimination or monopolistic privileges). FEO also requires *substantive* equality of opportunity, which means that people of equal talent should have equal opportunities in life; and, furthermore, that it is the state's role to facilitate equal opportunities. Although Category 2 interventions are more difficult to argue for under ideal circumstances, Taylor argues that these interventions would be justified only as a means to retain ideal conditions by preventing a backsliding into non-ideal past conditions (e.g., a history marred by racism and sexism), and by preventing certain current developments (e.g., large-scale immigration coupled with ethnic clumping in certain neighbourhoods) from leading to future non-ideal conditions. In ideal circumstances, Categories 3 to 5 interventions, however, threaten both formal and substantive FEO, and are therefore incompatible with Rawls's theory. In this regard, Samuel Freeman (2007:91) – a Rawlsian scholar – states that:

> *under ideal conditions … preferential treatment [is not] compatible with fair equality of opportunity. It does not fit with the emphasis on individuals and individual rights, rather than groups or group rights, that is central to liberalism.*

What the above citation implies is that FEO is a necessary consequence of EL (which, to recall, is given lexical priority in Rawls's ideal theory). If we affirm the liberal view that individuals have equal liberties, then we are also committed to endorsing socio-economic institutions that engender these liberties to the extent that they promote fair equality of opportunity to all – regardless of race, gender, class, etc. Under non-ideal circumstances, however, the lexical priority of EL over FEO can, in some circumstances, be temporarily reversed, as argued below.

Rawls's non-ideal theory is contingent on one of two specific conditions: either partial compliance, in which on-going systematic injustices are carried out in the private or public sphere, or an economic and/or cultural historical legacy that negatively impacts upon present conditions (Rawls, 1999:215). Given these adverse conditions, Taylor (2009) argues that it seems plausible that a case can be made (1) to extend the scope of socio-economic policy beyond Category 2 interventions (which cannot address the legacy of past discrimination), in order to safeguard the moral and political equality of designated groups; and, (2) to reverse the order of EL over FEO (since, without substantive equality of opportunity, one can hardly claim equal liberty amongst people).

Taylor argues that the goal of non-ideal theory is to create a world in which ideal conditions can come about. However – in order to prevent non-ideal theory from functioning in a purely instrumental and utilitarian manner, in which questions of rightness and justness are sacrificed in the name of effectiveness – it is necessary to put certain constraints in place to ensure that the spirit of ideal theory is retained (even though the letter may be temporarily suspended).

Taylor follows Christine Korsgaard (1996) in her treatment of non-ideal theory, which is grounded in Rawls, but which also extends his position. In *Creating the kingdom of ends*, she identifies three conditions under which the lexical ranking of EL over FEO may be temporarily suspended, and which will ensure that "ideal [theory] will also guide our choice among nonideal alternatives" (Korsgaard, 1996:157). These conditions are: (1) the non-ideal theory must be consistent with justice-in-general, in which "the common good [is defined by] certain general conditions that are … equally to everyone's advantage" (Rawls, 1999:217-218); (2) although the lexical order of EL over FEO may temporarily be reversed, any action must be undertaken with the goal of first securing EL (therefore preferencing FEO above EL is only justifiable if the goal is to promote EL); (3) the non-ideal theory must be consistent with the spirit of ideal theory.

In order to assess Category 3 to 5 affirmative action interventions in light of these constraints, it is first necessary to elaborate on the third condition. To act consistently with the spirit of ideal theory implies that any means undertaken to secure ideal conditions must appeal to liberal-democratic principles. Taylor (2009:490) argues that "permitting violations of the spirit of ideal theory in addition to its letter may … lead us to ask whether the nonideal theory can be wedded to its deontological ideal-theory counterpart without fatal tension." Otherwise put, violating the spirit of ideal theory constitutes a violation of procedural justice, which denotes "[a] fair procedure [that] translates its fairness to the outcome" (Rawls, 1999:75). If the procedure is not fair, then we have no guarantee of the fairness of outcome either (regardless of the goals that we set ourselves).

Applied to the categories of affirmative action, it stands to reason that Category 3 interventions are consistent with the spirit of ideal theory, since such interventions are aimed at liberating individuals by removing extraneous constraints that hamper fair competition. Drawing on Lyndon Johnson's metaphor, Taylor (2009:492) argues that "category 3 interventions remove the weights from the legs of participants in a race rather than rigging its rules." Category 4 and 5 interventions, however, violate the spirit of ideal theory, in that procedural justice (and the demands of FEO) is suspended through the enforcement of soft and hard quotas, in order to attain certain outcomes. If a fair procedure is not followed, fairness in the outcome is also not guaranteed, and it would be inconsistent with Rawls's theory to strive for fair outcomes whilst dismissing the need to establish fair conditions of competition.

The difficulty here is that we cannot know what a fair outcome would be, as a fair outcome is only guaranteed by a fair procedure. Category 4 and 5 interventions (soft and hard quotas) are directed towards bringing about a fair(er) outcome in cases where that outcome cannot be brought about by the use of Category 1 to 3 interventions alone. However, if these interventions are directed toward bringing about a fair outcome (in other words, a distribution that would have resulted in the absence of historical inequality), we must know what a fair outcome is, so that these interventions can be designed in such a way that they would indeed bring about, or contribute towards, this outcome – in this case, a just distribution in income and employment. However, as stated above, "we cannot … know what a just distribution looks like unless we have actually carried out a just procedure" (Taylor, 2009:493). Therefore, Category 4 and 5 interventions, in aiming for a particular outcome, would be illegitimate – it would not be clear that the outcome that these interventions are directed towards would indeed be fair, as a result of their suspension of procedural justice and our lack of knowledge about the "counterfactual results of a 'clean' competition" (Taylor, 209:494). The attempt to establish a Rawlsian justification for Category 4 and 5 forms of affirmative action therefore finds itself faced with the same difficulty that we encountered in applying Nozick's principle of rectification in the South African situation – we have insufficient knowledge about what the (fair) distributional situation would have been in the absence of historical injustice (in other words, had a fair procedure been followed).

The preceding analysis leads Taylor (2009:494) to conclude that:

> *rejigging competitive results on justice grounds is inevitably arbitrary and inconsistent with the spirit of FEO, at least if one accepts the interpretation of FEO as an application of pure procedural justice to the distributive domain of offices and positions, as Rawls very clearly does.*

Therefore, whilst Rawls's theory allows us to normatively ground the legal clauses in the Employment Equity Act (1998) that support Category 1 to 3 interventions, the logical consequences of his theory lead us to morally reject legal clauses based on Category 4 and 5 interventions, i.e. soft and hard quotas.

CONCLUSION

In the foregoing analysis, we have shown that, in situations where distributions are heavily skewed due to historical injustices such as apartheid, Nozick's entitlement theory is of little use. While Nozick supports the need for redress in situations where the principles of justice in acquisition and transfer have been flouted, his principle of rectification cannot tell us what we ought to do in situations where it is difficult to determine what the distributional situation would have been in the absence of previous injustice. In these situations, Nozick suggests that we may be justified in adopting Rawlsian principles in order to address these issues. However, this implies abandoning, at least in the short term, the libertarian premises on which his theory is based.

We have also, however, demonstrated that Rawls's theory, which is premised on procedural fairness and equal liberty, can only normatively ground Category 1 and 2 interventions in ideal circumstances, and Category 1, 2, and 3 interventions in non-ideal circumstances. Category 4 and 5 interventions, which advocate the use of soft and hard quotas respectively, and which are legally prescribed in the Employment Equity Act (1998), are – at least from the perspective of Rawls's egalitarian theory – morally unjustifiable. The quota system suspends fair equality of opportunity in the name of securing equal liberties, but this represents a violation of procedural justice. The use of soft and hard quotas, therefore, cannot guarantee the justness of distributive outcomes, since these outcomes are themselves the consequence of unfair procedures, and because we have insufficient information about what the outcome of a counterfactual fair procedure would have looked like.

Faced with this argument, we are left with two possible outcomes: either we reject Rawls's conclusion on the basis that his theory is insufficient and simply does not go far enough in providing a normative foundation for the types of interventions (i.e. quotas) that are deemed necessary in order to secure race-based equality in a country like South Africa, or we accept Rawls's conclusion and reject the quota system for the reason that there is no sound moral justification for endorsing such a system. In this latter case, we would need to explore alternative means for the rectification of inequality. It is beyond the scope of this paper to give proper attention to these two alternatives. However, we offer the following provisional remarks in this regard.

The first alternative (i.e. the rejection of the Rawlsian position) necessarily implies that we need to find different criteria for grounding affirmative action policies. Apart from the equality argument, one popular argument often cited in support of affirmative action interventions is the diversity argument. Indeed, the landmark ruling in the *Regents of the University of California v. Bakkes*, in the U.S. Supreme Court in 1978, upheld affirmative action as one of several factors in college admission policies on the basis of the diversity argument. Similarly, the South African Employment Equity Act (1998:1) also cites diversity as one of the justifications for the Act, stating in the preface that affirmative action is necessary "in order to achieve a diverse workforce broadly representative of our people."

However, as Benatar (2008:288) has argued, "[t]he more extreme the form of affirmative action the less it can be supported by the diversity argument." Given the fact that quota systems infringe on fair equality of opportunity, we are also of the opinion that a stronger criterion than that of diversity needs to be put forward in order to legitimise such infringements. Since the diversity argument is based on utilitarian as opposed to deontological grounds, in that it appeals to the value of diversity as a desirable outcome, it also cannot provide moral justification for the quota system, given the Constitutional enshrinement of moral equality before the law (which is clearly based on a deontological principle, rather than the utilitarian principle of the greater good). We therefore conclude that, in comparison to the equality argument, the diversity argument is weak. This is because the cost of forsaking the liberal values that undergird Rawls's theory and the South African Constitution, in order to promote a narrowly-conceptualised view of diversity, is too high.

Given this argument, we prima facie reject alternative one in favour of alternative two: we accept the Rawlsian conclusion that quota systems are morally unjustifiable, but we also strongly support the need for rectification of historical injustices, and, therefore, the exploration of alternative channels for restitution and redress. One such a channel is education.

Admittedly, the call for educational reform and the promotion of quality education is made often and loudly, but this does not detract from the urgent imperative to address this issue. In an article titled *Poverty and inequality after apartheid*, Jeremy Seekings (2007:13) states that, after unemployment, "[e]ducation is a second immediate cause of income poverty and inequality." He argues that factors such as low-grade attainment and inadequately developed numeracy and literacy skills mean that most young South African school leavers are not equipped for semi-skilled or, especially, skilled employment. The main reason for this state of affairs is the poor quality of education in many South African schools, which he attributes to inadequate teaching conditions, inequalities in family backgrounds, inequalities in the classroom, and the constant restructuring of the curriculum post-1994. He further argues that low-quality education translates into "unemployment among the unskilled, and low earnings among those unskilled workers who are lucky enough to find jobs" (2007:15). As with inequality and poverty generally, the levels of education in South Africa are strongly correlated with race. In this regard, Servaas van der Berg (2011:135) notes that "[s]ome two-thirds of the white matric-aged cohort complete matric, versus just over one-quarter of the black cohort, [and that] [i]f educational quality is considered, differences [between races] are even larger, as access to quality education remains highly skewed." Like Seekings, Van der Berg (2011:135) also remarks on the consequence of this situation, noting that "[e]specially among the young, many not completing high school are effectively excluded from the economic mainstream, given the way the labour market interprets educational attainment."

It is evident that there is "a serious mismatch between the supply and demand for labour" (Seekings, 2007:15), and that this mismatch is primarily due to low-quality education (specifically amongst previously disadvantaged groups). Our contention and our conclusion is therefore that – given the high levels of inequality and unemployment in South African society, and the low level of skills in the labour market – business has a moral duty, as well as an instrumental reason, for helping to address this mismatch. We believe that the most effective way in which to do so is for business to invest in, and directly support, the educational sector and educational initiatives more strongly, and to ensure that equality and equal opportunity are furthered in the workplace through the implementation of affirmative action measures that seek to eliminate employment barriers (Category 1), to promote and enforce impartiality and an attitude of non-discrimination in the workplace (Category 2), and to remove extraneous constraints that hamper fair competition of previously disadvantaged groups (Category 3).

REFERENCES

Benatar, D. 2008. Justice, diversity and racial preference: A critique of affirmative action. *The South African Law Journal*, 125(2):274-306.

Freeman, S. 2007. *Rawls*. London: Routledge.

Goff, E. L. 1976. Affirmative action, John Rawls, and a partial compliance theory of justice. *Cultural Hermeneutics*, 4:43-59.

Korsgaard, C. 1996. *Creating the kingdom of ends*. Cambridge: Cambridge University Press.

Leibbrandt, M., Finn, A. & Woolward, I. 2012. Describing and decomposing post-apartheid income inequality in South Africa. *Development Southern Africa*, 29(1):19-34.

Lundahl, M. & Petersson, L. 2009. *Post-apartheid South Africa: An economic success story?* UNU-WIDER: Helsinki.

Nagel, T. 2003. John Rawls and affirmative action. *The Journal of Blacks in Higher Education*, 39:82-84.

Nagel, T. 1973. Equal treatment and compensatory discrimination. *Philosophy & Public Affairs*, 2:348-363.

Nattrass, N. 1999. The Truth and Reconciliation Commission on business and apartheid: A critical evaluation, *African Affairs*, 98:373-391.

Nozick, R. 1974. *Anarchy, State, and Utopia*. New York: Basic Books.

Rapaport, E. 1981. Ethics and social policy. *Canadian Journal of Philosophy*, 11:285-308.

Rawls, J. 2001. *Justice as fairness: A restatement*. Cambridge, MA: Harvard University Press.

Rawls, J. 1999. *A theory of justice*, revised ed. Cambridge, MA: Harvard University Press.

Republic of South Africa, The South African Department of Labour. 1998. *Employment Equity Act, No. 55 of 1998*. [Online] Available: http://www.labour.gov.za [Accessed 1 September 2014].

Republic of South Africa, The South African Department of Labour. 1998. Summary of the Employment Equity Act, 55 of 1998, issued in terms of Section 25(1). [Online] Available: http://www.labour.gov.za [Accessed 1 September 2014].

Roe, M. & Siegel, J. 2011. Political instability: Effects on financial development, roots in the severity of economic inequality. *Journal of Comparative Economics*, 39:279-309.

Seekings, J. 2007. *Poverty and inequality after apartheid* (CSSR Working Paper No. 200). Centre for Social Science Research, University of Cape Town.

South African Institute of Race Relations. 2013a. *White men still top of the pay scale*. [Press release]. [Online] Available: http://irr.org.za/reports-and-publications/

media-releases/White%20men%20still%20top%20of%20the%20pay%20scale.pdf/at_download/file [Accessed 1 September 2014].

South African Institute of Race Relations. 2013b. *2013 South Africa Survey*. [Online] Available: http://irr.org.za/reports-and-publications/south-africa-survey/south-africa-survey-online-2012-2013 [Accessed 1 September 2014].

Statistics South Africa. 2012. *Census 2011*. [Online] Available: http://www.statssa.gov.za/publications/p03014/p030142011.pdf [Accessed 4 November 2014].

Taylor, R. S. 2009. Rawlsian affirmative action. *Ethics*, April:476-506.

Truth and Reconciliation Commission. 1998. *Truth and Reconciliation Commission of South Africa Report*, Volume 4, Chapter 2, 'Institutional Hearing: Business and Labour.'

Van der Berg, S. 2011. Current poverty and income distribution in the context of South African history. *Economic History of Developing Regions*, 26(1):120-140.

Van Wyk, M. W. 2001. Equal opportunity and equal liberty. Unpublished PhD dissertation. Johannesburg: University of Johannesburg.

Valls, A. 1999. The libertarian case for affirmative action. *Social Theory and Practice*, 25(2):299-323.

Why the world is still unequal: On the apparatuses of justification and interpasivity

Schalk Engelbrecht

ABSTRACT

Inequality offends our moral sensibilities, yet there is no urgency to address it. This article explains the lack of an adequate response to inequality by outlining two apparatuses conspiring to perpetuate inequality – rational justification and interpassivity. The current state of inequality is bolstered by a variety of philosophical and economic rationalisations. However, even when these justifications fail, a system that maintains inequality survives through an ideological mechanism that allows collective delusions to be sustained without owners. Put differently, because others believe *on our behalf*, we can act in accordance with failed assumptions. To address inequality requires addressing these apparatuses.

Keywords: inequality, interpassivity, moral impulse, John Caputo, Slavoj Žižek

INTRODUCTION: EQUALITY FOR INEQUALITY'S SAKE

Equality is not pursued for its own sake. Promoting equality, and denouncing a state of inequality, serves two greater and more prized forms of inequality – one that we clumsily call 'ethics', and another that we awkwardly call 'individualism'. Put differently, inequality is the most urgent of moral concerns in society, but one which we are yet to address seriously. To address economic inequality would therefore mean to finally start meeting our infinite moral obligations towards others (to heed the call of that asymmetrical relationship with others, called 'ethics'). Addressing economic inequality also allows us to better invest our energies in the more fulfilling task of developing what is delightful in us, of 'expressing a personality', of becoming unequal in a way that neither invites scorn, nor causes ill conscience, i.e. to allow everyone to experiment existentially (to express individuality), not only those who are accidentally privileged enough to do so.

As things stand, unfortunately, economic rationality trumps ethics (or the moral impulse to address inequality), and inequality thwarts the work of personality. Consequently, we do not even try to meet our moral obligations, and the task of self-creation is near impossible for most people. These tasks (the ethical and

Schalk Willem Petrus Engelbrecht
KPMG Forensic
KPMG Wanooka Place
1 Albany Road
Parktown
Johannesburg
2193
South Africa
T: +27 82 713 7656
E: Schalk.Engelbrecht@kpmg.co.za

***Schalk Engelbrecht** is the head of Ethics Advisory within KPMG South Africa's Forensic Business Unit and a research fellow at Stellenbosch University's Centre for Applied Ethics. Before joining KPMG, Schalk lectured philosophy and ethics at Stellenbosch University and the University of North-West (Potchefstroom). He completed his PhD in philosophy at Stellenbosch University with a dissertation on the possibility of reviving utopian thought in an anti-utopian age.*

the existential) are delayed in contemporary society, and will remain delayed until academics, politicians, and practitioners have proven themselves equal, at least, to the task.

This, then, is the focus of this article: the question, What is the task to which we must be equal? To address this question, I will consider a set of related questions, including:

- What part of inequality irritates our moral sensibilities?
- How is this form of inequality rationalised?
- What is the price of inequality and its rationalisations? and
- What prevents us from addressing it?

I will argue that inequality, together with its resultant individual and social costs, is sustained through an apparatus of justification. The economic system of free market capitalism is built on a misleading and counterproductive philosophical edifice. But even when cracks in the foundation become apparent, our participation in the system is not threatened. To understand why, and why no real attempt is made to address inequality, the contemporary workings of ideology are explained with reference to the work of Slavoj Žižek (1989; 2012), and to the concept of 'interpassivity'. In short, the economic common sense of free market capitalism does not require our belief or allegiance. We can act as if we believe 'the system' works because others believe *on our behalf*. In order to (finally) address inequality, therefore, the rationalisations of inequality must continually be undermined, and new bases for interpassivity must be explored.

THE INEQUALITY THAT OFFENDS

Of course, not all inequalities are equal. Some inequalities are desirable. The inequality that offends morality – inequality understood as a general societal failure and a general moral imperative – is of a specific kind. To describe it, one can offer three qualifications.

First, the inequality that offends in this age is economic. Although we still identify previously unarticulated forms of political inequality, and although we remain concerned with the unequal treatment of women (for instance) in large parts of the world, the more pressing issue today is not political inequality. It is not the denial of rights and freedoms and vast inequalities before the law. Instead, it is the unequal distribution of the means of economic exchange and material security. Not because all necessary political rights have been articulated or addressed, but because the dilemma of economic inequality has repeatedly been articulated unsuccessfully. The iteration of the problem has never translated into an urgent moral imperative. Contemporary society makes no real effort to end economic inequality of the kind I describe here. The implications of this failure are felt, inevitably, in the realm of (political) freedoms.

A second, fairly obvious point is that the inequality that offends is a judgement concerning a certain relationship. Inequality is not an absolute measure, but a relative one. What concerns us, on the face of it, is neither abundance nor scarcity, neither plenty nor want. Instead, what raises ethical concerns is the co-existence of abundance and scarcity. If want were generalised, it would be tragic, but not an object of moral concern (unless, of course, the state of general scarcity were avoidable). Similarly, if the human condition were universally characterised by material excess, we might mourn the loss of 'spirit' that accompanied the struggle for existence, but we would not denounce the animal that resulted from this condition *for* the condition.

The third qualification is that economic inequality itself is not what sparks the moral impulse. We may be envious of those who have more than us, but we do not rebel against a situation in which it is possible for some to have more than others, materially speaking. While the contentment of the affluent is hateful to us, it is hateful in a way that is appealing enough to act as the object of consumption, of enjoyment even. Therefore, it is the lower end on the scale of inequality that demands moral intervention – that some have so little that they suffer, or that their humanity is diminished by it, while there seems to be ample material to go around. Inevitably, however, addressing the lower end of the scale of inequality entails a change in thinking that must affect how we view the upper end of the scale.

Inequality as a moral concern can therefore be described as the condition that unnecessarily allows for the distribution of exchange capacity and material security in such a way that some individuals suffer and are unable to attain, 'the good life'.

At this stage, it is important to address a possible objection. Economists would convince us that inequality and poverty (which I appear to conflate here) are two separate issues. Poverty, we are told, refers to "falling below a certain level of income" (Taylor, 2012:98). Inequality, on the other hand, refers to "the gap between those with low and high income" (Taylor, 2012:98). These phenomena are not directly correlated. Poverty rates may fall as inequality rises (when a strong economy helps poor citizens to get slightly richer, while the rich get much richer). Alternatively, inequality could fall while the poverty rate rises (when economic collapses bring many of the rich closer to the poor). Finally, poverty and inequality raise different moral concerns. When we take issue with poverty, it is out of sympathy for those without the means to enjoy basic necessities. When we take issue with inequality, we are motivated by ideas of fairness or justice.

Yet, today, poverty and inequality cannot be treated separately. Treating them separately is what allows morally indefensible inequality to continue. These phenomena cannot be separated, because 'more inequality' is offered as the solution to existing inequality. Additionally, the extent of existing inequality testifies of (global) productive capacity sufficient to provide for the needs of the many, yet is unflinchingly focused on the needs of few. This is the old and still valid Marxist argument that capitalism has served its historical function of developing the means of production to such a level that poverty and hunger can be eliminated. Yet, we maintain and defend arrangements that ensure that only the needs of some are met, and in such a way that waste is a necessary part of the arrangement.

THE MORAL RESPONSE TO INEQUALITY

That economic inequality, as I have described it above, calls for a response needs no rational defence. The moral impulse (even if its manifestations and associated attitudes, beliefs, and practices must be historically understood) reacts to it spontaneously. Before we can articulate objections to inequality framed in terms of justice, the common good, equality, intrinsic value, or fundamental rights, the experience of inequality has already elicited a moral response, a sense of 'wrongness', an immediate intuition that something must be done.

The work of John Caputo (1993) usefully and poetically describes the felt response that constitutes the ethical experience. According to Caputo, we do not reason ourselves into an obligation towards 'the Other'. The obligation is there before we start talking about it, and it binds or haunts us, even after we stop talking or acting:

> *To say that obligations 'happen' is to say that obligation is not anything that I have brought about, not anything I have negotiated, but rather something that happens to me. Obligations do not ask for my consent. Obligation is not like a contract I have signed after having had a chance first to review it carefully and to have consulted my lawyer. It is not anything I have agreed to be a party to. It binds me.* (Caputo, 1993:7)

According to Caputo (1993), therefore, moral theory does not establish or even motivate the ethical relation. Moral theory is added retrospectively, to justify and explain logically what it is we experience:

> *Obligation calls, and it calls for justice, but the caller in the call is not identifiable, decidable. I cannot make it out. I cannot say that the call is the voice of God, or of Pure Practical Reason, or of a social contract 'we' have all signed, or a trace of the form of the Good stirring in our souls or the trace of the Most High. I do not deny that these very beautiful hypotheses of ethics would make obligation safe, but my impiety is that I do not believe that obligation is safe.* (Caputo, 1993:15)

If it seems necessary to bolster the moral impulse with argumentation denouncing inequality, then it is because so much rational effort has been expended in delegating or even abdicating responsibility in the face of economic inequality. In fact, one of the reasons why inequality is allowed to continue unabated is the hypocritical repression of ethics through rational justification. This, according to George Monbiot (2014), is one of the many good points Thomas Pikkety (2014) highlights in his book *Capital in the Twenty First Century.* "Extreme inequality," so Monbiot paraphrases Pikkety, "can be sustained politically only through an 'apparatus of justification'. If voters can be persuaded that insane levels of inequality are sane, reasonable and even necessary, the concentration of income can keep growing."

Today, the moral impulse must square up against this 'apparatus of justification', against centuries of economic justification and obfuscation.[1] Inequality is either useful, or it is unresolvable. Of this, there is metaphysical proof, as the Divine itself proclaimed "the poor will always be with us". In the match-up between the moral impulse and economic rationality, the moral impulse therefore seems poorly prepared. The felt sense of obligation has neither an identifiable origin, nor can it rely on metaphysical endorsement or enforcement. The only option left, according to Caputo (1993:38), for those few still beholden to obligation in the face of inequality, is to act as "obligation's poet", to make the case for equality look as strong as possible, and "to make indifference look as bad as possible, as bad as it is".

This, perhaps, is the first task conferred on us by inequality, the first task we must be equal to: to act as poets of obligation, to re-describe inequality in the worst possible terms, and to re-describe equality in more poetic terms. It means articulating and then lampooning the rationalisations of inequality. It also means voicing inequality's discontents.

RATIONALISATIONS OF INEQUALITY

In its sophisticated forms, the rationalisation of inequality proposes that it is the result of fundamental economic and democratic freedoms. To address inequality in a systemic manner, to interfere in the workings of a free market, would constitute a form of control, says Milton Friedman (1970), and an infringement on individual liberty. If we value the principles of liberty and property, we cannot force from above the redistribution of accumulated property.

Robert Nozick (1974), adding an element of justice or merit to the defence from freedom, argues that whatever we have accumulated through just acquisition and transfer cannot be forcefully redistributed without compromising that supreme value of freedom. What is 'justly acquired', or what we are 'entitled' to, according to Nozick, is what we have earned or inherited. Taxing what is justly acquired for the purposes of promoting the welfare of others amounts to little else than forced labour, or forcing a person to work for the purposes of another.

The defence of inequality from the perspective of freedom therefore claims that inequality is the result of free choices in a free market. No one can be blamed for it, and addressing it

1 According to John Maynard Keynes, there is no end in sight for the morally ambivalent logic of capitalist society: "For at least another hundred years we must pretend to ourselves and to everyone that fair is foul and foul is fair; for foul is useful and fair is not" (Keynes, as quoted in Skidelsky & Skidelsky, 2013:43).

would mean sacrificing the ultimate value of freedom. Aligned with this defence is the idea that, if no law was broken in attaining one's income or property, then it was 'justly' acquired – one 'earned' it through talent or merit.

In its less sophisticated forms, though parasitic on the above logic, the rationalisation of inequality allocates blame for poverty or inequality. If inequality is the result of talent, merit, and free choices in a free market, then poverty is equally so. Poverty is the fault of the poor. It is through poor economic decisions, either their own or those of their parents, that poor people find themselves in poverty – because they choose to have too many children, because they choose to squander their earnings, not on self-development, but on Freud's palliative substances, because they choose charity over exertion. This type of blame allocation sometimes extends into the postulate of a 'culture of poverty'.

Finally, inequality, whether the result of freedom or merit, is ironically justified as the solution to inequality. The opportunity to pursue self-interest almost limitlessly, so the argument goes, is in everyone's best interest. This is the Faustian bargain contemporary society has struck with the help of economists. Skidelsky and Skidelsky (2013:43), in reviving the alternative economics of John Maynard Keynes (1973), describe this bargain as "[putting morality] in cold storage till abundance [is] achieved, for abundance [makes] possible a good life for all". The trick, explain the Skidelskys, was to dress up the vice of avarice as a virtue, now dubbed 'self-interest'. Society can then utilise the 'natural self-interest' of individuals for the good of all. Hence, Adam Smith (1976) (or a selective reading of Adam Smith) postulates that unconstrained self-enrichment promotes general well-being in society by creating wealth and opportunities from which all benefit. By pursuing financial self-interest, free individuals unintentionally advance the general interest of society. A variation of this argument was prominent in the 2012 American electoral campaign, in which Mitt Romney (2012) promoted the idea that economic challenges are best addressed by facilitating the work of so-called 'job creators' – those who, through the pursuit of profit and wealth, create employment for others. To restore the embattled US economy, Romney argued, will require "[renewed] faith in the power of free people pursuing their dreams". Romney therefore combined the defences of inequality based on the notions of freedom and utility. Free people, pursuing self-interest, are more effective in achieving social equity than any good-intentioned redistributive measures, or any measures directly aimed at social justice.

To summarise, inequality's apparatus of justification consists, mainly, of three rationalisations: (1) inequality is the outcome of fundamental economic and democratic freedoms, (2) inequality of holdings is the result of differences in merit, talent, or skill, i.e. those who have more, have earned more, and (3) inequality (or the possibility of unequal wealth) serves society as a whole by capitalising on the by-products (wealth and opportunities) of self-interested behaviour.

CHALLENGING INEQUALITY'S RATIONALISATIONS

To combat the self-satisfied logic that rationalises inequality, to make inequality look 'as bad as possible, as bad as it is', its basic conclusions have often been challenged in a reasoned fashion. For instance, it has been argued that the "ultimate value" of freedom is not protected or promoted through the inequality resulting from free markets. Instead, the lack of exchange capacity and material security implied by inequality means that most individuals are not 'free'. Freedom of enterprise, considered independently, is not freedom at all, but "the liberty to work or to starve" (Marcuse, 1968:2). In this situation, there is no semblance of the kind of autonomy that allows individuals to choose their own ends, and to choose different means for achieving those ends.

It has also been argued that the distribution of exchange capacity today is by no means the result of just accumulation and transfer. The simplest example is inheritance. Inheritance effectively nullifies the holy capitalist principles of distribution according to productivity, equal opportunity, and freedom (Haslett, 2004). Inheritance is exchange capacity or wealth gained without the need for productive activity. At the same time, inheritance distributes opportunities and freedom (or autonomy) unequally.

South Africa's mining industry provides an equally interesting, if more contentious and complex, illustration of the injustice of just accumulation and transfer. In a recent report, titled *Demanding the impossible? Platinum mining profits and wage demands in context* (2014), researchers suggest that mining executives and shareholders have, over time, seized an increasingly large share of the value created through mining activity. When large profits are achieved, executives and shareholders allocate the lion's share to themselves. When profits are dwindling, executives still earn bonuses, while labourers are told their wage demands are unachievable. Justice seems far removed from such a scenario. Labourers consent under threat of unemployment. When labourers suspend their consent during wage negotiations, their continued dissent comes at the risk of starvation. If justice relates to contracts freely consented to, there are serious doubts about the extent of freedom labour brings to the table. If, on the other hand, justice relates to a fair distribution (distribution according to input), then a disingenuous logic is required to present the current income distribution between those extracting minerals from the ground and those administering the process, as fair or based on significant and demonstrable differences in input.

These arguments suggest that talk of freedom and justice amid inequality is questionable at best. Instead, a less unequal society would represent a significant gain in both freedom and justice.

Finally, history has debunked the utilitarian argument that inequality benefits all. What this notion has given us, instead, is a Sisyphean infinite loop. We lower taxes, allowing more freedom for the privileged, and relax labour laws. Economic growth sees some accumulating quickly and extravagantly, while others improve their condition incrementally. At this stage, and inevitably, the boulder we have been inching up the hill rolls back, and rolls over the majority of those whose positions had only improved incrementally. At the bottom of the hill, however, we are told the plan is sound. Only our execution was flawed. The strategy must not change. The solution to the predicament remains support for job creators.

The main rationalisations of inequality are therefore fundamentally flawed. This is not a revelation, and I am not revealing these flaws spectacularly in this paper. The fallacies that riddle the apparatus of justification have been identified endlessly, not only by Marxists and radicals, but by prominent economists, including John Kenneth Galbraith (2004) (who labelled our current economic arrangements 'fraud'), Joseph Stiglitz,[2] and Ha-Yoon Chang,[3] But while these challenges demonstrate how deficient the rationalisations of inequality are, and emphasise the losses suffered by those on the wrong side of inequality, they do not point out what everyone (not only the poor) loses in the process. Two forms of loss can be added – the loss of individualism and the loss of democratic solidarity.

THE PRICE OF INEQUALITY I: INDIVIDUALISM

In his essay *The soul of man under socialism*, Oscar Wilde (1891) rejected inequality for its detrimental effect on our capacity to realise ourselves, for the way it blocks off individual possibilities:

2 See Stiglitz, J.E. 2012. *The Price of Inequality*. Great Britain: Allen Lane.

3 See Chang, H. 2010. *23 things they don't tell you about capitalism*. London: Penguin Books.

One's regret is that society should be constructed on such a basis that man has been forced into a groove in which he cannot freely develop what is wonderful, and fascinating, and delightful in him – in which, in fact, he misses the true pleasure and joy of living. He is also, under existing conditions, very insecure. (Wilde, 1891:5)

Wilde's concern is for individualism, or the opportunity for each person "to realise the perfection of what was in him, to his own incomparable gain, and to the incomparable and lasting gain of the whole world" (Wilde, 1891:1). This sort of individualism is, for Wilde, the "full development of Life to its highest mode of perfection". Those who achieve this kind of perfection Wilde (1891:2) labelled "the poets, the philosophers, the men of science, the men of culture – in a word, the real men, the men who have realised themselves, and in whom all Humanity gains a partial realisation".

It is important to note, however, that Wilde was not only bemoaning the inability of the poor to experience the joy of living. The unequal distribution of property, of capital, of exchange capacity, diminishes the affluent and the under-privileged equally. The poor are robbed, and "[m]isery and poverty are so absolutely degrading, and exercise such a paralysing effect over the nature of men, that no class is ever really conscious of its own suffering. They have to be told of it by other people, and they often entirely disbelieve them" (Wilde, 1891:4). However, the affluent are equally hampered by accumulation. The gains of the rich may counter-productively prevent the realisation of individualism. As Wilde (1891:5)[4] explained,

... the recognition of private property has really harmed Individualism, and obscured it, by confusing a man with what he possesses. It has led Individualism entirely astray. It has made gain not growth its aim. So that man thought that the important thing was to have, and did not know that the important thing is to be. The true perfection of man lies, not in what man has, but in what man is.

Variations on Wilde's century-old logic emerge today from neo-Aristotelian philosophers like Edward Skidelsky (2013) and Michael Sandel (2010). While Skidelsky and Sandel emphasise the loss of 'the good life' in their respective writings, their articulations of the good life inevitably encompass elements of the individualism Wilde defends. Edward Skidelsky (in collaboration with his economist father Robert Skidelsky) calls this element of the good life 'personality'. By 'personality', the Skidelskys (2013:160) mean "the ability to frame and execute a plan of life reflective of one's tastes, temperament and conception of the good". The idea of personality also includes "an element of spontaneity, individualism and spirit". One of the prerequisites of personality is "a private space ... in which the individual is at liberty to unfurl". Without personality, they continue, we would not be human. Instead, we would resemble "a colony of intelligent social insects". However, without financial security, it is improbable that this kind of personality will develop. The luxury of personality is therefore not allotted to the poor. Inequality also presses heavily on those who have more, and, consequently, they are unable to "isolate [themselves], to keep [themselves] out of reach of the clamorous claims of others" (Wilde, 1891:1).

The price of inequality is therefore individualism, at both ends of the scale of inequality – the poor do not have the luxury (of time or resources or solitude) to develop personality; the affluent, on the other side, are too encumbered by

4 Wilde's argument is accurate in the way that it depicts the existential costs of inequality. However, it also contains a problematic metaphysical tone: individualism is described as realising something pre-existing within the individual. This metaphysics is secondary, however, and if one replaced Wilde's metaphysical individualism with a more Rortyan postmetaphysical conception of "self-creation" – an ironic experimentation with a variety of possible re-descriptions – then Wilde's explanation of the detrimental effects of inequality is still valid.

the duties of property and the relentless and insatiable pursuit of wealth, and the business of consumption, to attend to personality.

THE PRICE OF INEQUALITY II: SOLIDARITY

If inequality comes at the price of solitude, individualism, and personality, its price (ironically) also includes communality. At the altar of inequality we also sacrifice the opportunity to interact with others who make up our community. The cost is not only communality, but also democracy, so prized by the rationalisers of inequality. As Michael Sandel (2010:266) explains:

> *Too great a gap between rich and poor undermines the solidarity that democratic citizenship requires … As inequality deepens, rich and poor live increasingly separate lives. The affluent send their children to private schools (or to public schools in wealthy suburbs), leaving urban public schools to the children of families that have no alternative. A similar trend leads to the secession by the privileged from other public institutions and facilities. Private health clubs replace municipal recreation centers and swimming pools. Upscale residential communities hire private security guards and rely less on public police protection. A second or third car removes the need to rely on public transportation. And so on. The affluent secede from public places and services, leaving them to those who cannot afford anything else.*

According to Sandel (2010:267), the result is that people from different walks of life no longer encounter one another. Apart from 'personality', an unequal world therefore withholds the opportunity to develop 'civic virtue'. "The hollowing out of the public realm," Sandel argues, "makes it difficult to cultivate the solidarity and sense of community on which democratic citizenship depends."

In a passage that echoes Sandel, the Skidelskys (2013) argue that, when inequality exceeds certain bounds, a sense of mutual respect (necessary for the good life) is lost, and with it, democratic society:

> *An elite that lives, plays and learns entirely separately from the general population will feel no bond of common citizenship with it. A more equal – not completely equal – distribution of wealth and income is a requirement for democratic solidarity.* (Skidelsky & Skidelsky, 2013:159)

Even though the hidden costs of inequality, individualism and democratic solidarity, may seem like opposite purposes, recent warnings against sending one's children to Ivy League universities successfully combine these purposes. Josua Rothman (2014), in reviewing the work of William Deresiewicz (2014), combines the costs as follows:

> *Better to go to a state school, where the student body is more socioeconomically diverse, or to a 'second-tier' liberal-arts college, where 'real educational values' persist, than to submit yourself or your child to the careerist 'machine' of élite higher education … Americans work too much, think too much about work, and cultivate an air of competent yet maniacal busyness.* (Rothman, 2014)

The point of authors like Rothman and Deresiewicz is that isolated schools of privilege have two disadvantages: (1) where a student body is not economically diverse, education is incomplete (i.e. the argument related to 'civic virtue'), and (2) the education of the affluent comes at the expense of individualism, as students graduate to a life dominated by maniacal careerism and busyness.

INTERPASSIVITY: WHAT PREVENTS US FROM ADDRESSING INEQUALITY

It should be clear at this stage that the moral impulse demands a response to inequality; that the rationalisations of inequality are defunct; and that inequality costs us freedom, justice, personality, and solidarity. A final question then remains: Why have we not addressed it? If the price is so exorbitant, and the potential benefits of increases in equality so laudable, why have we failed to act, and why do we keep failing daily?

The answer to this question does not necessarily lie in a lack of sympathy or fellow-feeling. Philosopher Richard Rorty (1998:167-168, 176) believes that moral progress requires an increase in sympathy. For us to attend to the needs of the poor and the costs and externalities of inequality, we need to re-describe ourselves in such a way that the Other of inequality is regarded as "someone like us". If our re-descriptions are successful, moral behaviour towards the poor will become as spontaneous as looking out for our friends.

Of course, Rorty has a point. There are instances where people are capable of violence against, or indifference toward, one another, only because 'the Others' are not 'people like us'. In discussing the crisis in the Middle East, for instance, opposing parties, Jews and Muslims alike, dehumanise their opponents, calling one another 'animals'. There are those who similarly think of the poor as 'not sufficiently like us' to earn our respect and warrant moral urgency.

Bracketing the threat of reverting to a totalising ethics of 'the same', the problem with Rorty's solution is that many people already regard the poor as sufficiently 'the same'. Many people in contemporary society have a deep sympathy for, and anguish over, the problems of poverty, hunger, and inequality. Yet, their fellow-feeling does not translate into action.

The reason for our inaction must therefore lie somewhere else. It lies in yet another mechanism, more insidious that the apparatus of justification. It is an apparatus that allows us to act in accordance with the justifications of inequality, even when we do not believe these justifications. This apparatus can be called 'ideology' or 'interpassivity'.

For Slavoj Žižek (1989:28), ideology no longer means "they do not know, but they are doing it". We do not submit to neo-liberal economic justifications of inequality because we are duped by them. We do not suffer from a false consciousness that makes us act in a way that serves elite interests without knowing it. Instead, today, ideology means "they know very well what they are doing, but still, they are doing it". Today, ideology critique can no longer mean exposing the false assumptions we cling to. They have already been exposed. We do not actually believe them, and the act of unmasking can therefore have no real effect. Ideology today is 'enlightened false consciousness'.

Consequently, even though we know very well that our pursuit of financial self-interest will not solve inequality, and will not produce a generally wealthy utopia, we continue acting out the roles and routines associated with this mechanism *as if* it would work. We do this because ideology no longer requires individual belief or false consciousness. We can continue to act out our roles, because others believe for our part, or on our behalf.

This has also been called 'interpassivity' or the problem of "illusions without owners" (Pfaller, 2014:15). Interpassivity is an apparatus that relieves us of our duties when others act out these duties on our behalf. As Pfaller explains, the required "attitude or conviction is realized through ... external agents". To explain how this apparatus works, Žižek (1989) uses various analogies, of which I will mention two.

The first analogy is that of the Tibetan prayer wheel. This apparatus allows the religious subject to pray without praying, because the wheel that is spun to execute the prayer does the work on the subject's behalf:

> *... the wheel itself is praying for me, instead of me – or, more precisely, I myself am praying through the medium of the wheel. The beauty of it is that in my psychological interior I can think about whatever I want, I can yield to the most dirty and obscene fantasies, and it does not matter because – to use a good old Stalinist expression – whatever I am thinking, objectively I am praying.* (Žižek, 1989:34)

Ideology is a similar apparatus. It allows us to dispense with the conviction, while persisting with the routines associated with the conviction.

The second analogy Žižek (2009:51) uses to explain the interpassive logic of ideology takes the form of an anecdote told of the physicist Niels Bohr. According to Žižek, the famous physicist Niels Bohr was once visited at his home by a friend. The friend was surprised to find a horseshoe mounted above Bohr's front door – a popular ornament in Europe, motivated by the superstition that such ornaments keep away evil spirits. When Bohr opened the door, his friend asked him about it: "Niels, do you believe in the superstition that horseshoes keep away evil spirits?" "Of course not," Bohr replied, "I'm a scientist, not an idiot." "Then why did you put it up?" the friend asked, to which Bohr replied, "I hear it works even if you don't believe in it."

Contemporary society's prayer wheel, its horseshoe, is economics (or, at least, free market economics). Economics is our interpassive response to inequality – that which allows inequality to go unattended. Economic theory, expert economists, and the whole apparatus surrounding the theory (reserve banks, the IMF, the World Bank, analysis by economists on the news, expectant predictions of the next decision regarding the repo rate) serve to assure us that the system prays or acts on our behalf, that someone believes the pursuit of financial self-interest and its ultimate goal of economic growth will finally relieve us of the plight of the poor, or is, at least, the best and only way to address this plight. We can spin the wheel and hang the horseshoe, and rest easy. The result: we continue working towards promotions or increases; we look for better-paying jobs; we save to buy the artefacts associated with our (or the next) standard of living; we condone extravagant executive pay (and even hope to be that executive one day); and we refrain from giving to the poor, for fear of becoming a handmaiden to idleness. No direct action to address inequality is required on our part. No urgency exists, because interpassive economic activity means we are already doing our part. For this reason, and because economics has convinced us that the insatiability promoted by our economic system needs no moral limit, the Skidelskys (2013:12)[5] label it (the discipline of economics) "the chief intellectual barrier to realizing the good life for all".

Challenging this 'deathly orthodoxy', the interpassive apparatus that maintains inequality, is rendered unthinkable through additional (strengthening) procedures, of which one is 'complexity'. The purpose of this procedure is to stave off systemic change. If the economy fails to deliver on its promises, then it is because it is so complex: "... uncontrollable forces have unpredictable consequences; for instance, the invisible hand of the market may lead to my failure and my neighbour's success, even if I work much harder and am much more intelligent" (Žižek, 2012:9-10). If the workings of this complex phenomenon are so opaque, however, this also serves as a warning not to

5 It is tempting here to illustrate the way in which economics deconstructs itself with reference to that seemingly innocent and unimportant phrase *ceteris paribus*. The economist must, through no fault of her own, provide us with half of justice, and therefore no justice whatsoever, for she must operate according to the simple ('necessary') principle *ceteris paribus*. It is always offered as a qualification, an (unnecessary) aside, and yet it is not what follows or precedes *ceteris paribus* that is the key message of economics. It is exactly *ceteris paribus* that the economist unknowingly evangelises, preaches, believes. In short, economics recognises, from the start, that its assumptions only work when 'all things are equal'. Self-interest will promote general well-being ... *assuming all things are equal*. In free markets, resources will be allocated to the most efficient units ... *assuming all things are equal*. These claims already assume that all people are equal to the extent that they are self-interested utility maximisers. Economics is therefore ideal for interpassive purposes. It displays no urgency for equality, because it already assumes all things equal. The result is that it remains at odds with justice, which requires the treatment of people as fundamentally different or unequal, phenomenologically speaking.

meddle, to experiment, or even to attempt to understand the economy. Best to leave it to the experts, to spin the wheel and hope it favours you.

CONCLUSION: THE TASKS OF INEQUALITY

Given the situation I have sketched, in which the moral impulse is confounded, first through an apparatus of justification, and then through the apparatus of interpassive economics, with the resultant costs of freedom, justice, individualism and solidarity, inequality does seem to confer tasks on us.

First, as poets of obligation we must debunk and keep debunking the apparatus of justification, not because people are generally blind to its fallacious nature, but to rob interpassivity of its power by ensuring that its hypocrisy is repeated more often than its 'benefits'. The second dimension of our moral poetics is to articulate and re-articulate the costs of inequality.

The above poetics would be assisted by, and would flourish best within, a revived public realm. This can be achieved in two ways. First, as the Skidelskys (2013:86-95) and Sandel (2010:260-269) recommend, we should bring notions of 'the good life' back into the public fold. These notions serve to emphasise the costs of inequality, and they start introducing a limit to accumulation. Second, reviving the public realm also means reinvesting in public spaces. The value and dynamics of public spaces cannot be developed here, but has received increasing attention from, among others, David Harvey (2012).[6] For our purposes, public spaces promote solidarity, but also slow interpellation into a consumerist, careerist, and interpassive routine, by allowing for interaction with those who embody alternatives.

Finally, the perpetuation of inequality is achieved through unconvincing routine, based on failed assumptions. Halting the process may therefore require basing new routines on new assumptions, even if we are equally unconvinced of the new assumptions and routines. For instance, instead of assuming insatiability, we can assume a point of material comfort that is sufficient for attaining 'the good life'. Instead of assuming that people are self-interested utility maximisers, we can allow for a variety of motivations that exceed material goods. Instead of assuming that economic growth will increase general welfare, we can accept that markets need assistance in allocating exchange capacity and material security. Instead of assuming that success in business is determined by profit and share price, we can establish social and ethical performance as the markers of success.

These new assumptions would require new routines. Routinely increasing executive pay would be replaced with the capping of executive pay. Routinely increasing advertising budgets would be replaced with limits to advertising. Routinely seeking tax breaks to encourage job creators would be replaced with increasing taxes – for the rich, but also on estates. Routinely having social and ethics committees reporting to audit committees would be replaced by audit and remuneration committees reporting the other way around.[7] These new organisational routines may seem unthinkable. Yet, they have been advocated repeatedly by a set of vocally anti-neoliberal economists (including those mentioned in this article – Chang, Skildesky, Stiglitz, and Galbraith), who also emphasise that economics and the economy requires no particular expertise to change.

Working out the details of new economic routines is not my purpose here. Instead, my intention is to pinpoint a blockage in our moral plumbing. We may have a reservoir of moral energy, yet it fails to reach its destination. Put differently: we have a lot of water, but no water pressure.

6 See, for instance, Harvey's arguments around urban commons in *Rebel Cities* (2012).

7 For this idea, I am indebted to a colleague Gwendolyn Zorn.

Unblocking the moral impulse is, unfortunately, not only a matter of debunking rationalisations of inequality. Nor can we attempt to have people 'own' their convictions and attitudes, instead of acting them out interpassively. Instead, we should try to act out new interpassive routines that do not deny the problem of inequality, but that aims to end it.

The problem of interpassivity resembles the ongoing question in utopian studies of whether society is changed by changing individuals, or by changing their environment. The suggestion of a change in routine represents a middle path. Changing routine means changing the individual and the environment simultaneously, by changing the way individuals relate to their environment.

Our proper aim should be to address inequality, finally, or, as Wilde (1891:1) would have it, to "to try and reconstruct society on such a basis that poverty will be impossible". However, if we take seriously the work of Emmanuel Levinas (1985) (the philosopher who elevated ethics to 'first philosophy'), this is not possible. Even if poverty (the inequality that makes people suffer) were structurally eliminated, we would not be able to say that we have met our obligations. This is because ethics itself is a form of (phenomenological) inequality – an asymmetric relationship (with 'the other') that is infinite. As Levinas (1985) puts it:

> *I am responsible for the Other without waiting for reciprocity, were I to die for it. Reciprocity is his affair. It is precisely insofar as the relationship between the Other and me is not reciprocal that I am subjection to the Other; and I am 'subject' essentially in this sense. It is I who support all. … I am responsible for a total responsibility, which answers for all the others and for all in the others, even for their responsibility. The I always has one responsibility more than all the others.* (Levinas, 1985:98-99)

Even if the elimination of economic inequality would not exhaust our moral obligation towards others, at least we could anticipate a novel, as yet unarticulated obligation to replace this same tired one.

REFERENCES

Bowman, A. & Isaacs, G. 2014. *Demanding the impossible: Platinum mining profits and wage demands in context.* Research report by Wits Society, Work and Development Institute. [Online] Available: http://www.wits.ac.za/swop [Accessed 26 September 2014].

Caputo, J. 1993. *Against ethics: Contributions to a poetics of obligation with constant reference to deconstruction.* Bloomington: Indiana University Press.

Deresiewicz, W. 2014. Don't send your kids to the Ivy League. *New Republic*, 21 July 2014.

Friedman, M. 1970. The social responsibility of business is to increase its profits. *New York Times*, 13 September 1970.

Galbraith, J. K. 2004. *The economics of innocent fraud.* New York: Houghton Mifflin Harcourt.

Haslett, D. W. 2004. Is inheritance justified? In W. Shaw & V. Barry (Eds.), *Moral Issues in Business*, pp. 140-147. USA: Wadsworth.

Keynes, J.M. 1973. *The general theory of employment, interest and money.* The collected writings of John Maynard Keynes, Vol. 7. Cambridge: Cambridge University Press.

Levinas, E. 1985. *Ethics and infinity – Conversations with Philippe Nemo.* Pittsburgh, PA: Duquesne University Press.

Marcuse, H. 1968. *One-dimensional man.* Boston: Beacon Press.

Monbiot, G. 2014. The rich want us to believe their wealth is good for us. *The Guardian*, 29 July 2014.

Nozick, R. 1974. *Anarchy, State, and Utopia.* New York: Basic Books.

Pikkety, T. 2014. *Capital in the twenty-first century.* Translated by Arthur Goldhammer. Cambridge: The Belknap Press of Harvard University press.

Pfaller, R. 2014. *On the pleasure principle in culture: Illusions without owners.* New York: Verso.

Romney, M. 2012. TRANSCRIPT: Mitt Romney delivers speech on the economy. [Online] Available: http://foxnewsinsider.com/2012/10/26/transcript-mitt-romney-delivers-speech-on-the-economy. [Accessed 13 August 2014].

Rorty, R. 1998. Human rights, rationality and sentimentality. In *Truth and progress*, Cambridge: Cambridge University Press, pp. 167-185.

Rothman, J. 2014. What college can't do. *The New Yorker*, 5 August 2014. [Online] Available: http://www.newyorker.com/books/joshua-rothman/what-college-cant-do [Accessed: 26 September 2014].

Sandel. M. 2010. *Justice*. England: Penguin Books.

Skidelsky, R. & Skidelsky, E. 2013. *How much is enough?* Great Britain: Penguin Books.

Smith, A. 1976. *An inquiry into the nature and causes of the wealth of nations.* Oxford: Clarendon Press.

Taylor, T. 2012. *The instant economist.* USA: Plume.

Wilde, O. 1891. The soul of man under socialism. [Online] Available: http://www.marxists.org [Accessed: 18 September 2012].

Žižek, S. 1989. *The sublime object of ideology.* New York: Verso.

Žižek, S. 2009. *First as tragedy, then as farce.* New York: Verso.

Žižek, S. 2012. Revolt of the salaried bourgeoisie. *The New Proletariat*, 34(20):9-10.

Media-reported corporate governance transgressions in broad-based black economic empowerment deals in the South African mining sector

Adèle Thomas

ABSTRACT

The study explored the nature of publically identified corporate governance transgressions relating to deals designed to promote black economic empowerment (BEE) at 22 South African mining companies. A review of South African English language newspaper articles was undertaken for the period 1 January 2010 to 31 December 2011. Reported transgressions were assessed against a framework developed from relevant codes and legislation. Political interference/nepotism/fronting was the most-cited category of behaviour promoting governance transgressions, followed by fraud/ structuring of controversial BEE deals, and mismanagement/negligence. Public concern about governance of BEE deals in the mining sector and, accordingly, about the contribution of BEE to the broad socio-economic upliftment of historically disadvantaged South Africans, is highlighted.

Keywords: corporate social responsibility, boards of directors, emerging markets, empowerment, transformation, media

INTRODUCTION

After the advent of democracy in South Africa, in 1994, the government of the day designed various strategies to more equitably redistribute the wealth of the country, while simultaneously growing the economy (Mears, 2006). One of these strategies was black economic empowerment (BEE), targeted at members of the African, Indian, and Coloured ethnic groups, generically categorised as 'black,' and now more commonly known as 'historically disadvantaged South Africans' (HDSAs). However, a variety of terminology exists in the plethora of government documentation, legislation, and working papers (Davie, 2010), with the terms *HDSA* and *black* being used interchangeably. This paper uses the term *HDSA*.

Adèle Thomas
Department of Industrial Psychology and People Management
University of Johannesburg
D Ring 429, Kingsway Campus
P.O. Box 524
Auckland Park
2006
South Africa
T: +27 11 787 5344
M: +27 82 453 8102
E: adelet@uj.ac.za

Adèle Thomas *is a professor who teaches, researches, and consults in the fields of business ethics and governance. She is particularly involved in researching governance in academia.*

Among the many problems that account for slow progress in bringing HDSAs into the economy through BEE strategies, poor governance in BEE practices, in general, has been noted (Terblanche, 2012), and, in particular, in the mining sector (Sartorius & Botha, 2008; Ernst & Young, 2013). This lack of meaningful transformation and the glaring disparity between rich and poor captured world attention in 2012 when wildcat strikes erupted at the Rustenburg-based Marikana mine outside Johannesburg, resulting in the death of more than 34 people, and leading to five months of wage strikes (Benjamin, 2013), which soon spread to other mines in the country.

Companies, government, and civil society share social responsibility obligations, particularly in emerging markets (Schlemmer, 2004) such as South Africa, to adhere to business practices that drive societal transformation (Tangri & Southall, 2008), and to stimulate economic growth to address dire poverty (Fauconnier & Mathur-Helm, 2008). In emerging markets, national systems of corporate governance are usually not well consolidated and institutionalised (Andreasson, 2011), and initiatives to promote corporate governance, in some instances, represent a "new development strategy" (Reed, 2002:223). However, since 1994, an advanced system of corporate governance has steadily evolved in South Africa, and, given the time span of 20 years, it could be expected that governance principles would prevail in decisions relating to partnerships, wealth distribution, and the general governance of BEE deals in a strategic sector that generates 18.7% of the country's gross domestic product (Chamber of Mines of South Africa, 2012).

PROBLEM STATEMENT AND RESEARCH OBJECTIVES

Studies indicate the role the media plays in governance control, largely through its monitoring function (Core, Guay & Larcker, 2008; Dyck, Volchkova & Zingales, 2008; Wiesenfeld, Wurthmann & Hambrick, 2008). Keightley (2011) cites numerous cases where the South African media has played a watchdog role in bringing instances of corruption to light, and following the progress of action taken in this regard. Bednar (2012) contends that the media often highlight governance issues that would otherwise be less noticeable to the public. Accordingly, the research question that the study sought to address was: What are the main types of corporate governance transgressions in the mining sector that have been highlighted in newspaper reports over a specific period of time?

The objectives of the study were, accordingly, (a) to identify broad areas of reported corporate governance transgressions in this sector, (b) to highlight the extent of importance accorded by the media to the types of reported governance transgressions, and (c) to consider these transgressions against a framework of best practice principles developed from relevant codes and legislation.

The focus of the study was on BEE *deals*, as media reports generally focus on specific cases, and on companies where it is conceivable that a sound overall governance strategy would have been developed, but that practices relating to certain deals evidence transgressions of such governance. Corporate governance transgressions not related to BEE deals were not considered in the study.

LITERATURE REVIEW

The literature review that follows commences with a discussion of terminology. Corporate governance in South Africa and its importance for the transformation of the economy is noted, whereafter broad-based black economic empowerment as a specific driver of economic transformation is considered. The literature review concludes with a profile of the mining sector in South Africa, within which the present study was located.

Terminology

The broad concept of governance, with its components of responsibility and transparency, is essentially about ethical behaviour (Roman, Roman & Boghiu, 2012). Corporate governance is concerned with "moral philosophy, values and norms of behavior that guide a corporation's behaviour within society" (Francis & Armstrong, 2003:376), and is based on a system of ethics (Young & Thyil, 2008). Corporate governance is also a means of structuring objectives and the manner in which they will be achieved and monitored in "ethically defensible" ways (Fleming & McNamee, 2005:137). Diale (2010) stresses that organisational integrity is explicitly linked to ethics, crucial aspects of which are the absence of corruption and fraud, and adherence to accepted norms of organisational behaviour and decision making that puts public responsibility above private interests. Keightley (2011) cites kickbacks, nepotism, embezzlement, diversion of funds, illicit benefits or enrichment, and trading influence as major areas of corporate governance transgression in South Africa. Such corporate governance transgressions may also comprise legal transgressions, as in the cases of fraud and corruption, but, generally, such practices in organisations are viewed as transgressions of governance (Chau, 2011). In addition, behaviours and practices that may not necessarily be labelled as governance transgressions *per se*, such as political influence in business operations, may impact sound governance (Thomas, 2012).

The role of corporate governance in the transformation of the South African economy

South Africa is one of the largest and most sophisticated economies on the continent (Vaughn & Ryan, 2006). The country is, however, still in the process of transition (Croucher & Miles, 2010), necessitating sound governance (Detomasi, 2006). Fig (2005) notes the role of corporate governance in promoting the contribution of companies to the social development of those individuals who were historically disadvantaged.

Corruption negatively impacts long-term economic progress in developing economies, particularly where the institutional infrastructure to address such corruption is weak (Taylor, 2007), and where countries lack resources to investigate these problems (Keightley, 2011). Recognising the outside scrutiny of those who wish to invest in South Africa, extensive governance initiatives have been introduced over the past two decades (Vaughn & Ryan, 2006) through various pieces of legislation and codes. The South African Constitution (Republic of South Africa, 1996) enshrines the concept of governance and the combatting of corruption, in that it articulates the basic values of justice, accountability, transparency, fairness, equity, and cost-effective and competitive business practices.

The Prevention and Combating of Corrupt Activities Act (Republic of South Africa, 2004) addresses the illegal offering and receiving of gratifications in any form, conflicts of interest, involvement in direct or indirect acts of corruption, accruing benefits from corrupt activities or gratifications, or influencing people to act in ways in which they abuse their powers, duties or functions. It also contains a provision for convicting those found practising corruption relating to contracts and the procurement of tenders.

Since 1994, a major influence on corporate governance in the country has been the three King Reports that detail and code best practices. Andreasson (2011) notes how this development has attempted to align corporate governance in the country with best international practices, while simultaneously addressing broad-based development. The latest King Report on Corporate Governance for South Africa (Institute of Directors (IoD), 2009), or King III, as it is known, is the blueprint for corporate governance in the country, and has been hailed internationally as an exemplary code to counteract corruption (Le Roux, 2010). It applies to both public and private entities, but is not legally binding. Particularly, it emphasises the importance of the triple bottom line (namely, the economic, environmental, and social components of company business) and ethics as a foundation for governance. It stresses the necessity of integrating corporate values into the strategies of companies, leading to the development of ethical corporate cultures. In this report, it is advocated that corporate governance must encompass the non-financial aspects of the company's operations, which include adopting strategies to promote the economic empowerment of HDSAs, protecting the environment, and contributing to society as a whole. The role played by leadership in the development of ethical corporate cultures is recognised, as are responsible corporate citizenship and the sustainable development of companies. King III is interlinked with compliance to the laws of the country and its regulatory environment.

On an international level, the Organisation for Economic Cooperation and Development (OECD) issued the *Principles of Corporate Governance*, which has been acclaimed as an "international benchmark", a governance "reference tool" (Jesover & Kirkpatrick, 2005:127), and one of the basic pillars contributing to international financial stability (Fülöp, Span, Pop & Popa, 2010). The major points of each principle are expanded in Table 1 (OECD, 2004:17-25), and juxtaposed against the principles found in the South African Constitution, the Prevention and Combatting of Corrupt Activities Act, and the King III Report.

TABLE 1: FRAMEWORK AGAINST WHICH TO ASSESS CORPORATE GOVERNANCE

Legislation and Codes			
OECD (2004)	**SA Constitution (Republic of South Africa, 1996)**	**Prevention and Combatting of Corrupt Activities Act (Republic of South Africa, 2004)**	**King III (IOD, 2009)**
Principle One: Macro context: Government responsibility to establish context to promote transparent and efficient markets; consistency with laws; mix of legislation, regulations, and voluntary codes	• Ensuring cost-effective and competitive market practices (Sect. 27[1]) • Principles of justice, accountability and fairness (Sect. 1[d]; Sect. 19[2])	• Duty to report corrupt activities by anyone who holds a position of authority and who can be expected to reasonably know that an offence has been committed (Sect. 34)	• Companies are integral to society and, as such, must be well governed (p. 8) • Good governance is linked to compliance with the law (p. 6) • Good governance leads to sustainable business, which is a moral and economic imperative (p. 19) • Companies should demonstrate good corporate citizenship to promote sustainable development (p. 10) • Principles of innovation, fairness, and collaboration (p. 13) • Good governance must promote social transformation in society (p. 13)
Principle Two: Protection of shareholder rights, to ensure transparency, inclusion, and participation in processes and decisions	• No unfair discrimination (Sect. 9) • Principles of transparency and fairness (Sect. 19[2])	• Ensuring non-corrupt business practices (Ch. 2)	• Principles of fairness and collaboration (p. 13)

Legislation and Codes			
OECD (2004)	**SA Constitution (Republic of South Africa, 1996)**	**Prevention and Combatting of Corrupt Activities Act (Republic of South Africa, 2004)**	**King III (IOD, 2009)**
Principle Three: Equitable treatment of all shareholders, including their rights of redress; prohibition of insider trading; disclosure by board members of conflicts of interest	• No unfair discrimination (Sect. 9) • Principles of equity and fairness (Sect. 9)	• Ensuring non-corrupt business practices (Ch. 2)	• Principles of fairness and collaboration (p. 13)
Principle Four: Recognition of the rights of all stakeholders, and cooperation between business and stakeholders to create wealth, jobs, and sustainable enterprises	• No unfair discrimination (Sect. 9) • Principle of fairness (Sect. 9)	• Ensuring non-corrupt business practices (Ch. 2)	• Good governance protects the rights of all stakeholders (p. 6) • Inclusive stakeholder approach (p. 9)
Principle Five: Timely and accurate disclosure of material matters			• Transparent sustainability reporting (p. 13)
Principle Six: Board responsibility for the ethical governance of the company	• No unfair discrimination (Sect. 9) • Principle of accountability (Sect. 1[d])	• No receiving or offering of unauthorised gratification, including money or favours in kind, gifts, loans, fees, rewards, valuables, security, property or interest in property, employment contracts or services, or avoidance of penalties, discounts, commissions (Sect. 10) • Reporting of corrupt activities relating to contracts and tenders (Sect. 12)	• Good governance is about effective leadership, including developing strategy to build sustainable businesses, considering the long-term impacts on the economy, society, and the environment, doing business ethically, and considering the business impact on stakeholders (p. 19) • Agreeing a governance framework between the group and its subsidiaries (p. 30) • Ensuring transparent remuneration practices (p. 31) • Undertaking external and internal audits (Ch. 7) • Practising risk management (pp. 35-36) • Ensuring compliance with laws, rules, codes, and standards (pp. 5-6)

As a means of simplifying the framework, three broad principles, with their related manifestations, were extracted from Table 1, and cover, without repetition, the issues raised. This simplified framework is presented in Table 2. It is against these principles that governance transgressions in reported BEE deals in the mining sector are later assessed.

Table 2: Combined principles as a framework against which to assess corporate governance

Principle	Guiding practice
Principle 1: The macro environmental context must promote governance, sustainable development, and broad socio-economic transformation	• Government has a responsibility to establish a context to promote transparent and efficient markets; consistency with laws; mix of legislation, regulation, and voluntary codes • Good governance is linked to compliance with the law • Principles of innovation, fairness, and collaboration should govern business transactions • Cost-effective and competitive market practices must prevail • Principles of justice, accountability, and fairness must prevail
Principle 2: The rights of shareholders and all stakeholders, and their fair and equitable treatment must be upheld to create wealth, jobs, and sustainable companies	• Principles of fairness, collaboration, and transparency must prevail • Shareholders must be included, and participate in processes and decisions • Non-corrupt business practices must prevail • Insider trading is prohibited • Full disclosure by board members and directors of conflicts of interests • Full and accurate disclosure of material matters
Principle 3: The board has overall responsibility for the ethical governance of the company	• The company should not engage in any acts of corruption, which include the giving or receiving of gratifications, including money or favours in kind, gifts, loans, fees, rewards, valuables, security, property or interest in property, employment contract or services, or the avoidance of penalties, discounts, and commissions • Corrupt activities relating to contracts and tenders must be reported

A prime responsibility of boards of directors is to ensure sound corporate governance through the oversight role they play in monitoring senior managers of the company (Jones & Welsh, 2012). This is particularly important as it pertains to Principles 2 and 3 in Table 2. It is for this reason that directors are judiciously appointed, governance processes and structures are instituted, and means of monitoring the organisation are established. In executing their fiduciary duties, boards of directors have to, in particular, monitor how the company impacts on society (Redmond, 2012), and how strategies such as BEE are executed (Khan, Muttakin & Siddiaui, 2013). In essence, government has the responsibility to set the context for sound governance (Principle 1, Table 2), while boards of directors have the responsibility to ensure that Principles 2 and 3 (Table 2) are adhered to through the establishment of business practices that are beyond reproach. Through the actions of business and government, the principles noted in Table 2 are operationalised.

BEE as a driver of economic transformation in South Africa

In 1994, the newly elected South African government, led by the African National Congress, had to devise strategies to promote rapid economic growth and corporate investment to "break through the wall of whiteness around South Africa's economy" (Tangri & Southall, 2008:699), as well as to drive broader social transformation (Hoffman, 2008).

The concept of BEE arose from a number of initiatives introduced to address the economic exclusion of the historically disadvantaged majority in the country. Measures to address black empowerment are mandatory for governmental and public sector institutions, and optional for private sector companies, unless they conduct business with government entities. Accordingly, in terms of its BEE clout, the size of the government market is considerable, representing 32% of the country's gross domestic product, rising as high as 50% if state-owned enterprises are included (Presidency, 2010).

In the early days, BEE focused primarily on transferring equity ownership of big corporations to black managers through the acquisition of shares and black management representation in companies, primarily at senior levels (Hoffman, 2008). Particularly targeted were monopolistic conglomerates and those companies that historically promoted economic inequity (Rossouw, 1997). It was anticipated that this process would ensure the redistribution of assets, promote equitable opportunities for all, and advance the participation of HDSAs in the economic activities of the country. What emerged, however, was the rise of BEE equity 'sleeping partners' in established white businesses, with little involvement from them in the strategic management of such businesses (Tangri & Southall, 2008), and a widening of the apartheid-created racial gaps in wealth (Ponte, Roberts & Van Sittert, 2007).

As an attempt to address such concerns, in 2003, the Broad-Based Black Economic Empowerment (B-BBEE) Act (Republic of South Africa, 2003) was introduced. The Act aims to provide simplified guidelines that set out targets, roles, and obligations for the private and public sectors (BEECom, 2001). In addition, the Act was designed to include women, workers, youth, people with disabilities, and people living in rural areas. It was a formal attempt to regulate BEE, to make it more inclusive and of benefit to the majority of the HDSAs of the country.

The Act provides for the establishment of sectorial transformation charters, tailored to the different economic sectors, to ensure that transformation progresses in measurable terms and according to codes of good practice. In this regard, BEE has evolved into an important institution that mediates the relationship between business and government (Hodgson, 2006). The disclosed value of BEE transactions in 2010 was in excess of R600bn (Presidency, 2010).

When the objectives of BEE are considered, and in spite of the related legislation, it appears that current BEE practices have shortcomings. Croucher and Miles (2010) add that, not only has BEE policy, as a concept, failed to progress empowerment among previously disadvantaged groups, but that this model of economic redress has become discredited. Thus, in its implementation, both BEE policy and the resultant practices have proved to be problematic, primarily because of a lack of political leadership (Croucher & Miles, 2010). In addition, Lindsay (2011) notes that there is no consensus about the definition of BEE, and, accordingly, it has developed into a number of uncoordinated policies and programmes under the jurisdiction of some six separate ministries and based on a number of pieces of legislation.

Poor governance of business practices has also undermined BEE policy. South African media comment has focused extensively on corruption in the relationship between business and government that has developed as a result of BEE policy (Butler, 2010; Friedman, 2010). Several incidents have been recorded of HDSAs fronting for white companies where artificial partnerships have been forged in the name of BEE (Terblanche, 2012). An unintended consequence of awarding a tender based upon the highest BEE score is the participation in the tender process by only those who can afford to spend anything from R6 000 to R60 000 per year on a BEE audit (Terblanche, 2012). In addition, a slew of verification agencies have sprung up to address this need in the marketplace, estimated as being a R1.8bn a year industry with sometimes fraudulent misrepresentation of data to influence BEE scores (Iheduru, 2008).

The mining sector

The South African mining sector is dominated by six large mining houses or 'group producers' that grew throughout the 1960s to 1980s, largely through the infusion of Afrikaner finance capital (Capps, 2013:65). The ideology of apartheid was perpetuated through the development of large parastatals that serviced the energy needs of the mining industry through the introduction of favourable tariffs and pricing policies, and through the migrant labour system, which was a source of cheap labour (Capps, 2013). While the South African government adopted measures to bring about greater equity for HDSAs in this sector (Dansereau, 2010), Hattingh (2010) notes that the sector is still rife with racist attitudes and some of the worst working conditions and safety records in the world, leading to strikes and other forms of labour unrest.

The mining sector, valued at R20.3 trillion in 2011 (South Africa, 2013), includes 1 600 mines employing around 840 000 people (directly and indirectly), with capital expenditure exceeding R46.5bn, a tax contribution of approximately R25.8bn, and R16.2bn paid in dividends in 2012 (Doke, 2013). The majority of these mines are small, with only 53 companies listed on the JSE, of which only 25 are considered to be large players in the industry [personal communication[1]].

Internationally, the risk factors involved in the mining sector are becoming more important, due to the nature of changes in the competitive investment and operational environments within which the sector operates (Ernst & Young, 2013). The South African mining industry is in danger of being regarded as an investment risk, as the sector is viewed as one in which greater regulation must be introduced to address fraud and corruption (Ernst & Young, 2013), practices that can impact a company's reputation, licence to operate, and bottom line (cf. MacMillan, Money, Downing & Hillenbrand, 2004; McKinsey and Co., 2002).

RESEARCH DESIGN AND METHODOLOGY

The unit of study was the mining sector in South Africa. A qualitative approach was adopted. The approach attempts to explore a complex situation over a designated period of time, within a specific context and setting (O'Leary, 2005), thereby promoting an understanding of that context (MacPherson, Brooker & Ainsworth, 2000).

Population and sample

The population comprised all mining companies in the country. The purposeful sample included those 22 companies where corporate governance transgressions, linked to BEE deals, were identified in press reports during the period under review.

Data collection and analysis

The study made use of media reports of corporate governance transgressions in the mining sector. The media can be a powerful stakeholder in monitoring corporate governance in society, reflecting public concerns (Core *et al.*, 2008; Dyck *et al.*, 2008; Wiesenfeld *et al.*, 2008).

All South African English newspaper articles contained within an electronic database, *News Monitor*, spanning a two-year period – 1 January 2010 to 31 December 2011 – were isolated. The *News Monitor* electronic library captures business news reported in leading newspapers and relevant specialist publications.

Initial data analysis

Franzosi (1987) first used content analysis for secondary newspaper data analysis by assigning "units of meaning" (Miles & Huberman, 1994:58) to such data. This methodology has subsequently been used in similar studies (Danso & McDonald, 2001; Magzamen, Charlesworth & Glantz, 2001; Clarke, Evenett & Lucenti, 2005). Through the use of key words, as advocated by Franzosi (1987), governance transgressions were identified. Key words included: governance, corruption, nepotism, cronyism, fraud, fronting, political influence, mismanagement, negligence, and entitlement.

Corporate governance transgressions relating to BEE deals were first identified in the *News*

1 Information supplied by Mr W. Tshabalala, Equity Market Division, Johannesburg Securities Exchange, 22 April 2013.

Monitor library by using the key words to highlight the incidents. The researcher was also supplied with an electronic version of all the newspaper articles from which the data were gleaned. The researcher then verified these findings by reading all newspaper articles and independently subjecting them to content analysis according to the key words. Only minor discrepancies were found between the number of 'mentions' of the incidences of governance transgressions noted by *News Monitor* and that identified by the researcher and, in each instance, the more conservative finding was accepted.

Main data analysis

After the initial analysis, a further two analyses were undertaken. Firstly, the number of mentions of corporate governance transgressions relating to one or more BEE deals for each company identified as a transgressor was recorded, to afford some insight into the importance the media (public) accorded such transgressions, which, in turn, reflects upon company reputation. More than one governance transgression per newspaper report was recorded in some cases. Secondly, data pertaining to the types of governance transgressions were grouped according to three broad thematic categories that emerged through content analysis, and the number of mentions according to these categories was noted across all companies (cf. Whitehead & Kotze, 2003). To provide a qualitative dimension to the findings, where appropriate, substantiating comments that appeared in the newspaper reports were furnished. As the secondary data used in the study were in the public domain, no confidentiality was breached.

RESULTS

In the period under review, the *News Monitor* database identified 4 416 mentions of corporate governance transgressions relating to BEE deals in general, spanning all economic sectors (see Table 3). Of these mentions, 155 (4.0%) applied to the mining sector, and related to 22 companies within this sector.

Table 3: Media-reported BEE governance transgressions per economic sector 2010-2011

Sector	BEE governance transgressions	
	Number	Percentage
Construction	1 317	30
Manufacturing	921	21
Engineering	850	19
Agriculture	734	16
Telecommunications	435	10
Mining	155	4
Finance	4	0
Total	**4 416**	**100**

Of the 22 mining companies (see Table 4), eight were listed on the JSE, with a further two linked to listed companies. In the case of six companies, foreign investors benefitted or had benefitted from the BEE deals. Two companies were liquidated at the end of 2011, due to extreme mismanagement, fraud, and corruption. One JSE-listed company, ArcelorMittal, accounted for the majority of the mentions of transgressions (77 or 49.7%).

Table 4: Media mentions of governance transgressions in BEE initiatives according to mining company

Company	Number of mentions
ArcelorMittal++ (JSE-listed)	77
Aurora Empowerment Systems*++	16
Imperial Crown Trading (JSE-listed)	13
Kumba Iron Ore (JSE-listed)	7
Alliance Mining Corporation (JSE-listed)	6
Mvelaphanda (Mvela) Resources (JSE-listed)	5
Sishen	5
Afripalm Resources*	3
Acquarius Platinum (JSE-listed)	3
ASA Metals++	3
Wesizwe Platinum (JSE-listed)++	3
Genorah Resources	2
Plasmeg	2
Vryheid Revival Mines++	2
Emakhosini	1
Harmony Gold (JSE-listed)	1
Metallon	1
Nakazi Mining Resources	1
Richards Bay Minerals	1
Rockwell Diamonds (JSE-listed)	1
Shiva Uranium++	1
Zululand Anthracite Collieries	1
Total	**155**

* Liquidated in 2011 ++ Non-HDSA involvement

Table 5 highlights the three broad types of governance transgressions that emerged from the content analysis. The first theme (political influence, nepotism, and fronting), relates to an interplay between the deals and larger external elements, such as government, political connection, and business strategy, to gain BEE credentials. The second theme (fraud and controversial deals) could be considered to comprise both legal transgressions and transgressions of governance, as these deals were fraudulently structured and surreptitiously advantaged those who are not targeted as beneficiaries of BEE. The third theme (mismanagement and negligence) relates to the daily operations of the organisation with regard to BEE deals.

Table 5: Types of governance transgressions

Governance transgression	Number of times mentioned	Percentage
Political influence/nepotism/fronting	119	56.9
Fraud and controversial deals	56	26.5
Mismanagement and negligence	35	16.6
Total	**211**	**100.0**

Theme 1: Political influence, nepotism, and fronting

The nature of corporate governance transgression that emerged in this category related to the use of influential political connections to unfairly secure BEE contracts. This appears to be the single greatest factor by far that leads to poor governance in such deals within the mining sector (56.9%). Within this category, other mentioned transgressions included the complicity of historically white business in fronting, as well as the development of dominant elites, who are often in competition with each other to gain wealth through the acquisition of shares in these companies, with little further contribution to the management of such companies.

The following extracts serve to capture the essence of governance transgressions that are intrinsic to BEE initiatives that use political connections to serve the interests of an elite few.

Mokgata (2010:7) reported that Shiva Uranium chief executive Jagdish Praekh "hopes his newly acquired mine will benefit from the input of President Jacob Zuma's son, Duduzane Zuma as shareholder", to which Ndlangisa (2010:6) added: "This is tenderpreneurship [entrepreneurship based on the awarding of tenders] of a special kind, whereby government policies are used to open doors and the politically connected are the first to walk through."

In a spirit of entitlement, it appears that these political elites may believe that the acquisition of wealth is something that is their due, and they often compete openly for opportunities to create such wealth. Masondo (2010:25) notes: "Access to the state provides [them] with leverage to select those who can acquire shares in white-owned firms ... The BEE model has promoted competition among politicians for access to institutional power..." Quoting Sindile Zungu, head of the Ayigobi consortium, which was given a 21% stake in ArcelorMittal South Africa, Salgado (2010:15) stated that she "admitted ... that the R9.1bn deal was 'money for jam' for the consortium members who include individuals linked directly to President Jacob Zuma." Ndlangisa (2010:6) quoted the President of the National Federated Chamber of Commerce and Industry, Lawrence Mavundla, as having said: "I don't have a problem when people close to Zuma [the President] benefit because government positions are not permanent and they [people in government] don't get enough money to support their family members so that they do not have to work. They should be allowed to benefit because, at the end of the day, they are black."

Theme 2: Fraud and controversial deals

This was the second-largest mentioned category of reported corporate governance transgression (26.5%). It involved practices that go against the spirit of the B-BBEE Act, including the manner in which BEE deals are structured and financed (which also constitutes legal transgression), the benefitting of foreigners or non-HDSAs through BEE deals, the exclusion of or disadvantage to communities in the setting up of BEE initiatives contrary to what is expected in the BEE policy, and dubious shareholder structures.

Illustrating the nature of fraud in some BEE mining initiatives, Dick (2010:12) notes: "ArcelorMittal, SA ... falls apart amid mounting allegations that its key partner, Imperial Crown Trading (ICT), engaged in fraud in its application for mining rights to the Sishen Iron Ore mine, [with] wide-ranging consequences."

Commenting on BEE deals being negotiated with non-HDSAs, Haffajee (2010:21) highlights two empowerment deals that "represent the arrival on our shores of predator post-colonial capitalism where political dynasties cream off the profits from developing economies, investing little and taking profits offshore. This is the polar opposite of what mining empowerment is meant to do ... These politically connected young businesspeople are rented by foreigners and local businesspeople who know how cronyist systems work."

Sergeant (2010:18) raises the issue of the quick turn-around time from the point at which a BEE partner acquires shares in a company and when he or she sells these shares at a profit: "Where deals have worked out, BEE participants have often been quick to sell … One-time freedom fighter Mzilikazi Khumalo was the owner of R2bn in unencumbered shares. He sold the shares, raising close to R2bn in cash … and now it seems that mining companies with successful prior deals and BEE partners who have sold out will simply have to do new deals all over again."

Theme 3: Mismanagement and negligence

This category was the third-most cited (16.6%) with regard to corporate governance transgressions, and included: a lack of due diligence, the inability to repay restructured debt, the payment of exceptionally low wages or the avoidance of payment to employees altogether, an absence of risk management, and disregard for the environment.

Highlighting the plight of mine workers whose bosses are BEE partners, Qoza (2010:11) stated: "Khulubuze Zuma [son of the President] was the BEE highlight of the year. His empire spans gold mines in South Africa, oil exploration in the DRC [Democratic Republic of the Congo] and logistics with the South Koreans. In what can be viewed as an own goal for empowerment, workers at his mine went unpaid for nine months."

Marais (2011:1) continues: "After nearly two years of broken promises, extended deadlines, unpaid wages, suspicious deaths and a suicide … Aurora [a mine owned by a BEE consortium, of which the President's son is a member] is not only responsible for the massive social crisis which impoverished more than 40 000 people, but they also stripped the mining assets of all value and caused SA as an investment possibility immeasurable damage. Despite the non-payment of wages, it is estimated that Aurora made millions selling gold and scrap from the mines."

DISCUSSION

Corporate governance relates to the values and norms of behaviour of organisations as they function within society (Francis & Armstrong, 2003; Roman *et al.*, 2012). As such, when assessing corporate governance and corporate governance transgressions, it is important to ascertain whether behaviours and practices comply with the ethical standard expected by society. The direct transgressions reported in this study, and those behaviours that have led to governance transgressions, can be considered to contravene societal standards.

Reported corporate governance transgressions relating to BEE deals in the mining sector comprised only 4% of the number of newspaper reports of overall BEE corporate governance transgressions during the review period. One company (ArcelorMittal) was responsible for almost 50% of the reported governance transgressions in this sector. Nevertheless it remains that corporate governance transgressions were identified at 22 mining companies, eight of which are listed on the JSE, and a further two that are linked to listed companies. Highlighting governance transgressions at these companies, while not generalisable to all companies in the sector, serves to provide an indication of some of the problems that beset governance of BEE in this economic segment. It should also be borne in mind that practices such as political interference and controversial deals do not constitute governance transgressions *per se*. However, within the context of the present study, these practices had a direct impact on the governance of BEE deals, and led to poor governance practices (such as unfairly awarding a tender to a politically connected person, or promoting non-HDSAs as beneficiaries of BEE).

The findings are discussed within the context of the three broad principles presented in Table 2.

Principle One: The macro environmental context must promote governance, sustainable development, and broad socio-economic transformation

It is incumbent upon government to structure the macro environment within which companies operate and within which BEE initiatives are undertaken, to ensure that it provides a milieu for good governance at country level. In this regard, the South African Constitution (Republic of South Africa, 1996), the Prevention and Combating of Corrupt Activities Act (Republic of South Africa, 2004), and the King III Code (IoD, 2009) have been widely acclaimed as containing the necessary elements to promote sound governance in companies and the country as a whole. A range of legislation, charters, and codes specific to the mining industry also endeavours to regulate BEE in terms of the objectives of this initiative. Thus, the foundation has been laid to promote sound corporate governance.

The most frequently reported category of transgression was that of political interference/nepotism/fronting that promotes lucrative BEE deals to an elite group, some of whom are not HDSAs. In this regard, government officials and politicians, some close to the President of the country, blatantly flaunt their involvement in BEE deals that are well known to promote only the enrichment of an elite few (Tangri & Southall, 2008). It is this transgression that strikes at the core of corporate governance, and which makes a mockery of BEE, designed to empower HDSAs who have been negatively impacted, socially and economically, by policies and practices instituted by the previous apartheid regime.

It appears that legislation and codes exist only on paper, and that the leadership of governance in some BEE deals is absent. In this regard, the principles of justice, accountability, and fairness, enshrined in the South African Constitution (Republic of South Africa, 1996), have not prevailed.

The mining sector is critical to the economy of the country, and it can be expected that flouting the law will, with time, create considerable reputational damage to the country (Ernst & Young, 2013) and the mining companies themselves, thereby discouraging foreign investment. The scrutiny of foreign investors of governance practices in emerging markets is well known (cf. McKinsey & Co., 2002; Vaughn & Ryan, 2006), as is the negative impact of corruption on economic development (Taylor, 2007). In addition, investors could well be disinclined to invest in a market segment in which fair competition is stifled through favouritism, and where the basis upon which deals are brokered and mining licences are awarded is opaque (McMillan *et al.*, 2004).

Principle Two: The rights of shareholders and all stakeholders and their fair and equitable treatment must be upheld to create wealth, jobs, and sustainable companies

Nepotism and political cronyism ultimately work against the empowerment of those who deserve to benefit from the redressing of past inequalities. To this can be added the practice of historically white-owned business being complicit in fronting with black partners in order to promote self-serving purposes related to business acquisition (Andreasson, 2006; Hoffman, 2008). The findings suggest that the rights of various stakeholders have not been upheld.

As noted above, government has not set the context within which those companies involved in corporate governance transgressions recognise their accountability to broad stakeholder groupings (Wieland, 2005). BEE, as originally designed, was intended to promote societal transformation (Tangri & Southall, 2008), as well as to stimulate economic growth, to address dire poverty (Fauconnier & Mathur-Helm, 2008). However, in line with Dansereau's (2010) belief that little has been done to promote equity for HDSAs in the sector, the practices of nepotism and cronyism can be considered to be corporate governance transgressions that directly act against the spirit of BEE. In such cases, companies present an outward display of transformation in response to the threat of nationalisation, but have not embraced the broad sentiments of BEE to reduce harm to those who work in the sector and to promote their social development (Dansereau, 2010; Fauconnier & Mathur-Helm; Tangri & Southall, 2008). In addition, the manner in which elites tend to benefit from BEE deals defeats the BEE objective, and it could be questioned how much of the scarce capital of the country could have been better invested in jobs, land, or houses for HDSAs.

Principle Three: The board has overall responsibility for the ethical governance of the company

Keightley (2011) notes that the concept of corruption is a complex one with both moral and ethical components, but one that broadly addresses irregular and unjust practices. From an institutional perspective, the concept includes the corporate governance transgression of failure by boards to ensure that business practices are impartial and transparent, including the failure to address practices that involve unjust personal gain through bribery, kickbacks, nepotism, embezzlement, illicit benefits, and "trading in influence" (Keightley, 2011:346).

Just over 43% of the governance transgressions mentioned was contained in the two broad categories – fraud and controversial deals, and mismanagement and negligence (Table 5). While overall governance structures may have been established, it is clear that the boards of directors of these companies are not exercising their fiduciary duty of ensuring sound and transparent governance. There was a lack of disclosure of conflicts of interests, the overlooking and acceptance of the giving and receiving of undeserved gratifications, and corrupt activity in the awarding of tenders. Negligent management has seen company employees going unpaid for months, and, in the case of two companies, dereliction of fiduciary duty led to the liquidation of these companies within the review period.

In line with the South African Companies Act (Republic of South Africa, 2008) and the governance of companies that needs to prevail, all 22 mining companies were required to set up the relevant structures to monitor business practices. As such, it is an indictment of these boards that good governance was flaunted in the BEE deals structured and executed by these companies. In summary, it can be said that the boards of management of these companies, some of which are large players on the JSE, have been negligent in exercising their oversight role in the management of BEE deals (Jones & Welsh, 2012). They have abdicated their responsibility for assessing and addressing the impact of company corrupt practices on stakeholders and broader society (Redmond, 2012), and for ensuring transparency in company practices (Keightley, 2011). In this respect, they have allowed the reputations of these companies to become tarnished, thereby potentially jeopardising investment in the sector.

LIMITATIONS OF THE STUDY AND RECOMMENDATIONS FOR FUTURE RESEARCH

Only those corporate governance transgressions in the mining sector that related to BEE deals reported in the South African English press during the period under review were recorded. Other unreported incidents of corporate governance transgressions could have existed outside these media reports, and media reports could also have contained bias in reporting. Human error could have been present in the qualitative judgment relating to the identification of reported corporate governance transgressions. The choice of key words to determine the *News Monitor* search, although guided by the literature and the numerous press reports on governance problems in BEE deals in general, could inadvertently have omitted key words, thereby erring on the side of conservatism in reporting on the full range of governance transgressions.

The findings were dominated by mentions of corporate governance transgressions that related to a few large companies, which may not necessarily reflect on governance within the sector as a whole. Therefore, the findings serve only to highlight issues of concern that have received public attention, and to afford some insight into the kinds of corporate governance transgressions that should be monitored by government and boards of directors.

The media has, however, been shown to highlight problems that might otherwise remain hidden (Bednar, 2012), and, spite of these limitations, the study does provide an indication of the broad categories of corporate governance transgressions that are of public concern. A more extensive study of the governance of BEE practices in this sector is recommended, and value could be gained by qualitative studies that explore the views of various stakeholders about the impact of governance in progressing BEE. A view could also be elicited from the managers who are tasked with operationalising the principles noted in this study in relation to BEE deals. In addition, a comparative study between the eight JSE-listed mining companies within which corporate governance problems relating to BEE deals were reported and the remaining 17 large companies listed on the JSE (which would have inevitably entered into BEE deals) where such problems were not reported could serve to broaden an understanding of how some companies ensure sound corporate governance in structuring and managing their BEE transactions.

CONCLUSION

The objectives of the study were to identify broad areas of reported corporate governance transgressions in the mining sector, to highlight the extent of importance accorded by the media to the types of reported governance transgressions, and to consider these transgressions against a framework of best practice principles developed from relevant codes and legislation. The contextualisation of the reported corporate governance transgressions against this framework provides some direction for a focus of intervention by both government and boards of directors.

While the BEE policy has been set up in a disjointed manner, it nevertheless remains that its principles, translated into practices, could serve to advance HDSAs in the economy. However, at the heart of the problem, whether formally labelled as corporate governance transgressions or not, are practices that ultimately impact sound governance in this sector.

The concept of corporate governance is central to any transformation initiative (Detomasi, 2006), as well as to social development in the country (Fig, 2005), and, it is argued, should be central to BEE strategies as well. For this to take effect, a marriage must occur between politicians who set the tone for sound governance and those directors of boards who are tasked with the fiduciary duty of monitoring the operations of companies. Until government recognises its responsibility, and until boards of directors experience the legal effects of dereliction of duty, actual corporate governance transgressions and practices that lead to such, as the ones reported in this study, will prevail. While legislation, charters, and codes of best practices are necessary, they are not sufficient in themselves to counteract the lack of fortitude in those who need to ensure that sound principles are translated into action that benefits those for whom BEE is intended.

ACKNOWLEDGMENTS

The financial contribution towards the data collection from the Faculty of Management, University of Johannesburg, is gratefully acknowledged. I would also like to extend thanks to Ms Ziyanda Makapula for assistance with the literature search.

REFERENCES

Andreasson, S. 2006. The African National Congress and its critics: 'Predatory liberalism,' black empowerment and intra-alliance tensions in post-apartheid South Africa. *Democratization*, 13(2):303-322.

Andreasson, S. 2011. Understanding corporate governance reform in South Africa: Anglo-American divergence, the King Reports, and hybridization. *Business and Society*, 50(4):647-473.

Bednar, M. K. 2012. Watchdog or lapdog? A behavioral view of the media as a corporate governance mechanism. *Academy of Management Journal*, 55(1):131-150.

BEECom. 2001. *Report of the Black Economic Empowerment Commission.* Johannesburg: Skotaville Press.

Benjamin, C. 2013. Mining sector globally under strain. *Mail and Guardian Business*, 25-31 January:4.

Butler, A. 2010. From sports reporter to connected enforcer. [Online] Available: http://www.businessday.co.za/articles/Content.aspx?id=131179 [Accessed 28 January 2013].

Capps, G. 2013. Victim of its own success? The platinum mining industry and the apartheid mineral property system in South Africa's political transition. *Review of African Political Economy*, 39(131):63-84.

Chamber of Mines of South Africa. 2012. Facts about South Africa's mining: Putting South Africa first: Mining's contribution to South Africa. [Online] Available: http://www.bullion.org.za/resources/sub-categories/?section [Accessed 21 August 2013].

Chau, S. L. 2011. An anatomy of corporate governance. *IUP Journal of Corporate Governance*, X(1):7-21.

Clarke, J. L., Evenett, S. J. & Lucenti, K. 2005. Anti-competitive practices and liberalising markets in Latin America and the Caribbean. *World Economy*, 28(7):1029-1056.

Core, J. E., Guay, W. & Larcker, D. F. 2008. The power of the pen and executive compensation. *Journal of Financial Economics*, 88(1):1-25.

Croucher, R. & Miles, L. 2010. Corporate governance and employees in South Africa. *Journal of Corporate Law Studies*, 10 (Part 2):367-389.

Dansereau, S. 2010. Comparing duelling approaches to the transformation of South African mining: Corporate social responsibility or labour restructuring? *Labour, Capital and Society*, 43(1):65-98.

Danso, R. & McDonald, D. A. 2001. Immigration and the print media in post-apartheid South Africa. *Africa Today*, 48(3):115-137.

Davie, K. 2010. SA and Latin America: The danger of populist economics. [Online] Available: mg.co.za/article/2010-10-29-sa-and-latin-america-the-danger-of-populist-economics [Accessed 8 March 2013].

Detomasi, D. A. 2006. International regimes: The case of Western corporate governance. *International Studies Review*, 8(2):225-251.

Diale, A. L. 2010. The role and importance of whistle-blowing in building organisational integrity in the public sector: A theoretical exposition. *Journal of Public Administration*, 45(1.1):295-305.

Dick, W. 2010. Feeling the heat. *Business Day Supplement*:12.

Doke, L. 2013. Industry hits the right notes, but is it enough? Mining Indaba. *Supplement to the Mail and Guardian*, 15-21 February:1-2.

Dyck, A., Volchkova, N. & Zingales, L. 2008. The corporate governance role of the media: Evidence from Russia. *Journal of Finance*, 63(3):1093-1135.

Ernst & Young. 2013. The business risk report: Mining and metals 2012-2013. [Online] Available: http://www.ey.com/miningmetals [Accessed 27 February 2013].

Fauconnier, A. & Mathur-Helm, B. 2008. Black economic empowerment in the South African mining industry: A case study of Exxaro Limited. *South African Journal of Business Management*, 39(4):1-14.

Fig, D. 2005. Manufacturing amnesia: Corporate social responsibility in South Africa. *International Affairs*, 81(3):599-617.

Fleming, S. & McNamee, M. 2005. The ethics of corporate governance in public sector organizations. *Public Management Review*, 7(1):135-144.

Francis, R. & Armstrong, A. 2003. Ethics as a risk management strategy: The Australian experience. *Journal of Business Ethics*, 45(4):375-385.

Franzosi, R. 1987. The press as a source of socio-historical data: Issues in the methodology of data collection from newspapers. *Historical Methods*, 20(1):5-16.

Friedman, S. 2010. The worst threat to democracy that money can buy. [Online] Available: http://www.businessday.co.za/articles/Content.aspx?id=92123 [Accessed 28 January 2013].

Fülöp, M. T., Span, G. A., Pop, A. & Popa, I. E. 2010. The similitude and dissimilitude of OECD, Romanian and German corporate governance codes. *International Journal of Business Research*, 10(2):185-189.

Haffajee, F. 2010. Political dynasties keep the poor impoverished. *City Press*, 25 April:21.

Hattingh, S. 2010. Mineworkers' direct action: Occupations and sit-ins in South Africa. *Journal of Labor and Society*, 13:343-350.

Hodgson, G. M. 2006. What are institutions? *Journal of Economic Issues*, 40(1):1-25.

Hoffman, E. A. 2008. A wolf in sheep's clothing: Discrimination against the majority undermines equality, while continuing to benefit few under the guise of black economic empowerment. *Syracuse Journal of International Law and Commerce*, 36(1):87-115.

Iheduru, O. C. 2008. Why 'Anglo licks the ANC's boots: Globalization and state-capital relations in South Africa. *African Affairs*, 107(4280):333-360.

Institute of Directors (IoD). 2009. *King Report on governance for South Africa*. Johannesburg: Institute of Directors.

Jesover, F. & Kirkpatrick, G. 2005. The revised OECD principles of corporate governance and their relevance to non-OECD countries. *Corporate Governance: An International Review*, 13(2):127-136.

Jones, R. & Welsh, M. 2012. Toward a public enforcement model for directors' duty of oversight. *Vanderbilt Journal of Transnational Law*, 45(2):343-403.

Keightley, R. 2011. Fat cats, slim pickings: An examination of corporate corruption and the efficacy of existing countermeasures in South Africa. *Journal of Contemporary Law Studies*, 11(2):343-368.

Khan, A., Muttakin, M. B. & Siddiaui, J. 2013. Corporate governance and corporate social responsibility disclosures: Evidence from an emerging economy. *Journal of Business Ethics*, 114:207-223.

Le Roux, F. 2010. *The application of the third King Report on Corporate Governance to small and medium enterprises*. Research report submitted in partial fulfilment of the requirements for the degree Master's of Business Administration. Stellenbosch: Stellenbosch University.

Lindsay, D. 2011. BEE reform: The case for an institutional perspective (pp. 236-255). In J. Daniel, P. L. Naidoo, D. Pillay & R. Southall (Eds.), *New South African Review 2*. Johannesburg: Wits University Press.

MacMillan, K., Money, K., Downing, S. J. & Hillenbrand, C. 2004. Giving your organization spirit: An overview and call to action for directors on issues of corporate governance, corporate reputation and corporate responsibility. *Journal of General Management*, 30(2):15-42.

Magzamen, S., Charlesworth, A. & Glantz, S. A. 2001. Print media coverage of California's smoke-free bar law. *Tobacco Control*, 10(2):154-160.

Marais, J. 2011. Zuma Inc. hits skids. *Business Times*, 29 May:1-3.

Masondo, D. 2010. BEE has evolved into a family affair: ZEE. *City Press*, 5 September:25.

McKinsey and Co. 2002. Global investor opinion survey. [Online] Available: http://www.mckinsey.com/clientservice/organizationleadership/service/corpgovernance/pdf/globalinvestoropinionsurvey2002.pdf [Accessed 23 February 2013].

MacPherson, I., Brooker, R. & Ainsworth, P. 2000. Case study in the contemporary world of research: Using notions of purpose, place, process and product to develop some principles for practice. *International Journal for Social Research Methodology*, 3(1):49-61.

Mears, R. 2006. The state of the economy as a basis for human development: Evaluated against the accelerated and shared growth imitative for South Africa. *Africa Insight*, 36(3-4):199-213.

Miles, M. B. & Huberman, A. M. 1994. Early steps in analysis (pp. 50-89). In M. B. Miles & A. M. Huberman (Eds.), *Qualitative data analysis*. Thousand Oaks, CA: Sage.

Mokgata, Z. 2010. Shiva Uranium looks to fresh start with another Zuma link. *Business Times*, 23 May:7.

Ndlangisa, S. 2010. NUM blasts ArcelorMittal's BEE deal. *City Press*, 15 August:6.

O'Leary, Z. 2005. *Researching real-world problems: A guide to methods of inquiry*. London: Sage Publications.

Organisation for Economic Cooperation and Development (OECD). 2004. *OECD Principles of Corporate Governance* (revised ed.). Paris: OECD Publishing.

Ponte, S., Roberts, S. & Van Sittert, L. 2007. Black economic empowerment: Business and the state in South Africa. *Development and Change*, 38(5):933-955.

Presidency. 2010. *Development Indicators (2010).* Pretoria: The Presidency of the Republic of South Africa.

Qoza, S. 2010. BEE flopped in its finest hour. *City Press*, 26 December:11.

Redmond, P. 2012. Directors' duties and corporate social responsiveness. *University of New South Wales Law Journal*, 35(1):317-340.

Reed, D. 2002. Corporate governance reforms in developing countries. *Journal of Business Ethics*, 37:223-247.

Republic of South Africa. 1996. *Constitution of the Republic of South Africa, Act No. 108.* Pretoria: The Government Printer.

Republic of South Africa. 2003. *Broad-Based Black Economic Empowerment Act No. 53. Gazette No. 25899.* Pretoria: The Government Printer.

Republic of South Africa. 2004. *Prevention and Combating of Corrupt Activities Act No. 12. Gazette No. 26311.* Pretoria: The Government Printer.

Republic of South Africa. 2008. *Companies Act No. 712. Gazette No. 32121.* Pretoria: The Government Printer.

Roman, C., Roman, A. G. & Boghiu, A. 2012. The new governance and globalization. *Theoretical and Applied Economics*, XIX(1):113-126.

Rossouw, G. J. 1997. Unbundling the moral dispute: About unbundling in South Africa. *Journal of Business Ethics*, 16:1019-1028.

Salgado, I. 2010. ArcelorMittal in R96bn BEE deal. *The Star, Business Report*, 11 August:15-16.

Sartorius, K. & Botha, G. 2008. Black economic empowerment ownership initiatives: A Johannesburg Stock Exchange perspective. *Development Southern Africa*, 25(4):437-453.

Schlemmer, L. 2004. *Business in change: Corporate citizenship in South Africa.* Occasional Paper 2. Johannesburg: South Africa Foundation.

Sergeant, B. 2010. Govt. would do well to respect SA miners. *Citizen – Money Web Business*, 20 July:18.

South Africa. 2013. Mining and Minerals in South Africa: Factsheet. [Online] Available: http://www.southafrica.info/business/economy/sectors/mining.htm [Accessed 11 June 2013].

Tangri, R. & Southall, R. 2008. The politics of black economic empowerment in South Africa. *Journal of Southern African Studies*, 34(3):699-716.

Taylor, S. D. 2007. *Business and the state in Southern Africa: The politics of economic reform*. Boulder, CO: Lynne Rienner.

Terblanche, B. 2012. Unpacking the draft rules of empowerment. *Mail and Guardian Business*, 19-25 October:7-8.

Thomas, A. 2012. Governance at state-owned enterprises. What do annual reports and the print media tell us? *Social Responsibility Journal*, 8(4):448-470.

Vaughn, M. & Ryan, L. V. 2006. Corporate governance in South Africa: A bell-wether for the continent?' *Corporate Governance*, 14(5):504-512.

Whitehead, T. & Kotze, M. 2003. Career and life balance of professional women: A South African study. *South African Journal of Human Resource Management*, 1(3):77-84.

Wieland, J. 2005. Corporate governance, values management, and standards: A European perspective. *Business and Society*, 44(1):74-93.

Wiesenfeld, B. M., Wurthmann, K. A. & Hambrick, D. C. 2008. The stigmatization and devaluation of elites associated with corporate failures: A process model. *Academy of Management Review*, 33(1):231-251.

Young, S. & Thyil, V. 2008. A holistic model of corporate governance: A new research framework. *Corporate Governance*, 8(1):94-108.

Porportionalist reasoning in business ethics

Patrick Giddy

ABSTRACT

Proportionalist reasoning, found in the Aristotelian Just War theory, moderates the means taken by reference to the intended (moral) end. However, judging acts by their conformity or otherwise to one normative moral end might, in a liberal society, seem an imposition. Against this objection, I argue, with Spaemann, that values associated with the culture of commerce and its ethical theories are a breakaway from the culture of commitment and virtue that is the only possible framework for ethical reasoning. This commitment is unpacked by MacIntyre through the idea of a social practice and its internal goods. Applied to business, it is work itself, normatively conceived, that is the key internal good.

Keywords: proportionalism; Spaemann; business ethics; social practices; double effect; moral community; Aristotelianism; MacIntyre

INTRODUCTION

Proportionalist reasoning, found in the Aristotelian-based Just War theory, moderates the means taken by reference to the intended (moral) end. However, judging acts by their conformity or otherwise to one normative end might, in a liberal society, seem an imposition. Against this objection, I argue, with Spaemann (1996), that the values associated with a culture of commerce and of liberalist ethical thinking are a breakaway from the culture of commitment and virtue that is the only possible framework for ethical reasoning. This commitment is unpacked by MacIntyre (1981) through the idea of a social practice and its internal goods. Applied to business, it is work itself, normatively conceived, that is, I argue, the key internal good. Business ethics is, in part, a matter of seeing how, in a culture of utilitarian thinking, a counter-cultural moral commitment is called for. This becomes further evident when we apply our approach specifically to the contention of Deon Rossouw (2003) regarding the unsuitability of the Aristotelian approach and, in particular, the principle of double effect in business ethics.

My argument can be formally set out as follows:

The foundation for ethical reasoning lies in the attitude of commitment governing one's participation in a moral community.

Patrick Giddy
School of Religion, Philosophy and Classics
University of KwaZulu-Natal

Author's postal address:
5 St David's Road
Claremont
7708
South Africa
M: +27 72 779 1056
E: jpgiddy@gmail.com

***Patrick Giddy** is a senior research associate in philosophy at UKZN. Recent publications indicate his current areas of research: religion in a scientific and secular culture (2011; Why theology can and should be taught at a secular university,* Journal of Philosophy of Education *45); ethics (2012; More than tolerance: Ethics for a multicultural society,* Synthesis Philosophica *54); and countering a global philosophical 'autism' (2013; Can African traditional culture offer something of value to global approaches in teaching philosophy and religion?,* Acta Academica *45).*

But modernity and the culture of commerce break with all traditions of such participation, in which persons are 'connected in' to common forms of social life.

So authentic business ethics will form part of a challenge to this culture of modernity and commerce; it will take productivity, not as the 'bottom line', but as limited by the whole range of values involved in the critical social participation that furnishes the content of the end by which the proportionality of the means taken is assessed.

The non-trivial nature of the first premise is only apparent in the context of a culture that assumes no such commitment as a given. The following section argues that this is indeed the case in the dominant global culture of commerce. I explain (Section 3) what, in contrast, the Aristotelian-type proportionalist reasoning in ethics amounts to. I then turn, in Section 4, to Spaemann's argument that no *subsequent* sense can be made of ethical obligations if one has first assumed that individuals have contractual ties only (as is the case, for example, from a commercial perspective). The ethically foundational commitment to respecting persons as fellow participants in a moral community is further unpacked, in Section 5, through MacIntyre's notion of a social practice as framing our contemporary understanding of the virtues. This 'sociological' rather than metaphysical re-interpretation of the Aristotelian approach also answers the typical liberalist objection to any form of communitarian ethics as entailing an arbitrary prescriptive limiting of individual choice of lifestyle. I conclude (in Section 6) that, applied to the world of business, proportionalist ethics challenges the dominant paradigm of commerce, and this is illustrated through a discussion of Rossouw's objection to double-effect reasoning in business ethics.

In a speech to the Centre for Social Justice in 2012 Jon Cruddas, the new policy guru of the British Labour Party, argued that our choice at the level of ideas is between a politics of utilitarianism and maximising self-interest, and the politics of Aristotle and sociability. This paper can be seen as an attempt to unpack, for the case of business, what is meant by this, and how it could be defended.

ARISTOTELIAN ETHICS IN THE CONTEXT OF MODERNITY

Business ethics is a latecomer on the scene of the contemporary world of work. Keynes noted that, for the moment, "fair is foul and foul is fair" (quoted by Schumacher, 1973:24). And Adam Smith, reflecting the new culture of self-regarding competitive individualism, thinks of human dignity as tied to merit (in a commercial sense). Another person merits my regard if they, in turn, benefit me. Their dignity would be taken away if I took regard of them out of sheer benevolence. It is "not from the benevolence of the butcher, the brewer or the baker, that we expect our dinner, but from their regard to their own self-interest. We address ourselves, not to their humanity, but to their self-interest" (quoted from *The Wealth of Nations* by Kwant, 1969:47). "Nobody but a beggar chooses to depend chiefly upon the benevolence of his fellow-citizens," Smith adds, comparing the beggar pleading for a hand-out to the antics of a dog before its master's table. In this outlook, any appeal to our natural connectedness with others has gone, obliging us because we see ourselves and our identity as bound up with those of others. Your worth comes from your contribution to the economic system. Self-regard, it is supposed, generates the distribution of fair rewards for merit through the invisible hand.[1]

However, the unjust consequences of this (not everybody is in a position to trade) are soon too severe to remain unnoticed, and principles are stipulated, which, because of 'ethical

1 Amartya Sen (2009:186-187) objects to the frequent use of this quote to critique Adam Smith, and draws on Smith's *The Theory of Moral Sentiments* to show the economist acknowledged motivations other than self-regarding calculations.

considerations', should limit our otherwise unbounded entrepreneurial actions. Unlike the other factors of production (textbooks tell us these are, in addition to labour, land, capital, and the manager's own creative input), employees merit special regard. This is because persons in general, employed or unemployed, have, we say, certain properties (rationality, for example), which entail rules moderating our supposed default attitude to the world as an object for our (self-regarding) calculus. They have rights, some of which may be legally (or professionally) enforceable. Businesses do well to show that they are abiding by these rules. Committees are set up to check on this. In order to make sense of the codes of conduct, business managers draw on the expertise of the philosophical community. The ethical theory that accords best with the culture of commerce is that of utilitarianism; the Kantian ethics of principles is used to ground the codes of ethics ameliorating the consequences of considerations of utility. These two approaches get the most attention from the world of business. For both of these, the starting point is the value of autonomy, trumping any ethically significant social relations. It is this idea that the proportionalist approach throws into question.

As is well known, Bentham was sceptical of this move to human rights, calling them "nonsense"; Amartya Sen (2009:355ff) notes the point that, whether fictional or not, it might nevertheless be effective as rhetoric. Be that as it may, the idea of foundational rights or principles arose, I suggest, because the traditional ethical narratives were thrown into disarray with the coming of the modern economic order. Stephen Toulmin makes this point eloquently, quoting Donne:

> *'Tis in all pieces, all cohaerance gone;*
> *All just supply, and all Relation;*
> *Prince, Subject, Father, Sonne, are things forgot,*
> *For every man alone thinks he hath got*
> *To be a Phoenix, and that there can bee*
> *None of that kinds, of which he is, but hee.*
> (in Toulmin, 1990:65)

The framework for ethical reasoning in a society without 'coherence', that is, a society without a sense of how one 'binds in', as father, son, educator, and so on, is bound to be problematic. As is the case with neo-Aristotelian Alisdair MacIntyre, the values associated with the culture of commerce that has dominated modernity are seen by Robert Spaemann as a breakaway from the framework of loyalty and commitment (and virtues) that, it is argued, is the only possible framework for ethical reasoning (see also the wide-ranging argument of Mary Clark (2002, esp. Chapter 9)). This amounts to a critique of the whole commercial culture characterising modernity, as made clear in Zaborowski's (2010) book-length account of Spaemann (subtitled *Nature, freedom and the critique of modernity*).

The recourse to rights suits the (post-traditional) individualist culture of commerce. Rights, it is usually said, pertain to entities (human beings) simply by virtue of their possession of certain properties, and not because they conform to certain models of behaviour embedded in the ethical traditions. However, Spaemann (and, similarly, Frankfurt, 1993, and Tugendhat, 1993) argues that it is only in the light of our prior commitment to a moral community embodying such models that ethical reasoning of whatever kind makes sense. This commitment needs to be explicitly drawn upon by the interlocutors as a starting point, something which the proportionalist approach compels. For the specific content of the commitment supplies the content of the end in terms of which the means are judged proportionate or not. (As a first step in unpacking this idea, one might consider how a footballer's commitment to the nature of the game, and thus to the other participants, determines the meaning of 'excellence' in this particular social practice, excluding 'diving' as a disproportionate means to the intended end, or, for that matter, biting an opponent's shoulder.)

I judge Spaemann's argument to be convincing, but I believe that it needs to be complemented by MacIntyre's re-presentation of the virtue approach to ethics, if it is to be convincingly applicable to our own age. I now give a brief account of why this is so. Aristotle thinks of ethics as an enquiry of how best the agent, set on leading a good life, can discern what the appropriate means are to achieve the goal. Young or immature people, Aristotle claims in Book 1 of the Nicomachean ethics, are, for this reason, not good students of ethics. They are unlikely to have sufficient maturity for this kind of commitment, but the study of ethics will greatly profit "those who desire and act in accordance with reason" (Ethics, 1095). We can think of the culture of commerce as typifying this kind of moral immaturity: the agent typically acts for reasons of monetary gain, and not at all for reasons to do with the discernment of 'the good life', understood not subjectively but as eudaimonia, living well, in a fulfilling way.

In contemporary culture, in contrast to the Aristotelian picture drawn above, the term *value* has acquired a non-moral sense, simply referring to whatever ends or goals are chosen by the agent. Values are subjective. Similarly, in business practices, the end is thought of as extra-moral, and ethical principles come into play only when one seeks to moderate the practice. For example, one might think, as does Deon Rossouw (2003:244), of the end of business as "increasing value", and the contract between manager and shareholders as relatively independent of any particular larger moral narrative. In contrast to this, Spaemann's approach, with its grounding commitment to the equal participation in our community of all persons, industrialists or beggars, could simply be seen as pertaining more to a pre-modern culture that was the background to the classic formulation of Aristotelian-type ethics. For this reason, I find useful MacIntyre's (*After Virtue*, 1981, Chapter 14) 'sociological' re-description of virtue ethics in a way that is more in tune with our post-metaphysical age, and assumes only social practices – such as the professions – as background.

For a number of years, the Aristotelian virtue approach to business ethics has had its champions (for example, Catacutan, 2013, who mentions a series of recent publications), and the link between building character and business effectiveness has also been articulated in a popular way by writers such as Stephen Covey (2004). We even have a hint in a popular textbook of how the virtue approach to ethics is misunderstood if simply placed alongside other ethical theories or frameworks focusing, as it does, not on actions per se (as they do), but more on character (Velasquez, 2006:109). An objection could be raised, however, concerning cases of tough choices for the business manager: a set of principles or a code of ethics seems to provide a way through this, while 'doing the virtuous thing' does not as it is too vague. In response to this, I put forward the idea, underemphasised in Aristotelian accounts, of proportionalist reasoning in ethics, to which we now turn.

PROPORTIONALIST REASONING IN ETHICS

Proportionalist reasoning is most widely known through the Just War principles, and, in particular, the precept that the means taken should be proportionate, or not unreasonably disproportionate, to the intended end. The principle of double effect (discussed below) explains how what may seem to be prima facie wrong acts – killing another human being, or firing a worker who has children at home to feed and educate – might indeed be the morally good thing to do when judged to be proportionate to the end. The bad effect is foreseen, but not directly intended. (For Aquinas' discussion, see *Summa Theologiae* IIa IIae, Q.40, Art.1 and Q.64, Art.7.) The basic idea is summarised by Knauer: "One may permit the evil effect of his act only if he has commensurate reason for it" (quoted in Kalbian, 2002:13). The tools available in this (Aristotelian) ethical tradition for thinking through these tough problems should, I argue, be more widely known.

What matters in this Aristotelian approach to ethics is not only what is achieved, but also what the intention is behind the act. For example, among the virtues are courage and generosity; courage is a species of aggressiveness, and generosity can be shown by liberality in giving money. "But," remarks Aristotle, "anyone can get angry, that is easy, or give or spend money; but to do this to the right person, to the right extent, at the right time, with the right motive … that is not for everyone, nor is it easy" (*Ethics*, Book 2, 1109). The intention or the motive determines, in part, the character of the act. Is the giving of the money, for example, an act of bribery (intending the crime, thus a vice) or else unwitting criminality (the goods you buy are stolen, but you don't know this), or, finally, an act of generosity towards a person in need? In the religious tradition that Aquinas inherited, moral laws seem to be absolute, but, in line with his philosophy, Aristotle argues that intention is crucial. An act of killing may be murder, culpable homicide, or an act of courageous and legitimate self-defence. According to the principle of double effect, an act may have, in addition to its intended effect, a further effect that is not intended, but may be foreseen. The agent (soldier, business manager) may foresee that his act will lead to the other person's death (in the case of the soldier) or job loss (in the case of the manager), but does not directly intend this; rather he intends a just victory (and a peaceful, reconciled society or community of societies), or else the continued health of the company.

What demonstrates a correct intention, in the justified war approach, is the willingness of the agent to adhere to the demands that the end aimed at is indeed a just one, that innocent people will not be deliberately harmed, that the action is taken as a last resort (for example, other means of saving the company have been tried), and that there is a reasonable chance of achieving success. Furthermore, there must obtain the requisite willingness to suffer the consequences (defeat, perhaps) if these conditions are not met. (As I will argue below, the ethical business manager, and, likewise, the owners of the company, must have the necessary willingness to suffer a loss of profits.) This care to discern whether or not these conditions pertain, will confirm the intention as good – that it truly is justice that is aimed at; justice is what motivates the agent. In the final analysis, we would hope that protagonists consider their actions in the light of the common social world shared with all those affected by their actions. In the justified war approach, there is an enhanced sense of those necessary moral values bound up with the humanity we share in common with our adversaries.

This proportionalist ethical reasoning, foregrounding virtues and the quality of the agent's character, is an Aristotelian approach to ethics, as Catacutan (2013:65) also points out. For an act to be one of virtue – and not, for example, simply one of skill – it has to be undertaken for the right end. Thus – to invoke the Just War theory – the acts of a mercenary are not strictly speaking acts of virtue, i.e. courageous, precisely because of his or her lack of appreciation of this value: the mercenary, as Aquinas (1993, para. 593) argues, has in mind the end of monetary gain, not the just and peaceful coexistence of the protagonists. The killing of another human is a disproportionate rather than a proportionate means to the end of monetary gain. Just as the combatant has to appreciate what the fighting is for, so too the ethical business manager has to understand what work is for. Clearly, there is a short-term goal in any action envisaged: the unit has to take and secure a bulwark on the hill, for example, or the manager has to break even, or increase profits. But only if the end is understood in virtue of which – to stick with the case of war – the fighting is taking place, will the soldier appreciate that, for example, killing is forbidden if the enemy surrenders, or that civilians may not be deliberately targeted. Analogous restrictions pertain to the actions of the business manager.

This ethical reasoning only makes sense against the background of some moral vision. In Aristotle's normative Athenian culture, the moral vision had purchase, and, when formalised, it could be seen (as it was by Aristotle) as a particular view of human flourishing, flourishing of what we are by virtue of our shared human nature. As is well known, this vision excluded women and slaves from the moral horizon. This counts against this approach, but, I argue, does not preclude a critical appropriation of the Aristotelian framework. In both the account of Spaemann and that of MacIntyre we find a shift in emphasis, from a foundation in one, fixed set of propositions about an ideal of human living, to the act of commitment to participation. Ethical living furthers that participation through acts of prudence, that is, acts judged proportionate to the end. The Just War principles, in particular the principle of double effect, allow one to see how difficult decisions can be made taking into account the harm that may result from those decisions. This is central to good business ethics and management policy.

Various objections to proportionalist reasoning are discussed by Bernard Hoose in his book, *Proportionalism. The American debate and its European roots* (1987). For Germain Grisez, moral objectivity has to rest in something other than simply "what seems to one to be good", for then no one can ever be said to have done anything wrong, because, clearly, everyone always does what he or she thinks is the best (Hoose, 1987:56-57). A second objection sees proportionalist reasoning as watering down moral principles that should be taken as absolute, precisely in order to counter utilitarian ethics. This is the thinking of, for example, John-Paul II (*Veritatis Splendor*, 1993, para. 90), who argues that the proportionalist approach forms no part of the broad Aristotelian/Thomistic moral tradition (see Kalbian's (2002) useful article, *Where have all the proportionalists gone?*).

In answer to the first objection Hoose (1987, Chapter 3) points out that we can distinguish what is morally right (the (objectively) right action is done) from what is morally good (the right action is taken with the right motive). There is, then, a place for codes of ethics and moral rules, determining morally *right* action, within the framework of proportionalist reasoning. A remarkably healthy teacher who does the right thing in not fraudulently claiming the allowable number of days of sick leave simply because of a fear of being found out might grow in appreciation of how the students are disadvantaged when the teacher is absent, in other words, the reason for this particular ethical code.

In answer to the second objection, that proportionalism slips into a kind of utilitarian thinking, Hoose points out that there is a fundamental difference between proportionalism and any form of consequentialist reasoning. Given the assumption that no common values can be taken as given, that value is created by the sum of the interests of atomistic individuals, the typical retort to foreseen but not directly intended negative effects is something to the effect of 'you can't make an omelette without breaking some eggs'. However, there is no way here of moderating more or less *how many* eggs it would be justified to break. Hoose (1987:92) mentions the well-worn example of a lynching mob in the southern United States that threatens to kill a number of people unless the culprit is brought to justice. They will be satisfied, the sheriff realises, if a certain black man is taken to be the culprit and executed. Consequentialist reasoning would conclude that the lives saved would justify this action. Rule utilitarianism could, however, provide an argument against this counter-intuitive conclusion, by pointing to the negative effects of the lynching on the *institution* of justice. Hoose remarks here that, of course, the institution (practice) of criminal justice would be undermined by this action, but that proportionalist reasoning of the kind we have been discussing does not have to mention more than the fact that the suffering and death of the innocent man is an evil sufficient to deter one from attempting to avoid the likelihood of other deaths. Because of one's moral identity, the *means* taken matter from the point of view of the agent concerned with his or her integrity. Being responsible, one has to answer to the norm of one's shared humanity.

I now intend to strengthen the case for proportionalism by (a) reviewing the way Spaemann undermines an ethic of principles taken out of the context of an assumed normative connectedness to others, and (b) drawing on MacIntyre's notion of a social practice as a way forward for business and management practice to be brought into the sphere of ethics.

SPAEMANN ON THE FOUNDATIONAL COMMITMENT TO RESPECTING PERSONS

Spaemann (1996) argues that no *subsequent* sense can be made of ethical obligations if one has *first* assumed individuals with contractual ties only (as is the case, for example, when they are considered from the point of view of the production process). He gives a number of reasons for saying that we cannot delineate certain properties (say, rationality) that qualify a being for respect as a person, as a 'someone', and *thereafter* adopt the attitude of respect for them (see also Spaemann 2006). Human rights cannot be invoked, by itself, as the starting point of ethical reasoning (it can, of course, be the starting point of *legal* reasoning – certain human rights may be enshrined, legally, in the constitution).[2] Firstly, he draws on the phenomenology of the mother-neonate interaction. "No mother," he argues, "acts with the intention of manipulating 'something' in a way that someday will make a 'someone' out of it" (1996:467).[3] A related point is that of the inappropriateness of the term *potential persons*. The person does not begin after the human being begins, nor does it cease before the human being ceases. To be sure, we only say 'I' after a certain time. Yet, "we do not say, 'then or there something was born, from which I then came to be'. I *was* this being. Personality is not the *result* of a development but rather already the structure of a unique kind of development" (1996:471, italics added). The ethical call on us, resulting from encountering *persons*, is there, in other words, *by nature*, not because we recognise certain achievements.[4]

Spaemann (1996:468) further notes that the *apparent* lack of intentional acts in someone does not immediately allow us to conclude the absence of personhood. A mentally ill person might give his or her acts a meaning we can't recognise, but we continue to look for what they intend, we assume a certain degree of rationality in their acts. Membership recognition is ethically foundational, a question of identifying with the other in an act of commitment. A supporting point is that the unconditionality of ethics is not derived from some abstract or general rule that is then applied to particular cases. "The claim of persons to unconditional respect is rather perceived primarily and fundamentally as a claim that comes from a particular person or from several particular persons" (1996:473).

For our purposes the more pertinent of Spaemann's reasons has to do with the distinc-

2 Spaemann contrasts his approach with that of Peter Singer (for example, 1999, esp. 89) who, carrying on the Lockean tradition, separates personality (as a property) and human being. Since, for Singer, we give value to persons, and personhood is a set of properties such as the capacity to be conscious of being hurt, we should consistently give value to those existents that have these properties (as, in our example, pigs do, but not newborn infants.)

3 In his phenomenology of early childhood, *The look, the body and the other* (1975), Wilfried Ver Eecke notes that, in the case that the neonate *is* treated as a 'something', say, by a carer, the result is the retarded status named 'hospitalism'. See, at greater length, John Macmurray's *Persons in relation* (1960).

4 Thus, Menkiti (1979) is off the mark, in terms of this approach, in approving of the African traditional attitude to the human person as *constituted* by the community, which confers personhood on the infant.

tion he draws between between someone and something. How do we perceive the incapacitated (those too seriously impaired to coordinate their movements)? Not as animals of a unique type, but rather as 'patients', as infirm. They are persons needing help. We search for a cure, to help them assume their place in a community reserved for them. In fact, our growth in understanding of exactly what personhood means will depend on the way we deal with such human beings.

Spaemann suggests this thought-experiment: consider a being born of humans but exhibiting no indication of identifiable practical and theoretical intentionality. On the other hand, it also appears quite healthy, and moves normally in the world. In other words, it is not ill. We would judge that it does not belong to humankind; it is not a person. By contrast, the mentally infirm do belong to humankind. In fact, they allow the meaning of the moral community to shine forth: "Love and recognition of a human being are addressed to that being itself, not to its properties" (1996:469). It is the case, however, that we perceive what this kind of being is *through* its properties, but not *because* of them. Someone whom one loves, for example, will always have some special characteristics, charming properties that initiate the love, but the love itself goes beyond these. Because the infirm have few of these charming aspects, "it becomes clear in an exemplary manner that, in the human community of acknowledgment, it is really the acknowledgment of selfhood that is at stake and not merely an esteem for useful or pleasant characteristics" (1996:469). This is the authentic foundation for our respect for persons. It is not at all that the moderating vision of positive human flourishing judges and *excludes* individuals who fail to reach the mark. This also points to the importance of our culture's attitude towards the non-productive members of society. It throws into question a culture in which an increase in production is the bottom line, an idea highlighted in Mary Clark's (2002, esp. 311ff) critique of modernity.

Spaemann's approach clearly falls within the Aristotelian 'human flourishing' approach to the foundations of ethics. Humanity can't be a legally defined community in the sense of a closed shop. The unconditionality of the ethical demand cannot "depend upon the fulfilment of some qualitative condition, about which others decide who are already acknowledged members of the community of rights and law" (1996:473-474). Our *starting point* in ethics is a commitment or intention to extend and deepen, for our own case, but in a way that takes regard of others, our already given membership of a moral community. By emphasising the foundational attitude of relating to *someone*, rather than a utilitarian-type dealing with *something*, Spaemann heads off the danger that proportionalism ultimately amounts to a utilitarian ethic.

I think Spaemann's extended argument is, so far as it goes, convincing (see Madigan's extensive commentary, 2010). However, could one not object that Spaemann is simply expressing a preference for a pre-commercial kind of society, something unworkable in our own cultural situation? Is he not, in fact, a kind of ethical Luddite? Furthermore, does his approach (or that of any Aristotelian), as argued by Michael Smith (Smith, 1994:91), amount to one group, a 'mob' imposing *their* vision of the human good on another section of society whose agreement they do not have? Kohlberg, as Catacutan (2013:65) points out, describes character education programmes aimed at teaching virtue as forms of indoctrination.[5] Rights, on the other

5 To the latter objection, Catacutan (2013:65) retorts that virtues are only formed through *freely* chosen acts, where the agent sees the point of the act and consents to it. Simple, unthinking repetition for reasons of wanting to conform would not bring about the requisite development of character. This means that the agents must appreciate for themselves the normative picture of human flourishing at work in this kind of ethical deliberation. The question remains unanswered by Catacutan why any particular individual should consent to this particular ethical framework in the first place.

hand, apply to individuals *regardless* of their insertion into normative moral communities, an argument also given by Richard Rorty (see Ian Hunter, 2000).[6] No common moral vision providing the standard for judging the proposed action as proportionate or otherwise, as an act of virtue or of vice, is thought possible. The following section, responding to this, outlines MacIntyre's retrieval of the Aristotelian tradition in ethics, through the uncontroversial notion of a social practice, committing participants to objectively determined ideas of virtue and of quality of character.

INTERNAL GOODS OF BUSINESS IN TRANSITIONAL SOCIETIES

MacIntyre, like Spaemann, finds the rights-based ethics of principles unconvincing, and even incoherent (1981, Chap. 2 and 3). There is no need to rehearse his well-known and much-anthologised argument that this dominant approach amounts simply to a version of emotivism without objectivity.[7] We are concerned here only with the way in which he has re-expressed the Aristotelian approach in a 'sociological' way more easily appreciated in a post-metaphysical culture such as our own. He links virtues to skills, and publically recognised achievements of human powers, as they would have been in the classical Greek understanding. What is uncontroversial in that society, as in ours, is the existence of social practices: large-scale cooperative activities whereby goods internal to the practice are achieved and developed (MacIntyre, 1981, esp. 181). Examples are the medical and legal professions, sports, and family life. In each case, there is an ideal of objective excellence. However difficult it is to specify the content of a good teacher or a good parent, this is not at all simply a subjective matter.

The crucial term here is *internal.* What defines an activity as a social practice (rather than simply getting something done in general) is that the *means* taken to achieve success in the practice are in part definitive of (and not tangential to) a successful enactment of the participant in the practice: they are the internal goods of the practice. The contrast is with goods *external* to the practice. So, the good internal to the medical profession is that of health, while the external, or incidental, goods attaching to the institutions necessary to the practice of medicine (hospitals, administration, professional bodies) are typically those of promotion, salaries, and so on. If there is a widespread tendency of practitioners to put the external goods ahead of the internal goods, the practice is in danger of being corrupted. This is obviously an important point to keep in mind in an increasingly commercialised world, often destructive of normative traditions. For a local example from the music profession, see Giddy and Detterbeck (2005); similarly, from the point of view of the banking profession, see Carney (2014).[8]

6 This is an argument used by liberalists (for example, Tony Oyowe, 2013) against African traditional ethical culture and, in particular, the idea of *ubuntu*, a normative vision of what human persons can and should grow into. It is argued that those persons who do not conform to this vision (say, typically, homosexuals who resist the norm of taking a spouse) would then be excluded from the community of those accorded value.

7 To some extent he is picking up on the point made earlier by Elizabeth Anscombe (1958:32) about the "mere mesmeric force" of the "moral ought" found in the categorical imperative of principle-based ethics. MacIntyre's full critique of the latter approach is well summarised and explained in Garcia's paper, *Modern(ist) moral philosophy and MacIntyrean critique* (2003).

8 Mark Carney, Governor of the Bank of England, describes the importance of capitalism being inclusive: "To build this sense [...] business ultimately needs to be seen as a vocation, an activity with high ethical standards, which in turn conveys certain responsibilities. It can begin by asking the right questions. Who does finance serve? Itself? The real economy? Society? And to whom is the financier responsible? Herself? His business? Their system? The answers start from recognising that financial capitalism is not an end in itself, but a means [...]" (Carney, 2014).

What is clear is that the conditions necessary not to fall into the dumbing down of all values into one, success in a monetary sense, are precisely the traditional virtues of practical wisdom, fortitude in the face of difficult choices, self-control in the face of easy options, and justice to the task at hand. The integrity of social practices – medicine, education, the legal system, police, business – seems to rely on an overarching moral narrative envisioning some such normative idea of human flourishing that has purchase among practitioners, and which reinforces their commitment to hold to and expand their appreciation of the internal goods of their particular profession. It is within that moral narrative that the status society accords to the professions makes sense – because of the ends brought about, which are valued by participants who identify themselves through the narrative or particular culture: learning, health, religious piety, justice, social order, and so on. It is notably in societies in radical transition that the presence, or the absence, of such moral narratives, the background to professional ethics, is of particular concern.

Consider the case of a history of injustice. Simply granting formal rights to individuals where these did not previously exist will be inadequate, and will not go the distance in supplying a framework for thinking through tough ethical questions in business. The overarching normative narrative has to be recaptured. The point about injustices is not simply their physical effect, but the fact that they also embody a symbolic message from perpetrator to victim. Apart from its *effect*, the action also has an *expressive* meaning.

> *They are ways a wrongdoer has of saying to us, 'I count but you do not'; 'I can use you for my purposes', or 'I am here up high and you are there down below'. Intentional wrongdoing insults us and attempts (sometimes successfully) to degrade us […].* (Jeffrie Murphy, quoted in Bennett, 2003:131)

One reaction is to feel that what we need in order to have our status restored is to diminish the status of the perpetrator. That would be one popular understanding of retributive justice. In an interesting article, useful for our purposes, Christopher Bennett argues that, contrary to the views of, for example, Bishop Desmond Tutu, the attitude of forgiveness is not a substitute for retributive justice, but rather one which can restore the possibility of ethical reasoning within the moral community.

> *The moral community is a social group constituted by the shared commitment of its members to certain values, to a certain way of regarding and treating others, to certain ends. To recognize an agent as a member of the moral community is to see them as capable of understanding and responding appropriately to these values; it is to have an expectation that these values will weigh with them […].* (Bennett, 2003:132)

Even if the attempt to diminish the perpetrator's status is not the correct action, something in our relationship has to change if we are not to falsify the grounds of moral community, namely the assumed commitment of its members to those common values, a commitment now thrown into question.

In our own South African case, for example, Eusebius McKaiser has argued that, because of the continuing scars of apartheid, "societal self-making must still take place in order to deal with the gap between our normative ideals and our lived realities" (reported in Woermann, 2012:89). The attitude of forgiveness would recognise the blameworthiness of the misdeed, but see the perpetrator's wrong as "an aberration, his distancing himself from correct values as merely temporary" (Bennett, 2003:133). The act of forgiveness impacts back on oneself, and restores one's ability to see oneself as not under threat of having one's status undermined by participating in the moral community. That was not, one says in effect, what the fellow perpetrator really intended. If our values are derived from the moral tradition, and not from our free contractual obligations, then membership of that moral tradition cannot be a kind of club. It must precede our attitudes of approval or disapproval of others. There can be punishment, but it will not be an act of taking away *their* status in order to restore *ours*. The correct punishment will be judged in terms of the values it achieves, let us say, for example, restoration of what has been stolen, or reform of the wrongdoer.

The attitude of forgiveness is usually taken as supererogatory, doing more than is required from a moral point of view. However, what we have been saying above about ethical reasoning would seem to make such an attitude more central. This is because forgiveness (in the sense we have put forward) is, in certain situations, constitutive of the only possible framework in which ethics makes sense: a commitment to an *inclusive* community (see also Giddy, 2010). Honouring contracts or respecting rights cannot do the job. In proportionalist reasoning, as we have seen, what is *meant* by the agent is a central consideration, how they see their participation in the moral community, and the expressive meaning of their action; but this is not the case in principle-based approaches to ethics or in the utilitarian calculus. These considerations are alien, also, to the contemporary paradigm of competitive work, and might seem out of place in debates on business ethics. However, in a case such as that of South Africa, it is clear that reference needs to be made to the kind of framing of our identities expressed by the Truth and Reconciliation Commission, as well as in policies such as BEE.

BUSINESS ETHICS AND THE PRINCIPLE OF DOUBLE EFFECT

We are now in a position to apply these ideas to the sphere of business. Participation in a moral community (expressed, as argued above, through the moral narrative of the particular society in question) is the foundation for ethical reasoning. This furnishes the content of the end by which the proportionality of the means taken is assessed. Repeated courses of action, responsibly assessed in this way, builds habits of character or virtues. However, the emergence of modern civil society – this is the second premise of our argument – went hand in hand with a break from any tradition in which persons are 'connected in' to common forms of social life. Only contracts freely entered into by autonomous individuals were now seen to have legitimate binding force (but see also Jacobs, 1994, for contemporary evidence of a countervailing pre-modern cluster of values). The tendency in the modern period is to begin from the fully self-secure and atomistic individual, the "phoenix", in John Donne's words, arising fully independent from the ashes of the past, without any natural relations to others. We can conclude that bringing ethics (as we have made sense of it) into spheres of civil society, such as business, will constitute a challenge to such a culture: it will take productivity not as definitive of human dignity, but rather as *limited* in proportionalist reasoning, the starting point of which is the ethically valued community of persons.

The purpose of business, from an ethical point of view, cannot be, as Rossouw (2003:239) has it, that of value creation, where value is defined in terms of the sum of individually conceived interests (those of 'stakeholders'). This idea of what work is about, aiming at material wealth, as Weber noted, used to be thought of as, importantly, a secondary goal, but has become, under the conditions of modern culture an "iron cage", gaining "inexorable power over the lives of men" (*The Protestant Ethic and the Spirit of Capitalism*, in Gini & Sullivan, 1989:54) By this, he means that modernity makes a decisive break with the traditions in which work is framed by values and is thought of as a commitment or 'calling' – a sentiment echoed in the US Catholic Bishops' document on work (1986). In an early article, MacIntyre (1979) questioned whether ethics makes any sense at all in the world of business (*Corporate modernity and moral judgment: Are they mutually exclusive?*). He highlighted a perception that, in business, the agent must be prepared to turn his moral intuitions on and off in accordance with whether or not they serve the purposes of the business, being cooperative and fair in his dealings within the corporation, but employing a means-ends utilitarian calculus in which results alone count in dealing with competitors or even the public in general.[9]

In order to qualify as having possible ethical merit, the business enterprise would then have to conceptualise itself as a social practice, which is to say it would make sense to distinguish between the internal, constitutive goods of the enterprise and the goods of the institution (salaries, profits, and so on), thus, no 'iron cage' restricting the motives of employees to that of material wealth alone. For example, a very financially secure football team need not be the most excellent, and the same with a university, where success in securing funding and in branding does not equate to excellence in terms of the internal goods of the practice.[10]

The key internal good of business is work, normatively conceived of. That would mean upholding the dignity of labour and its constitutive role in the growth of the person and in the well-being of the community. The distinction would be with productivity, which would take into account neither the intentions of the agents, how they conceive of what they are doing (appreciating the values associated with that kind of business, and its contribution to the common good), nor (within legal limits) the means taken by them.[11] The challenge to business is to treat the employee not as a 'something' (a factor of production), but, in a counter-modern move, as a 'someone' (to use Spaemann's terms), in other words, as 'binding-in' to a morally significant community. The manager's moral commitment would be to standing up for the employees, negotiating the economic and other external pressures on their behalf, in the light of the standards of excellence associated with the internal good of work. Any means taken by the manager must be judged in terms of its proportionality or otherwise to this good, rather than thinking simply of the private good or profitability of the firm. This is pointed out by the authors of the U.S. Catholic Bishops' Pastoral Letter on the U.S. economy, *Economic justice for all* (1986, para. 97). Work is not just self-centred but oriented to the public good. This is the case for blue-collar workers, managers, homemakers, politicians, and all others. The definitive values of work have to be recognised as internal to commercial activity, making it morally praiseworthy and not, for example, neurotic. The prime responsibility falls on managers. "Persons in management face many hard choices every day, choices on which the well-being of many others depend. Commitment to the public good and not simply the private good of their firms is at the heart of what it means to call their work a vocation and not simply a career or job" (1986: para. 111). Marx's critique of work in a capitalist economy as alienating the worker from a flourishing life together with others (Marx, 1964, esp. 106-119) has, arguably, a similar intent, although leaving

9 Along similar lines, see Solomon (1992), the many voices on this topic in the Templeton Foundation booklet (2008), and Deidre McCloskey (2006).

10 Something not always appreciated by university authorities. When I pointed out this distinction in a newspaper op-ed article (UKZN has lost its way, *The Mercury*, August 2013) for the case of my own university, I was summoned to appear before the deputy vice-chancellor "to explain yourself", as she put it.

11 Googling "work ethics films" yields many examples (some based on true events in the business world) that bring our attention to the dangers of thinking of business in terms of productivity alone. I will mention just two: the tale of a cut-throat estate agency business in "Glengarry Glen Ross" (1992, Dir. J. Foley, from the play by David Mamet), and that of deceptive marketing in "The Joneses" (2009, Dir. D. Borte), playing on the default trust that neighbours have that families are more or less what they appear to be. The actions taken by employees exclude the possibility of building community: the work, in spite of raising productivity and hence 'successful', would, other things being equal, be judged to have no merit at all.

out, as I have argued elsewhere (Giddy, 2000), the virtue dimension.

The general idea in the Aristotelian approach to business ethics has been well expressed by R. Solomon (1999) (similarly, by Brytting, 2000, and also Verstraeten, 2000). In rethinking the company as a 'community', he writes: "The Aristotelian approach begins with the idea that we are, first of all, members of communities, with shared histories and established practices governing everything from eating and working to worshipping" (Solomon, 1999:43). This, he points out, shifts the idea of what counts as success for the corporation, in particular downgrading the role played by the shareholders' interests. "Shareholders are, of course, part of the community, but most of them only marginally rather than as in some now-classic arguments, as the sole recipients of managerial fiduciary obligations" (Solomon, 1999:46). As mentioned above, the ethical manager must have the requisite willingness to suffer a loss of profits when the conditions for harsh action are not met, when the action envisaged is disproportionate to the end.

In his own contribution to the debate, Deon Rossouw (2003) has questioned whether the principle of double effect can be effectively used in decision making by managers where there would be some negative effects on certain persons. The obvious example would be a decision to lay off certain staff in the interests of greater profitability. While making some interesting points about doing business in countries with poor human rights records, Rossouw's acceptance of the extra-ethical definition of business (value creation) renders this unhelpful for our purposes. According to our understanding, the balancing that must be sought in this kind of ethical reasoning must bring to bear one's sense of moral identity. It is not a question of adding the plusses and minuses in a kind of utilitarian calculation. Rossouw's point is that, "as the purpose of business is value creation, deliberation about double effect should be conducted within the parameters of value creation discourse." He explains:

> *Although there is no doubt about the moral obligation of business to ameliorate the negative foreseeable side effects of its activities, this obligation must be dealt with in a way that does not undermine the value-creating potential of the business. If the obligation to deal with double effect jeopardizes the sustainability of the business, some trade-off must be found between the obligation of the business to deal with negative side-effects and its quest to remain a sustainability [sic] value-creating enterprise.* (2003:244)

This allows, in other words, for some foreseeable negative side effects that are disproportionate to the ends achieved in the framework of the overall shared moral values of the tradition in which the business is rooted. Such values are, because of the extra-ethical definition of the purpose of business enterprises, systematically disregarded. Rossouw uses a typical utilitarian approach in arguing that the business needs to take into account the interests of the consumers, as well as those of the shareholders (otherwise the consumers will withdraw their support for the business), and even the interests of the environment, in order to bolster its public image. In the kind of reasoning we have been putting forward, in contrast, the reflective process at the same time further advances our understanding of the purpose or end of the social activity, its good. Rossouw's manager manipulates the elements in the situation (including the human factor) through a kind of calculus. Our manager, on the other hand, is called to exercise his or her judgment that (in the difficult cases in question) the foreseen but not directly intended negative effect is proportionate to the gravity of the directly intended (and achievable) end. This deepens the manager's appreciation of what it means to participate in the common enterprise and, through repeated considered acts, builds his or her character.

If we take Rossouw's chosen example, the operations of a business in a country where systematic human rights abuses occur, the decision to continue investing or rather to disinvest would seem to be based on summing the value and disvalue defined in terms of isolated individuals. In our model, in contrast, the manager is a participant in a transnational community for which his or her actions carry a meaning, and the willingness to suffer a loss of profits could confirm the company's intentions as just. The expressive meaning of disinvestment, refusing a 'business-as-usual' attitude, and overriding considerations of economic benefit alone to the poorer members of the country might spark the necessary courage for the people to resist the regime. If the firm disinvests (for example), the unintended but foreseen negative effect (a negative impact on the GNP) should be proportionate to the end (achievable, in part, through its expressive meaning of support for the victims) of a more just society.

CONCLUSION: AN ETHIC OF RESPONSIBILITY

I want to conclude by giving an example of how 'pragmatic' the ethics of proportionalism, in fact, is. It ultimately amounts to an ethic of responsibility. It can be usefully contrasted with the more principled approach of another writer in the Thomistic-Aristotelian tradition, Germain Grisez. In his discussion of the ethics of lying, Grisez uses the example of someone asked to identify children for deportation to a death camp. Here, he says, one should "resist injustice by every morally acceptable means", but, as Julia Fleming comments, those means do not, for Grisez, include lying.

> *Not only does every lie involve self-alienation, in Grisez's view, but in these circumstances, lies produce deleterious consequences. Lying to the representatives of a totalitarian power 'maintains a semblance of community based on false ideology and blocks the development of real community based on the common good'. In other words, the liar [argues Grisez] evades danger without confronting the situation which created it, rather than creating an opportunity for the aggressors' conversion and for eventual social change.* (Fleming, 1999:64)

Here, the difference from our proportionalist approach is evident: in disregarding the Just War requirement of there being a reasonable possibility of success, Grisez reveals his approach as one of principles, rather than one of responsibility. One might argue that, of course, you never can tell; one's action might, against all odds, have the required effect – and, indeed, Grisez points to an example where this seemed to have been the case. However, the expressive meaning of the betrayal of letting an innocent person die (in the death camp) would, in our approach, outweigh the expressive meaning contained in the telling of a lie. If the likelihood of success in getting the aggressor to be stirred into reflection and a change of heart, and, in turn, having a significant effect on the broader society of which the aggressor is a member, seems small, then the principles of justified war would preclude one from telling the truth.

In conclusion, I can note that this guiding notion of being responsible would get its meaning from the moral narrative of which one is a part, and, contrary to Rossouw's implicit assumption, moderates the norms attached to any profession or business enterprise. Moral reasoning, I have argued with the help of Spaemann, takes place within the moral ambit of a common commitment to respecting persons, and being a conscious participant in this moral community is not at all a matter of being a 'club member' over and against other clubs or moral communities. In other words, this kind of foundational ethics is not disqualified in multicultural societies. Contrariwise, seeing business ethics simply in terms of abstract moral principles or codes of ethics will probably mean systematically overlooking the crucial ethical questions to do with building community through attitudes that include commitment and reconciliation. To make my point, I have drawn on a somewhat unusual range of evidence not normally thought of as having direct relevance to our topic. If the argument developed here is sound, business ethics could well benefit from paying greater attention to this rearticulated Aristotelian tradition of proportionalist moral reasoning. The character of the business manager – the quality of his or her participation in the moral community – does indeed matter, and character is formed through acts of considered prudence.

REFERENCES

Anscombe, G. E. M. 1958. Modern moral philosophy. *Philosophy*, 33:1-19.

Aquinas, St Thomas. 1993. *Commentary on Aristotle's Nicomachean ethics.* Translated by C. Litzinger. Notre Dame: Dumb Ox Books.

Aquinas, St Thomas. 1948. *Summa theologica.* Translated by Dominicans of the English Province. Allen, Texas: Christian Classics.

Aristotle. 1954. *Nicomachean ethics.* Translated by Sir David Ross. London: Oxford University Press.

Bennet, C. 2003. Personal and redemptive forgiveness. *European Journal of Philosophy*, 11:27-144.

Brytting, T. 2002. From institutional context to personal responsibility. In J. Verstraeten (Ed.), *Business ethics. Broadening the perspectives.* Leuven: Peeters.

Carney, M. 2014. Inclusive capitalism. [Online] Available: http://www.bankofengland.co.uk/publications/Documents/speeches/2014/ Accessed 20 August 2014.

Catacutan, R. 2013. Education in virtues as goal of business ethics instruction. *African Journal of Business Ethics*, 7:62-67.

Clark, M. 2002. *In search of human nature.* London: Routledge.

Covey, S. 2004. *The 7 habits of highly effective people.* Simon and Schuster.

Cruddas, J. 2012. The role of the state in the good society. *New Statesman.* [Online] Available: http://www.newstatesman.com/politics/cruddas [Accessed 20 August 2014].

Fleming, J. 1999. The ethics of lying in contemporary moral theology: Strategies for stimulating the discussion. *Louvain Studies*, 24:57-72.

Frankfurt, H. 1993. On the necessity of ideals. In T. Wren & G. Noam (Eds.), *The moral self.* Cambridge, Ma.: MIT Press, pp. 16-27.

Garcia, J. 2003. Modern(ist) moral philosophy and MacIntyrean critique. In M. Murphy (Ed.), *Alisdair MacIntyre.* Cambridge: Cambridge University Press, pp. 94-113.

Giddy, P. 2000. A critical ethic of transformation: Dialogue with Marx and Aristotle. *Theoria*, 95:79-93.

Giddy, P. & Detterbeck, M. 2005. Questions regarding tradition and modernity in contemporary *amakwaya* (choral) practice. *Transformation*, 59:26-44.

Giddy, P. 2010. Attention, people of earth! Aristotelian ethics and the problem of exclusion. *South African Journal of Philosophy*, 29:357-372.

Gini, A. & Sullivan, T. (Eds.). 1989. *It comes with the territory. An inquiry concerning work and the person.* New York: Random House.

Hoose, B. 1987. *Proportionalism. The American debate and its European roots.* Washington, D.C.: Georgetown University Press.

Hunter, I. 2000. Is metaphysics a threat to liberal democracy? *Theoria*, 95:59-78.

Jacobs, J. 1994. *Systems of survival: A dialogue on the moral foundations of commerce and politics.* Vintage.

John-Paul II. 1993. *Veritatis splendor.* Boston: St Paul's.

John Templeton Foundation. 2008. Does the free market corrode moral character? [Online] Available: http://www.templeton.org/market [Accessed 20 August 2014].

Kalbian, A. 2002. Where have all the proportionalists gone? *Journal of Religious Ethics*, 30:3-22.

Kwant, R. C. 1969. *Sociale filosofie.* Utrecht: Het Spectrum.

MacIntyre, A. 1979. Corporate modernity and moral judgment: Are they mutually exclusive? In K. Goodposter & K. Sayre (Eds.), *Ethics and problems of the twenty-first century.* Notre Dame: University of Notre Dame Press.

MacIntyre, A. 1981. *After virtue.* London: Duckworth.

Macmurray, J. 1960. *Persons in relation.* London: Faber.

Madigan, A. 2010. Review of Spaemann's *Persons. Journal of Religious Ethics*, 38:373-392.

Marx, K. 1964. *The economic and philosophical manuscripts of 1844* (Ed. D. Struik). New York: International.

McCloskey, D. 2006. *The bourgeois virtues ethics for an age of capitalism.* Chicago: University of Chicago Press.

Menkiti, I. 1979. Person and community in African traditional thought. In R. Wright (Ed.), *African philosophy.* Washington, D.C.: University Press of America.

National Conference of Catholic Bishops. 1986. *Economic justice for all.* Pastoral letter on Catholic social teaching and the US economy. Washington, D.C.: United States Catholic Conference.

Oyowe, O. A. 2013. Strange bedfellows: Rethinking ubuntu and human rights in South Africa. *African Human Rights Law Journal*, 13:103-124.

Rossouw, D. 2003. Business is not just war. Transferring the principle of double effect from war to business. *South African Journal of Philosophy*, 22:236-246.

Schumacher, E. F. 1973. *Small is beautiful.* Abacus.

Sen, A. 2009. *The idea of justice.* Penguin.

Singer, P. 1999. Reflections. In J. M. Coetzee, *The lives of animals.* New Haven: Princeton University Press, pp. 85-92.

Solomon, R. 1992. Ethics and excellence. *Cooperation and integrity in business.* New York: Oxford University Press.

Solomon, R. 1999. *A better way to think about business. How personal integrity leads to corporate success.* Oxford: Oxford University Press.

Spaemann, R. 1996. Is every human being a person? Translated by R. Schenk, O.P. *The Thomist*, 60:463-474.

Spaemann, R. 2006. *Persons. The difference between 'someone' and 'something'.* Translated by O. O'Donovan. Oxford: Oxford University Press.

Toulmin, S. 1990. *Cosmopolis. The hidden agenda of modernity.* Chicago: University of Chicago Press.

Tugendhat, E. 1993. The role of identity in the constitution of morality. In T. Wren & G. Noam (Eds.), *The moral self.* Cambridge, Ma.: MIT Press, pp. 3-15.

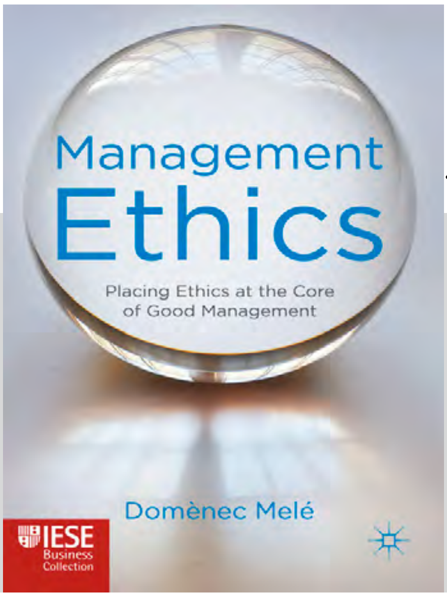
Velasquez, M. 2006. *Business ethics. Concepts and cases.* 6th ed. New Jersey: Pearson Prentice Hall.

Ver Eecke, W. 1975. The look, the body and the other. In D. Ihde & R. Zaner (Eds.), *Dialogues in existential philosophy*, Vol. 5, pp. 224-246.

Verstraeten, J. 2000. Business ethics and personal moral responsibility. In J. Verstraeten (Ed.), *Business ethics. Broadening the perspectives.* Leuven: Peeters.

Woermann, M. 2012. Review of the second annual Ethics SA conference: An investigation of the state of ethics in South Africa. *African Journal of Business Ethics*, 6:88-92.

Zaborowski, H. 2010. *Robert Spaemann's philosophy of the human person: Nature, freedom and the critique of modernity.* Oxford: Oxford University Press.



Book review

Juan Elegido

***Reviewer**: Juan Manuel Elegido,*
Lagos Business School,
Pan-Atlantic University
***Title**: Management Ethics: Placing Ethics at the Core of Good Management*
***Author**: Domènec Melé*
***Publisher**: Palgrave Macmillan*
***Year of publication**: 2012*
***Number of pages**: 182*

I well remember my early days as a business ethicist, when I was taking my early steps in what was, for me, a new and forbidding field. Much to my surprise, the transition was relatively painless, and this was due, above all, to the happy fact that the Lagos Business School, which I helped to launch, was being guided in its early steps by the much better-established IESE Business School in Barcelona, Spain, then and now one of the top European business schools. The Lagos Business School sent me to Barcelona to receive guidance and orientation in my new field, and to my great advantage, the person who was given the task by IESE of helping me was Prof. Melé, who had pioneered the systematic study of business ethics in that institution. His unfailing generosity and availability during these first two weeks I spent in Barcelona and during frequent visits in subsequent years made a decisive difference in my later career.

How lucky I was can most simply be shown by having a look at his impressive list of publications. He is the author of six books and over 50 journal articles, and the editor of six collective works. Of course, scholarship is not just a numbers game. More important than the number of his contributions is the significant impact that he has had on the field of business ethics. Perhaps the most direct indicator of that influence is the fact that, at my most recent checking on Google Scholar, one of his articles had been quoted more than 1 500 times. To my great delight, I now find that the recent book by Prof. Melé, *Management Ethics: Placing Ethics at the Core of Good Management* (published by Palgrave Macmillan), makes available to a larger public precisely the qualities that made mentoring by Prof. Melé so useful to me.

Very important among those qualities is an ability to make business ethics accessible and understandable to business managers. The book I am reviewing is compact (155 pages of text), due to the fact that no space is given to a discussion of schools of ethics, often a sure douser of any spark of interest a manager could have in ethical matters. This is not to say that Prof. Melé ignores foundational issues. As he says, he avoids "complex philosophical discussions by presenting an approach based on very basic concepts which are easily understandable" (Melé, 2012:26). His discussion of basic concepts and principles, though simple and accessible, is careful and profound. It is precisely because of the attention he pays to basic concepts that he is able to offer such an effective treatment of topics like the Golden Rule (Melé, 2012:28-29), human dignity (Melé, 2012:30-31), participation (Melé, 2012:93-95), and business firms and the common good (Melé, 2012:31-32 and 112). The set of concepts he deploys proves especially effective in overcoming the long-running argument between shareholder- and stakeholder-centred conceptions of the purpose of the firm by offering his very attractive "common good stakeholder approach." This approach basically "considers the business firm as a community of persons within society, and not only a system of stakeholder interests. It takes the common good of the firm and its *contribution to the common good* of society at large as the key orientation for corporate governance and management" (Melé, 2012:112, italics in the original text). Another notable move by the author is his categorisation of responsibilities towards stakeholders into two basic types: (1) responsibilities of justice and (2) responsibilities of proactive cooperation (Melé, 2012:118). In my view, this simple move is greatly fruitful in allowing us to overcome numerous false problems that plague the discussion of many topics in business ethics.

The central theme of the book is the integration of ethics and management, and the main idea that Prof. Melé puts forward on how to carry out this integration is that ethics should be placed at the core of good management. This whole programme seems refreshing to this reviewer, used as I am to so many treatments of business ethics that see ethical norms as a limit to what is permissible for a manager to do. A typical example of the approach one finds throughout the book is the discussion it offers of the holistic approach to decision making in management, by considering four basic dimensions when analysing alternative courses of action. The procedure offered (Melé, 2012:50 ff.) deploys specific criteria along four basic dimensions: ethical, instrumental, relational, and internal. Of great value to the practitioner is also a four-page table in which the author summarises the main responsibilities of the firm towards the main stakeholders (Melé, 2012:120-23). I should hasten to add that all of this should not be confused with the practice of so many how-to books that offer their readers lists of points to keep in mind when making decisions. Prof. Melé offers us a list, but then, there are lists and lists. In evaluating such lists, one should look at the justification behind them, and at the quality of the insights they offer. When one applies these tests, one can appreciate the great distance that exists between standard how-to books and this solid product of many years of work in the field of business ethics.

An aspect of the book that is well worth highlighting is the foundational role in business ethics it accords to intelligent love and, closely related to it, friendship-based reciprocity. To move beyond a consideration of duties of justice to the requirements of intelligent love in a discussion of business ethics, and to do this without dissolving the argument into some kind of syrupy sentimentalism, is indeed an achievement. It is perhaps worth remarking that this is only one of several points in the book in which one can discern the important foundational role that key Aristotelian concepts play in the thoughts of the author.

Another key idea in the book is that ethics does not contribute to good management by ensuring a better bottom line, though it often may have this effect. Even the best financial results will not be a 'good' result if they were obtained by damaging human beings; as Melé says: "Acting without ethics can be astute and cunning management, but it is not good management" (Melé, 2012:21). Three other important points along these lines, which the author makes repeatedly, and which help define his ethical position, are that ethics is primarily about doing good, not just about avoiding wrong; that morality is intrinsic to managerial action, and not just an extrinsic addition to it; and that people are not just resources for business, but primarily persons with human dignity and innate rights.

It could seem from my preceding comments that I am in full agreement with the author, but, of course, I have never met two ethics scholars who are in full agreement with each other. I know that Prof. Melé has serious reservations about some of my positions, and, regarding this book, in spite of my great admiration for him, I would advise readers to examine critically his discussion of what he calls *The First Principle of Natural Moral Law* (I would even object to the name he has given this principle). I am also inclined to complain that he too frequently uses practical wisdom as a universal problem-solver. I have no doubt that practical wisdom is a virtue, and that it has central importance in the management profession, but I would have appreciated more specific propositional guidance on how to tell whether, in making a certain decision, it is practical wisdom or foolishness that I am exhibiting. However, in the context of the whole book, harping on these points would seem to me mere quibbling.

To conclude, after having carefully read this work, it is my considered judgment that the effusive endorsements by several leading scholars and practitioners of management and business ethics, which one finds on the back cover of the book, are fully justified. I recommend it heartily to both practitioners and academics.

African Journal of BUSINESS ETHICS

Vol. 8, No. 2, 2014

African Journal of Business Ethics

ISSN 1817-7417

website: ajobe.journals.ac.za

Editor-in-Chief

email: minka@sun.ac.za

Managing editor

email: mpritchard@uj.ac.za