

# Corporate Social Responsibility and Broad-Based Black Economic Empowerment Legislation in South Africa

## *Codes of Good Practice*

Bindu Arya

*University of Missouri–St. Louis*

Balbir Bassi

*The ABSA Group Limited, Johannesburg, South Africa*

The South African government has been active in promulgating specific corporate social responsibility (CSR) regulations since 1994 directed at the economic empowerment of historically disadvantaged Black people. Government laws have sought to involve corporations in promoting social cohesion and in addressing problems of historical exclusion of Black communities from the mainstream economy. This objective of transformation within the economy culminated in the release of the Broad-Based Black Economic Empowerment Act in 2003. The Department of Trade and Industry finalized the *Codes of Good Practice* on February 9, 2007, to clarify and ensure consistency in the implementation of socially responsible behavior in one area, empowerment of historically disadvantaged Black people (other areas of CSR do not display this consistently) within organizations across industry sectors. In this article, the authors discuss the key principles of this legislation, approaches to monitoring and measuring *Codes of Good Practice* implementation, and their implications for social-change initiatives in local and multinational enterprises that operate in South Africa.

**Keywords:** *corporate social responsibility; emerging economies; Codes of Good Practice*

A significant and growing body of literature addresses the topic of corporate social responsibility (CSR; Margolis & Walsh, 2003). Early work helped us gain a great deal of insight into the relationship between exogenous

pressures from stakeholder groups (consumers, nongovernmental organizations [NGOs], trade unions, and international organizations) and corporate social initiatives (Doh & Teegen, 2003). Although influential, the majority of this prior work was Anglo-American in origin and focus, which influenced the kinds of questions and sorts of desired solutions conceived by scholars in this field (Gerde & Wokutch, 1998). Moreover, it did not explore how institutions constrain and enable socially responsible behavior by corporations around the world (Campbell, 2007). By *institutions*, we mean both government-imposed, national-level, formal rules (laws and regulations) and industry-imposed, collective, self-regulatory systems. We believe that this delineation is in line with the insights of scholars who recognize the important role of governments in resolving issues related to social responsibility and the link between government regulations and self-regulatory systems (Aguilera, Rupp, Williams, & Ganapathi, 2007; Buhmann, 2006).

Scholars note that standards established by laws have a strong influence on establishing social expectations around which firms structure their behavior (Buhmann, 2006). Others find that regulations shape socially responsible corporate behavior through a complex mixture of regulatory pressures (inspections), social pressures (investors and NGOs), fear (sanctions and fines), and normative duty (Gunningham, Thornton, & Kagan, 2005). This research shows that laws create strong external pressures for corporate social-change efforts that are further exacerbated by outside stakeholder groups such as customers, institutional investors, and NGOs (Kagan, Gunningham, & Thornton, 2003).

International business scholars have paid surprisingly little attention to the motives of national governments that enact and enforce CSR regulations and the implications of these laws for positive social-change initiatives by corporations. Over the past few years, the governments of France, Germany, and South Africa have enacted a number of domestic laws promoting CSR (Buhmann, 2006). For example, the New Economic Regulations legislation enacted by the French government in 2001 requires all companies listed on the French stock market to publish social and environmental information in their annual reports (Aguilera et al., 2007). The Law on Retirement Savings of 2001 imposed by the German government obligates pension fund managers to disclose the extent to which they consider the social and environmental records of the companies they invest in (Antal & Sobczak, 2007). Such regulations in developed market contexts have reinforced the legitimacy and credibility of CSR initiatives that encourage responsible corporate behavior.

The South African government has gone further than most other emerging-market governments by introducing laws that encourage corporations to

share in collective CSR efforts to better social conditions by integrating previously socially marginalized groups into the mainstream (Hamann, Agbazue, Kapelus, & Hein, 2005). Attempts to recognize the role of CSR policies devised and enforced in emerging economies on corporate social performance are particularly rare.

In light of this imbalance in the literature, this article investigates the emergence and characteristics of the *Codes of Good Practice*, a specific CSR legislation promulgated by the South African government that has helped establish high standards to address problems of social exclusion in this emerging economy. We first examine the institutional context in South Africa. Next, we discuss how the macro-level crisis in South Africa contributed to the emergence of industrial self-regulation systems. Furthermore, we discuss how both legal and self-regulatory institutions in South Africa have helped catalyze concerted internal and external CSR initiatives by organizations that are challenging the status quo and supplementing political reform in this economy. The subsequent section describes and analyzes the content of the codes. Because monitoring and verification agencies play a critical role in the enforcement of standards set out by law by allowing evaluation of the effectiveness of policies while building external stakeholders' confidence (Sethi, 1999), the following section evaluates agencies that monitor and assess enterprise social performance. Finally, implications of these policies for socially responsible behavior by domestic and multinational organizations operating in South Africa are presented.

## **Institutions in Contemporary South Africa**

A variety of social, economic, and legal factors originating inside the country have influenced the way CSR laws have developed in South Africa. During the apartheid era,<sup>1</sup> South African government policies restricted and suppressed wealth and skill endowments in Black communities,<sup>2</sup> thereby structurally inhibiting their participation in the economy (Butler, 2004). Furthermore, drastic curtailment of property ownership rights of Black people and undermining of self-employment and entrepreneurship contributed to the underdevelopment of Black Africans. By the late 1980s, low levels of investments in human capital, racially discriminatory salaries, and high levels of unemployment began to take a toll on corporate South Africa, which contributed to a structural divide in the economy (Malherbe & Segal, 2001).

Postapartheid, the African National Congress government committed to social development and since 1994 enacted a number of CSR laws (Employment

Equity Act, 1998; Skills Development Act, 1998; Promotion of Equality and Prevention of Unfair Discrimination Act, 2000) to redress historic imbalances by providing opportunities for the Black population to participate equally within the broader economy (Visser, 2005). CSR laws in South Africa have been informed by notable voluntary initiatives such as the Global Reporting Initiative (GRI), among others, issued by international bodies such as the United Nations (Visser, 2005). The GRI encourages reporting on nonfinancial aspects of corporate performance in areas of social investment, occupational health and safety, the environment, and ethics (Hansen & Ryan, 2006). Although South African corporations are recognized as leaders in the African continent in one of the most long-standing areas of CSR—corporate community contributions or philanthropy—they have paid less attention to environmental issues and human rights (Hayes, 2006). Given the disenfranchisement of the majority of the population, it is understandable why proactive government intervention has played a crucial role in pushing social issues to the top of CSR agenda while neglecting environmental and ethical issues in South Africa. Newly introduced CSR laws specifically seek to promote corporate participation in a collective transformation process by taking real responsibility for social rehabilitation and driving the introduction of responsible corporate practices to deal with the peculiar social circumstances in South Africa (Hamann, 2006).

One of the major milestones in the transformation process was the introduction of the Broad-Based Black Economic Empowerment (BBBEE) Act in 2003. BBBEE is defined by the South African Department of Trade and Industry (DTI) as an integrated and coherent socioeconomic process that directly contributes to the economic transformation of South Africa. This highly progressive piece of legislation has a twofold objective. The first objective is to bring about significant increases in the number of Black people that manage, own, and control the country's economy. The second objective aims to ensure significant decreases in income inequalities. One of the key requirements of the BBBEE Act was for the DTI to develop and finalize the *Codes of Good Practice*.

The *Codes of Good Practice* take a broad approach to CSR as they focus on increasing the incidence of principled behavior by South African organizations by altering organizational practices toward employees and by increasing corporations overall impact on society—yet they do not cover all areas of CSR. Instead, they focus on one area of CSR, namely, social issues directed at direct and indirect empowerment of historically disadvantaged people and building a diverse workforce. The *Codes of Good Practice* do

this by providing corporations across all industries of the economy with transformation standards, specific targets, means of achieving targets, and performance measures to regulate and improve their social responsibility by achieving their Black Economic Empowerment (BEE) targets. Because the *Codes of Good Practice* in South Africa are tied to national legislation, they are legally binding on organs of state and public entities. The *Codes of Good Practice* also have a formal verification procedure to ensure that organizations are in compliance.

The South African government recognized the importance of an inclusive approach to developing the *Codes of Good Practice*, which are primarily directed at BEE but also include elements that promote good corporate governance and charitable giving.<sup>3</sup> Dialogue with major stakeholder groups sought input in terms of both code content and compliance mechanisms (monitoring processes and sanctions in case of violations) to ensure that this CSR law would encompass critical aspects that supported the government's overall goal of creating a racially equitable society. Being subject to multiple rounds of public comments and revision restricted the pace of development and introduction of the codes.<sup>4</sup> Hence, although code development was launched in 2003, they were published only in February 2007. In the interim, corporate South Africa did not wait for the finalization of the *Codes of Good Practice* to commence transformation. Instead, many industries proactively developed industry-specific transformation charters to self-regulate their conduct (Fig, 2005).

## **Industry-Level Charters for Self-Regulation in South Africa**

Scholars note that regulation for positive corporate social performance is not always the responsibility of the state (Campbell, 2007). In fact, industry-level standards are viewed as an equally effective means to increase CSR because they create significant peer pressure (Martin, 2003). At the same time, studies show that self-regulation often intersects with government regulations when proactive industry members recognize that it might be better to control the regulatory process themselves than being forced to succumb to severe standards over which they have little control (Prakash, 2000). Political economists recognize the intersection of self-regulation with the government and its legal institutions as an important determinant of the success or failure of industrial self-regulation systems (Karkkainen,

Fung, & Sabel, 2000). They note that by requiring members that violate collective terms to uphold socially responsible behavior, governments and legal institutions (courts) that support associative governance can play an important role in ensuring greater corporate appreciation for industrial agreements (Campbell, 2007).

In South Africa, the government along with other stakeholder groups such as labor and local communities has been actively involved in a consultative process with industry members to develop industry-specific charters to resurrect the local economy (Fig, 2005). In developed economies, this sort of ongoing dialogue between corporations and stakeholders has been shown to facilitate redefinition of conflicting stakeholder interests (Campbell, 2007; Karkkainen et al., 2000). Institutionalized stakeholder dialogue and collective commitment have played an equally important role in shifting norms of acceptable social conduct within entire industries in South Africa and have increased the inclination of corporations to act in socially responsible ways to benefit the local economy (BusinessMap Foundation, 2005).

For example, South African financial services institutions recognized a number of challenges specific to their industry such as the low levels of Black participation in managerial positions (junior, middle, and senior levels), insufficient corporate citizenship funds aimed at Black groups, inadequate response to the increasing demand by Black people for access to financial services, and limited credit provision to Black entrepreneurs. To extend equal opportunities and benefits to Black South Africans, banking and other financial services organizations engaged in dialogue and deliberation with other stakeholders, which resulted in the Financial Sector Charter (FSC) that came into effect on January 2004. The FSC specifies standards for racially equitable behavior to which all corporations operating in the financial industry are expected to adhere.

This collaborative approach was adopted in response to the debacle attending the Mining Sector Charter published in July 2002. The first draft of the mining charter was a government-led initiative that unilaterally sought to impose requirements. For example, in this draft, mining companies were required to transfer 51% of ownership to Black people by 2012. This unrealistic standard led to significant corporate and investor backlash, which prompted the government to open negotiations with a broad group of stakeholders that included traditional and emerging mining houses and labor unions (Fig, 2005). Dialogue-based deliberation resulted in a new scorecard with guidelines and acceptable targets (the target for Black ownership was lowered from 51% to 26%) to measure corporate social conduct that gained

the approval of all relevant stakeholders. Other self-regulatory charters are being developed collaboratively by the tourism, the construction, and the information, communications, and telecommunications (ICT) industries.

The above discussion shows that in South Africa, several industries moved toward self-regulation as members of these industries realized that it might be better to control the regulatory process themselves than to be forced by the government to meet a set of standards over which they had little control. Scholars note that in emerging markets, governments that put their stamp on certain aspects of CSR they want to promote can affect the levels of CSR in specific areas (Baskin, 2006). This suggests that in emerging economies, regulative forces might be an important starting point for socially responsible behavior. At the same time, the lower level of government capacity to monitor and enforce these regulations in these countries necessitates industries to establish their own regulatory mechanisms by setting CSR standards that members must adhere to. Hence, in emerging economies, to guide responsible social action, it might be necessary for both government involvement and self-regulatory processes to run concurrently.

### **Content of Industry-Specific Transformation Charter**

Charters contain a broad-based scorecard specific to the industry with measurement criteria for transformation and potential penalties for noncompliance. In particular, industry-level charters set the standard for the level of inclusion of Black people with 5- and 10-year milestones and attached targets to be achieved by the end of the 5- and 10-year periods. Targets are set for each of the following seven social indicators, which make up BBEE: management, employment equity, skills development, ownership, preferential procurement, enterprise development, and social investment. The first three indicators are internally oriented and limited to the employment relationship. The remaining four indicators are externally oriented and place special emphasis on the societal impact of corporations by measuring their contribution to the economic development of historically disadvantaged people.

The *management* indicator stipulates the extent to which Black people (including Black women) must be represented on the board of directors in corporations. This indicator seeks to assess effective control of corporations by Black people. For example, the FSC scorecard has a target of 33% for the management indicator. This means that corporate board of directors must include 33% Black executive directors. The *employment equity* indicator seeks to eliminate unfair discrimination in the workplace and implements affirmative action to ensure equitable representation of Black people at all

levels of the organization. The FSC scorecard has a target of 20% to 25% Black people at the senior management level, 30% Black people at the middle management level, and 40% to 50% Black people at the junior management level by 2008. Enterprises are required to comply with *skills development* legislation to improve human resource development. The FSC requires corporations to spend 1.5% of total basic payroll on training Black employees. *Ownership* targets specify the extent to which corporate shares are to be transferred to Black people. The Mining Sector Charter scorecard specifies the target for Black ownership as 26% by 2012. *Preferential procurement* promotes indirect empowerment by requiring corporations to work with enterprises owned by Black people. The FSC scorecard stipulates that corporations procure 50% of their supplies from Black-owned companies by 2008. *Social investment* pertains to community development initiatives that invest in Black communities. The FSC stipulates that financial institutions direct 0.5% of net income to socioeconomic development projects focusing on job creation, education, and health improvement of local Black communities.

The *Codes of Good Practice* provide targets for the seven previously mentioned indicators of broad-based empowerment but do not provide targets for additional perspectives specific to industries that may be included in charters. For example, access to financial services and empowerment financing are two additional perspectives included in the FSC. Targets stipulated for indicators in the *Codes of Good Practice* may also differ from those in existing industry charters that have necessitated an alignment process. The key implication of this alignment process is that some indicators and targets set out in industry-specific transformation charters will change.

### ***The Codes of Good Practice***

The final *Codes of Good Practice* contain 15 individual codes that explicitly specify guidelines regarding the different elements of BEE along with information on compliance mechanisms (monitoring and penalties in case of violations). The first 8 codes, Codes 000 through Code 700, include regulations specifically for large enterprises on BEE components such as management, employment equity, skills development, ownership, preferential procurement, enterprise development, and social investment along with other unacceptable aspects such as fronting practices,<sup>5</sup> reporting by multinationals, and verification issues (DTI, 2006). The remaining 7 codes, Codes 1000 to 1700, contain laws that describe BEE expectations specifically for small enterprises. Table 1 summarizes the individual codes and statements.



**Table 1**  
**Arrangement of the *Codes of Good Practice***

Code Number	BEE Indicator	Code Content
000	Conceptual framework of broad-based BEE	General principles and the generic scorecard
100	Ownership	Measures effective ownership of enterprises by Black people
200	Management control	Measures effective control of enterprises by Black people
300	Employment equity	Measures initiatives intended to achieve equity in the workplace
400	Skills development	Measures the extent that employers carry out initiatives designed to develop the competencies of Black employees
500	Preferential procurement	Measures the extent that enterprises buy goods and services from BEE-compliant suppliers as well as Black-owned entities
600	Enterprise development	Measures the extent to which enterprises carry out initiatives contributing to enterprise development
700	Socioeconomic development	Measures the extent to which enterprises carry out initiatives contributing to socioeconomic development
800	Qualifying small enterprises	Measures the extent to which enterprises carry out contributions made by qualifying small enterprises

Note: BEE = Black Economic Empowerment.

## Key Principles

Although all government entities are regulated by the *Codes of Good Practice*, they are not legally enforceable in the private sector. Even though the *Codes of Good Practice* do not cover the private sector, once the currently voluntary industry-specific transformation charters and their corresponding scorecards are gazetted by the government as *Codes of Good Practice*, they will become government regulations that encompass the private sector. Industry-specific charters will then have the same status as the *Codes of Good Practice* and will be applied by all government bodies when

interacting with private-sector enterprises. Corporations that seek to conduct business with the government by becoming suppliers to organs of state, others that seek access to government grants and funding, or those that require government-issued licenses need to ensure that they are in compliance with the targets outlined in industry-specific charters that will eventually be institutionalized as law. This legislation is expected to facilitate socially responsible behavior by creating a chain effect throughout much of the South African economy. There is some evidence that corporations exert pressure on their suppliers to comply with targets on different social indicators, who in turn are likely to push firms from whom they procure goods and services to comply with industry-wide targets assuring trickle-down effects.

### **Content of Codes 000 Through 700 for Large Enterprises**

Enterprises with annual incomes greater than 35 million Rand (about US\$5 million) are defined as “large enterprises” that are required to comply with the eight *Codes of Good Practice* as detailed below.

The first code, Code 000, consists of general principles and a generic scorecard that includes targets for internally oriented social indicators associated with enhancing employment opportunities for historically disadvantaged people along with targets for externally oriented social indicators that measure the societal impact of corporations. Because a common scoring system is used for measuring corporate social performance and companies with high ratings receive higher recognition, this code fosters competition among companies and encourages corporate social initiatives. This code provides clarity on fronting practices and specifies the consequences of fronting or “sham” Black empowerment structures and entities. Accreditation standards for verification agencies are also outlined in this code.

The second code, Code 100, seeks to promote participation of historically disadvantaged people in business management and operations. This code describes suitable financing structures to facilitate transfer of equity to Black investors, which allows organizations to obtain ownership points. Ownership includes entitlement to both voting rights and economic interest. It sets out conditions under which the sale of assets, equity instruments, and other businesses are recognized. This code also allows multinationals to claim ownership points on the scorecard based on their equity equivalent programs. Whereas South African multinationals cannot qualify for equity equivalents, multinationals headquartered in other nations operating in South Africa have flexibility in meeting targets for some social indicators included in the newly enacted legislation. Specifically, they have an option in the area of transfer of

ownership to Black investors, in the form of equity equivalents. An equity equivalent is an investment of 25% of the total operation's value in South Africa in specific government development programs in lieu of the sale of equity to Black people. This investment can be made up front on a once-off basis or over a 10-year period. To qualify for equity equivalents, multinational enterprises must own and control the entire equity in the local multinational enterprise and must be subject to a global policy.

The third code, Code 200, seeks to ensure that effective control of enterprises is transferred to historically disadvantaged Black people. Its objective is to encourage representation of Black people on company boards as executives and nonexecutives.

The fourth code, Code 300, calls for initiatives intended to achieve employment equity in the workplace. This code stipulates specific targets for the inclusion of Black people in occupational positions other than semiskilled and unskilled levels. Companies are measured on the number of Black employees (including Black women) at junior, middle, and senior management levels as a percentage of total employees in the organization.

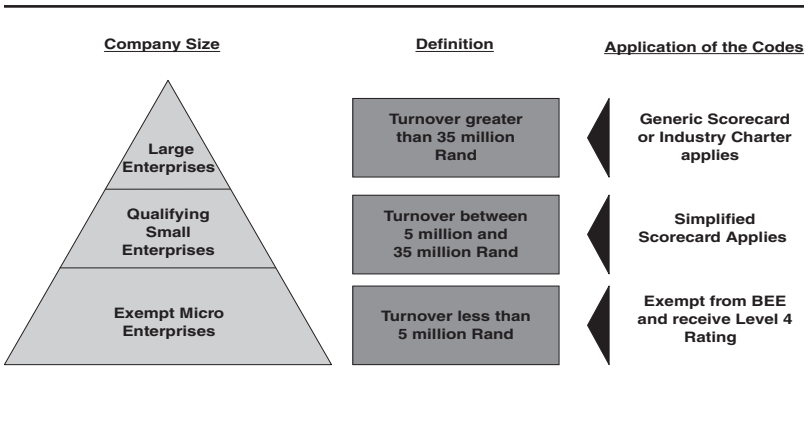
The fifth code, Code 400, assesses the extent to which employers carry out initiatives designed to develop the skills and overall competencies of Black employees. It specifies the basis for measurement of initiatives targeted at the promotion of competencies of Black people within organizations. This code requires that all internal training corporate initiatives are quantifiable and easily verifiable for monitoring and verification agencies so that they have the necessary proof when rating corporations on the skills development indicator in the generic scorecard.

The sixth code, Code 500, seeks to ascertain the extent to which corporations purchase goods and services from Black-owned entities and/or Black-empowered suppliers. This code specifies the principles to calculate the money spent on the procurement indicator included in the generic scorecard.

The seventh code, Code 600, seeks to assess the extent to which corporations carry out initiatives contributing to enterprise development. Corporate programs that create employment, accelerate development of microenterprises, and assist the development of entities that manufacture goods or services contribute to the corporate score on the enterprise development indicator in the generic scorecard.

The eighth code, Code 700, seeks to promote corporate initiatives contributing to socioeconomic development. The fundamental principle of this code is to encourage public programs by organizations that further socioeconomic development in South Africa.

**Figure 1**  
**Enterprise Size and Application of the *Codes of Good Practice***



### **Codes 800 Through 1000 for Small Enterprises**

Companies that generate an annual income of between 5 million and 35 million Rand (between US\$700,000 and \$5 million) are defined as “qualifying small enterprises.” The *Codes of Good Practice* are applied through a more simplified scorecard for small enterprises, which can choose to comply with four out of seven categories on the simplified scorecard.

### ***Codes of Good Practice* and Exempt Microenterprises**

Corporations with an annual turnover of less than 5 million Rand (less than US\$700,000) are defined as “exempt microenterprises.” These companies do not need to comply with the *Codes of Good Practice*. Figure 1 summarizes the application of the *Codes of Good Practice* in enterprises operating in South Africa.

## **Monitoring and Enforcement Mechanisms**

### **National BEE Council**

The *Codes of Good Practice* provided for the establishment of a National BEE Council, a watchdog organization for socioeconomic transformation of Black people in South Africa. The council consists of the

**Table 2**  
***Codes of Good Practice—Generic Scorecard***

Element	Weighting (points)	Compliance Target
Ownership	20	25% + 1
Management control	10	40% to 50%
Employment equity	15	43% to 80%
Skills development	15	3% of payroll
Preferential procurement	20	70%
Enterprise development	15	3% (net profit after taxes)
Socioeconomic development	5	1% (net profit after taxes)
Total	100	

president of South Africa (chairperson of the council), the minister of trade and industry, 3 cabinet ministers, and 15 other members with appropriate expertise appointed by the president. The council advises the government on BEE, reviews progress in achieving Black economic transformation, advises on draft transformation charters, and plays an instrumental role in facilitating partnerships between organs of state and the private sector.

### **FSC Council**

Industry-level charters may also have a council responsible for overseeing the implementation of performance targets established by the charter. For example, the FSC Council conducts annual reviews of performance to assess the progress of each financial institution in implementing the FSC. Since 2007, the council began assigning ratings to individual institutions. This review process offers financial institutions an opportunity to identify shortcomings while improving their accountability to external stakeholders.

### **BEE Ratings**

The *Codes of Good Practice* have finalized a mechanism to arrive at an overall BEE rating for corporations. As discussed earlier, the codes establish a number of performance indicators with specific targets for corporate transformation. Targets form the basis for assessment of the extent of organizational compliance. Each indicator also has a weighting attached to it that tells stakeholders how important that indicator is. Table 2 depicts all the BEE indicators, weighting assigned, and compliance target for each indicator. For example, Code 400 stipulates that corporations must spend

**Table 3**  
***Codes of Good Practice—Enterprise BEE Status***

Rating Level	BEE Score	BEE Recognition Level (%)
1	>100	135
2	85–100	125
3	75–85	110
4	65–75	100
5	55–65	80
6	45–55	60
7	40–45	50
8	30–40	10
Not compliant	< 30	0

Note: BEE = Black Economic Empowerment.

3% of payroll on skills development, an indicator that has a weighting of 15%. The overall BEE score is calculated as a weighted score that takes into account the relative importance (weighting) of each indicator.

Table 3 summarizes the score that contributes to the organization's BEE level of contribution. For example, if a corporation scores more than 100 points (in some cases, bonus points might be awarded for certain indicators),<sup>6</sup> it is considered a 135% BEE contributor and is awarded a Level 1 rating. Exempt microenterprises with an annual turnover of less than 5 million Rand (less than US\$700,000) do not need to comply with the codes and automatically receive a Level 4 rating (i.e., 100% BEE compliant).

Because ratings form an important basis for securing government tenders, they could be viewed as the only important incentive for implementation of socially responsible initiatives by organizations. However, firms that do not currently work with organs of state are beginning to realize that in a quest to improve their scores and overall reputation, corporations in all industries are showing a greater preference to interact with suppliers and other firms that have received higher recognition for regulatory compliance. Ultimately, as the credibility of corporations with higher BEE ratings continues to boost stakeholder confidence, market dynamics should drive further socially responsible behavior in South Africa.

### **BEE Verification Agencies**

The BEE infrastructure is made up of the DTI, which developed the *Codes of Good Practice* and which, through the minister of trade and industry, is

responsible for the approval of all verification agencies. The accreditation process requires verification agencies to apply to the South African National Accreditation System (SANAS). Each agency provides SANAS with evidence that it has implemented the accreditation criteria, is competent, and has qualified assessors to perform verifications of a variety of organizations, irrespective of the complexity of the structure of the organizations to be rated. Qualifications and composition of verification agencies that would rate enterprises with complex management structures would, of necessity, be higher and more comprehensive than for verification agencies rating small to medium entities with a simple share and management structure.

To conduct on-site assessments of verification agencies, SANAS has put together suitable teams in terms of expertise, experience, and qualifications. In addition, from time to time, SANAS witnesses verification agencies as they perform BEE ratings of organizations. This ensures that verification agencies have the necessary practical competence. Next, SANAS informs the minister, through the DTI, of the agency's accredited status. On the basis of the accreditation and other criteria being met, the minister makes the final decision to approve the verification agency.

The process of accreditation of rating agencies only commenced with the finalization of codes. Since this occurred in February 2007, the first set of accredited ratings agencies are expected to be finalized only in 2009. The first batch of 62 applicants is being subjected to preassessment, and those that are successful will be given temporary approval. Within 6 months of the temporary approval, these agencies will need to be accredited.

Because no BEE verification agency has yet been accredited in South Africa, a number of unaccredited agencies sprung up in the past 5 years to provide verification services.<sup>7</sup> One such company, Empowerdex, pioneered empowerment-rating methodology in South Africa and was the first to offer verification services and BEE ratings to enterprises. Its flagship verification services command the largest market share with 1,800 enterprises rated over the past 5 years (Empowerdex, 2007).

### **BEE Verification-Industry Watchdog Agency**

To ensure development and maintenance of high-quality standards, the DTI has also approved the formation of a BEE verification-industry watchdog organization, the Association of BEE Verification Agencies (ABVA). ABVA is responsible for making the monitoring process transparent while introducing uniformity in the measurement and reporting of BEE. In addition, ABVA will be instrumental in protecting companies from being rated by

unreliable verification agencies and from others that falsify corporate BEE credentials (ABVA, 2007).

## **Implications for Firm-Level CSR**

Existing conceptual research defines CSR as any discretionary corporate activity intended to further social welfare (Barnett, 2007) or as “doing more than what is required by law” (Buhmann, 2006). The CSR literature emphasizes the economic relevance of socially responsible behavior for corporations. Theoretical reasoning that draws on legal science notes that corporate action based on CSR is equally relevant to governments as it helps the state fulfill its socioeconomic development goals based in law (Buhmann, 2006). Legal scientists note that laws play an influential role by generating norms that inform and guide socially responsible action (Buhmann, 2006). Only recently are governments around the world beginning to introduce legislation that requires corporations to report on CSR issues.

The historical legacy of South Africa provides a special role for the state (Hamann, 2006). Given the monumental task of redressing decades of social and racial imbalances in this economy, CSR efforts in this context cannot be purely voluntary and must include government regulations to motivate and enforce corporate social initiatives. BBBEE legislation instituted by the South African government provides incentives, pressures, and benchmarks for promoting good corporate conduct. Organizations have followed a stakeholder-engagement approach to develop industry-specific charters involving CSR agenda. These proactive attempts by corporations operating in South Africa are similar to collective agreements adopted by corporations operating in developed countries that seek to influence impending formal CSR legislation. Charters in South Africa represent preformal law and create significant peer pressure because industry-level participants observe informal CSR norms as if they are legally binding even before they obtain the status of formal law.

Increasing globalization and international laws have also informed the normative substance of South African CSR policies and stakeholder expectations of socially responsible behavior. At the same time, political reform has generated uncertainty for corporate social initiatives.

### **Impact on Domestic Enterprises**

A survey established in response to the *Codes of Good Practice* to identify transformation within businesses in South Africa revealed that 80% of respondents already had a BEE strategy in place. Organizations



across all industries, especially those participating in industry-specific charters, have made good progress on the majority of the empowerment indicators (KPMG–South Africa, 2006). Most South African organizations recognize that to survive in an increasingly competitive business environment, they must view CSR as a business imperative and include the *Codes of Good Practice* as an integral component of corporate strategy.

Domestic organizations identify a number of challenges that threaten internal CSR initiatives involving employee relations. Specifically, managers note that the shortage of skilled and experienced Black executives, especially Black women, poses a challenge to the ability to meet targets stipulated for the management control indicator. The general shortage of skilled Black candidates in the country has limited organizational progress in achieving targets on the employment equity indicator while exacerbating Black professional retention problems (KPMG–South Africa, 2007). In contrast, organizations find it easier to meet their external CSR goals. Many have achieved high scores on the corporate social investment indicator by investing money in various socioeconomic development projects focusing on job creation, education, and health improvement of local communities.

As domestic corporations implement CSR initiatives, positive role models recognize that top management advocacy and commitment to social transformation is imperative, though insufficient, for ensuring successful socioeconomic change. For example, at the ABSA Group Limited, one of the top 4 banks and an important player in the South African financial services, transformation professionals reach out to line management and make them accountable for the change process (Arya, Bassi, & Phiyega, 2008). Moreover, transformation professionals work to create an understanding that social responsibility capabilities cannot be created overnight. Instead, they promote the view that this process entails deliberate, managed evolution that involves a shift in organizational structures, processes, and mindsets. Consistent internal and external communication strategies have served as effective tools for driving CSR initiatives at the ABSA Group. Incentive systems have also been found to play an important role in driving social change initiatives in South African businesses. Most firms listed on the Johannesburg Stock Exchange have adopted management incentive schemes and bonus schemes that are linked to performance targets on indicators included in the *Codes of Good Practice* scorecard (KPMG–South Africa, 2007).

Because transparency is recognized as a key element of CSR, absence of accredited verification agencies (due to the delay in the finalization of the *Codes of Good Practice*) has made communication of societal commitment to external stakeholders extremely difficult for organizations operating in South Africa. Many organizations base their BEE rating on self-assessments. In

other cases, unaccredited rating agencies that are paid for their rating services continue to provide BEE ratings for organizations (KPMG–South Africa, 2007). Lack of accredited rating agencies until 2009 presents a significant challenge to evaluating improvements in corporate social practices.

## **Impact on Multinational Corporations**

South Africa has attracted a considerable amount of foreign direct investment as it struggles to manage the transition from a racially skewed to an equitable economy. While South Africa continues to deepen its integration into the world economy, multinationals need to be prepared for the instabilities associated with the newly enacted CSR laws. Some multinationals have chosen to overcome high levels of operational and strategic uncertainty by acquiring stakes in companies that are forerunners in implementing comprehensive CSR programs. For example, in 2005, Barclays PLC, based in United Kingdom, acquired a 56% controlling stake in the ABSA Group Limited. At the time, this was the largest foreign direct investment into the country. This transaction was approved by the minister of finance with one of the key conditions being that Barclays would further CSR initiatives within the ABSA Group in line with applicable industry-specific sector charter requirements.

Others are set to play a key role in the emergent verification services industry in South Africa. The rigor required to assess enterprise transformation has led to the entry of a number of multinational players with recognized skills in auditing, particularly prestigious accounting firms, into consulting for the verification services industry. For example, KPMG–South Africa has developed a practice, BEE Advisory Services, to assist companies assess their BEE status and develop remedial CSR strategies (KPMG–South Africa, 2006).

Other multinationals such as Hewlett-Packard have gained government approval for equity equivalent investments. In 2007, the HP Business Institute introduced a enterprise and skills development program to train 1,800 students over the next 6 years (Hewlett-Packard, 2007). Short-term skills programs and 1-year internship programs are focused on increasing employee skill level in small and medium enterprises operating in the South African information technology industry. Such investments allow multinationals to enrich their employee resource base while increasing their consumer base (by creating a Black middle class with greater buying power). Through these investments and commitments to development of the South African economy, multinationals can build invisible barriers of entry that thwart competitive pressures from other global players as the country becomes a more lucrative high-growth market.

## Conclusion

In this article, we explore the characteristics of institutions (national-level CSR laws and industry-level self-regulatory agreements) in South Africa and their influence on the way organizations contribute to the process of social transformation. The South African approach to achieving government goals of economic inclusion of the poor encompasses internal aspects (i.e., business–employee relations) along with the external aspects (i.e., contribution to society) by engaging in philanthropic, community, and small business building activities.

Whereas critics of BEE legislation argue that it is primarily about the creation of Black elite, with little benefit to the poor, defenders believe that the inclusive stakeholder approach taken to develop industry-level charters and the *Codes of Good Practice* will benefit the poor (Hamann, 2006). Recent survey-based research provides some evidence that firms operating in South Africa are contributing to these expansive goals by means of their activities in the workplace, along their supply chains, and by engaging in social investment activities.

## Notes

1. Although racial separation of White and native South African people began as early as 1920, apartheid legislation was enacted in 1948 (Butler, 2004). Over four decades of social and racial inequalities promulgated by apartheid legislation ended with the 1994 democratic elections in South Africa.

2. The term Black community includes previously disadvantaged Black Africans, Colored (mixed race), and people of Indian origin.

3. This detailed process involved dissemination of information on the *Codes of Good Practice* via the radio, press, and trade journals. Furthermore, a toll-free line, dedicated e-mail address, and Web site were set up to facilitate submission of comments by stakeholders. Input solicited from industry associations, labor bodies, and the general public was taken into consideration in adjusting each draft of the *Codes of Good Practice*.

4. A total of 180 submissions of comments were received from big and small business, Black-owned businesses, parastatals, and others (SBP, 2006).

5. Fronting practices include window dressing in which case Black people are introduced to an enterprise on the basis of tokenism but are discouraged from participating in core activities of the enterprise. This may also include other initiatives where economic benefits received as a result of the BEE status of the enterprise do not flow back to the Black people as specified in the relevant legal documentation (South African Department of Trade and Industry, 2006).

6. Bonus points are typically assigned for meeting and exceeding targets on some Black Economic Empowerment (BEE) indicators. For example, companies that appoint Black independent nonexecutive board members can get 1 bonus point on the management control

indicator. Enterprises that involve Black equity investors in the ownership of the enterprise are allotted bonus points on the ownership indicator.

7. BEE Biz Compliance, BEE Rating Solutions, Decti, EMEX, Empowerlogic, National Empowerment Rating Agency, and PFK BEE Solutions are some of the unaccredited BEE verification agencies (Association of BEE Verification Agencies, 2007).

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**Bindu Arya** (PhD, University of Texas at Dallas) is an assistant professor of management at the College of Business Administration, University of Missouri–St. Louis. Her current research interests include organizational transformation and enterprise strategy in South Africa, social networks, and corporate social responsibility. Her research has appeared in *Journal of Management*, *Journal of Management Studies*, *Business Ethics Quarterly*, and *Business and Society Review*.

**Balbir Bassi** is a group consultant at Group BEE, ABSA Group Limited, Johannesburg, Republic of South Africa.