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## Constructing black economic empowerment in South African mining: Government v corporate discourse

### ABSTRACT

By employing a critical discourse analysis and approaching BEE as an institutionalised discursive phenomenon, this article demonstrates how the South African government constructs clashing BEE discourses in its policy and legal documents because of its complex political and economic interests. Instead of tightening its discursive mechanisms to enforce BEE to address racial inequality, the government uses the 2010 Mining Charter to decontextualise, dislocate, and weaken its transformation and political agenda. This article reveals how this discrepancy and redirection enable mining corporations to undermine, (re)frame, (in)validate or reject certain aspects of BEE to meet their own corporate interests. As they formally respond to government mandates, these firms are able to build a defensive rhetoric. In particular, this has allowed mining firms to adopt an ahistorical discourse of race and blackness, which can be traced back to the Mining Charter, and yet displaces and deracialises the political objective of BEE. They displace and decontextualise BEE by framing the transformation agenda as a managerial concept and ahistorical development issue. This strategy enables these firms to maximise the symbolic appearance of compliance while using their managerial authority and rationality to limit the political costs and impacts of BEE.

This article conceptualises black economic empowerment (BEE) – now expanded into broad-based black economic empowerment (BBBEE) – as an institutionalised discursive phenomenon. It examines how mining companies in South Africa discursively construct BEE to exploit the complexities of transformation, empowerment and race discourses to their advantage. Drawing upon the constructionist ideas of Jonathan Potter (1996), the article identifies the discourses of race, non-racialism, sustainable development, and managerialism, as some of the hegemonic and central constructs of BEE. Norman Fairclough's (1992) three-dimensional model of critical discourse analysis (CDA) is employed to analyse how the South African government constructs BEE in its policy and legal documents as well as how the Palabora Mining Company (PMC) and African Rainbow Minerals (ARM) have responded to the former in their corporate reports. The article asks: How does government construct BEE in South Africa? How do mining companies employ rhetoric and discursive tools to respond to the government's construction of BEE? To what extent do their responses undermine, discount, accept or validate this programme?

Studies investigating the discursive construction of BEE in South Africa remain under-developed, even though discourse and language-in-action manifestly play a political role in the entrenchment and maintenance of (unequal) power structures. Previous research on BEE has mainly focused on macro

analysis that examines its political economy, as well as the concepts of corporate power, ideology and dominance (Ponte, Roberts & Van Sittert 2007; Schneiderman 2009; Ramlall 2012; Manning & Jenness 2014; Kassner 2015). The work of Du Toit, Kruger & Ponte (2008) and that of Ponte, et al (2007) examines the construction of BEE with a special focus on macro issues such as corporate legitimacy, power, and ideology. They broadly demonstrate how corporations weaken and resist the political aims of BEE using different mechanisms of decontextualisation. While Du Toit, et al (2008) show how corporations adapt the ahistorical approach to their discourses of labour and race, Ponte, et al (2007) note that corporations discursively move BEE from its political terrain to a managerial zone that emphasises apolitical technocratic and auditing processes.

Understanding BEE as an institutionalised discursive phenomenon requires the study of these macro-level considerations that encompass broader hegemonic constructs, but such a study alone is not sufficient. A micro-level analysis that covers lexical items and language-in-action that shape the discourse is also needed (Fairclough 1992). For this reason, this article employs CDA, which balances the macro- and micro-level analyses of discourse, to investigate how companies employ discursive and rhetorical strategies to respond to the government's construction of BEE in their corporate reports. In doing so, this article contributes towards debate concerning BEE by incorporating the microelements of discourse into the analysis. This analysis does not seek to judge these corporations for employing such tools to construct BEE, nor to critique the government's choice of socioeconomic policies. Rather, it seeks to demonstrate how the government and mining companies construct clashing BEE discourses because of their complex political and economic interests.

The article first explores the literature on BEE discourses and then presents an analytical framework that explains the methodology. Then evidence is offered that focuses on three stages of CDA – description, interpretation, and explanation. According to Fairclough (1992), these stages concentrate on textual analysis at three levels of engagement: the choice of the companies' lexical items, constructions and their discursive and rhetoric mechanisms (both the microscale), and, finally, their broader sociocultural, political and economic contexts (the macroscale). This presentation is followed by a discussion that deals with the political implications of discourses and their social practices and how discursive strategies play a key role in this regard before providing the concluding remarks.

### BEE discourses: an exploration

The impact of BEE in redistributing the country's wealth and facilitating the participation of black people in the economy remain questionable (Manning & Jenness 2014). According to Roger Tangri & Roger Southall, the government 'proposed only modest levels of equity transfer, fearing that a large-scale deracialisation of business would be detrimental to growth and investment' (2008: 700). This relates to its resolution to adopt a 'growth and

redistribution approach' (or 'trickle down') to create a balance between economic growth and its redistributive agenda (Ponte, et al 2007). Southall (2007: 67) argues that critics of this policy overlook how the country has been shaped by its 'own history, nature of the democratic settlement of 1994 and the structure of the white-dominated economy'. Nonetheless, Ponte, et al (2007) note that because the markets cannot resolve apartheid's mis- allocation of resources, there is consensus that BEE is an essential part of addressing the country's structural injustices.

Since its introduction in South Africa in the late 1990s, the programme of BEE has received academic attention. Studies have examined its different themes including the links between BEE, economic policy and the space for redistribution (Ponte, et al 2007), policy and political economy, ownership and the notion of fronting, governance and corruption (Manning & Jenness 2014; Kassner 2015), its implications on company shares (Ward & Muller 2010), its impact of economic growth and investment treaties (Schneiderman 2009) and BEE as a social responsibility programme (Ramlall 2012). However, few studies have considered how corporations have employed discursive and rhetoric mechanisms to construct BEE in their corporate reports. This is despite that Ponte, et al (2007) have identified BEE as facilitating major structural and discursive shifts in the country. They further state that BEE occupies a critical part in the politics of transformation. As Ponte, et al (2007: 935) note, BEE is 'moving the debate from a political terrain, where redistribution is, in theory, possible, to a managerial terrain, where discussions are technical and set within the limits of codification, measurement intervals, and systemic performance'.

Ponte, et al (2007) demonstrate the need to analyse the discursive processes of constructing BEE. However, previous research has tended to ignore this area and, in turn, has overlooked the analysis of the micro level of BEE discourses. Such analyses would examine word choices, discursive and rhetoric mechanisms. While anthropologists have investigated this problem from a critical and ethnographic perspective, their attempts focus on the discourse of BEE and transformation at the macro level, focusing on the concepts of power, dominance, and corporate ideology. Indeed, many studies have done so without necessarily addressing the political use of language-in-action – or discursive and rhetoric strategies – as the conduit for analysis. For example, Ponte, et al (2007) note that corporations represent BEE as a managerial exercise to conceal the existing unequal power relations in the wine industry by predominantly focusing on procedures, system management, and compliance. Du Toit, et al (2008) assert that the industry has responded to BEE's calls for equitable change by containing and side-lining them. The industry casts BEE as a managerial exercise through the Wine BEE Charter and its codes. It reduces 'transformation' to a marketing exercise – through 'black branding', 'black winemaker showcasing' or a focus on 'nature' – 'to avoid facing potentially more uncomfortable outcomes of transformation' (Du Toit, et al 2008: 28). In doing so, the industry has thwarted the overall political objectives of BEE.

For Catherine Dolan & Dinah Rajak, this demonstrates the fact that 'rather than

refram- ing business interests to reflect social imperatives or community needs' (2016a: 4), corpor- ations reframe social community and government interests to fit their own priorities. Framing BEE this way is achieved through the application of marketing and codification technologies involving auditing and compliance procedures. These processes tend to undermine the spirit of BEE and the certification systems that attempt to address trans- formation (Du Toit, et al 2008). Geert De Neve attributes this to the idea that 'the politics

of compliance contributes to the consolidation of the power of standard-setting actors by facilitating the devolution of risk, uncertainty, and responsibility' (2016: 106). Meanwhile, Lauren Edelman & Shauhin Talesh note that corporations respond to new charters and legal frameworks by 'creating new offices and developing written rules, procedures and policies [to] achieve legal legitimacy while simultaneously limiting law's impact on managerial power' (2011: 109, citing Edelman 1990). The authors conclude that these corpor- ations also employ their rhetoric to maximise the appearance of compliance and to create symbolic structures which 'institutionalise managerialised notions of what constitutes compliance' (Edelman & Talesh 2011: 112). In short, corporations strategise to maintain managerial rational, authority and discretion to contain and dilute the political costs of government laws and policies.

This is one of the discursive and material practices which corporations continually employ to maintain their corporate legitimacy and to respond to social and political challenges, such as transformation (Dolan & Rajak 2016a). Other forms of discursive practices involve how mining companies employ the rhetoric of sustainable development to con- struct and champion themselves as the solution to the problems which are created by their harmful operations in the era of new-extractivism (Rajak 2011). This rhetoric enables the mining companies to create a corporate identity of 'environmental responsibility' to deflect attention away from their harmful mining operations while claiming moral responsibility. As Rajak states, 'this movement projects corporations not only as self-disciplining moral actors, but as leaders in a new orthodoxy of business- led development which promises empowerment through "the market"' (2016: 29). In addition, this enables mining companies to present themselves as noble proponents of broader

social development which purportedly aim to complement services delivery in under- resourced, particularly postapartheid South Africa (Rajak 2011). More critically, the rhetoric of sustainable development seeks to conceal the constant, inherent conflict between mining and impacted communities to contain criticisms of water pollution and land degradation while empowering mining companies with discursive power (Rajak 2011). To affirm their economic power, mining companies tend to marginalise anyone who opposes this tradition of sustainable development 'from the development mainstream of policy- making and power' (Rajak 2016: 40) without addressing the negative impact of their core business practices.

On the other hand, Ponte, et al argue that this construction also helps give 'the illusion that government is heavily engaged in (and in control of) BEE' (2007: 950). Yet they consequently produce a quantitative standardising view of transformation imperatives that turns them into 'uniform, measurable units

without any specific skills or experience' to enable corporations to exercise power over the beneficiaries of its initiatives and government (Sydow 2016: 225, citing Scott 1998). According to Ponte, et al (2007), the practice of managerialism also contributes to the culture of tick-box and performativity which focuses on superficially complying with the Mining Charter and BEE scores, resulting in the state's weakened ability to control the BEE process.

According to Du Toit, et al (2008), the shifting of BEE from a political to a managerial terrain enables white-owned corporations to deracialise labour relations through branding, advertising, and image building. In consequence, they offer sanitised images of their activities while at the same time using codes of conduct, a sectoral BEE charter, and scorecards to depoliticise its sociopolitical significance. For Cheryl McEwan & David Bek (2006), this process involves focusing on self-serving charitable projects which function to maintain a neo-paternalist order in farming and wine industries, as well as providing a halo effect for corporations. Furthermore, operating in this discursive terrain enables corporations to diffuse their responsibility of empowering workers and changing labour regimes that reify exploitative power relations (Du Toit, et al 2008).

This perversion of BEE suppresses government and feigns moral responsibility by projecting BEE as part of their management processes and procedures (McEwan & Bek 2006; Ponte, et al 2007). Consequently, McEwan & Bek understand that even the concept of empowerment in this context 'is based on a new notion of citizenship, in which previously-disadvantaged individuals are "trained" to see themselves as stakeholders with choice and voice' (2006: 1031) to avoid addressing existing structural problems (cited in Du Toit, et al 2008: 7). They deflect attention from these pressing issues by focusing on less political discourses of self-improvement. These symbolically address the issues of education, training, and combating social issues (such as alcoholism) instead of committing to honouring the interests of farm workers and addressing their tough working conditions. For McEwan & Bek (2006), this framing may lead to symbolic inclusion while relying on processes of material exclusion that appear to be depoliticised and separated from the structures of oppression. Similarly, Chris Malikane & Mcebisi Ndletyana (2006) investigated how BEE has been constructed as an attempt to form a black capitalist class. They conclude that this sought to legitimise the instalment of a 'rainbow' neoliberal economic and political system that protected the dominance of the 'white capitalist class'.

This scholarly approach demonstrates how corporations manipulate discourses of transformation to reframe BEE to sustain their corporate legitimacy and to exercise their corporate power over communities and government. Significantly, it demonstrates the need to study discursive processes that construct BEE. Nonetheless, limited attempts have been made to pursue this line of investigation. Ponte, et al (2007) and Du Toit, et al (2008), as well as McEwan & Bek (2006), focus on the way corporations produce descriptions that depoliticise BEE, turning it into a managerial and technical concept, consequently creating new unequal structures of power. However, they have paid little attention to the practice of actual language use, discursive and rhetorical strategies of constructing BEE. As noted previously, Toit, et al's (2008) work has taken the challenge to investigate this, but their

analysis remains at the macro level of discourse. It focuses on branding, advertising, and image-building. They conclude that corporations deploy an essentialist, racial discourse to offer an ahistorical notion of 'blackness' which disconnects the existing exploitation of black and coloured workers from the country's history of slavery. As Du Toit, et al argue, 'the mostly white Afrikaner industry' (mis)uses the racial terminology of BEE 'to marginalise issues that would address the fundamental structural relations of power' (2008: 7). The authors allude to the analysis of language-in-action. However, they do not offer any evidence of textual analysis, the micro level of discourse.

Their study confines the analysis of the construction of BEE to the macro level.

To address this paucity of research, this article contributes to the literature by employing CDA to study the word choices, discursive and rhetorical strategies of constructing BEE in government texts and corporate reports. It draws upon the social constructionist idea of Potter (1996) to examine how both government's construction of BEE and how mining companies respond to this. Potter (1996) argues that producers of texts usually use different discursive and rhetorical devices to conceal the unequal power relations between political and corporate actors. These devices also work to 'draw attention away from concerns with the producer's *stake* in the situation – what they might gain or lose – and their *accountability*, i.e. responsibility for it' (Potter 1996: 150). Since the article focuses on the relationship between the government and corporate constructions, the analysis necessitates a double analytic approach that focuses on both offensive and defensive rhetoric, looking 'both at the procedures through which [constructions] are built up, and the ones by which they are undermined' (Potter 1996: 107). The importance of this approach, I argue, is that when constructions are analysed, part of the interest will be in what alternative claims or arguments are being undermined. Put at its simplest, one of the features of any [construction] is that it counters – or potentially – a range of competing alternative descriptions (Potter 1996: 106).

#### Analytical framework: CDA

This article adopts Fairclough's (1992) three-dimensional framework for CDA to examine discursive ways in which ARM and PMC respond to the constructions of BEE (which can be seen as a discursive event) presented in government policy and legal texts.

These texts are the Broad-Based Black Economic Empowerment Act of 2003, the Broad- Based Black Economic Empowerment (Amendment) Act of 2013, the Mineral and Petroleum Resources Development Act (MPRDA) of 2002 and the 2010 Mining Charter. The Charter is developed through public consultations and stakeholder engagements between government, labour and mining companies, led by the ministry of mineral resources. It provides transformation guidelines for mining industries covering different areas, in line with the spirit of BEE and the MPRDA. The article focuses on PMC's Annual Reports (2012 & 2013) and ARM's Sustainability Reports (2016 & 2017). Important data as to the actual intent of these corporations is inferred undertaking careful reading of less formal documents such as website announcements, along with press

statements from 2012 to 2017. Examining the entire corpus of documents – the government construction and the corporate responses – has allowed me to identify recurring keywords, phrases and discourse topics that were used to construct BEE and transformation. It also helped me determine how these identifications were related or dissimilar to the discourses of BEE, transformation, and redistribution despite where they were placed in the reports. Corporate reports can be regarded as ‘the key vehicle through which companies account for themselves to their stakeholders and ask them to accept their account of themselves’ (Van Leeuwen 2013: 45).

According to Fairclough (1995: 132), CDA aims to systematically explore often opaque relationships of causality and determination between (a) discursive practices, events and texts, and (b) wider social and cultural structures, relations and processes; to investigate how such practices, events and texts arise out of and are ideologically shaped by relations of power and struggles over power; and to explore how the opacity of these relationships between discourse and society is itself a factor securing power and hegemony.

Employing CDA, the article examines how corporations, implicitly or explicitly, strategically employ their discursive and rhetorical strategies to accept, validate, undermine or reframe BEE in response to government’s constructions of a BEE agenda. In summary, it examines these constructions and their discursive responses to explain the relationship between government and corporate constructions of BEE to understand their power relations and political implications. The article offers a ‘linguistic description of the language text, interpretation of the relationship between the (productive and interpretative) discursive processes and the text, and explanation of the relationship between the discursive processes and the social processes’ (Fairclough 1995: 97). Although this article draws upon the work of Fairclough (1992 & 1995), it does not focus on specific linguistics on a micro level (for instance, presuppositions, nominalisation, argumentation, and metaphors, active and passive voices) of constructing meaning or framing discursive events. This article follows the idea that discourse practices mediate the connection between social practice and texts (Fairclough 1995). These discourse practices are regarded as the processes of text production and interpretation – ‘shaped by (and help shape) the nature of the social practice’ on one hand and, on the other, ‘the production process shapes (and leaves “traces” in) the text, and the interpretative process operates upon “cues” in the text’ (Fairclough 1995: 133). As Fairclough concludes:

How a text is produced or interpreted, in the sense of what discursive practices and conventions are drawn from what order(s) of discourse and how they are articulated together, depends upon the nature of the sociocultural practice which the discourse is a part of (including the relationship to existing hegemonies); the nature of the discourse practice of text production shapes the text, and leaves ‘traces’ in surface features of the text; and the nature of the discourse practice of text interpretation determines how the surface features of a text will be interpreted. (1995: 97)

This mode of CDA links the above-mentioned corporate and government texts (the micro) with their social practices and processes (the macro) through the analysis of their discursive strategies (which serve as mediators) to show their political and ideological implications. According to Fairclough (1995: 97), the link between properties of the text (the micro) and social relations and processes (the macro, which includes ideologies and power relations, and which constitutes part of the context of both corporate and government constructions) remains opaque. Thus, it is not necessarily obvious to people who ‘produce and interpret those texts, and whose effectiveness depends upon this opacity’. As Pierre Bourdieu (1977) agrees, this opacity suggests that the link between ‘discourse, ideology and power may well be unclear to those involved, and more generally that our social practice is bound up with causes and effects which may not be at all apparent’ (cited in Fairclough 1995: 133). As such, CDA – which functions thorough the synthesis between discourse practice, sociocultural practice and texts – is suitable to deal with this opacity and to make these links visible through a systematic and critical analysis.

The evidence section seeks to demonstrate the link between the texts and social processes and practices, as well as how these texts draw upon hegemonic orders of discourse in the construction of BEE, even though inevitably the discursive strategies will be touched upon in this regard. The discussion section mainly focuses on the ideological implications of how these mining companies and government employ their discursive strategies for political and ideological purpose – explaining the relationship between discursive and social processes. In doing so, the article demonstrates how recontextualisation (Fairclough 2007), interdiscursivity (Wodak 2001) and intertextuality (Fairclough 1992), *ontological ger-rymandering* (Woolgar & Pawluch 1985), stake inoculation and stake alignment (Potter 1996), are important discursive mechanisms in validating, accepting, or reframing BEE (see Table 1).

Table 1. Definitions of discursive strategies for constructing BEE

Interdiscursivity	‘the intersection of discourse A and discourse B’ (Wodak 2001: 37)
Intertextuality	‘the property texts have of being full of snatches of other texts, which may be explicitly demarcated or merged in, and which the text may assimilate, contradict, ironically echo, and so forth’ (Fairclough 1992: 84)

	Ontological gerrymandering the idea of manipulating constructions and boundaries 'making certain phenomena problematic while leaving others unproblematic' (Woolgar & Pawluch 1985: 214)
Recontextualisation	looking on 'texts in different social fields and at different social scales (eg in different societies or localities), and analysing for instance how, when these discourses are recontextualised, they are articulated with discourses which already exist within these new contexts' (Fairclough 2007: 54)
Stake alignment	'the discursive process through which people claim to share, or align with, the (legitimate) interests of certain others' (Whittle, et al 2014: 9)
Stake inoculation the notion that they have	'the discursive process through which actors deny, or down-play, ... stake, interest or motive in a particular argument or course of action' (Whittle, et al 2014: 9)

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## Evidence

### *The BBEE and the BBBEE (Amendment) Acts*

This section presents the government's construction of BEE and demonstrates how government policy and legal documents vary in how they construct the programme. The section also deals with how mining corporations respond to the government's construction of BEE. Throughout the analysis, the section points to: the necessary interdependence of 'micro' analyses of specific discourse samples and more 'macro' analysis of longer term tendencies affecting orders of discourse, the construction and restructuring of hegemonies in the sphere of discursive practices. These 'macro' dimensions constitute part of the context of any discursive event and are necessary for its interpretation. (Fairclough 1995: 101)

The BBEE and BBBEE (Amendment) Acts construct BEE as aiming to empower black people. It explains who counts as black people and provides the political context of the programme. The Acts define black people as 'a generic term which means Africans, Coloureds and Indians' (RSA 2013 & 2003). Emphasising the political objectives of the programme of BEE, the BBBEE Act intends to 'increase broad-based and effective participation of black people in the economy and promote a higher growth rate' (RSA 2003). It also aims 'to facilitate broad-based black economic empowerment by *promoting* economic transformation [to] enable meaningful participation of black people in the economy' (RSA 2003). At a sociocultural level, these descriptions of BEE (the micro) taps into redistributionist discourses which recontextualise and invoke the history of the country, accenting the need to undo the legacies of apartheid that benefited white people at the expense of their black counterparts. The political significance of these descriptions is that they explicitly emphasise black people as the main beneficiaries of BEE. BEE is, then, categorised as affirmative action and the programme of empowering black people and of transforming the country's economy. This is also reflected in how the Acts define BBBEE. An expanded version of BEE, means:

the viable economic empowerment of all black people [including], women, workers, youth, people with disabilities and people living in rural areas, through diverse but integrated socio-economic strategies. (RSA 2013)

Furthermore, the Acts explicitly categorise BEE as intending to promote 'investment programmes that lead to broad-based and meaningful participation in the economy by black people [to] achieve sustainable development and general prosperity' (RSA 2003). It sees the programme as aiming to increase 'the number of black people that manage, own and control enterprises and productive assets' and 'local communities by enabling access to economic activities, land, infrastructure, ownership and skills' (RSA 2013). These descriptions emphasise the historical and political objective of BEE and contextualise transformation and empowerment within the discourses of race. Concomitantly, the idea of community development, as recontextualised here, locates BEE within the discourse of sustainable development. This socioculturally draws upon the ideology of neo-liberalism which depends on the rhetoric of sustainable development to reframe the role of (multinational) corporations, as well as to position corporations as proponents of broader community development. This discourse has given rise to the idea of sustainable mining which seeks to ensure that mining companies retain their corporate legitimacy by reframing the environmental discourse which has been critical of the impact of mining business on the land and impacted communities. The recontextualisation of this discourse here suggests the complex mixing of neoliberal and redistributionist discourse, putting the idea of affirmative action into question. Politically, this can be associated with the African National Congress (ANC)'s policy dilemmas. But it can also be associated with the country's version of sustainable development which emphasises that the private sector, particularly mining companies, should develop local communities as part of compensating for their historical actions that institutionalised apartheid practices.

### *The MPRDA and the Mining Charter*

The Mining Charter and the MPRDA have reframed and expanded the notion of who counts as black people and what should be the focus of transformation as presented in the BBBEE and the BBBEE (Amendment) Acts. In consequence, they have weakened the overall political objective of BEE. This is despite that the programme of BEE and the Acts set the tone for the establishment of these documents. For instance, the Charter envisions '[the facilitation] of sustainable transformation, growth, and development of ... mining' (RSA 2010). Socioculturally, the Charter and the MPRDA demonstrate the complexities of mixing the neoliberal discourse – seen through the discourse of sustainable development and redistributionist discourse – and play a critical role in complicating the practicalities and political relevance of BEE. Explicitly, this extract moves BEE away from the discourse of race to the ahistorical discourse of sustainable development which effectively decontextualises BEE. It also implicitly depoliticises transformation and disconnects the notion of empowerment from the discourse of race. This is reflected in how the Charter describes its socioeconomic strategy of broad-based socio-economic empowerment (BBSEE) as aimed at, among others:

Redressing the results of past or present discrimination based on race, sex and disability of historically disadvantaged persons in the minerals and petroleum industry, related industries and in the value chain of such industries. (RSA2010)

Despite seeking to promote black empowerment and transformation – and purportedly aiming to resemble the strategy of BBBEE – the Charter omits the term ‘black’ in its broadbased strategy. The stark contrast between the BBBEE Act and the Charter is that the former explicitly promotes black empowerment while the latter focuses broadly on historically disadvantaged South Africans (HDSA). This categorisation, or rather the definition of BEE, may, to an extent, cover female white South Africans in the context of gender dis- course. By using the term ‘HDSA’, the Charter has expanded what counts as black people and turned their description into a vague concept. It defines HDSA as ‘citizens, the category of persons or community, disadvantaged by unfair discrimination before the constitution of the Republic of South Africa ... came into operation which should be representative of the demographics of the country’ (RSA2010).

Vaguely categorising and reframing black people this way enables the government to manage the *dilemma of stake* – implicitly employing from the discursive strategy of stake inoculation to achieve this social practice. Socioculturally, or rather politically, this strategy helps the government to avoid contradicting the neoliberal and hegemonic imaginary conventions of the ‘Rainbow Nation’ and non-discrimination. Explicitly using the term ‘black people’ would necessarily affirm the political significance of BEE, contradicting its discourse of non-racialism. The contradiction may be discounted – or interpreted – as a *product of stake and interests* to create black nationalism. So, as an attempt to contain this criticism, the government may have constructed black people this way to manage and downplay its *stake and interests*, once again, through the discursive strategy of stake inoculation. However, it does so by undermining and reframing the political objective and historical context of BEE. Consequently, this construction regards BEE as an ahistorical developmental issue. But it also positions transformation and racial inequality in the ahistorical discourse of sustainable development. Furthermore, the Act and BEE programme serve as a catalyst for the Charter. However, the Charter does not mention the term ‘black people’ or ‘black empowerment’. Most explicitly, it has also omitted the term ‘black’ in the phrase ‘broad- based black economic empowerment’ to deracialise transformation and empowerment. For that reason, the Charter depends on the implicit recontextualisation of the discourse of sustainable development, which is another form of discursive strategy, to achieve this function. For instance, as the following extract illustrates:

Mining companies must conduct an assessment to determine the developmental needs in collaboration with mining communities and identify projects within the needs analysis for their contribution to community development. (RSA2010)

Recontextualising this discourse, which is anchored on the notion of global

justice, reframes the idea of affirmative action and empowerment. Another objective of the Charter includes 'to promote equitable access to the nation's mineral resources to all the people of South Africa' (RSA 2010). The phrase, 'all the people', expands the focus of transformation and promotes inclusivity. However, what happens here is that the idea of promoting inclusivity, as seen in the phrase 'all the people', may lead to the exclusion of the marginalised: it does not change unequal power structures and the uneven distribution of resources. But it also effectively discounts the politico-historical contexts of BEE by replacing the term 'black people' with 'all the people'.

Meanwhile, the MPRDA intertextually promotes the discourse of non-racialism, as reflected in the Charter in the key phrases such as 'BEING COMMITTED to eradicating all forms of discriminatory practices' and 'to make provision for equitable access to and sustainable development of the nation's mineral and petroleum resources' (RSA 2002). It omits the term 'black people' and advances the idea of 'broad-based economic empowerment' to deracialise empowerment. The MPRDA defines sustainable development as the 'integration of social, economic and environmental factors into planning, implementation, and decision making [to] ensure that mineral and petroleum resources development serves present and future generations' (RSA 2002). The words, 'present and future', intertextually undermines the historical context of the BBBEE Act.

### *African Rainbow Minerals*

*BEE as transformation and managerialisation:* This section focuses on how ARM responds to BEE and its transformation agenda, as constructed in the BBBEE Act, the BBBEE (Amendment) Act, the Mining Charter, and the MPRDA. It also demonstrates how the company consolidates through defensive rhetoric its constructions while undermining BEE through offensive rhetoric. The company states: 'We support the principle of transformation and view performance against the categories ... of the Mining Charter as an effective way to redress historical inequality' (ARM 2016: 92). The concept of transformation is broadly mentioned in the BBBEE Act, and has been constructed as the 'sustainable vision' of the Charter. In response, the company explicitly categorises BEE as a transformation concept that possesses a 'significant risk which has to be managed appropriately' (ARM 2016: 92). Explicitly constructing BEE as a risk – and the idea of managing transformation – pushes the programme towards the managerial terrain. For that reason, the company undermines the politico-historical significance of BEE through the recontextualisation of the language of auditing and compliance. As this extract notes, 'Transformation principles are integrated into our business processes and compliance is managed as part of the relevant business function' (ARM 2017: 66). The discourse of managerialism does not appear in government documents but prevails when these companies try to frame and reframe transformation and BEE in their corporate texts.

Nonetheless, this recontextualises the discourse of compliance and managerialism that emphasises justice and impartiality to eschew potential criticisms questioning the company's corporate actions. The recontextualisation of this discourse – serving as a discursive strategy – tactically conceals the political

implications of the company's actions, as well as existing unequal power relations between government and the corporation in how this company exercises its discursive power. As this Sustainability Report extract shows, 'The various employment equity requirements of ... the Mining Charter and the Employment Equity Act are tracked and coordinated through the Human Resources Department systems to enable operations to track their performance against regulations and put in place plans to address areas for improvement' (ARM 2016: 92). This description is discursively produced in a way that strengthens the company's sense of compliance, as shown in the words and phrases, such as 'monitored', 'performance' and 'reporting system', while discursively positioning BEE within managerialist governance and auditing processes which dilutes its political significance but saving the company from potential criticisms for neglecting BEE at the same time

### *Reframing race and BEE*

This section examines how ARM responds to the government's construction of race and BEE, as presented in the government documents. Its reports show that it suppresses race in its BEE and transformation discourse. It intertextually draws upon the properties of the Mining Charter and the MPRDA which have omitted the term 'black'. So, ARM does not subscribe to the BBBEE Act's conception of race. Race remains one of the underlying features of the constructs of BEE. However, the Mining Charter, the MPRDA and ARM have all omitted the term 'black' in their main construction of BEE. The report adds:

ARM has a zero-tolerance approach to all forms of unfair discrimination. We support the principle of transformation as an effective way to redress historical inequality, facilitate broader social development and give all South Africans a stake in the country's mineral wealth. (ARM 2017: 66)

The phrases, 'all forms of unfair discrimination', 'facilitate broader social development' and 'all South Africans', heavily bear the intertextual properties of the Charter. They implicitly reframe the focus of transformation and BEE, as presented in the BBBEE Act. Socioculturally, this description – or rather the reframing of BEE – problematises the idea of black empowerment by implicitly mixing neoliberalism discourse and redistributionist discourse in which the latter undermines any ideas of redistribution – or treating them as a business and investment risk. Additionally, this ambiguously undermines the programme's politico-historical objective as pointed out earlier. The ambiguity here is reflected in how the company promises to implement BEE through addressing 'historical inequality' and 'to give all South Africans a stake in the country's mineral wealth' at the same time. This also reflects the country's economic policy uncertainty and complexities, rooted in its pursuance of redistributive policies within a neoliberal framework of the National Development Plan (NDP). However, given this political background and how the Charter reframes race, as well as how the company has produced this text, it appears as if the company is simply following the government's

mandates.

Furthermore, the company also intertextually draws from the Charter to invoke the symbols of non-discrimination to undermine BEE. This recontextualises the powerful discourse of the 'Rainbow Nation'. It also serves to contain any potential criticisms which may question its prioritisation of 'all South Africans' over 'black people'. Through the discursive strategy of ontological gerrymandering, which also functions through intertextuality and recontextualisation, enables ARM to use the term 'black' when selectively dealing with less structural, and political issues in the form of *partial stake alignment*. While this equally builds constructions that may withstand criticism, it complicates the issues of empowerment and transformation in the mining sector. Accordingly, the phrase, 'all South Africans', does not exclude black people. It only expands the scope of transformation and empowerment while diluting the political meanings of the terms. As the extract shows, 'operational skills development and contractor development initiatives improve HDSA access to opportunities in the mining supply chain by prioritising opportunities for black-owned and black female-owned suppliers' (ARM 2017: 27).

Although this implicitly mentions 'black people', this construction involves rather specific micro issues, which are less political and structural as compared to empowering the collective of black people as a group. This strategy, concealing the company's stake in this situation, explains why the company favours the term 'HDSA' over 'black people'. It follows the discursive principles of the Charter and the MPRDA to maintain their discourse of non-discrimination while implicitly distancing itself from the BBBEE Act. For that reason, it ensures that the idea of black empowerment competes with other politically important social problems. As this extract shows, 'our projects focus on building capacity in communities and prioritise women, HIV & Aids projects, the advancement of people living with disabilities, youth and the socially destitute' (ARM 2016: 104). This is an ahistorical construction implying that empowerment cannot be limited to race. It also empowers the company to defend itself from any criticisms because addressing these problems promotes the noble cause of global justice. Nevertheless, it is problematic to construct these problems as addressing BEE and transformation: they are not connected to the country's history of apartheid. Socioculturally, ARM expands the focus of its BEE programme to challenge the narrative that transformation remained slow in the mining sector. This is reflected in the following extract: 'We aim for continuous improvement in transformation that goes beyond the requirements of the transformation guidelines and regulations' (ARM 2016: 94).

### *Sustainable development*

This section examines how ARM responds to the government's construction of discourse of sustainable development, as both explicitly and implicitly presented in the government documents. It also demonstrates how these documents, especially the Charter and the MPRDA, have presented mining companies with a discursive opportunity to undermine the political objective of BEE. The complex relationships between these government texts socioculturally

demonstrate an ideological struggle between neoliberal and redistributionist discourse, highlighting how the former remained hegemonic.

The Charter explicitly positions mining companies as the agents of community development – a recontextualisation of the discourse of sustainable development. Similarly, the BBEE Act implicitly encourages companies to develop local communities as part of their BEE programmes. The MPRDA explicitly seeks to encourage sustainable development in the mining and petroleum industry. However, the discord between these government documents is that the BBEE Act implicitly places BEE in the discourse of sustainable development but maintains its political and historical contexts. Meanwhile, the Charter and the MPRDA implicitly position BEE in the same discourse by interdiscursively subscribing to the ahistorical discourse of non-racialism. Consequently, ARM conforms to the latter construction of BEE in its response to the discourse of sustainable development. Through an interdiscursivity, the company continues to undermine BEE by shifting from the discourse

of non-racialism to that of sustainable development. This discursive strategy does not recognise the political significance of the programme. But it draws upon the intertextual properties of the Charter, and the MPRDA in achieving this function. For that reason, this places BEE in the wider developmental agenda of the country to recontextualise the symbolic power of the sustainable development discourse. As shown in the Charter, this positions mining companies as agents of community development implicitly invoking this discourse. As the following extract reflects:

The Company's sustainable development philosophy is underpinned by the realisation that there is a need to turn mineral wealth into sustainable economic growth and development. Through its business endeavours, ARM seeks to act as a catalyst for local, national, regional and international development, to make a lasting and important social, economic and environmental contribution to the developing regions in which ARM operates. (ARM 2016: 166)

This construction is ahistorical and thus disconnects BEE from its political context and social processes. It can also be connected to how the company constructs non-racialism discourse when the idea of interdiscursivity is considered. This strategy removes transformation from the discourse of race. Furthermore, how the company taps into the discourses of sustainable development as presented in the Charter and the MPRDA, can be identified through key lexical items such as 'socio-economic development' and 'job creation'. As this extract illustrates, 'these initiatives aim to foster entrepreneurship, create jobs and build sustainable businesses in mining communities, thereby supporting socio-economic transformation on a community, regional and national level' (ARM 2017: 61). Equally, this does not have a direct link to transformation in the context of BEE, and recontextualises the intertextual properties of the Charter. These constructions show that the company chooses to reframe transformation and BEE to fit its own agenda, which is to construct

its corporate legitimacy as well as to legitimise its transformation progress.

### *Palabora Mining Company*

*BEE as transformation and managerial concept:* This section provides evidence of PMC's responses to the constructions of BEE and transformation as presented in the BBBEE Act, the Mining Charter and the MPRDA. It also shows how the company turns BEE into a managerial concept in its discursive responses. Its reports show that it draws upon the inter-textual properties of these government documents to construct BEE and transformation. Its discourse explicitly recontextualises the principles of the BBBEE Act and categorises BEE within the politico-historical objective of transformation and affirmative action as compared to ARM. Accordingly, the company implicitly validates BEE as an opportunity to align itself with the country's postapartheid development agenda rather than as a business risk as we have seen with ARM. As this Annual Report extract shows:

In response to Transformation, [the company] supports Broad-based Black Economic Empowerment, a government policy to advance economic transformation and enhance the economic participation of black people in the South African economy. (PMC 2013: 53)

This description shows that PMC sees BEE as central to its macro-institutional approach to transformation and explicitly conforms to the use of the term, 'black people' as presented in the BBBEE Act. Close reading of this description socioculturally suggests that the company evokes redistributionist discourse which emphasises redressing the consequences of apartheid policies as one of the responsibilities of mining corporations. However, this discourse inevitably competes with the discourse of sustainable development, which conceals the negative impact of mining companies on the environment and the lack of transformation in the sector. As pointed out earlier, ARM – following the Mining Charter and the MPRDA – favoured 'HDSA' and 'all South Africans' over the term 'black people' to deracialise empowerment. This strategy sought to undermine the political context of BEE. However, PMC also uses the term, 'HDSA'. But it maintains its political context by locating BEE and the term alongside the discourse of race and blackness rather than non-racialism. As the following Annual Report extract illustrates, 'Palabora continues to play a major role in bringing the majority of South Africans into the mainstream economy by: Boosting black ownership, management and employment equity; Skills development of our HDSAs' (PMC 2013: 52).

Furthermore, the company responds to the government's constructions of BEE by framing the programme as a managerial concept. This Annual Report extract shows that 'Palabora has developed a comprehensive Transformation Strategy supported by a set of policies and procedures that seek to address the seven and eight elements on the BBBEE codes and Mining Charter, respectively' (PMC 2012: 87). Although this shows the company's intentions to address transformation and rising racial equality, the discourse of managerialism dilutes the political context of the programme. It places BEE in the technocratic zone alongside the discourse of compliance and managerialism, consequentially decontextualising its political and historical significance. Despite making transformation more symbolic, this turns BEE into a tick-box process. However, the company conceals the unequal power relations between government and corporations and the complexities of this process by promising to go beyond transformation, just like ARM. This is discursively produced in a way that works to counter potential criticisms questioning the supposed slow process of transformation in the mining sector. As this press statement extract shows, PMC promises to 'create the greater good for the community as transformation is more than just complying with the regulations' (PMC 2014).

*Framing race and BEE:* This section deals with PMC's construction of race and BEE in response to government's construction and compares this to ARM's. As I have already noted, the Mining Charter and the MPRDA, as well as ARM's texts, have omitted the term 'black' in their macro-institutional construction of BEE to disconnect their social practices from BBBEE. They undermine the construction of BEE and transformation as presented in the BBBEE Act. They also saliently emphasise the idea of broad-based empowerment rather than broad-based black empowerment. Furthermore, ARM only uses the term 'black' when talking about 'black-owned and black female-owned suppliers' (ARM 2017: 27) as part of 'HDSAs' employing the discursive strategy of partial stake alignment. This is because it does not relate to its macro-institutional approach to transformation, which politically intends to address structural problems of racial inequality. The company does not explicitly use the term 'black' to construct its main BEE agenda. It favours the vague term 'HDSA' and 'all South Africans' which regard 'black people' as part of a broader group of the historically marginalised. PMC, in contrast, explicitly employ this term as part of its macro-institutional approach to transformation and black empowerment. Thus, the company locates its BEE as mainly geared towards empowering black people in South Africa. As this Annual Report extract shows, 'Palabora continues to play a major role in bringing the majority of South Africans into the mainstream economy by: Boosting black ownership, management and employment equity' (PMC 2013: 23). The Mining Charter, the MPRDA and ARM prefer to use 'HDSA ownership' rather than 'black ownership' and 'the majority of South Africans' which implicitly means black Africans.

*Sustainable development:* This section examines how PMC responds to the

construction of the discourse of sustainable development in government documents and compares this with ARM's. When drawing upon the concept of interdiscursivity, the company's documents show that its construction of BEE also shifts from the discourse of race to the discourse of sustainable development, just like ARM. Its responsive construction also implicitly bears the intertextual properties of the Mining Charter and the MPRDA. As this press statement extract shows, 'The SDP [the corporation's BEE programme] has the potential of creating a booming local manufacturing and services industry that will sustain the community beyond the mining sector period' (PMC 2014). Once again, and politically, this description socioculturally demonstrates the contention between neoliberal discourse – which is anchored on the rhetoric of sustainable development – and redistributionist discourse. At another level, this helps shift attention from the well-documented harmful mining practices by positioning mining companies as proponent of community development. Another text reads, 'This undertaking is an effective way of creating market access for black entrepreneurs who [wish] to expand their business activities [to] enhance local economic development within the communities we serve' (PMC 2013: 56). Intertextually connected to the Charter, this advances the concept of the new role of a corporation as an agent of development. But this also co-opts government and communities into being acquiescent to the company's corporate interests. The way this text is produced conceals the company's privileged position of power while positioning host communities who tend to be victims of unscrupulous mining as the empowered – the beneficiaries of a caring mine. Just like with the concept of managerialisation of BEE, this construction places transformation in the apolitical discourse of sustainable development. As well as by advocating 'broader social development' as it has been seen in ARM's case, this strategy undermines the political context of BEE. It also turns transformation into a neutral, economic problem, disconnected from the country's history while politically maintaining the company's reputational capital and corporate legitimacy.

As a result, the discourse of transformation, empowerment and affirmative action competes with the discourse of sustainable development which gravitates towards the discourse of non-racialism – putting the political legitimacy of BEE into question in its social context. However, the discourse of sustainable development remains hegemonic and dominant: it is based on the principles of global justice and gives the corporation a competitive, market advantage. This is dependent on how the company constructs its transformation initiatives as involving the provision of essential services for black people and HDSAs in entrepreneurship, health, education, skills development and infrastructure under the guise of boosting the local economy. As this extract that constructs the company's community health programme illustrates, 'the purpose of the programme is to use an effective management system to minimise the impact of HIV, TB and Sexually Transmitted Infections (STIs) in the community' (PMC 2013: 56).

## Discussion

This section identifies some of the hegemonic and central constructs of BEE: the discourses of race, non-racialism and sustainable development, and managerialism. The study examines how the responses of two corporations to the government's constructions of BEE differ. That is, they accept, (in)validate, (re)frame or undermine these BEE constructions depending on their corporate needs and socioeconomic contexts. It is also shown that the government uses the BBEE Act to set the scope of transformation – defining who counts as black – and explicitly identifies black people as the main beneficiaries of BEE, thus framing BEE within the politico-historical context of the country to emphasise the idea of affirmative action. This 'macro' dimension constitutes part of the context of how the construction of BEE can be interpreted. Indeed, the literature positions BEE as the central programme of the government's 1994 Reconstruction and Development Programme (RDP), which intended to drive its redistributive agenda (Ponte, et al 2007; Manning & Jenness 2014). Tangri & Southall (2008) regard this construction, located in the discourse of race, as a radical attempt to position BEE as a transformative tool for the white-dominated South African economy.

The findings further reveal that the Mining Charter and MPRMA explicitly contradict, suppress, and undermine this political construction of BEE by deracialising empowerment and transformation through the strategic application of intertextuality, interdiscursivity and recontextualisation as well as stake inoculation, stake alignment and ontological gerrymandering. These conclusions correspond with the work of Ponte, et al (2007) and Du Toit, et al (2008), who have identified this discrepancy and contradiction but without considering micro-level analysis of BEE discourse. What is shown here is that this discrepancy is reflected in the discursive discord between the BBEE Act and the Mining Charter. By employing CDA, this work complements previous macro analysis by providing evidence of discursive practices from these documents. Building on this macro dimension of discourse through studying word choices, the article traces this discrepancy back to the government's own policy uncertainties and dilemma, known as 'growth and redistribution approach' as a way of linking the micro with the macro (Ponte, et al 2007). The government tries to balance its redistributive policies, which BEE is part of, with its contractionary, neo-liberal policies that aim to support foreign investment and economic growth (Tangri & Southall 2008). Identifying competing aims in the government's interpretation of the BEE supports the conclusion of Ponte, et al (2007) that this balance in policy choices implies that pursuing a redistributive agenda was no longer government's main priority. For that reason, Malikane & Ndletyana (2006) see BEE as the government's attempt to legitimise its 'rainbow' neoliberal economic and political system rather than the programme of driving black empowerment.

Moreover, there are other possible explanations for the choices the government has made. Contrary to Malikane & Ndletyane (2006), the government may have deracialised BEE through the Charter to manage its interest in empowering black people through the discursive strategy of stake inoculation. While this undermines the political objectives of empowerment and affirmative action, it protects the government from criticisms, as the concept of the historically marginalised or HDSA does not necessarily exclude black people. It simply turns BEE's race construction into an ambiguous concept, which creates room for multiple interpretations. The changes may also have

arisen from the fact that mining firms help to design the Charter. As Edelman & Talesh argue, 'the institutionalized conceptions of [the Charter] and compliance first become widely accepted within the business community and eventually ... come to be seen as rational and legitimate' (2011: 103).

This study also shows that the discursive discrepancy between the BBBEE Act and the Mining Charter has empowered mining corporations with discursive ammunition to rework and undermine the political mandate of BEE. Through the discursive strategies of intertextuality and interdiscursivity, as well as stake alignment, the way the Charter reframes BEE's construction of race makes it appear as if these companies are simply following the government's mandates concealing the unequal power relations between the government and the corporation. This conclusion agrees with the findings of Du Toit, et al (2008) that the wine industry, rather than the government, uses its Charter to undermine BEE. While their study regards wineries as active players in the creation of the Charter, it is difficult to establish the full extent of the influence of mining firms in the creation of the Mining Charter. Even so, these findings support Dolan & Rajak's (2016a) view that corporations reframe sociopolitical issues (such as transformation) to suit their corporate interests. For instance, ARM omits the term 'black people' when constructing its macro-institutional approach to BEE. The company prefers to use the term 'HDSA' and 'all people'. This categorisation, as well as how the company reworks BEE, is intertextually connected to the Mining Charter and the MPRDA. It recontextualises the discourse of non-racialism and non-discrimination – interdiscursively anchored on the myths of the 'Rainbow Nation' while validating the Charter over the principles of the BBBEE Act.

Despite having amended this Act to increase its clarity, the same government reframes its stance on BEE's transformation and redistributive agenda through the Mining Charter and the MPRDA. The focus of these texts undermined the political objective of black empowerment and affirmative action as Du Toit, et al (2008) have indicated. Instead of dealing with transformation in historical terms as the BBBEE Act demanded, the texts implicitly employ the discursive strategy of stake inoculation to emphasise the discourse of non-racialism and non-discrimination – that is, the empowerment of all the people. It focuses on addressing the consequences of both past and present discrimination practices rather than historical injustices. This discursively undermines the objectives of the BBBEE Act by replacing the term 'black people' with 'HDSA' and 'all South Africans' to discount the political agenda of BEE.

These results show that ARM appropriates and validates certain aspects of BEE (such as empowering 'black-owned and black female-owned suppliers') which form part of the HDSA. However, it does not discursively support the empowerment of black people as a group. Instead, the company employs *ontological gerrymandering and partial stake alignment* to talk about this aspect of BEE while avoiding addressing BEE as a macro-institutional structural issue. This relates to Du Toit et al's (2008: 7) finding that wine corporations abuse racial terminologies to marginalise issues that would change unequal power relations of transformation and empowerment. Additionally, mentioning the

term 'black' in this context shields the corporation from any criticism that it is completely undermining BEE. It also produces a halo effect (McEwan & Bek 2006) and the prospect of a 'competitive advantage in addition to the achievement of a new kind of legitimacy through participation in these [BEE and community] initiatives' (Kirsch 2016:57).

PMC, on the other hand, discursively embraces the empowerment of black people as a group and uses blackness as a marker of its BEE discourse through the discursive strategy of stake alignment. The corporation intertextually connects its transformation agenda and black empowerment to the BBEE Act. The Act explicitly mentions black people as the main beneficiaries of BEE. PMC's inclusion of race symbolically shows how the company seeks to align itself with the political agenda of the postapartheid government (Rajak 2006). Meanwhile, ARM's omission of race in the discourse of transformation can be understood as deliberately reframing community needs to fit its own priorities. Furthermore, the internal structures of these companies and their operating political contexts dictate their discourse of BEE and transformation and how they choose to present their narratives (Schneiderman 2009). As a global company, which subscribes to international trade systems and laws, ARM needed to de-emphasise the notion of blackness in its discourse of transformation to position itself in the global world. Policies, such as BEE, are known to pose investment risks for such global companies (Schneiderman 2009). On the contrary, PMC, a local entity, thrives on building its narratives of promoting black people and embracing BEE this way may not pose investment risk.

The results confirm that the two corporations construct BEE as a managerial concept in response to the government's call for transformation. Such a conclusion agrees with the claims of Du Toit, et al (2008) and Ponte, et al (2007) who argue that this construction serves to depoliticise BEE. By employing CDA, this article builds on these studies by demonstrating that this construction depends on the recontextualisation of the language of compliance and managerialism. In this context, this discursive strategy of recontextualisation works to invoke the notion of responsibility on the part of the corporations to marginalise and background social problems (such as transformation). As Dolan & Rajak note, 'this language and performance of corporate virtue go beyond rhetoric to endow corporations not with ethics, but with a [new] source of power in relation to new social and political problems' (2016a: 21). De Neve agrees that 'the politics of compliance contributes to the consolidation of the power of standard-setting actors by facilitating the devolution of risk, uncertainty, and responsibility' (2016: 106).

Furthermore, the results support Edelman & Talesh's (2011) view that corporations rhetorically employ the discourse of managerialism to maximise the symbolic appearance of compliance. These corporations strategically merge the discourse of transformation and redistribution with the discourse of compliance through intertextuality and interdiscursivity to complicate the political objective of BEE, as well as to remove it from its sociopolitical context. This strategy enables them to maintain their managerial authority and discretion

while containing the political costs and impacts of policies and legal documents such as the BBBEE Act, the Mining Charter, and the MPRDA. The ironical narrative of promising to go 'beyond compliance' serves this function. ARM even constructs transformation as

a business risk to create an impression that it is doing something about BEE despite regarding such efforts as costly and problematic. This argues that constructing BEE this way enables these corporations to create new structures of power to govern various stakeholders and implement programmes unsupervised while, at the same time, claiming credit for transforming their business practices. This strategy works because 'claims to moral purpose have enormous power in their ability to naturalise authority' (Ferguson 1994: 5). Additionally, this behaviour shows that the managerialisation of BEE activities does not necessarily move away from paternalist tendencies to a progressive focus on 'transformation' and 'participatory development' as Rajak (2006: 191) argues.

This study also reveals that the corporations discursively accept the discourse of sustainable development as constructed in the Mining Charter and the MPRDA. Those documents talk about 'sustainable transformation' and 'sustainable development' so as to locate BEE's transformation agenda within this ahistorical discourse of sustainable development. This strategy also reframes the principles of the BBBEE Act and turns transformation and black empowerment into a neutral economic problem. An added benefit to the corporations is the acquisition of more discursive power by framing them as the agents of development. As such, they discursively accept this hegemonic discourse and the government's calls for community development because they are apolitical and ahistorical. While ARM promises to contribute to broader community development, PMC talks about enhancing local economic development in the 'community we serve'. This approach discursively responds to the Mining Charter's principle that mining companies should also benefit their host communities. However, BEE literature does not consider this issue in a discursive sense, but Sharlene Ramlall's (2012) work is worth considering. Ramlall argues that the private sector, and especially the mining companies, is expected to contribute to community development to redress its historical role in the exploitation of black communities and the institutionalisation of apartheid laws. However, this notion has been challenged by Rajak (2011) who argues that this discourse conceals the problems of the mining sector, including the conflict between mining companies and impacted communities without addressing the negative impact of their core business practices.

This study argues that explicitly framing transformation within the discourse of sustainable development demonstrates some form of *ontological gerrymandering* and *partial stake alignment* – that is, accepting and validating a narrative because it is beneficial to one's interests. This corresponds with the work of Rajak (2011) which argues that mining companies recontextualise and reconstruct the discourse of sustainable development to deflect attention away from their harmful practices while opaquely maintaining the image of environmental responsibility. While this discourse empowers these compa-

with moral and corporate legitimacy, it does not challenge core business practices of mining companies which have a negative impact. Thus, explicitly responding to government's calls for social development enables these corporations to focus on lesser political issues of development to conceal and background the politics of transformation and redistribution. However, by equally locating transformation and empowerment in the discourse of sustainable development, these corporations render BEE problematic. This discursive strategy also increases the corporations' competitiveness and market presence, by positioning them as the agent of the noble cause of community development (Rajak 2006). It enables these corporations to employ interdiscursive mechanisms in which the discourse of transformation and empowerment competes with the discourse of sustainable development, with the latter holding more sway because of its hegemonic nature. Furthermore, as the study has shown on the discourse of managerialism, this gives corporations more control over how they deal with transformation while giving the government a false sense of control over BEE processes (Ponte, et al 2007). Consequently, BEE becomes a self-regulated process to which corporations serve as 'dominant institutions of governmentality' (Rajak 2006: 194). The beneficiaries of this moral agenda and justice, which is purportedly geared towards community development, become citizens under the leadership of these corporations.

## Conclusion

This article contributes to the debate over BEE by identifying and exploring discursive and rhetorical practices of how mining corporations counter and undermine the government's BEE constructions in their corporate documents. It demonstrates how the government created a fertile discursive ground for these corporations to reframe and undermine transformation and affirmative action through studying the microlevel aspect of BEE discourse. This analysis shows how the government reframes and thwarts the political objective of BEE by introducing the ahistorical notion of race in the Mining Charter and the MPDRA. Consequently, this enables these corporations to discount the original purpose of BEE and transformation as prescribed in the BBBEE Act while maintaining their corporate legitimacy. For example, ARM's use of the terms 'HDSA' and 'all the people' rather than black people backgrounds the politics of transformation and redistribution. It also complicates the concept of race in this discourse of transformation and affirmative action without materially excluding black people. By examining the discursive practices of building, undermining or countering constructions through studying BEE discourses from both corporate and government perspectives, this work shows how ARM undermines BEE by validating the Charter over the BBBEE Act while framing transformation as a business risk. PMC, on the other hand, validates the BBBEE Act and sees BEE and transformation as an opportunity to align itself with the country's postapartheid developmental agenda. Similarly, this study reveals how the two companies embrace the discourse of sustainable development, which reframes BEE as an ahistorical, neutral economic problem. The key findings demonstrate that the recontextualisation of this ahistorical discourse in the

texts discursively resists and undermines the political purpose of BEE and transformation. In other words, this pattern of behaviour demonstrates that, even though PMC nominally accepts the historical aspect of BEE, recontextualising this discourse undermines its discursive efforts. Furthermore, these corporations construct BEE as a managerial concept to weaken its political significance and present their responses to it as legitimate.

#### Note on Contributor

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