

**ASYMMETRIES IN THE SOCIAL RESPONSIBLE INVESTMENT
AGENDAS: FROM AN NGO DRIVEN WORLD TO A
STAKEHOLDERS DIALOGUE**

Etienne Coerwinkel¹

“... we stress that markets cannot allocate fairly and efficiently without clear and impartially enforced rules, established through open, democratic processes.” (Letter sent to the UN Secretary General on 20 July 2000, just days before the launch of the Global Compact by ‘civil society leaders’)

ABSTRACT

NGOs have taken a dominant position in setting the agendas of Corporate Responsibility and Socially Responsible Investment matters, thereby skewing the efforts of corporates to limit negative externalities towards their own agendas. As the latter remain to a certain extent unpredictable, corporates must deal with an information asymmetry. This situation can be explained by the historically defensive nature of Corporate Responsibility codes established by companies under pressure of the NGOs. In this paper, I contend that only a new approach to Corporate Responsibility could reverse this asymmetry: one where the social responsibility matters are articulated in a political debate between all stakeholders of a company and where conflicting interests are addressed in a deliberative process. To this end, the corporate world and the NGOs need to understand the need for a larger debate that includes all relevant stakeholders defined as the Public in the sense of Dewey. Latour and the Actor-Network theory provide us with a workable framework to structure such a dialogue, where participants have the authority and legitimacy to speak for the Public.

¹ The author is a professional at a Dutch Bank. The ideas developed in this essay are his own and do not engage his organization.

1. Introduction

It is a difficult task, while the Social Responsible Investment (“SRI”) hype is monopolizing most of the attention, to deliver a message that basically casts doubt over its very social adequacy. Yet the exposé that follows will do exactly this, based on a series of observations where the relation between Non Governmental Organizations (“NGOs”) and the corporate world is put center stage. My argument could be summarized as follows: while the definition of what it really means to be “socially responsible” has not been fully worked out, NGOs and the corporate world have undertaken to fill a political gap with the definition of Corporate Responsibility (“CR”) according to the triple bottom line. While this dialogue certainly has a number of merits, it is not able to deliver what is expected from it: a clear vision of how to make a better world and compliance with this vision, no less! I will argue that SRI and CR are not able to address problems where no strong social consensus exist about what is “socially responsible”, which I believe is a very substantial share of what SRI and CR try to cover. We have been led to believe the opposite because NGOs have been progressively institutionalized as the representatives of the public opinion and have constantly provided us with a simplified substitute to this public consensus. Corporates have embraced this shortcut as a means to keep the traditional political system and its hard regulation at bay. Yet, while doing this, corporates have made themselves dependent on NGOs and are now captive of the agendas of NGOs, thereby suffering from an information asymmetry. A defensive strategy of “keeping NGOs happy” has turned into a corporate entrapment into NGOs priorities.

Now this world that I will explore is over simplified and not doing justice to the many different aspects of the activities of both NGOs and corporates. I will limit my comment regarding each of them, to that part of their activities that are relating to SRI and codes of conduct. Needless to say that NGOs have many more and very important and constructive functions in different discussion platforms, including at the political level. Corporates have also many ways to share their knowledge about the activities they are involved in outside of the drafting of codes of conduct. The present critique is not geared towards NGOs and corporates as such, but to their involvement in answering SRI and CR related matters. Also, both the NGO world and the Corporate world are no

homogeneous. I will mostly speak of them “in general”, thereby being unjust to the most advanced and sophisticated members of each community.

I believe that many of the social and environmental issues that have been raised recently and that are being addressed in CR and SRI are political problems that cannot be resolved without a clear articulation of a number of alternatives and conflicting worldviews and interests. The question, to take an illustration in the environmental world so much “en vogue” today, is not *whether* we should reduce the burning of fossil fuels but *how* we will make the transition to cleaner energy sources and what are the alternatives, *who* will bear the costs and *how* we will deal with the many consequences of these changes. While CR can address the most evident part of the problem: the fossil fuel consumption of an individual corporate, it cannot substitute itself to the public debate about all the other much more substantial issues. The same observation applies to many of the complex issues that our corporate world is confronted with. I believe this misrepresentation about what SRI and CR are and are not able to achieve stems from a double conjunctive movement: deregulation and the reluctance from the corporate side to legally enforceable “hard regulation” on one side, and the progressive institutionalization of the NGOs as depositaries of the public opinion on the other side. The combination of these two trends has created the circumstances whereby NGOs have become leaders of CR related matters and Corporates have accepted this leadership and taken an essentially defensive position. While it is popular to speak of information asymmetry for the investor in SRI who is dependent on the quality of the information he receives from the corporate, I will argue that the corporate actually suffers from a form of information asymmetry as well: it is unable to control the agendas of NGOs regarding issues that make a “socially responsible” corporate ad yet have accepted the institutionalized domination of NGOs over these matters as a compromise that keeps hard regulation at a distance.

How did we get there? First, I believe that the definition of “social responsibility” has never reached a satisfactory consensus. Hawken (2004), through an empirical review of the most prominent listed companies that have passed the SRI screening test, has shown how skeptical we should be about the very use of SRI screening and how little we can actually say about any tangible effects of corporate engaging into codes of conduct. But this is not what I am after. The definition problems

I am referring to are more theoretical and, should I say, political. I will review a number of these definition problems without solving them as I believe that behind these problems lay alternative theoretical paradigms that are simply not politically neutral. Is the corporate a bundle of contracts that should seek maximization of shareholder value (Coase 1992, Capaldi 2007), or should we consider other stakeholders such as the customers, the employees, management, unions, suppliers and the public at large (Engelen 2002, Fontrodona & Sison, 2006)? How are we to deal with collective responsibility (Bovens 1998) and what could be the consequences for the reaching of a consensus among these stakeholders on the notion of social responsibility? What is the role of the state and should we strive for more or for less regulation? How do we articulate CR with the notion of level playing field? And maybe the most pregnant question is: how can we deal with corporate responsibility if we have not provided answers to these questions? I will look then into how we have been able or should I say “forced to” deal with these issues historically (Rowe, 2005). From this perspective I believe that the institutionalization of NGOs as depositaries of the public opinion becomes understandable. Also, the preference in the corporate world for this dialogue with NGOs becomes quite clear. To give more substance to my issues about the shortcoming of corporate responsibility I will then propose a close reading of some recommendations BankTrack, an NGO specializing in the following of banks on their corporate responsibility, suggests in matters relating to the oil and gas sector. This will lead me to develop most of the critiques I find in the current operating of both NGOs and corporates on corporate responsibility. Finally, a redefinition of the notion of the Public should open ways to formulate a politically articulated form of corporate responsibility.

I will frequently use in my exposé the notions of matters of fact and matters of concern proposed by Latour (2004). I believe the distinction Latour makes between cognitive propositions that have reached a strong consensus (matters of fact) and issues that are still very much subject to debate (matters of concern) are particularly relevant for what I try to convey: while matters of fact can easily be incorporated in codes of conduct because there is a strong agreement on how to deal with them (violation of human rights, for example), matters of concern are in need of a political debate that articulates the different political standpoints but also the different and potentially conflicting interests. I

will use throughout this exposé an example that has acquired a prominent status today: CO2 emissions. While global warming is slowly reaching the status of a matter of fact (with some nuances), how to reduce CO2 is definitively still a matter of concern, an issue that opposes different stakeholders and needs to be articulated politically. The use of the terms matters of fact and matters of concern throughout this exposé should be read in accordance with the definition provided by Latour.

2. Incomplete definitions

Any attempt to refine the definition of Socially Responsible Investment tumbles over a number of difficulties, dark spots and perplexities. It is as if caught into a maelstrom of practical developments, the whole activity of corporate ethics never really had the time to address its birth diseases. Let us raise here some of the more relevant perplexities one is doomed to feel when addressing this issue of defining SRI.

We need to clear a first difficulty here, consisting in the relation between SRI and Corporate Responsibility. Kinder (2005) rightfully points to the difference between these two notions: SRI reflects on the willingness of an investor to align his investments with his particular view of what is morally just. Yet beyond this individual moral agency, we will emphasize here the standpoint that in practice most SRI screening is based upon the representations given by the corporate world about their conduct of business through codes of conduct and Corporate Responsibility declarations. In this sense, SRI is strongly linked to -if not dependent upon- the notion of Corporate Responsibility and one can look at these two instruments as forming a coherent articulation of the same issue, social responsibility, from the investor to the corporate to society at large². Equally, there is an increasing tendency within the SRI market to engage companies on their Corporate Responsibility commitments and

² The same reasoning is held, for example, by Eurosif, a European Sustainability in Finance work group when “Promoting Convergence of CSR Practices and Tools among European Socially Responsible Investors (SRI) [...] promoting CSR tools in the SRI community is another way for Eurosif to fulfill its mission to address sustainability through financial markets” Last consulted on the Internet on March 13, 2008: http://eurosif.org/publications/oecd_watch_factsheets

try to influence those. The fact that the investor is making individual decisions that are more easily coherent with his individual sense of what is moral, does not in this sense remove this other difficulty that his investment is made in a corporation and that this corporate needs to define for itself what is moral *as a corporate citizen*, i.e. through Corporate Responsibility commitments. We will below, develop our argumentation essentially on the notion of corporate responsibility, knowing that the latter is ultimately the driver for SRI screening and thus, for our intents and purposes, equally relevant for what we intend to demonstrate.

To be responsible, for a corporation, is to respond to the public for the implications of its activities. To be responsible, says Mark Bovens (1998), is indeed to answer to a *forum* regarding the violation of a norm as an established consensus about human conduct. To be responsible is also an indication of a causal link between one's action and a given result. But in a large company, the notion of responsibility has to deal with the issue of "many hands". How can external judges (the forum) really appreciate who, of the many people involved in a process, is really cause of the result? Besides, if individual agency is to play a role in the establishment of responsibility, then Corporate Responsibility must be established on the basis of something all stakeholders can live by, something that reflects a strong social consensus. In other words, Corporate Responsibility is not a discretionary domain of management, it must incorporate the values that are shared by all and ultimately be in conformance with the interest of the public at large. How is this reflected in the current elaboration of corporate codes of conduct? Are they actually drafted in a consultation process with the different stakeholders and are the employees actually in agreement with the codes of conduct of their companies? This issue is generally underexposed in today's practice. As much as the capacity of employees to voice their concerns or even disobey to hierarchical orders is not given much attention. Yet, these are the governance conditions to the possibility of responsibility in the context of a firm.

Another issue that is sometimes neglected is that codes of conduct are disturbing the level playing field among corporations within a competitive market. Up to the point where corporations that are well engaged into defining a code of conduct start feeling how these codes are disturbing their competitive position. David Vogel (2005) argues this

point when he says: “there is a place in the market economy for responsible firms. But there is also a large place for their less responsible competitors”. Simon Zadek (2007, pp. 78-80) also confronts this issue in his *Civil Corporation*, yet without being able to provide an empirical founding to the competition argument. He admits with David Korten that “real ethics cost real money” while also giving ear to the argument that “the win-win proposition [...] emphasize the need for the business to take into account those stakeholders that can affect the business on the longer run”. Confronted with the free riders issue, the firm can actually welcome hard regulation that will re-create the level playing field and force its competitors to catch-up with all the measures this firm has taken to act responsibly. The *Mecca* Zadek describes as the situation where CR is driving the business instead of being a defensive reaction to external pressure, is at the same time defined as an environment where much needed regulation is welcomed by the most CR minded companies. The question one has to ask to CR discussions is: are these limits of the efficiency of codes of conduct sufficiently factored in and are companies willing to promote legal regulations they are defending against in other areas?

Turning now to the notion of what the corporate would be responsible for, we need to address what it is to be “socially responsible”. Definitions provided in SRI literature are generally at best circular, using terms such as “social and environmental impact”. Scherer and Palazzo (2007) offer a Habermasian view on this subject, namely that there are no final theoretical proofs, no ultimate reference point, and thus no hypernorms on which our institutions of liberal democracy could be grounded. Let us, for example, develop the notion of ownership of the firm as a point of contention. According to the classical liberal theory (Coase 1992, Capaldi 2007), corporations should focus exclusively on the return they are able to provide to their shareholders within a given regulatory framework. The shareholders, in this theory are the only rightful owners of a corporate and sole in charge of orienting its strategic development. Employees and other stakeholders are simply entering into contractual relationships with the corporate and should not interfere with its business objectives. It is the market that adjusts the different variables to an optimum that should realize the greatest possible good for all parties involved. Any residual aspects, including social and environmental impacts, should be covered by the State and its regulatory

framework (to be understood in its most economic form: only inevitable regulations are to be maintained). In this model, there is no room for the notion of “stakeholders” and hence no taking into account other dimensions than maximizing profit (critiques of this theory are formulated by: Engelen 2002, Fontrodona & Sison, 2006). While it may seem in the light of the recent push towards social responsibility that this theoretical approach has lost much of its influence, it remains a strong driver behind the global deregulation of the last fifty years or so and is one of the pillars of the avoidance of governmental intervention, which is ultimately one of the main reasons for corporate responsibility to exist altogether. This leads us to the formulation of the following paradox: while corporate responsibility seems to respond to a stakeholder approach, a communitarian vision on society, its actual origin is strongly linked to the liberal approach that promotes the notions of less government in favor of the self-regulating adjustments operated by the market.

What is the most striking, after this first review of a number of theoretical problems that have been left unresolved at the very heart of the corporate responsibility phenomenon, is that the practice seems to have suffered very little from these loose ends. NGOs and corporations have come to an institutionalization of their dialogue on these matters that does not seem to suffer from the issues we have raised above. I will argue in the second part of this paper that this institutionalized form of addressing codes of conduct is the result of a historical development where corporations engaged in international deployment of their activities found themselves in a sort of regulatory no man’s land. It is in reaction to abuses that occurred then, that NGOs developed as the public’s eye on these matters, filling a regulatory vacuum. Since then, the practice of corporate responsibility has known ups and downs and is getting progressively more attention including from the academic world. Yet a lot of work still needs to be done to provide this practice with the right theoretical founding and, as I will argue in the third section, reshape both its objectives and a number of its assumptions. Here is the gaping question that I will focus on in this essay: is the notion of what is socially responsible not, before anything, a political issue, an issue that can only be addressed by articulating and hierarchizing opposing interest in a democratically legitimate process? Is being socially responsible not ultimately what political activity is about: finding a collective agreement

on issues that require constant arbitrage between different evils and different benefits? If the latter is true, I would contest that most forms of the current practice of Corporate Responsibility and SRI can only be seen as partial answers to these issues. In this practice, there is a situation of asymmetrical information as NGOs have a disproportionate control over the agendas of CR and SRI. This asymmetry can only be corrected if the dialogue is constantly anchored into instances of political debate that include society at large. Where required, this articulation with the body politic will necessarily lead to regulation, a situation that is actually beneficial to the level playing field and ensures a stronger notion of accountability than corporate responsibility or SRI can produce.

3. Historical perspective: the birth of SRI

The trigger of NGOs “activism” is stemming from what in literature is generally referred to as “externalities”, (that is: inadequate wages, poor working conditions, deforestation, general environmental degradation, etc.). The response has largely been in self-regulating undertakings from Corporates, says James K. Rowe (2005), to avoid State imposed legislation and government intervention. The author’s thesis is that Codes of Conduct and other Corporate Responsibility statements have been produced under pressure from the “public opinion” through the voice of NGOs and are a way of “pursuing business by other means”. NGOs have encouraged this effort simply because they believed to have a better grip on Corporations that have committed to some sort of conduct than on Corporations that haven’t. To support his argument (that these codes have been elaborated under external pressure) the author offers a historical perspective which distinguishes two periods:

- 1960-1976: the New International Economical Order
- 1998 and after: when anti-globalization protest increased the pressure on Corporations (again).

3.1 1960-1976: World Order Contended

While SRI can be traced back several centuries ago, essentially as an extension of religious convictions into investment choices (refusal to be involved in gambling, pornography, alcohol and tobacco industries) it

really developed after World War Two in the then dominant economy of the US. Transnational Corporates (“TNC”s) deploying their activities abroad uncovered a field of opportunity that was at the same time a relative regulatory Greenfield. Cheap labour, abundant natural resources, new markets and the slow dismantling of colonial structures created as much incentives for expansion abroad. Yet this promising picture knew soon enough its dark moments: the war in Vietnam, the first signs of delocalization and its effects on domestic labour markets, and of course political influence of TNCs in the government of third world countries. Against these practices, political opposition had to develop new instruments: the debate was no more centred into the structures of democratic policy making, but had to find a way to address corporate behaviour more directly. This is how activism developed and as leaders of this activism, developed the NGOs. The war in Vietnam, cases of bribery, double accounting, illegal financial transfers, all these activities were subjected to the naming and shaming of NGOs and the reputation of the corporate world suffered major blows in this period. These attacks culminated when the role of TNCs in the unsettling of the democratically elected government of S. Allende in Chile was made public. Third world countries did react to these practices in their way: nationalization and regulation of financial flows in their countries. They also stood up in international instances to obtain a hard regulation of the activities of TNCs. At that stage, corporates organized a collective answer and to avoid this regulation, consented to take self-regulating measures. This response is known as the first set of OECD guidelines on Multinational Corporations drafted with the support of corporate representatives such as the International Chamber of Commerce (“ICC”) and the Western governments that were also not in favour of additional legislation that would curtail the earnings of their national “champions”. The more stringent – and enforceable – regulatory framework, in preparation under the impulse of emerging countries within the UN, was consequently abandoned under the Reagan administration.

In this period a sort of crystallization took place on both sides of the “fence”. Naming and shaming through NGO campaigns increased the vulnerability of Corporates and created a substitute for failing legislation. Corporations however, learning from the public and the creation of NGOs, equally organized themselves (such as through the ICC), to actively lobby with their respective governments and with international

organizations such as the UN to avoid constraining legislations being implemented. This defensive move was completed with a push for corporate codes of conduct that would hopefully secure business from its own excesses and keep reputation risk at bay. Both developments created the permanent structure of this dialogue of a new kind outside of the traditional political structures: a direct dialogue between Corporates and NGOs.

3.2 1998 and after: Global business becomes Global business

As a natural transition between the two periods, James Rowe mentions the –partial- transformation of productive capital to money capital, using the terms of M. Polanyi in *The Great Transformation* (Polanyi, 1944). With the help of the IMF, the World Bank and the WTO, deregulation made significant progress in most emerging markets and very advanced deregulation was indeed well on its way until new corporate scandals and a now well organized and attentive public movement represented by the NGOs managed to slow it down again. The scandals were relating to all kinds of matters, from Human Rights violations to environmental issues to financial scandals such as Enron. Most of the times, they produced Corporate codes of conduct to counter them or at least control the damage done:

All of the decade's major corporate codes were drafted by public-relations firms in the wake of threatening media investigations: Wal-Mart's code arrived after reports surfaced that its supplier factories in Bangladesh were using child labour; Disney's code was born of the Haitian revelation [of sweatshop conditions of textile workers imposed by Walt Disney]; Levi's wrote its policy as an answer to prison labour scandals. Their original purpose was not reform but to 'muzzle the offshore watchdog' groups, as Alan Rolnick, lawyer for the American Apparel Manufacturers Association, advised his client. (Rowe, 2005)

The one significant event that did almost stop the deregulation movement entirely was the upheaval around the Multilateral Agreements on Investments ("MAI") rounds of negotiations. The Financial Times reported that

fear and bewilderment have seized governments of industrialised countries...their efforts to impose the MAI in secret have been ambushed by a horde of vigilantes whose motives and methods are only dimly understood in most national capitals. (Rowe, 2005)

This is when the corporate world decided to change its strategy and to associate NGOs with the negotiations in a redrafted form of MAI that would include a number of self-defined undertakings from Corporates, regarding human rights and sustainability issues: the revised “OECD Guidelines”³. Again, a defensive move to avoid a harsher set-back against deregulation and a hard coded regulation on investments abroad. Why did NGOs accept to be compromised in this negotiation process? Because they believed it would be easier to expose a Corporate that had officially endorsed an ethical code of conduct: a hypocrite Corporate is more vulnerable than a simple faulty Corporate, was their reasoning. Yet, this arrangement allowed Corporates to avoid hard regulations and circumvented the further involvement of national States in the discussion, albeit at the price of installing NGOs as institutionalized discussion parties.

4. Are NGOs the legitimate depositaries of the notion of social responsibility?

This same question could be reformulated using the notion of horizontal democracy or republicanism: are NGOs instances of horizontal democracy? Horizontal democracy is often evoked in political philosophy literature (Cohen and Sabel 1997) as the “new” form of democracy that is best suitable for our increasingly complex world. Or, to use the Habermasian phraseology of Scherer and Palazzo (2007), is Corporate Responsibility indeed an “explicit participation in public

³ The Guidelines (www.oecd.org/daf/investment/guidelines) are recommendations addressed by governments to multinational enterprises operating in or from adhering countries. They provide voluntary principles and standards for responsible business conduct in a variety of areas including employment and industrial relations, human rights, environment, information disclosure, combating bribery, consumer interests, science and technology, competition, and taxation.

processes of deliberation and justification”? The idea behind it is that the state is involved in a learning process where social parties are called to discuss directly with one another these issues where low cognitive certainties exist. Based on these discussions, the public can slowly come to an accord on how these issues should be handled, at which stage the government is better positioned to take legislative or other steps to deal with the issue. Among the instances of horizontal democracy, the role played by NGOs regarding corporate ethics is firmly established. Yet, we need to examine whether NGOs do have the right level of *authority and legitimacy* (Egels-Zanden and Wahlqvist 2007, see below) to apprehend social responsibility in its complexity and whether all other expert knowledge is given the right weight in these discussions. In other words, does the horizontal form of political debate play its role to the fullest in taking society up the curve of cognitive understanding of these issues? Subsequently, we need to examine whether the articulation between horizontal (cognitive) and vertical (political legitimacy) governance is properly managed. We have chosen to examine these questions through a concrete example of how NGOs interact with business, an example in the field of banking and environment issues: CO2 reduction.

Now by “dialogue” between the NGOs and corporate, we do not necessarily mean to say that both NGOs and corporates are choosing to have forms of collaboration, certainly not all of them and at all times. As pointed out by Ahlstrom and Sjostrom (2005), NGOs’ relation with corporate could be characterized following four different attitudes: Preservers, Protesters, Modifiers and Scrutinizers of which only the preservers are actually engaging into active partnerships with the corporate world. Preservers are generally NGOs with a longer existence and a strong “brand” that is less exposed to reputation risk in case any of their collaboration would prove deceptive. Likewise, Egels-Zanden and Wahlqvist (2007) showed that corporates are currently taking their distance from previous partnerships with NGOs and looking more into collaborations with peer companies of their respective sectors. The notion of dialogue we will be using here is more an institutional reflection on the fact that NGOs have been consistently raising issues unilaterally with or without naming and shaming companies and that corporations have been responding to these campaigns by adopting codes of conduct. The institutional reality of this dialogue could be found in the fact that issues dear to NGOs (such as the environment) are generally

dominant in Corporate Responsibility statements from the corporate world. At times, active forms of collaboration are taking place and resulting in a number of declarations and other agreements drafted by (or in collaboration with) various NGOs and to which corporates decide to adhere, such as the Collevocchio Declarations, OECD guidelines, Global Compact, Carbon Disclosure Project, etc. On these accords, please refer to Coulson (2007).

On the issue of CO₂ reduction, let us have a close reading of what BankTrack⁴, an NGO particularly focused on activities of Financial Institutions, says about the role of banks. We believe this example to be sufficiently representative of the sort of comments NGOs can deliver on Corporate activities while at the same time exemplifying the concern one may have about the quality of the discussion that is generated by such interaction. We will reproduce some of these comments below, the emphasis is mine:

Banks, like all companies, produce greenhouse gases (GHG) directly from their activities, but their *most important contribution to GHG emission is indirect, through the financing of their clients who generate GHG emissions*. Banks also play a specific role as major financiers of the oil and gas industry, *effectively delaying the much needed shift away from a fossil fuel based to a renewable /solar economy*. [...] It is important for every bank to establish a comprehensive climate or energy policy and strategy that addresses issues such as climate risk, assessing and reporting on climate emissions (adoption of GHG accounting and public reporting system), reducing direct GHG emissions, *phasing out of financing of the Oil and Gas industry and most greenhouse gas intensive*

⁴ BankTrack is an NGO that is basically relaying a number of other NGOs' themes, with a special focus on Banking activities. Members are WWF, FoE, RAN, etc.. Their funding includes several charities but also the Dutch government who specifically supports the "Bank profiles" publicized by BankTrack. BankTrack was one of the founding fathers of the Collevocchio Declaration" we have mentioned above. <http://www.banktrack.org/>

*energy infrastructure and investing in renewable energy and energy efficiency programmes and projects.*⁵

From this text it appears very clearly:

1. that the responsibility of banks extends to their lending activities and that they are therefore indirectly responsible for the consequences of investment decisions that their clients make. These clients are, in the case at hand, essentially large companies such as Total, Shell, BP, Exxon Mobil, etc. Yet, according to BankTrack, banks are not “off the hook” when it comes to the evaluation of responsibilities that follow from these major companies’ investment plans;
2. that banks are currently already guilty of “delaying the much needed shift away from fossil fuel based to a renewable /solar economy”. While this statement is perfectly consistent with the observation made earlier that Banks are indirectly responsible for the CO₂ emissions (or GHG emissions as per the abbreviation used here) of their customers, it does imply that we are here discussing what Latour would call matters of fact (and is opposed to matters of concern, see Latour 2004): we must shift away from fossil fuel. Better, we should have done so yesterday. Now this could seem to be fairly straight forward and undisputed: we must *eventually* shift away from fossil fuels, albeit only because we are running out of oil anyway. *How* to do this, at what pace, in which order, with what sort of priorities, considerations for our economic activity, social structure, infrastructural issues, that is the part that is missing. And renewable energies are offered here as the way forward, regardless of the fact that in many expert’s opinions, this shift is not very realistic in today’s technological environment;
3. that banks should “phase out of financing of the oil and gas industry”. This affirmation is quite strong as well, to give an understatement. The Oil and Gas industry is here to stay over the next hundred years at one degree or another. It takes time to convert from one sort of fuel to another, renewable or not, and this transition will require substantial technological advance, political choices and priorities and incentive programmes.

⁵ BankTrack Internet site, October 21, 2007: Banks, Climate and Energy. <http://www.banktrack.org/>

It is not my intention here to enter into the discussion of how to manage the world's energy policy for the next 50 years or so. Sure enough, though, this discussion is one that needs a lot of guidance from experts in the very field of energy, combining the current state of affairs with realistic scenarios and political choices. It is truly a "matter of concern" following the terms of Latour (1995), a matter that needs to be discussed with all concerned parties. How are Banks to be *responsible* for financing this sector when many of the outcomes of these discussions are still very much in the air? Would Banks not be found equally responsible if their pulling out of this sector led to supply disruption, power black-outs in major cities, collapse of the economy, massive recourse to questionable alternative sources of energy (nuclear) or extreme dependency for energy supply on political unstable and ethically questionable countries? Banks and NGOs are simply not the sole owners of such a large debate and cannot therefore be held responsible for its future developments without a larger articulation of the political ins and outs in a public discussion.

5. An interpretation of the role of NGOs and CSR

Of course it is the role of NGOs to communicate about issues, not necessarily to provide solutions. The questions their propositions are raising should be solved in a public debate. They are, from this respect, the whistle-blowers, not the political owners of the issue. And in this role, one could say that they play the role of "Making things public" (Latour 2005). Indeed, NGOs have managed to raise public concern and interest for a number of political issues, including among parts of the public that had previously little political culture and were showing a general disinterest from any such matters. Their modern form of communication, their seducing form of taking on an asymmetrical fight against the Goliaths of the capitalist world, their provocative and very spectacular ways of creating the news, all of this was -and still is- very appealing to the public. And it is and should remain a part of this asymmetrical nature of their action that they are unpredictable, sudden and challenging the reputation of the majors of this world. NGOs show time after time how damaging their campaigns can be, how sensitive the

public at large is to their calls for activist action, whether it is consumer boycott or SRI.

I believe, however, that people have been looking at the finger of NGOs when the finger is pointing to the sky of what makes the public debate. NGOs are indeed the messengers that show to the public that there are matters of concern that are taking place in the corporate world and that these matters of concern are threatening to escape the public space, this space where “things” are made the objects of discussion (Latour 2005). And in this role, NGOs should be allowed to be single-minded and put all their weight onto this single “thing”⁶ they believe to be a matter of concern. Yet it is equally true that the political debate does not end but simply starts there. NGOs are not the beginning and the end of the cognitive content of this “thing”, nor are they the normative depositaries of our political world, even though, at times, the necessary forceful way they convey their message could make us believe so. And for that matter, corporates are often not in a position to play that role either⁷.

Historically, the confusion may have started when NGOs were pointing at relatively simple and straightforward issues: human rights, children labour, blatant scandals and patent cases of illegal action. Those,

⁶ Cf. Latour (2005, p. 4): “ By the German neologism Dingpolitik we wish to designate a risky and tentative set of experiments in probing just what it could mean for political thought to turn “things” around and to become slightly more *realistic* than has been attempted up to now”

⁷ If need be, we would like to refer to this other edifying document published by BankTrack regarding a specific bank involved in financing the Oil and Gas sector: the Royal Bank of Scotland. In this document, BankTrack has converted the loan portfolio of RBS in the field of Oil and Gas financing into a CO2 emission measure, thereby making the bank a sort of substitute for the whole oil and gas industry. This sort of spectacular simplification of the issue while appealing in terms of communication, of course completely hides the political debate about how and under which conditions we could eventually come to a reduction of our usage of carbon fuels in the future: See: “The Oil and Gas Bank. RBS and the financing of Climate Change”. Researched & written by Mika Minio-Paluello of PLATFORM www.carbonweb.org. Published by BankTrack, Friends of the Earth - Scotland, nef (new economics foundation), People & Planet and PLATFORM in March 2007.

we could see as facts up to a certain point and indeed facts that required swift action. Yet, as the issues raised by NGOs got more complex, their *modus operandi* did not necessarily adapt to this complexity. Sustainability, environment, social climate within the corporate world, these issues cannot be reduced to one-sided whistle-blowing, nor can they be addressed in a one-two discussion between corporates and NGOs. NGOs should therefore be careful not to see themselves as representatives of all the stakeholders of a corporate and of the public at large and refrain from sitting – alone – at the negotiation table. Equally, corporates cannot do with a simple “keeping NGOs happy” policy, but should take the Corporate Responsibility matters much more seriously. Here is where the information asymmetry we want to demonstrate comes into play: while NGOs have been focusing on specific aspects of the externalities caused by corporate activities, many other aspects have remained underexposed. In the banking world we have used as an example here, it could be argued that the primary social responsibility of banks is to maintain the stability of the financial system: this theme is not on NGOs agenda’s and therefore not evoked as such in CRS statements of banks.

Let us look again at the historical development we have evoked in the first part of this essay. On one side, we observed a shift of power from the State towards the corporate world with the emergence of transnational companies. This shift of power was reinforced by then prevailing liberal policies arguing that the State is a disruption factor for economic development and that it should reduce its role to a limited number of fixed assignments: education, infrastructure, etc⁸. Transnational companies were in substance beyond the grasp of national regulatory frameworks anyway as they were able to delocalize their activities to these countries that presented the most favourable terms for labour, environment, tax regimes, etc. Getting around different stakeholders, corporates were creating a sort of vacuum in terms of the checks and balances that are normally in place. It is this vacuum that called for another form of protest and thus created the possibility of (or should we say: the need for) NGO activism and SRI:

⁸ We cannot develop this point here. We would therefore like to refer to Michel Foucault’s developments on this subject (Foucault 1994).

Civil regulation represents an effort to fill the governance gap between the law and the market [...] By applying pressure directly to companies, activists and organizations seek to foster changes in business practices that national governments and international law are unlikely or unwilling to bring about (Vogel 2005, p. 9).

NGOs therefore primarily came into existence to disclose these practices to the public opinion and to oppose a new form of pressure to corporates, one that did not know the constraints of territorial jurisdiction. In this respect, NGOs' strength was constituted by their cross border reactive and asymmetrical means of pressure that were precisely efficient because they did not disclose their own agenda. They formed a sort of permanent threat to the activities of corporates concerning ethic issues "at large". The progressive institutionalization of NGOs as the depositaries of public opinion on moral issues has pushed corporates to see the NGOs as privileged speaking partners in their management of reputation risk. Yet this could only be a temporary response. NGOs are not in charge of defining the ethical code of conduct of corporates and they do not necessarily provide the last answer on complex matters with a complex cognitive content they are often not in a position to work out completely themselves. Yet this is where (I believe) the whole issue went astray: NGOs should have remained essentially "free speakers" that are attracting the public eye on certain issues. The issue of corporate ethics now is in need of other institutional instances where the issues at stake are developed into public political affairs, socially shared "matters of concern".

These questions appear to be quite problematic. It appears sometimes as if ethics have become a matter of consumption rather than a matter of debate. And indeed, in SRI we see the development of a new "market" where ethical issues are seeking a sort of equilibrium through the decision of investment "consumers". Together with this transformation of ethical issues into mercantile issues, we observe a multiplication of the indexes, a true atomization of the market into different products apparently answering for what is Social Responsibility. Yet this atomization can only be expressed in binary choices: whether or not to buy a given stock in the market. This form of deciding complex issues through a decision to buy or not a given stock, is one that is actually defended by some (Kinder 2005): while there is, for example, no consensus on whether McDonald should really be made

partly responsible for the strong increase in obesity observed recently, the investors will “vote” with their holding to McDonald stock or not. Obviously, this new market is using all the usual means to communicate about itself: publicity and marketing campaigns, seducing narratives, attractive slogans, suggestive branding. It is my strong belief that investors, thanks to -or in spite of- all these calls for their attention are not in a situation to appreciate the complexity of public interests but through the simplifying mirror of the “SRI scoring” of a given company. In other words, while SRI represents a serious threat for corporates, it does not provide for a satisfactory means of dealing with wicked problems socially and politically. While using the “responsible” label as a marketing tag, SRI does not provide the beginning of a definition of what *is* responsible.

6. Redefining the Public: Dewey and Latour to the rescue

I believe we have established that the NGOs role in Corporate Responsibility essentially developed in a vacuum that was created when national economies normally regulated by their national states escaped this regulatory environment to find new spaces of freedom in international expansion. Other forms of social contestation such as traditional unions proved indeed less efficient in making this same jump into the international debate as they were less inclined to transcend the local basis of their representation. From then on, NGOs have controlled the agendas of Social Responsibility and driven the development of corporate responsibility which was essentially defensive and geared towards the management of reputation risk. This is an instance of information asymmetry that has played against the corporate world and has pushed them towards a cooperative relation with NGOs. The latter has not necessarily paid-off in terms of making their agendas more predictable.

We have been using the concept of public, so far, without really problematizing it. Yet it is this very notion that is at the heart of our problem, I believe. The Public would be defined, according to Dewey (1927) as those indirectly impacted by the actions of others. In the case of CO2 emissions, or sustainability at large, the Public is probably as large as Humanity. Yet, equally crucially, this notion of public then

needs to be broken down in different sorts of collective agents, all impacted in *different ways* by the issue at hand. This would include, in our illustration, next to NGOs and the Banks, the whole sector active in fossil fuel and renewable energies, representatives of the scientific community that are knowledgeable in these sectors, representatives of employers and employees, economists able to draw the consequences of several growth scenarios and to measure the impact of measures taken on competitiveness, geo-strategists and third world country experts able to measure the impact of measures taken on our traditional energy suppliers, representatives of the transport industry, farmers and other big energy consuming industries, etc. Let us underline here the oppositions for a minute: the oil and gas sector –when it has not engaged in alternative strategies already- is primarily benefiting from a status quo ante. The Energy sector at large, needs clarity in the cost structure of its inputs: as long as CO₂ costs are equally charged to all parties, they are perfectly manageable, as they will be charged to the end-user. The industry needs the same transparency and a level playing field: that CO₂ costs be equally charged to countries that export fossil fuels as to the ones that are importing them. Employees are caring for the impact of CO₂ on the jobs perspectives. Scientists will be measuring the effectiveness of the measures, while the governments will be careful to keep costs aligned with their priorities⁹. All this to underline that the issue of CO₂ reduction has multiple consequences, some of which could appear counter-productive: taxing CO₂ consumption could, for example, have a negative impact on the distribution of income and make poor people poorer and poor countries more exposed than rich countries. Do we want that? How could we cope with these issues? Said differently:

⁹ On this topic see, Lomborg, J., October 12, 2007: “het wordt tijd voor afkoeling van het klimaatdebat” *NRC* (tr: “It is time for a cool down on the discussion about climate change”). Interestingly enough, it appears that Bjorn Lomborg has reached his conclusions in a discussion among scientists and politicians of his country in what has been called the “Copenhagen consensus”: people were “closed down” in a room with a fictive amount of money to spend on several issues that had to be ranked and prioritized. Through this process, Lomborg achieved that several issues, very different in nature, be nevertheless ranked and ordered in a process that creates the means to compare them in value and time dimensions

defining who the actors are is not just a formal exercise in democracy, it is a necessary step in defining the problem(s). Latour (2004) would say that, next to actors, we also have to “invite” the relevant objects (“dingen”): cars, trains, ships, planes, houses, farms, fish, meat, computers, nuclear power plants and hospitals, etc. in order to assess how this will impact them. So, if the institutionalization of NGOs as privileged discussion partners of corporates has worked well in “making things public”, it is as essential that, at some point, a careful redefinition of this Public takes place. While Dewey gives us a definition of the Public that is as large as possible, the actual articulation of this Public into parties with different interests and potentially *opposing* interests is equally important. Displacement of the political debate, horizontal democracy only have a chance of success if this issue of “Who is the Public” is developed into some form of democratic representation of all (potentially conflicting) parties to the problem. As underlined by Egels-Zanden and Wahlqvist (2007), an actor network process well understood is meant to translate the interests of the participants: procure authority and legitimacy to the deliberative platform to act on behalf of its stakeholders. Authority relates to the recognized competence of the participants, while legitimacy underlines its democratic representation.

Then, as suggested by Latour, during a negotiation phase, the issues, their consequences and implications, and ultimately their costs, are set against one another and hierarchized. The outcome is necessarily a compromise with all the unsatisfactory aspect it carries: some will find it insufficiently precise, ambitious, others utopist and unachievable, yet it clearly articulates the vested interests of the different parties and thus reflects the complexity of the situation at hand. One simply cannot take a shortcut here – in reference to some comments from BankTrack above – and say that fossil fuel industry needs to be phased-out: this will necessarily be a staged process where evils are gauged against other evils (fossils against nuclear, for example), where costs have to find a financing, where advantages are to be balanced against draw backs. In this particular case (CO₂ reduction) things as deeply rooted as economic growth itself needs to be questioned and gauged against the reduction of

emissions: is growth sustainable? Is it desirable? What has made growth a requisite and what could make us revise our paradigms¹⁰?

Finally, says Latour, the process will have created a number of instances where discussions will be pursued, while implementation of the measures and follow-up will be given to the decisions made. In this process, NGOs will have lost some of their privileges as they are not the single most active speaking partners of corporates anymore. In exchange for that they will see their issues properly institutionalized. Corporates will have lost their freedom of movement as the process will be translated in some “hard coded” agreements that are not of their own choice anymore. Politicians will have in turn ensured that they are part of the process (again) and that long term options are indeed processed democratically.

This emphasis on the extension of Corporate Responsibility and SRI into a political debate is also defended in a different theoretical framework by Scherer and Palazzo:

We propose a deliberative concept of CSR that mirrors the discursive link between civil society and the state. It aims at the democratic integration of the corporate use of power, especially in the transnational context of incomplete legal and moral regulation. (2007, p. 17)

The interesting development provided in their Habermasian conception of Corporate Responsibility is that, according to them, it does not limit itself to a defensive statement of corporates about social and environmental issues: Corporate Responsibility is about making the corporate a political entity involved as an actor in the political debate. Balancing the conflictual interests of its stakeholders in a deliberative discussion, the corporate must engage in discourses that aim at “setting or redefining [legal and moral] standards and expectations in a changing globalized world” (Scherer and Palazzo 2007, p. 18).

¹⁰ Again, this line of thinking cannot be developed here. We would like to refer to Serge Latouche (2006).

7. Conclusion

The information asymmetry created by the dominant role of NGOs in influencing the Social Responsibility debate, while it has certainly helped in developing the very notions of Social Responsible Investment and Corporate Responsibility, is also skewing its scope. NGOs have initiated a new form of horizontal democracy that has all the chances of contributing constructively to addressing increasingly complex political issues. Yet, to bring corporate responsibility to the next level and neutralize this asymmetry, the institutionalized dialogue between corporates and NGOs must be enlarged to the Public, redefined to include all the stakeholders that are representative of social responsibility. Corporates will need to take control of their social responsibility and enter into a larger dialogue with all their stakeholders and accept that the body politic has a role to play, including, where appropriate, through “hard” regulation. NGOs have to realize that while their primary function is to alert the public on upcoming matters of concern, they cannot provide all the answers regarding these issues and therefore should refrain from accepting institutionalized positions of representatives of the Public at large and not engage into negotiations with corporates on that basis. Finally, the body politic, our political representatives, need to realize that while direct horizontal democracy has a number of advantages in complex matters where the cognitive content is limited, they cannot walk away from these issues indefinitely but instead are the privileged instance where these forms of direct debate can be fully articulated and brought to compromises that reflect the complex and conflictual nature of these very problems. Ethics and political activities cannot be reduced to a new form of consumption where debates and conflicts are solved through advertising campaigns and SRI screening.

On the way to what I would call Corporate Responsibility of the second generation (or the CR Mecca in the words of Zadek (2007), a number of theoretical issues will need to be addressed. These include a redefinition of the corporate and its stakeholders, the notion of collective responsibility and the distribution of blame, and the very role of the state and regulation. Centered on their true core competencies, corporates will be able to re-posses the agenda of what are the issues they can address and break with the information asymmetry from which they suffer today.

Where unreasonable requests will be made, they will be able to oppose that they are not in a position to decide alone on such matters and call for a larger debate. To be sure, Corporate Responsibility of the second generation requires that all actors believe truly in their capacity to impact on matters in which they play a decisive role, while managing the level playing field they are (but a) member of.

Email: Etienne.Coerwinkel@xs4all.nl

REFERENCES

- Ahlstrom J. and Sjoström E. (2005), CSOs and Business Partnerships: Strategies for Interaction, *Business Strategy and the Environment* 14, pp 230-240.
- Bovens, M. (1998), *The Quest for Responsibility, Accountability and Citizenship in Complex Organizations*, Cambridge: Cambridge University Press.
- Brown, M. T. (2006), Corporate Integrity and Public Interest: A Relational Approach to Business Ethics and Leadership, *Journal of Business Ethics*, 66(1), pp. 11-18.
- Capaldi, N. (2007), Corporate social responsibility and the bottom line, *International Journal of Social Economics* 32(5), pp. 408-423.
- Coase, R.H. (1992), The Institutional Structure of Production, *The American Economic Review* 82(4), pp. 713-719.
- Cohen, J. and Sabel C.F. (1997), Directly Deliberative Polyarchy, *European Law Journal* 3, pp. 313-342.
- Coulson, A. (2007), How should Banks govern the environment? Challenging the construction of action versus veto, *Business strategy and the environment*, available at <http://www.interscience.wiley.com>
- Dewey, J. (1927), *The Public and its problems*, Chicago: The Swallow Press.
- Egels-Zanden, N. and Wahlqvist, E. (2007), Post-Partnership Strategies for Defining Corporate Responsibility: The Business Social Compliance Initiative, *Journal of Business Ethics*, Number 70(2), pp. 175-189
- Engelen, E. (2002), Corporate Governance, property and democracy: a conceptual critique of shareholder ideology, *Economy and Society* 31(3), pp. 391-413.
- Fontroda, J. and Sison, A.J.G. (2006), The Nature of the Firm, Agency Theory and Shareholder Theory: A Critique from Philosophical Anthropology, *Journal of Business Ethics* 66(1), pp. 33-42.
- Foucault, M. (1994), *Naissance de la Biopolitique*, Paris: Seuil.

- Hawken, P. (2004), Socially Responsible Investing: how the SRI Industry has failed to respond to people who want to invest with conscience and what can be done to change it, available at <http://www.naturalcapital.org>
- Hayek, F.A. (1996), *Studies in Philosophy, Politics and Economics*, London and Henley: Routledge & Kegan Paul.
- Kinder, P. (2005), Socially Responsible Investment: an evolving concept in a changing world, *KLD Research and Analytics*, available at <http://www.kld.com/resources/papers/SRIEvolving070109.pdf>
- Latouche, S. (2006): *Le Pari de la Décroissance*, Paris: Fayard.
- Latour, B. (2004), *Politics of Nature: How to bring the Sciences into Democracy*, London: Harvard University Press.
- Latour, B. (2005), *Making things public. Atmospheres of democracy*, Karlsruhe: ZKM/Cambridge, Mass: MIT Press.
- Lomborg, J. (2007) “het wordt tijd voor afkoeling van het klimaatdebat” *NRC* October 12 (tr: “It is time for a cool down on the discussion about climate change”).
- Minio-Paluello, M. (2007), The Oil and Gas Bank. RBS and the financing of Climate Change, available at <http://www.carbonweb.org>.
- Polanyi, K. (1944), *The Great Transformation*, Boston, MA: Beacon Press.
- Rowe, J.K. (2005), “Corporate Social Responsibility as Business Strategy”, in: R.D. Lipschutz and J.K. Rowe (eds.) *Globalization, Governmentality and Global Politics: Regulation for the Rest of Us?* (pp. 130-166), London/New York: Routledge,
- Scherer, A.G., Palazzo, G. (2007), Towards a Political Conception of Corporate Responsibility: Business and Society Seen from a Habermasian Perspective, *Academy of Management Review* 32(4), pp. 1096-1120.
- Vogel, D. (2005), *A Market for Virtue, The Potential and Limits of Corporate Social Responsibility*, Washington D.C.: Brookings Institution Press.
- Zadek, S. (2007), *The Civil Corporation*, London and Sterling: Earthscan.