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Smoke and mirrors: Corporate social responsibility and tax avoidance

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ABSTRACT

The bourgeoning corporate social responsibility literature has paid little attention to organised tax avoidance by companies even though it has real consequences for the life chances of millions of people. Companies legitimise their social credentials by making promises of responsible and ethical conduct, but organisational culture and practices have not necessarily been aligned with publicly espoused claims. This paper draws attention to the gaps between corporate talk, decisions and action, or what may be characterised as organised hypocrisy. Its persistence can become a liability and threaten the welfare of the company, its employees and its executives. The paper provides examples to show how companies, including major accountancy firms, make promises of responsible conduct, but indulge in tax avoidance and evasion. It also shows that the exposure of contradictions between talk and action has yielded negative outcomes.

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1. Introduction

Recent years have seen a considerable increase in the variety and volume of literature on corporate social responsibility (CSR) (for example, see Banerjee, 2007; Cooper, 2004; Demirag, 2005; Frederick, 2006; Hawkins, 2006; Henderson, 2001; Solomon, 2007; Vogel, 2005; Werther & Chandler, 2005). This literature is informed by a variety of theoretical perspectives and seeks to address issues about governance, economics, accountability, ethics, futures of capitalism, sustainability and ultimately the survival of the planet and the human race. As a result, we have a richer appreciation of the possibilities and limitations of addressing ecological, employment, investment, power, politics, gender and a variety of social problems.

The concept of CSR is broader than simple compliance with law. Social history is littered with laws which permitted slavery, discrimination, abuse of women, children and workers, but their shortcomings have been contested on moral, ethical, accountability, human rights and other grounds. In the same traditions CSR is frequently associated with promises of ethical and socially responsible conduct by businesses and its scope is increasingly being broadened. Sustainability, a non-governmental organisation (NGO) notes that

> "Tax is the latest issue to emerge as part of a more thorough review of the economic impacts that companies have. It has become the subject of greater attention with a variety of stakeholder groups actively reviewing the approach that companies take to their tax policies and planning. . . . With the growing involvement of governments, the media, non-governmental organisations (NGOs) and even religious groups, the issue is being transformed from a narrow technical discussion for specialists to one which is directly relevant to corporate responsibility" (Sustainability, 2006, p. 2).

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Increasingly, pressure groups and non-governmental organisations are highlighting the disparities between corporate claims of social responsibility and their practice of avoiding taxes[1] which disable the capacity of governments to provide education, healthcare, security, pensions, clean water, or redistribute wealth to eradicate poverty, and provide a peaceful and equitable society (Action-Aid, 2008, 2009; Christian-Aid, 2004, 2005, 2008a, 2008b, 2009; Oxfam, 2000). However, comparatively little scholarly attention is paid to the payment of democratically agreed taxes (Christensen & Murphy, 2004); even though the payment of taxes is central to any notion of responsible citizenship and claims of social responsibility are part of the politics that enable the dominant class to advance its hegemony through consent rather than brute force. The links between CSR and tax avoidance may be neglected possibly because other than the standardised accounting information[2] "companies rarely volunteer any detailed responses on tax issues . . . [there is] paucity of information released by companies on their taxation plans . . ." (Citigroup, 2006, pp. 4 and 20), and "it is rare for big business to see the payment of taxes as an explicit social duty" (The Guardian,[3] 14 February 2009).

Major corporations increasingly produce brochures and reports containing promises of socially responsible conduct, but this has also been accompanied by large scale tax avoidance and evasion. The revenues lost are large and capable of making a difference to the quality of life for millions of people. The US Treasury estimates that it may be losing over $345 billion each year due to a variety of tax avoidance/evasion schemes (US Treasury, 2009). A US government report estimated that nearly 66% of the domestic and 68% of foreign corporations did not pay any federal corporate taxes during the period 1998–2005 (US Government Accountability Office, 2008). In 2005, 28% of large foreign companies, with sales in excess of $50 million and assets over $250 million, generated gross revenues of $372 billion, but paid no federal corporate taxes. The same study noted that 25% of the largest US companies had gross sales of over $1.1 trillion but paid no corporate taxes.

The UK corporation tax rate has been reduced from 52% (prior to 1983) to 30% in 1999 and further down to 28% in 2008, but tax avoidance remains rampant. A UK government report estimates that some £40 billion of tax revenue is lost each year (HM Revenue and Customs, 2010) though other models and leaked government papers estimate it to be over £100 billion (Sunday Times, 4 June 2006; Lyssiotou, Pashardes, & Stengos, 2004). A UK government report showed that for the year 2005–2006, 220 of the 700 biggest companies paid no corporation tax and a further 210 companies paid less than £10 million each (National Audit Office, 2007) and 12 of the UK's largest companies extinguished all liabilities in 2005–2006 and scores more claimed tax losses (The Guardian, 31 January 2009).

Developing countries, often some of the poorest, receive around $120 billion in foreign-aid (The Guardian 30 March 2009) from G20 countries, but are estimated to be losing between $858 billion and $1 trillion through illicit financial outflows each year, mainly to western countries (Kar & Cartwright-Smith, 2008). Around $500 billion is estimated to be lost through a variety of tax avoidance schemes (Baker, 2005; Cobham, 2005), of which some $365 billion is attributed to transfer pricing practices that shift profits from developing to developed countries (Christian-Aid, 2009). An OECD official[4] has estimated that Africa alone may be losing amounts equivalent to between 7% and 8% of its GDP, around $250 billion each year, through tax avoidance schemes. Such resources could be used to improve social infrastructure and quality of life for millions of people.

Arguably, the payment of taxes provide a litmus test for corporate claims of social responsibility as it involves transfers of wealth and contrived avoidance cannot easily be reconciled with claims of ethical business conduct. It highlights tensions between corporate objective of maximising profits for shareholders and meeting their obligations to pay democratically agreed taxes. The persistence of tax avoidance and evasion draws attention to organised hypocrisy which may be understood as the gaps between the corporate talk, decisions and action (Brunsson, 1989, 2003). In a conflict environment, companies and their executives appease diverse audiences by adopting double standards, or say one thing but do something entirely different. Hypocrisy is not the unintentional outcome of corporate culture. Rather it is actively produced within particular social and organisational contexts and reflects tensions between publicly espoused goals to meet social expectations and the failure to align organisational values, norms and practices with the espoused aims and goals (Weaver, 2008). Consequently, "two organizational structures evolve. One is the formal organization, which obeys the institutional norms and which can easily be adapted to new fashions or law, literally by a few strokes of a pen . . . second type is generally referred to as an "informal" organization. . . . Organizations can also produce double standards or double talk; i.e. keep different ideologies for external and internal use. The way management presents the organization and its goals to the outside world need not agree with the signals conveyed to the workforce" (Brunsson, 1989, p. 7). Thus companies may excel at talking about social responsibility, but at the same time devise schemes to avoid/evade taxes.

[1] There are perennial debates about the meaning and significance of 'tax avoidance' and 'tax evasion'. Generally, tax avoidance is considered to be lawful and tax evasion is used to describe practices that contravene the law. However, in practice the distinction is no so clear-cut. The promoters of some strategies have described their schemes are 'avoidance', but when subsequently scrutinised and challenged in the courts they have been found to be 'evasion'. On occasions, companies have structured transactions which have little or no economic substance, but enable them to reduce their tax liabilities. On moral and ethical grounds, such schemes have been considered to be unacceptable (Christian-Aid, 2008a, 2008b, 2009), especially as the loss of tax revenues has negative effect on the provision of public goods, security, alleviation of poverty and social stability.

[2] This is required by law (e.g. UK Companies Act 2006) and accounting standards (e.g. IAS 12).

[3] http://www.guardian.co.uk/business/2009/feb/14/tax-avoidance; accessed 17 March 2009.

[4] A statement by Jeffrey Owens (director of the Centre for Tax Policy Administration at the Organisation for Economic Cooperation and Development) on 28 November 2008; available at http://www.reuters.com/article/latestCrisis/idUSLS349361; accessed 20 March 2009.

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