Towards Instilling Ethics in African Business and Public Service: The Case of Kenya

By Christine W. Gichure, PhD

This article contains historical and background information that the Institute thought would be of interest to our readers. The opinions expressed in this article are those of the author and do not necessarily express the opinions of the International Business Ethics Institute.

Background

This article discusses post independence governance and corruption challenges in Africa. In addition, this article explores the development of business ethics and good governance in Africa, with a particular emphasis on Kenya.

As recently as January 2004, the World Economic Forum still presented Africa's economies as performing poorly since the 1970s with per capita incomes 10% lower than what they were in the 1980s. Its GDP growth was shown to have been negative throughout the 1990s at regional levels, and only slightly improved in South Africa (Taylor et al., 2003 p. 3-7). Historical, structural, and ideological factors have been used to explain this lack of economic growth.

Africa is materially poor and it continues to experience many difficulties: sometimes severe droughts and other times floods; political upheavals and conflicts in countries such as the Sudan and Somalia; the genocides in Rwanda and Burundi; endemic diseases such as Malaria and now AIDS; and massive unemployment.

Governance Challenges

Many African countries made the shift from European colonies to independent nations from the 1950s through the 1970s. An important post independence development in most of Africa, including Kenya, was that for more than four decades it was still believed that only the state could determine the economic direction of a nation (Versi, 1997). That belief had several immediate consequences. One of them was that the state assumed the position of the main actor with which multilateral institutions such as the World Bank or the International Monetary Fund (IMF) would generally interact. This arrangement, reasonable as it may have been at the time, opened loopholes for a variety of unethical practices that, in the course of the years, would lead to the stagnation of African economies, the rise of despotic governments, the annulment of democratic and civic principles, and finally the cancerous growth of corruption.

Another immediate effect of placing the tools for economic generation into the hands of governments was that too much power ended up in the grasp of individuals in government. Human greed, always present wherever humanity and scarcity meet, soon crept in. Appointments to head the various state owned enterprises, often known as Parastatal institutions, became a political prerogative. Soon people began to be appointed not on merit but rather on the basis of either their standing within political parties or their relationship with someone in government. Down the line, lesser appointments would also be made on the basis of loyalty, ethnicity, clan, or family. Nepotism had set in (Nzelibe, 1986). As a result of this, the market system of goods, services, and human capital was unable to operate efficiently. Governments paid too much for goods and services that were substandard.

In time, state institutions became prime repositories for wealth. State owned institutions emerged as giant monopolies that benefited those within the 'correct inner circles' and later expanded to include all kinds of people, regardless of their merit, skill, or ability. Neither performance nor accountability was taken seriously. As a result, the beneficiaries under such a system would do everything to maintain the status quo (Versi, 1997). In such a system, it is easy to see how the creative capacity of a nation is debilitated, in the sense that education, skill, enterprise, and knowledge end up being practically irrelevant to obtain employment. Not surprising then, in Africa, business ethics concentrates more on the public sector than on the private sector.

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The need for corporate governance among listed and nonlisted companies and state-run enterprises are great. Among the most promising developments in corporate governance reform in Africa count the various initiatives around the continent to develop national codes of corporate governance. These initiatives are often driven by the private sector and professional bodies. Organizations such as institutes of directors or professional bodies such as associations of accountants often take the lead along with other stakeholder groups to produce standards of good governance that are recommended to the local business community. In developing such codes, recognition is taken of corporate governance developments elsewhere on the continent and in the world. Especially three codes of corporate governance are often cited and explicitly referred to as major influences on the development of such national codes of corporate governance. They are the OECD *Principles of Corporate Governance* (1999), the Commonwealth Association for Corporate Governance (CACG) *Principles for Corporate Governance* (1999), and either the first or second *King Report on Corporate Governance for South Africa* (Institute of Directors of South Africa [IoD], 1994, 2002).

These national codes of corporate governance over time tend to find their way in an evolutionary manner into listing requirements of stock exchanges, rules of professional bodies, and also into legislation—thus effecting corporate governance reform from the bottom up. A substantial number of such national codes of corporate governance have already been produced, mostly in the Anglophone countries in Africa. It is in these codes that business ethics is explicitly addressed. Among the countries that already produced and published national codes of corporate governance counts Ghana (*Manual on Corporate Governance in Ghana*, 2000), Kenya (Private Sector Corporate Governance Trust [PSCGT], 1999), Malawi (Corporate Governance Task Force, 2001), Mauritius (*Report on Corporate Governance for Mauritius*, 2003), Nigeria (*Code of Corporate Governance in Nigeria*, 2003), South Africa (IoD of South Africa, 1994, 2002), Tanzania (Steering Committee on Corporate Governance in Tanzania, 2000), Uganda (*Manual on Corporate Governance and Codes of Conduct*, n.d.), Zimbabwe (*Principles for Corporate Governance in Zimbabwe*, n.d.), and Zambia (IoD of Zambia, 2000). In a number of other countries, such as Botswana, Egypt, Morocco, and Sierra Leone similar codes are in the process of being developed.

Ethics in Corporate Governance

The national codes all emphasize the ethical nature of good corporate governance. Special emphasis is placed on the fact that good governance is based on a number of cardinal ethical values. Topping the list of the values that should be adhered to in good governance are the values of transparency, accountability, responsibility, and probity. These values should permeate all aspects of governance and be displayed in all actions and decisions of the board. The various aspects of governance, such as board compilation and functioning, reporting, disclosure, and risk management, are seen as instrumental in realizing these cardinal values of good governance.

Mention is also made of specific moral obligations that the board of directors and the company should abide by. Prominent among these ethical obligations are ensuring that the company always act on high ethical standards so that the reputation of the company will be protected as well as respecting the rights of all shareholders, but particularly those of minority shareholders. In line with the inclusive model of governance that prevails in Africa, the duty to protect the human and other rights of all stakeholders enjoys prominence. Stakeholders that are singled out for special protection are cultural or ethnic minorities, women, and children.

The duty of the board and the company to look after the safety and health of its employees is also stressed. The emphasis on health is not surprising if one takes into account that, on average, 6,500 Africans die of AIDS-related illnesses per day (Pan-African Consultative Forum on Corporate Governance [PACFCG], 2001, p. 12). The detrimental impact of HIV and AIDS on business enterprises is well documented and poses a challenge that boards can hardly afford to ignore any longer. Another obligation that commonly occurs in the national codes is the social responsibility of corporations.

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Governing Business Ethics

In all the national codes of corporate governance in Africa the need for actively managing the ethical performance of companies is emphasized. The level of detail with which these codes deal with the active management of ethics do, however, differ drastically. All the codes recommend that the board of directors should ensure that a code of ethics is developed and that it is endorsed by the board. Most of these corporate governance codes also provide some guidance on the process of developing a code of ethics by either making reference to issues or topics that typically should be addressed in a code, or by outlining a process that could be followed in the process of code design or review.

Few codes go further than that. The Kenyan, Mauritian, and South African codes take the lead in venturing deeper into what the governing of ethical performance entails beyond developing a code of ethics. The most comprehensive recommendations on the governance of ethics are to be found in the second King Report on Corporate Governance for South Africa (IoD of South Africa, 2002). The latter report recommends a six stage process of governing ethical performance that consists of:

- identifying through stakeholder engagement the perceptions and expectations that stakeholders have of the ethical performance of a company,
- determining the ethical values and standards of the company and codifying it in a code of ethics,
- institutionalizing the values and code of ethics of a company on both the strategic and systems levels,
- monitoring and evaluating compliance to the code of ethics,
- accounting and auditing ethical performance according to emerging global standards on ethical accounting and auditing, and
- disclosing ethical performance to relevant stakeholders. (pp. 108-113)

Especially the third stage is emphasized to get companies moving beyond merely having a code onto implementing the code of ethics to make a meaningful difference to company performance. Specific interventions that are suggested are regular ethical risk assessment, confidential reporting systems through which unethical or suspicious behavior could be reported, the integration of ethical performance into existing performance appraisal systems, and integrity assessment as part of selection and promotion procedures. This comprehensive treatment of what the governance of ethical performance entails represents a substantial move beyond the guidelines that were provided in the first King Report (IoD of South Africa, 1994), when attention to ethics was still confined to developing and endorsing a code of ethics. The Mauritian report that explicitly follows the lead of the second King Report reflects this same comprehensive approach to the governing of ethics (*Report on Corporate Governance for Mauritius*, 2003, pp. 107-109). It is reasonable to expect that other countries in Africa might do the same when they take their national codes of corporate governance in revision in the not-too-distant future.

The Kenyan code that is also fairly comprehensive in the way that it deals with the governing of ethics recommends that companies should issue a certificate at the end of every year in which they confirm that to the best knowledge of the board and management no employee of the company has been involved in, among others, corruption, money laundering, or the contravention of any national law or international convention (PSCGT, 1999, p. 21).

New Developments

On a national level, various corporate governance initiatives have been taken that have a direct bearing on business ethics. In Ghana, for example, the African Capital Markets Forum (ACMF) launched an anticorruption project within the private sector that targeted the supply side of corruption. It brought attention to the role that the private sector plays in sustaining corruption by offering bribes to officials (Armstrong, 2003, p. 84). The outcome of this initiative is a greater awareness of the need for adherence to strong ethical standards in the private and public sectors. In South Africa, a concerted effort is being made by professional bodies and tertiary educational institutions alike to introduce programs on corporate governance. Some of these programs have distinct business ethics components in which students on under- and postgraduate level as well as in extracurricular programs receive formal training on business ethics (Armstrong, 2003, p. 104). Also in South Africa, the Johannesburg Securities Exchange (JSE) has introduced a Social Responsibility Investment Index for companies listed on its exchange that rates companies on their triple bottom-line performance, which also includes an ethical dimension. In Kenya, the PSCGT is assisting various organizations in developing codes of ethics (Armstrong, 2003, p. 100). These are just some of the various initiatives that are being taken to increase the standard of not only corporate governance in general but also of business ethics specifically.

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On the continental (Pan-African) level, the launch of the New Partnership for Africa's Development (NEPAD) also might have a positive bearing on enhancing corporate governance in general and business ethics as an integral part thereof. The aim of the NEPAD initiative is to eradicate poverty and foster socioeconomic growth through democracy and good governance (Armstrong, 2003, p. 66). The heads of state of African countries committed themselves not only to enhance good political, economic, and corporate governance but also to engage voluntarily in the African Peer Review Mechanism, where individual countries will be assessed on their governance performance by their peers in Africa (Anonymous, 2004, p. 32). The business workgroup within NEPAD has also adopted various agreements with a direct bearing on the ethical performance of organizations such as the Business Covenant on Corporate Governance that emphasizes the importance of organizational integrity and the institutionalization thereof as well as a covenant on the elimination of corruption and bribery. In addition, the Business Declaration on Corporate Social Responsibility was adopted that emphasizes the need for positive stakeholder relationships based on integrity as well as the protection of human rights.

Conclusion

The challenge that faces African enterprises is to translate this commitment to high standards of ethics into organizational practice. It is on this score that most codes of corporate governance in Africa fall short as they provide very little guidance on how business ethics should be institutionalized in enterprises. The second-generation codes of corporate governance that are now emerging in Africa tend to recognize this shortfall and address it explicitly. It is, however, imperative that these developments on the enterprise level should be reinforced with governance reform on the regulatory and political level.

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G. J. Rossouw, Ph.D., is a professor and head of the Philosophy Department at the University of Pretoria in South Africa. He was the founding president of the Business Ethics Network of Africa (BEN-Africa) and is the current president of the International Society for Business Economics and Ethics (ISBEE). He also serves on the editorial board of the Journal of Business Ethics.

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