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Leadership Governance: An Ethical Consideration

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ABSTRACT

Proper governance in organizations across both the public and private domain has come under great scrutiny around the world. In South Africa with a Transparency International 2015 Corruption Perception Index (CPI) score of 44, rank 61/168, the question of appropriate governance structures to curb corruption is critical. There have been highly publicized recent occurrences of corruption and mismanagement in South African SOE's such as Prasa, Eskom, SABC, Denel, SAA and Transnet. These instances have resulted in increased scrutiny on governance and ethical leadership in government organizations. With the high-profile cases mentioned above, and the resultant public disillusionment with government organizations, the ethical recapture of these organizations is imperative. This paper examines the latest recommendations contained in the King Report (King IV) with particular attention to ethics in leadership. It considers the question of whether King IV will be effective in promoting ethical leadership.

INTRODUCTION

Proper governance in organizations across both the public and private domain has come under great scrutiny around the world. In South Africa with Transparency International 2015 Corruption Perception Index (CPI) score of 44, rank 61/168, the question of appropriate governance structures to curb corruption is critical. A rash of cases of corruption and maladministration at State-Owned-Enterprises (SOE) has further highlighted the failures of leadership and the unethical conduct of persons in positions of authority.

In July 1993, the Institute of Directors in South Africa approached retired Supreme Court Judge King to chair a committee on corporate governance.

King Report I was issued in 1994 (King I), King Report II in 2002 (King II), and King Report III in 2009 (King III) These reports had attempted to give guidance to South African organisations on good governance practices. Unfortunately, they had failed to do so. The South African Board of People Practice (SABPP), pointed out that although most organisations had implemented the guidelines of King III, and could point to clear policies, yet they failed to achieve ethical corporate governance and the number of cases of major corporate and government scandals clearly spoke to this failure. (SABPP:2016). King IV is an attempt to remedy this. The draft King Report (King IV) has just been released and while re-emphasizing the importance of well-grounded leadership in governance pays specific attention to ethics in leadership.

This paper, briefly examines the context for King IV by recapping the governance failures with SOE's. It looks at current ideas around ethical leadership. And it examines the provisions of King IV to assess its efficacy in promoting ethical leadership.

CONTEXT

Kevin Cruze, a New York Times best-selling author, writing in Forbes Magazine as late as April 2013 quotes definitions of leadership by academics such as Peter Drucker and Warren Bennis, a leading entrepreneur Bill Gates and a populist author John Maxwell. He reflects that none of their definitions of leadership is sufficient and instead proposes the following; "Leadership is a process of social influence, which maximizes the efforts of others, towards the achievement of a goal." (Kruze, 2013).

Remarkably the definitions he quotes, his discussion and the definition he finally puts forward shows either an unawareness of, or a deliberate attempt to avoid the question of whether in a post-Enron, post-global financial crisis world transactional definitions of leadership that ignore 'moral upliftment', a position strongly contested by JM Burns in his seminal book Leadership (Burns, 1978), should still hold currency. It is perhaps because such points of view still exist that senior managers and executives within organisations can choose to pursue self-interest to the exclusion of all else and conduct themselves in a moral vacuum.

The rapacious behaviour that can arise in such circumstances and the absence of ethical leadership and good governance that has been evident amongst the senior ranks of SOE's in South Africa. In fact the Public Protectors Report into maladministration at SABC, the state broadcaster, is called "When Governance and Ethics Fail" (Madonsela, 2014:2). Equally distressing is the fact that, four executives were suspended from ESKOM, the electricity public utility, in March 2015. Only one was reinstated with the other three tendering their resignations after being suspended (Ensor, 2015). Denel, a manufacturer of Defence equipment, was unable to pay its suppliers because it had exhausted its cash reserves (DA, 2015). PRASA, which delivers commuter rail services in metropolitan areas, has according to the Public Protector, awarded tenders in an improper manner (Hunter, 2015). Serious concerns were raised and treasury had to intervene when SAA, the national airline, attempted to restructure a contract with Airbus that would have cost the carrier R1 billion in impairments (Steyn, 2015). At Transnet's Freight Rail (TFR) an audit report by PwC found prima facie evidence of a senior executive selling transnet intellectual property to private companies (Comrie and Mashego, 2015).

It is no surprise then that maladministration and corruption at SOE's is constantly being showcased in the press (Irvin, 2015; Lorimer, 2016; and Wild, 2016). And even less surprising that state, public and private organisations tasked with ensuring responsible and ethical conduct within these organisations have started to look closely at how ethical conduct in organisations can be promoted by its leaders.

ETHICS AND LEADERSHIP

A very different perspective on leadership, from the one put forward by Kruze, has been suggested by Joanne Ciulla. In her Introduction to her book Ethics, the Heart of Leadership, defines leadership as; "a complex moral relationship between people based on trust, obligation, commitment, emotion, and a shared vision of the good". Ethics, she goes on to state; "is about how we distinguish between right and wrong, or good and evil in relation to the actions, volitions, and characters of human beings." Most importantly she places ethics "at the heart of all human relationships and hence at the heart of the relationship between leaders and followers." (Ciulla, 2014:xv). Ken Parry and Ardun Fiskerud suggest that office bearers, whether political, social or commercial, are vested with power and that with the privilege that power confers ethics becomes a responsibility (Parry and Fiskerud, 2015:98). These perspectives of Corporate Social Responsibility accord with current thinking in South Africa.

ETHICS AND LEADERSHIP IN SOUTH AFRICA

In November 2012 addressing the second Daily Maverick Gathering Conference at the Victory Theatre, Johannesburg the Public Protector expressed the need for "ethical leadership to raise the bar regarding integrity in public sector service delivery". She went on to state that "Integrity applies with respect to both the manner in which people are treated and control over public resources and opportunities is exercised." (Madonsela, 2012). This has been a constant theme in her office with the Deputy Public Protector at the launch of the Anti-Intimidation and Ethical Practices Forum speaking 3 years later of an integrity management system for organisations that would have integrity controls that include rules, codes of conduct, ethical principles, etc. (Malunga, 2015:8).

In a recent speech at the 2016 Serious Social Investing Conference in Johannesburg, Chief Justice Mogoeng Mogoeng talked about ethical leadership as a 'national imperative'. He expressed the view that it was unethical leadership that led to forced removals, job reservation and the other ills of apartheid and that ethical leadership in the government and the corporate sector was needed to rectify the injustices of the past. He stated; "When you are a leader, you have the authority to influence those you lead and it is what you do that largely determines what those who follow you are likely to do." (Mogoeng, 2016). In these sentiments he is not alone. Ian Muir (Muir, 2015:3) makes the point that an organisations leadership's behaviour is vital to "setting the tone from the top". He asserts that; "Leaders multiply their contribution through their influence on others" and that it is this that makes employees report malpractice and request help or check before undertaking dubious acts.

ETHICAL LEADERSHIP AND BEHAVIOURAL CHANGE

However simply recognising that ethical leadership is necessary and even incorporating integrity systems, strategies and plans in organisations does not guarantee that a change in organisational culture will result. There is a recognition that what is needed is behavioural change; "Companies from Enron to The News of the World had a strategy. Unfortunately, the tone allowed a corporate culture to develop that ultimately overwhelmed any chance of the strategy succeeding. And that is why I believe behaviour trumps strategy." (Muir, 2015:3). Once it is acknowledged that behavioural change is at the heart of promoting ethical leadership the questions then becomes; how can organisations constrain behaviour? Rules and regulations although necessary are only found to be partially effective and corporate regulations, policies and laws have not eliminated unethical leadership. New financial reporting practices, regulations, policies and laws were put in place after the Enron collapse. Notwithstanding this the same behaviours were manifested during the global financial crisis (Branson and Gross, 2014:2). An even clearer statement is made by Elizabeth Stapp, Kevin O' Brien and Stephen Martin II (2012:120-129); "Laws can do only so much. While taking the cue from the new regulatory environment, executives nonetheless must choose the path of ethical leadership". So, what tools and mechanisms exist that can assist leaders to 'do the ethical thing'?

There is a point of view that puts forward a stakeholder framework as a useful mechanism to guide leaders to a recognition of their ethical responsibilities. According to Ken Parry and Ardun Fiskerud, there is a "consensus in the literature that the stakeholder framework is useful in the analysis of both the strategic and normative challenges faced by organizations. Furthermore, it appears that good relationships with stakeholders are vital to the success of corporations. Such a relationship is heading towards a new understanding of 'moral' and 'ethical' leadership." (Parry and Fiskerud, 2015:98).

Mervyn Conroy suggests an educational or training programs for leaders that will give them back their courage, reinvigorate them in their 'narrative quest' and in doing so assist them to articulate and achieve a clearer objective for themselves and their organisations (Conroy, 2015:165). Yet as Stephen Pepper identifies, courage, candour and conscience are too abstract and vague to give real practical guidance. Instead he redefines conscience as developing a moral intuition, candour as honesty with oneself and courage as having the self-confidence to trust that intuition. (Pepper, 2012: 19).

In addition to education and training, Cynthia Schoeman suggests a set of standards in the form of a code of ethics. The code should include the organisations "values, its code of conduct, and other supporting policies for ethics-related matters" (Schoeman, 2014:99). But she acknowledges that ethics needs to eventually move beyond rules and a largely rule based approach to be truly effective (Schoeman, 2014:203).

To summarise then, Corporate Social Responsibility is "a product of both compliance (legal and regulatory constraints) and integrity (the internal culture and self-regulatory environment)." (Seawell, 2012: 17). Seawell's 'legal and regulatory constraints' for Corporate Social Responsibility and ethical behaviour (Seawell, 2002:17) is provided by the Company's Act and Public Finance Management Act (PFMA).

THE COMPANY'S ACT AND PFMA

The Companies Act (2008) provides for the directors to act in good faith and for proper purpose of the company's "… best interest and with care, skill and diligence." The directors …may not use their position or knowledge obtained through their position to take advantage or harm the organisation". The Companies Act provides for information that may be considered to harm the organisation to be disclosed with a degree of urgency provided that there is no legal restrictions that precluded one from doing so. Directors should always make the necessary arrangements to be kept informed and when reasonably expected to do so may through consultation, of a "… competent employee, board committee or expert opinion" make or support a decision.

In support of the Companies Act (2008) the PFMA (1999) provides an obligation on directors "… protect the assets and records, act with fidelity, honesty, integrity…" in performance of their roles in managing the financial affairs of an organisation. In addition, director's must "… disclose to the minister when requested necessary information, and act in protection of the financial interests of the state…" Furthermore, directors "…may not contravene their board responsibilities or the terms of the PFMA, and must in addition to not using their position to benefit themselves or their families, recuse themselves when there is such a conflict of interest…" (SAAPAM, 2016)

King IV on the other hand provides guidance for the 'internal culture and self-regulatory environment' that Seawell (2012:17) identifies.

KING IV

The very drafting of King IV gives voice and substance to the theories discussed above; viz. that organisation's need to foster ethical behaviours for corruption and maladministration to be neutralised. Essentially, King IV is a determined effort by Institute of Directors South Africa to temper the privilege of power with the responsibility of ethics as recognised by Parry and Fiskerud above. The draft King IV report explicitly states that its objectives include to:

> *"promote good corporate governance as integral to running a business or enterprise and delivering benefits such as…an ethical culture….- present good corporate governance as concerned with not only structure and process but also an ethical consciousness and behaviour" (King IV, 2016:2)*

In clearly identifying its underpinning philosophy as addressing ethical effective leadership, it speaks of an ethical 'culture', 'consciousness' and 'behaviour'. In taking this approach it gives due regard to Muir's theory that suggests that an organisation's 'tone' is set from the top and it also embraces Mogoeng's view that the behaviours of leaders influence those that they lead. Although the draft makes no explicit reference to it, from its concerted focus on providing guidance to senior managers and leaders within organisations and its optimistic expectation that this will create an organisation wide ethical culture it can be deduced that the drafters are also hoping for the 'multiplier effect' that Muir asserted.

King IV develops each of the principles of responsibility, accountability, fairness and transparency in terms of how the governing body of an organisation should conduct itself to effect ethical leadership. It states;

> *"Responsibility: The governing body should assume ultimate responsibility for the organisation, as well as the protection of resources: financial, manufactured, human, social and relational, and intellectual and natural capitals.*
>
> *Accountability: The governing body should be held responsible for its decisions and actions by stakeholders. Accountability follows from the assumption or designation of responsibility. Governance structures and arrangements should connect responsibility and accountability. Accountability cannot be delegated or abdicated, and should be communicated clearly.*
>
> *Fairness: The governing body should ensure that it balances in its decisions the legitimate and reasonable needs, interests and expectations of material stakeholders of the organisation, in the best interests of the organisation.*
>
> *Transparency: The governing body should ensure that reports and disclosures enable stakeholders to make an informed assessment of performance, including the impact of the organisations activities and its ability to sustain creation of value. (King IV, 2016:3-4)*

In carefully explicating each of the principles it clarifies for organisations Madonsela's more general exhortation that an organisations leadership need to apply integrity to the management of people and resources.

King IV also provides some fundamental concepts that if embraced by organisations will start to create the context for cultural change and a commitment to ethical practices by reforming the way organisations set goals and objectives. It recommends that organisations redefine their focus away from short-term capital markets to long-term sustainable capital markets (King IV, 2016:14). It further suggests that they move from financial capitalism to inclusive capitalism (King IV, 2016:14) and extends the idea of integrated reporting that was introduced in King III to the concept of integrated thinking (King IV, 2016:10).

Like Parry and Fiskerud, King IV speaks specifically to the company's role and responsibility in society, corporate citizenship, sustainable development, and stakeholder inclusivity and responsiveness (King IV, 2016:14). Reinforcing Malunga's concept of integrity management systems with integrity controls that include rules, codes of conduct, ethical principles, etc., it recommends the establishment of a social and ethics committee that is able to address ethical behaviour and ethics management (King IV, 2016:17) and emphasises the critical role of stakeholders in the governance process (King IV, 2016:31). It even speaks directly to corporate codes of conduct and identifies the place of values with recommended practices (King IV, 2016:34) and the role of statements of vision and mission (King IV, 2016:4) in accordance with with Schoeman's support of a set of standards that is enshrined in the form of a code.

In general, King IV has incorporated all of the elements that are espoused by the theorists and practitioners canvassed above to create a set of recommendations designed to assist SOE's with the inculcation of ethical behaviours and practices.

CONCLUSION

King IV is a noble attempt to provide guidelines to any organisation that is committed to ethical leadership. For any organisation that chooses to do so King IV is a valuable resource as it provides much greater clarity than the previous King Reports and the Company's Act and Public Finance Management Act (PFMA) in how to instill ethical behaviors in leaders and create an ethical culture amongst the rank and file of organisations. It goes further than the previous King Reports by recognising and valuing the role and responsibility of leadership in manifesting and inculcating ethical behaviours in an organisation. It understands the importance of a behavioural change approach and how necessary it is that organisations establish a culture that supports and encourages ethical behaviours. However, as long as King IV remains a set of recommendations only, organisations are free to choose whether and at what pace they embrace these provisions, and therefore change, if any, may end up being more incremental than transformative.

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