

THE CORPORATE ENTERPRISE IN AFRICA: GOVERNANCE, CITIZENSHIP AND SOCIAL RESPONSIBILITY*

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The ultimate objectives of all societies are remarkably similar and have a universal character. They include political equality; social justice; human dignity; freedom from want, disease and exploitation; equal opportunities and high and growing per capita incomes, equitably distributed . . .

[African Socialism and its Application to Planning in Kenya; Government of Kenya; Sessional Paper no. 10 of 1965]

Introduction

While different societies attach different weights and priorities to these objectives, it is largely in the political and economic means adopted for achieving these ends that societies differ. The differences in means are of paramount importance because the ultimate objectives are never fully attained as a consequence of which we forever live in transition.

However, it is largely agreed that good governance is a fundamental building block of a just and economically prosperous society. This is as true for public governance as it is for corporate governance.

Corporate governance and corporate citizenship

The importance of good corporate governance

Business entities are critical actors in the economic, social and cultural development of all countries. Besides providing goods and services, they are a source of livelihood for many; pay taxes effectively enabling governments to operate; and have an impact on the physical and social environment. Indeed, it is increasingly evident that our continued prosperity as nations, communities, and ultimately as individuals is closely linked to our ability to create and maintain profitable, competitive and sustainable enterprises.

The management guru Peter F. Drucker writing in 1955 made the point that:

Modern industry requires an organization of basic resources which is radically different . . . the time-span of modern production and of business [investment] decisions is so long that it goes way beyond the life-span of one man . . . the resources have to be brought together in an organization which has to have a high degree of permanence to be productive at all . . . and resources, human and material, have to be concentrated in large aggregations. [The Practice of Management, Drucker, P.F. 1955]

Hence, that although society has always been loath to allow such permanent concentrations of economic power in private hands, it has in its best interests in the industrial society been forced to grant to the business enterprise that which it has always been most reluctant to grant:

- Firstly, a charter of perpetuity, if not of theoretical immortality to the “corporate legal person”.
- Secondly, a degree of authority to those entrusted to run the corporate business enterprise that corresponds to the needs of the enterprise.

Corporate governance is the system by which these entities are directed, controlled and held to account. It is concerned with the social, political and

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legal environment in which the corporation operates; the institutionalized processes, systems practices and procedures—the formal and informal rules—that govern the corporation; the manner in which these are applied and followed, the relationships and the extent to which these facilitate and provide support for the collective development and utilization of knowledge, technology, people and other resources to enable the corporation meet its objectives.

Undoubtedly, corporate governance primarily focuses on the leadership of corporate entities in whom the power of and power over corporations is vested. It addresses not just the conformance of directors to essential standards of fiduciary management but also with competitive performance and their capacity to ensure the long term sustainability, relevance and legitimacy of the corporate enterprise. Consequently, corporate governance seeks to promote:

Leadership for efficiency and effectiveness: Leadership for improved strategic and operational guidance of corporate enterprises to ensure efficient and sustainable use of entrusted resources and competitiveness in the liberalized global market.

Leadership for probity: Leadership that is honest, trustworthy and with integrity such that it commands respect and credibility and hence can be trusted to use resources efficiently and effectively.

Leadership with responsibility: Leadership that takes its responsibility to the various stakeholders seriously and which is responsive to the needs of stakeholders and the community.

Leadership that is transparent and accountable: Leadership that has nothing to hide, and which accounts transparently for the use of power and resources entrusted to it in the interests of the corporation and society.

Leadership with focused intelligence: Leadership with the ability to effectively navigate today's knowledge economy; acquire and apply knowledge and knowhow for the benefit of the corporation and society.

Society, the corporate entity and the licence to operate

Society is not just the environment of the corporation. The corporation operates in society, on the basis of the licence granted to it by society, for society. Even the most private of private enterprises is a licensee of society.

Society in granting the corporation the licence to operate undertakes to provide a conducive environment that will enable the corporation to operate effectively and meet its objectives. In turn, it expects directors to assume responsibility for ensuring that the corporate enterprise acts in the best interests of society.

History is witness to the fact that the society will act to wrest back the licence granted to the corporation to operate within it if the power so granted is

abused. Early abuses of corporate power by corporations such as the British East India Company and the excesses of laissez-faire capitalism during the industrial revolution spawned communism and socialism. These were essentially attempts to bring private economic power under the control of the state in a bid to effect social justice. However, various degrees of state control over economic, social and cultural life were tried and found wanting. Society is gradually moving back to giving the private enterprise a greater role. However, the society is making stronger demands for good governance of the corporations.

The corporation as a member of society

In Kenya, as is the case in almost all other countries, no less a law than the constitution prescribes the fundamental rights and freedoms of the person. These fundamental rights and freedoms include:

- The right to life, liberty, security and the protection of the law
- The freedom of conscience, expression, assembly and association
- Protection for the privacy of home and other property and protection from deprivation of property without compensation.

These provisions of law have effect for the purpose of affording protection to those rights and freedoms subject only to such limitations of that protection as may be contained in the law being limitations designed to ensure that the enjoyment of those rights and freedoms does not prejudice the rights and freedoms of others or the public interest.

It is largely agreed today that there is a strong parallel between the position of corporate entities and individuals in society. In law, unless the context so demands or the law specifically excludes it, the artificial person—the corporation—enjoys the same rights and carries the same obligations as the natural person.

Corporate citizenship has a second perspective. The world today is connected less by a world court or the United Nations and more by international corporations, financial and communication systems. Technological developments in the last few decades have bound together, economies, nations and individuals into a global society. Corporations as members of this society, operate in, affect or are affected by the entire global society. Citizenship is thus not specific to the immediate society in which they operate but the wider international society that constitutes their investors, clients, consumers, suppliers and even employees. Corporations are global citizens.

The role of the corporation in society

The corporations of today are no longer sheer economic entities. They are the engines of economic and social transformation. [Dr. Madhav Mehra, Chairman of the World Quality Council

has in an Article “National Resurgence Through Corporate Governance.”]

The corporation has an obligation to mobilize resources and employ them both creatively and efficiently to expand the economic capabilities of the society and improve the quality of life.

The first and primary responsibility of the corporation is to produce and create wealth so as to assure the future. Drucker sums this up beautifully when he states that the basic responsibility of the corporation is to turn a social problem into an economic opportunity and economic benefit, into productive capacity, into human competence, into well paid jobs, into wealth. He further notes that if this responsibility is not met, no other responsibility can be met.

Second to creating and producing wealth, the corporation is responsible for building social and economic conditions which promote the development of the person and the well being of the society. The licence to operate granted by the society to corporations requires that they not only generate economic value but social value also. Corporations thus are expected to employ their unique competencies and draw on their often substantial resources to provide solutions to social problems.

The corporate citizen in the African context

The licence to operate and African mutual social responsibility

The practical implications of corporate citizenship as well as the manner of economic, social, and cultural engagement by corporations will differ from business to business; country to country; and region to region. It will be influenced strongly by social and cultural practices of the societies in which they operate. In Africa, corporate citizenship must be viewed against the backdrop of the concept of African mutual social responsibility.

African mutual social responsibility is an extension of the African family spirit to the nation as a whole. It implies a mutual responsibility by society and its members to do their very best for each other with the full knowledge and understanding that society cannot prosper without the full cooperation of all its members.

If society prospers, however, its members share in that prosperity. Every member of the traditional African society had a duty to work. The society on the other hand had the power and duty to impose sanctions on those who refused to contribute their fair share of hard work.

While the modern economy is more complex than the traditional society, the principle still applies. All members of the modern state must contribute willingly and without stint to the development of the nation.

Society in turn will reward these efforts and at the same time take measures against those who re-

fuse to participate in its efforts to grow. The state on the other hand has an obligation to ensure equal opportunities to all citizens, eliminate exploitation and discrimination and provide the social capacity for development. It must in partnership with society and the corporations which operate in it provide a conducive environment for investment.

The good corporate citizen in the African context

Like individuals, corporations have choices about how they go about their business. What approach they take to labour and customer relations for example, their attitudes towards the environment and quality.

Good corporate citizens are those who in fulfilling their primary obligation as the wealth creating and wealth producing organ of society, act responsibly and willingly acknowledge and work in tandem with the societies in which they operate. These are corporations that inter alia:

- Respect the rights and freedoms of others as enshrined and preserved in the constitution and the laws of the land
- Act in the best public interest ensuring that the nation’s productive resources are employed and used effectively in the best interests of the society and its members
- Refrain from doing anything that would injure or damage the environment, the peace, security or stability of the nation or society.

Good corporate citizenship does not impose any onerous burdens on the corporation beyond that which it imposes on the individual citizen.

Corporate citizenship has three distinct manifestations.

First and foremost are the basic values, policies and practices of the corporation. The real power of a corporation to affect society lies in its primary purpose as the wealth creating and wealth producing organ of society—primarily how it goes about this; the extent to which it achieves this; and the extent to which its practices impact either positively or negatively the society in which it operates. Good corporate citizenship also implies meeting, within reason, the expectations of all stakeholders.

Essentially, this is with a view to maximizing a corporation’s positive impact and minimizing its negative impact while providing a competitive return to its investors.

In the words of Felipe Alfonso, President, Asian Institute of Management, good corporate citizenship implies the corporation taking on responsibility for social issues: reconciling the self-interest of corporations and its stakeholders with the broader interests of society. It implies a company’s responsibility to produce useful goods and services, to operate legally, to act ethically and be concerned about the public good.

While it is largely accepted that the primary purpose of corporations is to create and produce wealth, corporations today are called upon to demonstrate that they have a role and value beyond this. That they must address social issues. This is the basis of corporate social responsibility, the second critical aspect of good corporate citizenship. There are a variety of ways in which corporate social responsibility can be expressed.

Some companies for example run programmes in a concern that is aligned with specific business goals. The company's social initiatives are driven to support particular sectors of society such as target markets, or pursue shared concerns like environmental protection, education and livelihood. Many companies have also integrated employee volunteerism into their programs.

Other companies focus their giving programs on the communities that surround their sites. Such companies essentially believe that they must be good neighbours and must participate in making their communities functional and livable. Aside from providing basic services and livelihood projects to the host communities, these companies also participate in building local consensus groups to plan further development.

Corporate social responsibility

Corporate social responsibility has been variously defined. The Commonwealth Association for Corporate Governance defines it as the distinctive contribution a company makes to the advancement of society or alleviation of social concerns, usually through some form of investment in partnership with the community which may include government. The US-based network 'Business for Social Responsibility' adds that it is operating in a manner that meets or exceeds the ethical, legal, commercial and public expectations that society has of business.

The Philippine Business for Social Progress identifies the genesis of corporate social responsibility as the recognition that the most valuable resource in any country is the person; that the growth and vigorous development of private enterprise must be anchored on sound economic and social conditions; that the higher purpose of private enterprise is to build social and economic conditions which shall promote the well being of the community.

The Foundation recognizes that private enterprise is financially and technologically equipped to participate actively in social development in terms of scientific technology and managerial competence and that private enterprise, together with other sectors of society, shares obligations and responsibilities which it must discharge to the community.

The members of the Foundation thus pledge and set aside one per cent of the preceding year's net profit before tax for social responsibility activities out of which 20 per cent is administered by the Centre.

Challenges in ensuring good corporate governance

The growth of ethical consumerism is fuelling the issues of corporate citizenship and corporate social responsibility. The importance of these issues is bound to grow in leaps and bounds. Corporations competing in the global market are now using added values such as environmentally sound practices and focus on quality as a means to gain new markets. Consequently, good corporate governance encapsulating the issues of corporate citizenship and corporate social responsibility are reflecting more and more on the bottom line of corporations.

The challenges to corporate governance in Africa include:

- *Diversity of Nature of Business Enterprises in Africa.* Africa has a great diversity of business enterprises including public, private, cooperative and community-based enterprises; myriad social enterprises such as schools, hospitals and local authorities. While the fundamental principles of corporate governance are universal, the practical implementation will differ. Consequently, a primary challenge to corporate governance in Africa is setting standards that are specific to the great diversity of enterprises.
- *Complexity of the Ownership Structure.* African economies are dominated by public sector companies and family owned and managed conglomerates usually in the hands of the political elite. This business environment lacks the elements needed for a competitive market and a culture of enforcement and compliance. Inadequate competition policies entrench large dominant firms, prevent new entry, and discourage entrepreneurship.
- *There are few widely held publicly traded firms.* The few that there are have been created through mass privatizations without the legal and institutional structures to operate in a competitive market economy.
- *Short termism.* A great challenge to good corporate governance is the short term nature of response by companies to perceived shifts in trends and expectations. Good corporate governance necessitates a long-term commitment to effect the reforms within the corporate structure and culture without undue concern for the short term play of market forces.
- *Weak Legal and Regulatory Systems.* By and large, disclosure requirements are insufficient and there is inadequate protection of shareholders. At the same time, outdated companies, contract and bankruptcy laws and processes impede efficient operation and orderly exit. To further compound the problem, judiciaries are poorly equipped and insufficiently manned. Enforcement of the law is uneven and often selective reflecting a critical shortage of skills and often abuse of power.

- *Poor public (political) environment where institutions are absent, underdeveloped and/or ineffective.* There is a heavy state presence in both the real and financial sectors. Poorly regulated banking institutions direct credit to privileged firms on subsidized terms and 'crony lending' especially where government has majority ownership is pervasive. The economy is dotted with private conglomerates characterized by insider dealings that result in the excessive concentration of ownership, over-reliance on debt financing, high leveraging and in many cases, investments in marginal or speculative projects.
- *Small and Volatile Financial Markets.* Securities markets on the continent are typically small and volatile. Trading volumes and liquidity are low. There are few long term debt instruments. Rules are opaque and compliance is low. Institutional investors who are best placed to demand good corporate governance are few and prefer to vote with their feet contributing to the volatility. This in turn has hindered the growth of pension and mutual funds.
- *Limited Human Resources.* There is a paucity of well trained professionals at all levels and a poor work ethic.
- *Dependency Syndrome.* The principal role played by the government in Africa has resulted in the people waiting upon the government to provide.
- Strengthening of initiatives such as the Pan African Consultative Forum on Corporate Governance which will facilitate cooperation and exchange of best practices throughout the region.
- Developing working relationships between initiatives focusing on corporate governance and others where there is a commonality of interests such as professional associations so as to exploit synergies with a view to developing and effectively enunciating corporate governance principles.

As Gopalsamy notes in his book *Corporate Governance: The New Paradigm*, more than ever before, business enterprises are required to gear up to exploit the global market opportunities as well as defend and increase their domestic shares in the liberalized environment. The various measures of liberalization have meant greater reliance on market forces. The globalization moves call for a new type of business enterprise. One with a global mindset, world business vision and strategic freedom that is highly networked.

Globalization is hence very much a reality.

Unfortunately, so is the increasing marginalisation of Africa. In a 1991 paper titled *Africa and the World: Africa on its own* Ndegwa observes that in the case of Africa, especially Sub-Saharan Africa, there is no doubt whatsoever that the process of marginalisation of its countries in the world economy is now active and proceeding apace. He goes further to state that this marginalisation which is negative, unfortunate and not in the interest of the international community continues relentlessly and on certain assumptions seems set to accelerate during the 1990s.

The consequence of globalization and the marginalisation is deepening poverty in what is already by far the poorest region in the world manifested in widespread unemployment, political instability and other economic and social hardships. This situation makes the adoption of internationally recognized good corporate governance principles both urgent and imperative.

In this context, corporate governance and social responsibility should become the philosophy of business enterprises in among other things setting standards of quality and integrity; respecting the physical environment by using and managing all resources including air, water and forests sustainably; recognizing the dignity and worth of all their employees and the people in their communities; and innovating to meet unfulfilled needs of the society. In summary, business enterprises must fulfill their social obligation by doing the things they are in business to do and doing them well.

This will in turn build public confidence in the business enterprises such that not only will local investors invest in the business enterprises, effectively putting a stop to outflows of funds from Africa, but that the business enterprises will be able to hold their own in the global financial markets. As Mervyn King, Chairman of the King Committee rightly observes, 'We as Africans have to accept

Addressing the challenges

This will involve:

- Legal and policy reform
- Developing systems for monitoring and evaluating compliance with good corporate governance practices and strengthening the incentives for good corporate governance. This demands that at least in the short term, the society be prepared to recognize, acknowledge and reward good corporate governance.
- Developing and improving institutions that have the capacity to implement and enforce best practices including regulators particularly in the financial sector and self-regulatory organizations.
- Developing and adopting supervisory arrangements that effectively place risk management responsibility with the Board of Directors instead of passing the same to the supervisory agencies.
- Establishing well regulated, well functioning and competitive capital and financial markets which provide a disciplinary mechanism.
- Updating and strengthening the legal, judicial and tax systems
- Building capacity by upgrading the capabilities of the existing leaders of business through advocacy, awareness raising and training and preparing the next generation of professionals by introducing the subject of corporate governance into education programmes at all levels.

serves, 'We as Africans have to accept willingly or unwillingly that we are members of a borderless world. Capital flows do not have regard for the differences of corporations and trading entities and where they trade.'

Promoting and enhancing good corporate governance in Africa through initiatives such as the PACFCG and NEPAD

Africa's immediate challenges are how to reverse the persistent and increasing poverty, declining productivity in the real sectors and unemployment, improve the quality of infrastructure and create a more attractive and conducive environment for investment. The challenges posed by globalization, erratic weather patterns, insecurity and global competitiveness spearheaded by advances in informatics and telecommunications compound the ability of the African economies to respond to domestic and external challenges and opportunities.

Nevertheless, Africa is endowed with substantial natural and human resources. What is required is the effective mobilization and use of the resources. What Africa requires is a critical mass of efficient, competitive and sustainable enterprises to constitute a thriving private sector to drive growth.

For enterprises to be efficient, competitive and sustainable, good corporate governance must become the philosophy of corporations. Good corporate governance among other things sets standards of quality and integrity; respecting the physical environment by using and managing all resources including air, water and forests sustainably; recognizing the dignity and worth of all their employees and the people in their communities; and innovating to meet unfulfilled needs of the society. Good corporate governance will ensure that corporate entities provide not just economic value but also social value—that they truly become the engines of economic and social transformation. This will build public confidence in the corporations and attract both local and foreign investment. As Mervyn King, Chairman of the King Committee rightly observes, 'We as Africans have to accept willingly or unwillingly that we are members of a borderless world. Capital flows do not have regard for the differences of corporations and trading entities and where they trade.'

Good corporate governance including the concepts of corporate citizenship and corporate social responsibility will be most effectively realized through national initiatives coordinated at a regional level. Through initiatives such as the Pan African Consultative Forum on Corporate Governance and the New Partnerships For Africa's Development (NEPAD). The former is a forum, primarily to raise awareness of the need to build consensus for the support of local, regional and global initiatives in corporate governance as they affect Africa in order to bring about a coalition for economic reform that will strengthen financial and economic systems in Africa as part of the international infrastructure. The Forum also seeks to establish a platform for dialogue on corporate governance in Africa to lend support to regional and country efforts; develop and promote mechanisms for the coordination and exchange of information and experiences and facilitate mechanisms to coordinate and promote training, research and development.

NEPAD on the other hand is a pledge by African leaders to find homegrown solutions to Africa's problems while calling upon the rest of the world to complement our efforts. It is a call for a new relationship of partnership between Africa and the international community to overcome the development chasm that has widened over centuries of unequal relations. NEPAD will strongly augment regional initiatives such as the Pan African Forum for Corporate Governance.

Conclusion

Mark Goyder, director of the Centre for Tomorrow's Company makes this simple but clear distinction. That directors owe their duty to the corporation; are accountable to their shareholders for the discharge of their duty; and are responsible for the impact of their actions upon stakeholders. The observation by Goyder is the essence of good corporate governance.

Successful societies will in future be the ones that are able to integrate the State, the private and public sectors and civil society in achieving the common good. For the ultimate social and economic transformation of Africa, corporations, government, civil society, individuals and the society as a whole must respond to the challenge to be good citizens in the meaning of African mutual social responsibility.