

THE COMPANY SECRETARY'S ROLE IN CG: PRIVATE AND PUBLIC OWNED SOUTH AFRICAN COMPANIES

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Abstract

This study investigates the role of the company secretary in ensuring and promoting proper Corporate Governance (CG) in public and private owned South African companies, so as to educate companies on their significance in reducing corporate scandals. The study followed a mixed research paradigm in which qualitative and quantitative methods of data collection were used. Fifty questionnaires were sent to company secretaries of different business sectors giving a response rate of 78% with four of the participants telephonically interviewed to gather qualitative data. The study confirmed that the company secretary still plays a significant role in promoting CG by giving support and advising the board and its directors on CG matters. The results further show that some company secretaries are involved in director selection, performance evaluation and implement induction, training and/or professional development to strengthen the company's governance practices. Through the use of the Companies Act and the Kings report the company secretary ensures directors are kept abreast of relevant legislative and regulatory developments. It was observed that the company secretary ensures good information flow between the board, directors and stakeholders and keeps record of all conflicts of interest. Though the company secretary is appointed by the board they can whistle blow any misconduct under the protection of the Protected Disclosure Act, thus ensuring effectiveness of their role. Despite the fact that some of the company secretaries are facing challenges due to the ever evolving and increasing complexity of their roles, there has been evolution with regards to legislation, greater transparency, better governance and improved investor expectation. This study enriches company secretaries with knowledge of their expected role in CG.

Keywords: King Report, Companies Act, Board of Directors, Stakeholders, Shareholders

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1 Introduction

In contemporary business practice, company secretaries are increasingly involved in CG (CG) responsibilities in addition to the traditional administrative tasks (Peij, Bezeemer and Maassen, 2015). According to Peij et al (2015), there is scanty information about company secretaries' changing governance role, and their daily challenges in liaising with boards and other stakeholders. Samaduzzaman et al (2015) argues that CG entails an internal system that is championed by a company secretary that includes processes, policies and people that serve the requirements of shareholders as well as other stakeholders by controlling and directing activities by the firm's management with good business objectivity.

Of late South African companies have been on the fore on corporate scandals that exposed the role company secretaries play in carrying out their mandate. To this end CG has dramatically deteriorated as individualism and self-interest took precedence over company's interests and objectives. Many of the board members in companies lack

integrity, honesty, reliability and a willingness to disclose conflicts of interest (Gupta, 2015). For example, Telkom lost millions of dollars and Fidentia lost R1 billion due to embezzlement of funds by some of the directors (Badenhorst, 2012). The huge CG responsibility of company secretaries in South Africa was dramatically brought to the fore in late 2004 when a R647 million writ of execution was served on Alan Hiscock, the former company secretary of Macted in his personal capacity, for his role in the demise of the healthcare firm (Naidoo, 2009). Over recent years, responsibility for developing and implementing processes to promote and sustain good CG has fallen largely within the remit of the company secretary. The company secretary forms an important link between the board of directors and various other departments in the company and ensures good relations with the shareholders and the public (Gupta, 2015).

Peij et al (2015) illuminates on the main activities of company secretaries as supporting board meetings, and contributing to the annual general meeting and the annual report. However emerging research suggests a changing role as secretaries are

rapidly evolving to be more involved in strategic tasks that go beyond mere administrative support activities (Samaduzzaman et al, 2015)

According to Gupta (2015), “CG boils down to putting in place the structure, processes and mechanisms by which business and affairs of the company or firm are directed and managed in order to enhance long term shareholder value through accountability of managers and enhancing firm’s performance”. Samaduzzaman et al (2015) provides a similar view as he reiterates that CG includes the structures, processes, cultures and systems that engender the successful operation of organizations. Thus, from a global perspective CG is the foundation on which business operates, bound and guided by these codified aspects, ensuring that businesses operate sustainably in an environment that enables potential and current shareowners to invest and remain confident. In the thick of all the expectations of CG, lies the company secretary. A company secretary is defined as an Officer of a company appointed by the directors of a firm responsible for ensuring that the firms’ legal obligations are complied with (Gupta, 2015).

Though studies by Lawton and Tyler (2001) and Monsted and Harside (1991) cover the specific role of the company secretary they do not explicitly show the CG aspect. However, some studies have been conducted globally on the company secretary with respect to CG by authors such as, Lee (2009), Lockman (2011), Tricker (2012), Maina (2012) and Filiz (2013). Studies on the role of company secretaries in ensuring compliance to CG in South African companies are scant with Schalkwyk (2007) being the only definite reference carried out a survey on company secretaries in JSE listed companies. Hilb (2011) notes that the importance of a company secretary has been largely underestimated in research and practice. This statement receives support from many sources such as Cadbury (2002) and Roberts

(2002) as they argue that the value of the company secretary’s post is too often overlooked. The majority of publications that cover the role of the company secretary are published by the profession’s qualifying bodies, such as the ICOSA in South Africa and UK which are mainly updated duties and responsibilities of company secretaries in alignment with the development of statutory and regulatory requirements.

Absence of adequate information and lack of knowledge to educate companies on the importance of the role of the company secretary in CG has motivated this research. Company secretaries are a requirement and not limited to public companies as they share legal responsibilities with the directors for certain tasks required by the Companies’ Act, No. 71 of 2008. The objectives of the research are thus to investigate the role of the company secretary in ensuring CG by directors, in different company structures, and in its interaction with the external business environment and to study the challenges faced by the company secretary in executing his/her CG role. This research assess the effectiveness of a company secretary in enforcing company CG against the background that he/she is appointed by the board of directors which he/she is responsible and accountable to in guiding and ensuring compliance to CG.

The Companies Act, No. 71 of 2008, the King reports and the JSE Listings Requirements consist of the recommended roles and attributes of a company secretary in South Africa. This study investigates the practical use of the theoretical roles of the company secretary i.e. to play a central role in the governance and administration of a company’s affairs, with particular responsibilities in three main areas: the board, the company and the shareholders (Mahony, 2012).

2 History of company secretary and CG

Table 1. History of the company secretary (Sources: Barton, 1841; Cadbury, 1992; Armour, 2012)

Year	Company Secretary
1841	Early appearance of company secretary in English law case reports from 1841 onwards. Duties were to advise the directors and attend meetings.
1856	The origins of the company secretary begin in the UK with the Joint Stock Act of 1856. Position held no responsibilities or duties
1948	Companies Act of 1948 recognised the company secretary as an officer of the company alongside the directors. There were no specific duties; however, the company secretary was authorised to sign prescribed forms on behalf of the company and make statutory declarations on fact matters.
1968, 1970, 1971	Company secretary recognised as a responsible officer under a succession of Acts including the Trade Descriptions Act 1968, Taxes Management Act 1970 and Unsolicited Goods Act. 1971. The company secretary was formally noted as the ‘chief administrative officer’.
1980	Companies Act 1980, required company secretaries of public companies to be qualified either by professional qualification or by prior experience.
1992	The key role of company secretaries in good CG was recognised in the Cadbury report.

3 Relation of CG to company secretary’s role

The company secretary is an officer of the company with considerable authority in the administrative area with powers and duties derived from articles of association and the Companies Act (Kang, 2005). As commented by Thambimuthu (2007) a board seeks a company secretary’s advice in relation to regulations and compliance derived from regulatory bodies such as Securities Commission and Bursa Securities. Thus, it is a company secretary who ensures that directors and companies comply with the various requirements of legislation and statutory bodies in respect to CG requirements, practices and effective board processes. This specialized role of modern secretaries has emerged to position them as one of the key governance professionals within the organisation.

Hopkinson (2000) comments that company secretaries are well placed to take on responsibilities as CG monitors, since they already fulfil compliance functions and their presence on company boards makes them privy to the highest levels of corporate strategy. In 2006, Wolpert goes further and describes the company secretary in general as the CG knowledge manager. The dynamics of the boardroom are changing and companies are realising that they need specialist skills and technical knowledge in this area and are looking to company secretaries to provide this expertise. The company secretary can assist and add value in organisational governance, supporting the chairman, board and committee processes, board development, communication with stakeholders and disclosure and reporting. This study will equip the company secretary with skills to close all loopholes that can result in improper CG behaviour in companies as it explores their role in CG matters.

4 Research methodology

There are over 500 public and private owned South African companies. Fifty companies were selected using purposive sampling through the availability of the company secretary and the respective industry representation for the study. Fifty questionnaires were sent via email to companies and 39 company secretaries responded from 18 business sectors (Table 2), giving a response rate of 78%.

Total response rate

$$= \frac{\text{Total number of responses}}{\text{Total number in sample}} \\ = \frac{39}{50} \times 100\% = 78\%$$

The population consisted of 97% corporate organisations of which the majority were holding companies. The data was collected in two phases. The first phase was through research questionnaires filled in by the participants so as to investigate and evaluate the role of the company secretary in relation to CG and other duties, the requirements for one to be a company secretary, governing practices and reporting structures. These results informed the design of questions for telephonic interviews. Four company secretaries from the pool of 39 were further interviewed telephonically to obtain qualitative data. The criteria used to select the four company secretaries was determined by the availability of the individual.

4.1 Hypothesis

- Company secretaries in South African companies are aware of their role in CG.
- The company secretary plays a significant role in enhancing CG practices.

Table 2. Business sectors of company secretaries that responded

Line of Business	Frequency	Line of Business	Frequency
Construction	2	Education	2
Consumer Goods	4	Consultancy	1
Energy - Oil and Gas	3	Security	1
Financials – Banks, Insurance	5	Manufacturing	2
Retailing	4	Entertainment	1
Hospitality/Leisure/Tourism	2	Industrial goods	1
Transportation	2	Media and advertising	1
Telecommunication	2	Medical related	2
Mining	2	Technology	2
Total		39 participants	

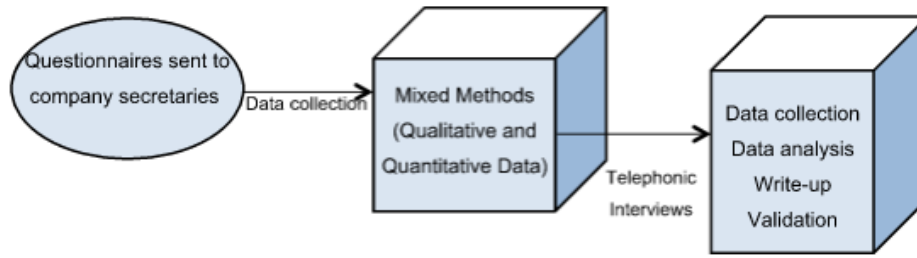
5 Research design

This study was undertaken using a mixed approach involving both qualitative and quantitative research to eradicate restriction of data collection when only using either the quantitative or qualitative research

method. Qualitative and quantitative data was obtained through the use of questionnaires. Additional qualitative data was obtained during telephonic interviews. Whereas quantitative research refers to counts and measures of things, qualitative research refers to meanings, concepts, definitions,

characteristics, metaphors, symbols, description of things and observing what people do or say (Anderson, 2000). The research followed the below diagrammatic form:

Figure 1. Framework of the research design



The role of a company secretary is a highly sensitive subject and through the use of questionnaires, most participants remained unidentified, as the section for putting an individual's details was optional. This helped in the response rate to the study. The questionnaires were administered and distributed electronically by the researcher and through other people currently practicing in the field. However, this had limited effect on the validity and reliability of the data. More sensitive questions were discussed using the telephone medium. This assisted in digging of more information (Puebla, 2006). The SPSS statistical program and Microsoft Excel were used to compute, sort, process and present the collected data. All the data was tested at a 0.05 level of significance. No assumptions were made as regarding the distribution of the population.

gender effect in their role execution. The sample indicated that, the company secretarial position is a senior one which requires more experienced individuals who can handle corporate and company issues at a higher level. The study results indicated that for someone to be a company secretary, they need more than 4 yrs. experience working within a company secretarial framework. From the frequency statistics the largest frequency group of respondents was between 41 and 60 years and was 84.6% of the population. This indicates a maturity level that is required to handle company matters after having obtained various exposures from different business functions and environments. The majority of the company secretaries are considered to be part of the company's senior management.

6 Results and analysis

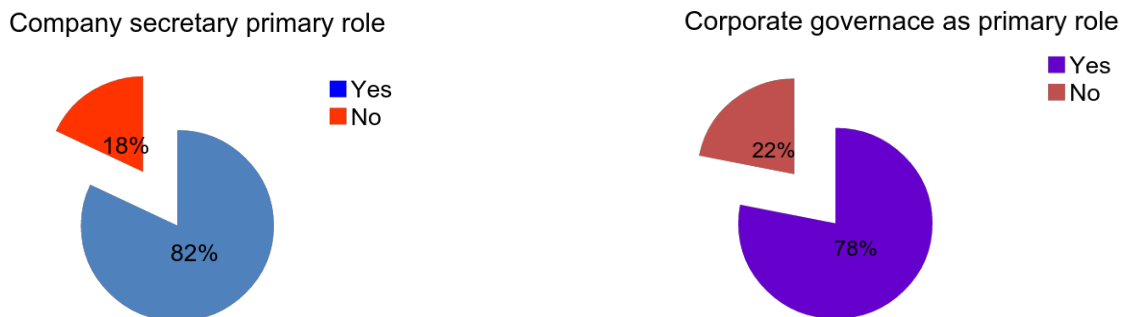
6.2 Company secretary and CG as primary role

6.1 Sample attributes

According to Figure 2 (a) 82% of the participants have company secretariat as their primary role and Figure 2 (b) highlights that the company secretaries are the gate-keepers of CG: 78% have CG as primary role.

The population studied had a well balanced ratio of females to males with slightly more males, 51.3% of the respondents. The company secretaries stated that they are given equal opportunities. Thus, there is no

Figure 2 (a) and (b). Illustration of company secretary's primary role



This shows the growth in the significance of the company secretary role in organizations from being taken as gap filler to becoming key and fundamental to the organisation operations. However, there is room

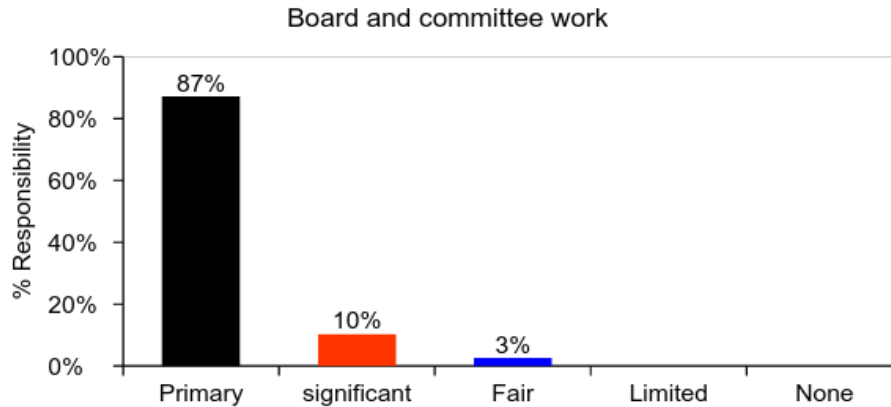
to cement this role in companies that do not have the company secretariat role as a primary one.

6.3 Board and committee work

The company secretaries indicated - as per the research results - that 87% have primary commitment to the board and committee work, 10% said they have significant work and 3% said they have fair responsibility to the board and committee work. There were no participants that had limited or no board and

committee work responsibilities. As CG is an evolving aspect in different organisational levels of a company, the company secretary's involvement in different committees as indicated in Figure 3 helps the company in ensuring that all the CG matters are dealt with accordingly at all levels.

Figure 3. Work responsibility to the board and its committees

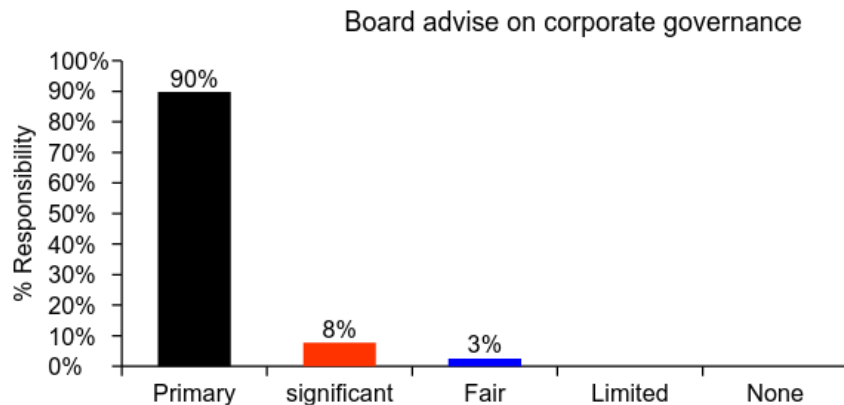


6.4 Company secretary's advisory role

Ninety percent of the participants indicated that they advise the board, chairman and all directors of the company as a primary responsibility, on matters relating to compliance obligations under the law, i.e. the good CG practices illustrated in Figure 4. According to the King III report (2009), all directors should have access to the advice and services of the company secretary. In 2012, Kneale stated that this is in line with the current requirements of the Companies Act, No. 71 of 2008 and JSE Listings. The

commercial acumen and strategic skills of company secretaries as indicated in the study came out as key to allow them to give adequate advice strategically. Some of the company secretaries that attend board and committee meetings provide the board and directors, collectively and individually, with guidance on the execution of their governance role. The fact that company secretaries sit in all board committees enables them to have a holistic and an all-encompassing view of the company's CG matters, hence they can correctly advise the board.

Figure 4. Company secretary board advisory role



The population survey also indicated that most of the company secretaries are involved in providing advice on CG issues, benchmarking/best practices, legal issues, business decisions and regulatory changes. Therefore, it is important to ensure that competent persons are appointed. There is a low score on their role on cross border regulatory issues, anti-money laundering issues and corporate social responsibility (CSR) and tax issues. Globally,

according to the survey done by KPMG in 2011, 95% of the companies globally report on CSR. According to the study result, it is observed that the company secretaries have about 69% responsibility on CSR issues in companies; this leaves SA with a mammoth task to rise to the set standard. The results showed that 87% of the company secretaries are involved in environmental issues. This result can be improved given the global movement towards sustainability

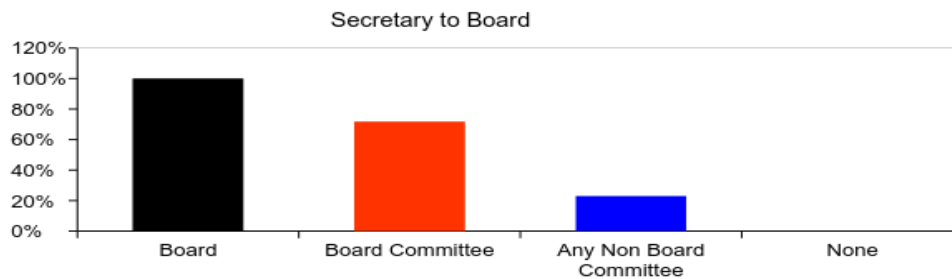
reporting (King III, 2009). The survey showed that only 59% of participants are involved in anti-money laundering matters yet the company secretary would play an important role in such issues by keeping a watchful eye. It is recommended that company secretaries have hands on participation on tax issues as it has implications from a legal and CG perspective on the company's operations including filing of tax returns.

6.5 Company secretary to other boards

All the company secretaries in the survey serve as secretary to the board, and some company secretaries

serve other committees in addition to the board illustrated in Figure 5. The main critical one being the board, followed by board committees with a score above 70% from the survey results and less than 30% in other non-board committees. The board committee includes the nomination, remuneration and/or audit committee. The non-board committees include the risk, governance, and legal committees. This promotes good governance practices in the company as a whole.

Figure 5. Company secretary who serve as secretary to the Board and other committees



6.6 Director's performance evaluation in relation to CG

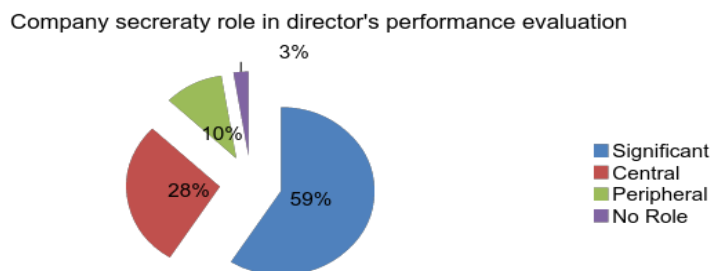
The findings show that 59% of the company secretary's role in ensuring the director's evaluation in relation to CG is significant, whilst 28% of the population state that their role is central (Figure 6). The minority of the company secretaries (approximately 13%) of the company secretary's role is peripheral or plays no role in ensuring the director's performance evaluation. Under the background that the company secretary is appointed by the board of directors and has a mandate to the board, it enhances CG in companies by having again the company secretary evaluate the board of directors' performance. However, a 59% participation in that area is quite commendable.

To ensure that the director's performance evaluation process is done according to the CG framework, the company secretary monitors the internal and external assessment to ensure transparency. The Company secretaries interviewed, highlighted that they monitor self-assessment and peer assessment tests undertaken by the directors. The

company secretary may utilise questionnaires or interviews to assess board or individual directors. This increases accountability.

The telephonic interviews emphasised that board members are assessed on solid understanding of their responsibilities under all relevant legislation, expectations of the government of South Africa and the environment under which corporations function. The Board members are assessed on the fulfilment of their responsibility for the stewardship of the corporation and on whether they act in the best interest of the corporation and promote the highest standards of CG. The company secretary recommends directors' training and development, were training is needed and how it can be accomplished. The training increases productivity and contributes to better decision making. If a director is incompetent, the company secretary does not recommend them for re-election. If a director abuses his/her directorship powers, lacks CG principles and refuses to refrain from such activities, the company secretary can whistle-blow on the director so as to protect the company from corporate scandals.

Figure 6. Company secretary role in ensuring directors' performance evaluation



6.7 Role in directing board on CG

Table 3. The role of company secretary in directing the board on CG issues

	Yes	No	No answer
Number of company secretary	34	2	3
%	87%	5%	8%

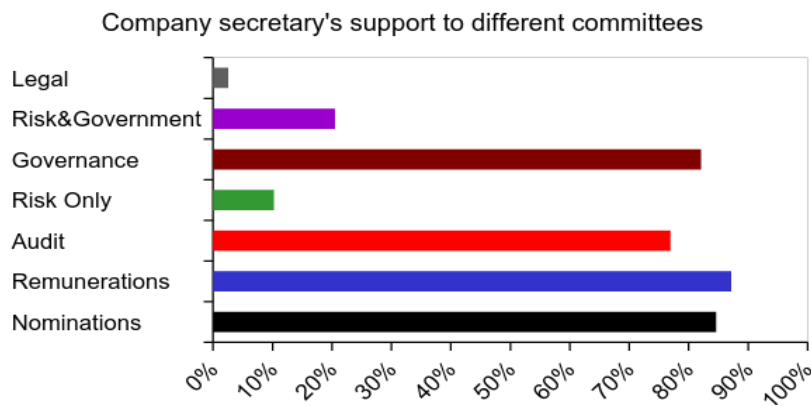
The results of the survey show that 87% of the participants indicated that they have a role in directing the board on CG related issues.

6.8 Providing support to different committees

In the survey, it was observed that the company secretary provides services to key critical committees in the company's corporate structures, that is, governance, nominations, remunerations and audit committees illustrated in Figure 7. King III report

(2009) highlights that all companies should have audit and remuneration committees and the results show that the company secretary provides secretarial support to them. According to the results, there is little service provided to the legal committee which indicates that there is still room for the legal issues to have strong support from the CG role of the company secretary. This could also indicate that many companies have a legal department operating separately from the company secretary's job.

Figure 7. Committees which the company secretary provides support to

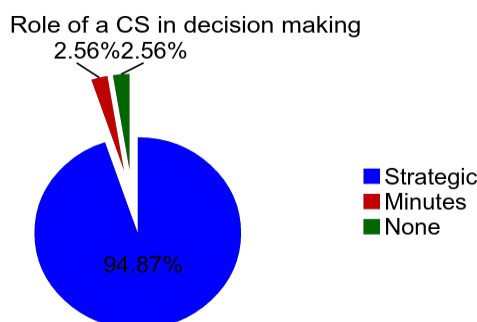


6.9 Role of a company secretary in decision making

The results (Figure 8) showed that there has been a significant shift in the role of the company secretary from the traditional minute-taking to a strategic decision-making level as indicated in previous global studies including Tricker (2012)'s study among others. Traditionally, company secretaries were associated with only minute-taking during meetings, however, with the evolving role of the company secretary (Mahony, 2012), he or she is now an officer of the company at the centre of the decision-making

process and in a position of influence. Telephonic interviews with the company secretaries revealed that the company secretary guides the board and committees in the decision making processes. The company secretary highlights laws, regulations, policies and procedures to enable the board to make informed decisions that follow the right CG protocol. In 2012, Mahony also pointed out that a company secretary should guide the directors in their pursuit of profit and growth whilst acting with integrity and independence to protect the interests of the company, its shareholders and employees.

Figure 8. Company secretary role in decision making

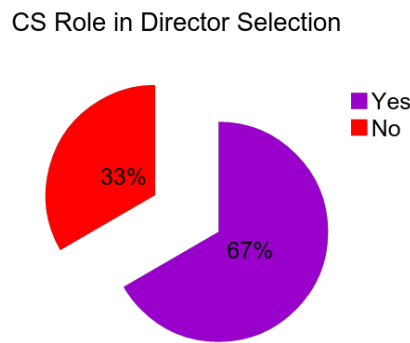


6.10 The role of the company secretary in director selection

The findings show that 67% of the company secretaries play a role in the selection of a director if there is an area identified with a need or if a director has left. The company secretary recommends or disclaims a possible candidate for the role of a

director. This ensures that fit and proper directors are selected. The selected directors are inducted by the secretary. As the company secretary has a role in the new directors' induction and training, the results indicate that for seamless after-selection processes, the company secretary's involvement is important.

Figure 9. Company secretary role in director selection



6.11 Communication and compliance

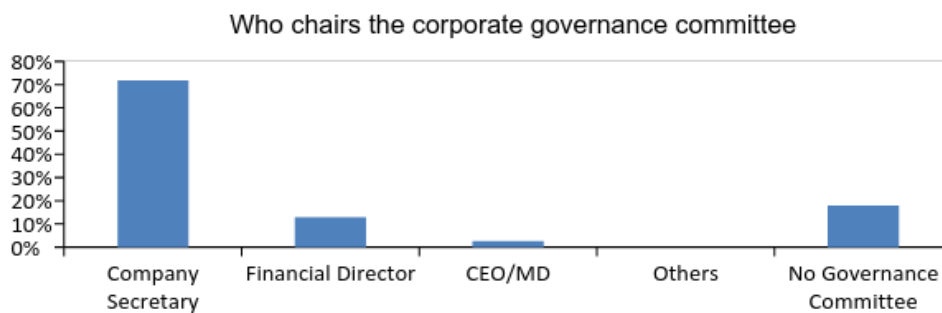
Most of the respondents (company secretaries) reported that they have a primary or significant responsibility in communicating with shareholders and the representatives of shareholders, share registrars and stock exchange. They are also responsible for convening of and preparation for meetings such as Annual General Meeting (AGM) and media relations. The company secretary carries out a fundamental responsibility for regulatory compliance, with 98% reporting it as a primary or significant responsibility. The statistical results shows that 23.76% of the company secretary's time is spent on CG related matters, 23% is spent on board and committee service related issues, 22% is spent on regulatory compliance related aspects, 15% on advisory roles and 13% on shareholder communications. The time spent on these aspects and the ranking is directly proportionate to what seems to

be key critical and ideal to the company secretary's role.

6.12 Governance committee

The study results indicate that the company secretary predominately chairs the governance committee in companies that were part of the study with 72% of the population illustrated in Figure 10. The result that 72% of the company secretaries chair the governance committee indicates that the company secretary plays a crucial role in the CG area. However, of the companies in the study, about 18% do not have a Governance committee, hence that is a cause of concern against the background of global tightening on CG issues. It is therefore recommended that a CG committee is made mandatory and be incorporated in the amended Companies Act, King report or as a JSE listing requirement so as to promote the culture of CG in companies.

Figure 10. Chair of the CG committee



6.13 Qualifications of a company secretary

Though the King reports and the Companies Act of 2008 does not specify the qualifications required for

an individual to become a company secretary there is evidence that they are intellectuals that have academic skills necessary to add value in the CG framework. The study shows that the company secretaries have

qualifications ranging from Chartered Secretaries, Chartered Accountants (CA), Finance and Accounting degrees, Master in Business Administration (MBA) to Law degrees, among others. Essentially, the qualifications have been enabling company secretaries in South Africa to execute their secretarial role. For example, with a Chartered Accountant qualification a company secretary is of great value in the financial aspects of the company and with law they add value to the legal issues. There are 16 company secretaries out of the 39 participants that have the chartered secretary qualification (41%). This shows that the company secretarial occupation has gained significance in professional jobs. Just like South Africa, Hong Kong, Kenya and Malaysia do not have any particular qualification requirements for the company secretary. However, the board appoints an individual who, by virtue of academic professional qualification or relevant experience is competent or a member of a professional company secretariat board (Cronin et al., 2012; Principles of CG in Kenya, 1999; Pearson, 2012).

6.14 Company secretary reporting structure

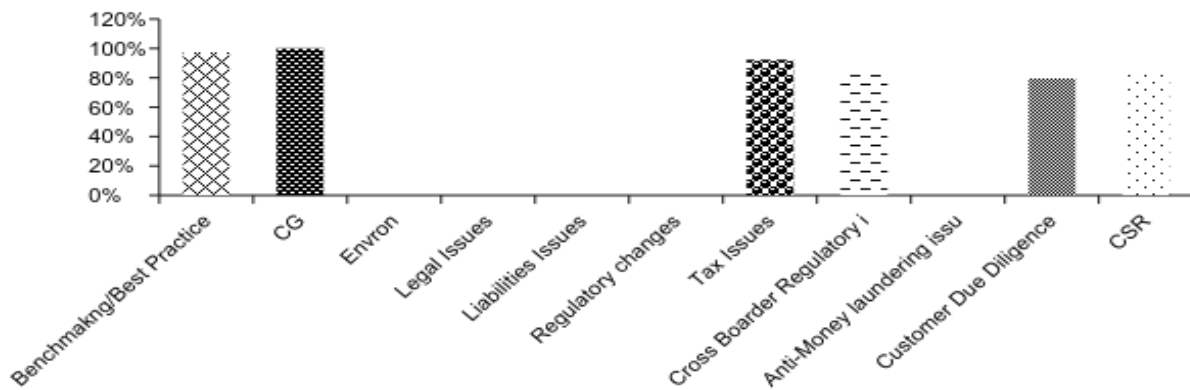
Most of the company secretaries report to the board chairman and/or the chief executive officer (CEO).

However, 5% of the secretaries are reporting to lower ranking levels like General Council or CFOs. It is not recommended that the company secretary report at a level lower than that of the CEO as this could potentially undermine the stature of the secretarial office. It is increasingly important that the company secretary has direct access to the Board, so that his independence can be preserved within the intentions of the CG structure.

6.15 Keeping abreast with CG

The company secretary with the assistance of the group legal officer is responsible for ensuring that directors are kept abreast of relevant legislative and regulatory developments as well as significant information impacting the company’s operating environment. Company secretaries need to take cognisance on cross boarder regulations, anti-money laundering, customer due diligence and corporate social responsibility issues.

Figure 11. Keeping abreast with CG



6.16 Governing practices and reporting structure

6.16.1 King report and Companies Act

The survey results of the study indicate that the King I, II and III report and the Companies Act are the key foundation keep abreast in CG and in the conduct of the company secretary’s duties, as over 90% of the respondents indicated that the two documents are useful to a greater extent. Only less than 5% said the documents are not useful. The King report and the Companies Act are the key fundamental frameworks that regulate an organisation’s operational framework in liaison with the business environment. The King

report’s enforcement is on a ‘comply or explain’ basis whilst the Companies Act works on a comply basis.

6.16.2 Ethical issues

CG and ethics work strongly hand in hand in ensuring that the organization has sound business policies and operating structures. 92% of the survey indicated that they participate in company’s ethical issues. In this regard, ethics includes openness, honest and transparency, independence, accountability, responsibility, fairness, ethical and effective leadership, sustainability, corporate citizenship and social responsibility. Kneale (2012) acknowledges that well governed companies should demonstrate these qualities because this improves the relationship

between the company and its shareholders and other stakeholders, and upholds the reputation of the company with customers and the general public and is also evidence of good management and well-run companies. According to the statistical results of the study, company secretaries are executing their ethical role effectively with an all-inclusive Stakeholder's theory approach.

6.16.3 Company secretary's challenges

Though the greater population of the company secretaries face no challenges, some of the company secretaries face challenges. The challenges faced by the company secretary include misunderstanding of the role by some role-players in the organisation, inadequate resources, leading appointees, too many roles and absence of governance committee. Other challenges emanate from the increasing complexity of their work as there is an increase in the demand for better CG practices especially with the need for greater transparency in integrated reports and corporate affairs. Some company secretaries stated that there was a risk that the company secretariat becomes a "dumping ground" for duties which do not fit elsewhere just as Pearson (2012) also noted in his study for Linstock, a London-based corporate advisory firm.

6.16.3 Company secretary role combined with other roles

The study shows that 72% of the company secretary's role is a stand-alone position. There are 18% of the participants whose company secretarial role is combined with the Chief financial officer's role and 3% falls under regulations compliance, senior accountants, general counsel, legal advisor and/or finance officer in combination with the company secretary role.

6.16.4 Other duties and responsibilities of the company secretary

The respondents were asked to list the duties for which they were responsible for in the board and other committees and further activities. The following is a list of some of their tasks: decisions to call meetings and determining the agenda, keeping the minutes and records, business and strategic decisions, monitoring implementation of decisions and liaising on the implementation of decisions with internal and external parties. Other tasks stated were: reporting on implementation to the chairman, board and committees and CEO/senior management, ad hoc assignments from Committee Chairman, administration, analysing compliance requirements on business proposals, capital market transactions and communication between the board members. Some company secretaries are involved in insurance and fire

protection services, investment, investor, industrial relations, logistics arrangement, members update and declaration of interests, merger and acquisition, preparing board papers, providing compliance advice on business proposals and providing releases and updates to board and board committee members. There is certainly a variety of other duties that the company secretaries do.

6.16.5 Company secretary role evolution over the past 5 years

The role of the company secretary has increased over the past 5 years, citing the increases in regulatory demands, board and committee services, advisory work, and shareholder and other communications. Some of the company secretaries mentioned the increasing sophistication of their work and increased reporting structure to management as there is a demand for better CG practices, increased expectations of institutional and other investors with calls for greater transparency in corporate affairs, and new complex corporate situations. The company secretary has evolved and the responsibilities and challenges have increased substantially as demands for better CG have grown. New opportunities have arisen. The reasons include more corporate legislation and regulation, growing demands for limpid corporate affairs, demands for better CG practices, and changing expectations of investors. The increase in the size and complexity of some companies, has also contributed to new expectations and demands on company secretarial functions.

6.17 Testing hypotheses 1

H₀: Company secretaries in South African companies are aware of their role in CG.

H₁: Company secretaries in South African companies are not aware of their role in CG.

All the company secretaries listed their roles and most of them seem to be aware of their role in CG. However, there are those who are not involved in chairing the governance committee or their companies do not have a governance committee and those that do not sit in the director's selection or evaluate their performance. These are not aware of some of the duties and responsibilities of a company secretary in CG with reference to these duties. However, this is the minority group hence we do not reject the hypotheses.

Though some company secretaries are facing a few challenges in executing their CG role they are aware of their roles. The company secretary is responsible for regulatory compliance and advises the board on good CG and ensures good information flow. The company secretary ensures that board procedures, and all applicable laws, rules and regulations are followed. The company secretary ensures and confirms that board policies and procedures are followed and facilitates induction and

development of the directors. Other responsibilities account for a small percentage. The company secretary in most companies is seen as a member of top management.

6.18 Testing hypotheses 2

H₀: The company secretary plays a significant role in enhancing CG practices.

H₁: The company secretary does not play a significant role in enhancing CG practices.

Considering that the company secretary advises the board, evaluates the director's performance and is involved in the director's selection process by recommending or disclaiming a director and is independent of the board, we can certainly conclude that they play a significant role. The company secretary is allowed to whistle-blow if they detect any sign of corruption, individualism, selfishness, fraud, illegal deals i.e. any unethical behaviour with the protection of the Companies Act and the Protected Disclosure Act. This enhances their effectiveness as they can avoid potential corporate scandals. Thus, the company secretary's role is very significant in assisting companies climb up the corporate ladder in a transparent manner as they demand accountability from the directors. As long as the independence of the company secretary is not compromised he/she can execute his/her role effectively.

Newly appointed directors are required to participate in an induction programme co-ordinated by the Chairman together with the company secretary. The company secretary is involved in director development by providing them with an orientation in respect of the company's operations, guiding the directors in their fiduciary duties, providing relevant information relating to the relevant statutory and regulatory frameworks and introduces the directors to key members of management. This role played by the company secretary is significant in that directors are made aware of relevant policies such as those relating to dealing in the company's securities, the duty to declare conflicts of interest and the company's code of conduct. The telephonic interviews revealed that the Chairman, with the support of the company secretariat team, has regular meetings with institutional shareholders (annual general meetings) and investor representatives to discuss governance matters. This promotes transparency and accountability as either party is open to ask any issue they do not understand or that they need clarity on.

6.19 Company secretary role effectiveness

Whilst it is critical that the company secretaries remain strongly independent, a challenge for a number of incumbent company secretaries is how to achieve the ideal balance between reporting at a level which does not hamper their independence and

maintaining open and productive relationships with the chairman and the CEO, so as to allow the company secretary to enjoy the trust and confidence of both these individuals as well as the board and senior management. The company secretary's effectiveness can be enhanced by his or her ability to build relationships of mutual trust with the chairman, senior independent director and the non-executive directors, while maintaining the confidence of all directors. The company's own or professional code of ethics can act as a safety valve for this relationship and membership of a professional board such as the Institute of Chartered Secretaries of South Africa can also give the company secretary added support should he or she come under pressure in adhering to that code. The company secretary's ethics and CG valves can also be re-sharpened through regular seminars (which are held regularly by ICSA) for role effectiveness purposes as they interact with peer groups. The effectiveness of the company secretary in executing their CG function is not compromised as the Protected Disclosure Act and the Companies Act provides protection to any company secretary.

6.20 Independence of the company secretary

The results have indicated that the company secretary has great independence in performing his/her role. The study has indicated that though the company secretary is appointed by the board of directors, they are effective in performing their duties irrespective of those directors' influence to a large extent. Kneale (2012) says the role of the company secretary in CG is such that it is essential to ensure that his or her independence is upheld from undue influence and pressure from senior board members. Further, an ICSA international guidance note states that "the board of directors have a right to expect the company secretary to give impartial advice and act in the best interest of the company". However, it is incumbent on boards of directors to ensure that company secretaries are in a position to do so. If the board fails to protect the integrity of the company secretary's position, one of the most effective in-built internal controls available to the company is likely to be seriously undermined. The establishment of appropriate reporting lines of a company secretary will normally be a crucial factor in establishing that protection.

7 Conclusion

The objective of the study was to investigate the role of the company secretary in CG. This enabled understanding of how the company secretary can assist companies in rising up the corporate ladder and reducing corporate scandals through fairness, transparency, accountability and responsibility in their business operation. The conclusions of this work within the range of data studied are that the

Companies Act and King report necessitate the company secretary in playing a leading role in the good governance of the company by supporting the chairman, board and its committees to function efficiently. It was also concluded that most of the company secretaries are aware of their role in CG, which is a good starting point for CG growth. It has been proved that the company secretaries play a significant role by advising the board, chairman and/or the chief executive officer and all the directors on governance matters.

Company secretaries also play a vital role in ensuring CG practices by being involved in board performance evaluation and the director's selection processes. They are also involved in facilitating the induction and professional development of directors. The company secretary's effectiveness can be enhanced by building relationships of mutual trust with the board and the directors and yet maintaining their independence and confidence of all. The company secretary with the assistance of the group legal officer is also responsible for ensuring that directors are kept abreast of relevant legislative and regulatory developments as well as significant information impacting the company's operating environment. Company secretaries support the board by ensuring good information flow to and within the board, the shareholders and the stakeholders. The study revealed that some company secretaries have additional roles apart from that of ensuring CG. This may promote ineffectiveness as time allocated to CG matters may be reduced. There are no standard qualifications recommended by the Companies Act or the King's report, however, the academic qualifications and the years of experience of a company secretary aid them in getting the job as a company secretary.

The role of the company secretary has been proved to be a significant one and their effectiveness in ensuring CG will assist companies in rising up the corporate ladder and avoid pitfalls along the way. Though challenges come along, the company secretary needs to remain focused and independent knowing that there are Acts such as the Protected Disclosure Act and the Companies Act that protect them should they decide to whistle-blow. The ever-evolving role of the company secretary in relation to CG creates an opportunity for job-enlargement and high-level achievement.

8 Recommendation

It is recommended that more company secretaries have hands on participation on tax and anti-money laundering issues as it has implications from a legal and CG perspective on the company's operations including filing of tax returns and corporate tax calculations.

To ensure and enhance the integrity and credibility of the company secretary it is

recommended that the Institutes of Chartered Secretaries certify competent company secretaries using a standard criterion.

It is recommended that there should be mentorship programs to groom and mentor those inexperienced company secretaries so as to eliminate the skills, experience and expertise gap in the profession to bridge the gap between qualifying company secretaries and the already-in-field practicing.

To curb conflict of interest and effectiveness in performing the company secretary's role, it is recommended that the position be a stand-alone position as this may aid efficiency and role performance effectiveness.

There is no university currently offering a company secretariat degree and it is recommended that the degree be introduced in universities, to cement the professional ICSA which is already in place in South Africa.

9 Further study

It would be recommended that further study be undertaken to help ascertain whether CG and company secretarial guiding principles in South Africa are good enough for effective CG and/or whether there is need for further enhancements. It would also be recommended that a comparative study be carried out between companies that have a company secretary and the ones that do not have a company secretary with respect to their performance from a CG perspective.

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