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ETHICS – THE CORNERSTONE OF GOOD GOVERNANCE

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Defining Ethics

Everyone's ethics are defined by what they will tolerate when it is done to others

William Greider

What:

- Intent
- To be achieved
- Do we believe will ensure that we achieve it

- **Shapes decisions of individuals and groups**



Defining Governance

“the extent to which governments are responsive to citizens and provide them with certain core services, such as secure property rights, and more generally, the rule of law, and the extent to which the institutions and processes of government give government decision makers an incentive to be responsive to citizens”.

Keefer, 2004



Defining Corruption

“corruption involves behaviour on the part of officials in the public sector, whether politicians or civil servants, in which they improperly and unlawfully enrich themselves, or those close to them, by the misuse of the public power entrusted to them”.

Transparency International



Administrative Corruption

- Accept bribes to distort the prescribed implementation of laws, rules and regulations
- Includes bribes to:
 - gain access to political favours
 - win tenders
 - obtain delivery of public service



Corporate Corruption

- Collusive practices
- Pay bribes
 - distort laws and regulations
- Sponsorships
- Agent fees



Dilemmas

Moral Choices of society

VS

**Moral choices of individual within
society**

**Doing what is
morally right**



**Bad outcome or
bad effects**

**Doing what is
morally wrong**



**Good or at least
better effects or
outcomes**



Laws

South
Africa

- **Prevention of Organised Crime Act No 121 of 1998 (anti-corruption measures)**
- **Employment Equity Act No 55 of 1998 (promotion of development of human capital)**
- **Labour Relations Act No 66 of 1995 (employment practices between employees and employers)**
- **Promotion of Equality and Prevention of Unfair Discrimination Act, No 4 of 2000 (fair treatment of employees, anti-racism etc.)**
- **Prevention and Combatting of Corrupt Activities Act 12 of 2004**



Laws (Cont.)

South Africa

- Financial Intelligence Centre Act 38 of 2001
- Securities Services Act, No 36 of 2004
- Protected Disclosures Act, No 26 of 2000
- Companies Act, No 71 of 2008
- Insider Trading Act, No 135 of 1998
- The Public Finance Management Act, No 1 of 1999



Laws

International

- **Foreign Corrupt Practices Act (USA) - 1977**
- **OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions 1997**
- **SADC Protocol against Corruption 2001**
- **Inter-American Convention Against Corruption 1996,**
- **European Convention on the Fight Against Corruption 1997,**
- **UK Bribery Act – enforceable April 2011**



Society

Society not monolithic but fissured and characterized by competing interests

- expectations of business complex & contradictory; looking to serve its own interests
- expectations of society vary with issues
- individual benefits vs societal benefits



Relationships

- Intrinsic relationship
 - quality of life
 - legislation governing conduct
 - mores and norms of society



Consequencies

- Poor governance
 - rob poor
 - stunt growth
 - loss of trust
 - loss of freedom
 - violent protests



The Jungle of Ethics

Laws

Dilemmas

Profit

Costs

Behaviour



South African Constitution

- Section 195
 - embodies principles relating to good governance and ethics
 - governs behaviour of public administration
 - 9 principles covering: policy making, accountability, transparency, provision of services equitably etc



King Report on Corporate Governance, 2009 (King III)

- Philosophy
 - leadership
 - sustainability
 - corporate citizenship
- Approach
 - 'comply or explain' regime unlike Sarbanes-Oxley → 'comply or else'
 - principles based



King Report on Corporate Governance, 2009 (King III)Cont.

- risk based
- risk management
- sustainability
- innovation
- social transformation
- combined assurance
- alternative dispute resolution
- stakeholder relationships
- integrated reporting and disclosure
- IT governance and IT risk management
- compliance with laws and regulations



The Solution?

Good Governance

Fudiciary Obligations

- Legislation
 - Prescriptive ethics: universal applicability
- **Liability and Accountability**
 - Social codes
 - Challenges of forging ethical leadership words of Martin Luther King are pertinent “Cowardice asks the question ‘Is it safe?’ Expediency asks the question ‘Is it politic?’ But conscience asks the question ‘Is it right?’
 - **Peer Review Mechanisms**
 - Independent and objective process
 - Prof Mervyn – “ensure that collaborate efforts with stakeholders are embarked upon to promote ethical conduct and good corporate citizenship; ensure that measurable corporate citizenship programmes are implemented; and ensure that management develops corporate citizenship policies”.
 - Ethical leadership and Corporate Citizenship

Ethics *not part* of a process; it is the *framework* within which business must be conducted



The Solution?

Good Governance (Cont.)

- Monitoring system
- Plan of Action
- Performance Indicators
- Integrity of value system

Ethics *not part* of a process; it is the *framework* within which business must be conducted



Conclusion

- Universally applicable ethical principles enable us to see life not only through the embroidered patchwork of profit, but also make us understand that if we destroy the planet through our operations, or unreservedly con society, there will be no one left to do business within the future
- Business excellence built on integrity of value system



Thank You

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