

What We Learned about Corporate Governance and Code Development in Sub-Saharan Africa



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Swiss Confederation

Federal Department of Economic Affairs,
Education and Research EAER
State Secretariat for Economic Affairs SECO



INSTITUTE OF DIRECTORS
SOUTHERN AFRICA



IFC International
Finance Corporation
WORLD BANK GROUP

Creating Markets, Creating Opportunities



Creating Markets, Creating Opportunities

© 2018 International Finance Corporation. All rights reserved.

2121 Pennsylvania Avenue, NW
Washington, DC 20433 USA
Internet: www.ifc.org

The material in this work is copyrighted. Copying and/or transmitting portions or all of this work without permission may be a violation of applicable law. IFC encourages dissemination of its work and will normally grant permission to reproduce portions of the work promptly, and when the reproduction is for educational and non-commercial purposes, without a fee, subject to such attributions and notices as we may reasonably require.

IFC does not guarantee the accuracy, reliability, or completeness of the content included in this work, or for the conclusions or judgments described herein, and accepts no responsibility or liability for any omissions or errors (including, without limitation, typographical errors and technical errors) in the content whatsoever or for reliance thereon. The boundaries, colors, denominations, and other information shown on any map in this work do not imply any judgment on the part of the World Bank concerning the legal status of any territory or the endorsement or acceptance of such boundaries. The findings, interpretations, and conclusions expressed in this volume do not necessarily reflect the views of the Executive Directors of the World Bank or the governments they represent.

The contents of this work are intended for general informational purposes only and are not intended to constitute legal, securities, or investment advice, an opinion regarding the appropriateness of any investment, or a solicitation of any type. IFC or its affiliates may have an investment in, provide other advice or services to, or otherwise have a financial interest in, certain of the companies and parties (including named herein).

All other queries on rights and licenses, including subsidiary rights, should be addressed to IFC's Corporate Relations Department, 2121 Pennsylvania Avenue, NW, Washington, DC 20433 USA.

International Finance Corporation is an international organization established by Articles of Agreement among its member countries, and a member of the World Bank Group. All names, logos, and trademarks are the property of IFC, and you may not use any of such materials for any purpose without the express written consent of IFC. Additionally, "International Finance Corporation" and "IFC" are registered trademarks of IFC and are protected under international law.



What We Learned about Corporate Governance and Code Development in Sub-Saharan Africa

Contents

Foreword	v
Acknowledgments	v
Part I: Introduction	1
Purpose of this document	1
The broader context	2
Part II: 10 Learnings	3
1. Position corporate governance as accountable leadership	3
2. Draft the code to achieve positive outcomes instead of mindless box-ticking	3
3. Address the threesome—the Self, the Other, and the Outer—toward sustainable development	4
4. Advocate stakeholder inclusivity—for resilient and attuned organizations	6
5. Draft the code to be applicable across the ecosystem of organizations for reinforcement of the ethos of governance	7
6. To encourage buy-in, design the process for code development to be top-down as well as bottom-up	8
7. Start with the end in mind for a more efficient process	8
8. Introduce a qualitative application regime that encourages substance over form	8
9. Aim for a transparent disclosure regime for effective enforcement	9
10. To win hearts, connect with cultural values	10
Part III: Conclusion	11
Bibliography	13

Foreword

Africa faces many sociopolitical and economic challenges—inequality, poverty, globalized trade, climate change, population growth, ecological overshoot, geopolitical and social tensions, radical transparency, and rapid technological and scientific advancement. But it is also the continent of hope and potential. Although corporate governance is not the magic wand that makes challenges disappear and that realizes all opportunities, it is an indispensable ingredient in the sustainable development of healthy economies and communities.

Sustainable value creation is a common theme in the United Nations Sustainable Development Goals (agreed by all governments in 2015) and the Africa 2063 Agenda. It is now expected of all organizations to play an active part in sustainable development and not to abdicate this responsibility to governments and nonprofit institutions. This expectation is a fundamental concept of King IV and stems from the belief that qualitative corporate governance is a powerful change agent.

The time has come, however, to be very focused on and determined with how we leverage that regime of corporate governance for positive change. We do not require incremental changes to how we develop, use, and apply our codes of governance but rather a fundamental shift that demands innovative and collaborative approaches. King IV represents both of these.

The innovative approach of King IV is illustrated by, among others, having African philosophies such as *ubuntu* at its center, which ties the code in with the African worldview. Furthermore, unlike the

vast majority of international codes, King IV is suited to not only listed companies but also unlisted entities and family-, state-, and foreign-owned companies whose shares are not traded widely. This is a recognition of how most of the African corporate landscape is structured. In short, King IV is a homegrown solution by Africans for Africans.

King IV was developed through wide consultation, and this spirit of collaboration must continue if it is to be truly effective. I commend the International Finance Corporation of the World Bank for raising, across Africa, the awareness of and engagement with the philosophy and approach to corporate governance as advocated in King IV.

The time has come for Africans to unite in the use of qualitative corporate governance as a force for change. I believe this document will serve to stimulate such change.

Mervyn E. King SC,
Chair of the King Committee on Corporate
Governance in South Africa,
Chair of the African Integrated Reporting Committee,
Chair of the International Integrated Reporting Council

Acknowledgments

IFC would like to thank the African Corporate Governance Network, which represents 28 directors' membership or corporate governance organizations and other affiliate institutions across Africa, for its assistance in introducing and setting up the roadshow events. We also would like to acknowledge Ansie Ramalho for facilitating the roadshows and summarizing for this publication the perspectives and experiences garnered.

Part I: Introduction

*King Report on Corporate Governance for South Africa 2016*¹ (King IV) is the fourth iteration of the code of corporate governance that applies on a voluntary basis to all organizations operating in South Africa. During the 22 years from the issue of King I in 1994 until the launch of King IV in November 2016, extensive knowledge accumulated on how to optimize code development to achieve better results.

IFC shared these learnings with African audiences as part of the greater African Corporate Governance Project to spark engagement on governance in Sub-Saharan Africa. The sharing took place during a roadshow consisting of a series of events cohosted by IFC and local organizations or institutions in Cote D'Ivoire, Ethiopia, Kenya, Mozambique, Namibia, Nigeria, and Tanzania.

During the roadshow, participants explored the following questions (among others):

- How can governance be leveraged to change African societies and countries?
- What role can a code of corporate governance play in assisting organizations in their efforts to achieve both profit and sustainable development?
- What process should an organization follow to develop a code?
- Should Africa and other developing economies have a different approach to governance, such as that spearheaded by King IV?
- Is the Sub-Saharan Africa market ready for the approach to corporate governance presented by King IV?
- How do we build the future of governance in Africa on the lessons of the past?
- What regimes and mechanisms are necessary for the effective enforcement of a voluntary code of corporate governance?

Purpose of this document

This document is a high-level account of discussions held and conclusions reached during the roadshow. It describes 10 learnings attained over the more than two decades of experience in code development in South Africa. Under each of these learnings, we present the South African experience as well as experiences shared in the various countries where the roadshow was conducted.

The purpose of this document is to provide guidance to IFC staff, regulators, and private institutions (such as institutes for directors and corporate governance) for developing codes of corporate governance in Sub-Saharan African countries and potentially other developing economies.

The objective is for the insights shared in this document to support achievement of the following results:

- A more effective process of code development;
- Code content that will be easier for organizations to implement;
- A higher degree of commitment by the users of the code; and



A participant shares a comment at the Institute of Directors (IoD) King IV roadshow event in Kenya. (Photo courtesy of IoD Kenya)

¹ The King IV Report on Corporate Governance for South Africa 2016, Copyright and trademarks are owned by the Institute of Directors in Southern Africa. Available at <http://www.iodsa.co.za/?page=AboutKingIV>.

- Good governance that will result in better outcomes for organizations as well as the communities and countries in which they operate.

This guidance document should be read in conjunction with the IFC Toolkit for Developing Corporate Governance Codes of Best Practice.²

The broader context

Before sharing the learnings, it is important to understand the context for the application of corporate governance in Africa. This will provide perspective on why some of the learnings are vital.

Organizations—the users of codes of corporate governance—operate in a broader context, which King IV calls the “triple context,” consisting of the economy, society, and natural environment in which organizations operate. In Africa, depending on the country, the triple context may appear as economic and political instability, lack of or failing infrastructure, skills shortage, inequality, water and food scarcity due to environmental vulnerability, and corruption.

Furthermore, the application of corporate governance is not mature in all African countries. An IFC study³ on the link between governance and corpor-

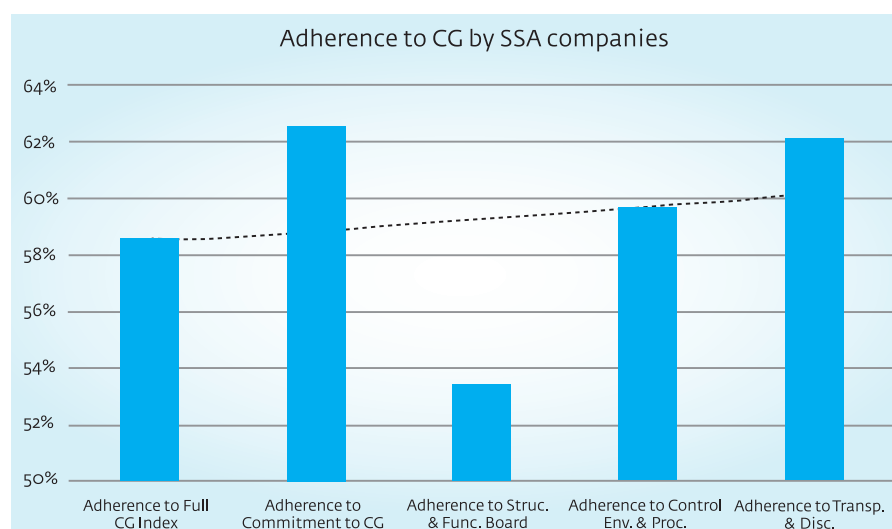
ate performance examined the degree of African firms’ adherence to certain aspects of corporate governance. Figure 1 illustrates the study’s findings.

As Figure 1 shows, more than 62 percent of the firms in the study professed a commitment to corporate governance. From that, we can infer that more than a third of firms do *not* commit to adherence to a code of governance, which is concerning and indicates that more work is required to position corporate governance as a value proposition.

Further, Figure 1 shows that only slightly more than half of the firms assessed apply good practices regarding the structures and functions of the board—arguably the foundations for organizational governance. If those foundations are weak, it is unlikely that other areas of corporate governance could be strong.

However, it is encouraging that, taken together, the firms scored above 50 percent on all five of the dimensions assessed. Organizations in Africa operate in a challenging triple context, and much work must be done to gain maturity in the corporate governance practices they follow. Codes for corporate governance should be cognizant of these realities.

Figure 1: Adherence to Corporate Governance by Companies in Sub-Saharan Africa



Source: *Governance and Performance in Emerging Market Firms* (IFC, forthcoming).

² Available at <http://www.ifc.org/wps/wcm/connect/9f8e290048a7e4ac9e67df6060ad5911/Toolkit2-read.pdf?MOD=AJPERES>.

³ IFC, *Governance and Performance in Emerging Market Firms: Empirical Study on the Link Between Performance and Corporate Governance of IFC Investment Clients* (Washington, D.C.: IFC, forthcoming).

Part II: 10 Learnings

1. Position corporate governance as accountable leadership—and not as a system only.

The traditional definition of corporate governance goes back to the early 1990s, when it was defined as simply “the system by which companies are directed and controlled.” Many codes of corporate governance, including King I, borrowed this definition from the Cadbury Report, which introduced it. This definition is still a significant point of departure for coming to grips with corporate governance. Nonetheless, persisting with such a narrow understanding of governance—as a system that concerns itself only with the mechanics of structures, processes, policies, frameworks, and other arrangements for controlling the organization—would not be fit for purpose in the African situation, where organizations have to meet the many challenges posed by the triple context, as outlined above.

The *system* is still necessary for the governing body to lead effectively, but it is not primary. A system that is not exemplified and directed by leadership is tantamount to mindless compliance. Of primary importance to corporate governance is leadership—the exercise of judgment and discernment that brings the system to life and makes it fit for purpose. Without leadership, it amounts to form over substance. This is why the understanding of corporate governance evolved and came to be described in King IV as “the exercise of ethical and effective leadership by the governing body” toward certain outcomes.

To Consider:

Positioning governance as a leadership matter brings to the fore the responsibility of the governing body for directing and overseeing the system of corporate governance. This is important for establishing accountability.



From left, Head of Kenyan Banking and Finance at Bowmans Law Kamami Christine Mwetii; CMA Chief Executive Officer Paul Muthaura; and Sanlam Kenya PLC Non-Executive Director Susam Mudhune at the IoD King IV roadshow event in Kenya. (Photo courtesy of IoD Kenya)

2. Draft the code to achieve positive outcomes instead of mindless box-ticking.

One of the pitfalls of corporate governance is that it is often regarded as a mindless compliance exercise that involves the implementation of structures and processes, regardless of whether they serve to make the organization stronger, better, and more resilient. No organization, including those operating in Africa, will choose to spend time and human and financial resources on governance that is implemented without an understanding of its potential to add value.

With the drafting of King IV came changes to the code that clearly present its contribution to organizational value. The realization that a code of governance should be results-driven—or outcomes-based rather than input-focused—has been one of the biggest learnings of the King journey. The three building blocks of the King IV Code are principles, recommended practices, and governance outcomes.

Principles express the aspirations and ideals that are fundamental and basic to good governance. For example, the first principle states that the governing body should lead ethically and effectively.

Another principle says that the governing body should govern risk in a way that supports the organization in setting and achieving its strategic objectives. Once an organization professes its commitment to governance, the application of such principles is a basic and fundamental part of the overall governance framework. The principles are phrased to apply universally, regardless of the organization. As they are understood for the purposes of King IV, the principles point like a compass needle to the “true north” for all organizations that wish to follow good governance.

Practices recommended in support of each principle describe what needs to be done to achieve these aspirations and ideals. The practices provide a roadmap, and the choice of road to take will depend on the particular organization’s nature, size, complexity, and impact. It is appropriate for various organizations to follow different roads, as long as they don’t lose sight of the true north—the ideals set forth in the principles.



IFC Country Manager, Eastern Region, Manuel Moses speaks at the IoD Kenya King IV roadshow event. (Photo courtesy of IoD Kenya)

Governance outcomes are the potential positive effects or benefits that an organization can realize by achieving the underlying principles. Outcomes are an ethical organizational culture, good performance, effective control, and legitimacy. Whether these governance outcomes are realized over time is the litmus test for whether good governance is in place.

The significance of the results-driven and outcomes-based approach is that an organization can no longer claim that it has good governance

in place just by ticking the boxes of recommended practices implemented. Such reasoning is like painting a target around where the arrow has already landed—instead of identifying the target and then aiming for it.

Participants in discussions fully agreed with this assessment. Their only concern was whether this approach was too “mature” for countries that have only recently developed a code of corporate governance or are about to do so. They concluded that, in such circumstances, the optimum position would be for an organization and its triple context to aspire to positive outcomes from the outset as a way to instill the desired mindset. Ticking boxes may be a starting point, but ultimately governing bodies have to think about result.

To Consider:

An outcomes-based approach to corporate governance is pertinent in Africa, where it is critical for governance to promote value creation instead of being an ineffective drain on scarce human and financial resources.

3. Address the threesome—the Self, the Other, and the Outer⁴—toward sustainable development.

The Self—members of the governing body

Lao Tzu said, “Mastering others is strength; mastering yourself is true power.” The King IV philosophy of leadership is in accord with this quote. According to King IV, leadership starts with mastering the Self, and the members of the governing body are expected to individually and collectively cultivate and exhibit the characteristics of integrity, competence, responsibility, accountability, fairness, and transparency. As Africans, we understand very well the power of leadership—toward good and bad. Hence the idea of the governing body setting the tone for the organization’s culture has become part of the King tradition.

The Other—the organization

King IV provides that, on the foundation of self-mastery, the governing body should lead the organization—the Other. This is typically done through the system of structures, processes, policies,

⁴ Daniel Goleman, *Focus: The Hidden Driver of Excellence* (New York, NY: Harper, 2013).

frameworks, and other arrangements that are as a matter of course part of the recommendations found in codes of corporate governance, including King IV.

The Outer—the triple context in which the organization operates

A system that is inwardly focused—considering only the organization itself—is deficient. It does not embody the full reality, as it fails to include the Outer—the context in which the organization operates. As noted above, King IV explains that all organizations operate in a triple context of the economy, society, and natural environment. This is the Outer.

Understanding the synergy between the organization and its triple context is critical for sustainability. It has become increasingly important for organizations operating in Africa to recognize that their success is intertwined with the fate of the societies around them and the health of the environment. Ultimately, no organization can succeed in a society that fails.

As a responsible corporate citizen, an organization is accountable for the effect its operations and activities have on society and the environment, and it should take steps to ameliorate any negative impact. However, merely reacting to negative effects is not enough. King IV asks organizations to be proactive in positively shaping the context of their operations. This is ultimately to their benefit—and in some instances essential for their long-term survival.

Positively shaping the operational context is not about ad hoc activities involving corporate social investment. Rather it is about redefining the role and purpose of the organization to create value not only for itself and its shareholders but also for its other stakeholders. It is about creating win-win solutions for organizations and the societies and natural environments in their triple contexts. In this way organizations can become agents of social change and can contribute to sustainable development.

⁵ *Report of the World Commission on Environment and Development: Our Common Future*, also known as the Brundtland Report (Geneva: World Commission on Environment and Development, 1987).



Ansie Ramalho, King IV program manager and IFC senior consultant on code development. (Photo courtesy of IoD Kenya)

During one of the sessions, the moderator of a panel used the following metaphor: One generation plants the tree; the next generation sits under its shade. The classical definition of sustainable development is “meeting the current needs without compromising the ability of future generations to meet their needs.”⁵ The ensuing panel discussion brought out that corporate governance, understood as a catalyst for change, prevents this generation from being the one that leaves our children and grandchildren without trees to sit under.

How does King IV propose that organizations positively shape the triple context in which they operate?

- King IV recommends that the risks and the opportunities—as represented by an organization’s dependence and effect on the economy, society, and the environment—be incorporated into strategy formulation. Considering its dependence and reliance on these dimensions is intuitive to well-run organizations, but externalities caused by the organization are not always appreciated as risks as well as potential opportunities.
- King IV recommends that performance be measured and rewarded across the triple context, as opposed to measuring and rewarding only financial performance.

- King IV's focus on The Outer is clear from its recommendation of integrated reporting. This is a form of reporting that connects financial results with a narrative on whether and how the organization has affected—positively and negatively—the context in which it operates.

This strong Outer focus, which is found in King IV as an imperative toward sustainable development, is a distinctive positioning of corporate governance relative to other jurisdictions, especially if compared with the governance codes for developed economies.

To Consider:

A code of corporate governance that is concerned with the behavior of the threesome—the governing body itself, the organization, and the organization as it operates in its triple context—is indispensable for a governance system designed to enable organizations to become agents for social change and to contribute to sustainable development. In Africa, positive social change cannot be left to government only; organizations must also contribute.

4. Advocate stakeholder inclusivity—for resilient and attuned organizations.

King IV advocates for organizations to follow a stakeholder-inclusive policy. This approach is congruent with the Outer focus and is an alternative to shareholder primacy, where shareholder interests receive preference over those of other stakeholders.

One benefit of a stakeholder-inclusive approach is greater awareness of potential opportunities and pitfalls. During one of the roadshow events, a discussion brought out that organizations operate in VUCA (Volatility, Uncertainty, Complexity, and Ambiguity).⁶ To come to grips with VUCA, governing bodies should be attuned to the breadth and depth of risks and opportunities presented by the triple context. Adopting a stakeholder-inclusive approach helps an organization become attuned



From left, Ansie Ramalho; Deputy Governor, Financial System Stability, Central Bank of Nigeria, and Financial Institutions Training Centre (FITC) Chairman Okwu Joseph Nnanna; Godwin Emefiele; Lucy Surhyel Newman; and Tunjo Ajiboye at the King IV roadshow held in Lagos, Nigeria, September 19 and 20, 2017. The event was part of the FITC Continuous Education Programme for directors of banks and other financial institutions. (Photo courtesy of FITC)

to its surroundings, thus reducing the likelihood of nasty surprises and missed opportunities.

Discussions acknowledged that balancing stakeholders' interests—and particularly balancing the interests of shareholders with those of other stakeholders—is a dilemma for many boards. This situation is fueled by shareholders' expectations for a return on investment, an outcome that may or may not be aligned with longer-term considerations.

Adding to this dilemma is the common misconception that, for directors to act in the best interest of the company, it legally means they must act in the best interest of the body of shareholders. In recent years, many academic sources have pointed out that the correct legal position is that this duty should be interpreted as applying not only to the current shareholders but also to all future shareholders, which position is consistent with ensuring the continual survival of the company.

Directors owe their duties to the company and the company alone. Yet the company represents the collective interests of all its stakeholders, including the shareholders. Serving stakeholders such as the employees, customers, and the community does in fact benefit shareholders as well. Stakeholder inclusivity versus shareholder primacy presents a

⁶ The U.S. Army College introduced VUCA in the early 1990s to describe the world at the end of the Cold War.

false dichotomy, because the longer the time horizon for making decisions, the greater the alignment between the interests of the company, its shareholders, and other stakeholders.

Internationally, there is a wave of change regarding the shareholders' role in ensuring the long-term health of companies. Many countries, including Brazil, Malaysia, South Africa, and the United Kingdom, have stewardship codes that address responsible investing by shareholders. The Sustainable Stock Exchanges initiative⁷ is another move in this direction.

All these developments are in recognition of the fact that taking a short-term view is not in the interest of the company or its stakeholders—or the long-term interests of shareholders. However, a long-term perspective requires short-term tradeoffs, which shareholders need to be engaged on.

To Consider:

Codes of corporate governance that advocate a stakeholder-inclusive approach promote more resilient organizations that are attuned to the breadth and depth of risks and opportunities presented by the triple context.

5. Draft the code to be applicable across the ecosystem of organizations for reinforcement of the ethos of governance.

Each organization acts within a bigger ecosystem where organizations interact and are interdependent. Delegates of the roadshow events agreed that it was important for all organizations in the ecosystem to follow good corporate governance. Therefore, the ideal is a code of corporate governance that is applicable to all organizations operating within this ecosystem.

In many jurisdictions internationally, governance codes address publicly listed companies only. For a governance code in Africa to do so would render it irrelevant to the largest part of the economy, which

consists of family businesses, smaller enterprises, and state-owned entities. A benefit of having a single code of governance is that it promotes a common understanding of corporate governance across the ecosystem of organizations, which reinforces the strength and ethos of the system.

In recognition of this, King IV was drafted to be applicable to all organizations. The principles are phrased to be universally applicable, regardless of the type of organization, thus achieving consistency of understanding within the South African ecosystem of organizations. (Part 6 of King IV contains sector supplements, but they are not alternatives to the code but rather serve as guidance for these sectors' interpretation of King IV.)

To achieve applicability to all organizations, the King IV Code has built flexibility into the practices it recommends in support of the principles. These practice recommendations should be applied proportionally, which means they must be scaled depending on the size, resources, complexity, and impact of the organization. For example, following all or most of the practice recommendations may be appropriate for a multinational organization, but it would be inappropriate for a family business.

In many Sub-Saharan African countries there are codes of corporate governance addressing various sectors that exist in parallel. Roadshow discussions concluded that these codes need to be harmonized so that there is consistency and alignment, or they should be replaced by a single code.

To Consider:

The code of corporate governance should be applicable across the ecosystem of organizations for reinforcement of the ethos of governance. This is particularly important in Africa, where much of the economic activity happens at the level of smaller enterprises and state-owned entities.

⁷ This initiative, in collaboration with investors, regulators, and companies, seeks to enhance corporate transparency on environmental, social, and governance issues and encourages sustainable investment.

6. To encourage buy-in, design the process for code development to be top-down as well as bottom-up.

One of the most important lessons of the King journey is the role of consultation during the drafting process. Consultation is a bottom-up process that is essential for the adoption of a voluntary code of corporate governance. But more than that, it also contributes to rich and robustly tested content. As one of the delegates at a roadshow event put it, “It takes a thousand voices to tell one story.”

The recommended course is to consult not only the organizations the code will apply to but also the stakeholders of those organizations. The result is better and broader understanding of what governance entails and more participation in holding organizations accountable.

To Consider:

Designing the process for code development to include top-down enforcement as well as bottom-up involvement requires an extensive consultative process. The time invested in such consultation has the following benefits:

- *It ensures commitment and buy-in, which is essential for the effective functioning of a voluntary code of corporate governance.*
- *It raises awareness of governance and codes, which enhances participation in holding organizations accountable.*

7. Start with the end in mind for a more efficient process.

A matter that is important but easily overlooked during the planning of the drafting process is to clarify certain aspects beforehand. Having these matters settled at the beginning of the process makes the job easier for the person responsible for drafting—especially so if more than one person or group become involved in the drafting. It prevents wasting time on rewrites and edits that might not have been necessary if there had been agreement upfront.

The matters set out below are among those that need to be considered prior to embarking on the drafting. Each of these will affect approach, style, and content:

- *Who the main audience(s) of the code on corporate governance will be.* For example, will the code apply to the whole organizational ecosystem or only certain sectors or organizations?
- *What the application regime will be.* For example, comply or explain, apply or explain, or apply and explain.
- *The drafting style.* For example, detailed (for more guidance) or succinct (easier for users to process), prescriptive or allowing for judgment.
- *What terminology is to be used.* For example, “company” or “organization,” “board” or “governing body.”
- *How the report will be positioned alongside legislation.* For example, will it incorporate legislation by reference (for more succinct drafting), or will it repeat legislation in the code (for ease of reference)?

To Consider:

Proper planning and upfront agreement—on the process to be followed for the development of the code and the drafting style and convention—result in a more efficient process.

8. Introduce a qualitative application regime that encourages substance over form.

Various application regimes for codes of corporate governance exist, among them comply and explain, adopt or explain, apply or explain, and apply and explain.

The application regime in King IV is *apply and explain*, a departure from King III’s *apply or explain*. Given that the principles (explained above) are expressed as fundamental and basic to good governance, it is difficult to imagine a reasonable explanation for not applying them. Therefore, King

IV assumes the application of principles, and no confirmation of application is necessary. The “explain” part of the application regime is a narrative of the practices that have been implemented and the progress made toward giving effect to each principle.

During the roadshow discussions, some participants raised concerns about the competency of governing bodies to ensure mindful implementation and application of corporate governance codes, and about the level and quality of disclosure on application. The discussion concluded that training of governing bodies on corporate governance is key to building competency. However, training is a good start but not sufficient by itself; members of governing bodies also need to gain experience. This is a matter to be addressed in conjunction with code development by governance bodies and institutions.

To Consider:

A qualitative application regime that places the focus on outcomes encourages the application of a code of corporate governance in substance rather than only in form. This is particularly relevant to Africa, where governance should be harnessed to lead to better results for organizations and their context of operation.

9. Aim for a transparent disclosure regime for effective enforcement.

A “comply or else” regime is relevant to corporate governance as contained in legislation rather than in a code of voluntary practice, as legal sanction is attached to noncompliance. It is also important to recognize that most voluntary codes of corporate governance exist alongside legislated governance provisions. It is completely appropriate for the absolutely essential and basic aspects of corporate governance practice to be legislated. Nonetheless, legislation is inflexible and has limited ability to accommodate variations in situational context and therefore often leads to unintended and perverse consequences. Use of legislation to enforce gov-



Strathmore Law School Dean Luis G. Franceschi speaks at the IoD Kenya King IV roadshow event. (Photo courtesy of IoD Kenya)

ernance should therefore be limited and applied carefully, and market and social forces should be allowed to function.

The question invariably raised about a voluntary code of governance is whether its greater flexibility will affect the efficacy of the code. An important point in this debate is that it would be a mistake to conclude that voluntary codes of governance carry no sanction when contravened. The principles and practices in these codes become the norm for behavior as soon as they are generally and widely adopted, and these adopted norms are then monitored and enforced by market forces—mostly represented by shareholders who sell their shares, customers who stop buying or supporting, and employees who resign if they are dissatisfied—and social forces, including the media, civil society, and other stakeholders using social media and other means to apply pressure on organizations to change.

However, for these forces to work, there must be transparency. Society and the market can only respond to what is known to them. Africa generally has a poor reputation for corporate governance and the protection of investors and other stakeholders. That’s why King IV places so much emphasis on meaningful disclosure that enables stakeholders to assess the quality of corporate governance.

Delegates agreed that enforcement is a critical component of an effective corporate governance system in Sub-Saharan Africa. They also recognized that enforcement is not just the responsibility of regulators, and that society should become involved in holding organizations accountable. They also acknowledged that investors, directors' institutes, governance institutes, and the media all have an important part in making this work, and that awareness raising should encourage responsible shareholder and stakeholder activism. The consultation process, which is part of code development, is an important aspect of awareness raising among stakeholders, especially in markets where corporate governance has not yet become mature.

To Consider:

A code of governance should aim for a disclosure regime that enables stakeholders to make an informed assessment of the quality of governance at the organization so that they can hold it accountable. Transparent disclosure is the lever for effective enforcement by regulators, the market, and society.

10. To win hearts, connect with cultural values.

One of the most prominent themes at discussions during the roadshow was the need for a value scheme to support a code of corporate governance. It was repeatedly mentioned during the roadshow that corporate governance without an underpinning of beliefs and convictions comes to naught. The reason for this is that an effective corporate governance regime cannot rely solely on an externally imposed system; it must also be internally driven.



*All who participated in the IoD Kenya King IV roadshow event.
(Photo courtesy of IoD Kenya)*

Delegates mentioned that corporate governance is about understanding what needs to be done and doing it—a mind-and-hands matter. Also, it is a matter of the heart, which is what values speak to. One of the ways this was expressed during discussions was that what we say should be congruent with what we do and who we are.

The notion of *ubuntu*, used in King IV in South Africa, was put forward during the roadshow as an example of such a value scheme. The full expression of *ubuntu* literally means “I am because we are,” denoting our interconnectedness and interdependence through shared humanity. In Zimbabwe, this same idea is expressed as *unhu*, in Malawi as *uMunthu*, in Rwanda and Burundi as *ubuntu* (which particularly refers to human generosity), and in Uganda and Northern Tanzania as *obuntu*.

Ubuntu in King IV is the philosophical golden thread that binds the content of the code. Its underpinning of interconnectedness and interdependence finds expression, for example, in appreciating that all organizations operate in the triple context, which they affect and by which they are affected, as well as in the stakeholder-inclusive approach, both of which are discussed in more detail above.

Part III: Conclusion

A careful reading of the learnings set out above will reveal that they aim for code development to achieve the following benefits:

1. Clarifying accountability
2. Positive outcomes for the organization and the context in which it operates
3. Contribution to sustainable development
4. Resilient and attuned organizations
5. An ecosystem of organizations that reinforces the ethos of the code of governance
6. Commitment to the code
7. An efficient process
8. Substance over form
9. Effective enforcement by regulators, the market, and social forces
10. Encouraging an internal drive to commit to governance

The purpose of this guidance is to assist organizations with realizing these benefits.



Members of the Africa Corporate Governance Network (ACGN) hosted by l'Institut National des Administrateurs de Côte d'Ivoire (INAD-CI) in Abidjan, Cote d'Ivoire, February 2017. A half-day capacity-building workshop on the King IV Code of Corporate Governance and lessons learned in its implementation was the foundation for the King IV roadshows.

Bibliography

- Goleman, Daniel. 2013. *Focus: The Hidden Driver of Excellence*. New York, NY: Harper.
- IBRD. 2005. *Toolkit 2: Developing Corporate Governance Codes of Best Practice*. Global Corporate Governance Forum. Washington, D.C.: The International Bank for Reconstruction and Development/The World Bank. <http://www.ifc.org/wps/wcm/connect/9fbe290048a7e4ac9e67df6060ad5911/Toolkit2-read.pdf?MOD=AJPERES>.
- IFC. Forthcoming. *Governance and Performance in Emerging Markets Firms: Empirical Study on the Link Between Performance and Corporate Governance of IFC Investment Clients*. Washington, D.C.: IFC.
- IoDSA. 2016. *King Report on Corporate Governance for South Africa 2016 (King IV)*. Johannesburg, South Africa: Institute of Directors in Southern Africa. <http://www.iodsa.co.za/?page=KingIVReport>.
- WCED. 1987. *Report of the World Commission on Environment and Development: Our Common Future*, also known as the Brundlandt Report. Geneva: World Commission on Environment and Development.



All who participated in the King IV roadshow event in Lagos, Nigeria. (Photo courtesy of FITC)

About IFC

IFC, a member of the World Bank Group, is the largest global development institution focused on the private sector in emerging markets. Working with more than 2,000 businesses worldwide, we use our capital, expertise, and influence to create opportunity where it's needed most. Our long-term investments in developing countries help the private sector play an essential role in the global effort to end extreme poverty and boost shared prosperity. In promoting sustainable private sector investment in developing countries, IFC has identified a need for emphasis on improved corporate governance practices. For more information, visit www.ifc.org.

About SECO

SECO is Switzerland's competence center for all core issues relating to economic policy. SECO's economic development cooperation strives to achieve sustainable growth. Growth is sustainable if it creates jobs, helps increase productivity, and helps reduce poverty, inequalities, and global risks. For more information, visit www.seco-cooperation.ch.

About the Africa Corporate Governance Program

The Africa Corporate Governance Program, funded by SECO, is an initiative to promote corporate governance best practices and standards continent-wide, in line with regional priorities. IFC works with the program to improve firm performance and increase the ability of markets and firms in the Sub-Saharan Africa region to attract and retain investment. The initiative spans socioeconomic strata and includes firms, investors, market intermediaries, and regulators. The focus is on enhancing the regulatory infrastructure and building the corporate governance capacity of institutions, with the expectation of increased awareness, knowledge, and capacity to adopt good governance practices.

About IoDSA

The Institute of Directors in Southern Africa NPC (IoDSA) is a professional body recognized by the South African Qualifications Authority. Its purpose is to promote corporate governance and to maintain and enhance the credibility of directorship as a profession. The organization was established to create "Better Directors, Better Boards, Better Business." Its vision is that those charged with governance duties in all sectors be empowered to discharge their duties effectively. Its mission is to support and develop those charged with governance duties through providing thought leadership and a platform for peer interaction.

Contacts for information about the content of this publication:

Roman Zyla
Regional Corporate Governance Lead (Africa)
IFC Environment, Social, and Governance
Department
14 Fricker Road, Illovo
Johannesburg, South Africa
rzyla@ifc.org

Chinyere Peace Almona
Regional Program Manager
Africa Corporate Governance Program
IFC Environment, Social, and Governance
Department
7th Floor, Alliance Place,
33A Alfred Rewane Way, Ikoyi
Lagos, Nigeria
calmona@ifc.org

2121 Pennsylvania Avenue, NW
Washington, DC 20433 USA

Tel: +1 (202) 458-8097
www.ifc.org/corporategovernance
www.ifc.org/sustainability

MAY 2018