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An exploration of common governance structures in South Africa's national government departments

Abstract:

The paper aims at proposing uniform internal corporate governance structures in the South African national government departments. It is noted that the most common governance structure that is prominent across all national government departments is the audit committee. Besides the audit committee structure, national government departments constitute differing structures. The study acknowledges that national government departments have different mandates. Even though these departments have different mandates, it is pointed out that the idea of commonality in government is not new. For instance, it is pointed out that all national government departments are using a similar template for annual reporting. Therefore, it is recommended that national government departments adopt similar governance structures. A five-layered structure is proposed consisting of parliamentary process structure, executive office (ministers and the deputy ministers) as well as the accounting officer, independent internal oversight body, internal oversight body and the departmental governance functions. The main emphasis is placed on the four (4) layers namely; executive office (ministers and the deputy ministers) as well as the accounting officer, independent internal oversight body, internal oversight body and the departmental governance functions as they are the ones charged with executing the mandate of the department concerned. There could be benefits in aligning the governance structures and these benefits could include promoting collaborations within departments, promoting the culture of learning from each other and aiding National Treasury with a uniform process that permits comparisons, which in turn has a potential of aiding with the process of identification of governance areas (or departments) that requires more attention, thus ensuring effective monitoring and assessment of governance activities.

Keywords: departments, governance, government, structures.

JEL Classification: G340, G380.

Introduction

Governance is a very broad concept which can be implemented not only in organizations, but at every level of society (Nzongola-Ntalaja, 2002). It comprises of complex mechanisms, processes, relationships and institutions through which people in a particular country can articulate their interests, exercise their rights and obligations, and mediate their differences (Cheema, 2005).

There are three sets of governance namely; political or public governance, economic governance and social governance. Political/public governance refers to the governance of activities undertaken by public funds. Economic governance refers to the governance of processes or organizational mechanisms that are necessary to produce and distribute services and goods, whereas; social governance relates to a system of values and beliefs that are necessary for social behaviors to happen and for public decisions to be taken (Nzongola-Ntalaja, 2002).

Governance in the public sector is concerned with structures and processes for decision-making as well as controls and behavior that support effective accountability for performance outcomes (Barrett, 1998; and Moloi, 2015). As for the United Nations (2007), governance is seen as a formal and informal arrangement that determine how public decisions

are made and how public actions are carried out from the perspective of maintaining a country's constitutional values. In addition to the descriptions above governance is concerned with the state's ability to serve its people and other interested actors in its affairs (Graham, Amos and Plumtre, 2003).

In South Africa, governance in the public sector has been evolving steadily. In this regard, the main contemporary documents aiming at advancing governance in the public sector are; the Public Finance Management Act of 1999 (RSA, 1999), the Treasury Regulations (National Treasury, 2001), the Public Sector Risk Management Framework (National Treasury, 2010) and the King III Report on Corporate Governance (IOD, 2009).

Since this study proposes uniform corporate governance structures in South Africa's national government departments, an exploration with the view of determining the current governance structures in the South African public sector was undertaken. Integrated/annual reports and relevant documents (PFMA, Treasury Regulations, Public Sector Risk Management Framework and the King III Report) were used in the exploration process. Annual/integrated reports were selected due to the fact that they represent a formal report in which activities of the organization are communicated with the stakeholders. Therefore, it is expected that any institution that wishes to be perceived as embracing and practicing good governance will disclose its governance activities in its annual report. Most

researchers support the view that annual reports are an important communication document and an important tool of communication by an organization to its external stakeholders (Savage, 1998; Thomas & Kenny, 1996; Wilmhurst & Frost, 2000; Wiseman, 1982; and Savage & Cataldo, 1999).

The methodology for conducting the exploration in the relevant documentation was the thematic analysis. This methodology was used to determine the nature of existing governance structures in the NGDs either through the disclosure in the annual/integrated reports or in the relevant legislation. The thematic analysis is a process that codes data without attempting to fit it into a pre-existing coding frame (Braun and Clarke, 2006).

The exploratory results indicated that national government departments had different governance structures (no unified governance structures). Some national government departments had constituted risk committees whereas other had not. There was also a difference with regards to the constitution of other governance structures such as the internal control units, internal audit units as well as ethics and compliance units. It was however noted that all departments had constituted the audit committees. Determining the current status quo was deemed necessary for the purpose of determining the nature of existing governance structures.

In addition to the above, it was also observed that the National Treasury department has an important role in promoting governance in South Africa's public sector. The role of National Treasury in promoting governance in the public sector becomes more apparent in the regulatory documentations. For instance; section 38 (1)(a)(i) and section 51 (1)(a)(i) of the Public Finance Management Act (RSA, 1999) directs the Accounting Officers/ authorities of the departments to ensure that their institution have and maintain an effective, efficient and transparent risk management program. From this perspective, it is clear that National Treasury, through the Public Finance Management Act (PFMA) directs the public sector institutions to embrace good governance.

In addition to the role of directing Accounting Officers/Authorities of public sector institutions towards sound governance and through the PFMA, it was also observed in Chapter 20 of the Public Sector Risk Management Framework (National Treasury, 2010) that the National Treasury's role has been outlined as that of monitoring and assessing the implementation of sound governance policies. In this instance; the focus is on the implementation of risk management program, including the prescribed norms and standards in the

public sector. From this perspective, the National Treasury provides an oversight on sound governance in South Africa's public sector.

Monitoring and assessing the state of governance in the public sector is important to ensure that the public sector institutions adhere to the requirements of sound governance. Much as the national government departments have differing constitutional mandates and that these institutions are not necessarily homogeneous, it is argued that common governance structures should be encouraged. The idea of commonality is not necessarily new in South Africa's public sector. For instance, during the exploratory phase of this study, it was observed that all national government departments were using a similar template for annual reporting (i.e. all national government department's annual reports had similar categories of information). Therefore, developing common governance structures across all national government departments is envisaged as an approach that could:

- ◆ promote collaborations between departments;
- ◆ promote the culture of learning from each other;
- ◆ Aid National Treasury with a uniform process that permits comparisons, thus aiding with identification of governance areas (or departments) that requires more attention, which in turn has a potential of resulting in effective monitoring and assessment of governance activities.

1. Purpose, scope and limitations

In the course of reviewing annual reports for South Africa's national government departments (exploratory phase of this study), it was observed that South Africa's national government departments (NGDs) had differing governance structures. For example, some NGDs had risk management committee structures, in addition to audit committees' structure, while others did not have the risk committee structures. Other national government departments had the internal control units in addition to the internal audit function, whereas others did not have. In addition to this, the PFMA and the Treasury Regulations provided guidance only on the constitution of the audit committee structures. The inference of the regulation pointing only to the audit committee structures has resulted in the focus being only on this structure. The main aim of this paper is to propose a uniform internal corporate governance structures in the South African NGDs.

The limitation of this study is that its focus is on national government departments. Other public sector institutions such as the provincial government departments, Chapter 9 institutions (these are

institutions established in terms of Chapter 9 of the constitution of the Republic of South Africa), local government institutions (municipalities) and state owned enterprises (SOEs) present an opportunity for further research in this area.

2. Review of governance structures in South Africa's NGD's

There are four (4) main contemporary documents aiming at advancing governance in the South African landscape. These contemporary documents include; the Public Finance Management Act of 1999 (RSA, 1999), the Treasury Regulations (National Treasury, 2001), the Public Sector Risk Management Framework (National Treasury, 2010) and the King III Report on Corporate Governance (IOD, 2009).

Drawing from these main contemporary documents, a preliminary review with the view of determining the structure of corporate governance in the public sector was undertaken. This was aimed at determining whether any of the documents prescribe how an NGD should constitute a governance structure. It was noted that none of main contemporary governance documents had prescription of the overall structure of governance in the national government departments.

As part of the preliminary review mentioned earlier, an additional review was conducted on annual/integrated report of national government departments to establish whether a norm had been formed on the governance structures by the reporting institutions. The results of the preliminary review indicated that there were different governance structures adopted by NGDs. The only exception was the audit committee structure which was present in all national government departments.

The differing structures point to a need for a universal structure of governance in national government departments. It was argued earlier that the idea of commonality in government is not new. For instance, it was pointed out that all national government departments were using a similar template for annual reporting. Therefore, there could be benefits in aligning the governance structures and these benefits could include promoting collaborations within departments, promoting the culture of learning from each other and aiding National Treasury with a uniform process that permits comparisons, which in turn will aid with the process of identification of governance areas (or departments) that requires more attention, thus ensuring effective monitoring and assessment.

As noted above, the most prominent structure of governance in the NGDs is the audit committee.

As indicated, it was observed during the preliminary phase that all national government departments reviewed had the audit committee structure. This type of a committee features prominently in all main contemporary documents. For instance, audit committees are regulated through section 76 as well as section 77 of the Public Finance Management Act (RSA, 1999). The regulation of audit committees is also found in the Treasury's Regulation 3.1 (National Treasury, 2001). Both the Public Finance Management Act (RSA, 1999) and the Treasury's Regulation 3.1 (National Treasury, 2001) mandate the accounting officer of the department (in consultation with the relevant authority) to set up an independent audit committee which must operate in terms of written terms of reference.

In addition to this, Chapter 12, paragraph 23 of the Public Sector Risk Management Framework (National Treasury, 2010) stresses that the audit committee is an independent and responsible for oversight of the institution's control, governance and risk management. With regards to the King III on Corporate Governance (IOD, 2009) which is found to be consistent with the PFMA and Treasury Regulations, it was noted that it requires an independent audit committee to be established. The King III on Corporate Governance (IOD, 2009) also stressed that the audit committee fulfilled a vital role in corporate governance.

Another structure of governance which was identified, but was not as prominent as the audit committee was the risk committee. This committee does not feature that much in the Public Finance Management Act (RSA, 1999) and the Treasury's Regulation 3.1 (National Treasury, 2001). However, it was noted that Chapter 13 of the Public Sector Risk Management Framework (National Treasury, 2010) did deal with the role of this committee. One of the reasons why this committee is not as prominent as the audit committee could be the fact that it is not legislated but appears only in the guidelines for risk management in the public sector and not the legislation and regulation (PFMA and the Treasury Regulations).

In reviewing the Public Sector Risk Management Framework (National Treasury, 2010), it would appear that the risk committee structure was aimed at being the sub-committee of the audit committee structure and as such, most national government departments constitute this committee as a sub-committee of the audit committee structure. With regards to the King III report on Corporate Governance (IOD, 2009), the governance of risk has been elevated, which makes the risk committee an important structure of governance. In essence what

this means is that the King III report on Corporate Governance (IOD, 2009) has positioned risk as a cornerstone of governance and thereby requires that greater emphasis is placed by the accounting officer/authority on risk management. This appears to suggest that the accounting officer/authority has a responsibility to ensure that there is a proper risk management in the organization that they oversee.

3. Research method followed

Based on the aims of the study which is a proposal for a uniform corporate governance structures in the South African national government departments, a review of literature supported by the public sector regulatory governance documents was undertaken. The literature was conducted so that the public sector corporate governance methods and practices as well as guidelines could be established. To this end, the main contemporary documents aiming at advancing governance in the public sector were analyzed. This was done in-order to establish the nature of existing governance structures for the public sector in South Africa. In this regard, the following documents were reviewed; the Public Finance Management Act of 1999 (RSA, 1999), the Treasury Regulations (National Treasury, 2001), the Public Sector Risk Management Framework (National Treasury, 2010) and the King III Report on Corporate Governance (IOD, 2009).

In addition to the above mentioned analysis, annual/integrated reports of national government departments were also reviewed so that a determination could be made as to whether there was a structure that emerged. It was observed that with the exception of the King III Report on Corporate Governance (IOD, 2009), the three (3) key documents meant to promote corporate governance in the public sector emphasized the establishment of audit committees as an independent committee in national government departments. There are dedicated sections in the aforementioned governance documents that deal with the audit committee i.e. sections 76(4)(d) and 77 of the Public Finance Management Act of 1999 (RSA, 1999), section 3.1 of the Treasury Regulations (National Treasury, 2001) as well as Chapter 12 of the Public Sector Risk Management Framework (National Treasury, 2010).

It was noted during the exploratory phase that risk committees emerged. In circumstances where they emerged, it was noted that these committees were constituted in a manner that made them a sub-committee of the audit committee. This is apparent in Chapter 12 of the Public Sector Risk Management Framework (National Treasury, 2010), where there

is no mention as to how this committee is to be constituted (i.e. there is no mention of this committee as an independent committee). There is only an indication that the Chairperson of this committee should be appointed by the accounting officer/authority, and that the Chairperson should be an independent candidate. This could be one of the reasons why during the exploratory phase most national government departments did not have risk committees as part of governance structure.

With the governance of risk concept getting elevated in the King III Report on Corporate Governance (IOD, 2009), the role of risk management committees in the national government departments must receive prominence. Those departments with no risk committees must be encouraged to establish these committees and the functions of these committees should be aligned to the governance principles of the King III Report on Corporate Governance in the context of the public sector.

4. Proposed governance structures

The following diagram presents the proposed internal governance structures in the South African National Government Departments (NGDs).

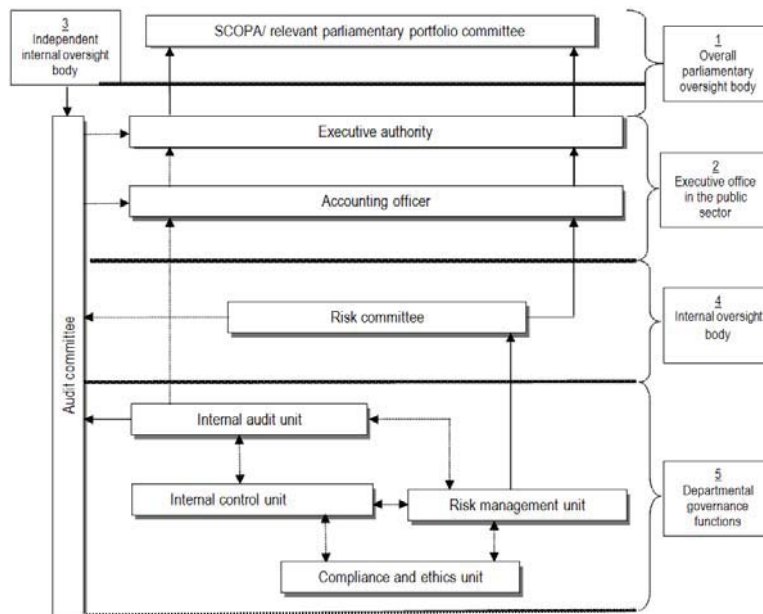
Figure 1 demonstrates the proposed governance structure in the South African national government departments. The proposed structure is a five (5) layered structure consisting of:

- ◆ Standing Committee on Public Accounts (SCOPA)/parliamentary portfolio committee;
- ◆ executive office (ministers and the deputy ministers), as well as the accounting officer;
- ◆ independent internal oversight body;
- ◆ internal oversight body;
- ◆ the departmental governance functions.

The main focus of this study is the four (4) layers namely:

- ◆ executive office (ministers and the deputy ministers) as well as the accounting officer;
- ◆ independent internal oversight body;
- ◆ internal oversight body;
- ◆ the departmental governance functions.

The rationale behind focusing on the four layers is premised on the idea that they are the ones charged with executing the mandate of the department concerned as well as ensuring that departmental risks are properly identified, properly controlled and minimized. The SCOPA provides overall financial (public accounts) oversight, whereas the relevant parliamentary portfolio committees provide oversight, mostly on service delivery responsibilities by the departments.



Source: author’s own illustration.

Fig. 1. Proposed uniform governance structure in the South African national government departments

With regards to the departmental governance functions, there were four (4) internal governance units that were identified namely:

- ◆ the internal audit unit;
- ◆ the risk management unit;
- ◆ the internal control unit; and
- ◆ the compliance and ethics unit.

Paragraphs below provide a description as to how the proposed structures can be lubricated to facilitate the smooth interactions with each other.

- ◆ *The compliance and ethics unit could perform the coordination role of ensuring that the departments adopt proper ethics guidelines (in most cases departments utilizes the Department of Public Service and Administration-DPSA ethics guidelines). Should there be risks of non-compliance and ethical issues, there should be coordination between the compliance and ethics unit and the risk management unit (enterprise wide risk management).*
- ◆ *The internal control unit could perform a coordination role that ensures a sound internal control environment within the department. Should there be lapses of control, the unit should ensure that this risk is part of the risk management register of the department and the owners of the risk are proactive in terms of defining control/ mitigation strategies that will reduce/eliminate the risk (enterprise wide risk management).*
- ◆ *The risk management function ensures that it coordinates with all functions within the departments so as to identify all risks and*

ensure that these risks are captured in the risk register. It should further ensure that owners of the risk are proactive in terms of defining control/mitigation strategies that will reduce/eliminate the risk (enterprise wide risk management). The risk unit should report to the risk committee which in turn reports to the Executive Authority/Accounting Officer of the department concerned and has a dotted line to the audit committee (audit committee facilitates all the assurance activities in the department).

- ◆ *The internal audit unit, using the risk based approach is to perform audits in terms of its approved audit plan, and reports to the Audit Committee (audit committee facilitates all the assurance activities in the department) with a dotted line to the Executive Authority/Accounting Officer.*

Summary, conclusion and recommendations

The paper aimed at proposing uniform internal corporate governance structures in the South African national government departments. During the literature exploration phase of the study, it was noted that the main contemporary documents aiming at advancing governance in the South Africa’s public sector are; the Public Finance Management Act of 1999 (RSA, 1999), the Treasury Regulations (National Treasury, 2001), the Public Sector Risk Management Framework (National Treasury, 2010) and the King III Report on Corporate Governance (IOD, 2009).

The evidence on the current governance structure in national government departments was explored using the annual/integrated reports. Annual/integrated reports were selected as a method of demonstrating

evidence due to the fact that they represent a formal report in which activities of the organization are communicated with the stakeholders. It was then argued that it will be expected that any institution that wishes to be perceived as embracing and practicing good governance will disclose its governance activities in its annual report. During the analysis, it was observed that the most common structure that is prominent across all national government departments was the audit committee. It was concluded that the reason for this structure to be prominent could be attributed to the dedicated sections/Chapters that deal with this committee in all the main contemporary documents aiming at advancing governance in the South Africa's public sector.

Section 4 presented a uniform four layered governance structure which could be adopted by South Africa's NGDs. This structure consists of:

- ◆ executive office (ministers and the deputy ministers) as well as the accounting officer;
- ◆ independent internal oversight body;
- ◆ internal oversight body;
- ◆ the departmental governance functions.

It was indicated that these structures were selected because they are the ones charged with executing the mandate of the department concerned as well as ensuring that departmental risks are properly identified, properly controlled and minimized.

The study acknowledges that national government departments have different mandates. Even so, it was pointed out that the idea of commonality in government is not new. For instance, it was pointed out that all national government departments were using a similar template for annual reporting. Therefore, it was recommended that national government departments adopt similar governance structures. There could be benefits in aligning the governance structures and these benefits could include promotion of collaborations within departments, promoting the culture of learning from each other and aiding National Treasury with a uniform process that permits comparisons, which in turn has a potential of aiding with the process of identification of governance areas (or departments) that requires more attention, thus ensuring effective monitoring and assessment of governance activities.

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