

Ethical Governance and the Role of Company Secretaries: A Comprehensive Review

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INTRODUCTION

Ethical governance in business is more than 'regulatory compliance'. It is not rule-based. It is value-based. Human values are rooted in virtues which, are difficult to measure, quantify and monitor. 'Principle-centered' corporate guidelines (including accounting) are encouraged to replace 'rule-based' ones. A debate is now converging in favor of ethics which involves important aspects of business, society, administration, politics, media, institutions, family and personal life. Ethical governance has become an important issue in the context of unethical behavior and malpractices by the holders of high political offices and corporate houses. In any country politicians and high corporate designation holders are considered as the stimulants and leaders of significant socio-economic development. Because, they possess enormous power and authority than the ordinary people and have the requisite capabilities of making decisions relating to the use of scarce national resources, public funds, etc. In case of business, especially accounting and finance is perhaps the only business function that accepts responsibility to act in public interest and therefore this area should be governed ethically in order to protect the interests of the stakeholders. Fundamentally, ethical governance is an important tool for code of conduct of any accounting and management professional and various global surveys have also ranked them high in terms of professional ethics.

However, various scandals and malpractices witnessed worldwide during the recent years have put a serious and special attention on the roles of the business executives, statesmen, government officials, accounting and management professionals. Over the last few decades, the headlines of almost all newspapers in particular portrayed the sad stories of corporate and political ethics or lack thereof. In the above lines, there has been a renewed and special emphasis on the study of ethical governance and the roles of the company secretaries in nurturing morality and values in the modern business era.

ETHICAL GOVERNANCE – WHY?

In the context of high ethical and moral degradation the concept of ethical governance has become important, because of the following key reasons and they are identified below (Figure – 1.1) followed by a brief analysis of the same.

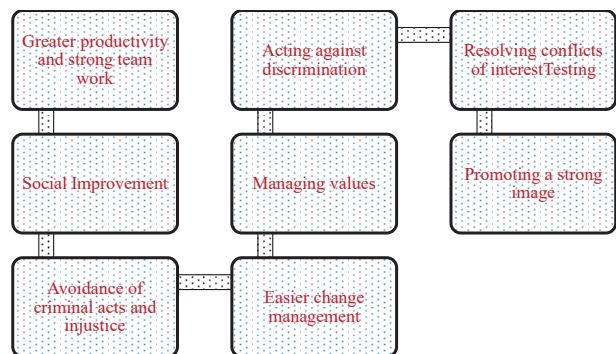


Figure - 1.1: Ethical Governance - Why?

- 1) Greater productivity and strong team work:** Ongoing attention and discussion regarding the work place values act as stimulants for openness, integrity and community. All these are the ingredients of the strong teams in the work place. Ethical governance helps to establish strong alignment between the values of the employees and that of the organization. Such alignment results in strong motivation, higher morale and better organizational performance. All these stimulate organizational productivity and efficiency and effectiveness in the Government's schemes/projects.

- 2) **Social Improvement:** It acts against exploitation of workers, child labor, sexual harassment of women employees at the workplace, gender discrimination and all other unethical behavior. Only because of it, business houses place high values on ethics, equal rights and fairness. Proper implementation of it in all sectors is strongly required for improved society.
- 3) **Avoidance of criminal acts and injustice:** It helps to detect unethical issues and legal violations early so that they can promptly be addressed, reported and controlled. It also helps to avoid some financial implications and losses due to violation of rules and regulations such as fines, penalties and compensation etc.
- 4) **Easier change management:** During the time of change, in the absence of a clear moral compass it becomes difficult for the leaders (political and business) to resolve what is right or wrong. Strong ethical governance assists to maintain consistency in their actions in such a situation.
- 5) **Managing values:** It helps identifying the values and ensuring that organizational or political behaviors align with those values. Value management is a precursor to establish quality management, strategic planning and diversity management. For example, Total Quality Management includes high priority on certain operating values such as trusts amongst stakeholders, reliability, performance, measurement and proper feedback.
- 6) **Acting against discrimination:** Discrimination is treating people differently. Employment discrimination means treating one person better than another because of his/ her age, religion, gender, race, caste or other protected class status. Discrimination is mainly faced by women, minorities, physically challenged and downtrodden people. Guided by ethical governance, the Government has enacted different laws that act against the above reasons. Not only the Government, several corporate bodies and other organizations have been taking initiatives for opening up scopes for physically challenged, establishing principles of equality in the work place and appointing employees from minority and socially backward communities.
- 7) **Resolving conflicts of interest:** A conflict of interest is bound to come among the top most business executives, Government officials and political leaders. Conflict of interest exists when a person must choose whether to advance his/ her own interest or those of the organization/ general public. A bribe is an example of conflict of interest which benefits an individual or group of individuals at the expenses of the organization or society. Conflicts of interest need not always be financial. Ethical dilemma does not arise in cases where only one way is left out. It arises where there exist several alternative choices and all of them are right. Ethical governance helps in selecting the appropriate option (although all are right) which maximizes the overall benefits at the expenses of minimizing costs.
- 8) **Promoting a strong image:** Strong public image and goodwill are essential for both politicians, business executives. Because politicians/governments (composition of politicians of winning parties) are responsible to the general public for rendering services to them as their servants and business leaders are responsible to satisfy the customers to buy their products or services. Without good public image and goodwill they are worthless.

An organization that concentrates on ethics can portray a strong and positive image to the public. People see them as valuing human more than profit. Strong public image helps to generate profit the long run, ensures long term existence and continuity of the government, improves trusts in relationships between individuals and groups etc.

COMPANY SECRETARIES AS GUARDIANS OF ETHICAL VALUES

Company Secretaries serve as guardians of ethical values within an organization by playing a key role in promoting and upholding ethical standards, fostering a culture of integrity, and ensuring that ethical considerations are integrated into all aspects of the business. Here's how Company Secretaries fulfill this role:

- 1) **Ethical Guidance and Compliance:** Company Secretaries provide expert guidance on ethical conduct, ensuring that the organization complies with laws, regulations, and industry standards. They help develop and implement ethical codes of conduct, policies, and guidelines that guide employees, management, and the board in making ethical decisions and choices.
- 2) **Embedding Ethics in Corporate culture:** Company Secretaries work to establish a strong ethical culture throughout the organization. They assist in shaping the organization's values, mission and vision statements to reflect a commitment to ethical behavior. They also facilitate training programs and awareness campaigns to instill ethical values in employees at all levels.
- 3) **Whistleblower Protection and Reporting:** Company Secretaries establish mechanisms for reporting unethical behavior or misconduct, often including whistleblower protection programs. They ensure that employees have a confidential and safe channel to report concerns, and they play a role in investigating and addressing reported issues.
- 4) **Ethical Risk Management:** Company Secretaries collaborate with management to identify and address ethical risks that could pose threats to the organization's reputation, legal standing, or operational effectiveness. They help develop strategies and procedures to mitigate these risks and ensure that appropriate controls are in place.
- 5) **Promoting Transparency and Accountability:** Company Secretaries contribute to transparency by ensuring accurate and timely disclosure of relevant information to stakeholders. They assist

in the preparation of reports, disclosures, and communications that provide a clear view of the company's ethical performance and initiatives.

- 6) **Conflict of Interest Oversight:** Company Secretaries help identify and manage conflicts of interest among Board Members, executives, and employees. They ensure that potential conflicts are properly disclosed and that appropriate actions are taken to prevent any unethical practices.
- 7) **Ethics Committee Support:** In organizations that have dedicated ethics committees, Company Secretaries often provide support by coordinating meetings, maintaining records, and assisting with the implementation of committee decisions.
- 8) **Ethical Auditing and Monitoring:** Company Secretaries participate in ethical audits and reviews to assess the organization's adherence to ethical standards. They collaborate with internal and external auditors to ensure that ethical considerations are part of the auditing process.
- 9) **Advising on Ethical Dilemmas:** When complex ethical dilemmas arise, Company Secretaries offer advice to the board and management on potential courses of action, taking into account legal, regulatory, and ethical considerations.
- 10) **Professional Development and Training:** Company Secretaries continuously educate themselves and stay informed about evolving ethical issues and governance practices. They also facilitate training sessions for employees, management, and the board to enhance awareness and understanding of ethical principles.
- 11) **Stakeholder Engagement:** Company Secretaries engage with stakeholders to understand their ethical concerns and expectations. They help the organization align its practices with stakeholder values, building trust and credibility.

CHALLENGES AND EMERGING TRENDS

Certainly, the role of Company Secretaries in ethical governance and corporate governance in general is not without its challenges and ongoing changes due to emerging trends. Here are few challenges and emerging trends that impact the role of Company Secretaries:

Few Challenges:

- 1) **Ethical Dilemmas:** Company Secretaries often face complex ethical dilemmas when balancing the interests of different stakeholders, such as shareholders, employees, and the community. Deciding on the most ethical course of action can be challenging and requires careful consideration.
- 2) **Rapid Regulatory Changes:** Frequent changes in laws and regulations pose challenges for Company Secretaries in staying updated and ensuring the organization's compliance. Adapting to new regulatory frameworks and requirements can be resource-intensive.



- 3) **Globalization:** As organizations expand across borders, Company Secretaries must navigate varying legal and cultural norms, leading to complexities in managing ethical standards and Corporate Governance practices internationally.
- 4) **Data Privacy and Cybersecurity:** The increasing reliance on technology raises concerns about data privacy and cybersecurity. Company Secretaries must ensure that ethical principles are applied to data handling and cybersecurity practices to safeguard sensitive information.
- 5) **Managing Stakeholder Expectations:** Balancing the diverse expectations of stakeholders, including investors, customers, and advocacy groups, presents challenges in maintaining ethical governance while addressing various interests.
- 6) **Board Diversity and Dynamics:** Company Secretaries may encounter challenges in fostering effective board dynamics and ensuring diversity among board members, which can impact decision-making and ethical oversight.

EMERGING TRENDS AND DEVELOPMENTS

- 1) **Sustainability and ESG:** Environmental, social, and governance (ESG) considerations have gained prominence. Company Secretaries are increasingly involved in integrating ESG principles into corporate strategies and reporting, aligning with growing stakeholder demands for sustainable practices.
- 2) **Technology and Digital Governance:** The rise of digital transformation introduces new challenges related to technology governance, cybersecurity, and data ethics. Company Secretaries are expected to play a role in overseeing digital governance and ensuring ethical use of technology.
- 3) **Whistleblower Protection:** Whistleblower protection is gaining importance as organizations recognize the value of internal reporting mechanisms. Company Secretaries are involved in implementing robust whistleblower protection programs and addressing reported concerns.
- 4) **Board Effectiveness and Evaluation:** There is a trend toward enhancing Board effectiveness through regular evaluations and performance assessments.

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Company Secretaries play a role in facilitating these evaluations and ensuring that governance practices remain aligned with best practices.

- 5) **Shareholder Activism:** Increasing shareholder activism requires Company Secretaries to manage interactions with activist shareholders while upholding ethical standards and corporate governance principles.
- 6) **Ethical Artificial Intelligence (AI) and Automation:** As AI and automation technologies are integrated into business processes, Company Secretaries must ensure that ethical considerations are applied in decision-making algorithms and automated systems.
- 7) **Crisis Management and Resilience:** The ability to manage ethical challenges during crises, such as the COVID-19 pandemic, is a critical trend. Company Secretaries contribute to crisis management strategies and ethical decision-making during turbulent times.
- 8) **Cultural and Social Dynamics:** Organizations are placing more emphasis on fostering inclusive and ethical cultures. Company Secretaries contribute to shaping organizational culture and ensuring that it aligns with ethical values.
- 9) **Regulatory Focus on Governance:** Regulatory authorities worldwide are intensifying their focus on corporate governance and ethical practices. Company Secretaries are at the forefront of ensuring compliance with evolving governance standards.
- 10) **AI-powered Governance Tools:** Emerging technologies, such as AI-driven governance tools, are being explored to enhance efficiency in governance processes. Company Secretaries may need to adapt to and leverage these tools.

STRATEGIES FOR STRENGTHENING ETHICAL GOVERNANCE THROUGH COMPANY SECRETARIES

Strengthening ethical governance through Company Secretaries requires a proactive and comprehensive approach. Here are some strategies that organizations can adopt to enhance ethical governance with the guidance of Company Secretaries:

- Collaborate with Company Secretaries to develop clear and comprehensive ethical policies, codes of

conduct, and guidelines that reflect the organization's values and principles.

- Ensure these policies are communicated effectively to all employees, stakeholders, and Board Members, emphasizing the importance of ethical behavior.
- Work with Company Secretaries to design and implement regular training and awareness programs that educate employees about ethical issues, dilemmas, and the proper course of action.
- Provide case-based training to help employees navigate real-world ethical challenges.
- Establish a robust whistleblower protection program with the guidance of Company Secretaries to encourage employees to report ethical violations without fear of retaliation.
- Ensure that the reporting process is confidential, easily accessible, and well-publicized.
- Collaborate with Company Secretaries to form and support ethics committees consisting of cross-functional representatives to oversee ethical matters and provide guidance on complex issues.
- Work with Company Secretaries to integrate ethical performance indicators into employee and leadership evaluations, reinforcing the importance of ethical conduct.
- Engage Company Secretaries in conducting ethical due diligence during mergers, acquisitions, partnerships, and other business transactions to identify and address potential ethical risks.
- Develop and implement robust conflict of interest policies with the guidance of Company Secretaries to identify, disclose, and manage conflicts of interest at all levels of the organization.
- Company Secretaries can facilitate regular interactions between the Board of Directors and management to ensure ethical considerations are part of strategic discussions and decision-making.
- Collaborate with Company Secretaries to conduct regular ethical risk assessments, identifying areas of potential ethical concern and implementing preventive measures.
- Establish anonymous ethics hotlines and reporting channels with the guidance of Company Secretaries to encourage reporting of unethical behavior and ensure prompt investigation and resolution.
- Work with Company Secretaries to establish an ongoing monitoring and auditing process to assess the organization's adherence to ethical standards and identify areas for improvement.
- Collaborate with Company Secretaries to ensure transparency in reporting on ethical performance, disclosing any lapses, and outlining corrective actions taken.

- Foster a culture of continuous improvement by regularly reviewing and updating ethical governance policies, practices and training programs with the guidance of Company Secretaries.
- Collaborate with Company Secretaries to identify and cultivate ethical leaders within the organization, who can set an example and inspire others to uphold ethical values.
- Collaborate with Company Secretaries to engage external stakeholders, such as suppliers, customers, and communities, to ensure ethical considerations are incorporated into relationships and business practices.

IMPLICATIONS FOR PRACTICE AND POLICY

The implications for practice and policy resulting from the integration of ethical governance and the role of Company Secretaries are significant and extend to various aspects of organizational operations, governance structures, and regulatory frameworks. Here are some key implications for both practice and policy:

Implications for Practice:

- The integration of ethical governance practices led by Company Secretaries contributes to the development of a strong ethical culture within organizations. Employees at all levels are more likely to understand, embrace, and apply ethical values in their day-to-day work.
- Organizations that prioritize ethical governance and work closely with Company Secretaries to ensure ethical compliance and transparency are likely to earn the trust of stakeholders, leading to enhanced reputation and brand value.
- Ethical governance, guided by Company Secretaries, helps to identify and manage potential risks related to unethical behavior, allowing organizations to proactively mitigate risks that could harm their operations or reputation.
- Stakeholders, including investors, customers and communities, are more likely to have confidence in organizations that demonstrate a commitment to ethical governance through the guidance of Company Secretaries.
- Ethical governance practices led by Company Secretaries contribute to the long-term sustainability of organizations by aligning business strategies with ethical considerations and societal expectations.
- Organizations that prioritize ethical governance align more closely with Environmental, Social, and Governance (ESG) goals, which are increasingly important to investors and regulators.

Implications for Policy:

- Policymakers may need to update and strengthen regulatory frameworks to ensure that ethical governance practices are integrated into corporate governance requirements. This could include

mandating the role of Company Secretaries in overseeing ethical compliance.

- Policy changes could require organizations to disclose more detailed information about their ethical governance practices, including the role of Company Secretaries, in their annual reports and disclosures.
- Policymakers could enhance whistleblower protection laws and regulations to encourage reporting of ethical violations and ensure the anonymity and safety of whistleblowers.
- Policies promoting diverse and knowledgeable Boards, which may include experienced Company Secretaries, can strengthen ethical oversight and decision-making.
- Policymakers could encourage or mandate ongoing ethical education and training for Company Secretaries and board members to ensure they have the necessary skills and knowledge to effectively oversee ethical governance.
- Policies could recognize and incentivize organizations that excel in ethical governance practices led by Company Secretaries through awards, certifications, or other forms of recognition.
- Policymakers could encourage organizations to collaborate with industry bodies and report on their efforts to enhance ethical governance, promoting a culture of continuous improvement.
- Policymakers could collaborate internationally to develop standardized guidelines and principles for ethical governance, providing a global framework for organizations and Company Secretaries to follow.

CONCLUSION

It is obvious from the above factual assessment that the Overall, the integration of ethical governance and the role of Company Secretaries has implications that extend to both practice and policy, influencing how organizations operate, govern themselves, and interact with stakeholders. It requires a collaborative effort between organizations, policymakers, regulatory bodies, and industry stakeholders to create a more ethical and sustainable business environment. This will ultimately contribute to a robust and sustainable framework that supports economic growth, enhances compliance, and fosters a favorable business environment.

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