CORPORATE GOVERNANCE: SCENARIO IN INDIA

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Abstract— Corporate governance is vital and crucial body in today's era to be studied and strictly followed by firms. Role of corporate governance in Indian firms is immensely impacting in a positive as well negative manner leading the firms towards long-lasting and sustainable life and also helping firms to have a strong relation and promoting the shareholders and stakeholders of the company. It is very important for the firms to disclose their financial positions and to be transparent for both internal and external parties. This paper studies and discusses about the present scenario and concluded that there are various scandals happened in India despite of having a tighter role of corporate governance. It is suggested that firms should follow corporate governance body blindly which will eventually make firms successful and minimizing its pitfalls.

Keywords— Corporate Governance, Scandals, Board room, Reputation, Goodwill.

I. INTRODUCTION

Corporate governance has become a very hot issue these days because good governance hasbecome a casualty at all levels. Corporate governance is concerned with set of principles, ethics, values, morals, rules regulations & procedures. Corporate governance establishes a system whereby directors are entrusted with duties and responsibilities in relation to the direction of the company's affairs. Corporate governance includes Honesty, Disclosure, Transparency, Sustainabilityand Responsibility. The UNDP Human Development report labelled the economic growth as ruthless, rootless and jobless. It highlighted that economic development is the means (way to achieve the goal) and human development should be the goal. Even today, for many companies Corporate Governance has only a shareholder focus. The reference point usually is the company's law and the relevant guidelines of Securities Exchange Board of India (SEBI). For Human resource professionals and human resource function (HR), however, the concept of CG is much wider. HR has a key role to shift focus to multi-stakeholder focus with a 'balanced score card' perspective. HR perspective on Corporate Governance should focus on, among others, the following:

1. Respect for universal human rights and freedoms
2. Internalize international labour standards
3. Practice codified ethics and codes of conduct
4. Develop/benchmark best practices and follow them
5. Conduct internal and external (including social) audit of HR policies

Corporate Governance increases the accountability of the individuals and is aimed at reducing the principal agency problem. **As per Cadbury Committee** "Corporate Governance is a system by which companies are directed and controlled to ensure future growth and survival of the business". In short, Corporate Governance is aimed at increasing the value for shareholders and can act as a competitive advantage because it is aimed towards the long term sustainability of the business.

The philosophy of governance and ethics is not new as a concept. In fact in the Indiantradition, this has been a deep rooted and fundamental basis of all religious and scriptural teachings. Sadly, businesses today seek exponential growth and the profits have overlooked the means to generating returns to shareholders and stakeholders. Profits however are not a bad word.

But, when the companies use the unethical means to achieve the same, then businesses runthe risk of permanently damaging their reputation and goodwill.

The Organization for Economic Cooperation and Development (OECD), which, in 1999, published its Principles of Corporate Governance gives a very comprehensive definition of corporate governance, as under: "a set of relationships between a company's management, its board, its shareholders and other stakeholders. Corporate governance also provides the structure through which the objectives of the company are set, and the means of attaining those objectives and monitoring performance are determined. Good corporate governance should provide proper incentives for the board and management to pursue objectives that are in the interests of the company and shareholders, and should facilitate effective monitoring; thereby encouraging firms to use recourses more efficiently."

II. OBJECTIVES OF THE PAPER

1. To study the impression of Corporate Governance in India
2. To examine the present framework of Corporate Governance in India

III. LITERATURE REVIEW & CONCEPTUAL FRAMEWORK

Enormous studies have been done of corporate governance in India which has suggested and resulted in positive as well as negative side of Indian firms. Context of corporate governance has been discussed by various researchers as:

Jayanth Rama (1997) investigated that power of capital market in India as compared to United States and United Kingdom. As corporate governance body and rules of each and every country differs which are to be strictly followed for the maintenance and proper working of firms. It was studied that as compare to U.S. or U.K. the corporate governance of India is weaker and very critical because the most important pillar of firms i.e. Shareholders are weak which is consequently leading the firms risky and financially weak. So, authors have mainly focused on the growth of Shareholders which could eventually improve the corporate governance of the firm in India.

Carter et al. (2010) studied that good corporate governance can be promoted and improved by more gender diverse boards on board room which will ultimately grow the firm's financial performance.

Andrew Kakabadse (2010) emphasized more on six dimensions i.e. political, Civil, Judicial, Administrative, economic and financial spheres of the firm that are to be focused under corporate governance body as these dimensions are the benchmark for every business and on there basis the corporate governance position are varied.

Prof. Rana Singh (2014) studied the changing dimensions of corporate governance in India and explained the role of Good Governance in Indian firms and concluded that more tighter the rules of corporate governance, better will the working of firms. As, it is very important to safeguard stakeholders and shareholders of the company from fraudulence and scandals which are only possible with the help of disciplined corporate governance body.

Raja Mariappan et al. (2014) stipulated that for enhancement of firm's performance it is uttermost important to have good governance factor. As success and growth of any firm is mainly dependent upon the effective and good corporate governance. The authors found that there is no significant relationship between corporate governance practices and firm's performance as there is no impact of corporate governance on firm's performance. Further analyzing the results that three variable – Firm size, Insider ownership and Board independence were insignificant which leads the investors to carefully invest and take decision accordingly. Overall study revealed two aspects, firstly, good corporate governance regime is needed to improve the decision making qualities of board of directors and secondly, good corporate governance will lead to increase in shareholders returns.

Smita Jain (2015) explained the importance of corporate governance in present scenario in India and laid immense importance on various committees form to regulate corporate governance regulations like Kumar Manglam Birla Committee, Cadbury Committee Report, OECD Principles, Sarbanes-Oxley Act, Narayana Murthy Committee, ICSI, SEBI etc and concluded the performance of Indian firms after Companies Act, 2013 have improved 30% specifically breaking the Glass –Ceiling effect in Indian firms resulting in betterment of Corporate governance and increasing the role of Women directors on Boardroom.

IV. LEGAL FRAMEWORK FOR CORPORATE GOVERNANCE IN INDIA

Indian bodies such as the Stock Exchange Board of India (SEBI) and reporting norms defined by the Department of Company Affairs, in the Government of India, the United States through its legislation, such as the Sarbanes-Oxley Act of 2002, aim to regulate and ensure compliance, transparency and accountability by organizations and business entities.

The Companies Act, 2013: The Government of India has recently notified Companies Act, 2013 ("New Companies Act"), which replaces the erstwhile Companies Act, 1956. The New Act has greater emphasis on corporate governance through the board and board processes. The New Act covers corporate governance through its following provisions:

- New Companies Act introduces significant changes to the composition of the boards of directors.
- Every company is required to appoint 1 (one) resident director on its board.
- Nominee directors shall no longer be treated as independent directors.
- Listed companies and specified classes of public companies are required to appoint independent directors and women directors on their boards.
- New Companies Act for the first time codifies the duties of directors.
- Listed companies and certain other public companies shall be required to appoint at least 1 (one) woman director on its board.
- New Companies Act mandates following committees to be constituted by the board for prescribed class of companies:
    - Audit committee
    - Nomination and remuneration committee
    - Stakeholders relationship committee
    - Corporate social responsibility committee

4.1 Failure of Glass Ceiling Effect in Indian Firms

The Securities and Exchange Board of India (SEBI) last year imposed a quota of at least one female director on the board of every listed firm, and warned of "very serious" consequences if the thousands of companies did not comply by defined deadline date. Not following the rules of Companies Act, 2013, The Bombay Stock Exchange (BSE) has slapped fines on 530 listed companies for failing to meet a deadline to appoint a women director and boost gender diversity in their boardrooms. The National Stock Exchange (NSE) said it had also sent out letters informing 260 listed firms, many of which are also listed on the BSE, of its intention to levy fines. According to PRIME Database, "a market research group, which monitors the NSE, 105 companies out of 1,733 still had vacancies for women directors on their boards (as per analysis, 2015). The listed companies complying will have to pay fine ranging from Rs. 50,000 to Rs. 1.42 lakh, plus Rs. 5,000 per day till the date of compliance."

There is heightened levels of scrutiny and accountability imposed on private enterprises and publicly held organizations by the Government through stricter regulatory and compliance frameworks, norms and standards.

V. PRESENT FRAMEWORK OF CORPORATE GOVERNANCE IN INDIAN

The key question is that despite all this why have the incidences of non-compliance,evasion and wrong reporting not subsided in the world of Business? Does it imply that India needstricter regulations and control or is it that Businesses are by nature willing to do the wrongthings, even at the cost of a permanent damage to their reputation and image? Given the seriesof corporate scandals that hit the world headlines from Enron and WorldCom in the early part of2000 to the Wall Street fiasco that led to a global financial meltdown through the sub-prime crisis recently in the US, to the Satyam scam closer home, we witness one common thread of dissonance. Simply put, this is a lack of 'Conscious Commitment' in letter and spirit tothe core values of honesty, integrity and transparency by the senior leadership team of largeenterprise

Series of corruption scandals in India have embarrassed the ruling of corporate governance, rattled markets and delayed reform bills as the opposition stalls parliament. The country, 87th in Transparency International's rankings based on perceived levels of corruption, is no stranger to scandals. Here are some of the biggest in the last two decades:

Table 5.1: Scandalous Scandals in India

S. No	Company Name	Year	Scam
1.	Loan bribery case	2010	The case broke after a year of investigation when the Central Bureau of Investigation (CBI) arrested eight people, accusing them of bribery for corporate loans. The arrests included the chief executive of state-run mortgage lender LIC Housing Finance and senior officials at state-run Central Bank of India, Punjab National Bank and Bank of India. While the size of the scandal is not yet known, local media have reported it could run into hundreds of millions of dollars.
2.	Telecoms license row	2010	Telecoms Minister Andimuthu Raja was sacked after a report by India's state auditor said his ministry sold licenses and spectrum below market prices, depriving the government of up to USD 39 billion in revenues. The scandal swept up as high as Prime Minister Manmohan Singh, who had to explain to the Supreme Court why he sat on a request for permission to charge Raja with corruption.
3.	Commonwealth Games	2010	Allegations of corruption over the international sporting event that took place in Delhi in October are being investigated by several bodies including the anti-corruption watchdog, the state auditor, the CBI and a special committee set up by Prime Minister Singh. The Congress-party led coalition government came under fierce criticism for mismanagement and ineptitude over the sporting extravaganza which cost up to USD 6 billion (Rs. 70,000 Crore).
4.	Housing scam	2010	Congress party politicians, bureaucrats and military officials have been accused of taking over land meant for building apartments for war widows. The CBI has begun investigating the case. Local media say apartments with a value of USD 1.8 million were sold for as little as USD 130,000 each in the apartment block, which faces the Arabian Sea in one of the world's most expensive stretches of real estate in Mumbai.
5.	Satyam Scam	2009	The founder of Satyam Computer Services, one of India's top software firms, resigned in January 2009 after admitting profits were falsely inflated for years. The fraud, estimated at USD 1 billion (Rs. 14,000 crore), was India's largest corporate scandal and was dubbed "India's Enron".
6.	Securities scam	1992	Several Indian stockbrokers were accused of siphoning off over Rs 3,500 crore (USD 778 million) of funds, mostly from inter-bank transactions, to fuel a rise in the Mumbai stock market in 1992. It involved top officers of state-run and foreign banks and financial institutions, bureaucrats and politicians.
7.	Bofors Scam	1986	India's purchase of artillery guns from Swedish firm Bofors in 1986 was rocked by allegations that Rs 64 crore (USD 14.2 million) a huge sum then was paid as bribes to people close to then prime minister Rajiv Gandhi to swing the deal. The scandal caused an uproar in parliament, led to a split in the ruling Congress party and the defeat of Gandhi in federal elections in 1989.

In the Indian context Satyam scandal and various other scandals has brought to focus the role of independent directors in the companies. This may not be an India-specific story. In fact, history of capitalism regularly produces headline-making such scandals. Enron for example, the energy company has become a byword for company fraud. It had 22,000 employees and claimed revenue of nearly $100bn the year before its 2001 collapse. The group had a complex accounts structure, under which huge debts were hidden behind fraudulent off-balance sheet partnerships. Its top executives were found guilty of insider trading and lying to investors.

Heeding this fundamental wisdom, various regulatory agencies thought it appropriate to advise the companies to incorporate independent members on their Board. This may have two broad objectives: one, effective corporate governance, and two, investors' confidence. In fact, Corporate Governance in the UK and the Code of Corporate Governance Practices, emphasize the role and responsibilities of the non-executive directors, including the need for an independent board and independent non-executive directors. Independent non-executive directors are expected not only to participate in committees such as the audit, remuneration and nomination committees but also to form the majority in such committees.

CONCLUSION

Reputation of enterprises are built over years, but lost overnight, as it has seen in far too many cases across the world of business. Leaders need to demonstrate traits that put organizational interests before self, with a focus on long term sustainability rather than short term gains. Only when corporate leaders consciously believe and practice these time-tested values can they build lasting goodwill and reputation for their organizations. Socially responsible actions that are not merely rhetoric but are sincere and honest is the only route to restoring the goodwill of public and other stakeholders towards business entities. Hopefully, the lessons learnt from the many mistakes of the past will rejuvenate corporations to realign and entrust the reins of leadership to people who command respect through their conduct and professional expertise. They in turn can then demonstrate qualities that inspire their teams to set the highest standards of personal and professional integrity for managing the many challenges that lie ahead of enterprises in the future.

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