NEW PARADIGMS IN CORPORATE GOVERNANCE

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ABSTRACT

Corporate governance has been a dominant policy issue in developed market economies for more than decades now. but since the mid-90s it has been one of the most hotly contested issues. In the wake of the Asian Crisis, corporate governance has also become a catchword in the development debate. Countries and stock exchanges are competing to produce corporate governance guidelines, and OECD is about to publish its own principles. But how important is corporate governance? Corporate governance is likely to matter more in certain contexts or certain phases of economic development than in others. Despite its theoretical flavour, this way of looking at corporate governance has important practical implications. It opens up the firm, and its management, to pressures other than that from shareholders.

KEYWORDS

Business ethics, Corporate Governance, Sustainability, CSR

INTRODUCTION

Corporate Governance has emerged as an important academic discipline in its own right, bringing together contributions from accounting, finance, law and management. Corporate governance now offers a comprehensive, interdisciplinary approach to the management and control of companies. Corporate professionals of today and tomorrow must imbibe in themselves the evolving principles of good corporate governance across the globe on a continual basis. Excellence can be bettered only through continuous study, research and academic and professional interaction of the highest quality in the theory and practice of good corporate governance.

Ethics **-** The term "ethics" is derived from the Greek word "ethos" which refers to character, guiding beliefs, standards and ideals that pervade a group, a community or people. The Oxford Dictionary states ethics as "the moral principle that governs a person's behaviour or how an activity is conducted". The synonyms of ethics as per Collins Thesaurus are – conscience, moral code, morality, moral philosophy, moral values, principles, rules of conduct and standards. Business ethics is one of the important branches of applied ethics. Business ethics is the application of general ethical ideas to business." Business ethics refers to the moral principles and standards and a code of conduct that businessmen are expected to follow while dealing with others. Business essentially is a means of society to use scarce resources to produce in an efficient manner those goods and services which society wants and is willing to pay for. Businesses must balance their desire to maximise profits against the needs of stakeholders. The significant issues in business ethics include ethical management of enterprise in relation to its stakeholders in particular and natural environment in general.
Ethics is necessary and important in business due to several reasons, some of which are:

- There is a kind of social contract between the society and business by which the society expects the business to work in its interest. Society creates and accepts business enterprises; hence it expects them to work in a manner which is not detrimental to its well-being and interests. Technological advancements have to be made but their impact on the environment and mankind has he kept in mind.

- Ethical conduct is in the long-term interests of businessmen. A business enterprise that is honest and fair to its customers, employees, and other stakeholders earns their trust and good will. It ultimately results in customer satisfaction, healthy competition, industrial growth and high earnings. Businesses must balance their desire to maximise profits against the requirements of stakeholders. Maintaining this balance often requires trade-offs.
- Ethical business behaviour is not only about good business but about good citizenship as well. Morally conscious businessmen have created names and built great business empires. They serve customers with good quality products at fair prices, treat their employees with great respect, reward their shareholders with good returns and pay their taxes honestly.
- Ethical policies and practices enable a business enterprise to build goodwill for itself. A business organisation that adheres to a code of conduct gains a competitive advantage and builds long term value. On the other hand, unethical practices lead to the ultimate downfall of big organisations too.
- Business can prosper only when a society is stable and peaceful. Unethical practices at times create distrust, disorder and turmoil in society.

Business ethics and corporate governance of an organization go hand in hand. In fact, an organization that follows ethical practices in all its activities will, in all probability, follow best corporate governance practices as well.

Corporate Governance - Corporate governance is meant to run companies ethically in a manner such that all stakeholders including creditors, distributors, customers, employees, the society at large, governments and even competitors are dealt with in a fair manner. Good corporate governance should look at all stakeholders and not just the shareholders alone. Corporate governance is not something which regulators have to impose on a management, it should come from within. Cadbury Committee, U.K, Corporate Governance is a system of structuring, operating and controlling a company with the following specific aims:
(i) Fulfilling long-term strategic goals of owners;
(ii) Taking care of the interests of employees;
(iii) A consideration for the environment and local community;
(iv) Maintaining excellent relations with customers and suppliers;
(v) Proper compliance with all the applicable legal and regulatory requirements.

"Corporate Governance is the acceptance by management of the inalienable rights of shareholders as the true owners of the corporation and of their own role as trustees on behalf of the shareholders. It is about commitment to values, about ethical business conduct and about making a distinction between personal and corporate funds in the management of a company." Report of N.R. Narayana Murthy Committee on Corporate Governance constituted by SEBI (2003).

The heart of corporate governance is transparency, disclosure, accountability and integrity. Legal and regulatory framework of corporate governance in India is mainly covered under the SEBI guidelines, Listing Agreement and Companies Act 2013; however, it is not restricted to only SEBI Guidelines and the Companies Act, 2013. A gamut of legislations like The Competition Act, the Consumer Protection laws, the labour laws, the Environment laws, the Anti-Money Laundering Laws, etc. seeks to ensure good governance practices among the corporates. It is to be borne in mind that mere legislation does not ensure good governance. Good governance flows from ethical business practices even when there is no legislation. Corporate governance is not just a legal concept, it is a governance concept, and it is something which has to come from within. However, one cannot have abstract concepts applicable to corporates at large and there lies the need for a legislative framework. In Indian context, there is no single apex regulatory body which can be said to be the regulator of corporates but there exists a coordination mechanism among various functional regulators.

Corporate Social Responsibility - The evolution of corporate social responsibility in India refers to changes over time in India of the cultural norms of company's engagement of Corporate Social Responsibility (CSR), with CSR referring to way that businesses are managed to bring about an overall positive impact on the communities, cultures, societies and environments in which they operate. The fundamentals of CSR rest on the fact that not only public policy but even corporate should be responsible enough to address social issues. Thus, companies should deal with the challenges and issues looked after to a certain extent by the states. Among other countries, India has one of the richest traditions of CSR. Much has been done in recent years to make Indian entrepreneurs aware of social responsibility as an important segment of their business activity but CSR in India has yet to receive widespread recognition. If this goal has to be realised then the CSR approach of corporate has to be in line with their attitudes towards mainstream business- companies setting clear objectives, undertaking potential investments, measuring and reporting performance publicly.

CSR is not a new concept in India. Ever since their inception, large corporate houses in India have been involved in serving the community. Through donations and charity events, many other organizations have been doing their part for the society. The basic objective of CSR in these days is to maximize the company's overall impact on the society and stakeholders. CSR policies, practices and programs are being comprehensively integrated by an increasing number of companies throughout their business operations and processes. A growing number of corporate feel that CSR is not just another form of indirect expense but is important for protecting the goodwill and reputation, defending attacks and increasing business competitiveness. Companies have specialised CSR teams that formulate policies, strategies and goals for their CSR programs and set aside budgets to fund them. These programs are often determined by social philosophy which have clear objectives and are well defined and are aligned with the mainstream business. The programs are put into practice by the employees who are crucial to this process. CSR programs ranges from community development to development in education, environment and healthcare etc. Provision of improved medical and sanitation facilities, building schools and houses, and empowering the villagers and in process
making them more self-reliant by providing vocational training and a knowledge of business operations are the facilities that many companies focus on. Also, corporate increasingly join hands with NGOs and use their expertise in devising programs which address wider social problems. One of the key changes in the Companies Act, 2013 is the introduction of a Corporate Social Responsibility section making India the first country to mandate CSR through a statutory provision.

Sustainability - Sustainability is based on a simple principle: Everything that we need for our survival and well-being depends, either directly or indirectly, on our natural environment. Sustainability creates and maintains the conditions under which humans and nature can exist in productive harmony, that permit fulfilling the social, economic and other requirements of present and future generations. Sustainability is important to making sure that we have and will continue to have, the water, materials, and resources to protect human health and our environment. Sustainability has been comprehensively defined in Paul Hawkin's book – The Ecology of Commerce as: "Sustainability is an economic state where the demand placed upon the environment by people and commerce can be met without reducing the capacity of the environment to provide for future generations. It can also be expressed in the simple terms of an economic golden rule for the restorative economy; leave the world better than you found it, take no more than you need, try not to harm life of environment, make amends if you do."

OBJECTIVES & RESEARCH METHODOLOGY

The objective of the present study is to conclude that corporate governance safeguards not only the management but the interests of the stakeholders as well and fosters the economic progress of the economy. This study is based on the information collected from various secondary sources such as books, bare acts, magazines, newspaper articles, research journals available online and various websites in order to achieve its objectives.

CORPORATE GOVERNANCE: ETHICS, CSR & SUSTAINABILITY

CSR is a concept whereby companies not only consider their profitability and growth, but also the interests of society and the environment by taking responsibility for the impact of their activities on stakeholders, environment, consumers, employees, communities, and all other members of the public sphere. The basic premise is that when the corporations get bigger in size, apart from the economic responsibility of earning profits, there are many other responsibilities attached to them which are more of nonfinancial/ social in nature. These are the expectations of the society from these corporate to give something in return to the society with whose explicit or implicit help these entities stand where they are.

Sustainable development is a broad, concept that balances the need for economic growth with environmental protection and social equity. It is a process of change in which the exploitation of resources, the direction of investments, the orientation of technological development, and institutional change are all in harmony and enhance both current and future potential to meet human needs and aspirations. Sustainable development is a broad concept and it combines economics, social justice, environmental science and management, business management, politics and law. The contribution of sustainable development to corporate sustainability is twofold. First, it helps set out the areas that companies should focus on: environmental, social, and economic performance. Second, it provides a common societal goal for corporations, governments, and civil society to work toward: ecological, social, and economic sustainability. However, sustainable development by itself does not provide the necessary arguments for why companies should care about these issues. Those arguments come from corporate social responsibility and stakeholder theory.

Corporate sustainability indicates new philosophy as an alternative to the traditional growth and profit-maximization model under which sustainable development comprising environmental protection, social justice and equity, and economic development are given more significant focus while recognizing simultaneous corporate growth and profitability. It is a business approach that creates long-term shareholder value by embracing opportunities and managing risks deriving from economic, environmental and social developments. Corporate sustainability describes business practices built around social and environmental considerations. Corporate sustainability encompasses strategies and practices that aim to meet the needs of the stakeholders today while seeking to protect, support and enhance the human and natural resources that will be needed in the future. Corporate sustainability leaders achieve long-term shareholder value by gearing their strategies and management to harness the market's potential for sustainability products and services while at the same time successfully reducing and avoiding sustainability costs and risks. Thomas Dyllick and Kai Hockerts in Beyond the Business Case for Corporate Sustainability define Corporate Sustainability as, "meeting the needs of a firm's direct and indirect stakeholders (such as shareholders, employees, clients, pressure groups, communities, etc.) without compromising its ability to meet the needs of future stakeholders as well." Worldwide business communities are recognizing the need to address the environmental and social impacts of their activities. The fundamental business objectives towards creating economic values clubbed the environmental and social value addition evolved the concept of 'triple bottom line' under sustainable development. Corporate Boards are required to address issues such as environment, social justice and economic efficiency to ensure their long-term existence. Concern towards social, environmental and economic issues, i.e., covering all the segments of stakeholders, are now basic and fundamental issues which permits a corporate to operate in long run sustainably.

Corporate Sustainability and Corporate Social Responsibility

Corporate Sustainability can be considered as the attempt to adapt the concept of Sustainable Development to the corporate setting, matching the goal of value creation with environmental and social considerations. According to the Dow Jones Sustainability Index, 'Corporate Sustainability is a business approach that creates long-term shareholder value by embracing opportunities and managing risks deriving from economic, environmental and social developments. The Journal of Environmental Strategy defines corporate sustainability as 'the capacity of an enterprise to maintain economic prosperity in the context of environmental responsibility and social stewardship. Accountability, the capability of an organization to continue its activities, indefinitely, having taken due account of the impact on natural, social and human capitals. Corporate Sustainability includes an attempt to assimilate the environmental and social dimensions into business operations: processes, products and procedures. In practical terms, the Corporate Sustainability approach leads to a very concrete and pragmatic problem; how to measure performance based on the three dimensions outlined and how natural and social values can be incorporated into corporate accounting.

The evolutionary part of the concept of Corporate Social Responsibility is different from that of Corporate Sustainability. The first recognized contribution in the literature dates back to Bowen, who stressed the responsibilities of businesses and wrote that social responsibility refers to the obligations of businessmen to pursue those policies, to make those decisions, or to follow those lines of action which are desirable in terms of the objectives and values of our society. Besides, economic and legal responsibilities (that is to be profitable and obey the law), companies are expected to satisfy other requirements, relevant to conformity to social norms and voluntary contributions to the community in which they operate. Another important Corporate Social Responsibility approach developed during the 1980s in the light of the growth of the stakeholder approach, firms have obligations to a broader group of stakeholders than the simple shareholders, where a stakeholder is any group or individual who can affect or is affected by the achievement of the firm's objectives. Business can be understood as a set of relationships among groups which have a stake in the activities that make up the business.

Although Corporate Sustainability and Corporate Social Responsibility gave different roots and gave developed along diverse theoretical paths, they ultimately converged. This strong complimentarily is evident in some recent definitions of Corporate Social Responsibility provided by international organizations like the prince of Wales International Business Leaders Forum: Corporate Social Responsibility means open and transparent business practices that are based on ethical values and respect for employees, communities and the environment. It is designed to deliver sustainable value to society at large, as well as to shareholders. The concept of sustainable development has been transposed from the macro to the corporate dimension. Companies, in fact, are a productive resource of our socio-economic system and key to the eventual implementation of sustainability. According to management theory, the attempt to include sustainability issues in the managerial framework can be divided into two separate issues: Corporate Sustainability and Corporate Social Responsibility.

Why CSR at All?

Business cannot exist in isolation; business cannot be oblivious to societal development. The social responsibility of business can be integrated into the business purpose so as to build a positive synergy between the two.

- CSR creates a favourable public image, which attracts customers. Reputation or brand equity of the products of a company which understands and demonstrates its social responsibilities is very high. Customers trust the products of such a company and are willing to pay a premium on its products. Organizations that perform well with regard to CSR can build reputation, while those that perform poorly can damage brand and company value when exposed. Brand equity, is founded on values such as trust, credibility, reliability, quality and consistency.
- Corporate Social Responsibility (CSR) activities have its advantages. It builds up a positive image encouraging social involvement of employees, which in turn develops a sense of loyalty towards the organization, helping in creating a dedicated workforce proud of its company. Employees like to contribute to the cause of creating a better society. Employees become champions of a company for which they are proud to work.
- Society gains through better neighbourhoods and employment opportunities, while the organisation benefits from a better community, which is the main source of its workforce and the consumer of its products.
- Public needs have changed leading to changed expectations from consumers. The industry/ business owes its very existence society and have to respond to needs of the society.
- The company's social involvement discourages excessive regulation or intervention from the Government or statutory bodies, and hence gives greater freedom and flexibility in decision-making.
- The internal activities of the organisation have an impact on the external environment, since the society is an inter-dependent system.
- A business organisation has a great deal of power and money, entrusted upon it by the society and should be accompanied by an equal amount of responsibility. In other words, there should be a balance between the authority and responsibility.
- The good public image secured by one organisation by their social responsiveness encourages other organizations in the neighbourhood or in the professional group to adapt themselves to achieve their social responsiveness.
- The atmosphere of social responsiveness encourages co-operative attitude between groups of companies. One company can advise or solve social problems that other organizations could not solve.
- Companies can better address the grievances of its employees and create employment opportunities for the unemployed.

- A company with its "ear to the ground" through regular stakeholder dialogue is in a better position to anticipate and respond to regulatory, economic, social and environmental changes that may occur.
- Financial institutions are increasingly incorporating social and environmental criteria into their assessment of projects. When making decisions about where to place their money, investors are looking for indicators of effective CSR management.
- In a number of jurisdictions, governments have expedited approval processes for firms that have undertaken social and environmental activities beyond those required by regulation.

CSR IN INDIA

Indian entrepreneurs and business enterprises have a long tradition of working within the values that have defined our nation's character for millennia. India's ancient wisdom, which is still relevant today, inspires people to work for the larger objective of the well-being of all stakeholders. These sound and all-encompassing values are even more relevant in current times, as organizations grapple with the challenges of modern-day enterprise, the aspirations of stakeholders and of citizens eager to be active participants in economic growth and development. The Ministry of Corporate Affairs has adopted the role of an enabler, facilitator and regulator for effective functioning and growth of the corporate sector. A number of initiatives are underway on the legislative, service delivery and capacity building sides so that the corporate sector is provided with a buoyant and enabling regulatory environment for its growth. Simultaneously, the Ministry is also focusing on various issues related to inclusive growth in relation to the development of corporate sector. The subject of Corporate Social Responsibility has evolved during last few decades from simple philanthropic activities to integrating the interest of the business with that of the communities in which it operates. By exhibiting socially, environmentally and ethically responsible behaviour in governance of its operations, the business can generate value and long-term sustainability for itself while making positive contribution in the betterment of the society. Although we have seen a period of sustained economic growth in the current decade, we still continue to face major challenges on the human side in India. The problems like poverty, illiteracy, malnutrition etc. have resulted in a large section of the population remaining as "un-included" from the mainstream. We need to address these challenges through suitable efforts and interventions in which all the state and non-state actors need to partner together to find and implement innovative solutions. Indian business has traditionally been socially responsible and some of the business houses have demonstrated their efforts on this front in a laudable manner. However, the culture of social responsibility needs to go deeper in the governance of the businesses.

Corporate Social Responsibility Voluntary Guidelines, 2009 provided that each business entity should formulate a CSR policy to guide its strategic planning and provide a roadmap for its CSR initiatives, which should be an integral part of overall business policy and aligned with its business goals. The policy should be framed with the participation of various level executives and should be approved by the Board. The CSR Policy should normally cover following core elements:

1. Care for all Stakeholders: The companies should respect the interests of, and be responsive towards all stakeholders, including shareholders, employees, customers, suppliers, project affected people, society at large etc. and create value for all of them. They should develop mechanism to actively engage with all stakeholders, inform them of inherent risks and mitigate them where they occur.

2. Ethical functioning: Their governance systems should be underpinned by Ethics, Transparency and Accountability. They should not engage in business practices that are abusive, unfair, corrupt or anticompetitive.

3. Respect for Workers: Rights and Welfare: Companies should provide a workplace environment that is safe, hygienic and humane and which upholds the dignity of employees. They should provide all employees with access to training and development of necessary skills for career advancement, on an equal and non-discriminatory basis. They should uphold the freedom of association and the effective recognition of the right to collective bargaining of labour, have an effective grievance redressal system, should not employ child or forced labour and provide and maintain equality of opportunities without any discrimination on any grounds in recruitment and during employment.

4. Respect for Human Rights: Companies should respect human rights for all and avoid complicity with human rights abuses by them or by third party.

5. Respect for Environment: Companies should take measures to check and prevent pollution; recycle, manage and reduce waste, should manage natural resources in a sustainable manner and ensure optimal use of resources like land and water, should proactively respond to the challenges of climate change by adopting cleaner production methods, promoting efficient use of energy and environment friendly technologies.

6. Activities for Social and Inclusive Development: Depending upon their core competency and business interest, companies should undertake activities for economic and social development of communities and geographical areas, particularly in the vicinity of their operations. These could include: education, skill building for livelihood of people, health, cultural and social welfare etc., particularly targeting at disadvantaged sections of society.

CONCLUSION

The high-profile corporate governance failure scams like the stock market scam, the UTI scam, Ketan Parikh scam, Satyam scam, which was severely criticized by the shareholders, called for a need to make corporate governance in India transparent as it greatly affects the development of the country. The corporate practices in India emphasize the functions of audit and finances that have legal, moral and ethical implications for the business and its impact on the shareholders. The Indian Companies Act, 2013 introduced innovative measures to appropriately balance legislative and regulatory reforms for the growth of the enterprise and to increase foreign investment, keeping in mind international practices. The rules and regulations are measures that increase the involvement of the shareholders in decision making and introduce transparency in corporate governance, which ultimately safeguards the interest of the society and shareholders.

Corporate governance safeguards not only the management but the interests of the stakeholders as well and fosters the economic progress of India in the roaring economies of the world. Corporate social responsibility is about seriously considering the impact of the company's decisions and actions upon the environment and the society. The dependence of any business on its social and ecological environment is so comprehensive that the very existence, survival and growth of any enterprise depend upon its acceptance by the society and the environment. If any business outlives its utility to the society and the environment, it has no place and reason to exist.

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