Current Scenario of Social Responsibility In Corporate Governance

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INTRODUCTION

21st century civilization is marked by one of the greatest invention of mankind is Joint Stock Company. It is this very invention which is playing a major role in eroding the geographical boundaries of nations across the globe. As the mankind is making strides with the help of this very invention, care is also being taken that these organization fulfill this Objectives in the best possible manner. Today's company affects the average citizen's life directly and indirectly, in many ways he be its share holder, employee, supplier, dealer, customer and even is none of these, his life may still be affected by what the company does eg. pollutions that its plant may create by the company's impact as the general economy. Thus proper governance of modern company's is legitimate social concern expressed these in both the undeveloped and the developing countries.

Corporate governance is considered as a system by which company's are directed and controlled. It is a sat of standards which aims to improve the company's image efficiency, effectiveness and social responsibility. Sustainability ensures the long term financial and economic viability of corporate investments and requiring compliance with minimum environmental viability and social standards. This issue of corporate social responsibility is an integral part of corporate strategy, planning and operational performance for profitability should not be sole criteria of vision and vital factor in judging the company's performance but corporate should also focus on the responsibility towards society at large, corporate social responsibility is the commitment of business to contribute to sustainable economic development, working with the employees, their families, the local community and society at large to improve their quality of life including human rights, workers right, suppliers relationship etc.

Corporate Governance is a phrase which implies transparency of management systems in business and industry, be it private sector or public sector - all of which are corporate entities.

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Corporate Governance, is a set of standards, which aims to improve the company's image, efficiency, effectiveness and social responsibilities. In the words of Naresh Chandra' Former Cabinet Secretary, Maintaining governance standards requires accountability at all levels of management. Hence corporate conduct and culture, based on attributes of self-regulation and openness contribute most to the essence of corporate governance. In the present scenario of globalization and liberalization, the corporate sector at national and international level have no way but to seriously and continuously strive for 'Excellence in Corporate Governance" to the maximum possible extent. In this article an attempt has made to show how the concept of Corporate Governance has developed over a period of time at the national and international level and what direction will it take in the future.

CONCEPT

The concept of 'Corporate Governance' has been defined at national and international level in various perspectives, some of which are reproduced as follows: 'Corporate Cadbury Committee, U.K. has defined the term in the following manner It is the system by which company's are directed and controlled." The committee also mentioned that ' the role of corporate governance is to ensure that the directors of a company are subject to their duties, obligations and responsibilities, to act in the best interest of their company, to give direction and to remain accountable to their shareholders and other beneficiaries for their actions.

The Kumara Mangalam Birla Committee constituted by SEBI has observed 'strong corporate governance is indispensable to resilient and vibrant capital markets and is an important instrument of investor protection. It is the blood that fills the veins of transparent corporate disclosure and high quality accounting practices. It is the muscle that moves a viable and accessible financial reporting structure."

After observing the above mentioned definitions, it can be said that corporate governance is concerned with the ethics, values and morals of a company, its directors and with the ways of bringing the interests of investors and management in tandem and to ensure that their interests are best served. Corporate governance practices promotes the conducting the affairs of a company in such a manner that ensures fairness to customers, employees, shareholders, fund providers and the society as a whole. Thus, the key aspects of good corporate governance include transparency of corporate structures and operations. The accountability of managers and the boards to shareholders and corporate responsibility towards stakeholders.

Major Developments at International Level the concept of Corporate Governance took roots in countries like US and UK and have subsequently spread to other countries. After 1990, the transition from central planning to market driven economies, particularly the privatization of state-owned company's, and the need to provide governance rules for the emerging private sector, brought the issue of corporate governance to the centre stage.

In the view of Sir Adrian Caebury, a code of corporate governance cannot be imported from outside, it has to be developed based on the country's experience. There cannot be any compulsion on the corporate sector to follow a particular code. An equilibrium should be struck so that corporate governance is not achieved at the cost of the growth of the corporate sector".

Sarbanes-Oxley Act is a US law passed in 2002 to strengthen corporate governance and restore investor confidence. The Act was sponsored by US Senator Paul Sarbanes and US Representative Michael Oxley. Sarbanes-Oxley law passed in response to a number of major corporate and accounting scandals involving prominent company's in the US. These scandals resulted in a loss of public trust in accounting and reporting practices. In July 2002, the Sarbanes- Oxley Act popularly called 'SOX was enacted. The Act made fundamental changes in virtually every aspect of corporate governance and particularly in the matters of auditor independence. conflict of interest, corporate responsibility and enhanced financial disclosures.

DEVELOPMENTS

United Kingdom - Hampel Report

The Hampel Committee was constituted in UK in 1995. The task of this committee was to consolidate the recommendations of the Cadbury Report in 1992 (focusing on financial reporting) and the Greenbucy Report in 1995 (focusing on directors remuneration), and prepare a 'Combined Code' on corporate governance. The Code, published in 1998. was attached to the listing rules of the stock exchange with the requirement that in order to be listed, company's must either declare their adherence to its provisions or explain any deviation from them.

Higgs Report: Review of the role and effectiveness of non-executive directors. In April 2002 the Secretary of State (UK). Patricia Hewitt, and the Chancellor, Gordon Brown, appointed Derek Higgs to lead a short independent review of the role and effectiveness of non-executive directors. Derek Higgs published his report on 20th January 2003. The report reviewed the role and effectiveness of non- executive directors in the UK. The report includes: guidance for non-executive directors, guidance for chairmen and a proposal for a revised combined code. The Government warmly welcomed the recommendations of the Higgs Review.

The Combined Code on Corporate Governance. This UK based code supersedes and replaces the Combined Code issued by the Hampel Committee on Corporate Governance in June 1998. It is derived from a review of the role and effectiveness of non-executive directors by Derek Riggs and a review of audit committees by a group led by Sir Robert Smith.

United States : Blue Ribbon Report

Blue Ribbon Committee was set up by the Securities and Exchange Commission, in 1998. In February 1999. the Committee published the Report on Improving the Effectiveness of Corporate Audit Committees. The recommendations of the Blue Ribbon Committee were adopted and declared to be mandatory by the NYSE, the American Stock Exchange, Nasdaq and the American Institute of Certified Public Accountants. The recommendations are not mandatory for foreign issuers: these are subject to their own national laws.

Global Governance Principle

With the goal of encouraging a continual debate on best governance practices globally, in 1997 CaIPERS' Board adopted a set of Global Governance Principles. In late 1999, the CaIPERS Investment Committee analyzed other newer global governance principles and with the goal of supporting a single set of global governance principles, the Investment Committee revised CaIPERS Global Governance Principles to parallel the International Corporate Governance Network's statement on Global Governance Principles.

The International Corporate Governance Network (ICGN) was founded with the objective to facilitate international dialogue and thereby helping company's to compete more effectively. The ICGN welcomed the OECD Principles as a remarkable convergence on corporate governance common ground among diverse interests, practices and cultures. While the ICGN considered the OECD Principles the necessary bedrock of good corporate governance, it held that amplifications were required to give them sufficient force.

Europe : The European Corporate Governance Institute

The European Corporate Governance Institute (ECGI) was founded in 2002. It has been established to improve corporate governance through fostering independent scientific research and related activities. ECGI is founded on the ground that corporate governance is the basis of accountability in company's, institutions and enterprises, balancing corporate economic and social goals on the one hand with community and individual aspirations on the other. A proper governance framework is of fundamental importance in strengthening the performance of economies, in particular those in development and transition, and helping to discourage fraud and mismanagement.

South Africa : King Committee On Corporate Governance

The King Report on Corporate Governance for South Africa has been developed as an initiative of the Institute of Directors in Southern Africa. It represents a revision and update of the King Report first published in 1994, in an attempt to keep standards of corporate governance in South Africa in step with those in the rest of the world. All companies listed on the Johannesburg Stock Exchange have to comply with the provisions of the Report.

Australia : ASX Corporate Governance Council Report

On 15 August 2002, the ASX Corporate Governance Council was formed in Australia with the objective of developing and delivering an industry-wide. Supportable and supported framework for corporate governance. In March 2003, the ASX Corporate Governance Council released Principles of Good Corporate Governance and Best Practice Recommendations". Compliance with the recommendations was not mandatory, except for the recommendations dealing with Audit Committees, but from 2004 listed entities are required to report in their annual report on whether they have complied during the year the subject of the report, or if not the reasons for that.

CORPORATE GOVERNANCE - INDIAN DEVELOPMENTS

In India, a small beginning was made by the Confederation of Indian Industry (CII) in the field of good corporate governance which is explained below. Thereafter, various committees have been constituted to give recommendations in this regard viz.. Kumar Manglam Birla Committee, Naresh Chandra Committee, Narayana Murthy Committee etc. All these efforts focused the attention of the Indian corporate sector, on the imperative need to evolve new norms of governance to sustain and develop Indian industries on healthy lines and to constitute the corporate boards in such a manner that they manage the affairs of the corporate body with better accountability to shareholders and achieve transparency of operations with disclosure of both financial and non-financial data through annual and other periodical reports.

Confederation of Indian Industry (CII)

In 1996, CII took a special initiative on Corporate Governance, the theme of such initiative was to develop and promote a code for Corporate Governance to be adopted and followed by Indian Company's, be it in the Private Sector or Public Sector, Banks or Financial Institutions, all of which are corporate entities. A National Task Force was set up with Mr Rahul Bajaj, as the Chairman and including members from industry. The legal profession, media and academia. This Task Force presented the draft guidelines and Code for Corporate Governance in April 1997 at the National Conference and Annual session of CII. After reviewing the various suggestions and the developments which have taken place in India and abroad, the Task Force finalized the Desirable Corporate Governance Code.

The next development is constitution of a committee by 'Department of Company Affairs' (DCA), headed by Shri Naresh Chandra, on August 21, 2002 to examine various issues of corporate governance relating to statutory auditor- company relationship, rotation & statutory audit firm or partners, appointment of auditors and determination of audit fees, independence of auditing functions, certification of accounts and financial statements by management and directors role of independent directors etc. Many recommendations of the report were incorporated in the Company's (Amendment) Bill 2003, which is currently being reviewed.

Thereafter, SEBI constituted another committee called 'Narayana Murthy Committee' under the Chairmanship of N.R. Narayana Murthy comprising 23 persons, which included representatives from the stock exchanges. Chamber of Commerce, industry, investor associations and Professional bodies, for reviewing implementation of the corporate governance code by listed company's. Many of the recommendations made by such committee has been included in the revised Clause 49 of the Listing Agreement. The Narayana 'Murthy Committee attempted to promulgate an effective approach for successful corporate governance. The Committee submitted its final report on February 8, 2003. Corporate governance is beyond the realm of law. It stems from the culture and mindset of management. and cannot be regulated by legislation alone. Corporate governance deals with conducting the affairs of a company such that there is fairness to all stakeholders and that its actions benefit the greatest number of stakeholders. It is about openness. integrity and accountability. What legislation can and should do, is to lay down a common framework- the form to ensure standards. The substance will ultimately determine, the credibility and integrity of the process. Substance is linked to the mindset and ethical standards of management.

MINISTRY OF COMPANY AFFAIRS

The Ministry of Company Affairs has also amended Company's Act at short intervals for bringing improvements in the corporations functioning various provisions concerning corporate governance has been inserted in the Company's Act, the duties and responsibilities of the directors in the company's as a step to improve the corporate governance. Subsequent to the passing of the Company's (Amendment) Act, 2000, Company's (Amendment) Act, 2002 and Company's (Second Amendment) Act, 2002 were passed. These Acts too have dealt with some aspects of corporate governance.

THE SECURITIES AND EXCHANGE BOARD OF INDIA

The major changes in the new clause 49 include amendments/additions to provisions relating to definition of independent directors, strengthening the responsibilities of audit committees. improving quality of financial disclosures, including those related to related party transactions and proceeds from public/rights/preferential issues, requiring Boards to adopt formal code of conduct and requiring CEO/CFO certification of financial statements. etc. Such a step, if properly implemented, will go a long way towards ensuring good governance practices in Indian Corporate Sector.

THE INSTITUTE OF COMPANY SECRETARIES OF INDIA (ICSI)

The vision of ICSI is to be a global leader in development of professionals specializing in Corporate Governance. For promoting good corporate governance the mission of ICSI is to continuously develop high caliber professional ensuring good corporate governance and effective management and to carry out proactive research and development activities for protection of interest of all stakeholders thus contributing to public good. ICSI defines Corporate Governance as, the application of best management practices, compliance of law in true letter and spirit and adherence to ethical standards for effective management and distribution of wealth and discharge of social responsibility, for sustainable development of all stakeholders".

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA (ICAI)

In the developed nations, high quality accounting standards reduce uncertainty and increase overall efficiency and investor confidence. The Accounting Standards issued by The Institute of Chartered Accountants of India (ICAI) serve this objective. The ICAI has issued 29 Accounting Standards covering, interalia, disclosure of accounting policies, valuation of inventories, amalgamation, interim financial reporting, financial reporting of interest in joint venture, related party disclosures etc. Such accounting standards are based on the generally accepted accounting assumptions of going concern, consistency and accrual basis.

NATIONAL FOUNDATION FOR CORPORATE GOVERNANCE

Recently, the Ministry of Company Affairs has decided to have an umbrella agency of corporate governance which will set non-binding standards in line with the principles developed by the Organization for Economic Co-operation and Development (OECD). This is to advocate the ‘spirit’ of governance to the industry, which sometime gets lost as company's follow the market regulator’s norms by the letter.

CONCLUSION

Good Corporate Governance is truly the need of the hour. The objective of corporate governance is not only to protect but also to enhance shareholder value, keeping in view the interest of other stakeholders & social responsibility. It is rightly said that corporate governance is a philosophy which touches every facet of the functioning of a corporate and its stake holders, It is not an end in itself but a means to practice and bring about corporate democracy at. all levels of the corporate entity.

Given this, corporate governance is now being increasingly recognized as an important aspect of sustainable economic growth & social responsibility. Strong corporate governance is critical for promoting growth, improving access to low-cost capital, ensuring appropriate risk management, and increasing overall productivity and competitiveness of the economy. In a world of highly integrated capital markets, it becomes imperative for individual countries to take constant initiatives in this regard and benchmark their corporate governance practices to the best corporate governance practices. Global best practices because of their characteristics like, adequate disclosures, focused approach, compliance with the laws etc. become sine qua non in the corporate for healthy growth of capital markets. Such practices increases the confidence levels of investors and in turn help corporate to access capital markets for their financial needs.

The Indian economy is going through a major transformation. Second phase of liberalization of the domestic economy as well as its globalization. On one hand these reforms have given freedom to management while on the other hand also put greater social responsibilities on them. The present scenario demands serious and continuous strive towards 'Excellence in Corporate Governance' by constantly improving and adopting business ethics at all levels.

The importance of maintaining high ethical standards by the corporate sector for ensuring its long term sustainable growth has been universally accepted. It is now a fact that a majority of investors factor in corporate governance when making investment decisions. This is a powerful argument for company's to seek excellence in corporate governance. It is in this context that the development of best practices of corporate governance and rating of company's is increasingly becoming very relevant'

Reviewing the progress made so far in India, many things have been done which have contributed in promoting the good corporate governance practices in Indian Corporate Sector, such as, various rules and regulations have been incorporated in the laws and statues related to the corporate sector, several seminars, conferences and meetings are also conducted on such topics by various forums and various articles have been written and published in this connection. But these are all efforts towards preaching the benefits of corporate governance. When it comes to implementing the rules in practice, it is observed that such rules and regulations have remained on papers only and many company's are just following such rules in a very formal way. The need of the hour is to take some confidence building measures unilaterally to demonstrate that corporate governance is being followed in spirit and does not need regular impetus through legislations. These measures should aim to improve investor confidence, display courtesy, motivate devotion towards work and organization, encourage team sprit & social responsibility.

To make the mission of corporate governance meaningful the Board of Directors is desired to adopt a radical change in their perceptions. Company Directors in their new role as Corporate governors have to raise themselves above the personal urge and aptitude. They have to promote co-ordinations among various components of the organization for the long term survival, growth and prosperity of such organization. It has been rightly said that unless an atmosphere is generated to make the governing team enthusiastic and make them aspire for social responsibility, merely trying to ensure efficient corporate governance by amending the Company's Act. or enacting clauses like Clause 49, revising and rerevising it are all going to be hallow and ineffective exercise.

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