

# Comprehending Corporate Governance—Global and National Perspectives

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## Abstract

Corporate Governance paves the way for internal and external transparent mechanisms. The significance of corporate governance for the stability and equity of society lies in its management. A corporation is congregation of various stakeholders, employees, vendor partners, investors, society and government. The main objective of corporate governance is to promote responsible and transparent business practice maintaining success of the company and harmony with society. Global trade and interests in investment overseas paved the way for the infamous South Sea Bubble of the 1720s. Codes and Regulations designed to develop corporate governance in many countries. To maintain accountability, transparency and honest management among corporations, the corporate governance in India follows best practices world over. Hence, Companies Act 2013 acts as basic legislation prescribes how companies ought to function. The theories of corporate governance such as Agency Theory and Stewardship theory created consciousness of corporate governance problems. Some of the popular models are-Anglo American Model, The German Model, The Japanese Model and The Indian Perspective. Cadbury Report, OECD and the Sarbanes -Oxley Act of 2002 provided corporate discourse on corporate governance. Good Corporate Governance provides the sustainability resilience and corporate social responsibility (CSR).

**Keywords:** *Corporate governance; transparent mechanisms; equity of society; stakeholders; responsible and transparent business practice; codes and regulations; accountability; honest management; Agency theory; Stewardship theory; popular models for corporate governance; corporate social responsibility (CSR).*

## Introduction

*“Good corporate governance practices instill in companies the essential vision, processes, and structures to make decisions that ensure long-term sustainability. More than ever, we need companies that can be profitable as well as achieving environmental, social, and economic value for society”.*

*Rachel Kyte*

Corporations compete with governments in many aspects in present times and they are bigger institutions with greater operation operations that those impact operations are beneficial or detrimental. Following this factor, it is suggested that they ought to be more transparent and accountable for their operations internally and externally. Corporate Governance paves the way for internal and external transparent mechanism. The remarkable thing of Corporate Governance for corporate success along with social welfare cannot be overstated. Companies’ governance characteristics are adaptations to property rights institutions and advocates that corporate governance changes need

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institutional transformation which is determined by political sphere. Corporate governance is a dynamic player of business.

Corporate governance is “the way in which a company organizes and manages itself to ensure that all financial stakeholders receive their fair share of a company’s earnings and assets”

Corporate Governance needs the exercise of power in corporate realms. Cadbury Report defines corporate governance as “The system by which companies are directed and controlled”

According to OECD, “Corporate Governance is the system by which business corporations are directed and controlled. The corporate governance structure specifies the distribution of rights and responsibilities among different participants in the operations, such as the board, participants in the operation, such as the board, managers, managers, shareholders and other stakeholders, and spells out the rules and procedures for making decisions on corporate affairs. By doing this, it also provides the structure through which the company objectives are set, and the means of attaining these objectives and monitoring performance. “

The significance of corporate governance for the stability and equity of society lies in its successful management. A corporation is a congregation of various stakeholders, society and government. In the globalized world, corporations require for the access of global pools of capital from different places of the world, sharing with vendors relating to huge collaborations, living in harmony with the community. A corporation must follow the ethical way to achieve success. Ethical dilemmas are solved by managers following a set of principles impacted by the ethical system, culture and context of the organization. Corporate governance stems from the culture and mindset of management so that it cannot be regulated by legislation alone. Hence, corporate governance is above the legal framework.

A corporation ought to be transparent and fair to its stakeholders in all its affairs. Today, this became imperative in globalized business that corporations need to link world pools of capital, partner with vendors on huge collaborations and to live with social ethics. The success of a corporation depends on its practice of ethical conduct. Corporations should learn that their development includes the cooperation of all the stakeholders which lead to the best corporate governance. In fact, corporate governance is the set of rules and processes that direct a company management. It ensures that business functions morally and the interests of thus involved. A main objective of corporate governance is to promote responsible and transparent business practice maintaining success of the company and harmony with society.

### **Roots of Corporate Governance**

Corporate governance is much influenced by corporate ownership structure along with legal structures, cultural and religious traditions, political and economic situations. The first company to mix incorporation, overseas trade and joint stock was the East India company, which was provided a royal charter in 1600 for traders of London business into East Indies. The beginning governance system of this company was reminiscent of corporate Governance in present day companies global trade and interest in investment overseas paved the way for the infamous south sea bubble of the 1720, in which the common people of Britain, who invested in “shares” in the company of merchants of great Britain trading to the south seas, knew that had lost their money in the first stock market overvaluation and subsequent collapse. At one stage, during the bubbles growth the amount invested in companies involved in the south seas reached 500 million euros which in the double the value of all the land in England at the time. Investors failed to know the lack of strong basic underlying their investment their investment in the late 1990s, the bubble in UK information technology stocks was one more instance of wrong investment in which the markets could be fooled. The bubble act saved companies from being corporate body and raising funds through selling shares without the royal charter relating to legal system. This halted the development of the joint stock companies had few registered following the introduction of the first modern joint stock.

Robert E. wright says “the governance of early U.S. corporations of which over 20,000 existed by the civil war of 1861-1865 was superior to that of corporations in the late 19th and early 20th centuries because early corporations governed themselves like “republics” replete with numerous “checks and balances” against fraud and against usurpation of power by managers or by large shareholders”. After the Second World war (1939-1945), in U.S, the managerial class was established that led to the economic expansion following emergence of multinational

corporations. Lorsch and MacIver expresses, that many large corporations have dominant control over business affairs without sufficient accountability or monitoring by their board of directors". From 1977 to 1997, obligations of corporate directors were developed beyond their traditional legal responsibility of duty of loyalty to the corporation and its shareholders.

In the early 2000, the massive bankruptcies (and criminal malfeasance) of Enron and WorldCom, as well as lesser corporate scandals (such as those involving Adelphi Communications, AOL, Arthur Anderson, Global Crossing, and Tyco) led to increased political pressure in the passage of the Sarbanes-Oxley Act of 2002. Other triggers for continued interest in the corporate governance of organizations included the 2008 financial crisis and the level of CEO pay.

#### **Committees and Reports:**

Codes and regulations designed to develop corporate governance in England, America and India. Recommendations of the several committees which aimed at rigorous implementation of corporate governance. At international level the Cadbury report (1992), the corporate governance reforms which sets the nations corporate governance structure as greenbury report (1995), the Ronnie Hampel committee report (1998), the turn bull report (1999), the Higgs report (2003), the Smith report (2003), redraft of the combined code (2003), the Sarbanes-Oxley act 2002. Provided suggestion for improvement of corporate governance. In India, the Kumara Mangalam Birla committee on corporate governance (2001), Naresh Chandra committee (2002), Narayana Murthy committee offered recommendations to raise the standards of corporate governance in Indian companies that attracts domestic and international capital.

#### **Framework Of Corporate Governance in India:**

India has been implementing important corporate governance reforms which sets the nations corporate governance structure above average compared to other new market economies since the times of globalization. By the 30th Dec 2005, over 40 million Indians invest in shares and mutual funds of the nation. SEBI revised the present corporate governance norms to incorporate key characteristics of the Sarbanes-Oxley Act. Firms of India needed to be in compliance with the novel provisions set up in Clause 49 of SEBI's listing agreement by 31st December, 2005. SEBI was founded in 1988 and emerged as an autonomous body by 1992, having specified responsibilities to work towards the growth and regulation of the market. SEBI resembles the U.S.SEC. Companies incorporated in India and branches of foreign corporations are regulated by the Companies Act, 1956 (The Act). The Act, which was enacted to supervise the performance of Indian companies, resembles the U.K. company Act. India made the first authentic code of best practice of corporate governance after the beginning of the Asian financial crisis in 1997. This code is called as "Desirable Corporate Governance: A Code" because this document was written by the Confederation of Indian Industries (CII). In late the year 1999, under the leadership of Shri Kumar Mangalam

Birla, Chairman, Aditya Birla Group, provided a draft of India's national code on corporate governance for listed companies. This code was first national code accepted by SEBI in early year- 2000. To maintain accountability, transparency and honest management among corporations, the corporate governance in India follows best practices worldwide. Hence, Companies Act, 2013 acts as basic legislation that prescribes how companies ought to operate, which, particularly, covers board operation, director duties, and audit committees. This regulatory framework also includes SEBI guidelines, standard Listing Agreement of Stock Exchanges, Accounting standards by Institute of Chartered Accountants of India (ICAI), Indian Accounting Standards (Companies—Indian Accounting Standards) Rules, Secretarial standards. Regulatory system is leading to improve corporate governance in India with corporate ethics.

#### **Theories and Models of Corporate Governance:**

The growth of corporate governance is confined closely with the economic development of industrial capitalism, that various governance system emerged from various corporate structures designed to follow new economic opportunities and solving the economic crises. The theories of corporate governance endeavoured to create consciousness of corporate governance issues and challenges. After the introduction of incorporation in the UK, the theories and models have been started to address the problems of Corporate Governance. Adam Smith says, "The directions of such joint-stock companies, however, being the managers rather of other people's money than of their own, it can not well be expected that they watch over it with the same anxious with which the partners in a private co-partner frequently

watch over their own. Like the standards of a rich man, they are apt to consider attention to small matters as not for their master's honour, and very easily give themselves a dispensation from having it. Negligence and profusion therefore must always prevail, more or less, the management of the affairs of such a company" (1937)

#### **Agency Theory:**

The agency theory refers to shareholders as the principals in whose interest the corporation ought to be managed, despite relying on others for the real management of the corporation. It is claimed that shareholders have the right to residual claims because they are the only economic factors that make investments in the corporation, not having any contractual certainty of a particular return. Residual claimant's shareholders sustain the risk of the corporate resources to make the largest residual possible. The maximization of shareholders prioritizes results in superior economic performance because other stakeholders in the corporation will receive the returns. It is assumed the connectivity between shareholders (principals) and managers (agents) will be complex because the foundation of agency theory is the self-interested utility-maximizing motivation of individual actors. For agency theorists' efficient markets are facilitation of market mechanisms which mitigate the agency challenges. Agency theory provides shareholders a pre-eminent position in the firm. In agency theory, the focus is on extrinsic rewards tangible, exchangeable commodities that have a measurable "market" value.

#### **Stewardship Theory:**

This theory founded upon psychology and sociology and designed for scholars to supervise conditions where executives as stewards. Stewards are inspired to work for the best interest of their principals. Stewardship thinkers demand for performance of a stewardship is influenced by whether the situation of the structure in which person is situated facilitates effective action. In stewardship theory, the model of man follows a steward whose behaviour enables pro-organizational, collectivistic behaviour's make higher utility than individualistic, self-serving attitudes. This attitude assists for benefit for principals such as outside owners as positive effects of profits on dividends. Stewardship researcher assume a strong link between principal's satisfaction and the success of the organization. A steward can protect shareholders wealth following organization. A steward can protect shareholder's wealth following firm functioning. In this way, steward's utility performance is maximized. Following the strength of multiplicity of shareholders' goals, a steward's attitude will be regarded as organizationally centered. Stewards are inspired to make decisions that they achieve their best interests of the group. Also, in the more politically charged conditions, one can assume that majority of parties want a viable, developed enterprise. A steward can satisfy the competing interests of shareholders. Steward, who works for organizational and collective ends, meet personal needs even.

#### **Popular Models for Corporate Governance:**

Government plays key role in building the legal institutional and regulatory structures while individual corporate governance systems within these structures while individual corporate governance systems within this structure. Four important models of corporate governance are:

The Anglo—American Model,

The German Model and

The Indian Perspective.

##### **1. The Anglo—American Model:**

The board appoints and supervises the managers. The legal structures offer the structural framework, the stakeholders in the company are suppliers, employees. The policies are shaped by the board of directors and implemented by the management. The board supervises the practice following a well-structured information system. The board of directors are responsible for their appointees. This model provide efficient organization for production, exchange and functioning supervising. But there is no proper control over the cost effectiveness or efficiency. Here, perfect separation of ownership and management that reduces conflict of interests.

## 2. The German Model:

This model, shareholders do not dictate the governance structure in full manner. Shareholders elect half of the percent of members of supervisory board and other fifty percent is appointed by workers' unions. This model offers employees and labourers enjoy a share in the governance. The supervisory board appoints and dictates the management board. Here in this model, banks and financial institutions have authentic stake in equity capital of companies. Labour Relations Officer is represented in the management board while labourer's participation in management implemented. Shareholders and employees have equal say in opting the supervisory board members.

## 3. Japanese Model:

This model follows accrual role of financial institution relating to governance. Board of directors and the president are appointed by the shareholders and the bank. In this model, we observe that the inclusion of president who consults supervisory board and the executive management. The priority will be given for the lending bank.

## 4. The Indian perspective:

It follows Governance in the public sector. In ancient history of India, the king/emperor was regarded as the representative of the wealth of the state considered as not the personal wealth of the king. The concept of trusteeship was also practiced. In modern times, this theory of trusteeship developed by Mahatma Gandhi. Many modern thinkers adopted motions of good governance from Arthashastra authored by Kautilya. Company's Act of 1956, that governs Indian corporates, resembles UK model. The structure of private companies is dominated by the founder, his family and associates. In view of public enterprises, union and state governments forms the board where the hold of government constitutes is to be dominant. Equity shares belongs wholly or substantially (51%) by the state and successful management of political and bureaucratic system. Organization regarded as a social entity where the board of directors are appointed by the state. These will much focus on observing rules, guidelines and rules. Functioning and efficiency are sacrificed at the altar of propriety.

## 5. Corporate Governance Ethics:

Rose says that as the means by which individuals come to construe, decipher, act upon in relation to the true and false, the permitted and forbidden, the desirable and the undesirable (5).

In business, moral ways evaluate decisions and actions of management in view of ethical standards. Morality provides an ethical structure with in which to make decisions and justifications when faced with complex business dilemmas and choices. The prevalence of self-interested choices ensures moral hazard. In many cases ethic provides the structure of trade which ought to be justified in terms of certain threats or benefit following moral practice.

In the beginning of this century, along with a demand for shareholder value, it was recognized in revolutionary way the importance of business ethics, corporate citizenship and Corporate Social Responsibility (CSR) despite some thinkers argue that business is for profits.

Well- designed corporate governance policies also support the sustainability and resilience of corporations and in turn, may contribute to the sustainability and resilience of the broader economy. Investors have increasingly expanded their focus on companies' financial performance to include the financial risks and opportunities posed by broader economic, environmental and social challenges, and companies' resilience to and management of those risks. In some jurisdictions, policy makers also focus on how companies' operations may contribute to addressing such challenges.

At this juncture, the NGOs are encouraged to reduce the state's welfare programs. Also, the corporate social responsibility (CSR) has offered the growth of corporate conduct. These new methods of transparency and accountability pave the way for business ethics. If morality is to be justified of its impact, the main beneficiary of such presentations of corporate ethical system are corporations only. Corporations can offer positive representations following the utility of codes and reports because reputation damage begins from negative representations of corporate conduct by NGOs and the media. A corporation should maintain stakeholder accountability, moral leadership, regulatory compliance and transparency and disclose that makes a corporation of good governance. Successful corporate governance reflects in the structure based on ethics as the essential factors for company's legitimacy and its

continuity. Good corporate governance create trust and hence good corporate governance includes accountability, fairness, transparency, independence and social responsibility. This leads to improving corporate functioning, investor trust, accountability, access to global markets, eradication of corruption. Regulatory attention on the corporate governance practices relating to transparency and accountability was essentially needed in many jurisdictions following the great corporate scandals in 2001-2002 and then again in the times of 2008 financial crisis. These conditions, in the U.S, led to the enactment of the `Sarbanes-Oxley Act-2002; a U.S. federal law aimed at improve corporate governance in U.S. In addition to legislation the facilitates incorporation, many jurisdictions have some major regulatory devices that impact on corporate governance.

In addition to legislation the facilitates incorporation, many jurisdictions have some major regulatory devices that impact on corporate governance. This includes statutory laws concerned with the functioning of stock or security markets; consumer and competition ( antitrust) laws; labour or employment laws, and environmental protection laws which also entail disclosure requirements. In addition to the statutory laws of the relevant jurisdiction, corporations are subject to common law in some countries.

### **Examples Of Good Corporate Governance in India:**

Union Government of India is successfully implementing rules and regulations in steering corporations towards corporate ethics and Corporate Social Responsibility (CSR). The Tata Group company stood as the best example for corporate ethics and successful management followed by HDFC and Sun Pharmaceutical Industries.

### **Conclusion:**

Good corporate governance refers to responsible business practices that leads to positive workplace management, marketplace, responsibility environmental stewardship, community engagement, and sustained financial performance. This is the reality of present day of the globe.

A corporation should be fair and accountable for its stakeholders in all its activities. This has become imperative in the times of globalization. And corporations should access world pools of capital and gain the best human capital at global level. They have to partner with vendors on huge collaborations and enable for development of society.

Corporate governance stems from the culture and psychological state of management and cannot by controlled legislation alone. The process of corporate governance assists the growth of economic efficiency of a company that good corporate governance enables for accounting the interests of extensive constituencies along with communities within which they function. Huge profits can be achieved receiving advantages of the asymmetry among stakeholders on temporary way through coordinating the interests of all stakeholders can lead to survival and development of the long continuity which involves social concerns.

The measures of corporate governance in public enterprises are likely providing a series of significant benefits so that the owners will be on enterprise board having vision as mission. Moreover, in public enterprises, chance for top management makes possible a cultural change forum state entities to corporate entities that lead to self-sustaining corporations.

Contemporary discourse on corporate Governance led to the three documents, having principle, since 1990. These are: Cadbury Report (UK, 1992), the Principles of Corporate Governance-OECD,1999, 2004, 2015 and 2023, and the Sarbanes-Oxley Act 2002, (US,2002). Separate legal personality, Transferable shares, limited liability, shared features are universal common characteristics.

Following corporation law, various types of corporations have a separate legal personality having limited or unlimited liability for shareholders who control along the line of the board of directors. In present times, in India corporate governance is a transparent and accountable system emphasizes on long term sustainability having global standards and regulatory authorities to protect the interests of investors and successful and ethical market. Successful corporate governance transforms India into more attractive for all types of investors. Good corporate governance provides the sustainability and resilience of corporations and create the resilience and sustainability of the broader economy. A strong corporate governance in view of sustainability matters enable corporations identify and respond to the all types

of shareholders and stakeholders towards the long-run success. This type of system must have the disclosure of sustainability with reliable, consistent and relative information network.

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