

# An Evaluative Study on the Prospects and Problems of Corporate Governance in India.

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## Abstract

This paper attempts to study **prospects and problems of corporate governance in India** which is the matter which involves a set of rules, principles, ethics, values, regulations, and procedures. Corporate governance is the structure and the associations which govern corporate direction and performance. The board of directors have dominant role in corporate governance. Its relationship to the other primary participants, typically shareholders and management, is critical. Other members include employees, customers, suppliers, and creditors. The corporate governance framework also depends on the legal, regulatory, institutional and ethical environment of the community. Usually, corporate governance is described as the host of legal and non-legal principles and practices affecting control of publicly held business firms. Broadly speaking, corporate governance affects not only who controls publicly traded corporations but also the allocation of risks and returns from the firm's activities among the various contributors in the firm, including stockholders and managers as well as creditors, employees, customers, and even societies.

The fundamental objective of corporate governance is to boost and maximize shareholder value and protect the interest of other stake holders. World Bank described Corporate Governance as blend of law, regulation and appropriate voluntary private sector practices which enables the firm to attract financial and human capital to perform efficiently, prepare itself by generating long term economic value for its shareholders, while respecting the interests of stakeholders and society as a whole. The notion of corporate governance has been incepted with major objective of significant disclosure of information to the shareholders. Since then, corporate governance has steered the Indian companies. As the time changed, there was also need for greater accountability of companies to their shareholders and customers. The report of Cadbury Committee on the financial aspects of corporate Governance in the U.K. has given rise to the discussion of Corporate Governance in India. Corporate governance has been since olden times but it was in different form. During Vedic times, kings used to have their ministers and used to have ethics, values, principles and laws to run their state but today it is in the form corporate governance having same rules, laws, ethics, values, and morals which helps in running corporate bodies in the more effective ways so that they in the age of globalization become global giants. There have been numerous corporate governance initiatives launched in India since the mid-1990s.

*Key words Corporate governance; systematic review; India; board characteristics; audit committee attributes*

## Introduction

It has been established in various management reports that aspects of good corporate governance comprise of transparency of corporate structures and operations, the accountability of managers and the boards to shareholders, and corporate responsibility towards stakeholders. While corporate governance basically lays down the framework for creating long-term confidence between companies and the external providers of capital.

There are numerous elements of corporate governance which are mentioned below:

- i. Transparency in Board's processes and independence in the functioning of Boards. The Board should provide effective leadership to the company and management to realize sustained prosperity for all stakeholders. It should provide independent judgment for achieving company's objectives.
- ii. Accountability to stakeholders with a view to serve the stakeholders and account to them at regular intervals for actions taken, through strong and sustained communication processes.
- iii. Impartiality to all stakeholders.
- iv. Social, regulatory and environmental concerns.
- v. Clear and explicit legislation and regulations are fundamentals to effective corporate governance.
- vi. Good management environment that includes setting up of clear objectives and suitable ethical framework, establishing due processes, clear enunciation of responsibility and accountability, sound business planning, establishing clear boundaries for acceptable behaviour, establishing performance evaluation measures.
- vii. Explicitly approved norms of ethical practices and code of conduct are communicated to all the stakeholders, which should be clearly understood and followed by each member of the organization.
- viii. The objectives of the corporation must be clearly recognized in a long-term corporate strategy including an annual business plan along with achievable and measurable performance targets and milestones.
- ix. A well composed Audit Committee to work as liaison with the management, internal and statutory auditors, reviewing the adequacy of internal control and compliance with significant policies and procedures, reporting to the Board on the key issues.
- x. Risk is an important component of corporate functioning and governance, which should be clearly acknowledged, analysed for taking appropriate corrective measures. In order to deal with such situation, Board should formulate a mechanism for periodic reviews of internal and external risks.
- xi. A clear Whistle Blower Policy whereby the employees may without fear report to the management about unprincipled behaviour, actual or suspected frauds or violation of company's code of conduct. There should be some mechanism for adequate safeguard to personnel against victimization that serves as whistle-blowers.

Many management scholars have recognized that strong corporate governance is vital to resilient and vibrant capital markets and is an important tool of investor protection. According to The Institute of Company Secretaries of India, "Corporate Governance is the application of best management practices, compliance or jaw 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". Cadbury Committee (U.K.), 1992 has defined corporate governance as "Corporate governance is the system by which companies are directed and controlled. It encompasses the entire mechanics of the functioning of a company and attempts to put in place a system of checks and balances between the shareholders, directors, employees, auditor and the management." Other group of scholars explained the term corporate governance as "process and

structure by which the business and affairs of the company are directed and managed in order to enhance long term shareholder value through enhancing corporate performance and accountability, whilst taking into account the interests of other stakeholders".

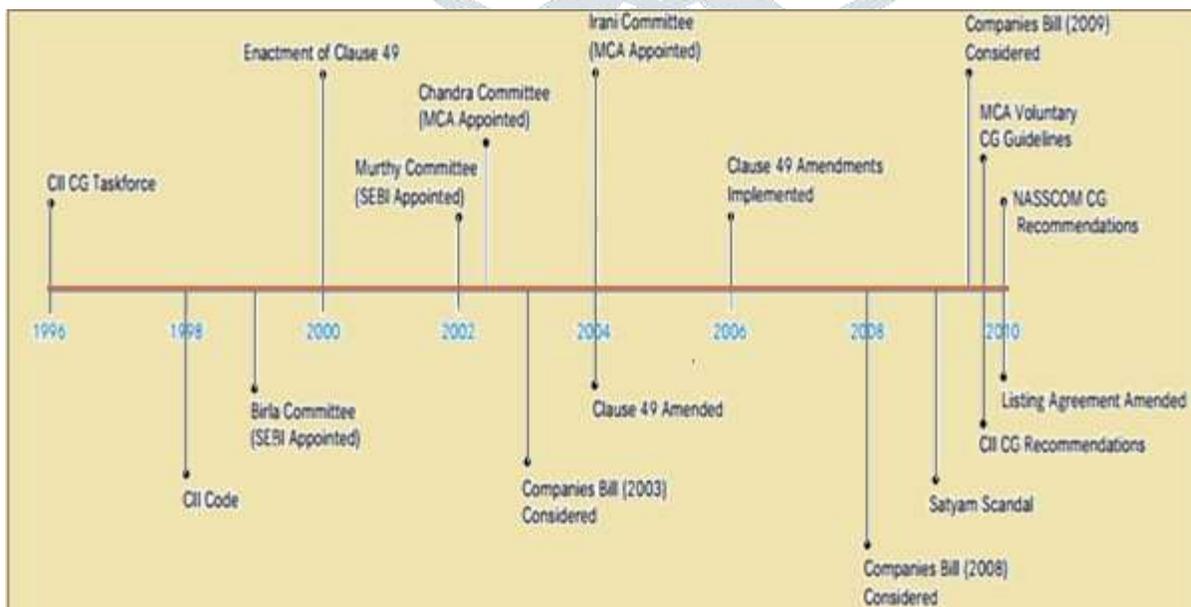
Firms at global level recognising that better corporate governance adds substantial value to their operational performance in the following ways:

1. It improves strategic thinking at the top by inducting independent directors who bring a wealth of experience, and a host of new ideas.
2. It justifies the management and monitoring of risk that a firm faces globally.
3. It limits the responsibility of senior management and directors, by carefully articulating the decision making process
4. It assures the integrity of financial reports.
5. It has long term reputational effects among main stakeholders, both internally and externally.

### Objective:

This paper intends to explore and analyze **prospects and problems of formal structure for corporate governance** through enhancing disclosures, reporting and transparency through enhanced as well as new compliance norms

### Corporate Governance Development in India: prospects and problems



India's corporate governance reform efforts did not stop after implementation of Clause 49. In January 2009, the Indian corporate community was astounded by enormous accounting scandal involving Satyam Computer Services (Satyam), one of India's largest information technology companies. As a result of the scandal, Indian regulators and industry groups have promoted for a number of corporate governance reforms to address some of the concerns raised by the Satyam scandal. Some of these responses have moved forward, mainly through introduction of voluntary guidelines by both public and private institutions.

Generally, India's corporate governance transformation efforts reflect the following:

1. Significant industry involvement in assisting the government with crafting corporate governance measures.
2. Substantial focus to enhance the function and structure of company boards, including (i) emphasis on the independence of the board of directors, and (ii) an increased role for audit committees.
3. Noteworthy increase in disclosure to public shareholders.

Several Indian Companies such as PepsiCo, Infosys, Tata, Wipro, TCS, and Reliance are some of the global giants which have their flag of success flying high in the sky due to good corporate governance.

### **Important issues in corporate governance:**

There are number of important issues in corporate governance. All the issues are inter related and interdependent to deal with each other. Each issues linked with corporate governance have different priorities in each of the corporate bodies. The issues are mentioned below:

1. Value based corporate culture
2. Holistic view
3. Compliance with laws
4. Disclosure, transparency, & accountability
5. Corporate governance and human resource management
6. Innovation
7. Necessity of judicial reforms
8. Globalization helping Indian companies to become global giants based on good corporate governance.
9. Lessons from Corporate failure

### **The need for Corporate Governance in India**

In the last decade, corporate fraud and governance failure is occurring frequently which is why we require good corporate governance in the country. India provides proper norms and laws aligned with international requirements to govern a corporate. Some of the important reasons are discussed below which raised the need for corporate governance in India.

1. A corporate has a lot of shareholders with different attitudes towards corporate affairs, corporate governance protects the shareholder democracy by implementing it through its code of conduct.
2. Large corporate investors are becoming a challenge to the management of the company because they are influencing the decision of the company. Corporate governance set the code to deal with such situations.
3. Corporate governance is necessary to build public confidence in the corporation which was shaken due to numerous corporate fraud in recent years. It is important for reviving the confidence of investors.
4. Society having greater expectations from corporate, they expect that corporates take care of the environment, pollution, quality of goods and services, sustainable development etc. code to conduct corporate is important to fulfil all these expectations. Takeovers of the corporate entity created lots of problems in the past. It affects the right of various stakeholders in the company. This factor also pushes the need of corporate governance in the country.
5. Globalization made the communication and transport between countries easy and frequent, so many Indian companies are listed with international stock exchange which also triggers the need for corporate governance in India.
6. The huge flow of international capital in Indian companies are also affecting the management of Indian Corporates which require a code of corporate conduct.

### **Principles of Corporate Governance**

Corporate governance has evolved around certain key principles, which form the base of rules and guidelines set for the corporate.

#### *Transparency*

Disclosure of the relevant information about corporate in timely and accurate manner is necessary. It helps stakeholder to know their rights and day to day activity of the corporate.

#### *Accountability*

It ensures the liability of the person who takes decision for the interest of the others. Hence persons like managers, chairmen, directors and other officers should be accountable to other stakeholders of the corporate.

#### *Independence*

Independence of top manager is important for smooth functioning of the corporate. Board of Director must work without the interference of any interested party in the corporate.

### **Corporate Governance Framework in India**

The Indian framework on Corporate Governance has been vastly in sync with the international standards. Broadly, it can be described in the following:

1. **The Companies Acts 2013** has provisions concerning Independent Directors, Board Constitution, General meetings, Board meetings, Board processes, Related Party Transactions, Audit Committees, etc.

2. **SEBI (Securities and Exchange Board of India) Guidelines** ensure the protection of investors and have mandated the companies to adhere to the best practices mentioned in the guidelines.
3. **Accounting Standards issued by the ICAI** (Institute of Chartered Accountants of India) wherein the ICAI is an autonomous body and issues accounting standards. The disclosure of financial statements is also made mandatory by the ICAI backed by the Companies Act 2013, Sec. 129.
4. **Standard Listing Agreement of Stock Exchanges** applies to the companies whose shares are listed on various stock exchanges.
5. **Secretarial Standards Issued by the ICSI** (Institute of Company Secretaries of India) issues standards on 'Meetings of the board of Directors', General Meetings', etc.. The companies Act 2013 empowers this autonomous body to provide standards which each and every company is required to adhere to so that they are not punished under the Companies Act itself.

### **Issues in Corporate Governance in India**

Although there exist many issues in the field of Corporate Governance especially in India, an effort has been made to highlight only the major ones here:

#### *Board performance*

The requirement of at least one woman director is necessary, and also the balance of executive and non-executive directors are not maintained. Evaluation is not performed from time to time and transparency is lost somewhere. The performance is not result oriented. These requirements are not always met with.

#### *Independent Directors*

Independent directors are appointed for a reason which does not seem to be fulfilled in the current scenario. Even after SEBI guidelines being issued to the corporates, for the appointment of an audit committee or giving of a comprehensive definition of the independent directors, the actual situation appears to be worse.

#### *Accountability to Stakeholders*

The accountability is not restricted to that of the shareholders or the company, it is for the society at large and also the environment. The directors are not to keep in mind their own interests but also the interests of the community.

#### *Risk Management*

The risk management techniques are to be mandatorily be undertaken by the directors as per the Company Laws and they have to mention in their report to shareholders as well. This is not being done in the most sincere manners required for the job.

#### *Privacy and Data Protection*

This is an important governance issue. Cybersecurity has evolved to be the most important aspect of modern governance. Good governance can only be achieved once the directors and other leaders in the company are well known about the hazards in this field.

### *Corporate Social Responsibility (CSR)*

Being among the few countries to legislate on CSR, it is mandatory for companies to invest minimum 2% of the profits in the last 3 years for CSR activities. Otherwise proper reasons should be mentioned in the reports in case of failure. The companies seem to be reluctant towards making such investments.

In line with the issues mentioned above, there is a greater onus upon the directors of the companies to adapt to the standards and best practices provided in various laws and guidelines. Other than the laws and norms prescribed by various institutions from time to time, the companies are also expected to act responsibly towards the society as a whole because the corporates are so huge in the current times, that they affect each and every individual citizen of the country equally. The burden on the companies is already reduced as they are made to follow a set of guidelines and they are not required to make any amends to that. It is also required that the stakeholders also participate in the decision making processes to make it a contributory job altogether.

### **Conclusion**

The more the level of corporate governance, the stronger is the company in the eyes of the shareholders of the company. The independent and the active directors are the ones who infuse and contribute towards displaying the corporate as that of having a positive outlook. When it comes to investment, the investors also seek to find the companies with stronger corporate governance in them.

The corporate governance requirements in India deliberate the companies to audit their working culture and give the shareholders community a more positive outlook as their actions have moral and legal implications. The new norms after the Companies Act 2013 came into the picture, are very balanced and innovative. They have helped reformed the growth of Indian companies as per international standards. Shareholders are involved in the decision making of the companies and various safeguards have been put in order so that the interests of the shareholders and the society as a whole is not sidelined. Corporate Governance imbibes the much-required transparency in the corporates. Therefore, it pushes India ahead in the race of emerging economies of the world. Globalization helping Indian Companies to become global giants based on good governance: In today's competitive environment and due to globalization, several Indian Corporate bodies are becoming global companies which are possible only due to good corporate governance.

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