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ORIGINAL ARTICLE

CORPORATE GOVERNANCE IN INDIA

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ABSTRACT :

The synonymic of corruption with India has surely left a negative taste in mothy of international investors. Indian stocks witnessed a large reducing in valuations when the CWG and 2G scam were exposed. Since then, investors have dumped every stock that has been even remotely in the news for being associated with a scam. But the evildoes not end there. There's another scam that dwarfs absolutely everything that has founded so far. And this scam answers to the name of money laundering. As per the results of a study on corruption, published by Rediff, the size of money laundered by Indians stands at staggering Rs 18.8 trillion. The same is apparently 1.2 times the overall size of corruption express in the country. It is believed that it is time both the government and companies aware that being corrupt is no longer going to take them too far.

"The primary purpose of corporate leadership is to create wealth legally and ethically. This translates to bringing a high level of satisfaction to five constituencies - customers, employees, investors, vendors and the society-at-large. The raison d'être of every corporate body is to ensure predictability, sustainability and profitability of revenues year after year."

- N. R. Narayana Murthy ,Executive Chairman of Infosys

KEYWORDS : synonymic of corruption , money laundering.

INTRODUCTION :

The subject of corporate governance bound to international business limelight fromrelative unclear after a draw of collapses of high profile companies. Enron, theHouston, Texas based energy giant, and WorldCom, the telecom behemoth, shocked thebusiness world with both the scale and age of their unethical and illegal operations.Problem, they seemed to indicate only the tip of a dangerous iceberg. While corporatepractices in the US companies came under attack, it appeared that the evil was farmore widespread. Even the prestigious New York Stock Exchange wasn't saved.

There are many different models of corporate governance around the world. These differ according to the variety of capitalism in which they are integrated.The Anglo-American "model" tends to emphasize the interests of shareholders. The coordination associated with Continental Europe and Japan also identifythe interests of workers, managers, suppliers, customers, and the community. It has been advised that the Indian approach is drawn from the Gandhian principle of trusteeship and the Directive Principles of the Indian Constitution, but this conceptualization of corporate objectives is also prevalent in Anglo-American and other judgement.India's SEBI (Securities and Exchange Board of India) Committee on Corporate Governance defines corporate governance as the "acceptance by management of the inalienablerights of shareholders as the owner of corporations.It is about focus to values, about moral business conduct and about making a difference between personal & corporate funds in the management of a company.

NEED

A company is a mixture of various stakeholders, namely customers, employees, investors, vendor partners, government and society. In this changed environment an Indian corporation, as also a corporation elsewhere, should be fairto its stakeholders in all its reach. This has become action in today's international business world where companys need to enter global pools of capital, need to attract and retain the best human capital from various parts of the world, need to partner with vendors on huge collaborations and need to live in harmony with the community. Unless a corporation attractive and demonstrates ethical conduct, it will not be able to succeed. Corporations need to identify that their progress requires the cooperation of all the stakeholders; and such cooperation is enhanced by the corporations adhering to the best Corporate Governance practices. At this point of view, the management needs to act as trustees of the shareholders at large and prevent asymmetry of benefits between variousof shareholders, especially between the owner-managers and the rest of the shareholders.

Effective corporategovernance increaseenter to external financing by firms, leading to greater investment,as well as higher progress and employment. The extent of private credit to GDP incountries in the highest quartile of creditor right phase enactment and enforcement is more thandouble that in the countries in the lowest quartile. As for equity financing, the ratio ofstock market capitalization to GDP in the countries in the highest quartile of shareholderright enactment and enforcement is about *four* times as large as that for countries in thelowest quartile[1]. Lowest corporate governance also hinders the creation and development ofnew firms.Positive corporate governance also lowers of the cost of capital by decreasing risk andcreates higher firm valuation once again boosting real investments[2]. There is a variationof a factor of in the "control premium" between countries with thehighest level of equity rights protection and those with the lowest[3].
Effective corporate governance mechanisms establish better resource allocation andmanagement raising the return to capital. The return on assets (ROA) is about twice ashigh in the countries with the highest level of equity rights protection as in countries withthe lowest protection[4].Positive corporateGovernance can importantly reduce the risk ofnation-wide financial crises. There is a strong inverse relationship between the quality ofcorporate governance and currency depreciation. Surely low transparency and corporategovernance norms are believed to be the key reasons behind the Asian Crisis of 1997.Such financial crises have importantly massive economic and social costs and can set a countryseveral years back in its path to development.Finally, positive corporate governance can remove misfaith between differentstakeholders, reduce legal costs and improve social and labour relationships and externaleconomies like environmental protection.

[1] See La Porta *et al* (1997)
[2] La Porta *et al* (2000)
[3] Dyck and Zingales (2000)
[4] Claessens (2003)

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EVOLUTION OF CORPORATE GOVERNANCE IN INDIA (Past, present and future)

The history of the development of Indian corporate sector has been marked byinteresting contrasts. At independence, India showed one of the world's pooresteconomies but one which had a factory sector accounting for a tenth of the nationalproduct; four functioning stock markets withclearly defined rules governing listing, trading and settlements; a well-developed equityculture if only among the urban rich; and a banking system replete with well-developedlending norms and recovery procedures[5].In terms of corporate laws and financialsystem, therefore, India emerged far better factor than most other colonies. The Companies Act 1956 as well as other laws governing the functioning of joint-stock companies,banking sector and protecting the investors' rights built on this foundation.

Although India has been rather slow in establishing corporate governance principles over the last two decades, 2012 was a positive year for development in the Indian corporate governance aren. The Companies Bill 2012, passed by Lok Sabha (the lower house) on 18 December 2012, included a number of new provisions aimed at improving the governance of public companies..

The Indian market regulator, the Securities and Exchange Board of India (SEBI), issued a advisory paper on the "Review of Corporate Governance"[6] enhancing a wider debate on governance.The splitting of the roles of chairman and chief executive, disclosure of the reasons for an independent director's resignation from office, a limit on the term of appointment of independent directors and greater involvement of institutional investors. There has been a clear move in India to develop the corporate market to attract foreign investment. Foreign investment is slowly increasing shareholder diversity in some companies. This in turn pulls the agenda for the introduction of a regulated and universal corporate governance model.

Recent researches have established that financialdevelopment is largely dependent on investor protection in a country – *de jure* and *defacto*.

In India, enforcement of corporate laws remains the soft underbelly of the legal and corporate governance system. The World Bank's Reports on the Observance ofStandards and Codes (ROSC)[7] publishes a country-by-country analysis of the observanceof OECD's corporate governance codes. In its 2004 report on India, the ROSC foundthat while India observed or largely observed most of the principles, it could do better incertain areas. The joint efforts of the Department of CompanyAffairs and SEBI to nail down the perpetrators have proved to be largely inactive. As forcomplaints about transfer of shares and non-receipt of dividends while the redress ratehas been an impressive 95%, there were still over 135,000 complaints pending with theSEBI.
Corporate governance from the futuristic point of view tocorporations has great role to play. Dueto internationally accepted corporate governance standards are of paramount importance for Indian Companies seeking to distinction themselves in global footprint. The companies should always keep improving, increasing and updating themselves by bringing more reliable integrated product and service quality. They should be more reliable in their conduct.

Corporate governance should also have approach of holistic view, value based governance, should be committed towards social upliftment and social responsibility and environment protection. It also involves creative, generative and positive things that add value to the various stakeholders that are served as customers.Every place needs good corporate governance.

Corporate governance is a means and not an end, corporate excellence should be end.

[5] This section draws heavily from the history of Indian corporate governance in Goswami (2002).
[6] PR No. 4/2013
[7] ROSC-2004 report on India

INDIAN CASE STUDIES

An analysis of the observance of corporate governance codes,in India.

Satyam case

The collapse of Lehman Brothers, one of the world's most reputed global financial services firms, dealt a rude blow to the world in 2008. But, despite the shock, Indians could afford to take a clinical look at it from afar. In fact, even the 2001 Enron scandal in the US, which involved irregular accounting procedures, was perhaps nothing more than news on the foreign page.But, the Satyam's fabricated balance sheets fiasco hit much closer to home.Satyam was the 2008 winner of the coveted Golden Peacock Award for Corporate Governance under Risk Management andCompliance Issues, which was emptied from them in the aftermath of the scandal.[8]

As the accounting firm, Arthur Anderson, did in the Enron case, Pricewaterhouse Cooper Capital, the celebrated audit firm, did in the Satyam case, both failing to visualize the fraud. This shows how hollow the grandiose concept which goes by the name of "corporate governance" is.

Repercussions

It affected the Indian economy in several ways, those new to the Indian market or considering investing here for the first time were scared away. It was believed that this betrayal and break of trust had a major impact on the entire Indian tech services industry.Peers such as HCL Technologies closed 15% lower on the stock exchange.

The industry had spent 20 years building up credibility with Western clients, but this disaster will make many US and European clients rethink their reliance on Indian outsourcing. Offshore outsourcing falling off a cliff weren't expected, but led to serious repercussions.

Some experts like Future Brands CEO Santosh Desai believed the damage will not be limited to the technology sector. "The impact is more on India Inc's credibility, rather than brand India IT, as it is a wider problem and not sector specific."[9]

Effect on stock market

- The New York Stock Exchange has halted trading in Satyam stock as of 7 January 2009.[10] Satyam stocks plunged over 82%. It dragged the benchmark Sensex index down 7.3% to close at 9,586.88 .India's National Stock Exchange announced that it will remove Satyam from its S&P CNX Nifty 50-share index on 12 January 2009.. India's National Stock Exchange expelled Satyam from all its equity indices and the BSE and several domestic followed the suit .
- Satyam's shares fell to 11.50 rupees on 10 January 2009, their lowest level since March 1998, compared to a high of 544 rupees in 2008.[11] In New York Stock Exchange Satyam shares peaked in 2008 at US$29.10; by March 2009 they were trading around US$1.80
- Satyam lost more than 10,000 Crore rupee in a single day trading. 400crores changed hands at BSE and 1650 crores changed hands at NSE. Satyam's American Depository Receipts, listed on the New York Stock Exchange, witnessed a sharp plunge when the American markets opened trading the next day.

[8] Satyam stripped off Golden Peacock Global Awards – Software-Infotech-The Economic Times (8 Jan 2009)
[9] The Economic times ,Satyam scam: Credibility of Brand India IT under cloud Jan 8, 2009
[10] NYSE halts trading in Satyam stock – (Wednesday, 7 January 2009, 23:02) Sify.com
[11] Indian IT scandal boss arrested – 9 January 2009 – Business – BBC NEWS

- Fund Houses sold shares in the open market - Swiss Finance Corp Mauritius Ltd: Sold 7786759 shares at Rs.74.61- Aberdeen International India Opportunities Mauritius Ltd: Sold 9830811 shares of the company at Rs.43.41- Aberdeen Asset Managers Ltd Aberdeen Global Asia Pacific fund: Sold 4179064 shares at Rs.43.4115 Indian stocks on US bourses bore the brunt of the negative market sentiment and *witnessed a fall of* $1.94 *billion in their combined market capitalization*.
- Bombay's main benchmark index tumbled 7.3 percent and the *Indian rupee fell sharply. Realty and infrastructure shares tumbled* on market perception that a number of firms in these sectors do not strictly follow good corporate governance practices. Satyam's largest shareholder, *Aberdeen AMC, dumped the tainted software entity's shares.*
- India's biggest engineering and construction firm by revenue L&T slumped 12.7%to Rs 717.60 on fears that it is likely to register huge losses on its exposure to Satyam Computer taken just before the accounting fraud.

PRITHVI INFORMATION SOLUTION CASE

It is extraordinary that stock exchanges, who are the first-line regulators, acted like mere notice boards and uninterested in watching companies.

Hyderabad-based **Prithvi Information Solutions** lurched from one extraordinary scandal to another while the Securities and Exchange Board of India (SEBI) had been in deep slumber. Three international audit firms walked away without signing the balance sheet in 2009.First it was Ernst & Young (M/s SR Batliboi & Co), which resigned after signing a heavily qualified balance sheet in March 2009. It was replaced by Price Waterhouse & Co (PwC) which resigned in panic in the wake of the Satyam scandal.

Shockingly, the Registrar of Companies granted two extensions to Prithvi Information solution for holding the AGM without once inquiring why its former auditors were refusing to sign the accounts.The new auditor VK Asthanaaccepted the appointment and completed the audit in just 23 days and issued the report on the financial statements (including consolidated financial statements)". Also, if VK Asthana was appointed on 31st December and the statute requires 23 days' notice for the AGM and seven days' notice for a board meeting, then it is clear that it was fully assured that the auditors would sign the accounts without raising any questions.

The chronology of scams shows that policy inaction has left the culprits more confident over the years. In fact, in the biggest scam in Indian history that was uncovered in 2010, members of the government itself were found responsible.

	Chronology of scams in India	Size* (Rs m)
1989	Bofors scam	400
1992	Harshad Mehta scam	6,000
1995	Telgi scam	20000
1997	Hawala scandal	1,000
2001	Ketan P scam	50000
2008	Satyam scam	90000
2010	CWG scam	80000
2010	2G spectrum scam	17,60,000

Data source : Wikipedia , Equitymaster
*estimated numbers

CONCLUSION

Liberalization and its associated developments, i.e. deregulation, privatization and extensive financial liberalization, have made effective Corporate Governance very crucial. Cases of frauds, malpractices can render capital market reforms desultory. Independent and effective corporate governance reforms are, therefore, necessary in order to restore the credibility of capital market and to facilitate the flow of investment finance of firms. There are various reforms which were channelled through a number of different paths with both the Security and Exchange Board of India (SEBI)and the Ministry of Corporate Affairs, Government of India(MCA) playing important roles.In India, enforcement of corporate laws remains the soft underbelly of the legal and corporate governance system.Thus, there is considerable room for improvement on the enforcement side of the Indian legal system to help develop the corporate governance mechanism in the country.

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