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   RESEARCH METHODOLOGY

   RESULTS & DISCUSSION

   FINDINGS

   RECOMMENDATIONS/SUGGESTIONS

   CONCLUSIONS

   SCOPE FOR FURTHER RESEARCH

   ACKNOWLEDGMENTS

   REFERENCES

   APPENDIX/ANNEXURE

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BUSINESS ETHICS & GOVERNANCE

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ABSTRACT

Today due to different unethical practices done by the various big organizations, the stakeholders and customers are regularly showing negative responses. So it has become the need for every organization to create transparency in its business practices which can only be possible through ethics and good governance. It is only the recent years that Business Ethics & Corporate Governance have become almost a public issue and have started getting favourable responses from the corporations, government agencies, shareholders, employees, suppliers, customers, competitors, the news media, community residents etc. i.e.; the entire society. With the growing strength of consumer movements and rising levels of awareness among stakeholders, corporations are realizing that stakeholders and customers are no longer indifferent to unethical practices. So companies have now begun to integrate ethics into their corporate cultures and concentrate on appropriate corporate governance mechanisms in place. This paper covers the ethics and governance, essential governance principles, ethical codes and guidelines for an organization. It also shed light on, how ethics influence the corporate governance and how corporate governance affects firm performance.

KEYWORDS

Ethics, Ethical codes, Corporate governance, Governance principles.

INTRODUCTION

One of the serious challenges facing mankind in organized social life is ethics - that is, the problem of choice between good and bad, do's and do not's etc. All the creations in this natural world follow certain fixed laws of nature. That is why we can exactly predict when the sun will rise tomorrow. But we cannot predict human behaviour in the same way. Nobody can confidently say that two individuals would behave in the same way tomorrow as they do today, because man has been endowed with the freedom to decide, which other creations do not possess. That is why philosophers and scholars have emphasized ethical development of human beings to ensure rational behaviour in society.

Since the last few years, we have witnessed a range of corporate scandals and failures from Enron, Arthur Anderson and WorldCom internationally to the recent Satyam Saga in India. More and more skeletons are tumbling out and the fact that this is happening in the bear market has further amplified the effect. Questions are being asked on audit and finance functions, board compositions and prevailing regulations. There is a war cry everywhere, "The system needs to improve".

BUSINESS ETHICS

'Ethics' is derived from the Greek word *ethos*, which means good and bad, right and wrong and should and should not related concept or philosophical idea (Khan,1985). This branch of philosophy deals with values relating to human conduct with respect to the rightness or wrongness of certain actions (Holmquist, 1993). According to Uhr, justice is the heart of ethics (Uhr, 1988). The parallel word of justice in the Greek language is *dikeia*, which means convention, law and good judgment, right and just (Gulet, 1983). Therefore, a just person is s/he whose behaviour reflects all those ethical qualities. The Latin concept of just person means virtuous person with ethical and strong moral character (Encyclopedia Britannica, 1976). Thus ethics determines an expected mode of behaviour in society and organizations. It is a guidance system to be used in making decisions.

ETHICS = TRUTHFULNESS + TRANSPARENCY + RIGHTEOUSNESS + MORALITY

"Ethics may be defined as some standardized form of conduct which may be used to determine what is good or what is bad, what is right or what is wrong, what is true what is false, what is just or what is unjust, what is proper or what is improper, what is fair or what is unfair and what should be done what should not be done" (Banik, 2008).

The phrase **business ethics** refers to identifying the difference between right and wrong and choosing to do what is right. It can be used to describe the actions of individuals within an organisation, as well as the organisation as a whole. These are the written and unwritten codes of principles and values that govern decisions and actions within a company. In the business world, the organization's culture sets standards for determining the difference between good and bad decision making and behaviour. **Business ethics** are the rules of business conduct, by which the propriety of business activities may be judged. It is the society which dictates the ethical principles. Such principles attempt to ascertain the ethical obligations of the business.

Business ethics is the study of business situations, activities, and decisions where issues of right and wrong are addressed.

It is worth stressing that by 'right' and 'wrong' we mean morally right and wrong as opposed to, for example, commercially, strategically, or financially right or wrong. Moreover, by 'business' ethics, we do not mean only commercial businesses, but also government organizations, pressure groups, not-for-profit businesses, charities, and other organizations.

CORPORATE GOVERNANCE

Governance is a dynamic connotation which according to the Oxford Advanced Learner's Dictionary means, the way in which a country is governed (Wehmeier, 2000). Simply put, governance means the activities or process of managing public affairs. It is different from government which is a physical entity encompassing various institutions (i.e., legislature, executive and judiciary) and their actors who are authorized to exercise sovereign power of the state. Governance is thus a qualitative expression and a normative concept. A 1992 World Bank book defines **governance**, as "the "manner in which power is exercised in the management of a country's economic and social resources for development" (World Bank, 1992).

Corporate governance is related to how the various constituencies that define the business enterprise serve, and are served by the firm. It encompasses within its orbit, all implicit as well as explicit relationships between the corporation and its employees, customers, creditors, suppliers and all other stakeholders.
"Fundamentally, shareholder vs. stakeholder debate diverts attention away from the role of management itself."(Maheswari, 2003).
"Corporate Governance refers to the system of checks and balances surrounding the exercise of corporate power." (Joshi, 2003).
"Corporate Governance refers to the relationship that exists between the different participants and defining the direction and performance of a corporate firm." (Prasad, 2006)

ESSENTIAL GOVERNANCE PRINCIPLES

A company should:-

1. **LAY SOLID FOUNDATIONS FOR MANAGEMENT AND OVERSIGHT**
   -Recognize and publish the respective roles and responsibilities of board and management.
2. **STRUCTURE THE BOARD TO ADD VALUE**
   - Have a board of an effective composition, size and commitment to adequately discharge its responsibilities and duties.
3. **PROMOTE ETHICAL AND RESPONSIBLE DECISION-MAKING**
   -Actively promote ethical and responsible decision-making.
4. **SAFEGUARD INTEGRITY IN FINANCIAL REPORTING**
   - Have a structure to independently verify and safeguard the integrity of the company's financial reporting.
5. **MAKE TIMELY AND BALANCED DISCLOSURE**
   - Promote timely and balanced disclosure of all material matters concerning the company.
6. **RESPECT THE RIGHTS OF SHAREHOLDERS**
   - Respect the rights of shareholders and facilitate the effective exercise of those rights.
7. **RECOGNIZE AND MANAGE RISK**
   - Establish a sound system of risk oversight and management and internal control.
8. **ENCOURAGE ENHANCED PERFORMANCE**
   -Fairly review and actively encourage enhanced board and management effectiveness.
9. **REMUNERATE FAIRLY AND RESPONSIBLY**
   -Ensure that the level and composition of remuneration is sufficient and reasonable and that its relationship to corporate and individual performance is defined.
10. **RECOGNIZE THE LEGITIMATE INTERESTS OF STAKEHOLDERS**
    - Recognize legal and other obligations to all legitimate stakeholders.
11. **CORPORATE GOVERNANCE RATING IS MADE MANDATORY FOR LISTED COMPANIES.**

ETHICAL CODES AND GUIDELINES

Corporate and governance principles and codes have been developed in different countries and issued from stock exchanges, corporations, institutional investors, or associations (institutes) of directors and managers with the support of governments and international organizations. As a rule, compliance with these governance recommendations is not mandated by law, although the codes linked to stock exchange listing requirements may have a coercive effect. For example, companies quoted on the London and Toronto Stock Exchanges formally need not follow the recommendations of their respective national codes. However, they must disclose whether they follow the recommendations in those documents and, where not, they should provide explanations concerning divergent practices. Such disclosure requirements exert a significant pressure on listed companies for compliance.
In the United States, companies are primarily regulated by the state in which they are incorporated, though they are also regulated by the federal government and, if they are public, by their stock exchange. The highest numbers of companies are incorporated in Delaware, including more than half of the fortune 500.this is due to Delaware's generally business friendly corporate legal environment and the existence of a state court dedicated solely to business issues. Most states' corporate law generally follows the American Bar Association's Model Business Corporation Act. While Delaware does not follow the Act, it still considers its provisions and several prominent Delaware justices, including former Delaware Supreme Court Chief Justice E. Norman Vaesey, participate on ABA committees.
One of the most influential guidelines has been the 1999 OECD principles of corporate governance. This was revised in 2004. The World Business Council for sustainable development WBCSD has also done sustainable work on corporate governance, particularly on accountability and reporting.

IMPORTANT MILESTONES TOWARDS EFFECTIVE CORPORATE GOVERNANCE IN INDIA

The **Confederation of Indian Industry (CII)** published India's first comprehensive code on corporate governance (Desirable Corporate Governance: A Code) in 1998. This Code was well received by Corporate India and many of its recommendations became part of subsequent regulations.
An important milestone has been the setting up of the **National Foundation for Corporate Governance (NFCG)**. This was done by the **Ministry of Corporate Affairs** in partnership with the **Confederation of Indian Industry (CII), Institute of Company Secretaries of India (ICSI) and Institute of Chartered Accountants of India (ICAI)**. The vision of NFCG is to be a catalyst in making India the best in corporate governance practices. The internal governance structure of NFCG consists of **Governing Council, Board of Trustees and Executive Directorate.** The Governing council works at the apex level for policy making. The Board of Trustees deals with the implementation of policies whereas the Executive Directorate provides the internal support and implements the decisions of the Board of Trustees.
Various committees have been appointed in the past to make suggestions for more effective corporate governance:

- The Kumar Mangalam Birla Committee set up by SEBI submitted its report in 2000. It's suggestions included suitable amendments to the listing agreement executed by the stock exchanges with the companies in order to enhance corporate governance standards of listed companies, drafting a code of corporate best practices, and suggested safeguards to be instituted within companies to deal with insider information and insider trading. Several of these committee's recommendations were incorporated in Clause 49 of the listing agreement of stock exchanges.
- The Naresh Chandra Committee gave its report in 2002. This was following the corporate scandals of the US. It made some suggestion in terms of Disclosure of contingent liabilities and risks, recommended that the CEO and CFO certify financial statements. It also suggested that independent directors will not have a pecuniary relationship with company and that there will be a statutory limit on sitting fee for independent directors. Many of these recommendations were incorporated in the Companies (Amendment) Bill 2003.
- The Narayana Murthy Committee gave its report in February 2003. It talked about strengthening the responsibility of the audit committee, improving quality of financial disclosures, utilization of IPO funds. It also stressed on the importance of disclosing business risks in annual reports and advocated a whistleblower policy.

INFLUENCE OF BUSINESS ETHICS ON CORPORATE GOVERNANCE

Like never before, corporations are being asked, encouraged and pushed to improve their business practices to emphasize legal and ethical behaviour. Companies, professional firms and individuals alike are being held increasingly accountable for their actions, as demand grows for higher standards of corporate social responsibility.

As recently as decade ago, many companies viewed business ethics only in terms administrative compliance with legal standards and adherence to internal rules and regulations. But today, attention to business ethics is on the rise across the world and many companies realize that in order to succeed, they must earn the respect and confidence of their customers. Corporate governance is the basis of accountability in companies, institutions and enterprises, balancing corporate economic and social goals on the one hand with community and individual aspirations on the other.

CORPORATE GOVERNANCE AND FIRM PERFORMANCE

In its global investor opinion survey of over 200 institutional investors first undertaken in 2000 and updated in 2002, McKinsey found that 80% of the respondents would pay a premium for well-governed companies. They defined a well-governed company as one that had mostly outside directors, who had no management ties, undertook formal evaluation of its directors, and was responsive to investor's requests for information on governance issues. The size of the premium varied by market, 11% for Canadian companies to around 40% for companies where the regulatory backdrop was least certain (those in Morocco, Egypt and Russsia).

Other studies have linked broad perceptions of the quality of companies to superior share price performance. In a study of five year cumulative returns of Fortune Magazine's survey of 'most admired firms', Antunovich et al found that those "most admired" had an average return of 125%, while the "least admired" firms returned 80%. In a separate study, Business Week enlisted institutional investors and 'experts' to assist in differentiating between boards with good and bad governance and found that companies with the highest rankings had the highest financial returns.

On other hand, research into the relationship between specific governance controls and firm performance has been mixed and often week.

BUSINESS ETHICS & CORPORATE GOVERNANCE IN ASIAN COUNTRIES

INDIA

Although the discussion on ethics is almost a general phenomenon in India, unethical business practice become a recognized phenomenon in this country during Second World War. The concern with business ethics has become visible only during the nineties. Although there is a strong belief in corporate social responsibility in India, the decisions are not made in participatory way, but by the persons at the top. In terms of the rules and regulations in India, the government very often acts as a problem- creator rather than facilitator. This is due to a complex bureaucracy, corruption and undoubtedly, the absence of ethical sense in various sectors. It is high time that Indian companies start reflecting upon their corporate practices and look beyond traditional community development and a simple focus on compliance.

PAKISTAN

Pakistan draws ethics principles primarily from Islamic law because the constitution mandates that all laws conform to Islam. Pakistan's legislature delegated the task of issuing a corporate governance code to the Securities and Exchange Commission of Pakistan (SECP), which enacted Pakistan's Code of Corporate Governance (the Code) in 2002. The SECP believes that the best way to promote the interest of all corporate stakeholders is to ensure that business is conducted in accordance with the highest prevailing ethical standards.

SRILANKA

A revised corporate governance code has been published in Sri Lanka by the Institute of Chartered Accountants of Sri Lanka (ICASL) and Securities and Exchange Commission. Although the Code relies heavily on the UK's Combined Code on Corporate Governance, there are some noticeable differences in emphasis and wording. Both codes stress the important role performed by the chairman but Sri Lankan code expresses this most succinctly in principle A.3 as follows: *"The Chairman's role in preserving good Corporate Governance is crucial".*

CHINA

"China is widely perceived as having a problem in business ethics. One view holds that elements of Chinese culture tend to encourage unethical business decisions. Another perspective says that China has business ethics issues because its economy is in transition. The unclear rules of the game create opportunity for business ethics problems. The large amount of new wealth creates incentive to cut corners to get rich." **(John Hulpke and Cubie Lau, 2008)**

China is seen as having business ethics problems. However, good business ethics help a society as a whole, and some say that good ethics can be source of competitive advantage for an organization. In the past fifty years, Chinese society has changed significantly and some traditional components of Chinese beliefs have been abandoned along the way. Following the path of development of Chinese business culture, it is not hard to understand why China's corporate governance is far from satisfactory.

CONCLUSION

Through the above discussion on ethics in governance, it is clear that if the organization integrates ethical values in monitoring business activities it can change the image of the corporation. These ethical & moral values enhance the performance and generate believes of the investors as well as customers within the organization. A sound ethical program adds value by protecting and increasing the enterprise's **reputation**. Reputation is important for strengthening business relations and earning client's loyalty in any enterprise. Another important benefit of ethics is reduction in **corruption risk** because it provides tools to conduct business honestly. This also controls on **organizational structure** & **fosters team work** by decreasing conflict among members of enterprises. Good governance will reduce scams and scandals which have taken place in the last decade. That will help in economic growth of enterprise as well as nation. So every organization should start ethical practices in managing organization. This is the need for today.

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