CORPORATE GOVERNANCE & GLOBAL BEST PRACTICES

INDIAN CHAMBER OF COMMERCE

FutureStation
Going Beyond

Corporate Governance – Some Thoughts on Global Best Practices

Many years ago, I heard a corporate leader saying “An organisation stands on a ‘tripod’, made up of People, Process and Technology. And unless all of them stay equally strong, the organisation will become unstable and eventually fall”. In my experiences over the years, I have seen big corporations become complacent and ignore some tenets of the tripod, and then get obliterated by the competition. Progressive companies on the other hand constantly stay abreast of the changing environment, and invest in upgrading the key aspects of their organisation and resources, to endure all business cycles.

Governance is the way a country or an organisation is run. In history we fondly talk of the “Golden Age of Guptas” or the “Navaratnas” in the courts of King Vikramaditya and Emperor Akbar -- which all point towards meritocracy -- periods when there was recognition of talent, encouragement of art forms, strong rule of law, robust procedures, flourishing trade, happy populace, et al. That the most capable people, irrespective of caste or creed, of the kingdom were made advisors or ministers to the emperor means that there was a value system to identify and utilise their skill sets for the overall welfare of the empire.

Corporate governance is the system by which companies are run, and is a fairly large subject matter, encompassing not only processes, but also people and technology. The benefits of following best practices for good corporate governance are numerous and the consequent impact is limitless. In modern times, companies and corporations flourish like the kingdoms of yore. And the difference between a progressive company and a bad one is usually how each company is run i.e., corporate governance. Corporate scandals like Enron, WorldCom, Satyam, etc prove how unchecked power and greed of a few can destroy organisations, erode investors’ faith, pull down banks, and affect thousands of innocent lives.

All that has led to governments, across many countries’ world over, to bring in more stringent laws and regulations to rein in powerful corporate behaviour, corrupt capitalism and prevent scams e.g. The Sarbanes Oxley Act 2002 in USA, The Companies Act 2013 in India, and SEBI (Securities and Exchange Board of India) made senior management and auditors of listed companies more accountable.

Best corporate governance practices apply equally to a new start-up, a non-profit entity, a big partnership firm, an established domestic company or a huge global multi-national corporation. Good corporate governance starts from the top (:board of directors, CXOs) and permeates to the grassroots, serving their shareholders, employees, customers, suppliers and stakeholders well.

So how do best companies manage their affairs so that they become respected brands that attracts more customers, and everyone wants to join them?

Let us look at some of the best global practices of corporate governance:

1. **Competent and Diversified Board**
   The board of directors or management must be like the ‘Navaratnas’: a competent and diversified group of qualified people (including independent professionals) who can take unbiased informed decisions, and who provide leadership in “doing the right thing”. Board members with diverse backgrounds and skill sets bring in fresh ideas, add immense value in every discussion. Board members should have the required experience and expertise to understand changing trends and emerging technologies, and guide the company to innovate and be ahead of the curve. Directors should hold each other accountable for giving adequate time to thoughtfully address important matters and decisions. The board should continuously work to develop its members’ knowledge in the area of corporate governance. This is because boards have the task of dealing with issues that are highly complex and sometimes technical matters. Independent directors should really be so, otherwise sycophancy will galore. New-age leaders listen to all view-points, and mull over them. Different viewpoints and perspectives all around lead to robust decision-making. Directors must have implicit trust in each other,

so that board discussions are productive, in spite of long debates interspersed with strong opinions and differences. A good board has foresight to anticipate imminent risks and can think of strategies that benefit “the greatest good for the greatest number” and guide the management teams accordingly. Progressive leadership behaviour has a silent positive rub-off effect, which the “blind can see and the deaf can hear”, and invariably it percolates all throughout the entity as the ingrained work culture. Moreover, board directors, and committees of the board (e.g., audit committee, nomination and remuneration committee, etc) should do annual self-evaluations to identify their strengths and weaknesses, and thus improve effectiveness.

2. **Good Ethics and Highest Integrity**

Morality starts at the top, and directors and senior officers must be aware of their fiduciary duties, and set a culture of respect and statutory compliance that sets the standard for everyone else to follow, including vendors and employees. Board members must reduce fear of incrimination by having clearly stated conflict of interest policy, and ensure that they declare all conflicts of interest and refrain from voting on such matters, codes of conduct and whistleblowing. Senior management ought to be people with a high level of ethics, honesty and integrity in words, deeds and their relationships with people. There must be established procedures for managing and overseeing ethical matters, reporting non-compliance, and everyone should practice financial accountability and transparency. The Companies Act 2013 lays obligations on auditors, company secretaries, CEO, CFO, and directors for reporting of instances of potential or actual fraud.

Whistle-blowing is a critical component of good governance because globally, 46% of fraudulent corporate activity is revealed and stopped by internal whistle-blowers. ”Don't shoot the messenger” is an admonition to not blame the bearer of bad news. It is often used when someone reveals a difficult truth that the listener does not want to hear. A whistle-blower may be an employee, client, auditor, or anyone connected to a government agency or business who exposes or discovers fraud and decides to report before it causes harm to the public or the company. Reasons why people do not report wrong-doing or frauds are: (a) fear of the consequences (legal, financial, reputational), (b) belief that nothing will be done (:”reporting will not make any difference!”) and (c) how, where and whom to report to.

Company management must have the gumption to hear and act upon bad news, and after due process should reward the messenger for being brave and vigilant. Unless a protective system shields people who fearlessly expose wrong-doing and potential frauds -- much of the unethical and illegal activities would still continue. Sadly, I have seen first-hand how some short-sighted leaders try to humiliate or punish the whistle-blower, hush up bad news, ignoring the adage “there is no smoke without fire”, and lets the malady spread -- leading to the final cataclysmic crash-down.

Similarly, dignity and safety of women in the workplace must be sacrosanct. Unchecked sexual harassment of juniors by beastly seniors spreads a toxic work culture which leads to misplaced priorities, low staff morale, scandals, loss of goodwill and attrition of talented employees. The recent “#MeToo” movement is a case in point which helped expose perpetrators, and raised awareness globally about sexual harassment at work-places. Such predatory behaviour is unacceptable, and needs to be firmly prevented across the entire entity as part company policy.

3. **Align Strategic Plans with Goals**

Corporate best practices require board directors to look at risk-taking and strategy on both short-term and long-term basis. The board of directors must align the strategies and risk management activities with the company's goals broken into department-wise targets, to deliver best-in-class goods and services. Management by Objective (MBO) anticipates head-winds and emerging trends in the external environment, and then guides all resources and tools to work out detailed budgets, execute action plans and achieve intended results. Board members need to work together to assess ‘SWOT’ i.e., strengths, weaknesses, opportunities and threats --- and appropriately design the company's risk tolerance and best way forward. Moreover, they need to ensure that the company is seized of the evolving opportunities – and the right path for business expansion and profitability. They must develop and put in place robust framework and controls, so that the company's business growth is healthy, potential risks mitigated, and efficiency enhanced.

4. **Clear Roles, Responsibilities and Accountabilities**

All progressive companies have a handbook which clearly enlists job descriptions, specifies role-wise duties and responsibilities of all the key management personnel i.e., chairperson, board member/director, CEO, CFO, Heads of Departments, managers, all functional officers and executive staff. It should detail out "Dos and Don'ts" regarding the responsibility and accountability for each position. Clear demarcation of job roles in an organisation prevents confusion, inculcates cross-functional team-work and makes day-to-day functioning efficient even at the grass-root level.
The board of directors must always delegate some of its responsibilities to committees, such as the audit committee, compensation and remuneration committee, nomination or governance committee, and other board committees, as required. This prevents concentration of power, and ensures the 'maker-checker' duty segregation principle, and thus all decision-making is not centred only with the board, and certain detailed issues are managed after deep-dive by committees. Directors should carefully review management information system (MIS) reports and perspectives and be willing to expand the scope of discussions with the knowledge and expertise of a qualified, diverse board.
Another hallmark of best practices is to separate the roles of the board chairperson and that of the CEO, and to have distinct roles for each of them. Ultimately the tenet that each role's power comes with corresponding accountability (and responsibility) must permeate throughout the organisation, down to each department, branch office or factory.

5. **Transparent Performance Evaluation and Fair Compensation**

"If you pay peanuts, you get monkeys" says the adage, meaning that paying low salaries fails to attract or retain skilled employees. Good companies hire right candidates, agnostic of gender, pay well and set employee-wise measurable goals or key performance indicators (KPIs) at the beginning of the year. Later actual work output is periodically evaluated through a transparent structured performance appraisal system --- done unbiasedly – leading to fair increase in emoluments, comparable to the market standards. Performance goals for all employees should be specific and measurable so that targets achieved get suitably rewarded. A separate 'Compensation and Remuneration Committee' should oversee fairness of staff appraisals, pay-scales, bonus & promotion policies, and all executive compensation plans. Tying actual performance with correspondingly fair pay-package all across the entity acts as a magnet for talent, and spreads good vibes about the employer as a good place to work. Similarly, CXO remuneration and directors' fees should appropriately linked to company's results, and in tandem with individual expertise, skill-sets and performance -- and thus attract and retain talented professionals.

6. **Robust Risk Mitigation Systems**

Strong process-driven companies are like institutions, which are resilient, weathering all storms, through the decades, and thus remain sustainable. Adequate internal financial controls (IFC), standard operating procedures (SOPs), apt information technology applications, smart firewalls, robust checks and balances create an enterprise-wide system which upholds good values, detects risks and prevents damage from either commission or omission. The proverbial "A stich in time saves nine" is ensured by good internal audit systems acting like a shield to block leakages and loopholes. Quoting poet Alfred Tennyson, people may come and go, but good companies "go on forever", become respected corporate citizens, creating value for all stakeholders e.g., delighted customers, happy employees, strong vendors, contented investors, whilst protecting the environment, and being compliant with the laws of the land.

To encourage Indian companies to adopt sustainable, inclusive and fair business practices, the Ministry of Corporate Affairs has mandated reporting of ESG (Environment, Social and Governance) performance data of top listed organisations under BRSR (Business Responsibility and Sustainability Report) in line with National Guidelines on Responsible Business Conduct (NGRBC). And given the global trends, India's policy-makers will soon ask more and more companies to report too. Rating agency CRISIL (an affiliate of S&P Global) has started scoring top Indian companies' ESG results, and publishing it annually. Many of the parameters defined under the nine principles of BRSR dovetail with the philosophy found at 'Great Place To Work'.

Now in a world increasingly becoming "flat" and inter-connected, corporate India is raising capital in global markets, and also pushing for export of goods and services worldwide. Lately however, international investors and buyers are preferring to deal with companies with better ESG track record. Both BRSR and CRISIL reports will be given major credence by global lenders, international investment bankers and customers so as to transact with holistic Indian companies --- and possibly resulting in say loss of orders by a poorly rated garment exporter, and higher interest cost for bonds floated abroad by a low scoring Indian conglomerate. Consider this: international Socially Responsible Investment (SRI) funds' allocation to India in 2019 was USD 28 billion. So, for Indian companies to prosper, just financial profitability is not good enough, their sustainable and ethical business practices will be closely watched too. The writing on the wall for all Indian enterprises is govern well (and take professional help if needed) --- otherwise it is a recipe for gradual oblivion in tomorrow's global market place.

A key differentiator of progressive organisations is that the senior management leads by example, and consciously inculcates a culture of purpose to deliver performance. True industry titans make their workspaces holistic by building in a spirit of ethics, fair-play, fearlessness, innovation and breaking stereo-types --- thus encouraging meritocracy, and making good companies great!

~ *Ashoke Guha*

INDIAN CHAMBER OF COMMERCE

About Indian Chamber of Commerce

Founded in 1925, Indian Chamber of Commerce (ICC) is the leading and only National Chamber of Commerce operating from Kolkata, and one of the most pro-active and forward-looking Chambers in the country today. Its membership spans some of the most prominent and major industrial groups in India.

ICC had made its humble contribution in the pre-independence era during 1925 – 1947 towards promotion of Indian businesses and Swadeshi movement. Post Independence, ICC had the honour of engaging closely on Economic development and Reforms with Govt. of India. ICC had the privilege of hosting Session with Indian Prime Ministers like Shri Lal Bahadur Shashtri, Smt. Indira Gandhi, Shri Chandra Shekhar Azad, Shri Atal Bihari Vajpayee and several other leaders.

Recently, ICC was fortunate to host a Session with Shri Narendra Modi, Hon'ble Prime Minister of India on 11th June 2020.

Set up by a group of pioneering industrialists led by Mr G D Birla, the Indian Chamber of Commerce was closely associated with the Indian Freedom Movement, as the first organised voice of indigenous Indian Industry. Several of the distinguished industry leaders in India, such as Mr. B M Birla, Sir Ardeshir Dalal, Sir Badridas Goenka, Mr. S P Jain, Lala Karam Chand Thapar, Mr. Russi Mody, Mr. Ashok Jain, Mr. Sanjiv Goenka, have led the ICC as its President.

ICC is the only Chamber from India to win the first prize in World Chambers Competition in Quebec, Canada.

The Indian Chamber of Commerce headquartered in Kolkata, over the last few years has truly emerged as a national Chamber of repute, with full-fledged offices in New Delhi, Mumbai, Guwahati, Siliguri, Agartala, Ranchi, Bhubaneshwar, Hyderabad, Tamilnadu & Patna functioning efficiently, and building meaningful synergies among Industry and Government by addressing strategic issues of national significance

About FutureStation

Futurestation Advisors LLP (www.futurestn.com) is an ESG Advisory and Assurance firm, serving clients in Value Creation through ESG. The firm is a platform of highly experienced professionals across industry sectors and leading consulting firms. With presence in Delhi, Hyderabad, Kolkata and Mumbai, the firm is serving clients in India, Europe and the USA.

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Creating Value through ESG