Importance of Being Responsible in Business

Corporate Governance, Behaviour, and Ethics

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Only when the last tree has been cut down,
Only when the last river has been poisoned,
Only when the last fish has been caught,
Only then will you find that money cannot be eaten

-Cree Indian Prophecy

The purpose of all business is to provide goods and services at reasonable and acceptable cost to the people to satisfy their actual, perceived or even created needs from time to time. Business is thus an essential part of the people welfare triad, the other two poles being the government of the day and the society at large (**Exhibit I**). Businessmen and corporations are a subset of the society; they have the drive and expertise to produce the goods and services that society needs and expects them to fulfil those needs. In this sense businesses operate with the licence and sanction of society and the regulatory supervision of the government. The day a business or a corporation fails to fulfil this obligation, it is more than likely that it would have begun its slide on the slippery slope towards eventual extinction. A look at the top Fortune 500 companies (or any other similar listing) over say the a twenty five year period will reveal the churn that constantly takes place in the constituents and rankings: companies that were once in the top ten get downgraded or even disappear from the lists. What this means is that they have ceased to have society's licence to operate for any number of reasons, prominent among which would be technological obsolescence, product health hazards, poor service levels, greater than acceptable externalisation of societal and environmental costs, and so on.

Good governance would require that the entity continues to satisfy customer needs at reasonable costs, and that investors see the corporation as a source for satisfactory returns on a sustainable basis. Good governance would also gain the trust of the stakeholders that they were getting value for their money and satisfaction or happiness in that process. This latter virtue could relate to the working environment and harassment-free and fair-opportunity employment in case of workmen and managers, product performance and service quality in case of customers, consistent demand and prompt and fair settlements in case of vendors, prompt debt servicing and transparent information reporting in case of lenders, and so on. Shareholders and investors seek a fair risk-adjusted return on their investment. Good corporate governance ought to address these expectations of stakeholders on a continuing basis as these demands are not cast in stone and frozen at any point of time; they are dynamic and the governance structure and practices should be able to cope with and accommodate any changes as they occur, or better still, to anticipate forthcoming changes and proactively re-calibrate the mechanisms suitably to gain first-mover advantage over competition. There is thus a tenuously balanced relationship between and among the three poles in the social cohesion triad: business corporations need to act ethically and responsibly towards their stakeholders (including shareholders) and in full compliance of the regulations applicable to them. The slightest dissonance or deviation from the expected behaviour would likely plunge them sooner rather than later into a mire of financial and reputational loss they can ill afford. Being a responsible corporation, in short, is thus not a matter of choice but more of an imperative for survival and growth.

The rest of the paper is structured as follows: Section I briefly recapitulates the factors that drive and issues that inhibit effective corporate governance; Section II sets a few illustrative summaries of the experiences of some companies in India and elsewhere; Section III concludes with some of the issues bearing upon organisational and personal ethics that would likely need attention so as to reconcile any serious conflicts between organisational and individual ethical values, and enhance the responsibility quotient of corporations.

I

Corporate governance is the set of processes and procedures that are aimed to dynamically deliver on the expectations of all the concerned stakeholders, acting within the regulatory discipline of the State aimed at promoting and protecting the welfare of the people. The corporate board, as Adrian Cadbury famously wrote in 1992,[2] is at the

centre-stage of governance, betwixt the shareholders at the top and the executive below, responsible for setting up the required institutions and processes that would enable it to prescribe and monitor corporate performance on all these fronts. In normal circumstances, the board does not need to handle day to day operations that are delegated to the Chief Executive and the top management team, but if there is a breakdown, it should be prepared to get involved in management as well until normalcy is restored.

Drivers of Good Governance

While good governance is valuable in running businesses in any organisational format, in case of publicly traded companies listed on stock exchanges it becomes an imperative mainly because of what Berle and Means[3] had referred to as the *Agency* problem: Unlike in the commercial capitalism of the 1840's when "owners managed and mangers owned,'[4] the early twentieth century corporations began raising capital from the market while their founding entrepreneurs gradually began delegating management to hired experts. By the time Berle and Means carried out their study, this separation of ownership from management was complete in a large proportion of companies in the US. Those managers had day to day control over the operations and hence the opportunity to look after their own self-interest at the expense of the shareholders who were generally absent from the management scene. This goal-non-congruence was indeed the "problem" between the (agent) managers and the (principal) shareholders. The board's task was to ensure the company and the management not only created wealth for the shareholders but was also to oversee that such created wealth was transmitted to the shareholders with minimum possible expropriation by the managers. **Exhibit II** sets out a stylised model validation process boards are expected to follow to achieve these objectives.

Among the stewardship functions of the board, articulated in the Canadian guidelines in 1994 (mostly valid even now), are the establishment of a sound strategic planning process, recruitment, reward, and replacement of the CEO, risk identification and management oversight, transparent communication systems, and sound internal control mechanisms.[5] Each of these areas, it will be seen, relates to the direction and control of business operations. Periodical monitoring and assurance initiatives are designed to provide feedback to the board that the executive is on the right track on delivering set goals within the prescribed value framework of the company. The board composition should be such as to satisfactorily discharge its triple roles and responsibilities of contributing to, counselling and controlling the executive in delivering expected results.

The basic difference between these two theoretical models is one of approach: agency model is predicated on the fundamental premise that the interests of the executive (agent) and the shareholders (principal) will always be conflicted and hence the need for board surveillance over the executive to protect shareholders' interests; stewardship model, on the other hand, believes in the innate professionalism of managers to do their jobs with dedication and passion, pecuniary interests not necessarily being the dominant force. In practice, it is unlikely to be a case of either or; it will be a mix of professionalism and self-interest, the proportions varying in each case. As a consequence, the board's triple dimensional role of contributing, counselling, and controlling will also tend to lean more towards one or the other of these three roles, depending upon the nature of business and the orientation of the executive.

Governance: As compliance and/or By Conviction

While the foregoing summarises the purpose of business corporations and the manner in which good governance ought to be organised, its practice may often be compromised by the laggards, and surpassed by leadership companies. Since societal interests are at stake in the proper operation of corporations, public policy dictates certain minimum requirements to be followed by providers of goods and services. Legislation stipulates these mandates companies need to abide by on pain of punishment for non-compliance. In case of publicly traded companies, since large number of outside investors and shareholders would have put their money without any active role in their management, capital market regulators would supplement legislation with their own regulations (which of course may extend and strengthen but not derogate legislative requirements since the latter have sovereign supremacy over the former); again, non-compliance of such regulations would invite penal action. But the important point to note is that these legislative and regulatory provisions usually reflect the minimum standards of governance and certainly can and ought to be be surpassed by leadership companies and those aspiring for that status.

Challenges to Good Governance

While there will be general agreement on the need for good governance of publicly traded business corporations, it is nevertheless a fact of life that achieving the requisite standards of governance, whether in line with or beyond the regulatory mandates is easier expected than actually implemented. Several factors inhibit adherence to the required levels of governance. Two key issues are discussed below.

Greed and self-interest

These behavioural instincts in men have been universally recognised from time immemorial. Indian scriptural tradition refers to this unhealthy and undesirable characteristic repeatedly. *Srimad Bhagavatam* postulates: "Greed does not subside even if one conquers and enjoys the whole earth."[6] In The Mahabharata, the great warrior-statesman, Bhishma avers, "Like the ocean that can never be filled by the constant discharge of even innumerable rivers of immeasurable depths, covetousness is incapable of being gratified."[7] Two millennia ago, the revered Tamil poet-saint Thiruvalluvar advised: "Do not seek the fortune that greed gathers, for its fruit is bitter on the day of enjoyment."[8] Philosophers and moralists alike have vividly described this human impairment. For example, Adam Smith, the eighteenth century economist who identified and articulated modern capitalism, wrote: "… in the whole interval which separates [birth and death], there is scarce perhaps a single instant in which any man is so perfectly and completely satisfied with his situation, as to be without any wish of alteration or improvement of any kind."[9] Three quarters of a century later, around the time of the French Revolution, Frederick Bastiat, the French economist and essayist, commented: "Self-preservation and self-development are common aspirations among all people … When they can, they wish to live and prosper at the expense of others. … This fatal desire has its origin in the very nature of man – in that primitive, universal, and insuppressible instinct that impels him to satisfy his desires with the least possible pain."[10]

What all this translates into in case of publicly traded corporations is the fact that people in management of such entities are, unless proved otherwise, driven by self-interest to such an extent that they cannot resist the temptation to sequester for themselves and their family and friends, wealth created in the company which legitimately should be transmitted to all shareholders in due proportion. Regrettably, many illustrations in public domain as well as many regulatory prescriptions seeking to pre-empt such efforts, only seem to confirm this premise. Related party transactions (where the promoting shareholders in operational control enter in to contracts with the company that may offer them undue benefits) are an oft-used mechanism for such irregular transfer (or diversion) of wealth to shareholders in operational control. Directors on company boards are expected to minimise such transfers through their supervisory oversight (**Exhibit II**). To what extent they are able to do so is debatable since they get together infrequently and in any case depend upon executive management for appropriate inputs.

Concentrated Corporate Ownership

Fuelling the covetous behaviour of the corporate executive is the enabling factor of concentrated ownership of corporations in India and the rest of the world with the exception of US and UK.[11] As of 2011, of the National Stock Exchange's CNX 100 Index companies, only 13 had dispersed ownership while the other 87 were held by dominant shareholders, whether they were in the private domestic (51) or foreign (14) sectors or in the State owned Sector (22).[12] Being the dominant shareholders, often first generation promoters or their inheritors, these shareholders have control over their management and often serve on the board as well. In case of State owned corporations, government has a major say in their operation, with their executive and non-executive directors largely appointed or nominated by the State and their policies generally in line with government policies even if they were adversely impacting the minority shareholders' interests.

In such concentrated ownership companies, the relationship between the board and the executive tends to assume a different hue compared to the theoretical model relationship of the executive being subordinate and answerable to the board. Unlike in the US and the UK (with their dispersed ownership structures), in countries like India the board authority (in all but the most enlightened cases) will be impaired to the extent that the CEO may not be sacked even when justified by poor performance. Family control also largely leads to dynastic succession in executive management and not infrequently even in board leadership, whether or not the successor is the most appropriate person for the job.

Board Capture

Following from these two major challenges to good governance, we can now turn to a key instrument that CEOs and controlling shareholders may if they wish use (and they often do) to achieve their unholy ends. It is labelled board capture where the directors are won over to act in the interests of the CEOs or controlling shareholders even if that meant breaching their fiduciary obligations to the other absentee shareholders. This is usually achieved by exercise of the power that concentrated ownership and the associated management control they possess. Three categories of power have been identified by the well-known economist and diplomat, John Galbraith:[13] *condign* power that uses threat of punishment in case of disobedience, *compensatory* power that promises rewards for compliance, and *conditioned* power that envisages psychological brainwashing to an extent the subject believes what he or she does is out of his or her own volition. In the context of corporate boards, the directors are vulnerable to all the three types of power being exercised by the executive or the controlling shareholders.

Exercise of compensatory power is probably the most obvious and widely practised in capturing boards and individual directors. The level of (non-executive) directorial compensation is of course the most open and transparent method, especially when it is more attractive opposite comparable peers. Clearly, such compensation ought to be

high enough to attract appropriate talent but not so high as to render one so dependent on it as to impair his or her independent judgement.

Condign power is applicable when a non-compliant and non-accommodative person on the board runs the risk of being identified as a troublesome nuisance, an epithet few would be comfortable with, especially if shared by word of mouth in the elite social group of CEOs and controlling shareholders. Without doubt, it would put paid to any prospects of the individual for non-executive directorships in other companies, besides putting at risk the continuation of incumbent directorships.

Exercise of conditioned power is a nuanced playing around with one's psyche. In a variety of ways, the subject director could be led to believe in the validity of his actions as if they were his own judgement. Directly or indirectly appealing to his sense of justice or pandering to his ego, a director may truly be convinced of his judgement on a matter before the board, though it might appear to be obviously the wrong thing to do for any other rational person.

Besides these, there are options like skill-deficient appointments where people not familiar with the company's requirements are appointed; in turn, these appointees, because of their deficiencies, would tend to overly lean on the CEO and his knowledge of the company's business, rarely posing a threat of dissonance with management proposals.[14] Interlocking boards also help in mutual supporting of each other, whether or not the result is in the interest of all shareholders at large.

Does Good Governance Pay?

It is fair to question why companies should surpass compliance standards set by the government of the day. Especially in a competitive business environment, these additional governance costs may inflict an uneven burden on them; should they still incur such additional costs? In other words, is there likely to be a compensatory pay off or is it a cost to be suffered for being good? The fact of the matter is that being good in this manner has its reputational gains that would reflect in several ways. For example, why do companies, especially those heavily dependent upon human resources, compete to figure in the "best employers" or "best companies to work with" listings? There clearly advantages in being ranked high: other things being equal, best talent may be attracted to join even at slightly lower remuneration, attrition may come down saving on costs of wasted training, recurring recruitments, and other staff-turnover related costs, staff continuity may lead to more firm-specific investments by employees improving productivity and innovation, and so on. Sooner or later, customer delight may translate in to customer loyalty, and value-for-money propositions may be transformed to money-for-value in respect of the firm's goods and services. Savings and benefits from such spin-offs will flow down to the bottom line. A reputation for good governance will enhance investor trust, thereby reducing the perceived governance risk premiums markets attach to the securities, reducing the cost of equity; bankers may see value in lending at more attractive rates. Overseas companies looking for reliable partners for their ventures are likely to be attracted to well reputed companies than others not well-thought of.

K V Kamath, a former chairman of ICICI Bank and Infosys, two of the largest companies in terms of market capitalisation in India, recalling an interesting anecdote shared by the late Prof C K Prahlad, once commented: "Traditionally, businessmen did not separate the personal from the company. It was expected that private benefits would be sought by sponsors and the balance would be left behind as profit in the company. But as markets evolved, sponsors understood better the trade-off between private transfers and allowing all the profit to accrue to the company which would reflect in a higher valuation of the company as a whole. So over a period of time, when company and sponsors understand this, they move significantly along the course of governance. Till then it will be followed only as a mandate."[15] The fact is that a number of large listed companies have internalised good governance regimes in their firms, whether out of conviction or due to increasingly stringent regulation around the world. Whether the vast majority of listed corporations in India has accepted and implemented such improvements is a question on which, it is perhaps fair to say, the jury is still out.

II
Applied Corporate Governance

A few representative examples of how companies have applied or abused principles of good governance to their situations is discussed below. Mostly, these have been culled out from information in public domain. There is necessarily an important caveat: these are descriptive of facts as published; the intention is not to pass judgement on whether the practices adopted were "right or wrong" but only to serve as a resource for introspection and reflection as to how with the benefit of hindsight, one could or would have dealt with the situations.

Tata Group

While monetary returns as noted earlier may flow from adopting high ethical standards in business and following excellent governance practices, there is another dimension also to be considered. This has to do with the value system followed by the companies which drive them towards instituting and implementing business practices that

rank high on the scales of integrity and societal responsibility. The Tata group is often cited for following such a philosophy propagated by its founder, Jamsetji Tata, and religiously followed by his successors in office. Anecdotally, J R D Tata, who stewarded the group for over half a century (1931-1991), when asked about the business impact of such good practices, reportedly responded:

> "What would have happened if our philosophy was like that of some other companies which do not stop at any means to attain their ends. I have often thought of that and I have come to the conclusion that if we were like other groups, we would be twice as big as they are today. What we have sacrificed is a 100% growth, but we wouldn't want it any other way."[16]

This was a case of adhering to a committed philosophy or a way of life in running their business. There have of course been rich reputational dividends for the group over the years; an outstanding outcome of this reputation was seen in the group's acquisition in 2008, of Jaguar Land Rover in the UK where the powerful labour unions announced Tata Motors as the preferred bidder as an acquirer over several others.[17] That this acquisition later helped the company in India with hefty profits even while its Indian operations were languishing is testimony to the wisdom of choosing the righteous route of governance, although it is indeed the road less travelled.

BHP – The Big Australian in Papua New Guinea[18]

BHP (BHP Billiton now after a merger), a century and a quarter year old giant in mining globally, had earned the sobriquet "Big Australian" and was the darling of investors. No wonder since to the company, nothing mattered more than making profit, a "mindset that placed profit over human rights of the powerless and the needy"[19] that had become its second nature. In the nineteen-eighties, BHP embarked on gold and copper mining in Papua New Guinea that was a huge financial success until the environmental disaster it had created caught up with it the nineteen-nineties. Its sin: dumping roughly one and a half lac tonnes a day of residues or tailings directly in to the nearby river Ok Tedi, part of the huge Fly river basin in the Western Province of PNG. The company never fulfilled its obligation to build a Tailings Dam on the river to arrest the toxic sediments in the residues. This led to the virtual disappearance of all fish in the affected rivers (a major source of occupation for the people downstream); and vast tracts of land along the river banks crusted with residue becoming unsuitable for any worthwhile agriculture. PNG government stood by helpless, compromised by the threat of closure of the mine leading to huge revenue losses to the government and loss of employment at the site.

The consequences of this indifference were huge financial settlements to the affected people in PNG, gifting away the company's equity holding to a trust in PNG to develop and rehabilitate the affected regions and people, loss of reputation, and eventual shifting of its headquarters away from Australia, although a vast majority of its shareholders are still Australian.

Union Carbide and the Bhopal Gas Tragedy

The gas leak tragedy at the Union Carbide factory in Bhopal that killed or maimed several thousands of people in the vicinity in 1984 has been described as the worst industrial disaster ever in the world till then. In June 2010, a trial court convicted seven officials from the company including its non-executive chairman, Keshub Mahindra for a two year jail term, the maximum prescribed for the charges framed against them (that is another story by itself!). Expectedly, the judgement is under appeal and it will be several years before the appeals are heard and closed finally.

The facts of the case are quite simple: The company stored a highly hazardous chemical (*Methyl Iso Cynate*) an intermediate required for manufacture of the pesticide for use in agriculture, in excessive quantities. Maintenance of the plant and compliance with safety precautions were poor (to contain costs and protect profitability) although internal inspection and audit reports had highlighted the deficiencies and the attendant potential risks. The board either was not fully informed or did not view the issue as serious. Given the hazardous nature of the business operations the company was involved in, one would have expected experienced businessmen like the non-executive chairman to have asked for appropriate briefings from time to time. There were apparently no communications to the people living close by as to the potential danger and what to do in case of any emergency. Even when the gas leaked, the factory staff underplayed the seriousness initially and then it became too late for the people in the vicinity to move to safety.

Investigations revealed that safety procedures and even the use of MIC in India (in preference to less risky but more expensive alternatives used in a similar plant in the US) were indicative of the negligence at the factory and indifference at senior management levels including at the board. Pleas to exonerate the non-executive chairman on the ground he was not involved in the day to day operations of the company were rejected by the court. It is however inexplicable as to why the other non-executive directors mostly from the parent company were not similarly indicted. Thanks to the delays in the judicial system and general apathy common to post-disaster management, the victims are still awaiting some compensation; and rehabilitation measures are moving at snail's pace.

National Spot Exchange Limited (NSEL)[20]
NSEL went live on October 15, 2008; by 2013, it accounted for about 90% of the aggregate trading volumes. After operating strictly as a spot exchange ought to for some time, NSEL began allowing members to trade in some commodity contracts without having to take delivery; traders were permitted to reverse their position anywhere between eleven and thirty-six days and close their position. Following an investigation, the government ordered discontinuance of contracts that could be settled after more than eleven days; from July 23, 2013 trading in all such contracts was halted. Outstanding contracts on that date had to be settled by taking or making delivery. That is when the problems surfaced.

Physical stocks available in the warehouses constituted less than 15% of the volume of trade outstanding. The warehouse receipts that had been submitted by the sellers as evidence of stocks had been faked. Some warehouses existed only on paper.

Investigations established that the NSEL contracts were being used for raising funds from unwary investors for funding various activities of sellers including investment in real estate. Two of the largest such diversions were done by N K Protein (owned by the son-in-law of former non-executive chairman of NSEL) owing Rs 970 crore; and Lotus Refineries(owing Rs 250+ crore). The case is continuing.

The Common Factor
What is common in all these cases (except the first relating to the Tata Group) is the effort by the controlling shareholders to enhance profits from their controlled companies at the expense of other shareholders and stakeholders in their own or in their subsidiaries. In BHP, the losers were the minority shareholders, PNG government and innumerable people on the river banks, not to mention the utter degradation of the flora and fauna of the rivers themselves. In the Bhopal disaster, the minority shareholders in the Indian subsidiary lost their all, thousands of people were impacted both within and outside the factory, but the parent (since acquired by Dow Chemicals) got away with minimum damage. NSEL is a typical case of the promoters engaging in unlawful activities putting the company at risk of extinction. Minority shareholders of NSEL and several of their unsuspecting traders were the distressed parties.

These cases are just the tip of the ice berg. And the phenomenon is not limited to India but is replicated in virtually all countries. Lehman Brothers, for instance, is just an example of how greed and self-interest of the executive drove the company to extinction and distressed all its shareholders.[21]

III

In this concluding section, we address some of the issues that fall in the domain of organisational and personal ethics and their application to business situations. These are closely interrelated. After all, corporations are inanimate entities, created by law; they need to articulate using human beings as the medium. As Thoreau (whose *civil disobedience* inspired Mahatma Gandhi's *satyagraha* later on) wrote in 1849, "It is truly enough said that a corporation has no conscience; but a corporation of conscientious men is a corporation *with* a conscience."[22] Such men and women eventually are the ones who influence corporate philosophy, value systems and corporate responsibility and ethics.

Personal Values and Business Ethics
Ethical dilemmas are an inherent and continuing feature of business decision making. An ethical dilemma arises when two or more values conflict and people turn to ethics for guidance. [It is good to note at this stage, values are the ends or outcomes sought by people (such as good health or happiness) while morals are the rules or duties that govern our behaviour as persons to persons (such as 'do not lie' or 'do not hurt').] Business ethics refers to the measurement of business behaviour based on standards of right and wrong, not necessarily limited by prescribed rules and principles. Morals are one's personal guiding principles; ethics are the ways that those morals are applied to decisions.[23] The quote from J R D Tata earlier exemplifies this description: saying no bribery or corruption is a personal value of the group founder, and subscribed to by JRD; applying this value to the operations of the corporation leads to the ethical decision of the group not to bribe or corrupt for its benefit.

But personal values can differ as between individuals. Another businessman could place a higher premium on getting things done quickly so that benefits of a new project can reach the people it was intended for, and if that required bribing or cronyism, so be it. And there are many corporations around the world which follow this course, overtly or covertly. But when such personal values run counter to basic tenets of good and virtuous behaviour, the inescapable conclusion would have to be that such an approach would amount to a travesty of justice and inimical to the welfare of the State. The importance of *means* over ends has been emphasised virtually universally: Our own great *Mahatma* Gandhi, comparing means to the seed and *ends* to the tree, emphasised, he wrote: "there is the same inviolable connection between the means and the end as there is between the seed and the tree."[24] Even Karl Marx

had asserted, in a different context of censorship, that “an end that needs unholy means is not a holy end.”[25] Equally, the staunchest supporter of free market capitalism, Milton Friedman who wanted businesses to work for making profit circumscribed it by stipulating: “so long as the corporation stays within the rules of the game, which is to say, engages in open and free competition without deception or fraud.”[26]

Ethical Dilemmas in Business

The reputed multinational, Hindustan Lever was (and is) producing and marketing products aimed at making men and women look fairer; there are similar products in colder geographies which promise to make people look tanned or coppered. Is it right to interfere with nature’s work in either clime and promote such products? One way of looking at this problem will be to ascertain whether the ultimate customer is “happy” to experience the promised benefits of the products, and whether there were any undisclosed side effects injurious to the users. If there were, it may become a matter of public policy so that the State may have to step in and ban the product or its use, or ensure the consumer is aware of the potential injuries and with that full knowledge chooses to use it.

A problem of this nature may also have wider societal implications. For example, if as a result of marketing and advertising impact, fairness is considered the right hue to be desired and brown or black begins to be socially unacceptable (as may be inferred from matrimonial advertisements, marital discord, dowry harassment and so on), running counter to the natural skin colours suitable for the local climate, there may be a case for State intervention in public interest.

Similar is the case with alcohol and tobacco products. People can be warned of the ill-effects of consuming alcohol or smoking tobacco; to be effective though, such statutory warnings need to be followed up with containing surrogate publicity that tends to defeat the purpose of the warnings.

Complete ban or prohibition is an extreme option that the State may resort to if convinced of a product’s ill-effects on the society at large. Here the State has to wrestle with two conflicting values: the freedom of individuals to follow their informed choice and the responsibility of the State to ensure people’s welfare in terms of health and social cohesion and harmony. As experience has shown worldwide, these are not easy choices and their beneficial impact always also is not certain.

Personal Choices

The question still remains how individuals should deal with such Issues at a personal level. If one’s personal values militate against corruption and bribery, should he or she choose to work for a corporation that thrives on such measures to prosper? The individual would certainly have to weigh the option of not working for such a company against his responsibilities to his family and their upkeep and development. It would also depend upon the alternative sources of income the person could command. The personal value that merits the highest ranking in his scale would obviously influence the eventual decision. Which solution provides the highest adherence to his or her personal value system would probably carry the day.

In the failure of translating good or righteous personal values (what would be referred to as Dharma in the Indian scriptural tradition) are to be found the seeds for the intervention by the State or other global conventions that then dictate which and to what extent such universally applicable good values, what the German philosopher, Immanuel Kant called the *categorical imperatives*, ought to be adopted and implemented by corporations. But it is good to remember that legislated requirements are always the least or minimum because they represent the lowest common denominator acceptable to the political dispensation at the time. Leadership companies would always try and excel such mandates.

Do We Need More Regulation?

State intervention in the conduct of ordinary course of business is an option that is best exercised sparingly and as a last resort. And yet, when business is not responsive enough to largely fall in line with societal expectations on values and fair play, regulation would appear to be the only alternative.

Giant steps have been taken around the world including in India[27] to improve corporate governance and to articulate and often mandate what companies ought to have done on their own initiative. Exhibit III sets out a major initiative in India that is intended to promote absentee shareholders’ protection from any expropriation through abusive related party transactions. Codes of conduct for directors, minority shareholder protection, corporate responsibility, related party transactions, restraint on voting rights of interested shareholders, audit, externalities, transparency in reporting, just to mention a few issues have all been addressed in varying degrees of rigour in different jurisdictions. And yet, maybe, there are still miles to go before we rest.

Exhibit I

Equilibrium State of Social Cohesion

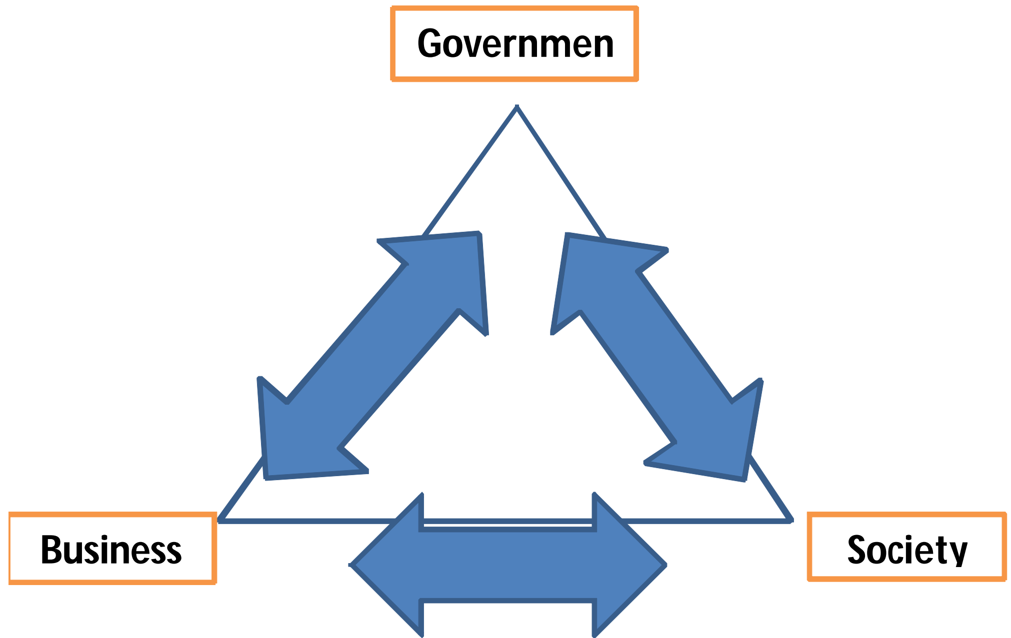


Exhibit II

Independent Directors' Oversight Processes

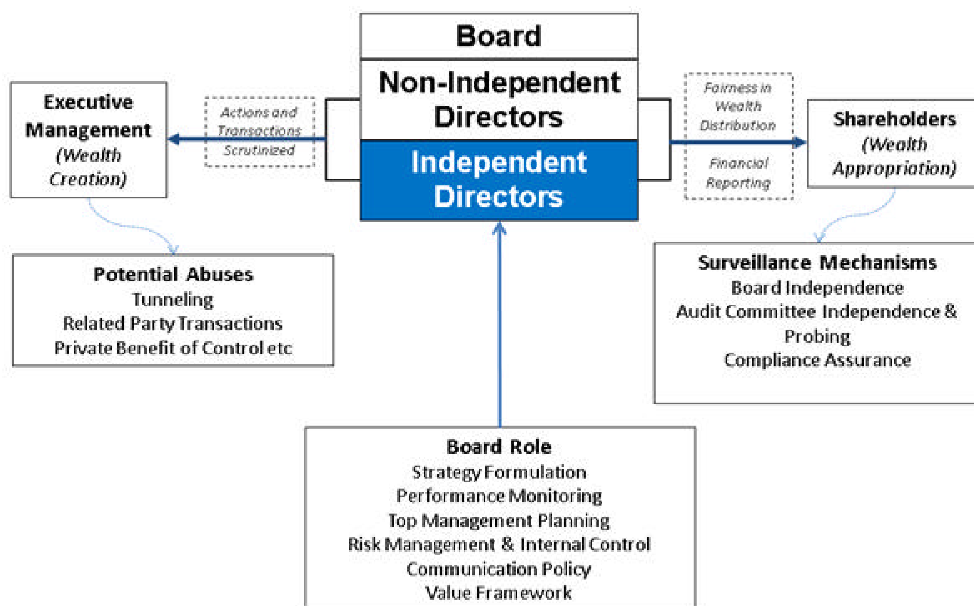
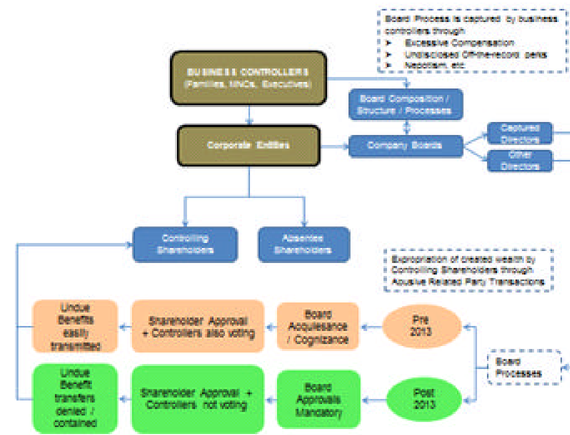


Exhibit III

Enhanced Absentee Shareholder Protection from Abusive Related Party Transactions



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[4] *The Visible Hand: The Managerial Revolution in American Business* (1977), Alfred Dupont Chandler, Jr., Belknap Press of Harvard University Press, Massachusetts; pp. 9, 37

[5] *Where were the Directors?* (1994), Toronto Stock Exchange; later these principles came to be accepted corporate governance guidelines in Canada

[6] *Srimad Bhagavata Purana, 7:15:20*

[7] *The Mahabharata, Santi Parva, Ch. 158*

[8] *Tirukural, verse 177;*

[9] *The Wealth of Nations* (1776), Adam Smith, 2000 Modern Library edition, p.372

[10] *The Law* (1850), Frederick Bastiat, Kindle edition, Amazon, pp. 5-6

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