 ISSN : 2330-9519 (Online) | ISSN : 2231-2463 (Print)

Corporate Governance Mechanism and Issues In Emerging Economies - A Case Of India In Global Scenario

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Abstract

Purpose
The present paper purports to review the existing Codes of Corporate Governance (CG) in developing economies particularly in India. It would stimulate an academic debate on various issues pertaining to the CG codes in promoting corporate performance and stakeholders' value.

Design/Methodology/Approach
The paper is structured on the CG mechanisms in the developing economies based on the existing practices. It uses both primary and secondary data for analysing the background and adoptability of good codes of CG in the Indian context. The primary data to the extent of CG practices and reporting in Infosys, an Indian IT company, was collected and the secondary data were collected through various published and unpublished reports and websites available on the subject.

Findings
The paper reveals that India has good CG mechanism and disclosure practices on par with the world counterparts as exhibited in a case analysis. It also shows that the CG in India is not an outcome of corporate failures as occurred in other countries of the world like the US and UK. India has made voluntary effort to tone up the performance and efficiency of the corporate.

Research Limitations/Implications
The study focuses mainly on some specific aspects of Codes of CG and its application with the help of a case study on the CG mechanisms and practices in one of the good IT based company – Infosys Technologies Limited. It does not cover any other aspects of the CG. It also reveals how a 20 year IT Company has paved the way for good CG mechanisms and practices and got the highest CG ratings by the CRISIL and ICRA. It is the first of its kind to get rating on the CG in Indian context.

Originality/Value
The paper contributes much to the existing literature on CG in the world in general and in the developing economies in particular. As there is very trivial amount of research on the CG in India, it may be useful to researchers, policy-makers, research bodies and corporates.

Keywords
Developing Economies, India, Codes, Corporate Governance, and Information Technology (IT), Stakeholder value, CRISIL, ICRA, Governance and value creation (GVC).

I. Introduction

This paper primarily focuses on the Codes of Corporate Governance (CG) in emerging economies, which is the driving force for corporate performance and overall economic prosperity, a dire need of the day in view of the global market environment. It generates interest in the structure and the status of CG practices in emerging economies, particularly India, which is recognised as one of the fast growing economies in the world. It is moving according to the world market changes in all dimensions and directions. The corporate sector in India would remain changing and moving ahead as per the developments that were taking place in the other counterparts and developed economies like the US, UK and other parts of the corporate world. The notorious collapse of Enron in 2001, one of the America's largest companies, has focussed international attention on company failures and the role that strong corporate governance needs to play to prevent them (Jill Solomon, 2007). The UK responded by producing the Higgs Report (2003) and Smith Report (2003), where as the US enacted the Sarbanes Oxley Act (2002). In fact, the developments in UK had tremendous influence on India too. They triggered off the thinking process in the country, which finally led to the government of India and regulators laying down the ground rules on corporate governance.

As a result of the interest generated in the corporate sector by the Cadbury Committee's report of the United Kingdom, the issue of corporate governance was studied in India in depth and dealt with by the Confederation of Indian Industry (CII), the Associated Chambers of Commerce and the Securities and Exchange Board of India (SEBI). Although some studies have focussed on the shareholders' rights and a few other issues of a general nature, none can claim to be wider and more comprehensive than what the Cadbury report has covered. The amount of research carried out in CG in India is negligible and lacks research evidence to make effective comparisons with its counterparts and developed economies to strengthen the CG's codes and mechanism. It is imperative to generate research literature on the subject. Therefore the present paper makes an attempt to analyse the code of CG and its effectiveness in the Indian context. It pointedly raises some research questions such as the following: What CG is in vogue in the Indian Corporate context?, What is the background of the CG?, What are the drivers of CG?,What is the need for CG reforms?, What is a good Code?, What are the CG Codes world over? And what is the compliance of best codes of governance? This paper is based on these questions and it closes with a case analysis of Infosys Technologies – one of the best Indian IT companies in CG practices.

II. Background: World Scenario

The term 'Corporate Governance' refers to the system through which the behaviour of a Company is monitored and controlled. Corporate Governance (CG) has been gaining a lot of importance and momentum the world over. It has become a buzz word in the world corporate sector. It has emerged as a means of achieving corporate excellence and a driving force for accomplishing much better performance, maximising the stakeholder's wealth and corporate value. As such corporate governance affects the creation of wealth and its distribution into different pockets. It shapes the efficiency of firms, the stability of employment, the fortunes of suppliers and distributors, the portfolios of pensioners and retirees, the endowments of orphanages and hospitals, the claims of the rich and the poor (Peter Alexis Gourevitch and James J. Shinn, 2005). Getting corporate

governance right is important to economic prosperity. However, as yet there is little objective evidence that good governance will either prevent further corporate failure or contribute to improved organisational effectiveness (Paul Moxey (2004).

Besides, the corporate scams and frauds that came to light have brought about a change and necessitated substantial external regulations apart from internal controls and regulations. The response of society to these frauds is reflected in the legislative and regulatory changes brought out by governments, and large institutional investors demand for better CG practices. It has resulted in appointment of several committees and commissions to probe into the various issues in depth and to make appropriate recommendations for better corporate governance practices. A series of events for the last two decades have placed corporate governance issues as of paramount importance both for the international business community and international financial institutions. Business failures and frauds in the USA, several scandals in Russia and the Asian crisis (1997) have brought corporate governance issues to the forefront in developing countries and transition economies. The virtual collapse of the Russian economy in 1998 resulted in large measure from the weakness of governance mechanisms. The so called managers are said to have robbed shareholders, creditors, consumers, the government, workers and all possible stakeholders. The fact that the consequent distrust predictably resulted in the virtual collapse of external capital to firms, reveals that corporate misgovernance can shake the very foundations of a society. Likewise, the Asian financial crisis also demonstrated that even strong economies lacking transparent control, responsible corporate boards and shareholder rights could collapse due to the dilution of investors' confidence. Consequently various countries in the world have over the years adopted the CG reforms as the table below shows:

World Scenario of CG Reforms - First Codes of Practice.

Year	Country
1992	United Kingdom
1994	South Africa, Canada
1995	Australia, France, Pan-Europe
1996	Spain
1997	USA, Japan, The Netherlands
1998	India, Belgium, Germany, Italy, Thailand
1999	Brazil, Greece, Hong Kong, Ireland, Mexico, Portugal, South Korea, OECD, ICGN, Commonwealth
2000	Denmark, Indonesia, Kenya, Malaysia, Romania, Philippines
2001	China, Czech Republic, Malta, Peru, Singapore, Sweden
2002	Austria, Cyprus, Hungary, Kenya, Pakistan, Poland, Russia, Solvakia, Switzerland, Taiwan
2003	Finland, Lithuania, Macedonia, New Zealand, Turkey, Ukraine, Latin America
2004	Argentina, Bangladesh, Iceland, Norway, Slovenia, OECD
2005	Jamaica, ICGN, Latvia, Lithuania
2006	Estonia, Lebanon, Luxemburg, Nigeria, Sri Lanka, Thailand
2007	Bulgaria

Source: Jill Solomon (2007), Corporate Governance and Accountability, P-188.

In this situation the CG mechanism gained worldwide attention due to the frauds and deficiencies involved in the corporate sector in the US and UK. Prominent among corporate failures in US was the Collapse of Enron and in UK, the Maxwell failure (1991), Barings Bank (1995) and the like. Based on the corporate distress in UK several committees were appointed for finding the root causes for their failure and to find appropriate solutions for improving the CG practices. The Cadbury Committee (1992), The Greenbury Committee (1995), The Hampel Committee (1998), The Turnbull Committee (1999), The Higgs Committee (2003), The Tyson Committee (2003), The Smith Committee (2003) and Redraft of the Combined Code (2003) are the prominent committees on the CG in UK. Apart from all these exercises the World Bank, the OECD, McKinsey Survey on Corporate Governance and Sarbanes-Oxley Act, 2002 also contributed to improving the CG practices world over.

A comparative analysis of the CG guidelines of the OECD, ICGN and APEC is furnished below a tabular form for a better insight into the developments of corporate governance.

Table 1 "Corporate governance guidelines – a comparative study

Source: OECD, ICGN, APEC and Cal PERS websites.

No.	Key parameters elucidated by the OECD	Organisation for Economic Co-operation and Development (OECD) guidelines	International Corporate Network (ICGN) global governance principles	Asia-Pacific Economic Co-operation (APEC) Principles
1.	Rights of shareholders	• Their rights to attend and participate in the AGMs, to elect Board members, to receive dividends, and to avail relevant, timely, regular and accurate information. • Right to transfer shares. • To know capital structures and arrangements that confer on some members, disproportionate controlling rights. • Corporate control mechanism should function efficiently and transparently • Transparent transactions; accountable management.	• Major organisational changes require their prior approval • They have the opportunity to exercise their voting rights, • Right to have timely disclosure of the result of resolutions • Adherence to one-share, one-vote standard. Institutional investors have proxy responsibilities to exercise voting rights.	Establishment of rights and responsibilities of all share- holders.
2.	Equitable treatment of shareholders	• All shareholders including minority and foreign share-holders receive equitable treatment. • Effective redressal for rights violations. • Change in voting rights subject to their vote. • Prohibition of insider-trading and self-dealing. • Directors to avoid decisions concerning their own interests.	• One-share, one-vote. • Protection of the rights of minority and foreign share holders.	Equitable treatment of all shareholders.
3.	Role of stakeholders	• Recognition of their rights as established by law. • Encouraging their active co-operation in creating sustain- able enterprises, • Permit performance enhancing mechanisms. • Access to relevant information.	• Directors should build good and productive relationship with stakeholders. • Directors are responsible for providing accountability to shareholders.	Establishment of effective and enforceable account-ability standards.
4.	Disclosure and trans- parency	Accurate and timely dis- closure of company's objective; major share ownership and voting rights; financial and operating results; directors and key executives and their remuneration; significant, foreseeable risk factors; governance structures and practices; material issues regarding employees and other stakeholders.	Timely and full disclosure of all information, • Disclosure of share-holding and the status of voting rights, • Disclosure of Directors' compensation policies, • Annual audits by external statutory auditors.	Timely and accurate disclosure of financial and non-financial information with regard to company performance.
5.	Responsibilities of the Board of Directors	Specify key responsibilities of the Board-overseeing the process of disclosure and communication, monitoring the effectiveness of governance practices and changing them, if necessary.	• Judgement of Directors, independent of management operation. • Establishment and nomination of committees for audit, compensation and outside directors.	Formation of Board of Directors and deciding their remuneration.

III. Indian Scenario

Interest in corporate governance by policy makers in developed countries had grown significantly by the early 1990 (Stephen Y.L Cheung and Bob Y. Chan, 2004). In India too it had its beginning in the early 1990s. In India the CG represents the value, ethical and moral framework under which business decisions are taken to maximise stakeholder value. The emergence of CG in India is the result of a spate of scandals in corporate and stock markets, unlike corporate failures in the other parts of the world. A good number of Committees and commissions have been appointed for improving CG practices in India also. Though in India there have not been such massive corporate failures

ISSN : 2330-9519 (Online) | ISSN : 2231-2463 (Print)

such as Enron, Maxwell etc., it has resolved wisely and with forethought to incorporate better governance practices in the corporate sector emulating stringent international standards. Many large corporations are multinational in nature. They have their impact on citizens of several countries across the globe. If things go wrong, they are bound to affect many countries, some more severely than others. Therefore, it is necessary to look at the international scene and examine possible international solutions to corporate governance issues and problems. Corporate governance is needed to create a corporate culture of consciousness, transparency, confidence among investors and prospective investing public. It refers to a combination of laws, rules, regulations, procedures and voluntary practices to enable companies to maximise shareholders' long-term value. It should lead to increasing customer satisfaction, shareholder value and wealth creation.

IV. Corporate Governance issues in India

Most of Indian corporate governance shortcomings are no worse than in other Asian countries and its banking sector has one of the lowest proportions of non performing assets, signifying that corporate fraud and tunnelling in India are not out of control (Rajesh Chakraborthi, William L. Megginson and Pradeep K. Yadav, 2007). The governance of most countries' industrial and business organisations in India has thrived on unethical business practices at the market milieu. These organisations have shown scant regard for human and organisational values while dealing with their stakeholders in the organisation. Industrial growth along with the development of corporate culture began in India since independence. But most industrial and business organisations relied for their success on unethical practices at the market place. The increasing corruption in the government and its various services had kept the managements of country's industrial and business organisations above accountability for their misdeeds, encouraging them to indulge in more and more of unethical practices. The dominating and monopolistic state- owned organisations in the country's economy passed on the costs of their corporate misgovernance to the helpless consumers of their products and services. Organisations in the private sector, barring a few exceptions also indulged in all possible unethical practices to fleece their customers and denied the benefits to them. The scams discovered in a number of large privately owned corporations during the last one decade clearly indicate the nature and extent of corporate misgovernance that exists in the private sector. The recently developed interest in corporate governance in India is the result of a spate of corporate scandals that shook the country during the early liberalisation era (Goswami, 2000).

V. Driving forces of Corporate Governance.

Good corporate governance is a reflection of quality management with the highest calibre understanding the role that high corporate governance standards plays in maintaining checks and balances within the organisation, increasing transparency and preventing corporate abuse and mismanagement. Management of good corporate governance companies also understands the importance of investors of long-term, sustained operating performance and tends to be inherently performance-drive (Christopher Leahy, 2004). The corporate governance scenario in India has been changing fast over the past decade, particularly with the enactment of Sarbanes-Oxley type measures and legal changes to improve the enforceability of creditors'rights. India should have the quality of institutions necessary to sustain its impressive current growth rates in the years to come, if the same trend is maintained (Rajesh Chakraborthi, William L. Megginson and Pradeep K. Yadav, 2007).

Corporate governance provides a mechanism which improves the efficiency, transparency, accountability of the corporates and builds the confidence of the stakeholders. Corporate governance describes the structure of rights and responsibilities among the parties that have a stake in the firm (Augilera 2003). But the kind of responsibility and structure of the firm varies from region to region and country to country indulging the emerging economies. These economies however provide unique opportunities and challenges for governance practices and research (Davis, 2005). As pointed out already little research in this area has taken place in these countries. In this context an effort is made here to identify the driving forces for corporate governance in India. There are a number of causes for the emergence of corporate governance in India, apart from the ethically ambiguous business practices and scams in the market environment. There are three major driving forces in the market that can be identified for the emergence of corporate governance in India. These include 1. Unethical business practices and security scams, 2. Globalisation and 3. Privatisation.

A. Unethical Business practices and Security market scams

The need for corporate governance was first realised in the country when the "Big Bull", Harshad Mehta's securities scam came into light in 1992. A large number of banks were involved in the scam resulting in the stock market distress for the first time in India. This was followed by a sudden growth of cases in 1993 when transnational companies started consolidating their ownership by issuing equity allotments to their respective controlling groups at steep discounts to their market price. In this preferential allotment scam alone investors lost roughly Rs. 5,000 crore. The third scandal of the decade was the disappearance of companies during 1993—94. During this period, the stock market index shot up by 120 per cent and 3,911 companies that rose over Rs. 25,000 crore and disappeared without starting any business.

In this misdeed of companies, innocent investors had lost a lot of money. During this artificial boom hundreds of obscure companies were allowed to make public issues at large share premia with their misleading prospectuses. Again the Plantation companies scam took place in 1995-96 followed by the non-banking finance companies scam in 1995—97. Yet another scandal was the one in which the BPL, Sterlite and Videocon price rigging happened with the help of Harshad Mehta. In the IT scam between 1999-2000, firms changed their names to include 'infotech', and investors saw their stocks run away overnight. The year 2001 witnessed yet another scam in which Ketan Parekh resorted to price rigging in association with a bear cartel. This brought the evaluation of the corporate governance issue into the mainstream. It is strange but true that the early initiative for better corporate governance in India came from the more enlightened listed companies and an industry association. This was quite different from the US or Great Britain, where the drivers of corporate governance were shareholders' groups, activist funds and self-regulatory bodies within capital markets, or Southeast and East Asia, where it was the result of conditions imposed by the IMF and the World Bank in the wake of the financial collapse of 1997-98. When India embarked on its corporate governance movement in 1996—97,

the country faced no financial or balance of payments crisis.

B. Impact of Globalisation

In the wake of global changes and globalisation of other developing economies, India started economic reforms in the early 1990s and integrated into the global markets. The process of globalisation has contributed much for governance reforms, because of increasing the efficiencies of the corporates in different dimensions would attract the attention of foreign investors and lure them to make more investments. Although emerging economies are generally characterised by weak corporate governance, foreign investors expect higher standards of corporate governance as in their home countries. To preserve their global integrity, they have to maintain these higher standards of corporate governance (Nandini rajagopalan et al, 2008). Further the foreign investors have better access to governance issues and ability to enforce governance codes. For the investor's the ability of the countries in managing global investments and business is what matters. India is viewed as the world's most significant business process and IT services provider and a consumer market with long-term potential (A.T.Kearney, 2004). Foreign direct investments in India therefore tend to be more skill intensive than capital intensive, the major motivation for Indian firms' corporate governance improvement being the need to attract talent from a worldwide employment pool, a need that is further enhanced by global product market competition (Nandini rajagopalan, 2008). Access to global capital markets is a consequence, rather than the cause of the Indian companies' motivation to adopt international corporate governance standards.

C. Impact of Privatisation

India has started the privatisation of State Owned Enterprises since the time economic reforms were initiated in the 1990s. As the ownership structure of the companies is changed in the process of privatisation, the new shareholders would insist on much better corporate governance standards. The new diversified ownership structure makes corporate governance an important issue in emerging economies (Nandini rajagopal, 2008).

VI. Corporate Governance in India – A brief historical sketch

At the time of independence in 1947, India was one of the economically poorest countries in the world. Due to systematic efforts of the planners and economists, it developed a well designed economic system with lot of planning and regulations for future development. India developed a good five-year planning system for development and a comprehensive legal framework to regulate business, industry, society and market as well. The Companies Development and Regulation Act, 1956 and establishment of Financial Institutions are the landmarks in the history of India. Development financial institutions like the IFCI, IDBI and ICICI, were started to finance a major chunk of the long-term financial needs of industries in India. All these developments paved the way for the overall industrial development of the country. India also has well designed corporate laws and financial system to strengthen the industrial base on sound lines. In the beginning the Indian corporate development was marked by the managing agency system. It really paved the way for equity ownership and enjoyment of disproportionate ownership controls in the organisation. As a consequence, over a period of time the ethical values of corporates were diluted due to rampant malpractices.

In the aftermath of the pioneering Cadbury Report and economic liberalisation in India, corporate governance gained great impetus and importance in the country. The Department of Company Affairs, the Institute of Company Secretaries and trade associations such as the CII and FICCI, capital market regulator, the SEBI and companies such as the ICICI took the lead in discussing it and recommending its implementation. The corporate governance movement in India began in 1997 with a voluntary code framed by the Confederation of Indian Industry (CII). In the next three years, almost 30 large listed companies accounting for over 25 per cent of India's market capitalisation voluntarily adopted the CII code. By 1999, the Securities and Exchange Board of India (SEBI) - India's capital market regulator, got into action and set up a committee headed by Kumar Mangalam Birla to mandate international standards of corporate governance for the listed companies. From 1 April 2001, over 140 listed companies accounting for almost 80 per cent of market capitalisation started following a mandatory code which was in line with some of the best international practices. By April 2003, every listed company adopted the SEBI code of Corporate Governance.

VII. Corporate Governance Reforms in India

The corporate sector in India could not remain indifferent to the developments of that were taking place in the UK, which had a tremendous influence on India too. They triggered off the thinking process on corporate governance in the country, which finally led to the government and regulators laying down the ground rules on it. As a result of the interest generated in the corporate sector by the Cadbury Committee's report, the issue of corporate governance was studied in depth and dealt with by the Confederation of Indian Industry (CII), the Associated Chambers of Commerce and the Securities and Exchange Board of p India (SEBI). Though some of the studies on the subject did touch upon the shareholders' right to "vote by ballot" and a few other issues of general nature, none can claim to be wider than the Cadbury report. Prominent among them are: Working Group on the Companies Act (1996), Kumar Mangalam Birla Committee (1999), Naresh Chandra Committee (2002), The SEBI's Follow-up on Birla Committee (2002), Narayana Murthy Committee (2003) and J. J. Irani Committee on Company Law (2005).

VIII. Working Group on the Companies Act, 1996

Over the years, it had been felt necessary to re-write completely the Companies Act in the light of the modern-day requirements of the corporate sector, the aspirations of investors, globalisation of the economy, liberalisation etc. The government accordingly set up a Working Group in August1996 for this purpose. The Working Group on the Companies Act recommended a number of changes and also prepared a working draft of Companies Bill 1997.

IX. The Confederation of Indian Industry's (CII) Initiative

The Confederation of Indian Industry (CII) took a special initiative on corporate governance, the first ever institutional initiative in Indian industry in 1996. This initiative by the CII flowed from public concerns regarding the protection of investors' interest, particularly small investors, the promotion of transparency within business and industry. The reason for this move towards international standards in terms of disclosure of information by the corporate sector in order to develop a high level of public confidence in business and industry. The

ISSN : 2330-9519 (Online) | ISSN : 2231-2463 (Print)

objective of the effort was to develop and promote a code of corporate governance to be adopted and followed by Indian companies both in the private sector and the public sector, banks or financial institutions.

Towards this end a National Task Force was set up with Rahul Bajaj with members drawn from industry, the legal profession, media and academia. The draft guidelines and the Code of Corporate Governance were presented in April 1997 at the National Conference and Annual Session of the CII. This draft was opened for public debate in workshops and seminars and a number of suggestions were received for the consideration of the Task Force. The Task Force finalised the Code for Desirable Corporate Governance, subsequently.

The Task Force opined that although the concept of corporate governance still remained an ambiguous and misunderstood term, two aspects were becoming evident:

(i) As India gets integrated in the world market, Indian as well as international investors will demand greater disclosure, more transparent explanation for major decisions and better shareholder value. Indian companies, banks and financial institutions (FIs) can no longer afford to ignore better corporate practices.

(ii) The governance features such as quantity, quality and frequency of financial and managerial disclosure, the extent to which the board of directors exercise their fiduciary responsibilities towards shareholders, the quality of information that managements share with their boards and the commitment to run transparent companies that maximise long term shareholder value, cannot be legislated at any level of detail.

To survive international competition, Indian companies have to attract low cost capital from across the globe. For this, Indian companies have to gear up themselves to meet the increasingly demanding standards of international disclosures and corporate governance.

The CII pioneered the concept of corporate governance in India and has been internationally recognised as one of the best in the world. Corporate India has started recognising the pivotal role that disclosures play in creating corporate value in the increasingly market oriented environment. When the CII adopted the Code of Corporate Governance from the recommendations of the Task Force, there was very little difference between the recommendations of the Task Force and the final outcome.

X. Kumara Mangalam Birla Committee (1999)

The Securities and Exchange Board of India appointed a committee on corporate governance on 7 May 1999, under the chairmanship of Kumar Mangalam Birla with a view to promoting and raising the standards of corporate governance. The committee's terms of reference were: (a) to suggest suitable amendments to the listing agreement (LA) executed by the stock exchanges with the companies and any other measures to improve the standards of corporate governance in the listed companies in areas such as continuous disclosure of material information, both financial and non-financial, manner and frequency of such disclosures, responsibilities of independent and outside directors (b) to draft a code of best corporate practices and (c) to suggest safeguards to be instituted within the companies to deal with insider information and insider trading. The committee submitted its report to the SEBI and it is considered indeed a landmark in the evolution of corporate governance in India. The recommendations of the committee consist of mandatory and non-mandatory recommendations.

XI. Task Force on Corporate Excellence (November 2000)

In May 2000, the then Department of Company Affairs (DCA) formed a broad-based study group under the chairmanship of Dr. P.L. Sanjeev Reddy, Chairman, DCA. The group was given the ambitious task of examining ways to "operationalise the concept of corporate excellence on a sustained basis", so as to "sharpen India's global competitive edge and to further develop corporate culture in the country". In November 2000, the task force set up by the group produced a report containing a range of recommendations for raising governance standards among all companies in India. It also suggested the setting up of a Centre for Corporate Excellence.

XII. Naresh Chandra Committee Report, 2002

Following the collapse of Enron in 2001 and the enactment of the Sarbanes-Oxley Act in July 2002, the Department of Corporate Affairs (DCA) formed a high-level committee in 2002 to undertake a wide-ranging examination of corporate auditing and independent directors, under the chairmanship of Naresh Chandra. The committee's recommendations mainly concerned: (i) the auditor-company relationship, (ii) disqualifications for audit assignments (ii) list of prohibited non-audit services, (iv) independence standards for consulting (v) compulsory audit partner rotation, (vi) auditor's disclosure of contingent liabilities, (vii) auditor's disclosure of qualifications and consequent action. (viii) Managements' certification in the event of auditor's replacement, (ix) auditor annual certification of independence, (x) appointment of auditors, (xi) certification of annual audited accounts by the CEO and CFO, (xii) auditing the auditors. (xiii) Setting up of an independent quality review board (xiv) the setting up of a disciplinary mechanism for auditors (xv) independent directors (xvi) audit committee charter. (xvii) Exempting non-executive directors from certain liabilities, (xvii) training of independent directors (xix) establishment of corporate serious fraud office. (xx) SEBI and subordinate legislation, and so on. The Naresh Chandra Committee report on 'Corporate Audit and Governance' takes forward the recommendations of the Kumar Mangalam Brila Committee on corporate governance which was set up by the Securities and Exchange Board of India (SEBI) on the fo1low two counts: (i) Representation of independent directors on a company's board. and (ii) The composition of the audit committee.

XIII. The SEBI's Follow-up on Birla Committee Report

In the wake of the SEBI's instruction to the companies that they should comply with Birla Committee's recommendations in the manner dictated by the market regulator, compliance reports on corporate governance received in respect of 1,026 and 595 listed companies, for the Mumbai and National Stock Exchanges respectively, showed some progress in that direction. On the basis of the analysis from the data submitted by them, the SEBI observed that the compliance with the requirements in Clause 49 of the Listing Agreement is by and large satisfactory. However, an analysis of the financial statements of companies and the reports on corporate governance disclosed that their quality was not uniform. The SEBI also observed that there was a considerable variance in the extent and quality of disclosures made by companies in their annual reports.

XIV. Narayana Murthy Committee Report, 2003

In late 2002, the Securities and Exchange Board of India (SEBI), in response to rapidly evolving international standards and corporate collapses in the US and elsewhere, formed a new committee to "evaluate the adequacy of existing corporate

governance practices and further improve these practices". Chaired by N.R Narayana Murthy of the Infosys Technologies ltd, an IT company. The committee examined a wide range of issues relating to audit committees and reports, independent directors, related party transactions, risk management, director compensation, codes of conduct and financial disclosure. It then made a series of recommendations that aimed to encourage companies to follow the substance, not just the form, of good governance.

The Committee's report (2003) expressed its total concurrence with the recommendations contained in the Naresh Chandra Committee's report on the following counts: (i) Disclosure of contingent liabilities. (ii) Certification by the CEOs and CFOs. (iii) Definition of independent directors. and (iv) Independence of audit committees.

The Committee came out with two sets of recommendations namely, mandatory and non-mandatory. The mandatory recommendations focus on strengthening the responsibilities of audit committees, improving the quality of financial disclosures including those pertaining to related party transactions and proceeds from initial public offerings, requiring corporate executive boards to assess and disclose business risks in the annual reports of companies, calling upon the boards to adopt formal codes of conduct; the position of nominee directors and improved disclosures relating to compensation to non-executive directors and shareholders.

XV. J. J. Irani Committee Report on Company Law, 2005

The Government of India constituted an expert committee on Company Law on 2 December 2004 under the chairmanship of Dr.J. J. Irani to make recommendation on (i) responses received from various stakeholders on the concept paper; (ii) issues arising from the revision of the Companies Act, 1956; (iii) bringing about compactness by reducing the size of the Act and removing redundant provisions; (iv) enabling easy and unambiguous interpretation by recasting the provisions of the law; (v) providing greater flexibility in rule making to enable timely response to ever-evolving business models; (vi) protecting the interests of the stakeholders and investors, including small investors; and (vii) any other related, or incidental, to the above. Taking a position that is at variance with that of the Securities and Exchange Board of India, the J. J. Irani Committee recommended that one-third of the board of a listed company should comprise independent directors. The important recommendations of various committees on corporate governance are furnished below.

Recommendations of various Committees on Corporate Governance in India

Source: Rajesh Chakrabarti, Corporate Governance in India – Evaluation and Challenges.

CII Code recommendations (1997)	Birla Committee (SEBI) recommendations (2000)	Narayana Murthy committee (SEBI) Recommendations (2003)
	Board of Directors	
a) No need for German style two-tiered board b) For a listed company with turnover exceeding Rs.100 crores, if the Chairman is also the MD, at least half of the board should be Independent directors, else at least 30% . c) No single person should hold directorships in more than 10 listed companies. d) Non-executive directors should be competent and active and have clearly defined responsibilities like in the Audit Committee. e) Directors should be paid a commission not exceeding 1% (3%) of net profits for a company With (out) an MD over and above sitting fees. Stock options may be considered too. f) Attendance record of directors should be made explicit at the time of re-appointment. Those with less than 50% attendance should not be reappointed. g) Key information that must be presented to the board is listed in the code. h) Audit Committee: Listed companies with a turnover over of Rs.100crores or paid-up capital of Rs.20crores should have an audit committee of at least three members, all non-executive, competent and willing to work more than other non-executive Directors, with clear terms of reference and access to all financial information in the company and should periodically interact with statutory auditors and internal auditors and assist the board in corporate accounting and reporting. i) Reduction in number of nominee directors. It should withdraw nominee directions from companies with individual FI shareholding below 5% or total FI holding below 10%.	a) At least 50% non-executive members b) For a company with an executive Chairman, at least half of the board should be independent directors•, else at least one-third. c) Non-executive Chairman should have an office and be paid for job related expenses. d) Maximum of 10 directorships and 5 chairmanships per person. e) Audit Committee: A board must have an qualified and independent audit committee, of minimum 3 members, all non-executive, majority and chair independent with at least one having financial and accounting Knowledge. Its chairman should attend AGM to answer shareholder queries. The committee should confer with key executives as necessary and the company secretary should be he secretary of the committee. The committee should meet at least thrice a year – one before finalization of annual accounts and one necessarily every six months with the quorum being the higher of two members or one-third of members with at least two independent directors. It should have access to information from any employee and can investigate any matter within its TOR, can seek outside legal/professional service as well as secure attendance of outside experts in meetings. It should act as the bridge between the board, statutory auditors and internal auditors with far-ranging Powers and responsibilities. f) Remuneration Committee: The remuneration committee should decide remuneration packages for executive directors. It should have at least 3 directors, all non- executive and be chaired by an independent director. g) The board should decide on the remuneration of non executive directors and all remuneration information should be disclosed in annual report h) At least 4 board meetings a year with a maximum gap of 4 months between any 2 meetings. Minimum information available to boards stipulated.	a) Training of board members suggested. b) There shall be no nominee directors. All directors to be elected by shareholders with same responsibilities and accountabilities. c) Non-executive director compensation to be fixed by board and ratified by shareholders and reported. Stock options should be vested at least a year after their retirement. Independent directors should be treated the same way as non-executive directors. d) The board should be informed every quarter of business risk and risk management strategies. e) Audit Committee: Should comprise entirely "financially literate" non-executive members with at least one member having accounting or related financial management expertise. It should review a mandatory list of documents including information relating to subsidiary companies. "Whistle blowers" should have direct access to it and all employees are informed of such policy (and this should be affirmed annually by management). All "related party" transactions must be approved by audit committee. The committee should be responsible for the appointment, removal and remuneration of chief internal auditor. f) Boards of subsidiaries should follow similar composition rules as that of parent and should have at least one independent director s of the parent company. g) The Board report of a parent company should have access to minutes of board meeting in subsidiaries and should affirm reviewing its affairs. h) Performance evaluation of non-executive directors by all his fellow Board members should inform a re -appointment decision. i) While independent and non-executive directors should enjoy some protection from civil and criminal litigation, they may be held responsible of the legal compliance in the company's affairs. j) Code of conduct for Board members and senior management and annual affirmation of compliance to it.
	Disclosure and Transparency	
a) Companies should inform their shareholders about the high and low monthly averages of their share prices and about share, performance and prospects of major business segments (exceeding 10% of turnover). b) Consolidation of group accounts should be optional and subject to the FI's and IT department's assessment norms. If a company consolidates, no need to annex subsidiary accounts but the definition of "group" should include parent and subsidiaries. c) Stock exchanges should require compliance certificate from the CEOs and the CFOs on company accounts. d) For companies with paid-up capital exceeding Rs.20crore, disclosure norms for domestic issues should be same as those for GDR issues.	a) Companies should provide consolidated accounts for subsidiaries where they have majority shareholding. b) Disclosure list pertaining to "related party" transactions provided by committee till the ICAI's norm is established. c) A mandatory Management Discussion & Analysis segment of annual report that includes discussion of industry structure and development, opportunities, threats, outlook, risks etc. as well as financial and operational performance and managerial developments in the HR/IR front. d) Management should inform board of all potential conflict of interest situations. e) On (re)appointment of directors, shareholders must be informed of their resume, expertise, and names of companies where they are directors.	a) Management should explain and justify any deviation from accounting standards in financial statements. b) Companies should move towards a regime of unqualified financial statements. c) Management should provide a clear description, followed by auditor's comments, of each material contingent liability and its risks. d) The CEO/CFO certification of knowledge, veracity and comprehensiveness of financial statements and directors' reports and affirmation of maintaining proper internal control as well as appropriate disclosure to auditors and audit committee. e) Security analysts must disclose the relationship of their employers with the client company as well as their actual or intended shareholding in the client company.
	Other issues	
Creditors' Rights a) The FIs should rewrite loan covenants eliminating nominee directors except in case of serious and systematic debt default or provision of insufficient information. b) In case of multiple credit ratings, they should all be reported in a format showing relative position of the company. c) Same disclosure norms for foreign and domestic creditors. d) Companies defaulting on fixed deposits should not be permitted to accept further deposits and make inter-corporate loans or investments or declare dividends until the default is made good.	Shareholders' Rights a) Quarterly results, presentation to analysts etc. should be communicated to investors, Possibly over the Internet. b) Half-yearly financial results and significant events reports be mailed to shareholders. c) A board committee headed by a nonexclusive director look into shareholder complaints/grievances. d) Company should delegate share transfer power to an officer/ committee/registrar/share transfer agents. The delegated authority should attend to share transfer formalities at least once in a fortnight.	Special Disclosure for IPOs a) Companies making Initial Public Offering ("IPO") should inform the Audit Committee of Category-wise uses of funds every quarter. It should get non-pre-specified uses approved by auditors on an annual basis. The audit committee should advise the Board for action in this matter.

XVI. Conclusion

The first major stimulus for corporate governance reforms was the Southeast Asian crisis of 1997-98 followed by the Enron debacle of 2001, which necessitated the need for ensuring better corporate governance practices, culminating in the enactment of legal measures like Sarbanes - Oxley Act of 2002 in the United States. In India there was no evidence of any miserable corporate failures as in the west, such as Enron, Maxwell, WorldCom, etc., Yet in India interestingly it was a business association, not the government, that took the initiation to formulate and implement a code of corporate governance of international standards. In India, the initial drive for better corporate governance and disclosure, perhaps as a result of the 1992 stock market scam and the fast emerging international competition consequent on the liberalisation of the economy that began in 1991, came from the Confederation of Indian Industry (CII) and the Department of Corporate Affairs. As pointed out earlier, the emergence of corporate governance in different parts of the world has its own history. In the present global environment where economies are integrated with the global market environment, it is imperative to develop a sound system of corporate governance, especially in emerging economies like India.

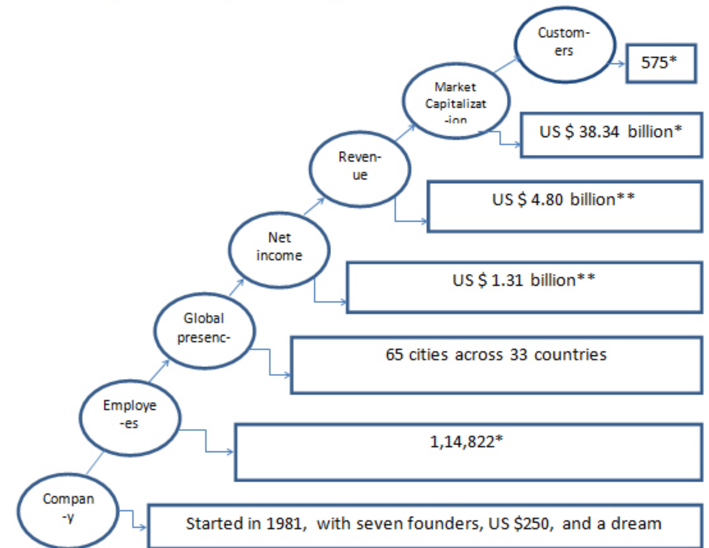
The emergence of corporate governance in any country is not an overnight occurrence and through which governance issues are brought to light, redesigned, improved just suit to their requirements. A good code of governance is pre-requisite for any economy irrespective of its stage of development and it is much more so for fast developing economies like India. The code of corporate governance in India is a well proven set of governance mechanism on par with the worlds' best governance codes. It is evident from the Global Investor Opinion Survey- Key Findings of Mc Kinsey & Company, July 2002 that companies with good corporate governance mechanisms have performed better than companies with poor governance records. Therefore it is advisable to restructure and redesign the corporate governance codes to meet the global changes to tone up the performance and gain investor confidence of the company. Certainly it will go a long way to have better corporate governance practices and be acclaimed as among the best in the world as the Infosys Technologies Ltd., has achieved. This Indian IT company therefore warrants particular attention.

XVII. Case Study

Infosys Technologies: The Best among Indian Corporates

As per the Credit Lyonnais Securities Analysis (CLSA), the corporate governance ratings of the software firms are higher than those of other Indian firms. It is also confirmed that the software firms in India are on average, more exposed to global competition than other Indian firms (Tarun Khanna & Krishna G Palepu, 2004). To highlight the exemplary corporate governance practices in the Indian software firm, Infosys Technologies, located in Bangalore in India is chosen. It is a fascinating success story good entrepreneurship. It was started with local resources and rose to be a world leader in the IT segment with in span of 2 decades. It was started as a small and humble unit in 1981 by Mr. Narayana Murthy with his six colleagues in Bombay in a single room with a very small amount of investment of Rs. 10,000 (US 250) as capital. As on 31st March, 2010 it had 1,14,822 employees in 65 cities across 33 countries with a net income of US$ 1.31 billion and revenue of US $ 4.81 billion. At present it has US 38.34 billion market capitalisation and 575 of customers as displayed in the following diagram.

Fig. 1 : Progress of Infosys Technologies as on 31st March 2010



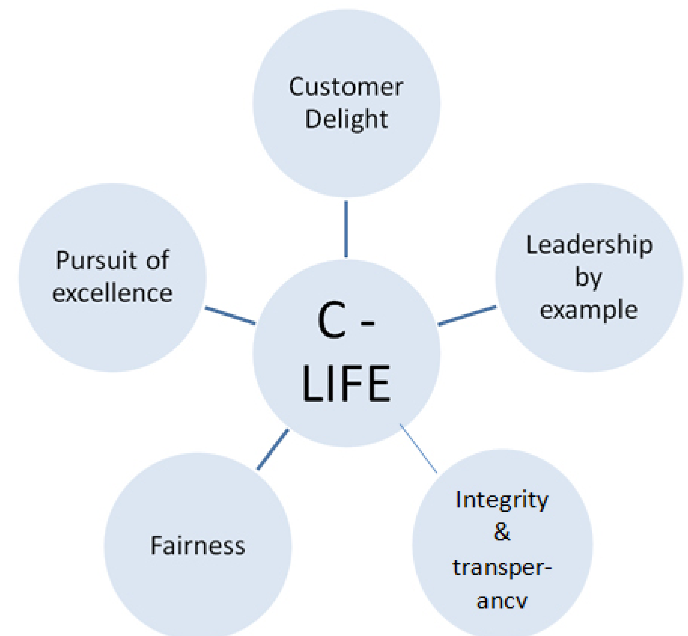


Fig. 2 : Value System at Infosys

XVIII. Vision and Mission of Infosys

The vision of Infosys is "to be a globally respected corporation that provides best-of-breed business solutions, leveraging technology, delivered by best- in-class people". Its mission is "to achieve our objectives in an environment of fairness, honesty and courtesy towards our clients, employee's vendors and society at large".

XIX. Value system

The Infosys is an ethical organisation whose value system ensures fairness, honesty, transparency and courtesy to all its constituents and society at large.

Infosys Technologies strives to be the best company both commercially and ethically not only in India but also globally. To realise this objective, the company has developed C-Life Principle of core values. The core value system of Infosys captures five important aspects, termed together as C-LIFE: Customer delight, Leadership by example, Integrity and transparency, Fairness and pursuit of excellence (See diagram-2).

XX. Corporate Governance Philosophy

The philosophy of corporate governance is based on the following principles.

1. Satisfying the spirit of the law
2. Transparent and high degree of disclosure levels
3. Distinction between personal conveniences and corporate resources
4. Truthful external communication
5. Compliance with laws of all countries in which the company operates
6. Simple and transparent corporate structure driven solely by business needs
7. Management is the trustee of the shareholders' capital and not the owner.

The Infosys Technologies believes that the Board of Directors is at the core of corporate governance practice and oversees how management serves and protects the long-term interest of all stakeholders. Further it believes that an active and well informed and independent board is necessary to ensure highest standards of corporate governance. More than half of its members, that is 8 out of 15, are independent members. The Infosys has audit, compensation, investor grievances, nominations, and risk management committees which comprise only independent directors.

As a part of the commitment of the company to follow best global practices, the company complies with Euro shareholders corporate governance guidelines, 2000, and the recommendations of The Conference Board Commission on public trust and private enterprises in the US. The company also adheres to the UN global compact programme. Further the company also furnishes in its annual reports about its compliance with the corporate governance guidelines of six countries in their national languages.

The effects of Infosys's Corporate Governance initiatives are having vibrant influence and impact on other corporates in India (See diagram-3).

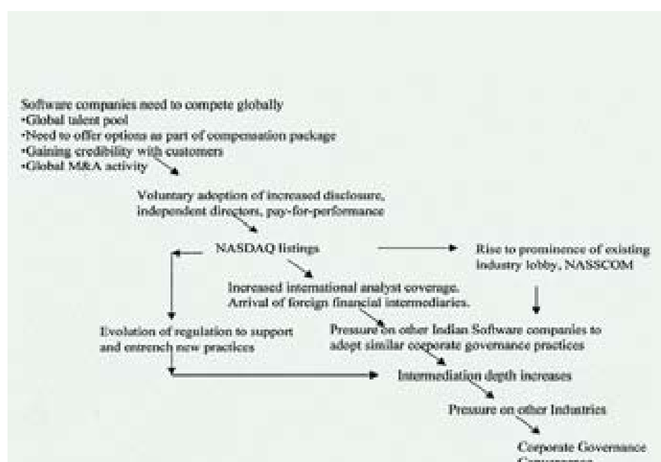


Fig. 3 :
Source: Tarun Khanna & Krishna G.Palepu (2004).

XXI. Corporate Governance achievements and Ratings

The Infosys also has developed a strong management system to guarantee at all times to all its stakeholders a set of procedures that would serve them. Even while it is committed to long-term shareholder value, its business activities are anchored in three pillars of corporate behaviour, namely, Business Ethics, Corporate Governance and Corporate Social Responsibility. The Infosys fraternity recognises, understands and appreciates these principles. As a result, it demonstrates an exceptional work ethic. It is widely known for its best practices in terms of business ethics and corporate governance. In 2000, the company was conferred the National Award for Excellence in Corporate Governance by the Government of India.

The Business World — IMRB Survey ranked the Infosys number one among the most respected companies in India, in 2001. It was voted as India's best managed company for 6 years in a row, between 1996 and 2001 by the Asia Money Poll. In the year 2000, in the survey of Far Eastern Economic Review, the Infosys was selected as one of Asia's leading corporations and was ranked first as "The Company that Others Try to Emulate". The company was voted "India's Most Admired Company" in Economic Times in 2000. In 2003, Infosys Technologies co-founder and chairman, Mr. N. R. Narayana Murthy, won the Ernst &t Young World Entrepreneur of the Year award and his company's "outstanding financial performance and global impact in a dynamic and volatile industry". It won the prestigious "Global Most-Admired Knowledge Enterprises (MAKE)" Award, for 2004. It won the award for the second time in a row, and remains the only Indian company to have ever been named a prestigious global most-admired knowledge enterprise.

The Infosys Technologies made a winning sweep in the Business World "Most Respected Companies' Award" 2004. The company remained "India's most respected company" since 2001; it topped the special categories of "most ethical and most globally competitive" companies and the "Most Respected Company in the IT Sector" category, topping all 19 parameters of the survey. The latest Business Today—AT Kearney study conducted in March 2005 placed Infosys Technologies as "India's Best Managed Company". It was also recognised in a number of other categories including corporate governance, creation of shareholder value, corporate social responsibility and innovation.

The CRISIL assigned the company the "CRISIL GVC Level 1" rating and it indicates the company's capability to create wealth for all stakeholders while adopting sound corporate governance practices. The ICRA assigned the "CGR 1" rating to the Infosys's corporate governance practices. The Asset magazine acclaimed its corporate governance and named it as the best company in India in corporate governance in 2008. The Infosys ranked as "Best Company for Leaders" in a survey by Bloomberg Business Week and Hay Group in 2009. In recent times it was appraised by Asia Magazine in its survey as "Best Company in Management, Corporate Governance, Investors' relations and Corporate Social Responsibility (CSR). The company forecast a substantial revenue growth in the current fiscal (2009-10) enabling it to cross the US$ 4.80 billion mark and its market capitalisation was US 38.34 billion by March 2010.

The chief mentor of the Infosys Mr. N.R. Narayana Murthy said, "We are beginning to see the results of various initiatives taken over the last few years". That was approximately two years ago. The following months have demonstrated that it was no empty boast. Few members and companies in India can confidently say so. The Infosys has established not only an enviable reputation for itself but has established a model in Corporate Governance for other companies to emulate. It has demonstrated that strict adherence in practice to the principles of corporate governance and successes are eminently compatible.

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