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Corporate governance in asia: a comparative study

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Abstract: This study examines the overview of Corporate Governance practices in Asian countries. However the corporate governance is a mandatory requirement in today‘s corporate world by every stake holders groups. Moreover, corporate governance has brought weakness to the attention of general public, especially in Asian countries.

This paper begins with a corporate governance needs and overview of corporate governance practices as approved by the OECD and World Bank. Then proceeds to examine how these practices are being useful for Asian countries.

Introduction:

Corporate governance is a set of rules that defines the relationship between stakeholders, management and board of directors of a company and influence how that company is operating at its most basic level, corporate governance deals with issue that results from the separation of ownership and control. But corporate governance goes beyond simply establishing a clear relationship between shareholders and managers.

The concept of corporate governance has been attracting public attention for quite some time. Corporate governance is a system of structuring, operating and controlling a company with a view to achieve long term strategic goal to satisfy shareholders, creditors, employees, customers and suppliers and complying with the legal and regulatory requirements apart from meeting environmental and local community needs.

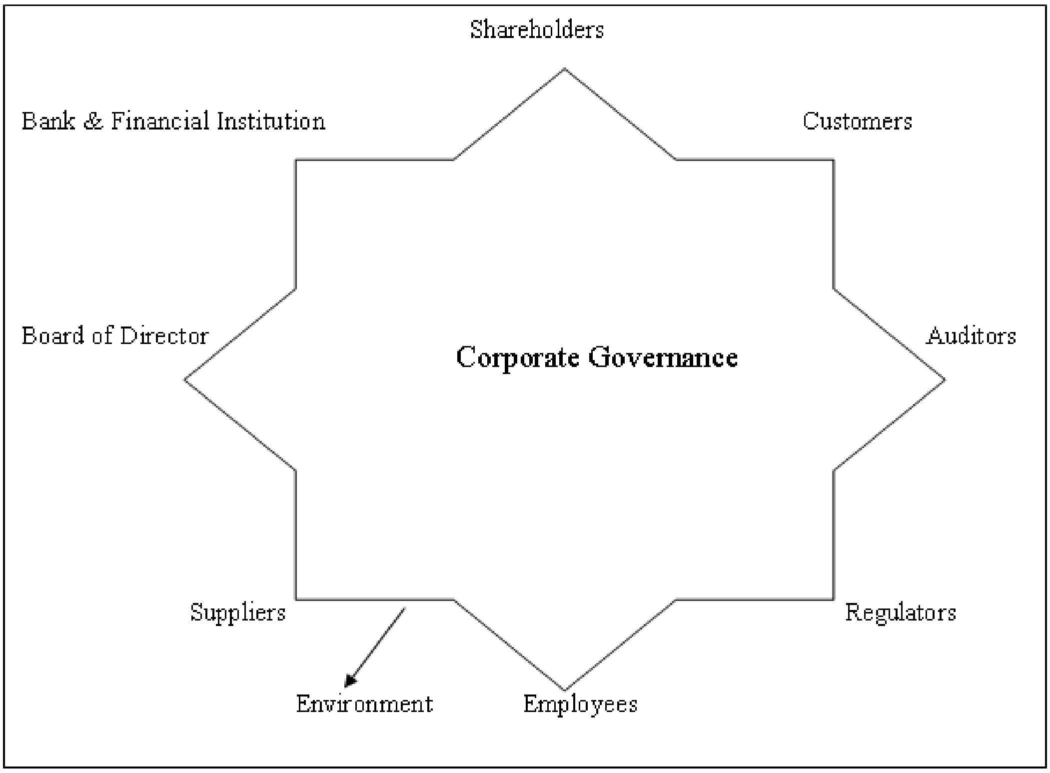
Corporate governance otherwise called as ―Good Corporate Governance‖ or ―Good Business‖ which ensures:

- To achieve corporate objectives by making effective decision and adequate disclosures.
- Value and safeguarding shareholders interests.
- Transparency in business transactions
- Statutory and legal compliances.

The Fig – 1 shows the major players in Corporate Governance:

Fig – 1

Major Players in Corporate Governance



Methodology:

The paper is completely a conceptual one whose basic foundation comes from various secondary sources like research articles, publishes and unpublished scholarly papers, books, various international and local journals, speeches, newspapers and websites. The overview of corporate governance practices as approved by the OECD and World Bank, and then proceeds to examine how these practices are being useful for Asian countries.

Need for Corporate Governance:-

Corporate governance represents the value framework, the ethical framework and the moral framework under which business decisions are taken. In other words, when investments take place across national borders, the investors want to be sure that not only is their capital handled effectively and adds to the creation of wealth, but the business decisions are also taken in a manner which is not illegal or involving moral hazard.

The word _corporate governance‘ has become a buzzword these days because of the following factors.

After the collapse of the Soviet Union and the end of the cold war in 1990, it has become the conventional wisdom all over the world that market dynamics must prevail in economic matters.

The thrust given to globalization because of the setting up of the WTO and every member of the WTO trying to bring down the tariff barriers.

When investments take place in emerging markets, the investors want to be sure that not only the capital markets or enterprises, with which they are investing, run competently but they also have good corporate governance.

The presence of strong governance standards provides better access to capital and aids economic growth corporate governance also has broader social and Institutional dimensions properly designed rules of governance should focus on implementing the values of fairness, transparency, accountability and responsibility to both share holders and stakeholders.

In order to be effectively and ethically governed, business need not only go into internal governance, but also must operate in a sound institutional environment. Therefore, elements such as secure private property rights, functioning judiciary, and free press are necessary to translate corporate governance laws and regulations into ground practice.

Good corporate governance ensures that the business environment is fair and transparent and that companies can be held accountable of their actions. Conversely, week corporate governance leads to waste, mismanagement and corruption. It is also important to remember that although corporate governance has emerged as a way to manage modern joint stock corporations it is equally significant in state-owned enterprises, co-operatives and family businesses, regarding of the type of venture, only good governance can deliver sustainable good business performance.

Best Practices on Corporate governance in Asian countries:

India has become one of the fastest emerging nations to have aligned itself with the international trends in Corporate Governance. As a result, Indian companies have increasingly been able to access to newer and larger markets around the world; as well as able to acquire more businesses. The response of the Government and regulators have also been admirably quick to meet the challenges of corporate delinquency. But, as the global environment changing continuously, there is a greater need of adopting and sustaining good corporate governance practices for value creation and building corporations of the future.

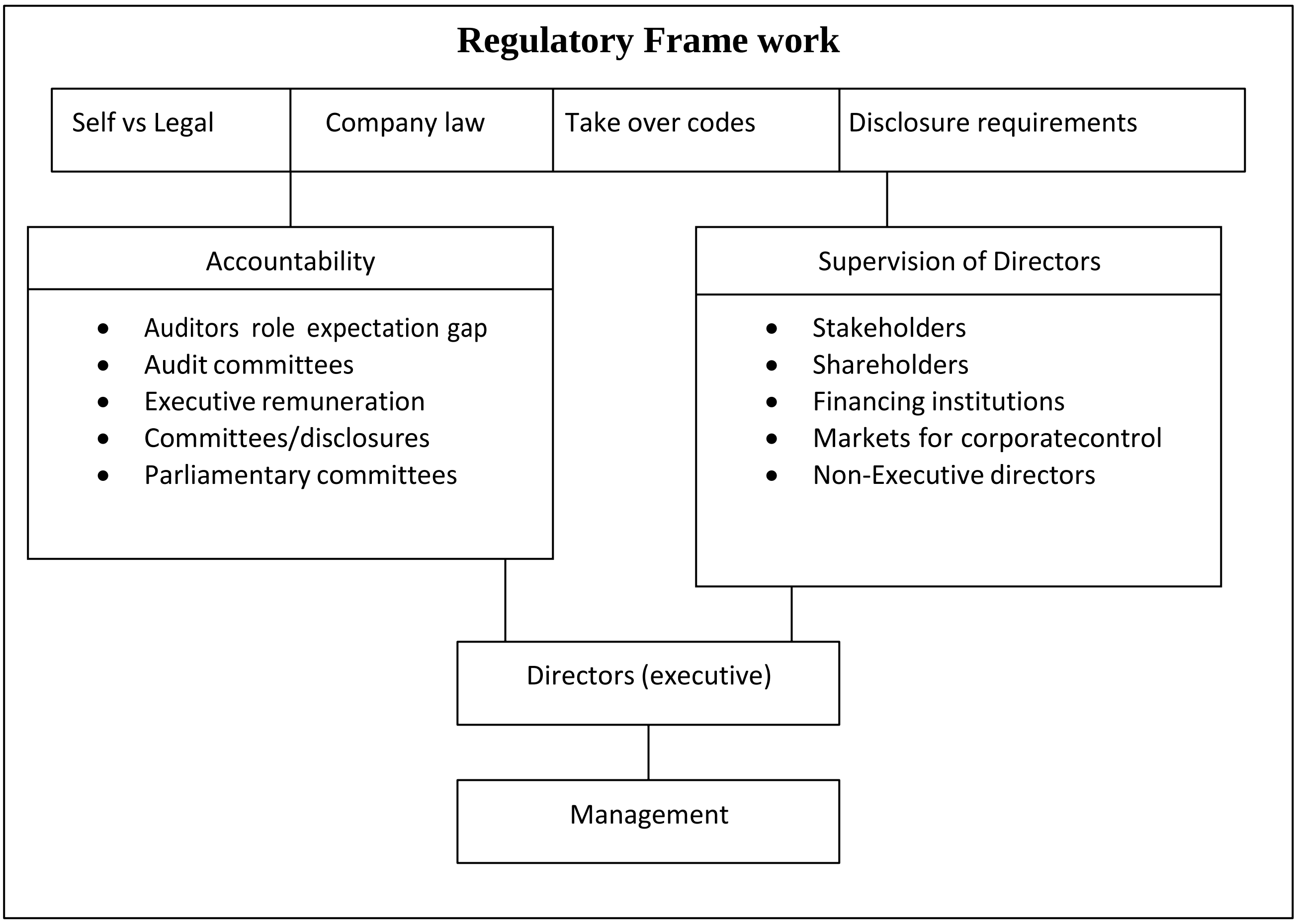
However corporate governance has no unique structure or design and is largely considered ambiguous. There is still lack of awareness about its various issues, like, quality and frequency of financial and managerial disclosure, compliance with the code of best practice, roles and responsibilities of Board of Directories, shareholders rights, etc. There have been many instances of failure and scams in the corporate sector, like collusion between companies and their accounting firms, presence of weak or ineffective internal audits, lack of required skills by managers, lack of proper disclosures, non-compliance with standards, etc.

Corporate governance in India:

Corporate governance and financial regulation in India was generally considered quite poor until the economic reforms of the early 1990s. The Securities and Exchange Board of India (SEBI) was established in 1992 by an act of Parliament, and SEBI was given the job of regulating stock exchanges, brokers, fraudulent trade practices, and other areas of corporate activity. As its power grew over the decade, SEBI started to play a much more active role in setting minimum standards for corporate behavior. In addition, a voluntary code of corporate governance was developed by the Confederation of Indian Industry (CII), a group of well-regarded Indian firms. Near the turn of the century, SEBI commissioned a series of projects to improve Indian corporate governance by building on CII‘s code (and by converting the voluntary code into a mandatory one). This work would eventually lead to the Clause 49 reforms. The modern Indian corporate is governed by the company‘s act of 1956 that follows more or less the UK model. The pattern of private companies is mostly that of closely held or dominate by a founder, his family and associates. In respect of public enterprises, central/state government forms the board. The hold of the government constitutes is to be dominant. The board of directors is appointed by the controlling administrative ministry.

Fig – 2

Corporate governance in India



(Source: SSMS, Journal of Indian Management, July-Sep-2004)

Issues involving corporate governance principles:

- Composition of board
- Number of Independent Directors
- Audit Committee
- Certification of financial statement by management.
- Internal control report.
- Statement of Corporate Governance.

The above issues have been compared among countries chosen and shown in the Table – 1(Vide Annexure-A)

Steps for improving corporate governance:

There is a greater need to increase awareness among entrepreneurs about the various aspects of corporate governance. There are some areas that need special attentions, namely:-

- The ratio of external directors on boards may be increased.
- Appointment of independent directors may be emphasized.
- Committees for auditing, remuneration, by nomination etc under the board of directors may be established and managed by independent directors.
- The work of these committees may be enhanced by
  - Improving the quality of audit.
  - Defining the role of board of directors as well as accountability of CEOs and CFOs;
  - Explaining the effectiveness of the legal, administrative and regulatory framework; etc.

Some of the specific steps that should be taken to improve corporate governance are the following:

- The abolition of SICA and organisations like BIFR
- The entire banking system and the Banking Secrecy Act call for a review
- Laws like the Benami Transactions Prohibition Act and the Prevention of Money Laundering Act should be implemented effectively and vigorously

Conclusions:

With the integration of Indian economy with global markets, industrialists and corporates in the country are being increasingly asked to adopt better and transparent corporate practices. If companies are to reap the full benefits of the global capital market, capture efficient gains, benefit by economies of scale and attract long term capital, adoption of corporate governance standards must be credible, consistent, coherent and inspiring.

Hence, in the year to come, corporate governance will become more relevant and a more acceptable practice worldwide. This is easily evident from the various activities undertaken by many companies in framing the different systems. Thus, the government should take necessary steps for framing the fixed corporate governance system.

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Table – 1
ANNEXURE A

COMPARATIVE CHART OF CORPORATE GOVERNANCE SYSTEM

Criteria	Pakistan	India	Srilanka	Bangladesh
Composition of Board	Listed Companies shall encourage effective representation of independent non-executive directors, including Those representing minority interests.	Optimum combination of executive and non-executive directors with not less than fifty percent of the BOD comprising of non-executive directors Provisions relating to the composition of BOD of the holding company are applicable to the composition of BOD of Subsidiary companies. At least one independent director on the BOD of the holding company shall be a director on the BOD of the subsidiary Company.	Balance of executive and non-executive Directors (including independent nonexecutives). There should be a strong and independent non-executive element on The Board. The Board should ensure the availability amongst its members of those with sufficient financial acumen and knowledge to be able to offer Guidance on matters of finance.	A public-listed company to have a minimum of seven and a maximum of fourteen directors, comprising of directors representing various Categories of shareholders. The directors representing sponsors should not be more than seven, of which not more than Three should be relatives. There should be one director representing institutional investors Or lenders. If there is no institutional investor or lender, the vacancy should be filled up from Amongst the general public. The CEO, by whatever name called, should be an ex-officio Director.

Number of Independent	At least one independent director	In case of a non-executive chairman, at	It is preferable for the board to have a	There should be at least two Independent directors.

Directors	representing institutional equity interest of financial institutions or insurance Company.	least one-third of board should comprise of independent directors In case of an executive chairman, at least half of board should comprise of Independent directors.	balance of executive and non-executive directors (including independent nonexecutives) such that no individual or small group of individuals can Dominate the board's decision making.	
Audit Committee	It shall comprise not less than three Members, including the chairman. Majority of the members of the Committee shall be from among the non-executive directors of the listed company and the chairman of the Audit Committee shall preferably be a nonexecutive Director.	The board should establish an audit committee of at least three directors, all non-executive, with written terms of reference which deal clearly with its Authority and duties. A majority should Be independent non-executive directors.	The board should establish an audit Committee. The recommendation of the Audit Committee on any matter relating to financial management, including auditors' report, shall be binding on the Board. The audit committee of every. public-listed company should consists of not less than three nonexecutive directors, of which at least two shall be independent	The audit committee shall have minimum Three members. All the members of audit committee shall be non-executive directors, with the majority of them being Independent. The Chairman of the Committee shall be an independent Director. All members of audit committee shall be financially literate and at least one member shall have accounting or related Financial management expertise.

			directors, and the chairman from amongst the independent directors. The audit committee should include members who are all financially literate (i.e., are able to read and understand financial statements); at least one member who has financial expertise (i.e., is a qualified accountant or other financial professional with experience of financialand accounting matters); and some members who have an understanding of the industry in Which the entity operates.	Company Secretary to act as Secretary to The Committee.

Certification of financial statement by management	All listed companies shall ensure that the statement of compliance with the best practices of corporate governance is reviewed and certified by statutory auditors, where such compliance can be objectively verified, before publication By listed companies.	Does not address this issue.	A public-listed company have an independent review of its governance practices by its External auditor.	In case of funds generated through IPO, the company, on an annual basis, shall prepare a statement of funds utilized for purposes other than those stated in the Offer document / prospectus. This statement shall be certified by the Independent auditors of the company. The company shall obtain a certificate from either the auditors or practicing company secretaries regarding compliance of code of corporate governance and annex the certificate with the directors' report, which is sent annually to all the shareholders of the Company. The same certificate shall also be sent to the Stock Exchanges along with

				The annual returns filed by the company.
Internal control report	There shall be an internal audit function in every company. The head of internal audit shall have access to the chair of The Audit Committee. Internal audit reports are to be provided For the review of external auditors. The auditors shall discuss any major findings in relation to the reports with the Audit Committee, which shall Report matters of significance to the Board of Directors.	Companies, which do not have an internal audit function, should from Time to time review the need for one.	The internal audit function should be independent of the external Auditor. The internal audit function should report to chairman and should have all necessary access to management and the right to seek Information and explanations.	Part of MD but no requirement for Auditor assessment.
Statement of Corporate Governance	All listed companies shall publish and circulate a statement along with their annual reports to set out the status of their compliance with the	Company shall annually affirm that it has not denied personnel access of any employee to the audit committee of the company (in respect of	Directors should be required to disclose the extent to which the company adheres to established principles and	The following material should be included in the corporate governance section of the annual report: • an explanation of any

	best practices of corporate governance set out above.	matters involving alleged misconduct) and that it has provided protection to "whistle blowers" from unfair termination and other unfair or prejudicial employment practices. Such affirmation shall form a part of the Board Report on Corporate Governance. Remuneration package of all the directors i.e. salary, benefits, bonuses, stock Options, pension etc. Details of fixed component and performance linked incentives, along with the performance criteria. Service contracts, notice period, severance fees. Stock option details, if any – and whether issued at a discount as well as the period over which accrued and	practices of good corporate Governance. The Directors should include in the Company's Annual Report a Corporate Governance Report, setting out the manner and extent to which the Company has complied with the Principles and provisions of this Code.	departure from best practice recommendations in the Code. • the skills, experience and expertise relevant to the position of director held by each director in office at the date of the annual report. • the names of the directors considered by the board to constitute independent directors and the company's reasons why it considers Directors to be independent. • the term of office held by each director in office at the date of The annual report. • the names of members of the nomination committee and their attendance at meetings of the committee • details of the names and qualifications of those appointed to the audit committee, or, where an audit committee has not been formed, those who fulfill the functions of an audit committee. • the number of meetings of the audit committee and the names of the attendees. • whether performance

		over which exercisable. Suggested items: A brief statement on company's philosophy on code of Governance. • Board of Directors • Audit Committee • Remuneration Committee • Shareholders Committee • General Body meetings • Disclosures • Means of communication • General Shareholder information		evaluation for the board and its members has taken place in the reporting period and how it was conducted. • disclosure of the company's recruitment, remuneration, promotion, transfer, and Retirement policies.