International Journal of Humanities
and Social Sciences (IJHSS)
ISSN (P): 2319–393X; ISSN (E): 2319–3948
Vol. 9, Issue 2, Feb–Mar 2020; 129–144

International Academy of Science, Engineering and Technology
Connecting Researchers; Nurturing Innovations

THE NEW CONCEPT OF CORPORATE GOVERNANCE IN THE SYSTEM OF COMPANY MANAGEMENT

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ABSTRACT

A fascinating aspect of the present day system of company management is the new concept of 'Corporate Governance'. Under the new system of company's management the obligations which the companies have to perform are not just the same as they used to be under the ancient Principles of Common Law from which had originated and developed the system of company management. On the other hand, there are certain obligations and responsibilities under the new principles in addition to the earlier ones which are applicable to corporate bodies starting with their formation until they go out of existence.

In this context, a far reaching change that has since taken place in the system of company management is that from the basic law with regard to the creation of corporate bodies and their functions, there is a new body of norms regarding the nature and extent of their duties and responsibilities. One such collection of norms is the 'Code of Corporate Governance' which is of recent origin and is the result of formal codification at the level of individual nations. This new collection of norms by certain states has brought in new principles in regard to the management of companies.

The object of this article is to highlight the nature and scope of the new legal framework called the Code of Corporate Governance. An effort has been made here to highlight the message of the new Codes as far as certain leading legal systems are concerned in regard to the system of company management which system is designated as the 'corporate governance'.

KEYWORDS: *Salient features of corporate bodies, Present day functions of corporate bodies, New forms of corporate responsibility and Principles of Corporate Responsibility under the select Codes of Corporate Governance.*

Article History

Received:* *23 Jul 2019* | *Revised:* *25 Jan 2020* | *Accepted:* *31 Mar 2020

INTRODUCTION

METHODOLOGY

In the beginning of this article. I wish to clarify that this article is concerned with the emerging trends as far as corporate bodies in the area of commercial and non-commercial matters are concerned. I am conscious of the fact that that the corporate bodies in the non-commercial areas have their own professional bodies, and have evolved their own principles on certain aspects of corporate governance, which are specific in regard to the non-commercial entities but the principles that have emerged in the context of commercial transactions are relevant in regard to the matters of the non-commercial entities also. To the extent they are related to the fundamental principles of corporate responsibility.[1]

Keeping the broad objective of the article in view the methodology followed in presenting the discussion on the topic is to describe the important aspects of the subject in two sections thus, **Section A** describes the general features of the legal framework of corporate bodies and **Section B** explains the concept of Good Governance and analyses the Codes of Corporate Governance of certain countries like UK, USA, Canada, and Bahrain.

SECTION A – SALIENT FEATURES OF THE CORPORATE BODIES

Salient Features of Corporate Bodies

Corporate Bodies generally are the bodies engaged in commercial activities; they are known by different names and have different procedures in regard to their formation. The most popular terms in respect of these commercial entities are the Companies or Corporations. But there are a few differences in regard to these terms too. For instance, companies are typically smaller than corporations. There is also a difference in capital requirement to form a company and to form a corporation.[2]

A company may be any entity that engages in business and may be a proprietorship, partnership or corporation

A company is suitable form of business organization or legal structure for smaller business or entities, while a corporation is more suitable for larger business. The owners of a company are its members; the owners of a corporation are its shareholders. There are a limited number of owners/members in case of a company while there are no limits on the number of owners/shareholder in case of corporate bodies.

A company has members or managing members for the management of the company, while a corporate body has Board of Directors, overseeing the officers and executives.

Further, a corporation is a business entity that legally exists separately from its owner(s).

A corporation is an organization—usually a group of people or a company—authorized by the State to act as a single entity (a legal entity; a legal person in legal context) and recognized as such in law for certain purposes. Early incorporate entities were established by Charter, i.e., by an ad hoc act granted by a monarch or passed by a Parliament or legislative body. Most jurisdictions now allow the creation of new corporations through registration.

The owners of a corporation are shareholders; the percentage of ownership in the business is represented by their corporate stocks or shares. Shareholders can choose a board of directors to manage business operations or they can create a shareholders' agreement, which will allow them to manage the business directly.

A limited liability company is neither a partnership nor a corporation, but it has some characteristics of both,

Under the ancient principles of Common Law a commercial entity could be created by order of a Sovereign or an ecclesiastic authority, and by the mandate of an enacted law. Such a corporate body could be created by individuals with the permission of the Sovereign or a competent authority by contributing their shares, which process was known as incorporation of the company. The corporate body so incorporated could conduct the business in its own name; it could make rules and regulations to conduct its business and the members of the body were not personally liable but the

[1]John Micklethwait and Adrian Wooldridge, The Company, a short history of revolutionary ideas, New York, Modern Library, 2003.
[2]https:/www.upcounsel.com/difference between corporation and company

corporate body was liable for the loss incurred by it or the infraction of any rule in the conduct of its business. The corporate body had such benefits under the Common Law right from the time it was incorporated until it was officially dissolved. When a large number of corporate bodies were established the Common Law assumed tremendous importance in the field of commercial activities.

On an analysis of the salient features of abstract entities it may be stated that a company is a form of business organization, which is an association of persons, set up with the aim of undertaking business. It possesses a legal status distinct from its members and governed by the Company Law. It is an artificially person, having perpetual succession and a common seal. I am commonly confused with the corporation, which is nothing but a body corporate, registered within or outside the nation.

A corporation is a legal entity that is separate and distinct from its owners.

Corporations enjoy most of the rights and responsibilities that individuals possess: they can enter into contracts, they can borrow money, hire employees, own assets and pay taxes. In legal theory it is referred to as a 'legal person'.

A corporation is a legal entity that is separate and distinct from its owners. Corporations enjoy most of the rights and responsibilities that individual possess.

An important element of a corporation is limited liability, which means that shareholders may take part in the profits through dividends and stock appreciate but are not personally liable for the company's debts.

All kinds of businesses around the world use corporations. While its exact legal status varies somewhat from jurisdiction to jurisdiction, a corporation's most important aspect is limited.

A corporation is created when it is incorporated by a group of shareholders who have ownership of the corporation, represented by their holding of common stock, to pursue a common goal.

The word 'company' has various connotations. The dictionaries define a company as a voluntary association formed and organized to carry on a business. The different terms used to define a business organization are partnerships, corporations and limited liability companies etc.

Generally, corporations used to mean big business houses, whose present is all over the world. On the other hand the company has a limited scope as it indicates the business which is present in the country in which it is registered.

Likewise, the governments and the supervisory agencies of commercial transactions at the national level have come up with national codes on corporate governance which is the subject matter of this article.

In view of the benefits which accrued to the commercial entities under the erstwhile rules of Common Law and the new rules which have developed in regard to the companies and corporations a large number of non-commercial entities have drawn inspiration from the idea of corporate entities and exercised their freedom of conducting the business according to the methods which were followed by the commercial entities.

While in the commercial spheres there existed the institutions like companies, corporations, firms, joint stock companies etc. in the non-commercial spheres there appeared institutions like the ecclesiastical institutions, charitable institutions, health institutions, institutions for entertainment etc. which sought to take advantage of the benefits that were available to the corporate bodies under the principle of the erstwhile corporate law.

The formation of commercial bodies may not be the same as in the case of non-commercial entities but there are certain characteristics shared by the entities of this nomenclature with regard to the concept of good governance and how the idea is followed in respect of the commercial and the non-commercial institutions.

Law on the Affairs of Corporate Bodies

There are a number of business forms or structures, which are devised to undertake various types of activities. Different countries have different laws and legal provisions for establishing various business entities. They are known by different names or nomenclatures in different countries such as Limited Liability Company, professional limited liability company, private limited company, public limited company etc.

A corporate body is a business structure or a legal form of organization. It has a separate legal identity distinct from its owners. The owners of a corporate called as shareholders. Corporate body as an artificial person is solely responsible for its own actions, liabilities and debts. None of the shareholders is personally liable for the actions of a corporate.

The emergence of new set of rules on corporate governance has been due to a change in the socio-economic set up of modern society. The new sets of rules have brought in new obligations for the corporate and non-corporate entities alike. The obligations of these entities in course of time have been to protect the socio economic interests of the society as also the environment of the planet. The supervisory bodies like the Governments at the national level and the United Nations and other agencies at the international level began to formulate new rules for the purpose of regulating the businesses.

In the wake of these developments a new body of principles under the Codes of Governance at the national and international levels emerged as standards to be observed by the commercial entities in conducting their businesses. The Codes like the UN Code of Marketing and Consumer Safety, and the National Codes of Consumer Protection and Consumer Trading called upon the corporate bodies to take steps for saving the consumers from the health hazards such as those arising from commodities like the milk, liquor, beverages and other consumable articles; they include the responsibilities like those of protecting water, air and environment from pollution; protecting human population and state machinery from the hazards of climate change; inroads into the free democratic society and the infraction of Human Rights.[3]

The new functions which have arisen before the corporate bodies under the new Codes include the functions such as those of saving the planet from the natural and human catastrophes, saving the lives of the people against natural hazards. The right of making the necessary use of Environment for the present generation was accompanied by an obligation of saving the Environment for the use of future generations.

The protagonists who fielded the idea of corporate bodies for the society had a vision for a better world: a world where people could meet their basic needs and reach their full human potential. And they realized that to create such a system, the new set up of corporations needed to be stopped from destroying people’s lives and the planet.

[3]Dignam, A. and Lowry,J., Company Law, Oxford University Press.2006.

SECTION B – THE CONCEPT OF CORPORATE GOVERNANCE AND THE CODES OF CORPORATE GOVERNANCE IN SELECT JURISDICTIONS

Meaning & Definition of Corporate Governance

The manner in which a company is managed and controlled is termed 'corporate governance'. It can also be termed as a blueprint of a company which completely explains each and every step to direct it towards its objectives. Its main objective is to carry on all the business activities in the interest of its stakeholders.

Corporate governance is completely managed and controlled by the company's director team for its stakeholder's benefit. It is all about bringing the balance between societal & individual goals, and also, social and economic goals. It may be defined as the meeting between the various stakeholder of the company (directors team, shareholders & management team of the company) whose main purpose is to direct the company towards its pre-decided goals.

For a healthy organization and non-existence of any conflict in the organization, the owner must make sure that there is mutual consent among all the members.

Corporate Governance refers to the way a corporation is governed. It is the technique by which companies are directed and managed. It means carrying the business as per the stakeholders' desires. It is actually conducted by the board of Directors and the concerned committees for the company's stakeholder's benefit. It is all about balancing individual and societal goals, as well as, economic and social goals.

Corporate governance is most often viewed as both the structure and the relationships which determine corporate direction and performance. The board of directors is typically central to corporate governance. Its relationship to the other primary participants, typically shareholders and management, is critical. Additional participants include employees, customers, suppliers, and creditors. The corporate governance framework also depends on the legal, regulatory, institutional and ethical environment of the community. Whereas the 20th century might be viewed as the age of management, the early 21st century is predicted to be more focused on governance. Both terms address control of corporations but governance has always required an examination of underlying purpose and legitimacy.[4]

A practitioner's definition of corporate governance is to the effect that it is gathering together a group of smart, accomplished people around a board table to make good decisions on behalf of the company and its stakeholders.[5]

The legal definition of corporate governance is to the effect that corporate governance refers to the host of legal and non-legal principles and practices affecting control of publicly held business corporations. Most broadly, corporate governance affects not only who controls publicly traded corporations and for what purpose but also the allocation of risks and returns from the firm's activities among the various participants in the firm, including stockholders and managers as well as creditors, employees, customers, and even communities. However, American corporate governance doctrine primarily describes the control rights and related responsibilities of three principal groups:

- The firm's shareholders, who provide capital and must approve major firm transactions,
- The firm's board of directors, who are elected by shareholders to oversee the management of the corporation, and
- The firm's senior executives who are responsible for the day to day operations of the corporation.

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[4] James McRitchie, 8/1999

[5] As We Start Anew, Jim Kristie, editor and associate publisher of Directors & Boards.

As the Delaware Supreme Court has stated, "the most fundamental principles of corporate governance are a function of the allocation of power within a corporation between its stockholders and its board of directors."[6]

Benefits of Corporate Governance

- Good corporate governance ensures corporate success and economic growth;
- Strong corporate governance maintains investors' confidence, as a result of which, company can raise capital efficiently and effectively.
- It lowers the capital cost;
- There is a positive impact on the share price.
- It provides proper inducement to the owners as well as managers to achieve objectives that are in interests of the shareholders and the organization.
- Good corporate governance also minimizes wastages, corruption, risks and mismanagement.
- It helps in brand formation and development.
- It ensures organization in managed in a manner that fits the best interests of all.

Corporate Governance ensures transparency which ensures strong and balanced economic development. It also ensures that the interests of all shareholders (majority as well as minority shareholders) are safeguarded; it ensures that all shareholders fully exercise their rights and that the organization fully recognizes their rights.

Corporate Governance has a broad scope. It includes both social and institutional aspects. Corporate Governance encourages a trustworthy, moral, as well as ethical environment.

Principles of Corporate Governance

While corporate governance structure may vary, most organizations generally incorporate the following key elements:

- All shareholders should be treated equally and fairly. Part of this is making sure shareholders are aware of their rights and how to exercise them.
- Legal, contractual and social obligations to non-shareholder stakeholders must be upheld. This includes always communicating pertinent information to employees, investors, vendors and members of the community.
- The board of directors must maintain a commitment to ensure accountability, fairness, diversity and transparency within corporate governance. Board members must also possess the adequate skills necessary to review management practices.
- Organizations should define a code of conduct for board members and executives, only appointing new individuals if they meet that standard.
- All corporate governance policies and procedures should be transparent or disclosed to relevant stakeholder.[7]

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[6](J. Robert Brown, Jr. and Lisa L. Casey, Corporate Governance: Cases and Materials, 2012)
[7]Margaret Rouse and Sarah Lewis: WhatIs.com Accessed on 6.5.2020 on http://Yahoo.com

As stated in the beginning of this article an important development in the legal systems of modern company law is the legislation on the subject of corporate governance. In certain countries new specific Statutes have been enacted and in some others the earlier rules of Common Law on companies' management have been retained with suitable modification. The legislation so made on corporate governance code spell out the pillars of corporate governance and seeks to build up a regime in regard to corporate governance. An analysis of the system in force at present in select countries may be described as follows:-

THE REGIME OF CORPORATE GOVERNANCE CODE IN UK

In UK ,the law on corporate governance was formerly known as the UK Corporate Governance code, but is now referred to as a part of UK company law with a set of principles of good corporate governance aimed at companies listed on the London Stock Exchange. It is overseen by the Financial Reporting Council and its importance derives from the Financial Conduct Authority's Listing Rules. The Listing Rules themselves are given statutory authority under the Financial Services and Markets Act 2000 and require that public listed companies disclose how they have complied with the code, and explain where they have not applied the code.[8] Private companies are also encouraged to conform; however there is no requirement for disclosure of compliance in private company accounts. The Code adopts a principles-based approach in the sense that it provides general guidelines of best practice.

In July 2018, the Financial Reporting Council released the new 2018 UK Corporate Governance Code, which is designed to build on the relationships between companies, shareholders and stakeholders and make them key to long-term sustainable growth of the UK economy[9].

The Code is essentially a consolidation and refinement of a number of different reports and codes concerning opinions on good corporate governance. The first step on the road to the initial iteration of the code was the publication of the Cadbury Report in 1992. Produced by a committee chaired by Sir Adrian Cadbury, the Report was a response to major corporate scandals associated with governance failures in the UK. The committee was formed in 1991 after Polly Peck, a major UK company, went insolvent after years of falsifying financial reports. Initially limited to preventing financial fraud, when BCCI and Robert Maxwell scandals took place, Cadbury's remit was expanded to corporate governance generally. Hence the final report covered financial, auditing and corporate governance matters, and made the following three basic recommendations:

- The CEO and Chairman of companies should be separated
- Boards should have at least three non-executive directors, two of whom should have no financial or personal ties to executives
- Each board should have an audit committee composed of non-executive directors[10]

These recommendations were initially highly controversial, although they did no more than reflect the contemporary "best practice", and urged that these practices be spread across listed companies. At the same time it was emphasised by Cadbury that there was no such thing as "one size fits all". In 1994, the principles were appended to the Listing Rules of the London Stock Exchange, and it was stipulated that companies need not comply with the principles, but had to explain to the stock market why not if they did not.

[8]Financial Services & Markets Act 2000, s. 2 (4)
[9]Report of the Financial Reporting Council, 16th July 2018
[10]V. Finch, 'Board Performance and Cadbury on Corporate governance (1992)Journal of Business Law,581

Before long, a further committee chaired by chairman of Marks & Spencer Sir Richard Greenbury was set up as a 'study group' on executive compensation. It responded to public anger, and some vague statements by the Prime Minister John Major that regulation might be necessary, over spiralling executive pay, particularly in public utilities that had been privatised. In July 1995 the Greenbury Report was published. This recommended some further changes to the existing principles in the Cadbury Code:

- Each board should have a remuneration committee composed without executive directors, but possibly the chairman
- Directors should have long term performance related pay, which should be disclosed in the company accounts and contracts renewable each year

Greenbury recommended that progress be reviewed every three years and so in 1998 Sir Ronald Hampel, who was chairman and managing director of ICI plc, chaired a third committee. The ensuing Hampel Report suggested that all the Cadbury and Greenbury principles be consolidated into a "Combined Code". It added that,

- The Chairman of the board should be seen as the "leader" of the non-executive directors
- Institutional investors should consider voting the shares they held at meetings, though rejected compulsory voting
- All kinds of remuneration including pensions should be disclosed.

In 2010, a new Stewardship Code was issued by the Financial Reporting Council, along with a new version of the UK Corporate Governance Code, hence separating the issues from one another. Some of the important recommendations were the following:

Section A: Leadership

- Every company should be headed by an effective board which is collectively responsible for the long-term success of the company.
- There should be a clear division of responsibilities at the head of the company between the running of the board and the executive responsibility for the running of the company’s business. No one individual should have unfettered powers of decision.
- The chairman is responsible for leadership of the board and ensuring its effectiveness on all aspects of its role.
- As part of their role as members of a unitary board, non-executive directors should constructively challenge and help develop proposals on strategy.

Section B: Effectiveness

- The board and its committees should have the appropriate balance of skills, experience, independence and knowledge of the company to enable them to discharge their respective duties and responsibilities effectively.
- There should be a formal, rigorous and transparent procedure for the appointment of new directors to the board.
- All directors should be able to allocate sufficient time to the company to discharge their responsibilities effectively.

- All directors should receive induction on joining the board and should regularly update and refresh their skills and knowledge.
- The board should be supplied in a timely manner with information in a form and of a quality appropriate to enable it to discharge its duties.
- The board should undertake a formal and rigorous annual evaluation of its own performance and that of its committees and individual directors.
- All directors should be submitted for re-election at regular intervals, subject to continued satisfactory performance.

Section C: Accountability

- The board should present a balanced and understandable assessment of the company's position and prospects.
- The board is responsible for determining the nature and extent of the significant risks it is willing to take in achieving its strategic objectives. The board should maintain sound risk management and internal control systems.
- The board should establish formal and transparent arrangements for considering how they should apply the corporate reporting and risk management and internal control principles and for maintaining an appropriate relationship with the company's auditor.[11]

THE REGIME OF CORPORATE GOVERNANCE IN USA

The "Anglo-American model" of corporate governance emphasizes the interests of shareholders. In the United States, corporations are directly governed by state laws, while the exchange (offering and trading) of securities in corporations (including shares) is governed by federal legislation.

In USA corporate governance system is best understood as the set of fiduciary and managerial responsibilities that binds a company's management, shareholders, and the board within a larger, societal context defined by legal, regulatory, competitive, economic, democratic, ethical, and other societal forces.

Shareholders

Although shareholders own corporations, they usually do not run them. Shareholders elect directors, who appoint managers who, in turn, run corporations. Since managers and directors have a fiduciary obligation to act in the best interests of shareholders, this structure implies that shareholders face two separate so-called principal-agent problems—with management whose behavior will likely be concerned with its own welfare, and with the board, which may be beholden to particular interest groups, including management. Agency theory explains the relationship between principals, such as shareholders and agents, like a company's executives.

Nature of State and Federal Law

Until recently, the U.S. government relied on the states to be the primary legislators for corporations. Corporate law primarily deals with the relationship between the officers, board of directors, and shareholders, and therefore

[11]PIRC, Review of the impact of the Combined Code (2007)

traditionally is considered part of private law. It rests on four key premises that define the modern corporation: (a) *indefinite life*, (b) *legal personhood*, (c) *limited liability*, and (d) *freely transferable shares*. A corporation is a legal entity consisting of a group of persons its shareholders created under the authority of the laws of a state. The entity's existence is considered separate and distinct from that of its members. Like a real person, a corporation can enter into contracts, sue and be sued, and must pay tax separately from its owners.

As an entity in its own right, it is liable for its own debts and obligations. Providing it complies with applicable laws, the corporation's owners (shareholders) typically enjoy limited liability and are legally shielded from the corporation's liabilities and debts.[12]

The existence of a corporation is not dependent upon whom the owners or investors are at any one time. Once formed, a corporation continues to exist as a separate entity, even when shareholders die or sell their shares. A corporation continues to exist until the shareholders decide to dissolve it or merge it with another business. Corporations are subject to the laws of the state of incorporation and to the laws of any other state in which the corporation conducts business. Corporations may therefore be subject to the laws of more than one state. All states have corporation statutes that set forth the ground rules as to how corporations are formed and maintained.

The Securities and Exchange Commission (SEC)

The SEC created to protect investors; maintain fair, orderly, and efficient markets; and facilitate capital formation is charged with implementing and enforcing the legal framework that governs security transactions in the United States. This framework is based on a simple and straightforward concept: All investors, whether large institutions or private individuals, should have access to certain basic facts about an investment prior to buying it, and so long as they hold it. To achieve this, the SEC requires public companies to disclose meaningful financial and other information to the public. This promotes efficiency and transparency in the capital market, which, in turn, stimulates capital formation. To ensure efficiency and transparency, the SEC monitors the key participants in the securities trade, including securities exchanges, securities brokers and dealers, investment advisers, and mutual funds.

The Exchanges

The NYSE Euronext and NASDAQ account for the trading of a major portion of equities in North America and the world. While similar in mission, they are different in the ways they operate and in the types of equities that are traded on them.

The NYSE Euronext and its predecessor, the NYSE, trace their origins to 1792. Their listing standards are among the highest of any market in the world. Meeting these requirements signifies that a company has achieved leadership in its industry in terms of business and investor interest and acceptance. The Corporate Governance Listing Standards set out in Section 303A of the NYSE Listed Company Manual were initially approved by the SEC on November 4, 2003, and amended in the following year. Today, NYSE Euronext's nearly 4,000 listed companies represent almost $30 trillion in total global market capitalization.

The NASDAQ, the other major U.S. stock exchange, is the largest U.S. electronic stock market. With approximately 3,200 companies, it lists more companies and, on average, trades more shares per day than any other U.S. market. It is home to companies that are leaders across all areas of business, including technology, retail, communications,

[12] Kenneth Holland's May 2005 review of the book *Corporate Governance: Law, Theory and Policy*.

financial services, transportation, media, and biotechnology. The NASDAQ is typically known as a high-tech market, attracting many of the firms dealing with the Internet or electronics. Accordingly, the stocks on this exchange are considered to be more volatile and growth-oriented.

While all trades on the NYSE occur in a physical place, on the trading floor of the NYSE, the NASDAQ is defined by a telecommunications network. The fundamental difference between the NYSE and NASDAQ, therefore, is in the way securities on the exchanges are transacted between buyers and sellers. The NASDAQ is a dealer's market in which market participants buy and sell from a dealer (the market maker). The NYSE is an auction market, in which individuals typically buy from and sell to one another based on an auction price.

Prior to March 8, 2006, a major difference between these two exchanges was their type of ownership: the NASDAQ exchange was listed as a publicly traded corporation, while the NYSE was private. In March of 2006, however, the NYSE went public after being a not-for-profit exchange for nearly 214 years. In the following year, NYSE Euronext a holding company was created as part of the merger of the NYSE Group Inc. and Euronext N.V. Now, NYSE Euronext operates the world's largest and most liquid exchange group and offers the most diverse array of financial products and services.[13]

CORPORATE GOVERNANCE REGIME IN CANADA

Canada's system of corporate governance is derived from the British common law model and strongly influenced by developments in the United States. While corporate governance practices in the United Kingdom and the United States are similar in many respects, where there are differences, Canadian practice usually falls somewhere in between. For example, a Canadian corporation is more likely than a US corporation to have a chair who is not the CEO, and typically has fewer executives on the board than a UK corporation

Under Canada's Constitution, provincial governments have exclusive power over property and civil rights within the province. As a result, corporations may choose to incorporate under federal corporate law or under the corporate laws of any of the 10 provinces in Canada. In addition, securities law in Canada is regulated by securities administrators in Canada's 10 provinces and three territories. However, the federal governments and five provincial governments are collaborating on a cooperative capital markets regulatory system.

Corporate governance practices in Canada are shaped by legal rules and best practices promoted by institutional shareholder groups, the media and professional director associations such as the Institute of Corporate Directors. Sources of legal rules include provincial corporate statutes, securities laws and rules, stock exchange requirements and common law, as well as a wide variety of other regulatory statutes, regulations and policies. The 10 provincial securities commissions are very active in corporate governance matters, which often overlap corporate law areas of concern.

Canadian corporate governance has also been influenced by the high proportion of public corporations in Canada that have a dominant or controlling shareholder, either through equity ownership or the ownership of multiple voting rights[14].

Canadian institutional investors have a profound influence on Canadian corporate governance practices, including through a national institutional investor organization formed to promote good governance practices in corporations whose

[13]http://www.nyse.com
[14]https://www.ccgg.ca/

shares its members own. This organization, the Canadian Coalition for Good Governance, comprises approximately 50 members, including many of Canada's largest institutional investors, collectively managing almost C$4 trillion in assets, and has pursued an organized programme of articulating its views and encouraging best practices generally without resorting to proxy battles.[15]

THE CORPORATE GOVERNANCE REGIME IN THE KINGDOM OF BAHRAIN

The Kingdom of Bahrain has a Code of Corporate Governance with elaborate provisions on the system of governance of companies management which may be described as follows:-

The Corporate Governance Code

On 19th March 2018, the Ministry of Industry, Commerce and Tourism issued the Decree No. (19) for 2018 concerning the issuance of the Corporate Governance code, which was published in the official gazette No. 3360 on Thursday 5th of April 2018, which is applicable to all joint stock companies incorporated in Bahrain expect for joint stock companies licensed by the Central Bank of Bahrain.

The Purpose of the Corporate Governance Code

The Code aims to provide guidance to companies on the best ways to manage, lead, organize and monitor their businesses through a series of transparent, clearly defined policies, processes and procedures.

The Purpose of Governance

Governance aims to establish a system that governs and controls the companies' businesses and practices in order to create efficient institutions which contribute to building a strong, transparent and competitive national economy for the purpose of reducing any adverse effects on the national economy, acting parties and local community due to not committing to the best practices in managing joint stock companies.

Key Pillars of Governance

The key pillars of corporate governance are:

- Ensuring that the information required by regulators, shareholders and investors, as well as related parties is provided in a timely and appropriate manner to enable these parties to take decisions and run their businesses properly, while the matters of interest to shareholders and various related parties are transparently disclosed by the company and its BoD, which would help attract more businesses to the company, including various investors within the Kingdom of Bahrain.
- Accountability, which means that the board of directors are aware that they are responsible for their decisions and actions in relation to the management and leadership of the company before the shareholders and are held accountable to them, and they shall subject themselves to evaluation in accordance with best practices.
- Justice, which means that all shareholders, employees and related parties shall enjoy fair and equitable treatment by the directors and Executive Management, without bias or any concealed interests.

[15] https://thelawreviews.co.uk/edition/ accessed on 1.2.2010

- Responsibility, which means that the directors shall perform their duties with honor, integrity, impartiality and sincerity towards the economy and society in general, and the company in particular, exercise caution, care and due diligence in the performance of their duties, put the company's best interest ahead of their own self-interests and take into account the corporate social responsibility.

The Companies to which the Code is Applicable

The Code is applicable to all joint stock companies incorporated in the Kingdom of Bahrain and registered pursuant to the Commercial Companies Law.

In the application of this Code to the joint stock companies of a family nature, the provisions thereof that suit to their financial, administrative conditions and capacities shall be observed, in order to achieve the results which this code is aiming for.

The Structure of the Code: Fundamental Principles of Corporate Governance

The Corporate Governance Code of Bahrain contains eleven fundamental principles of corporate governance, each of which contains several guidelines and directives to be applied and considered by every company when declaring its compliance with the provisions of the Code pursuant to the Comply or Explain Principle. and The principles of corporate governance are as follows:

- The company shall be headed by an effective, qualified and expert Board.
- The board and the executive management shall have the full loyalty to the company.
- The board shall have rigorous control for financial audit and reporting, internal control and compliance with the law.
- The Company shall have effective procedures for the appointment, training and evaluation of Board members
- The company shall remunerate directors and officers fairly and responsibly.
- The board shall establish a clear and effective management structure for the Company, and define job titles, powers, roles and responsibilities.
- The company should communicate with shareholders, encourage them to participate and respect their rights.
- The company shall disclose its corporate governance.
- Companies which offer Islamic services shall adhere to the principles of Islamic shari'a.
- The board shall ensure the integrity of the financial statements submitted to shareholders, through the use of external auditors.
- The company must seek social responsibility to exercise its role as a good citizen.[16]

[16]Corporate Governance www.moic.gov.bh/en

CONCLUSIONS

After making an analytical study of the regime of corporate governance introduced in certain jurisdictions the conclusions arrived at may be stated as follows:

- The law relating to corporate bodies has made a good stride in terms of principles and procedures. The previous law on company management was in the form of the Common Law Principles and the person affected by the actions of the company management had to avail any of the three remedies of Damages, Injunction or Specific Performance.
- The statute known as Companies Act had codified the principles of common Law to a certain extent but it was not sufficient to meet the conditions as they had changed owing to the socio economic conditions of society.
- In the meantime, certain new concepts had come up in the area of company law, such as, Corporate Accountability, Corporate Governance and Corporate Jurisprudence which called for a new set of rules and regulations.
- In the national as well as international level there was an urge for the revision of the laws relating to company management, as a result of which we saw the emergence of modifications being made to the common law and the company law.

The most important of all the legislative changes is the emergence of the Code of Corporate Governance which has greatly modified the system of company management. At the international level also an institution like the Institute of Corporate Responsibility International has come into existence which has set before itself the task of meeting the challenges of the new kinds of functions and new kinds of responsibilities of the company. Like the concept of Good Governance in the system of State Administration, at the instance of the United Nations, there is the Concept of Corporate Governance which has come up at the instance of international bodies like the Corporate International and the other specialized agencies which are offering the best advices and suggestions to the corporate bodies for improvements in carrying out their obligations and contributing to the welfare of the people.

All the reformers at the national and international levels are guided by the principle that the concept of corporate governance of the companies should have the aim of contributing to the economic growth; that the corporate bodies should have the confidence of the investors and that the shareholders as owners of the companies and the board of directors as the persons responsible to see the development of the company perform their duties well and stand up to the expectation of all concerned.

One particular thing to be noted in the context of reforms is that neither the principles of corporate responsibility nor the principles of corporate governance do away with the ancient principle of common law, rather they build a new body of law alongside the old principles which is a good thing for the legal systems to do.

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