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CORPORATE GOVERNANCE PERFORMANCE IN INDIAN CONTEXT: A COMPARATIVE STUDY OF PUBLIC SECTOR AND PRIVATE SECTOR COMPANIES.

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ABSTRACT:

"Corporate governance is the totality of the institutional and organizational mechanisms, and the corresponding decision-making, intervention and control rights, which serve to resolve conflicts of interest between the various groups which have a stake in a firm and which, either in isolation or in their interaction, determine how important decisions are taken in a firm, and ultimately also determine which decisions are taken". Investigation of corporate governance in a developing country such as India is important. Strong performance of the Stock Market has attracted local and foreign investors, which has resulted in increased interest in good corporate governance, providing improved access to sources of capital and resulting in the economic development of the country even in a volatile environment. Board structure can make a substantial contribution to corporate governance resulting in effective reporting practices through the concept and goal of sustainable development, which will increase the value of firms. Therefore this study will provide a new perspective in studying the relationship between corporate governance practices of board structure, corporate reporting and firm performance.

Keywords: Board Structure, Corporate Governance, Private Sector Units, Public Sector Units, and Stewardship

INTRODUCTION

Corporate governance considerably affects the increase potentialities of an economy. For this reason, a very good corporate governance exercise reduces the hazard for buyers, draws capital (home and foreign) and improves overall performance of companies. But, the business enterprise of corporate governance differs among countries, state and private owned relying on their financial, political and social contexts. Corporate governance not unusual dialogue is related to private sector entity simplest. But, we need to be aware of public sector as properly. Corporate governance (private sector) can research from public governance for brand new perception for improvement. Whether or not, the society has the notion that public governance is critical. Then, Conformance is to non-public sector and overall performance is to public sector (Mulyadi, Anwar Ikbal) argued. Corporate governance has turn out to be the significant schedule for both business leaders and regulators everywhere in the globe. Three vital ideas of corporate governance: openness, integrity and responsibility Cadbury, United Kingdom (1992). The 5 key operating principles which consist of: leadership, management environment, control, monitoring and responsibility Australian countrywide Audit office

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(ANAO) for state owned businesses. A question whether or not top corporate governance creates cost is not nicely-described in research. But, horrific corporate governance destroys price; the research solution within the affirmative. Indian corporate governance in imparting accurate investor safety is the first-rate version within the world as noted in (Dua and Dua, 2015).

REVIEW OF LITERATURE

Many researches have indicated that company governance may be measured thru the subsequent factors: (i) board size; (ii) presence of woman board members; (iii) duality of the CEO; (iv) education of board members; (v) board working enjoy; (vi) unbiased (out of doors) administrators; (vii) board repayment; (viii) board possession; and (ix) block holders. In addition, a company's overall performance is measured via the return on asset, called the ROA ratio.

(Mustapa, Ghazali and Mohamad, 2014) assesses the association between corporate governance and performance of agencies listed on Malaysia. Although there's no clean proof indicating that organizational ability is influencing corporate overall performance. Using organizational potential as an explanatory issue, this examine, that organizational mastering emerges as an vital aspect in influencing the overall performance of Malaysian companies. (Hong and Nguyen, 2014) carried out empirical studies for indexed corporations in Vietnam is to look at the connection among corporate governance and firm performance. listed corporations in Vietnam in the course of 5 years, from 2008 to 2012, the findings of this observe imply more than one consequences of company governance on company performance. First, duality role of the CEO is definitely correlated with company performance. 2nd, there may be a structural exchange in relation among managerial ownership and firm overall performance. 1/3, board independence has opposite influences on firm overall performance. Fourth, this examines but fails to provide an empirical proof help the statistically enormous dating among board size and company performance. (Priyanka Aggarwal, 2013) attempt to analyze the effect of company governance on company monetary performance in an Indian context, the use of a pattern of 20 corporations indexed on S&P CNX Nifty 50 Index. Discover that governance ratings have nice and vast effect on corporate financial overall performance. (Chibuike and Egwuonwu, 2010) look at the effectiveness of impartial administrators at making sure superior firm overall performance. The observe unearths the evidence aren't handiest blended, tradition-bound even as some studies, performed within the US, find no fantastic relationship among the presence of independence directors at the board and the overall performance of those firms, some others, performed inside the orient discover a positive relationship. It is argued that even though research evidence has now not conclusively fingered unbiased directors to have high-quality effects on company overall performance, they have a look at nevertheless believes in the conventional knowledge that they surely do affect corporate overall performance positively. (Morse, Nanda and Seru, 2009) We argue that powerful CEOs induce their forums to shift the burden

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on performance measures towards the higher performing measures, take advantage of advanced records and absence of transparency in repayment contracts. The usage of measures of CEO power and board independence on a large panel of companies inside the U.S., locate support for these predictions. furthermore, the part of incentive pay this is expected by way of strength is related to negative subsequent destiny inventory performance of the order of 0.8% and running performance of 7.5% in step with 12 months. Middle, Guay and Rusticus (2005) cautiously file that in the present day decade share returns of businesses with strong shareholder rights do not outperform those with vulnerable shareholder rights. Gompers, Ishii, and Metrick GIM's governance measure is an similarly-weighted index of 24 corporate governance provisions compiled with the aid of the Investor Responsibility Research Center (IRRC), including, poison pills, golden parachutes, classified boards, cumulative voting, and supermajority regulations to approve mergers. Bebchuk, Cohen and Ferrell (BCF, 2004) recognize that a number of these 24 provisions would possibly be counted extra than others and that a number of those provisions may be correlated. Gillan, Hartzell and Starks (2003) additionally use IRRC statistics to create four governance sub-indices: a board of director's index, a company charter provisions index, a state of incorporation index, and a composite index composed of the other three. They evaluate governance at the enterprise level relative to governance on the company level. Hermalin and Weisbach (1998), stock possession of board members (see Bhagat, Carey, and Elson (1999), and whether the Chairman and CEO positions are occupied by way of the same or two one-of-a-kind individuals (see Brickley, Coles, and Jarrell (1997)).

CORPORATE GOVERNANCE IN A DEVELOPING COUNTRY SUCH AS INDIA

There are numerous developments in company sector at national and worldwide level which indicates that an in depth observe is needed in corporate governance region. If we inspect history, there are several attempts made with the aid of authorities and numerous trade institutions for systematic development of corporate Governance.

- The first attempt made with the aid of Confederation of Indian Industries (CII), which came out with 'CII Code on company Governance' in 1997-98.
- the second attempt turned into by means of Securities and Exchange Board of India (SEBI) in 1999, which appointed Kumar Mangalam Birla Committee and upon its recommendation, SEBI integrated Clause 49 of listing settlement.
- In 2002 the department of Department of Company Affairs, authorities of India appointed a committee under chairmanship of Shri Naresh Chandra to study numerous corporate Governance problems.
- The fourth initiative on corporate governance in India is in the form of the recommendations of the Narayana Murthy committee. The committee was installation through SEBI, below the chairmanship of Mr. N. R. Narayana Murthy, to check Clause 49, and endorse measures to enhance corporate governance requirements.

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- Recently, in 2009, CII constituted a committee under the chairmanship of Shri Naresh Chandra to improve the corporate governance standards in India.
- In December 2009, the Ministry of Company Affairs (MCA) published a brand new set of "Corporate Governance Voluntary tips 2009", designed to encourage agencies to undertake better practices inside the strolling of boards and board committees, the appointment and rotation of external auditors, and creating a whistle blowing mechanism.
- Securities and Exchange Board of India has also integrated numerous corporate governance practices as part of listing settlement (Clause 49). Those points imply that there may be a want to have a look at the triumphing company practices in Indian context.
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STATE OWNERSHIP OF THE FIRMS:

The public sector units with social responsibilities to fulfill other than make profits also come under the scanner because they use the taxpayers' money for their operations. PSUs in India, often criticized of inefficiency and improper governance. Few structural problems which hinder the proper functioning of corporate governance in public sector units of India are their conflicting objectives, excessive government interference, lack of managerial and commercial autonomy and lack of truly independent directors. Indian public sector units should work on the hindrances' of corporate governance so that it could be removed and an accountable and transparent corporate governance structure can prevail (Chandrani Chattopadhyay, 2011).

ANALYSIS OF PUBLIC SECTOR ENTERPRISES WITH REGARD TO 'CORPORATE GOVERNANCE'

The year 2009 has been the 12 months of the public sector international all over. As international companies collapsed and reeled under the effect of the financial disaster, governments have assumed centre level and had been thrust into the position of actively governing tainted groups. In India too, the government played its part in pulling the beleaguered Satyam out of the stricken waters. Whilst India Inc. began its reforms adventure, doubts have been expressed about whether the public sector can remodel itself and compete. Now, years later, we're seeing a vibrant public sector that got here out with flying hues at some stage in the worst segment of the credit score crisis on several fronts starting from monetary overall performance, human capital control to sound risk management. Over the past 3 years, the marketplace capitalization of indexed PSUs has greater than doubled thereby signifying the achievement of the first wave of PSU disinvestment. By way of freeing the voluntary suggestions on corporate governance, the authorities have expressed a strong choice to improve the corporate governance requirements in corporate India. As the government's disinvestment approach gathers momentum, there's an actual need to improve the degrees of transparency, and accountability within PSUs. As a primary step toward

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reaching that, the corporate governance norms for Central Public Sector Enterprises (CPSEs) brought in 2007 have now been made obligatory for all unlisted PSUs. But, there remain issues round powerful implementation of these norms. Autonomy of PSUs, functioning of the PSU forums, failure on the part of many indexed PSUs (**Navratnas** and **Miniratnas**) to comply with Clause 49 of the SEBI listing settlement and the widespread differences that exist between the governance standards commonplace in PSUs are a number of the key troubles that need to be tackled.

Public corporations in contrast to some evolved markets like the US, United Kingdom and Canada, PSUs in India maintain to play an energetic function in commercial establishments.

Because the process of financial reforms initiated in 1991, PSUs have increasingly targeted on turning into efficient and worthwhile.

There are in all, near 250 critical Central Public Sector Enterprises (CPSEs) in India with approximately 70 percent of them being profitable. The PSU disinvestment has been a successful one – the forty-four indexed CPSEs contribute approximately 25 percent of the Bombay stock exchange's overall market capitalization of listed PSUs has doubled.

Perception of corporate governance within the public quarter: Is the general well-known of corporate governance in PSUs is best compared to the private sector. While listed PSUs are required to comply with Clause 49 of the SEBI, it's far now obligatory for all central Public sector businesses (CPSEs) to conform to the corporate governance. PSU CMDs expressed the view that non-executive directors had been making a sizable contribution to its functioning. The private sector has virtually scored in perception management over PSUs – i.e., in projecting the corporate governance practices they have voluntarily adopted in their quest for improved transparency and duty. PSUs and specifically the ones which can be unlisted should be transparently disclosing their corporate governance practices which have hitherto not been the case. Also, **Maharatna**, **Navratna** and **Miniratna** PSUs which can be indexed have to lead the way in imposing the MCA's voluntary suggestions on company governance.

5.1 Trusteeship as opposed to stewardship:

Is the government able to strike an effective stability between its trusteeship and stewardship duties? In its efforts to stability its trusteeship and stewardship obligations, the authorities has granted various tiers of autonomy to PSUs. PSUs in the utilization of autonomy granted is an area that warrants similarly introspection. Autonomy includes a mind-set alternate at the part of PSU senior executives and administrators. The tendency at the part of the executive ministries to interfere into the everyday functioning of PSUs has ended in PSU CEOs consulting the ministries on subjects that might not require. PSUs can work out the autonomy granted handiest for required nonexecutive directors on their boards. Delays in filling up vacancies in non-executive director positions, which once more is attributed to the authorities functioning, many PSU executives are not able to work out the autonomy granted. It's critical

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to de-link management autonomy from board composition. On factors which include executive/senior degree hires, executive compensation, performance control structures and approval of initiatives, PSU management and boards have to have a complete autonomy.

5.2 Functioning of the PSU boards:

Are PSU board structures appropriate and are PSU boards in reality focusing at the most essential issues? Due to the presence of a purposeful, government nominee and non-executive directors, a view has been expressed that the PSU board sizes are once in a while awkwardly and the various constituents works at cross purposes – every pursuing a distinct schedule. In figuring out the Board's priorities and focus areas, there may be a danger that ministerial diktats are probable to take priority over strategic and business concerns. Further, it can be tough for the CMD to steer the board agendas beyond a factor. The position of the non-government administrators on PSU forums is vital in the context of attaining corrective governance. CMDs should be actively consulted and engaged within the choice and appointment of the non-government administrators on PSU forums which does now not happen constantly enough. It’s miles critical to align board composition in PSUs to the strategic priorities and for this reason the position of the CMD in this manner is important. CMDs ought to implement thorough approaches for induction of non-executives into their boards and pro-actively involve the non-executive administrators in building the yearly board calendar and agendas. That is crucial to maximize the contribution of non-executive directors. The board as a unit must be with purposeful directors and the senior executives in defining the information architecture for the board. A mechanism for the evaluation of board’s functioning needed.

5.3 Compliance with the SEBI:

Several **Navratna** and **Miniratna** PSUs (which are listed) have been non-compliant with Clause 49 of the SEBI list agreement. Does this spike properly for corporate governance common? What are the underlying root reasons and what can be done to improve responsibility? At a time while the Ministry of corporate Affairs is putting extra emphasis on how corporate India implements the voluntary guidelines on company governance, it's far disconcerting to observe that the PSUs are falling behind in complying with minimal necessities envisaged in Clause 49. The important factor here is that the government ought to act unexpectedly and take corrective motion failing which incorrect signals may go out to
India Inc. on the seriousness of the authorities’ intentions in raising the general requirements of company governance. One way of managing non-compliance is to make unambiguous disclosures inside the director’s file and the company governance document and thereby maintain the PSU forums and managements responsible. The corporate governance norms for imperative Public sector establishments (CPSEs) launched in 2007 being made mandatory for plenty of PSUs which include unlisted PSUs is a great step; however the implementation wishes to be taken into consideration.

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5.4 Selection of non-government administrators on PSU boards:

Why has it been hard to refill vacancies in non-executive positions on PSU boards? Selection approaches ought to take cognizance of composition, domain/industry information, roles, responsibilities, schooling and compensation. Non-government directors on PSU boards are under-compensated in comparison to non-executives on non-public sector boards and this poses demanding situations in getting the proper composition on PSU boards. It's far consequently important to raise the compensation ranges of non-executives on PSU boards. It is important to widen the pool of non-government directors to be had to serve on PSU forums to encompass candidates from the private sector as properly. Presently, there's an inclination to look for candidates from within the public area. Whilst the Public Enterprises Selection Board (PESB) can continue to play a vital function in quick-list candidates and retaining a database of eligible candidates, the PSU boards and CMDs have to play a larger role in board succession planning. There are big gaps among the governance requirements widely wide-spread inside the large and extra profitable dis-invested PSUs as opposed to the smaller and now not so worthwhile ones. Practical administrators on the larger, profitable and higher performing PSUs must be allowed to count on non-executive director roles within the smaller and no longer so profitable PSUs so that you can promote better sharing of accurate practices. That is also vital if the huge gaps among the winning standards in central PSUs and important PSUs have to be bridged.

5.5 Government as "Promoter":

In listed PSUs in which the authorities have a control, is the government treating its minority shareholders fairly? Almost all agree that that is a difficulty of top-notch importance. As we enter a generation of increasing cooperation and Public private Partnerships (PPPs), the government's approach in dealing with minority shareholders and other stakeholders (personnel, partners, clients and groups) assumes notable importance. The company for economic Cooperation and development (OECD) states that "the authorities ought to develop and problem an ownership coverage that defines the overall goals of central PSUs ownership, the state's function in corporate governance of country-owned firms and how this policy is likely to be applied." The ownership policy must be actually disclosed and communicated. Whilst there are problems that have implications from a wider stakeholder or minority shareholders' perspective, they need to be deliberated through expert/professional board committees independently and intensively without changing the control's core obligations. Greater importantly, the committees have to deliberate on those troubles sufficiently earlier than opposed to straight away prior to the board assembly to avoid being hustled through. The learning and hints of the board committees must then be utilized by impartial administrators and the board to make extra knowledgeable and transparent decisions on applicable and related troubles in board conferences. Those indexed groups (each public zone and private) which have lively and properly knowledgeable audit committees tend to be extra transparent and demonstrate more desirable minority investor self belief.

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5.6 Audit and bills:

With regarding PSUs there may be a perception that during sure areas, drastically audit and debts, they are over-governed thanks to the oversight roles being performed through the Comptroller and Auditor preferred (CAG) and the vital Vigilance Committee (CVC). But recent CAG reports have listed numerous regions of deficiencies referring to accounting, audit and compliance topics. Where do the improvement levers lie? Appointment of statutory auditors of PSUs must be the duty of the PSU audit committees. The CAG's position must be to suggest corporations that could fit the bill primarily based on robust standards. As required by using Clause 49 of the SEBI list agreement, the audit committees of PSUs have to be worried in many components of the external and internal audit processes – appointment of the auditors, approval of audit plans, audit expenses and overall performance reviews. The audit committees ought to also interact in good sized personal sessions with auditors (both internal and external) at normal and periodic periods. Recent CAG reviews (in 2009) have indicted PSUs for deficiencies in financial reporting together with inside audit reviews and disclosures. Some of those deficiencies have raised questions with admire to the first-class of audits within PSUs. The audit committee of PSUs must have specific powers in tracking audit best and ensuring that audit prices are commensurate with the level of audit hazard and effort stages concerned in venture the PSU audits. As recommended inside the voluntary guidelines on corporate governance, PSUs should don't forget adopting a risk-based totally method to internal audits and supplementing in-house audit capabilities with external carrier providers in regions requiring expert competencies.

ANALYSIS OF PRIVATE SECTOR ENTERPRISES WITH REGARD TO 'CORPORATE GOVERNANCE'

6.1 Shareholders, stakeholders and corporate managers

The risk of weak corporate governance cannot be ignored by both investors and government (regulators). The problem is with implementation of framework due to bureaucracy and corruption (Dua and Dua, 2015).

6.2 Institutional and organizational mechanisms

Indian companies complying with the section 49 have failed in India for more focused on form than on content. The problems in India are very different from those found in the UK or US with respect to corporate governance. These countries concerned disciplining the management; India disciplining dominant shareholder and providing protection for minority shareholders interest. (Dua and Dua, 2015).

6.3 Stock Market and local and foreign investors

Indian market, compared to most emerging markets, has a mix of domestic and foreign investors. The promoters 'share and FIIs' holdings being most significant, the markets have greater faith in firms for promoter stake and the FII holding provide certification value. Institutional shareholders (Mutual funds, Insurance companies, etc) holds significant number

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of shares in Indian listed companies; they refrain exercising any influence over corporate decision-making. The more significant the global investor presences who value good governance, spreads the value of good governance across the broader community of investors and encourage regulatory mechanisms. The investors differentiate between companies based on good corporate governance. There by creating the scope for companies improving their corporate governance practices measures that they take, for an improvement in their market valuations.(Dua and Dua, 2015)

6.4 Board structure, corporate reporting and firm performance

Many research awareness on directors- age, experience and the tenure on the board as an indicator of independence. Another degree of board exceptional is the average wide variety of directorships held by means of the independent board members. The range of unbiased directors is taken as proxy for exact corporate governance however the researches show various consequences. A few studies observed market rewards for the appointment of independent directors while others observed no relation on company-stage overall performance. The evidence regarding board independence, audit and company value varies. The frequency of board meetings, board size, institutional possession and CEO-duality has an affirmative relationship with the performance measures. Maximum of the studies used accounting measures; however a few shifted to market-based measures. (Dua and Dua, 2015). Overall performance capability, fee, bureaucrats, unqualified and unsuitable humans as pinnacle management of PSUs influences their overall performance. Independent administrators hire having competence and knowledge of commercial enterprise as board members and also be unbiased of the government and the political parties in power. The authorities, the promoter of a PSU, must carefully display the performance of the organization and of its board of directors. Enforce, control and display via government officers, as contributors of the Board of directors and without impeding the independence and authority of different directors. (Chandrani Chattopadhyay, 2011)

STUDIES ON CORPORATE GOVERNANCE IN INDIA

Numerous research and surveys had been completed in recent years analyzing company governance in India. Effects are combined, some showing enhancing or sturdy compliance, others figuring out important gaps in governance structures and modalities requiring ongoing interest.

for instance, two surveys launched in may also 2009 and August 2009 by using, respectively, Bain & organisation and KPMG query the quantity to which forums for corporations in India apprehend corporate governance and the effect that this lack of awareness is having on the corporations' outlook for increase. Bain conducted its survey with the international marketplace evaluation of India and protected greater than a hundred interviews with administrators on the forums of forty four distinguished Indian organizations, throughout industries. Additionally they interviewed regulators, commentators, analysts, and organization secretaries. KPMG interviewed more than 90 individuals -- such as CEOs,

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CFOs, unbiased directors, and similar leaders -- among November 2008 and January 2009. The surveys advise that the forums of most massive businesses have little expertise of the enterprise of the corporations on whose forums the administrators sit down. Boards for Indian companies tend to have very confined or non-existent involvement in CEO and other pinnacle management successor making plans. Similarly, directors appear to have little interest in formulating company method.

“via no longer related to the board in shaping method, Indian companies leave out the possibility to fully use the treasured experience board contributors deliver to the table,” write the authors Vivek Gambir, Ashish Singh and Karan Singh of the Bain. “Globally, on the satisfactory managed companies, board individuals play a challenger’s position on approach — in contrast to on many Indian forums, where board contributors default to a passive listening role.” management in just a few businesses in India interact with board participants often to are seeking remarks on approach. Commonly, board participants are not advocated to question the management on numerous choices. Control is also responsible of failing to send out board agendas well ahead of meetings. within the KPMG survey, 22% of respondents felt that the board, and in particular independent directors, in no way receives the right records before the board meeting, nor do they get enough time to dedicate to the affairs of the board. “India Inc. has commonly been proactive in promulgating company governance regulations,” the KPMG record stated. “In doing so, a good balance has been accomplished i.e. headway has been made, in terms of helping make certain that policies are not stifling our entrepreneurial tasks. From a in basic terms regulatory perspective, India compares favorably with most other developing and Asian economies as some distance as its corporate governance rules are concerned.” A take a look at partly funded by means of the forum, by way of researchers N. Balasubramanian, Bernard S. Black, and Vikramaditya Khanna, that is primarily based on a 3-12 months survey of 370 listed groups in India, identifies areas in which Indian corporate governance is both sturdy and susceptible, and regions where regulation might usefully be either at ease or reinforced. The findings advocate that compliance with policies in all fairness right some of the companies surveyed, but there may be room for development. Higher company governance is associated with higher firm cost normally and for certain styles of corporations specifically. Sure aspects of corporate governance appear to remember more: disclosure and shareholder rights. “On the whole,” the researchers concluded, “Indian corporate governance rules appear suitable for larger corporations, but should use some strengthening within the vicinity of related birthday celebration transactions, and some rest for smaller companies. India’s legal requirements for board independence are sufficiently strict so that over-compliance does now not produce valuation profits.”

CONCLUSION

Public sector and private sector are two different entities with different responsibility. In relation to corporate governance, despite this difference, there are corporate governance

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principles applicable for both entities: accountability, transparency, etc. And from the statistical analysis, we found out that public sector corporate governance is essential to improve service quality.

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