
CORPORATE GOVERNANCE AND INTERNATIONAL BEST PRACTICES: THE CASE OF SATYAM

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Corporate Governance (CG) scandals saw the light of dawn in the UK in late 1980's and later, in the USA in the late 1990's (Martin, 2009). India too witnessed a corporate fiasco at Satyam Computer Services Limited (SCSL), a leading player in the IT and BPO industry. This paper, hence, highlights the role of efficient and ethical corporate governance practices, in safeguarding investors' interests. The paper is based on qualitative research and introduces the best practices of corporate governance in the UK, USA and India, under three criteria-Corporate governance and ownership functions; Accounting and Financial Reporting and Other Regulations. SCSL is used as a focal point to bring forth weaknesses of existing CG systems in India. Innovative CG principles have to be developed, by individual corporations, in India and other emerging economies, by national as well as International benchmarking of CG norms. The paper has implications for business managers and strategy developers as it offers implementable CG strategies.

INTRODUCTION

Corporate Governance (CG), all over the world, is aimed at making activities of corporations visible and honest, (Martin, 2009) and the practices around corporate governance are designed such that they facilitate consistent monitoring of “top manager’s strategic decisions” (Hitt et al, 2001). The ‘Institute for Corporate Governance’, Dubai describes CG as “the system by which business corporations are directed and controlled”. The institute also highlights that CG norms offer a guideline for responsibilities and rights, to all stakeholders, including Board of Directors, Shareholders, Business Managers and all stakeholders. This helps an organization in achieving the dual purpose of setting ethical goals and monitoring their implementation, on a regular basis(Smith, 2009). Clearly defined corporate governance policies help the organizations in identifying appropriate management institutions that shall govern the corporation (Nakano, 2007). This eases the execution of stringent practices within the organization and empowers various stakeholder groups for the

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purpose of whistle-blowing (the process of reporting fraudulent and unethical practices within a corporation). When CG practices are consistently adhered to, within a corporation, it leads to enhanced trust, of investors, in an organization, thereby leading to higher economic growth (Millstein, 2005), not only at the organizational level but also at the national level.

Corporate Governance has received special attention from all over the world after scandals at Enron Corporation (USA), Adelphia Communication Corporation (USA), The BCCI Bank (UK), Robert Maxwell Pension Funds (UK), the Harshad Mehta Share Scam(India) and Satyam Computer Services Limited(India). Furthermore, after the global financial meltdown (2007-2010) and turmoil at Lehman Brothers, Morgan Stanley, Goldman Sachs etc, it is evident that lack of stringent CG norms has had implications on economies as strong as US and UK. It hence, becomes essential to understand the importance of corporate governance because it offers, to corporations, a framework, which is established on ethical conduct, morals and values (Kumar, 2008). Countries like India and China, that are global attractions for future investments (Keffer, 2007), must guard themselves from any further fraudulent incidents so that foreign institutional investors and other global corporations see these economies as a safe zone to initiate their businesses. Organizations must learn from International players and implement correct and calculated CG initiatives, which would lead them towards a strong spot on the global map.

In the discussed backdrop, the aim of this papers is to highlight the Corporate Governance mandates (and their adherence) in many developed economies of the world, highlighting the position and compliance, of the developing economies, to the CG codes and practices. The paper futher propeses, recommendations to increase efficiency of the countries' regulatory oversight. This is achieved by taking into focus, the trail of incidents around the case of Satyam Computer Services Limited, that witnessed a scam amounting to USD 1.04 billion (Murthy, 2010), in the year 2008.

METHODOLOGY

The case study is based on secondary research and focuses on the CG practices of three countries. The practices currently used by developed countries, like USA and UK, have been studied with the objective to establish an understanding of the key areas that are imperative for a corporation's growth leading to social cohesion (Hitt et al, 2001). These include the measurement of CG norms on three broad criteria:- Corporate Governance and ownership functions, accounting and financial reporting and other regulations (Ghosh, 2009). These factors were also studied because literature review suggests that the World Bank, IMF and OECD require the Asian nations to address the shortcomings in CG (Sharma et al, 2008). Due to the pertinent vastness of the subject in consideration, only prominent practices followed by each country were highlighted with the aim of drawing out the best practices across the globe.

The case of CG failure at Satyam Computer Services Limited (SCSL) is evaluated because the company witnessed the execution of fraudulent practices, by Satyam's then chairman- Ramalinga Raju, for many years without getting noticed from national or international regulatory bodies. Before the scandal came on the forefront, Satyam had showcased the adoption of best practices related to governance and Ramalinga Raju was awarded the "Entrepreneur of the Year" in 2007 from Ernst and Young. In April 2008, Satyam got an award for excellence in "Corporate Governance and Accounting Practices". In September 2008, SCSL had also received "Golden Peacock" award from the World Council based in London for best practices in Corporate Governance which was withdrawn after Ramalingam Raju resigned and accepted falsification of accounts (Winkler, 2010). The paper, hence, highlights the fraud at SCSL and develops recommendations for Indian companies, by drawing from International best practices. The case further cautions Indian companies from treading in the footprints of SCSL by describing the magnitude of loss and the hardships around the corporation's resurrection.

FRAMEWORKS FOR CORPORATE GOVERNANCE

The execution of corporate governance is, historically, attached with the “holy trinity” of “shareholder rights, transparency and board accountability” along with long-term and short-term risk planning. The prime onus of implementing fair corporate governance practices lies on the board of directors, of a corporation. They are responsible for formulating transparent and honest board structures (where independent directors hold authority); deciding fair executive remunerations and also ensuring extensive reporting of financial and non-financial activities, to the shareholders. However, these CG frameworks differ significantly in different countries and jurisdictions. This ranges from a policy towards high compulsion for CG (as in the case of USA), to a “comply or explain” scenario (like in the UK) and finally to regions where the CG implementation is in its nascent stages (like in India and other South Asian economies) (Calder, 2008). Corporate Governance is considered essential for creating a globally secure investment environment, for the listed companies. To enable the same, most countries recommend, to their corporations, codes for corporate governance that “offer firms and other stakeholders a set of flexible principles that represent the best practices and, hence, help to mitigate opportunism and enhance business performance” (Vermeulen, 2006).

This approach, however, is sometimes debated keeping in mind the globalization of trade and financial activities. The Organization for Economic Co-operation and Development (OECD) and the World Bank, together, have been pioneers in suggesting an internationally acceptable Corporate Governance Code. However, they realized that innovating newer corporate governance practices, which optimize the resources and economic environment of a country, is important for “promoting citizen welfare” and the overall growth of corporations. It is hence, recommended that various economies and corporate entities must carve their own CG strategies such that they work around the existing market forces and stimulate flexible, continuously improving CG norms. Enabling this involves a zest towards developing newer corporate governance practices that evolve after examining competition’s

adherence to the same (Clarke, 2007). In other words OECD as well as the World Bank recommend, to 25 OECD member countries as well as other non-member countries, that they must benchmark best practices nationally as well as Internationally and develop a desirable CG framework for their corporations.

Table 1 highlights the key areas, as suggested by various iterations of the 'OECD principles of corporate governance (Clarke, 2007), under the three broad heads as identified by Ghosh (2009).

Table 1: Corporate Governance criteria and frameworks

Corporate Governance Criteria (Ghosh, 2009)	OECD Principles of CG(1999-2004)
CG and Ownership Functions	<ul style="list-style-type: none"> • CG framework must facilitate and enhance the execution of the rights of shareholders • Majority shareholders, foreign shareholders and especially the minority shareholders, must be treated equally • Recognize the rights of all stakeholders as recognized by the law or through mutual agreement • CG framework must promote co-operation between stakeholders and corporations for creating jobs and wealth • CG framework must promote and strengthen the monitoring of the management, by the board.
Accounting and Financial Reporting	<ul style="list-style-type: none"> • CG Frameworks must ascertain transparent, accurate and timely disclosure of corporation's financial matters, governance, performance and ownership • Deal with "conflict of interest through enhanced disclosure and transparency" • Auditors' duties as well as independence must be strengthened to ensure "accountability to the shareholders" and they must ensure stringent auditing practices while they are associated with the organization
Other Regulations	<ul style="list-style-type: none"> • CG practices must adhere to the prevalent law and define the responsibilities of regulatory and supervisory authorities • Shareholders must have the power to rectify any violation of their rights • CG framework must ensure that the advice of ,analysts and rating agencies,is given attention and not compromised

Source: Ghosh (2009); Clarke (2007)

In this light, the paper offers a comparison of Indian CG practices with global best practices and offers recommendations to Indian corporations.

CORPORATE GOVERNANCE AND INTERNATIONAL BENCHMARKING

Evolution and consistent refinement of Corporate Governance practices has been observed largely in developed countries and the emerging

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economies are treading the same path. However, CG norms in various developed countries also differ from each other. Key developed economies, that are quoted as examples for fine corporate governance innovations within organizations, include Germany(known for its "two-tier management" and "worker co-determination"), Japan(known for its " family-like position of the worker in the enterprise"), USA and UK(both are known for promoting "shareholder-oriented-model" of CG) (Ertuna and Ertuna, 2009).

A study of corporate governance practices, across the globe, reveals that most countries follow their own model for CG. However, in the backdrop of globalization, the need for a model that amalgamates best practices from various economies and addresses the challenges faced by developing economies has been identified. On the other hand many researchers argue that "one-size-fits-all" policy would never prove fruitful in effective execution of CG within companies (Ertuna and Ertuna 2009; Clarke, 2007).

Corporate Governance in USA

In the US, Sarbanes- Oxley Act 2002, gives the corporations, guidelines on important issues like see-through financial reporting, efficient internal controls and Corporate Governance. Table 2 highlights the adherence and best practices of corporate governance amongst US corporations. An integrated view of the same is as under:

Corporate Governance and ownership functions

The Institutional investors in the US and North America, clearly describe that transparent corporate governance is based on effective boards, strong rights of the shareholders and the disclosures being crystal clear (McKinsey & Co, 2002). The nomination of a shareholder in the Board of Directors is based on his huge holdings (Gedajlovic and Shapiro, 1998). Simultaneously, US firms have to make some mandatory disclosures and some voluntary disclosures regarding corporate governance. The information which is disclosed less frequently, is the rights of investors (Holder- Webb et al., 2008).

Accounting and Financial Reporting

Public Company Accounting Oversight Board has been established, in the US which monitors annually, the standards and procedures of auditing of public companies falling under securities law. The board aims at guarding investors' and well as public interest. The board checks the audit work papers of last 7 years and also verifies the auditor's extent of checking internal systems of control. Further the board identifies the firm's adherence to standards of quality control while issuance of audit papers. The firm stands a risk of getting their registration suspended, in case of non-cooperation with the investigations(USA, 2002). Quarterly and annual financial reports have to include disclosures of "all material off-balance sheet transactions" and other provisions or commitments that might have an impact on the firm's financial condition (USA, 2002).

Other regulations

Falsification, modification, or obliteration of documents and substantial objects, with the intention of manipulating or postponing any investigation can lead the concerned person to imprisonment of a 20 year term and/ or a fine (USA, 2002). The Sarbanes Oxley Act also has some innovative mechanisms to check the fraudulent actions of corporations and these are:

- o dividing complex investigations into more controllable and handy sections which are easy to investigate and can be conveniently comprehended by various investigators, prosecutors and juries.
- o prosecuting the ones who facilitate a fraud or do not share key information (Wray, 2005).

Whistle-Blowing is promoted by SOX, 2002 and employees are encouraged to file a complaint against any fraud or wrong practice, anonymously.

Corporate Governance in UK

UK is guided by the Turnbull Combined Code and Companies Act

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2006, for its Corporate Governance framework. Even though the European Commission in 2003, published a communication COM-284 that highlighted areas that are essential for CG enhancement in the EU, many countries of the EU still differ in the corporate governance environment that they operate in (Hermes et al, 2006). Table 2 highlights the key practices in UK, across three criteria. The key requirements and suggestion from the Combined Code are:

Corporate Governance and Ownership Functions

Corporate Governance disclosures follow a "Comply or explain" policy in UK. The responsibility of the Directors and Non-Executive Directors is such that the organization remains free of any possible group formations between individuals of authority and power (Martin, 2009). Role of the CEO and the Chairman is split, as the Combined Code, 2003 believes that there would be ineffective monitoring if the roles are combined. The role of institution investors like Pension Funds, Mutual Funds, Banks, Life Insurance Companies (Joshi, 2004), is significant and they are vigilant about firm's non-adherence towards CG norms but the shareholders are rather passive. If the shareholder has a huge holding only then his nomination in the BOD would be considered (Gedajlovic and Shapiro, 1998).

Accounting and Financial Reporting

COM-284 states that, in the annual reports, firms must have transparent disclosure and include information on key powers of shareholders, shareholders with major holdings, board's composition, company's investment policy, the national CG code and the companies' compliance to the same and an explanation for any departure from it(Hermes et al, 2006). The BOD appoints an Audit Committee (somewhat similar to the Public Company Accounting Oversight Board in USA) that reviews and recommends on company's internal financial controls. (Martin, 2009).

Other Regulations

'Whistleblowing' is promoted by the combined Code, 2003 to facilitate early detection of a transgression. It is also important that UK's corporations ensure that remunerations paid to identified directors are disclosed in the annual report (Martin, 2009).

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Table 2: Corporate Governance and International Benchmarking

Corporate Governance Criteria	USA	UK	India
Corporate Governance Code	Sarbanes-Oxley Act 2002	Turnbull Combined Code and Companies Act 2006	Corporate Governance Code by SEBI and the Voluntary Code by CII
Framework for CG	Based on High compulsion for implementation. Also called "Comply or Die". The CG environment is "Rule-Based"	Follows "comply or explain" policy. The CG environment is more voluntary in nature.	Not mandatory and in a nascent stage
<u>CG and Ownership Functions</u>	<ul style="list-style-type: none"> In around 75% companies CEO and Chairman are the same person, making the CEO more powerful than the Board Structure of board is "Single-tier" and the members are ,in majority, "outside directors" CEO's and directors work in collaboration towards economic gains. This relationship is fostered by trust and a history of honest CEO's. Institutional Investors take a strong role in reprimanding any non-adherence to CG 	<ul style="list-style-type: none"> CG norms demarcate responsibilities of Directors and Independent directors/ CEO and Chairman thereby discouraging possible group formation Role of CEO and Chairman are split Structure of the board is "Unitary" and does not have a parallel supervisory board along with management board Role of institutional investors is rather strict 	<ul style="list-style-type: none"> Protection of shareholders' rights observed Structure of the Board is Unitary and the BOD is responsible for ensuring management's transparent practices The firm's promoters are in complete control and Lack of equitable treatment to minority and majority shareholders Role of Institutional Investors is rather "irresponsible" and CG is not strengthened by capital market.
Accounting and Financial Reporting	<ul style="list-style-type: none"> Public Company Accounting Oversight Board, oversees the listed companies' audit to protect shareholders' interest Timely disclosures highlighting financial information pertaining to business, compensations and any other transactions is done A "Public Accountancy Firm" auditing a company is allowed to retain this position only for 5 years. 	<ul style="list-style-type: none"> The internal financial controls of the company are monitored by an Audit Committee which is appointed by the BOD Adherence to timely financial disclosures and the onus of the authenticity of financial statements lies on BOD Auditors of a company are rotated every 5 years , like in the USA 	<ul style="list-style-type: none"> Role of remuneration committee in most" family owned businesses and controlled firms", is limited . No separate "remuneration Committee" for deciding Board's pay scales. Timely and transparent disclosures are only done by many companies now. Auditing standards are largely effective however not as excellent as in Jordan or Malaysia Auditors are Black Listed by the Reserve Bank of India if they do not comply to the rotation policy instructing that auditors of a company must change every few years
Other Regulations	<ul style="list-style-type: none"> Increasing attention towards the formation of compensation committee thereby reducing the chances of CEO's "opportunism". Reporting risks, reputation risks, strategic risks, fraud risks and environmental risks are addressed. Companies evaluate risk in the order of their likelihood of occurrence and impact Whistle-blowing is promoted 	<ul style="list-style-type: none"> Majority of companies have remuneration committees to oversee the pay-setting of top personnel. Reporting of risk management is adhered to, by 85% UK companies and these match the requirements of risk management, as stated in the code Whistle-blowing is promoted 	<ul style="list-style-type: none"> Stakeholders have access to information relating to CG "Corporate Rescue Regime" has been initiated by the new company law, that prescribes the Director to draw an action plan when sensing a "Liquidity Crunch". The compliance to the same is not prominent. Whistle Blowing is not practiced right now but is being given extreme importance by SEBI now

Source: McGee(2009); Joshi(2004); Mallin(2007); Das(2009); Conyon and Kuchinskas(2006); Parthasarthy(2007); Jeffery(2008); Hermes et. al(2006); Conyon and Peck(2007); Lee(2006); Fernando(2010); KPMG(2009).

CORPORATE GOVERNANCE IN INDIA

In India, the interest in CG started from the 1990s. Currently, CII (Confederation of Indian Industry), which is India's largest Industry association, has documented that good CG is crucial in enabling companies and firms towards raising capital and fostering trust. CII has set out a voluntary code which identifies the need for the firms to offer to the publics, greater disclosures and better shareholder value. The code further provides detailed disclosure requirements and most listed companies have adopted it today. SEBI (Securities and Exchange Board of India) has also released a Corporate Governance code which guides companies towards achieving higher reputation and goodwill (Kimber and Lipton, 2005).

Role of Securities and Exchange Board of India

Harshad Mehta stock market scam in the year 1992 and other incidents, where companies were allocating shares to their promoters at heavy discounts, lead to the foundation of "Securities and Exchange Board of India" (SEBI) in year 1992. The overall aim of SEBI is to regulate the stock markets and protect the privileges and safety of the Investors (Goswami, 2002). SEBI has played an important role in placing the systems and conduct for corporate in India. Businesses are required to provide all the relevant information relating to compliance as well as non compliance, of any mandatory requirement of CG code, in separate section of their annual reports under the nomenclature 'Corporate Governance'. SEBI has equivalent powers to that of a Civil Court and can inspect journals, registers and other related credentials if required (Fernando, 2010).

The first notable initiative towards offering a Corporate Governance Code in India was taken by Confederation of Indian Industries (CII's) corporate governance committee with the main objectives of its acceptance in private, public and financial organizations. This was in keeping with the mergers and collaborations between various Indian and International companies, which fostered the need for transparent Governance practices. The code has a list of recommendations for Board of Directors, highlighting the importance of relevant disclosure of financial and non financial information, capital market issues, creditor's rights and the names of nominee directors for the public listed companies

(CII, 1998). After CII code on Corporate Governance was well established in Indian Companies, the Security and Exchange Bureau of India (SEBI) had appointed the Kumar Mangalam Birla committee to review and suggest changes in Code of Corporate Governance. Another review in year 2002, was done by the Naresh Chandra committee appointed by the Ministry of Finance and Company Affairs. The committee suggested changes in the area of financial and non financial disclosures and Independent Auditing. In 2005-06, the Narayana Murthy committee was set up by SEBI to review Clause 49 of the Listing Agreement of the Stock Exchange and it proposed actions to improve corporate governance principles around risk management, auditing standards, compensation of directors and auditing standards. Clause 49 of the stock exchange principles highlight the fact that Indian corporate entities and organizations recognize the OECD principles and confirm its disclosures and governance practices. (National Foundation for Corporate Governance, 2004).

Challenges in implementation of Corporate Governance principles in India

The major distinction between the lawful structure and CG principles in developed countries like USA and emergent countries like India lies in the enforcement rather than quality of rules in books. (Berglof and Classens, 2004 cited in Chakrabarty, 2005). It has been observed that many Indian companies are family owned businesses and have a majority of family controlled promoters (Topalova, 2004). This leads to minimal representation of independent directors and lack of transparency in decision making. Further, family succession emerges out to be another issue as against the ideal situation where control must pass down to the competent manager (Piramal, 1998).

The other challenge in Indian Corporate Governance is the disagreement between majority and minority shareholders unlike in USA where conflict is between management and owner. In public sector units, the government is the major investor and general public is in minority. In case of MNC's the foreign parent is dominant and in cases of Indian groups, the promoters are the dominant shareholders (Varma, 1997). In all such cases it becomes difficult, for the regulating body, to protect minority groups from the abuses of dominant shareholders.

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Bertrand et al (2002) confirmed the extent of “tunneling” of funds, in the management and promoters, hence depriving the minority shareholders at lower level.

The Report from World Bank, on the observance of ‘Rights and Codes’, identified that India could perform better in the area of contribution from nominee directors to monitor and supervise the CG practices. Improvements can also be done in the enforcement of laws and regulations (World Bank, 2004) A similar study done by KPMG (2009) highlighted major corporate governance concerns as:

- Weak monitoring system and management override
- Lesser powers with independent directors.
- Non- equitable treatment of majority-minority shareholders.
- Much improvement is required in the skill set of the Audit Committee
- Need to enhance integrity with more policies similar to code of conduct and whistle blowing.
- Rating agencies to develop more effective criteria’s.
- Compensation of directors should be linked to performance.
- More transparency in terms of disclosing financial and non financial performance.

CG in India: Implementation and Realities

Corporate Governance in India has various loopholes as discussed in Table 2. It is also evident from the table that initiatives are being taken by various committees, to set up CG codes and document recommended best practices. The integrated discussion of CG recommendations and adherence in India, is discussed below.

Corporate Governance and Ownership Functions

The board structure in Indian firms is unitary and the board is accountable to the shareholders. It gives the company strategic guidance and is vigilant of the activities of the management. The Board of Directors for companies in private sector have a mix of non-executive and executive members. The same non-executives are repetitively elected for each consecutive year and the firm’s promoters are in complete control. They decide who should or should not be elected. The Public sector units are primarily dependent on government policies.

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The set up is rather bureaucratic and the governance is controlled by administrative ministry and some concerned ministries (Sharma, 2009).

Accounting and Financial Reporting

Annual reports of all companies have to be sent to shareholders, stock exchanges, DCA (Department of Company Affairs) and ROC (Registrar of Companies). The content of the annual report is monitored by law and the quality of financial disclosure is judged by DCA, SEBI and ICAI (Institute of Chartered Accountants of India) (World Bank, 2004).

Other Regulations

In India, non-compliance towards CG practices, if observed by any director or manager, has to be revealed to the Chairman, BOD or the audit Committee (CII, 1998). Insider trading and self dealing of abusive nature is prohibited by the CG code and is regulated by the Prohibition of Insider Trading regulation 1992. An insider here is described as anyone possessing information which is price sensitive (cited in World Bank, 2004).

The remuneration, in private sector is supposed to be jointly decided by the BOD, Remuneration Committees and MD/ promoters of the company (Sharma, 2009).

HISTORY OF SATYAM COMPUTER SERVICES LIMITED

Satyam Computer Services Ltd (SCS), one of India's biggest IT services firm, founded by Ramalinga Raju in 1987, was a leading IT organization offering a wide-range of Information Technology related services. It had outstanding field competencies in Automotive, Banking & Financial Service, Insurance & Healthcare, Manufacturing, Telecom, Infrastructure, Media-Entertainment and Semiconductors (Lam, 2009). Headquartered in Hyderabad, it had , in the year 2008, over 40,000 IT professionals working in development centers across India and other major places like USA, UK, UAE, Canada, Hungary, Singapore, Malaysia, China, Japan and Australia. It had operations in over sixty countries spanning six continents. During its peak, SCS had over 650 global companies, 185 of which were Fortune 500 corporations (Ahmed et al 2009), (Atesci et al, 2010).

Satyam's inflated accounting

The first snap in the company's name happened when World Bank barred Satyam's contract and issued an eight year ban from installing Spy Systems in World Bank (EconomicTimes, 2008)^A

The aborted acquisition deal of Maytas Properties and Maytas Infra (companies related to Family) was one of the attempts by Mr. Raju to hide the creation of fictitious assets in the Balance sheet. "It was like riding a tiger, not knowing how to get off without being eaten". He was forced to withdraw the deal as it faced huge criticism by analysts and shareholders and ultimately caused suspicion to its investors (Suyampirakasam,2010). After these incidents, Satyam's share price closed at Rs 135.50 on Friday December 26, having dropped by 17% over the past week (Economic Times, 2008)^B. All these turbulences made Mr. R. Raju resign on January 7, 2009 and he admitted his manipulation in accounting for number of years. Mr. Raju mentioned that the manipulated figures grew year by year to validate higher point of operations. In a letter to Satyam's board of directors, Mr. Ramalingam Raju listed major inflated financial facts to blow up the profits. In the resignation letter of Mr. Raju, he mentions:

"The balance sheet carries as of September 30, 2008, inflated (non existent) cash and bank balances of Rs. 5040 crore (as against Rs. 5361 crore reflected on the Books). An accrued interest of Rs. 376 crore which is non existent. An understated liability of Rs. 1,230 crore on account of funds arranged by me. An over stated debtors position of Rs. 490 crores (as against Rs. 2651 reflected in the books). For the September quarter, a reported revenue of Rs. 2,700 crore and an operating margin of Rs. 649 crore (24% of revenues) as against the actual revenues of Rs., 2,112 crore and actual operating margin of Rs. 61 crores (3% of revenues). This resulted in artificial cash and bank balances going up by Rs. 588 crore in Q2 alone" (Financial Express, 2009, BBC News, 2009).

Corporate Governance failure at Satyam

Corporate Governance and Ownership Functions

An independent director, according to former Securities and Exchange Board of India (SEBI)'s chairman M. Damodaran, "must be competent, knowledgeable and bring fresh perspective and business acumen" (Iyer, 2009). There are no clear requirements for selection and appointment of

independent directors in the present act. The appointment of independent directors in case of listed companies is governed by the SEBI, but the process is controlled by management and promoters (Tarjanarai 2010) As long as they are appointed by promoters, the idea of Independent Directors is a myth. Even big names like Krishna Palepu (Harvard Professor and Corporate Governance expert), Vinod Dham (Co inventor of Pentium Processor) and Rommohan Rao (Dean of Indian School of Business), who were prominent figures of Satyam Board did not guarantee ethical Corporate Governance practices (Joseph and Staney, 2008). Four of the independent directors including the above mentioned names, resigned after questions were raised against board on ineffectively monitoring Satyam's strategic decisions related to purchase of real estate companies(in which Raju's family owned a huge stake) (Joseph, et al 2008). Further, Board of Directors did not raise any suspicion when Raju had decreased his holdings from 15.67% in 2005 to 2.3% in 2009 which could have been one of the reasons for the revelation of the fraud (Mehra, 2009). This situation also highlights the fact that in India, family owned businesses present exceptional situations where Independent Directors often overlook the practices and interests of the organization and get dominated by the interests of family group.

Accounting and Financial Reporting

PricewaterhouseCoopers, one of the largest auditing firms missed or ignored \$1.04 billion fraud that Satyam claimed to have in its balance sheet (Murthy, 2010). This excess amount of cash without being used in any investment should have been a concern for the auditors and should have raised an alarm for further verifications. It is confirmed by many accounting professionals that companies or their management, who keep enormous cash funds, have suspect strategies. Keeping excessive cash reserves destroys the fund value (Basu, 2003). PWC was unable to identify the legitimacy of these non existent reserves.

It was alarming that the fee paid by Satyam, to its auditors, was twice of what other firms, like Wipro, TCS and other large IT companies were paying (Gopalan and Mishra, 2009). It was speculated that during the audit, some of the figures might have been customized and auditors were involved with the Company in committing the scam. The auditors' credibility was under the scanner further more, when Merrill Lynch exposed the fraud in few days, which PWC could not identify for years.

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Other Regulations

Insider Trading

The Satyam scam probes Insider Trading where sources reveal that high ranking executives including top management officials had sold Satyam' shares before Satyam made its headlines (IBN Live, 2009^A). More than 2 crore shares were traded by investors indicating that they had an absolute idea that Satyam will be facing financial crisis in the coming weeks. Besides the top management officials, 16 vice presidents were reported to have sold their shares. This questions the ethical corporate governance practices in India (Suyampirakasam, 2010).

Regulators and Credit Rating Agencies

There was no immediate probe or action taken by SEBI, regarding the World Bank declaring Satyam ineligible to receive any direct contracts for eight years. The reasons stated by the World Bank, for their decision were the following:

- improper benefits to staff
- improper documentation and malicious attacks on Bank's information system.

The reasons were quite indicative of the allegations of poor corporate governance (Ribeiro, 2008).

Post the scandal, the Insurance Regulatory Development Authority, IRDA's chairman Mr J. Harinarayan, raised a finger on the authenticity of the rating agencies and questioned the reason to have the audited balance sheet as the only criteria for corporates. It is evident that there has to be a diligent processes to toughen methodologies and standards of quality/transparency assurance as rating agencies gave Satyam Computer a Triple A (AAA) rating (Economic Times, 2009). Ratings need to be, hence, evaluated more deeply and apart from the balance sheet other parameters like market information, external auditors etc. should also be considered.

Resurrection of Satyam Computer Services Limited

To stabilize the crisis ridden Satyam, the government nominated noted banker Deepak Parekh, IT expert, Kiran Karnik and former SEBI member C Achutan, to the IT Company's Board. The decision was to provide support to the current management team and its leadership (Hindustan Times, 2009).

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The final act of the Satyam story played out when the government-appointed board of directors decided to take on board ,Venturbay Consultants Private Ltd., a subsidiary controlled by Tech Mahindra, as the highest bidder to acquire a controlling stake in the IT services company. Tech Mahindra and Satyam entered into an agreement whereby Tech Mahindra offered 30.28 crore shares of Satyam, representing 31 per cent of its share capital, at INR 58 per share (Subbu, 2009). KPMG and Deloitte & Touche Tohmatsu have been jointly appointed as the auditing firms for Satyam Computer Services Limited and PWC has been removed from the auditors list (IBN Live,2009^B).

Hence Satyam case presents a collective failure of all systems related to corporate governance. Everybody right from independent directors, auditors, regulators, banks, rating agencies have contributed their bit in this failure. It is possible to minimize such frauds only by adapting suitable and transparent measures. Indian firms must also refer to corporate governance policies of developed economies, as these too, have been faced by similar corporate governance scandals.

IMPLICATIONS FOR INDIAN CORPORATIONS

Indian corporations and Indian business managers must ensure that active participation of the shareholders gets encouraged. They must ascertain the compliance to CG and a reasonable way to achieve this is through institutional investors (who may have a member on the Board of Directors of the firm). Such institutional investors must ensure that top management does not blindly over-invest in diversification as it might lead to acquiring projects that foretell poor returns thereby focusing on mere growth in size, not growth in corporation's profits. The intent must not be to discourage diversification (since diversification is a key towards economic growth of the country) but to ensure the development of economies of scale and scope. CEO's must ensure that the proposed diversification reduces the risk of a firm's total failure and leads to value generation (Hitt et al, 2001). The culture within corporations must encourage all employees towards getting involved with the company's progress. Not just the top management but everyone in the hierarchy must have an understanding of the firm's objectives and must pitch in to achieve the same. Offering stock options to employees is a means of enhancing their involvement with the firm and its CG practices. The aim of CEOs, BODs and top managers must be to introduce newer, clearer and more targeted reporting formats like "corporate investors relation website" (Parthasarthy, 2007) so that the focus is not just on transparent disclosures but also on how they are being done. Indian corporations must aim at applying

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what the US has implemented in the form of Statements on Auditing standards 104-111. The document is prepared such that it includes the identification and assessment of the risks that are the greatest threat to the corporate entity. Documentation can be in the form of a process flowchart, descriptive sheet, or a pointer chart identifying the processes that are checked through 'primary' as well as 'key' controls (Jeffery, 2008). Indian corporations, in the light of the SCSL's fraud, must ensure that remuneration of top management is just. Learning from UK's CG practice has to be drawn and Indian corporations must also consider the formation of a committee of non-executives (independent directors) who take decisions on remuneration policies.

The aim of all corporations must be to run businesses that are high on moral standards and everyone in the hierarchy of leadership must ensure conscientious conduct.

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