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CORPORATE GOVERNANCE- A TOOL FOR SUSTAINABLE BUSINESS SUCCESS

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ABSTRACT

Corporate Governance is the component that leads an organization to its success or failure. It has a critical nature that influences the working of the company in different fields, which includes making proper decisions, managing risks, controlling finance, etc. It relates to the method in which a corporation is supervised- the tactics on firms got channeled and, adjured. It means functioning establishments on the stakeholders' desire. In fact, it is done by 'board of directors' and, relevant 'committees' for benefit of 'company's stakeholders. Transparency, which is key element of corporate governance is hence being ensured, which in turn ensures very stable and fair economic advancement. It also prioritizes the well-being of the stakeholders. The primary aim of a sound corporate governance is the financial growth and organizational success. Effective corporate- governance upholds investor's trust. Company's capital can hence be raised proficiently and resourcefully. Capital cost will be lowered. It gives supportive involvement on price per share. It delivers conventional influence to both the owners as well as managers. Wastages, corruption risks and mismanagement will be minimized. Brand formation and development is warranted. It promises the best interests of all.

The study is conducted on the relationship between the organizational performance and the Capital Governance to check whether the proper Capital Governance can lead to sustainable growth of the organization. The major indications of the study are-

- The research explores the importance of 'corporate governance'.
- The 'roles and responsibilities of stakeholders and the directors.

Keywords: Long-term strategy, Sustainability, Capital-management, Board-composition, Accountability.

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I. DEFINITION- WHAT IS CORPORATE GOVERNANCE?

A systematic framework of principles, processes, policies and practices is highly necessary for the proper management and control of a company. This framework is essential for setting, monitoring and achieving the objectives of a company. This framework is called by the name 'Corporate Governance'. Hence "Corporate Governance can be defined as the system of rules, practices and processes by which a company is directed and controlled. It is a definition suggested by the Charted Institute of Corporate Governance".[2]

"According to Bhagat, & Bolton, (2019), Corporate governance as the set of laws, procedures and processes that guide and manage a company".[3]

"Corporate Governance as a collection of rules, controls, laws, and, decisions placed in place to govern organizational conduct".[4] Despite the fact that proxy advisors and owners are considered as identifiable stake holders, we cannot consider them as role-models of governance. The decisions of board of directors have enormous effect on company.

2. INTRODUCTION

Corporate governance points on the seats of power, accountability, decision making etc. in a company. It reveals the purpose for which a company is organized and the means through which it can be achieved. It can be described as a tool kit that is formulated for the proper maintenance of a company.

As a dominating concept in the present era, corporate governance has multiple meanings. It is the principle on which the procedure and corporate devices are completely relied upon.

According to 'the Cadbury Committee on Cadbury Report (1992)' "a corporation is directed and regulated to attain a balance between the power of the authority, their accountability to the stakeholders and influence on corporate governance". Its perception shape with the series recurring of fraud and financial misuse in the economies of the highly structured countries such as Italy, the UK and the USA.[5]

Despite the existence of corporate governance principles for centuries, it is stated for first time in 70s, in the USA. It was followed by a Watergate scandal. Through felonious endowment of political parties in the USA, many American private organizations are tangled in politics. Authorities paid more attention to the inner workings of large corporations, particularly in response to a series of financial scandals. A detailed corporate governance code was introduced by the United Kingdom in the early 1990s. It then has been adapted and adopted globally by many other countries including India.[6]

"The smooth working of a company will face a dilemma at the point where retention and management split.". It is from the ownership that the stewarding hold of the company is derived. An owner is deemed to channel a company only based on the capital and assets. Hence, he or she will be forced to assign an organizational team who has a professional background to administer the

2. The Chartered Governance Institute UK & Ireland, http://www.cgi.org.uk (last visited Nov. 24, 2024).
3. Valeria Naciti et al., Corporate Governance and Sustainability: A Review of the Existing Literature, J. Mgmt. & Governance 1, 1–20 (2022).
4. Bambang Tjahjadi et al., Good Corporate Governance and Corporate Sustainability Performance in Indonesia: A Triple Bottom Line Approach, 7 Heliyon (2021).
5. A. Cadbury, *Report of the Committee on the Financial Aspects of Corporate Governance* (ICAEW 1992), available at http://www.icaew.com (last visited Aug. 28, 2024).
6. Ani Matei & Ciprian Drumasu, Corporate governance and public sector entities 4th World Conference on Business, Economics and Management, WCBEM, Corporate Governance and public sector entities (2015), https://core.ac.uk/download/pdf/82380153.pdf (last visited Aug 28, 2024).

investment. An agency problem will be created due to the fractionalization of the authority between the owner and the administration team.[7]

The organizational team will have a leading position to operate and run the company daily. There are chances for them to act beyond and to make irrelevant decisions by forgetting the final aim of maximizing stakeholders' value. This problem will be unraveled by the presence of Corporate Governance deportments.

One splashy paradigm of the necessity of Corporate Governance is the Volkswagen Scandal case in September 2015.[8] The Environment Protection Agency announced in September 2015 that the leading Motor vehicle company had installed unlawful software into their diesel vehicles. The manipulation of the engine emission equipment was done by the automaker willfully, knowingly and routinely. They have done it voluntarily to pimp emission study reports in America and Europe. This case emphasizes the necessity of including stakeholders in the administrator wing to pilot the management.

2.1. CORPORATE GOVERNANCE- A CORNERSTONE OF BUSINESS SUCCESS

A transparent and trustworthy relationship should prevail between any 'company's management, its board of directors, its shareholders, its stakeholders etc'. The process of decision-making should be done within the company. To make a good decision which satisfies the needs and wants of the company, the complete understanding and co-operation of all the members is highly required. Hence it is necessary to have a transparent and accountable framework to get the company managed properly and the activities of the company should be overseen to make certain that the management priorities the best interest of the 'shareholders' by complying with ethical and legal standards.[9]

Corporate Governance Best Practices

1. Clearly defined roles and responsibilities
2. Independent board members
3. Regular board evaluations
4. Effective risk management
5. Transparent and timely communication
6. Ethical conduct and corporate culture
7. Shareholder engagement

Source- -An overview of corporate governance- www.fastercapital.com

7. Jill Solomon & Aris Solomon, *Corporate Governance and Accountability (2007)*, available at https://www.abebooks.com/9788126513925/Corporate-Governance-Accountability-JILL-SOLOMAN-8126513926/plp (last visited Aug. 28, 2024).
8. Codruța Dura, The Volkswagen Emissions Scandal: A Case Study on Unethical Business Practices, https://www.upet.ro/annals/economics/pdf/2017/p2/Dura.pdf (last visited Nov. 24, 2024).
9. Ruth V. Aguilera et al., The Corporate Governance of Environmental Sustainability: A Review and Proposal for More Integrated Research, 47 J. Mgmt. 1468, 1468–1497 (2021).

The principal objective of corporate governance is to make sure that a company is managed and controlled in a way that promotes transparency, responsibility, and, accountability. Its also visible through corporate governance that objectives of

the company are set and achieved. It monitors and manages the risks and also optimizes the firm's performance. A framework that promotes accountability, transparency and integrity within the company will be created by an effective corporate governance. It ensures that shareholders' interests will be protected along with managing the company as well as the risks in an effective way.[10]

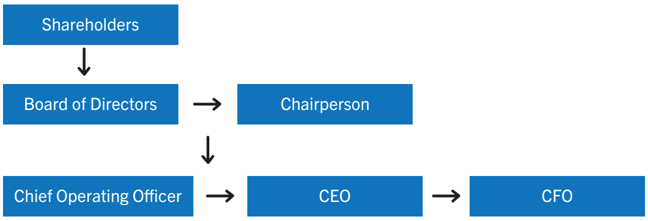
Good corporate governance guides a company to enhance its reputation, attract investors, create sustainability and finally contribute to its long-term success. It is more likely to have sound decisions, effective risk management and achievement of strategic goals by the companies that prioritize corporate governance.

The responsibility is shared as[11]

- Board of Directors- "Fraternity consisting of 'directors of the company', will possess an accurate convergence of 'executive and, non-executive directors'".[12] They are responsible for overseeing the management and, business operations. They are obligated to shareholders and, must perpetrate for the towering benefit of the company.
- Transparency and Disclosure- Companies should keep transparency in their operations and financial status. It is their responsibility to disclose all the relevant information to the shareholders as well as the public in an accurate and timely manner.
- Accountability- Corporate governance ensures that there is accountability within the company with clear lines of responsibility and accountability established for presidency and the directors' board.
- Shareholder's Rights- Shareholders are embedded with rights such as the right to propound on key diagnosis and the privilege to elect board members. It is the company's management board that takes their interests into account.
- Ethical Behavior- Companies should act only in an ethical way with integrity by following all the relevant rules and regulations. It is mandatory to promote and enforce the business ethical behavior.
- Risk Management- It's necessary to identify, quantify, and, pass on risks that may affect the smooth functioning of the companies. To attain this goal, companies should hold a risk management formulated process.
- Stakeholders' Engagement- Stakeholders like employees, customers, suppliers, and community should be engaged by the company to ensure that their interests and concerns are taken into account in decision-making.
- Performance Monitoring- It is necessary to have a close observation on the 'company's performance, management, and, board of directors. They need to be evaluated frequently to ensure that the goals are being met. Corporate governance ensures the effective management of a company.

10. Annabeth Aagaard, *Sustainable Business: Integrating CSR in Business and Functions* (River Publishers 2022).
11. Yan Xue et al., Corporate Social Responsibility and High-Quality Development: Do Green Innovation, Environmental Investment and Corporate Governance Matter? 58 Emerging Mkts. Fin. & Trade 3191, 3191–3214 (2022).
12. Taxmann's Corporate Laws – 16th edition June 2007- Corporate Governance in listed companies- Clause 49 of the listing agreements- p 20.3

2.2. ORGANIZATIONAL HIERARCHY



"CEO, the seniormost person, reports directly to the Board of Directors".[13] "The Board is hence dutiful for the supervision and commission of the corporate governance functions. 'All nominations to the board must be voted upon by the shareholders of the company'. In many aspects, this makes the board of directors' beholders to the shareholders. Historically most Board of Directors have steered under this angle of thinking".[14]

The belief is treated to as the eminence of shareholders. It is a presumed concept that every action within the ambit of an organization needs to be framed only in conjunction with shareholders' benefit at the forefront. In more recent times, however, the ascending inclination of 'Environmental, Social and Governance (ESG)' as an infrastructure for the examination, has apply strain on organizations and corporate governance functions to accept the apprehension of 'stakeholder' reputation seriously.[15]

The supreme philosophy on which leadership of a company works is to meet the needs and wants of the investors.

Lack of effective leadership, inadequate risk management, lack of transparency, failure to align stakeholder interest, short term focus prioritizing immediate financial rewards are some of the factors that lead to governance fail.

"The concept of 'stakeholder primacy' is often referred to as 'stakeholder capitalism'. It is believed to have developed from the term 'shared stakeholder' value", coined by Michael Porter and Mark Kramer in 2011.[16]

Supremacy of stakeholder indicates "It is necessary to consider each and every need and outcome of all stakeholders including employees, supply chain partners and members of the community, in which an organization operates".[17]

2.3. CURRENT TRENDS AND CORPORATE GOVERNANCE PRESSURE

1. **Resignation-** It is a process that portrays that maximum numbers of people quitting their jobs. Companies now have to re-evaluate how to retain talent. So, they have to create a friendly and amicable environment where the very nature of the work has altered. 'Firms must now have to consider remote and hybrid working arrangements when planning to hire'.
2. **Climate Change-** Worldwide governments are strictly implementing rules on environmental performance, sustainability practices and climate risks disclosures. Board of directors are tasked with looking into climate related risks to ensure long term sustainability goals.
3. **Geopolitical and Economic uncertainty-** Uncertainty created by wars, the

13. Taxmann's *Corporate Laws* 16th ed. (June 2007).
14. Nikolaos Kavadis & Steen Thomsen, Sustainable Corporate Governance: A Review of Research on Long-Term Corporate Ownership and Sustainability, 31 Corp. Governance Int'l Rev. 198, 198–226 (2023).
15. Mousavi, Maryam, Grzegorz Zimon, Mahdi Salehi, and Nina Stępnicka. "The effect of corporate governance structure on fraud and money laundering." Risks 10, no. 9, 176 (2022).
16. Maria Roszkowska Menkes, Porter and Kramer's (2006) "Shared Value," Springer, available at www.researchgate.net/publication/355680087_Porter_and_Kramer's_2006_Shared_Value (last visited Nov. 24, 2024).
17. Naeem Allah Rakha, Navigating the Legal Landscape: Corporate Governance and Anti-Corruption Compliance in the Digital Age, 1 Int'l J. Mgmt. & Fin. 3 (2023).

interconnectedness of global market and volatability arises from geopolitical tensions, economic disruptions are some of the factors that give complexity to corporate governance.

4. **Technology and data-** As the technology is advancing rapidly, and the availability of data is increasing tremendously, corporate governance gets reshaped in profound ways.
5. **Diversity and Inclusion-** Diversity and inclusion at board level is always pressurized to improve their contribution, throughout the business. It is always advisory to have a diverse leadership in order to get competent decisions.[18]

3. CORPORATE CRIMINAL LIABILITY-

"Corporate Criminal Liability concerns about the lawful accountability of a corporation for the criminal actions or misconduct of its employees or executives, committed, while discharging their course of work for the company".[19] It arises when individuals within the corporations engage in any illegal acts such as fraud, bribery or environmental violations, on behalf of the company. The main penalties faced by criminally liable corporations are usually fines, sanctions or dissolutions. To prevent illegal behavior and to safeguard the interests of the 'shareholders' and 'the stakeholders', companies need to establish and maintain effective compliance programs. It will be attainable by adequate stewardship by the board of directors and senior administrative wing. They have to analyze the workings of the entity to assure that it operates lawfully and ethically. It is through corporate criminal responsibility that corporations can be held responsible for the offences their employees or agents committed. It is essentially a way to hold businesses responsible for the initiatives of the those portraying the company.[20]

Companies can incur liability and companies can be prosecuted. However, corporate criminal liability means the limit to which 'a corporation or a company' can be held criminally liable for its own acts or for the acts of its employees or the national persons who are employed by it. There are two obstacles in prosecuting a company or a juristic person.

1. Company, being an artificial person and hence cannot be equipped with the needed guilty state of mind or the Mens Rea.
2. If an offense prescribes mandatory punishment of imprisonment, then it cannot be executed against a company as a company cannot be physically in jail.

Later, these two obstacles were seriously addressed by the Supreme Court and subsequently reversed the law in two cases respectively.

- "Standard Chartered Bank Vs Directorate of Enforcement (AIR 2005 SC 2622)"- The bank was prosecuted under "FERA (Foreign Exchange Regulation Act)". The argument of the bank was that since the company cannot be imprisoned, the company cannot be prosecuted. The second argument was that however, if a lesser section provides only for a sentence of fine, then the company would be prosecuted for that lesser offense. The court held that it defies common sense that a company can be prosecuted for a lesser offense which has the punishment of a fine only and give let off on the bigger offense which would have the mandatory sentence

18. Temitayo Oluwaseun Jejeniwa et al., The Role of Ethical Practices in Accounting: A Review of Corporate Governance and Compliance Trends, 6 Fin. & Acct. Res. J. 707, 707–720 (2024).
19. Singh, Pradeep Kumar. *Corporate Criminal Liability in India*, Athen's Journal of Law - Volume 8- Issue 1, Jan. 2022, www.athensjournals.gr/law/2022-8-1-2-Singh.pdf.
20. Hoang Bui & Zoltán Krajcsák, The Impacts of Corporate Governance on Firms' Performance: From Theories and Approaches to Empirical Findings, 32 J. Fin. Reg. & Compliance 18, 18–46 (2023).

of imprisonment. The court's final judgment is that the section imposes the sentence of fine as well as the mandatory sentence of imprisonment, the court has a discretion that the court may impose only the punishment of fine and not imprisonment.

- "Iridium India Telecom Vs Motorola INC"[21] 2010 is a case of cheating, criminal breach of trust, and criminal conspiracy. Motorola had issued some placement offers where it had represented that if one invested in that project, there would be profits gained. Later on, the project became unavailable. In this case, the Supreme Court held that ' Mens Rea of an individual can be considered as mens rea of the corporation itself (alter ego)'. Through this approach, these two case laws basically set the framework for the formation of the "Doctrine of Corporate Criminal Liability" in India.

3.1. MAJOR MECHANISMS OF THE CORPORATE CRIMINAL LIABILITY-[22]

- Vicarious Liability- It's the most important mechanism underlying 'corporate criminal liability'. It passes liability to corporates for the acts of its employees. It is immaterial to acknowledge their action or to give sanction.
- Corporate Culture and Policies- The culture and policies of a corporation can be counted as a factor in determining the liability of a company. If there is a history of a company revealing that it encourages or tolerates illegal behavior, there is a possibility to hold the company liable.
- Mens rea- The doctrine of attribution was developed by the courts to link the criminal intent of a person, who is acting on behalf of the corporation, directly to corporation itself. This means that the actions and intent of certain individuals such as directors, officers, or high-level employees can be attributed to the corporations.
- Corporate Officers- There are cases where the corporate officers were held accountable on a personal level for the felonies executed directly by corporations.

3.2. EXAMPLES OF CORPORATE CRIMINAL LIABILITY-

- Environmental Crimes- For environmental pollution or violations of environmental laws, there are chances for the corporations to be held liable.
- Financial Crimes- The fraud, embezzlement or other financial crimes by the employees of a corporation may keep the corporation liable.
- Antitrust violations- Some anticompetitive behavior includes price fixing or market manipulations. Corporations can be held liable for these types of antitrust violations.

4. IMPACT OF BOARD DIVERSITY AND GENDER EQUALITY IN CORPORATE GOVERNANCE

Board diversity, especially gender diversity has a noticeable command on corporate governance. Diverse boards play an important role in strengthening corporate governance.

4.1. DIVERSITY- A KEY ELEMENT FOR EFFECTIVE GOVERNANCE.

The importance of corporate governance has ascended significantly, projecting the growing importance of diversity in the decision-making process. 'According to McKinsey Global Surveys

21. (AIR 2005 SC 2622)
22. Usman, Rachmadi. "Exploration of nexus between legal liability and corporate fraud: where do business laws and criminology converge?" IJCJS 18, no. 1, 232-243 (2023).

Report',[23] "companies in the top quartile for gender diversity on executive teams are 25% more likely to experience above-average profitability compared to those in the bottom quartile". This statement reveals how varied viewpoints foster creative solutions and help to guide the said organizations through challenges of present markets which are highly competitive. Hence a prompt and efficient governance can be contributed by the diversity. There are many instances where companies' background, not only enriched the discussions but also enabled the company to ascent effectively during a technical crisis, in the presence of women guidance.[24]

Promoting a diverse governance structure can definitely strengthen the company's ability to withstand challenges and adapt in an uncertain environment. A study conducted by 'Harward Business Review'[25] highlighted that "companies with diverse leadership are 70% more likely to capture new markets".

4.2. LEGAL AND ETHICAL IMPLICATIONS OF BOARD DIVERSITY IN CORPORATE GOVERNANCE

Since the commercial and trade forums in the world are becoming more and more governed by the values of inclusivity, the moral, legal and ethical, effects of board diversity have taken core attraction. Diversity is an important aspect of indulgence, that can have a big reach on a company's brand and economic performance. It is not only a political statement.

4.3. GENDER EQUALITY IN CORPORATE GOVERNANCE

India, through its continuous efforts, promotes gender equality in corporate governance. As a part of this attempt to include women in equal numbers as men on the board of companies, attempts were taken to introduce mandatory quotas for women.

It has been considered as a primary step for fulfilling the task. It can be possible through various steps like-

- Introducing mandatory quotas- According to the Companies Act, 2013 provisions are asking listed companies to include a woman director in its board.
- Government Initiatives- Various training programs and mentorship schemes are introduced by the government to foster women's empowerment.
- Corporate efforts- Flexible work arrangements and equal pay initiatives are some of the policies and practices formulated to promote gender diversity within their organizations.

4.4. CHALLENGES AND OPPORTUNITIES

- Stereotype jobs of women in a family may hinder their development in the advancement in the corporate field.
- The lack of mentorship that women face is one of the main reasons that hinder them from losing senior leadership positions.
- It will be difficult for women to keep a bridge between corporate work and family responsibilities.

These challenges can be overruled by strengthening enforcement, promoting diversity training, fostering a supportive culture and increasing representation at higher levels of corporate.

23. Economic Conditions Snapshot, March 2018: McKinsey Global Survey Results: Brasil, McKinsey & Co., available at www.mckinsey.com.br/business-functions/strategy-and-corporate-finance/our-insights/economic-conditions-snapshot-march-2018-mckinsey-global-survey-results (last visited Nov. 24, 2024).
24. Nur Saebah et al., Exploration of Dynamics of Corporate Performance and Corporate Governance, 3 Int'l J. Soc. Serv. & Res. 3334, 3334–3340 (2023).
25. *Ibid*

5. CORPORATE GOVERNANCE AND FUTURE TRENDS

Significant advancements in corporate governance have been witnessed in recent years. However, the world is rotating witnessing changes driven by global trends molding corporate governance's future.[26]

1. Increased focus on Environmental, Social and Governance Factors- National Green Tribunal and Companies Act amendments are some of the tools used by the government in corporate governance for emphasizing economic, social, and governance factors. Companies are forced to adopt sustainable practices by their domestic as well as international investors. Stakeholders are expecting more transparency and accountability on economic, social, and governance factors.
2. Corporate landscapes are under the influence of technological advancements such as blockchain, data analytics, and artificial intelligence.
3. Employee well-being, accountability, and compliance are ensured by the development of remote work.
4. OECD principles of Corporate Governance and Global Reporting Initiatives give corporate governance an international acceptance. Hence policies can be reshaped according to the needs and circumstances.
5. Global competitions magnify the companies to adopt best practices for attaining maximum benefits.

6. ROLE OF STAKEHOLDERS IN CORPORATE GOVERNANCE

Stakeholders- Individuals or a group of individuals who have an interest in the activities of the company help to shape corporate governance.[27]

- Shareholders are real owners of the company. 'Board members' are elected by them. The right to elect board members and they also approve major decisions.
- The board of directors ensures that company strictly acts in accordance with rules and regulations, showing their accountability and transparency.
- Investors are expecting positive returns from the company through systematic, ethical, and sustainable practices.
- Labor's rights, environmental conversation, and ethical business practices are some of the special issues advocated by NGOs.
- A company's behavior will be influenced by public opinion, the activism of the communities, and the legal action faced by the company.
- Stakeholders facilitate collaboration. Open invitation of the stakeholders by the board of directors promises that their interests will be considered. They can discuss their issues and all matters related to sharing concerns with shareholder engagement committees.
- The stakeholders must promote long-term value creation by working together effectively.

Stakeholders can be internal or external. They are highly in demand, in decision making solely because they are members of the board of directors, primarily examining any department and ensuring its success. They have the competency

26. Putra, Ferdy. "Good corporate governance, firm performance and COVID-19." *Asian Journal of Accounting Research* 9, no. 4, 399-421 (2024).
27. *Ibid*

to disrupt decisions and bring innovative ideas. They can bring or take money from the company. Therefore, the role played by them in the company's financial performance and share price is significant. Stakeholders are majorly responsible for overseeing the operations of the company and thereby ensuring compliance with human rights and environmental ordinances. Stakeholders can find out novel platforms for market penetration that can be done to increase sales. Other investors can also be attracted towards the company. They can stamp their presence on selection boards. They can also work as company representatives, and hence make socio-environmental decisions.[28]

7. COMPANY SUSTAINABILITY AND RISK MANAGEMENT

Company sustainability and risk management are considered as two demanding components of efficient corporate governance. Sustainability practices are used to lighten risks and intensify long-term performance. While challenges are properly addressed and opportunities are effectively seized by risk management.

A collaborating relationship is witnessed between risk management and, sustainability.[29]

- All risks associated to the environmental, social, and governance factors are alleviated by adaptation for sustainability practices. If there is an investigation into renewable energy, there will be a spontaneous reduction in energy price fluctuations.
- Sustainable companies are often more resilient and adaptable to changing market conditions. They are aware of their dependencies and hence they can frame adequate plans to address latent disruption.
- A long-term value creation can be achieved by sustainability by upgrading the company's reputation, fascinating investors and framing customer faithfulness.

Source: Exhibit-1 organizing for sustainability success: Where, and how, leaders can start.30

28. Almashhadani, Mohammed. "A brief review of corporate governance structure and corporate profitability in developed and developing economy: A review." *International Journal of Business and Management Invention* 10, no. 11 (2021): 42-46.
29. Rostami, Vahab, and Leyla Rezaei. "Corporate governance and fraudulent financial reporting." *Journal of Financial Crime* 29, no. 3, 1009-1026 (2022).
30. Aaron De Smet, Wenting Gao, Kimberly Henderson, and Thomas Hundertmark, Organizing for sustainability success: Where, and how, leaders can start http://www.mckinsey.com/capabilities/sustainability/our-insights/organizing-for-sustainability-success-where-and-how-leaders-can-start (last visited Nov. 24, 2024).

7.1. KEY RISK AREAS IN SUSTAINABILITY

- Environmental risks include major impacts such as climate change, pollution, loss of biodiversity, resource depletion etc.
- Social risks include communal riots, violation of human rights, abuse, inequality in society etc.
- Governance risk includes fraud, corruption, and unethical business practices such as misappropriation for assets, nepotism etc. [31]

7.2. BENEFITS OF INTEGRATING SUSTAINABILITY AND RISK MANAGEMENT

- The company's brand value will be enhanced by strong sustainability and risk management. It also will help to improve financial stability increasing saving and controlling costs. Strengthening the relationship among stakeholders is possible through sustainable and risk management. Integrating sustainability and risk management can contribute to long-term value creation for the company, its stakeholders and society as a whole.

8. CORPORATE FRAUDS

Corporate frauds are issues with a high velocity that can lead to detrimental consequences for the existence of the companies, their stakeholders and the stable economy. It is a high necessity to identify them and to hinder their growth. The existence of corporate frauds can be detected and prevented by corporate governance.

8.1. TYPES OF CORPORATE FRAUDS

Corporate frauds can mainly be classified into three[32].

- Financial Statement frauds purposefully manipulate a company's financial conditions through false and devious representation.
- When any individual or group of individuals from the company misuse or steal the company's assets for their private or personal gain, it will lead to Asset misappropriation fraud.
- Any unlawful activities such as extortion, or bribery involved by the private and public officials of the company lead to Corruption frauds.

Financial frauds are represented in the Fraud tree provided below. Corruption frauds can happen to any firm whose motive is to achieve unattainable goals. It will lead to misappropriation of assets, which can otherwise be called employee fraud. Common occupational frauds are represented in the Fraud Tree Chart given below (Figure 01).

8.2. CAUSES OF CORPORATE FRAUDS

1. The deficiencies of the corporate governance system will create possibilities for the development of financial statement frauds. If there is a weakness in the system, it will relate directly or indirectly to the composition of the board of directors, will be related directly and indirectly audit committee, incentive-based compensation, and external auditors too.
2. Risks of fraud can be increased by a corporate culture that compensates ethical behavior and accountability with unrealistic financial goals.

9. ROLE OF INDEPENDENT DIRECTORS

Independent directors, who are board members are not employed by the company. They do not have any kind of financial ties to the company.

31. Arlen, Jennifer. "Countering Capture: A Political Theory of Corporate Criminal Liability." J. Corp. L. 47, 861 (2021).
32. A. Girau Emelia et al., Corporate Governance Challenges and Opportunities in Mitigating Corporate Fraud in Malaysia, 29 J. Fin. Crime 620, 620–638 (2022).

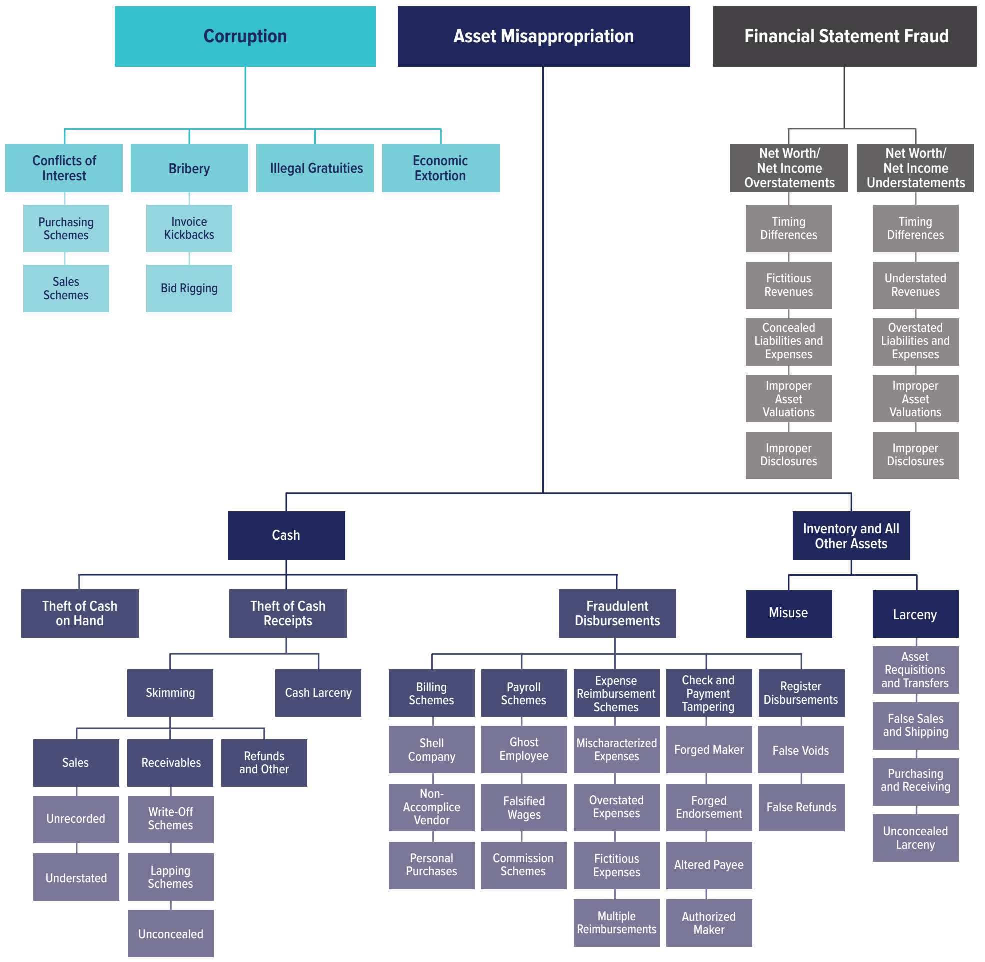


Figure 01
Source: ACFE (Association of Certified Fraud Examiners)

They provide an objective perspective to guarantee that the company acts to safeguard the interests of the investors. The main roles and responsibilities include-[33]

- Oversight management- The independent directors must oversee the efficiency of the CEO and all the other executives to make sure that they are working to safeguard the interests of company.
- Evaluate strategy- Company's strategic direction needs to be assessed regularly to recommend suggestions for improvement.
- Review financial performance- Board of directors keep on reviewing company's financial statements and, performance meters to confirm that the company has positive growth.
- It is quite natural to have disagreements among the stakeholders. In this situation, the independent directors have to identify the reason for the conflict and address it positively.
- Acting as the representatives of the stakeholders, the independent directors make sure that the interests of the

33. Md Abdur Rashid et al., An Overview of Corporate Fraud and Its Prevention Approach, 16 Austl. Acct. Bus. & Fin. J. 101, 101–118 (2022).

stakeholders are protected. They provide accountability and transparency to the shareholders.

- Strong and powerful directors are involved in the process of decision-making in a company. Hence risk of fraud will be reduced and credibility will be enhanced.
- Independent directors encourage ethical conduct by seeing that the management and the employees are stuck to ethical principles.
- "Sunil Bharti Mittal Vs. CBI (2015) 4 SC 609"- It was held that the directors by themselves cannot be held to be an accused just because the company is an accused.[34]

9.1. CASE LAWS ON THE LIABILITY OF THE DIRECTORS IN A COMPANY

- "S.M.S. Pharmaceuticals Ltd. Vs Neeta Bhalla Reported as (2005) 8 SCC 89" - It was held that "the officers of a company, who are responsible for the acts made in the name of the company, are sought to be made personally liable for the acts which result in criminal action made against the company". There is an escape provision that says that the directors, who could prove that they were unaware of the offense or that they had acted with all necessary care and cautions to avoid the perpetration of the offense cannot be held liable.
- "K.K. Ahuja Vs. V.K. Vora (2009) 10 SCC 48"- "The director who had initialed a cheque on behalf of the company can be held liable for the dishonored cheque as the signature gives a responsibility under subsection (2) of Section 141 of the NI Act".
- "Chintalapati Srinivasa Raju Vs Securities and Exchange Board of India[35]- "The Supreme Court held that the Non-Executive Directors are the persons who are not involved in the day-to-day affairs of the company and are not in charge and not responsible for the conduct of the business of the company".

10. LANDMARK CASES FALL UNDER CORPORATE GOVERNANCE

i. **Saurashtra Cement Ltd. and another Vs. Union of India**

The Constitutional validity of 'Section 274(1)(g) Company's Act, 1956' was challenged in this landmark case. The petitioners argued that the section violates the 'Article 14 of the Constitution of India'. The Article promises 'equality before law'. According to them, discrimination between different types of debts is noticeable in the section, which may adversely affect public interest.

The constitutional validity of Section 274(1)(g) was upheld by the Supreme Court. It was held that a reasonable restriction on the right to equality was provided by the provision, which can necessarily curtail fraud and mismanagement in companies. According to the court, debenture holders are considered to be vulnerable investors and, the necessity to protect their interests is considered by the Supreme Court.

The power of Parliament to enact laws that restrict the rights of individuals in the interest of public welfare is clarified by this case. It is also highlighted to ensure the integrity of the corporate sector by protecting the rights of the investors.[36]

34. Sunil Bharti Mittal Vs. CBI (2015) 4 SC 609
35. Chintalapati Srinivasa Raju Vs Securities and Exchange Board of India- Supreme Court Daily Orders- 14 May 2018
36. Saurashtra Cement Ltd. and another Vs. Union of India. Laws (SC)- 2000-10-22

ii. "Vodafone International Holdings B.V. vs. Union of India"[37]

A Landmark Case on Indian Tax Law

'Vodafone International Holdings B.V. v. Union of India' is an eloquent legal fire that has had an inscrutable influence on Indian tax law. It focused on the issue whether capital gains tax was applicable to a transaction involving attainment of shares in foreign companies, that held Indian assets obliquely.

Key Points of the Case

- **Transaction:** Vodafone International Holdings B.V. (VIHL) is a Dutch adjunct of Vodafone Group. attained a controlling stake in Hutchison Whampoa Limited (HWL). It is a Hong Kong-based company. At the same time, HWL held shares in a Cayman Islands-based company that owned a noticeable stake in Hutchison Essar Telecom. It is an Indian telecom company.
- **Tax Dispute:** The argument raised by the Indian government was that the trade rounded to a shift of Indian funds and pursued to levy of capital gains tax on VIHL. Vodafone, on the contrary, claimed that the transaction happened as a cross-border share transfer and hence it was not subjected to Indian tax.
- **Supreme Court Ruling:** In 2012, the case was decided by the Supreme Court of India, in favor of Vodafone. It was held that, the transfer was not of any Indian assets and hence it was not subjected to Indian capital gains tax. The Court pointed out that instead of looking into the underlying assets, the nature of the transaction needs paramount consideration.

11. CONCLUSION

Corporate governance acts as a weapon for framing systematic and organizational charts for a company. A company is transparent and accountable to its stakeholders through the magnificent power of corporate governance. Investor's value will be protected by the strong governance practices of the company. It will reduce risks and maximize shareholder value. It exchanges trust with the stakeholders. The sustainability of the company and its long-term success is possible through its proper governance. Hence corporate governance can be considered as a mandatory key aspect for achieving success by a company.

The above discussion clarifies that self-regulation and good code of conduct are the two pillars on which, good governance is backed up on. Relevant rules and regulations have been formulated for a non-biased governance of companies. The efficiency and, the ecstasy of corporate governance may invite investigations globally. The global investments in-turn will improve the economy. Hence substantial growth of the investors and the development of the country are the outcomes of Corporate Governance.

Good governance principles are easy for everyone to understand because of its transparency and accountability. The primary objective is to attain sustainability. The governing policies should enable a person to develop socially as well as economically. Effective corporate governance is not merely a legal requirement but a cornerstone of sustainable business success. By creating accountability, transparency and, ethical practices, organizations can foster trust with the stakeholders, mitigate risks, and, ultimately enhance long term value.

37. Vodafone International Holdings B.V. vs. Union of India (2012) 6 SCC 613