Review of Literature – Developments in Corporate Governance Area

“Corporate Governance is philosophy which touches every facet of the functioning of a Corporate and its stakeholders. It is not an end in itself but a means to practice and bring about corporate democracy at all levels of the corporate entity.”

– Harsh Mariwala, Chairman & Managing Director,

– Marico Industries Ltd.
The fundamentals of Corporate Governance have its deep roots in Indian history. But surprisingly it is very less known to us. Our own ancient texts have laid down sound principles of governance which seem very relevant to modern day corporate requirements.

The Governor and Committee Men submitted frequent reports on their more important decisions for confirmation of meetings or ‘General Courts’ of all subscribers of the Company, corresponding to the general meetings of company shareholders in the present day. (European Settlements, C S Srinivasachari, in The History and Culture of the Indian People, Volume 7, The Mughal Empire, (1994), footnote 5 to chapter XVI, (p.518), Bharatiya Vidya Bhavan)

In this context, it would be appropriate to recall the Kautilyan admonition to his King, “In the happiness of his subject lies the King’s happiness; in their welfare his welfare.” (The Arthashastra, kautilya (Ca.4th Century B.C), English Translation by L N Rangarajan, (1992), Penguin Books.)

The main key three authorities for the survey of similarities between the Governance Structures of the ancient Kingdom and the Modern Governance are:

1. Rig Veda
2. The Dharam Shastras
3. Mahabharatha

The Mahabharata offers several other inputs into the ideal conduct and characteristics of a king all of which could be suitably adapted to the modern corporate chief executive. Standing out far and ahead of the detailed listing of these attributes is the concern the King should have for his subjects and the respect and heed that he should extend to his counselors, who should of course themselves, be beyond blemish.
Reviewing these edicts, one can easily comprehend the close similarities between the governance structures of the ancient kingdoms and modern corporations.

### 3.1 Role of Corporate Boards as Advisors and Monitors of Management

The Monitoring role of the board of directors has been the subject of extensive empirical research. Both the Business Roundtable and the American Law Institute (Monks and Minnow 1996, p. 172) list advising management among the top five functions of the board of directors in the United States.

The Advisory role of the board exists not only in the United States but also in Europe where boards in several countries are formally separated into a Management board and a Supervisory board.

The Monitoring role of the board has been studied extensively in a large, mostly empirical literature but the advisory role has received little attention. At first glance the advisory and monitoring roles of a sole board complement each other, because the board can use the information the manager provides both to make better recommendations and better evaluations.

Hermalin and Weisbach (1998) documents that the relationship between board composition and CEO career concerns may be influenced by succession issues. They provide evidence that firms add insiders to the board when CEOs are near retirement. This suggests that the relation between monitoring and career concerns is difficult to interpret when monitoring is proxied by board composition.
3.2 Corporations and its Shareholders

The Shareholders contribute some of their money to the equity capital of the Corporation. They are presumed to bear a greater portion of the risks of running a firm and hence expected to be rewarded for this risk. They are supposed to own the corporation. But only the left-over earning belong to the shareholders. In this sense, they bear the largest risk with their wealth and it is the duty and obligation of the managers, who are the agents of the shareholders, to maximize this wealth.

However, Sumantra Ghoshal argues that this principle, along with the agency theory, has lead to a gross over-emphasis on shareholders’ value. Shareholders, unlike most other stakeholders, have the earliest exit option and hence carry the least risk with a firm. Much of the corporate governance theories still use the agency theory as their kingpin and have failed to gather any evidence on their effectiveness even in improving the shareholder value. (Ghoshal Sumantra (2005)).

3.3 Board and Directors Legal Dimensions

The Cadbury Report (1992) described the board responsibility in more succinctly phraseology, to include setting the company’s strategies aims, providing the leadership to put them into effect, supervising the management of the business, and reporting to shareholders on their stewardship. More recently, the Commonwealth Association for Corporate Governance articulated the role and responsibilities of the board in greater details. Some of such principles are as follow:

- Ensure that through a managed and effective process board appointments are made that provide a mix of proficient directors, each of whom is able to add value and to bring independent judgment to bear on the decision-making process.
- Ensure that the corporation complies with all relevant laws, regulations, and codes of best business practice.

In India, the SEBI (Kumar Mangalam Birla) Report [Report of the committee appointed by the SEBI on Corporate Governance under the Chairmanship of Shri Kumar Managalam Birla, January, 2000.] on Corporate Governance (KMB) describes this role as providing leadership and strategic guidance, objective and independent judgment, and control over the company in the discharge of its accountability to the shareholders.

The Company’s (Amendment) Bill, 2003, however seeks to prescribe that public companies with a minimum paid up capital and free reserves of Rs.50.00 million or a turnover of Rs.500 million should have a minimum of seven Directors. No public company may have more than 15 directors on its board. Neither the CII Code [Desirable Corporate Governance- A Code, (1998), Confederation of Indian Industry.) nor the KMB Report (2000) had any such stipulations on this point. A minimum number of 7 directors have been recommended by the Naresh Chandra Committee on Corporate Audit and Governance, 2003, Department of Company Affairs, Government of India.

A quick survey of thirty companies listed in the Bombay Stock Exchange, provides with some interesting data. A broad-size survey of a large sample of 285 companies brought out the following interesting statistics. (www.bseindia.com):

- The average and medium size is 9, which has been quite stable during the years covered.
- Maximum board size has ranged from 17 to 19, with 18 being most common.
- Most companies in the sample for most number of years considered fall in the range of 9 to 11 Directors.
From 2000 onwards, the trend seems to signal a downward movement towards the size of 6 to 8.

However, what is perhaps more important than size is the composition of the board of directors in terms of their ability to discharge their responsibilities in the interest of all the shareholders, especially in the context of separation and distancing between ownership and control.

The (Ganguly) Committee Report of the Consultative Group of Directors of Banks / Financial Institutions, 2002, Reserve Bank of India has recommended that it would be desirable to separate the office of Chairman and Managing Director in respect of large public sector banks. (The (Ganguly) Committee Report of the Consultative Group of Directors of Banks / Financial Institutions, 2002, Reserve Bank of India.)

3.4 Controlling Shareholders and Corporate Governance

Public Companies in the world except United States and United Kingdom typically have a single shareholder or group of shareholders with effective voting control, often but not invariably without corresponding equity holdings. In nine East Asian Countries, Professor Stijn Claessens, Simeon Djankov, and Larry H.P Lang found a single shareholder control in more than two thirds of listed companies. (Claessens, Djankov & Lang, Supra note 7, at 92 table 3, 93-94)

The appropriate distinction is between the widely held and controlling shareholding system that supports diversity of shareholder distribution and system that essentially support controlling shareholder distribution.
The research work done earlier by Ronald J. Gilson on controlling shareholder regimes has taken two general decisions:

- The First direction reflected in series of articles by Rafael La Porta, Florencio Lopez-de-Silanes, Andrei Shleifer, and Robert Vishny, linked the breadth of shareholder distribution to the quality of Jurisdictions’ Law. In this account, controlling shareholder regimes exist in jurisdiction whose legal systems do not protect minority shareholders from dominant shareholders’ diversion of private benefits of control. *(See sources cited infra note 20 pg. 1644 of IIMB Sessions, 2007)*

- The Second direction finds the explanation for concentrated ownership patterns in politics. In an important book, Prof. Mark Roe identified social democratic politics as the driving force towards ownership concentration. *(Mark J. Roe, Political Determinants of corporate governance: political context, corporate impact 2003).*

It is also commonplace in Europe for control by a dominant shareholder to result from structural devices that leverage voting rights above the level of equity investment. E.g. Data produced below regarding Use of Dual Class Stock to leverage Voting Rights shows that these many percentages of listed companies in respective countries issue dual class of common stock, with one class having dramatically higher voting rights.

<table>
<thead>
<tr>
<th>Listed companies with dual Class Stock.</th>
<th>Sweden</th>
<th>Switzerland</th>
<th>Italy</th>
<th>Germany</th>
</tr>
</thead>
<tbody>
<tr>
<td>66.1%</td>
<td>51.2%</td>
<td>41.4%</td>
<td>17.6%</td>
<td></td>
</tr>
</tbody>
</table>

**Control & Conflicts**

A more sincere responsibility of corporate boards is to develop mechanisms to identify and appropriately steer clear of potential or actual situation of conflict in the context of the company’s business operations. Such conflict situations arise
fundamentally from the boards’ and individual directors’ fiduciary duties or obligations to their company and its shareholders. Directors owe their obligation for fair dealing to their company and its shareholders. This calls for appropriate and comprehensive disclosure of interest involved, leaving it to the other disinterested directors to decide whether the transaction should still be put to through because of its possible overall benefit to the corporation. In all such disclosures, two dimensions of disclosures need to be considered: one relating to the conflict of interest per se, and the other to the material facts of the transaction.

Another critical principle in the field of conflict of interest situations is that directors may not advance their pecuniary interest by engaging in competition with the corporation, without the disinterested directors on the board authorizing (or ratifying) such action in the larger interest of the company, or approved by disinterested shareholders, such approval not being equivalent to a waste of the company’s assets. Some examples from recent Indian experience are here below enumerated, to highlight the practical implications of potential conflict of interest situations that boards and directors have to address from time to time. Board Vs. Dominant Shareholders:

1. Differences over business strategies to be followed.
2. Differences over Ownership and Control.
3.5 Audit Committees

Audit Committees have been mandated since June 1978 for all the companies listed on the New York Stock Exchange. These committees were to be constituted “solely of directors independent of management and free from any relationship that, in the opinion of the Board of Directors, would interfere with the exercise of independent judgment as a committee member. Over a period of time all the other stock exchanges in the United States have fallen in line and require their listed companies to have such Audit Committees.

Canada, Australia, Israel, Malaysia, Hong Kong, and (more recently) India all mandate an Audit Committee of the board in law in respect of all listed and/or other public limited companies. A recent survey revealed that 85% of the companies studied reported having an Audit Committee, and 55% of the sample confirmed their Audit Committees comprised solely of Independent directors. [Egon Zehnder Board of Directors Global Study 2000, (2001), Egon Zehnder International].

Following the Narayana Murthy Committee Report (2004), the SEBI mandated amendment to Clause 49 of the Listing Agreement prescribes that “all members of the Audit Committee shall be non-executive directors, with the majority of members and its chairman being independent directors, and at least one of them having accounting or related financial management experience.”

The KMB Report and the Listing Agreement as amended by the January 2006 clause 49 prescribe that no director shall be a member of more than ten committees or be the chairperson of more than five committees across all companies where he or she is a director.
Thus, from the research study held by different countries, researcher can make out that Audit Committee and other Committees of Board of Directors have also been given due importance in Corporate Governance.

3.6 Bank Governance

A scam of severe magnitude comparable to a scaled-down version of the Black-Monday disaster of September 1987 on the New York Stock Exchange and other related markets, shocked Indian Stock markets in 1992-93; later in that decade itself, The Indian Government had to mount a bail-out operation to protect the State Controlled Unit Trust of India. Numerous non-banking financial companies came to grief during this period; 2001 also saw some of cooperative banks being afflicted and moving towards liquidation. (Dr. N Balasubramanain (2007))

The Basel Committee on bank supervision has published numerous papers on specific topics of interest and relevance to banks. It is important that these together with the guidance received from the Reserve Bank of India are part of the training and education curriculum at Banks’ staff training colleges, so that not only what needs to be done and how but also the why of it all can be understood and appreciated by executive managements in banks at different operating levels.

There are essentially two prongs to the banks’ role in promoting good governance; first they should set an example, in terms of laying down good governance procedures, and even more importantly, internalizing such processes; and second, they can do a world of good by insisting that their customers who borrow from them follow similar good-governance regimes in their businesses.
3.7 **Public Sector Governance**

Governance of State Owned Enterprises (SOE) is important from two significant perspectives: to demonstrate that first, the government as the controlling owner, was following principles and practices of good governance, and second, more importantly, the government was setting an example to the other corporations in the private, joint, and the cooperative sectors, on the actual practice of good governance.

“The state and the SOE should recognize the rights of all shareholders and in accordance with the OECD principles of Corporate Governance ensure their equitable treatment and equal access to corporate information.”

(Dr. N Balasubramanian (2007))

Some of the most common issues that surface in this connection are

- Unfair transfer of Corporate Resources to other, “related” entities or even individual, and
- Right to vote on appointment of auditors, on approval of audited accounts of the company, and as noted earlier, on appointments to the board of directors etc.

3.8 **Does Corporate Governance ensure transparency, full disclosures & accountability of companies to all its stakeholders? – Summary of FICCI & GT survey 2009**

This question’s answer is given in recent survey conducted by FICCI & Grant Thornton. (CG Review 2009: India 101-500 A review of corporate governance practices at the mid market listed companies in India by FICCI & GT.) The FICCI GT: India 101-500 CGR 2009 was designed to analyze corporate governance
practices at ‘mid-market’ listed companies in India. The review methodology was based on a survey to gauge the nature and extent of corporate governance practices and approximately 400 companies across various sectors were targeted to participate in the survey except top 100 companies in India.

FICCI & Grant Thornton review uncovers that corporate India sees significant value in the adoption of the prescribed corporate governance practices, with 84% of the respondents stating that compliance with Clause 49 enhances the perceptions of their stakeholders on the conduct of the company’s business. This is possibly also an indication of the mindset of Indian companies where stakeholders’ perception is considered as an extremely important business driver.

To the extent that such considerations result in decisions that seek to enhance shareholder value, is a positive sign. An overwhelming majority of the respondents (68%) felt that Clause 49 was adequate to bring requisite levels of transparency in their business and a even larger proportion saw the benefits extending to improved processes and controls (84%), enhanced awareness of roles (74%) and better risk management (74%) in their companies.

While a relatively small proportion (9%) of the respondents were in the process of developing a suitable strategy to comply with Clause 49, approximately one third of the respondents (32%) believed that they did not need independent assurance on various initiatives undertaken by them internally, to achieve the desired levels of compliance. Possibly, this is also a reflection of a relatively cautious and “wait and see” approach that such companies would typically adopt to new regulations.

A majority of the respondents (53%) had supplemented such internal initiatives with external help on specific aspects such as those relating to assessment of controls, enterprise wide risk management, and institutionalization of a compliance framework and implementation of a code of conduct.
An overwhelming majority of the respondents (61%) felt that compliance norms should differ and should be based on company size; and this will result in achieving the desired levels of governance in spirit rather than the letter of the law. This is possibly the strongest signal to the lawmakers that a “one size fits all” approach may not necessarily yield the desired levels of compliance in India.

A majority of the respondents (56%) felt that an ideal board structure should have between 25% and 50% as independent directors. What appears to have come out strongly is that the bane of the issue relating to the availability of independent directors is in the process adopted by companies to appoint independent directors. A majority of the respondents (56%) disclosed that they did not have a nomination committee to lead the process of appointing independent directors in their companies.

While 66% of the respondents also felt the need for the development of a predetermined charter with specific KRAs for the members of the board and audit committees, 37% felt that their companies could do more in terms of a formal and tailored induction program for their new directors.

All respondents claimed that their board was meeting at least once every quarter and at regular intervals in accordance with the provisions of section 285 of the Companies Act. A large number (48%) disclosed that their board was meeting between 6 to 8 times in a year.

From the above study, the researcher can surely say like those corporate governance codes (clause 49) fulfill the requirements of disclosure, transparency and accountability of various stakeholders. However, it still remains in the hands of the corporate bodies to fulfill these requirements or not.
3.9 Role of ICSI in promoting good Corporate Governance

The Institute of Company Secretaries of India (ICSI) has always demonstrated its commitment to Corporate Governance and has always played a pivotal role in bringing about various issues impinging upon Corporate Governance after recognizing the need to achieve the Excellence in Corporate Practices for sustainable wealth creation by Companies. ICSI strives to create ethos for good Corporate Governance. As part of its Endeavour to improve standards of Corporate Governance and to achieve corporate excellence, the ICSI has taken a number of initiatives.

3.9.1 ICSI’s Philosophy on Corporate Governance

The main principles of Corporate Governance evolved by ICSI are as under.

- Sustainable development of all stakeholders;
- Discharge of Social Responsibilities;
- Compliance of Law in letter and spirit
- Adherence to ethical standards.

The Institute conducts programs throughout India on topics including inter alia:

- Corporate Governance
- Company Law
- Corporate and Economics Law
- Financial Markets
- EDIFAR
- Take over Code
- Insider Trading etc.

To integrate, harmonize and standardize the diverse Secretarial Practices prevalent in the corporate sector, the ICSI has issued Secretarial Standards which ensures that
good practices are uniformly followed by the companies which results in good Corporate Governance.

Some of the Secretarial standards are as follows:

- SS-1 Secretarial Standard on Meetings of the Board of Directors
- SS-2 Secretarial Standard on General Meetings.
- SS-3 Secretarial Standard on Dividend.
- SS-4 Secretarial Standard on Registers and Records
- SS-5 Secretarial Standard on Minutes.
- SS-6 Secretarial Standard on Transmission of Shares & Debentures.
- SS-7 Secretarial Standard on Passing of Resolutions by Circulation
- SS-8 Secretarial Standard on Affixing of Common Seal
- SS-9 Secretarial Standard on Forfeiture of Shares

3.9.2 ICSI National Award for Excellence in Corporate Governance

Realizing that effective Corporate Governance is indispensable to resilient and vibrant corporates, to make corporations more responsive to follow internationally accepted norms of corporate governance and to promote corporate governance practices, the ICSI every year starting from 2001, organizes and declares the “ICSI National Awards for Excellence in Corporate Governance” and awards the Corporates and the individuals for their performance and contribution.

3.9.3 First ICSI National Award for Excellence in Corporate Governance 2001

The Institute organized First “ICSI National Award for excellence in Corporate Governance in 2001 under the Chairmanship of Hon’ble Justice Shri M N Venkatachaliah, former Chief Justice of India, selected two companies for conferring the awards in recognition of displaying their commitment to adhere to the norms of Corporate Governance.

- **Infosys Technologies Limited as the “Best Governed Company.”** Chairman & CEO - Shri N R Narayana Murthy. The Company is one of the first Indian
Companies to adopt USA GAAP along with Indian GAAP. The Company has abundantly rewarded its shareholders from its excellent financial performance.

- **BSES Limited as the Second “Best Governed Company”**- Chairman & MD- Shri R V Shahi. The Company had formed a Code of Ethical Practices for its employees to avoid any conflict of interest. It has endeavored to set a model in Corporate Governance for other service sector companies to emulate.

- In recognition to the services rendered for growth of company and for translating excellence in Corporate Governance into reality, Lifetime Achievement Awards were conferred on **Shri Mohan Singh Oberoi (Chairman Oberoi Group of Industries)** and **Shri Verghese Kurien (Chairman Emeritus, National Dairy Development Board)**.

### 3.9.4 Second ICSI National Award for Excellence in Corporate Governance 2002

The Institute organized Second “ICSI National Award for excellence in Corporate Governance on 31\(^{st}\) December, 2002 under the Chairmanship of Hon’ble Justice Shri M N Venkatachaliah, former Chief Justice of India, selected three companies for conferring the awards in recognition of displaying their commitment to adhere to the norms of Corporate Governance.

- **Dr. Reddy’s Laboratories Ltd. (DRL)**; It has shown high performance in the relevant parameters of sales growth, profitability, Economic Value Added (EVA) and shareholder value. It has been rated as Top employer in the pharmaceuticals Sector.

- **Tata Iron and Steel Company Ltd.;** The Company has already developed Corporate Sustainability Management System. TISCO is reputed for ethical dealings with Customers, Government and its business partners.

- **IBP Co. Ltd.;** The Company has earned excellent ratings, under the System of Memorandum of Understanding, with the Government of India, for ten consecutive years. The Company has combined the strength of its origin as a foreign oil company, with those of an autonomous PSU.
- **ICSI Lifetime Achievement Award** for translating excellence in Corporate Governance into Reality was conferred on **Dr. Yusuf Khwaja Hamied**, Chairman and Managing Director, CIPLA Limited.

### 3.9.5 Third ICSI National Award for Excellence in Corporate Governance 2003

For the year 2003, the Awards for Best Corporate Governance Practices were conferred on the following companies and personality.

- **Housing Development Finance Corporation Ltd. (HDFC);** The financial conglomerate has exhibited progress in terms of net Income, dividend, EPS and EVA. The Company has been given “AAA” rating by CRISIL and ICRA for its deposits and bonds. It has been adjudged as the best managed Indian Financial Institution by Fox-Pitt Kelton Survey and assigned “GVC Level 1”

- **Reliance Industries Limited;** Reliance owes the distinction of consistently rewarding its shareholders. It is the World’s second largest Producer of polyester fiber and yarn and the third largest producer of paraxylene (PX).

- **Oil and Natural Gas Corporation Limited;** ONGC has achieved the distinction of being adjudged as the “Country’s Most Valuable Corporate” by leading Business Journals and has been placed at the Top of all Indian Corporates. The Company has attained the landmark of earning net profits beyond Rs.10,000 crore and of making the highest dividend payment (300%) in the Indian Corporate History.

- **Mr. Ratan N. Tata -** ICSI Lifetime achievement Award for Translating Excellence in Corporate Governance into Reality.

### 3.9.6 Fourth ICSI National Award for Excellence in Corporate Governance 2004

On the basis of the responses received from various Companies, the Awards for Best Corporate Governance Practices were conferred on the following companies and personality, for the year 2004:

- **Hero Honda Motors Limited;** The Company has set a bench mark with respect to Dividend payment and the year 2003-04 will go down in the Indian
Corporate History as one of the highest dividends paid by a Manufacturing Company in a year, amounting to dividend of 1000%. Not only this, the Company has also attained the landmark of consistently increasing Sales / Net Profit per employee for the last five years.

- **Wipro Limited;** Wipro’s community initiative “Wipro Applying Thought in Schools” contributed towards improving the quality of education in India. Business World rated Wipro as one of the Top Indian Corporates championing the cause of Corporate Social Responsibility and Sustainable Development and awarded it FICCI-SEDF Corporates Social Responsibility Award 2003. ICRA has given highest ‘SVG1’ rating for stakeholders value creation and governance practices on the basis of its satisfactory relationship with key stakeholders, including employees, customers and creditors, and its ‘superior’ financial performance.

- **Tamil Nadu Newsprint and Papers Limited;** The Company’s Eco-friendly approach is well recognized and reflected in ISO 14001 certification of environmental Management System for development, manufacture, and supply of paper and news print. The Center for Science and Economics, New Delhi has awarded TNPL “3 leaf – Green Rating” award in appreciation of Environmental Management Systems.

- **Keshubhai Mahindra - ICSI Lifetime achievement Award for Translating Excellence in Corporate Governance into Reality**

**3.9.7 Fifth ICSI National Award for Excellence in Corporate Governance 2005**

For the year 2005 Award, the Award winner Companies were evaluated on following grounds.

- Board Independence and Governance.
- Board Systems and procedures.
- Transparencies and Disclosure Compliances.
- Consistent Shareholders value enhancement.
- Stakeholder Value enhancement.
- Corporate Social Responsibility.
- Other good Corporate Governance Initiatives / Recognitions.

On the basis of the response received from the participating Companies, the Awards for Best Corporate Governance Practices were conferred on the following companies, for the year 2005:

- **Dabur India Ltd.;** Dabur is committed to be a good Corporate Citizen. In this direction the Company, through Sundesh its CSR arm, has initiated Social development program that take a holistic approach integrating various aspects like health, literacy, employment and empowerment to let people take control of their lives.

- **Infosys Technologies Ltd. (Banglore);** With over 46,000 employees worldwide, the Company uses a low-risk Global Delivery Model to accelerate schedules with a high degree of time and cost predictability for its customers. It attracts global customers through its high value delivery propositions which is the hallmark of best Corporate Governance.

- **Mr. Brijmohan Lall Munjal - ICSI Lifetime achievement Award for Translating Excellence in Corporate Governance into Reality.**

### 3.9.8 Sixth ICSI National Award for Excellence in Corporate Governance 2006

In order to promote the culture of creativity as well as conformance among corporates, the Institute has seen the Vision, “To be Global leader in development of professionals specializing in Corporate Governance.” For the year 2006 Awards, the Award winner Companies were evaluated on following grounds.

- Board Independence and Governance.
- Board Systems and procedures.
- Transparencies and Disclosure Compliances.
- Consistent Shareholders value enhancement.
- Stakeholder Value enhancement.
- Corporate Social Responsibility.
- Creative and Contributory capabilities of top management sub-systems.
- Sustainable relationship building with major stakeholders in the corporate family.
- Future Vision and future sustainability of the entire corporate structure.

On the basis of the response received from the participating Companies, the Awards for Best Corporate Governance Practices were conferred on the following companies and personalities for the year 2006:

- **Abhishek Industries Limited**: A unique, self-shaping corporate entity, Abhishek models its superb work and creative culture through unique concept, “Anand ka Abhishek” aligning individual skills with the organization Vision. As it weaves, processes, moisturizes and colours textiles, Abhishek has been weaving great, vivacious working teams creating work culture that has in a year generated 80,000 kaizens.

- **ITC Limited**: ITC’s overreaching vision harmonizes the twin goals of shareholder value enhancement and social value creation. In pursuit of the “triple bottom line”- economic, ecological and social- ITC has succeeded in fashioning a corporate strategy that enables the realization of these goals in a mutually reinforcing and synergistic manner.

- **J J Irani** - ICSI Lifetime achievement Award for Translating Excellence in Corporate Governance into Reality.

### 3.9.9 Seventh ICSI National Award for Excellence in Corporate Governance 2007

On the basis of the response received from the participating Companies, the Awards for Best Corporate Governance Practices were conferred on the following companies, for the year 2007:

- **Kansai Nerolac Paints Ltd.;** for the Best Corporate Governance practicing company.

- **Tata Consultancy Services Ltd.;** for the Best Governed Company
- Shri N. Vaghul, Chairman, ICICI Bank Ltd. - ICSI Lifetime achievement Award for Translating Excellence in Corporate Governance into Reality.

3.9.10 Eight ICSI National Awards for Excellence in Corporate Governance 2008

The criteria for Corporate Governance Awards by ICSI for the year 2008 were evaluated on the following basis:

- Board Independence & Governance
- Board Systems and Procedures
- Transparency and Disclosure Compliances
- Consistent Shareholder Value Enhancement
- Stakeholders Value Enhancement
- Corporate Social Responsibility
- Creative and contributive capabilities of top management subsystems;
- Sustainable relationship building with major stakeholders in the
- Corporate family
- Future vision and future sustainability of the entire corporate edifice and
- Other Good Corporate Governance Initiatives/Recognitions

On the basis of the response received from the participating Companies, the Awards for Best Corporate Governance Practices were conferred on the following companies and personality, for the year 2008:

- Mahindra & Mahindra Ltd.; Shri Arun Nanda, Executive Director received the award on behalf of the company.
- MindTree Ltd.; Shri Ashok Soota, CMD received the award.
- Dr. E Sreedharan, Managing Director, Delhi Metro Rail Corporation Ltd.-ICSI Lifetime achievement Award for Translating Excellence in Corporate Governance into Reality.

3.9.11 Ninth ICSI National Award for Excellence in Corporate Governance 2009

The ICSI National Awards for Excellence in Corporate Governance for 2009 were presented at Mumbai on the December 19, 2009 to:
• **Maruti Suzuki India Limited;** Mr. Shinzo Nakanishi, Managing Director and CEO received the Award on behalf of Maruti Suzuki India Limited

• **NTPC Limited;** Mr. R S Sharma, Chairman and Managing Director received the Award on behalf of NTPC Limited.

• **Mr. S Ravi Aiyar, Company Secretary, Maruti Suzuki India Limited & Mr. A K Rastogi, Company Secretary, NTPC Limited** were also awarded in recognition to their commitment to ensure good corporate governance.

• **Ms. Anu Aga, former Chairperson, Thermax Group - ICSI Lifetime achievement Award for Translating Excellence in Corporate Governance into reality.**

### 3.10 A Study on Selected Key Governance Parameters

Prof. Das in his research “Corporate Governance in India- an evaluation”, has taken 40 select companies for the FY 2004-05 to show the quality of corporate governance practiced in the sampled companies. He has developed his model for measurement of corporate governance, wherein certain parameters have been highlighted and weightage has been assigned to each such parameter. Some of the key parameters are Structure & Strength of the Board, Appointment of Lead Independent Director, Board Committees, Disclosure of Remuneration Policy & Remuneration of Directors, Disclosures & Transparency and Disclosure of Stakeholders’ interests to name a few. These key governance parameters have been selected on a 90 point scale. He has then further ranked the companies and industry groups on a five point scale from Excellent to Poor.

On analyzing, Prof. Das has put forward his findings. His results of evaluation on corporate governance standards adopted and practiced by the select companies as disclosed in their annual reports have been graded as Excellent to Poor. Rank 1 has been awarded to Infosys (Excellent). The “Very Good” grade was lead by Dabur
India, the “Good” grade, which consisted of the majority of the select companies was lead by Dr. Reddy’s Laboratories, whereas the “Average” grade was tailed by Zee Telefilms. Overall, Prof. Das has found out that among his 48 selected companies, only 1 scored Excellent, 6 scored Very Good, 35 scored Good and 6 companies scored Average. He did not find any of the select companies to be in the “Poor” grade. (Subhash Chandra Das (2009))

3.11 Board of Directors and firm performance

The relationship between the board of directors and firm performance is more “varied and complex” than can be covered by any single governance theory (Nicholson & Kiel, 2007). The work of Hillman and Dalziel (2003) that asserts boards of directors serve two important functions: monitoring management on behalf of shareholders (agency theory) and providing resources (resource dependency theory). For each of these main aspects of good governance, the literature review addresses the findings of prior research in terms of the impact on company performance and where appropriate, makes reference to studies related to corporate governance in India.

The board is viewed as potentially having a positive impact on performance (Fama & Jensen, 1983; Jensen & Meckling, 1976; Shleifer & Vishny, 1997). Overall the literature supporting the impact of board composition on performance has varied. Differences in findings have in part been attributable to the differences in the theoretical bases of investigation. A preference for greater representation of independent directors is structured around the notion of the separation of ownership and control aligned with agency theory. Support for the agency view of the positive relationship between board composition and financial performance has been noted by numerous studies. For example, Baysinger and Butler (1985) found that companies perform better if boards include more independent directors. Similarly, Rosenstein and Wyatt (1990) found that a clearly identifiable
announcement of the appointment of an independent director led to an increase in shareholder wealth.

3.12 Overview of literature review and Rationale for our current study:

Mckinsey’s survey (Fernando 2010) of Corporate Governance conducted a survey with a sample size of 188 companies from 6 emerging markets (including India) to determine the correlation between good corporate governance and the market valuation of the company. The results of the survey pointed out to a positive correlation between the two. The researcher too has developed a corporate governance index which determines the correlation between corporate governance with the profitability of the company, (specifically the net profit ratio).

The FICCI & Grant Thornton survey of 2009, covering approximately 400 companies across various sectors, points out that Corporate Governance ensures transparency, full disclosures and accountability of companies to all its stakeholders. FICCI & Grant Thornton review uncovers that corporate India sees significant value in the adoption of the prescribed corporate governance practices. This is possibly also an indication of the mindset of Indian companies where stakeholders’ perception is considered as an extremely important business driver.

In the line of the above study, the researcher can surely say that these corporate governance codes (clause 49) fulfill the requirements of disclosure, transparency and accountability of various stakeholders. (In the context of page number 69-71 of the thesis). However, it still remains in the hands of the corporate bodies to fulfill or not to fulfill these requirements, hence the researcher has undertaken the task to analyze the parameters of Transparency & disclosures, CG & Auditors’ certificate, Structure & strength, Board Independence & Chairperson, Appointment of Independent Directors – Board Committees, Stakeholder Value Enhancement,
Effectiveness of BOD, Board Systems & Procedure, Board Committees – Audit Committee, Board Committees – Shareholder Grievance, CSR, etc.

Prof. Das in his research “Corporate Governance in India - an evaluation” has taken 40 select companies for the FY 2004-05 to show the quality of corporate governance practiced in the sampled companies, and have graded them in a score of 90. Whereas this researcher goes a step beyond by taking a sample of 50 select companies from a combination of four different sectors and BSE 30 Group companies as secondary data, and has graded them in a score of 100, through various corporate governance parameters. The researcher has then constructed a corporate governance index covering 12 parameters and has assigned a score on the basis of primary data collected from Company secretaries’ responses to question number 27, thereby giving more depth and clarity to the issue. (In the context of page number 80-81 of the thesis)

The investigations of Beverley Jackling and Shireenjit Johl (Jackling & Johl, 2009) established the relationship between internal governance structures and financial performance of Indian companies. The effectiveness of boards of directors, including board composition, board size, and aspects of board leadership including duality and board busyness are addressed in the Indian context. The study used a sample of top Indian companies taking into account the endogeneity of the relationships among corporate governance, corporate performance, and corporate capital structure. The initial sample for this study comprises a sample from the top Indian companies listed on the Bombay Stock Exchange (BSE) by market capitalization in the year ended March 31, 2006. As of March 31, 2006 (Annual Report 2005-06), all companies in the sample considered for this study were required to comply with the revised Clause 49 listing requirements. The study provides some support for aspects of agency theory as a greater proportion of independent directors on boards were associated with improved firm performance. The findings suggest that larger board size has a positive impact on performance.
The study however failed to support terms of the association between frequency of board meetings and performance. However, the nature of business structures in India, for example the large number of family businesses, may limit the generalizability of the findings and signals the need for further investigation of these businesses.

In order to study the various aspects of good corporate governance, the researcher has taken into considerations factors like board independence, board committees, CEO and Chairperson’s duality, Board systems and procedures (frequency of board meetings) etc.