ABSTRACT OF

“A STUDY OF CORPORATE GOVERNANCE PRACTICES OF INDIAN BANKS WITH REFERENCE TO PRIVATE SECTOR BANKS”

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1 Introduction

Banking is the crucial factor affecting economic development of an economy. It is the life-blood of a country. It is responsible for the flow of credit and for maintaining the financial balances of the economy. In India, since the nationalization process banks emerged as a tool of economic development along with social justice. The banking sector started giving importance to social banking. The liberalization policy, which was initiated in 1991 created the environment of competition among banks. The emergence of new private sector banks made the existing banks more quality conscious. Banking has become complex and it has been recognized that there is a need to attach more importance to qualitative standards such as internal controls and risk management, composition and role of the board and disclosure, for perform and remain in competition in the era of liberalization and globalization. The entry of new private sector banks, the freedom given to public sector banks to access capital market and series of scams particularly the one in Madhavpura Mercantile Co-operative Bank Ltd. has necessitated banks to pay more attention to corporate governance. In India, it was only in 1998, when inadequate and inefficient management was identified as one of the key problems associated with bank performance, which corporate governance cropped up in financial sector agenda. In 2000, the Advisory Group on Banking Supervision (M.S. Verma) suggested that all banks should accept a certain minimum level of corporate governance. It examined the issues of ownership in establishing corporate governance practices. In 2001, an Advisory Group on corporate governance (R.H. Patil) was formed which quickened the reforms to make the boards of these institutions more professional and truly autonomous.

Why is Corporate Governance Important?

Before going into the corporate governance of banks in particular, let us recall, just for the sake of context, why corporate governance is important in general. At its most basic level, corporate governance sets up the “rules of the game” to deal with issues arising from separation of ownership and management so that the interests of all stakeholders are protected. Empirical evidence shows that businesses with superior governance practices generate bigger profits, higher returns on equity and larger dividend yields. Importantly, good corporate governance also shows up in such soft areas as employee motivation, work culture, corporate value system and corporate image. Conversely, the failure of high profile companies such as BCCI, Enron,
WorldCom and Parmalat was a clear lesson of the damage bad corporate governance can inflict.

Here at home, we had a corporate scandal of unprecedented dimensions in Satyam Computers where the company’s CEO admitted to having falsified accounts to the tune of over 7000 crore, and that too, spread over several years. Even as the judicial process relating to this alleged fraud is still under way, the big question is in what ways was this failure of corporate governance and how are we fixing those lacunae? We had instances of poor governance in the banking sector as well - erosion of standards in forex derivative transactions and fraud in wealth management schemes - reminding us that we need to work hard to get to the best practice in every area of corporate governance.

**How is Corporate Governance of Banks Different?**

Banks are different from other corporate in important respects, and that makes corporate governance of banks not only different but also more critical. Banks lubricate the wheels of the real economy, are the conduits of monetary policy transmission and constitute the economy’s payment and settlement system. By the very nature of their business, banks are highly leveraged. They accept large amounts of uncollateralized public funds as deposits in a fiduciary capacity and further leverage those funds through credit creation. The presence of a large and dispersed base of depositors in the stakeholders group sets banks apart from other corporate.

Banks are interconnected in diverse, complex and oftentimes opaque ways underscoring their ‘contagion’ potential. If a corporate fails, the fallout can be restricted to the stakeholders. If a bank fails, the impact can spread rapidly through to other banks with potentially serious consequences for the entire financial system and the macroeconomy.

All economic agents tend to behave in a procyclical manner, and banks are no exception, as aptly summed up by Chuck Prince, the former CEO of City group, who said that one had to keep dancing as long as the music was
Where banks differ is that their procyclical behavior hurts not just the institution but the larger economy. Among the many lessons of the crisis is the one that financial markets are not self-correcting. This is in part because the signals of financial instability are difficult to detect in real time. On top of that, banks escape some of the disciplinary pressures of the market as their balance sheets are typically opaque.

Given the centrality of banks to modern financial systems and the macroeconomy, the larger ones become systemically important. That raises a moral hazard issue since systemically important banks will then indulge in excessive risk in the full knowledge that all the gains will be theirs; and should the risks blow up, the government or the central bank will bail them out and thereby the losses can be socialized. Having collectively experienced the biggest financial crisis of our generation over the last three years, we all know that these risks and vulnerabilities of the financial system are not just text book concepts; they are all highly probable real world eventualities.

If banks are ‘special’ in so many ways that I have indicated above, it follows that corporate governance of banks has to be special too, reflecting these special features. In particular, boards and senior managements of banks have to be sensitive to the interests of the depositors, be aware of the potentially destructive consequences of excessive risk taking, be alert to warning signals and be wise enough to contain irrational exuberance. Post-crisis, there is a debate on the extent to which failure of corporate governance has been responsible for the crisis. Given such overwhelming evidence of corporate governance failure, this is a futile debate. The short point is if the directors on the boards of banks didn’t know what was going on, they should ask themselves if they were fit enough to be directors. If they did know and didn’t stop it, they were complicit in the recklessness and fraud.

In fact, the post-crisis verdict on corporate governance of banks is quite damning. The Institute of International Finance, an association of major international banks, has concluded after an examination of board performance of banks in 2008 that, “events have raised questions about the ability of certain boards to properly oversee senior managements and to understand and monitor
the business itself”. As per an OECD report, nearly all of the 11 major banks reviewed by the Senior Supervisors Group (an informal group of senior supervisors under the auspice of the Financial Stability Board - FSB) in 2008 failed to anticipate fully the severity and nature of the market stress. On the positive side, there is some early evidence that banks with stronger corporate governance mechanisms moderated the adverse impact of the crisis on them and had higher profitability in 2008 and provided substantially higher stock returns in the immediate aftermath of the market turmoil.

A relevant question in this context is whether there are any additional dimensions to corporate governance of banks in emerging economies. Indeed there are, and I will cite just two important ones. First, in emerging economies, banks are more than mere agents of financial intermediation; they carry the additional responsibility of leading financial sector development and of driving the government’s social agenda. Second, in emerging economies, the institutional structures that define the boundaries between the regulators and the regulated and across regulators are still evolving. Managing the tensions that arise out of these factors makes corporate governance of banks in emerging economies even more challenging.

**Regulations and Corporate Governance of Banks**

Regulation has historically had a significant role in the evolution of corporate governance principles in the banking industry. However, to believe on this basis that, good regulation can offset bad corporate governance will be patently wrong. Regulation can complement corporate governance, but cannot substitute for it.

The crisis has triggered a swathe of financial reforms to mitigate some of the known risks revealed by it. Understandably, these reforms also encompass corporate governance. Several countries have effected major structural changes to improve the functioning of their financial institutions, to ensure the robustness of their risk management systems and to make their operations more transparent. By far, the most notable has been the Dodd-Frank Act in the United States which, among other things, aims to induce
greater transparency with regard to the board and the top management positions and their compensation.

While regulation has a role to play in ensuring robust corporate standards in banks, the point to recognize is that effective regulation is a necessity, but not a sufficient condition for good corporate governance. Regulation can establish principles and lay down rules but the motivation to implement these principles and rules in their true spirit is a matter of organizational culture. If banks see adherence to regulation as a mere compliance function, and not as a culture building objective, the ability of regulation to further corporate governance can be quite restrictive. Let us take the example of bank audits. The effectiveness of external auditors is a critical component of a sound corporate governance framework. As long as audit is being done, the regulatory requirement is complied with. But is the audit effective? Has the audit unearthed all the frauds, excesses and mistakes? Has the audit led to sustainable and systemic corrective action? If the answer is ‘no’, then the corporate governance of banks is faulty or ineffective.

Evolution of Corporate Governance of Banks in India

Let us briefly sketch the evolution of corporate governance of banks in India. In the pre-reform era, there were very few regulatory guidelines covering corporate governance of banks. This was reflective of the dominance of public sector banks and relatively few private banks. That scenario changed after the reforms in 1991 when public sector banks saw a dilution of government shareholding and a larger number of private sector banks came on the scene. How did these changes shape the post-reform standards of corporate governance?

First, the competition brought in by the entry of new private sector banks and their growing market share forced banks across board to pay greater attention to customer service. As customers were now able to vote with their feet, the quality of customer service became an important variable in protecting, and then increasing, market share.
Second, post-reform, banking regulation shifted from being prescriptive to being prudential. This implied a shift in balance away from regulation and towards corporate governance. Banks now had greater freedom and flexibility to draw up their own business plans and implementation strategies consistent with their comparative advantage. The boards of banks had to assume the primary responsibility for overseeing this. This required directors to be more knowledgeable and aware and also exercise informed judgment on the various strategy and policy choices.

Third, two reform measures pertaining to public sector banks - entry of institutional and retail shareholders and listing on stock exchanges - brought about marked changes in their corporate governance standards. Directors representing private shareholders brought new perspectives to board deliberations, and the interests of private shareholders began to have an impact on strategic decisions. On top of this, the listing requirements of SEBI enhanced the standards of disclosure and transparency.

Fourth, to enable them to face the growing competition, public sector banks were accorded larger autonomy. They could now decide on virtually the entire gamut of human resources issues, and subject to prevailing regulation, are free to undertake acquisition of businesses, close or merge unviable branches, open overseas offices, set up subsidiaries, take up new lines of business or exit existing ones, all without any need for prior approval from the Government. All this meant that greater autonomy to the boards of public sector banks came with bigger responsibility.

Lastly, a series of structural reforms raised the profile and importance of corporate governance in banks. The ‘structural’ reform measures included mandating a higher proportion of independent directors on the boards; inducting board members with diverse sets of skills and expertise; and setting up of board committees for key functions like risk management, compensation, investor grievances redressal and nomination of directors. Structural reforms were furthered by the implementation of the Ganguly Committee recommendations relating to the role and responsibilities of the
boards of directors, training facilities for directors, and most importantly, application of ‘fit and proper’ norms for directors.

2 **Statement of the Problem:**

In the backdrop of the above discussion, the researcher has studied the issues pertaining to corporate governance thus entitled as, "To Study of Corporate Governance Practices of Indian Banks with reference to Private Sector Banks".

3 **Relevance of study:**

The topical relevance of study is confined to the Corporate Governance aspect as well as the banking sector alone. The duration scope of the study is Corporate Governance report for the years 2009-10, 2010-11 and 2011-12 submitted by concerned banks. The analytical scope consists of fulfillment of objectives under study. Functional scope takes cognizance of putting forward meaningful suggestions for effective Corporate Governance.

4 **Objectives of the Study:**

In order to comply with the study undertaken, the following objectives have been set forth -

1. To explore the emerging issues in Corporate Governance.

2. To study the trends regarding the reforms and recommendations done recently in Corporate Governance in India.

3. To study the existing framework of Corporate Governance in India.

4. To analyze the implementation of Corporate Governance code with respect to selected listed private banks in India.

5. To provide suggestions to improve Corporate Governance in banking sector.

5 **Justifications of the Objectives:**
The objectives have been set forth to know the new trends in Corporate Governance practices in Indian banking sector especially in the private banks, and explore the framework of Corporate Governance in India.

6 Statement of hypothesis:

Null Hypothesis:

I. “Private Banks fulfils all recommendations as per the clause 49 of Listing Agreement with stock exchange.”

II. “Corporate Governance practices of private banks in India honor and protect the rights of stakeholders.”

III. “Corporate Governance practices promote corporate fairness, transparency and accountability.”

7 Working Definitions of terms used

Corporate governance by definition; is the code of practice by which a firm's management is held accountable to capital providers for the efficient use of assets.

It exhibits how its mission, its values and philosophy govern an organization.

- Governance refers to the system of directing and controlling an organization. A good governance system.
- Generates ideas through participation of all stakeholders.
- Harmonizes different viewpoints while protecting interests of the minority stakeholders.
- Governance assumes greater significance for publicly traded companies because of the separation of management from shareholders in general. Leading to conflict of interests of the management and shareholders.
- Pre-requisites of good governance are education, technical skills, core competency and a system of effective communication, both internal and external.
- The primary objective of the management of a publicly traded company is to
As a good corporate citizen, an enterprise is expected to honor and protect the rights of other stakeholders including the local community.

According to Cadbury Committee Report, 1992, "Corporate Governance is the social, legal and economic process through which companies function and are held accountable"

8 Sampling:

The researcher selected 8 Private Banks for the study. These are as follows:

1. Axis Bank
2. Dhanlaxmi Bank
3. ICICI Bank
4. IndusInd Bank
5. Jammu and Kashmir Bank
6. Lakshmi Vilas Bank
7. South Indian Bank
8. Yes Bank

10. Justification of Sampling:

The scope of sampling has been restricted to the private banking sector alone instead of studying different sectors. Again in the private banking sector, the banks adhering to the corporate governance are considered. Hence, the researcher could get the relevant information from banks.

11. Sources of Data Collection:
The data for the study has been collected through secondary (major source). The secondary source constitute of- archives of various libraries: browsing of websites and the annual reports of banks. The researcher has visited a number of libraries for compilation of relevant information.

Libraries thus visited are –

1. Jaykar Library, University of Pune.
2. Department of Commerce & Research center, UOP.
3. S.M.Joshi College, Hadapsar.

12 Methods of Data Collection:

To fulfill the objectives and to collect the relevant data desk research method has been adopted. In a sense all the Corporate Governance reports of various banks listed with stock exchange has been collected and the same has been analyzed.

13 Techniques of analysis of data:

While analyzing the collected data care has been taken to convert the subjective data into objective form. Tables have been prepared and the said data has been presented in the tabular form.

14 Note on statistical tools used:

For the purpose of analysis of collected data , various Mathematical and Social Science techniques are applied .These are average, percentage, addition, multiplication, division, subtraction etc. the researcher has used various charts, graphs, photo etc.

15 Review of literature:
1. V. Venugopal\(^1\) in the article titled “Functioning of Audit Committee in Banks – Role and Issues” in Chartered Accountant, April 2004 has analysed in brief the requirements for the formation of Audit Committees in banks from three different angles, I) under the Regulatory Instructions of RBI, II) as per SEBI guidelines applicable to listed companies (including banks) and III) the provisions under the Companies Act 1956.

With this analysis, the author has suggested eight different ways of improving the functioning of Audit Committee in Banks in detail. It is concluded that fine tuning of the role, scope and ambit of functioning of Audit Committee may be made to suit the changing requirements which will benefit the bank and help them achieve the international standards in area of corporate governance was the opinion suggested by V.Venugopal.

2. R.S.Raghavan\(^2\) in the article, “Basel II for Banking – A Revised Framework” in the journal, “The Chartered Accountant” Aug.2004 has discussed in detail Basel II which was introduced released on 26\(^{th}\) June 2004. The discussion briefly runs as follows:

In the first accord of 1998, the thrust was on adequate capitalization of banks in the relation to credit risk coupled with “one size fits all” approach of measuring it. The second accord recognizes that bank faces a number of risks in the form of credit, market and operational risk in broader sense with multidimensional approach for measuring it. Framework is available for implementation by 2006 and final implementation by the end of 2007.

The Pillar I, Pillar II, Pillar III are considered in detail. Pillar II includes the role of supervisors, review process – various guidelines. Pillar III emphasize the need for overall transparency in the financial reporting of banks, Corporate Governance and disclosure mechanism are important.

A complete Implementation of Basel II requires sound MIS data integrity, staff training, awareness among top management. Basel II aims to improve risk management of banks.

3. S.R.Bhaumik\(^3\) in the article – “Banking Sector – Looking Ahead” in Economic And Political Weekly Jan 8, 2005 suggests that the Indian Banking sector has come a long way since the publication of Narsimhan Committee.
Incremental changes continue to occur in the form of liberalization of FDI but major structural changes are required in private and Public sector banks. The process of financial intermediation has to be facilitated and reduce the risks i.e. audit risk, liquidity risks are most neglected. Credit risks are taken care by Basel norms.

Even as the cost efficiency and profitability of public sector banks have improved significantly, the financial performance has suffered on account of risk aversion of public sector banks and then inability to allocate credit in face of credit risk.

4. The author Amit k. Vyas in the article, “Ammended Clause 49 of the listing agreement- A comparative and critical analysis” in Executive Chartered Secretary, Dec.2004. has highlighted the salient feature of new clause 49. The areas of critics were as below

1. New definition of Independent Director which is wider in scope.
2. Prior approval of board and shareholder is necessary to pay fees / compensation to non-executive directors including independent director.
3. Shareholding of non executive directors – criteria, number is to be disclosed in annual report.
4. Board shall meet four times in a year with a maximum gap of three months between two meetings.
5. Audit committee – constitution – function is discussed.
6. Statement of transaction with related parties to be placed before audit committee.
7. Board shall adopt a code of conduct for directors as well as members of senior management of company.
8. CEO/CFO Certification is required to the board.
9. Company secretary or auditor can issue compliance certificate regarding corporate governance and companies to submit quarterly compliance report to stock exchange with in fifteen days from close of quarter Stock exchange shall set up a monitoring cell to monitor compliance with the provisions of new clause 49. This cell shall send
the compliance report to SEBI within the sixty days from end of each quarter.

10. Risk Management and Minimization measures to be informed to board.

5. Arindam Gupta\(^5\) in the article “Critical Issues In Corporate Governance” in Chartered Accountant Aug.2004 has highlighted the comparative views of Naresh Chandra Committee, Narayan Murthy Committee and Companies Amendment Bill 2003 with respect to Independence of directors and auditors. The views of committee are discussed in detail. The limitations and criticism are discussed. It was suggested by the author in his article that it is important that there should be legal backing for the recommendation and recommendation must be realistic and practical.

6. In the article “Beyond Patchwork reform” the author Caroline Oliver\(^6\) in the Journal Chartered Financial Analyst Feb. 2004 has demonstrated the prescription for good Corporate Governance as –
   1) More independence.
   2) Stronger audit committee.
   3) More responsible reporting.

The author has developed and discussed the Policy Governance Model in detail. The author has highlighted what good governance means by six different criterions. The importance of board has been felt. Board has to be in charge of its job, govern themselves. They have to accept accountability, distinguish from role of CEO, establish clear controls, and evaluate performance against expectation.

7. In the article “Corporate Governance” by Dr.M.C.Nahar\(^7\) and Guarav Nahar, in BVIMR Management Edge Journal have defined corporate governance according to different experts. It includes historical background of Corporate Governance from Watergate Scandal in U.S., foreign and corrupt practice Act 1977, Treadway Commission , UK reports of 1992 – Cadbury, Ruttermann, Hampel and Turnbull. The author has suggested three essentials of corporate governance. The Corporate Governance is needed as it promotes market based
monitoring, guides investment. Decisions, maximize wealth, value addition, improve EPS, and improve corporate disclosure and auditing practices.

The author has discussed the role of audit committee in corporate governance in detail. The recommendations of Kumar Mangalam Birla Committee are discussed. Corporate Governance and corporate social responsibility dilemma is discussed by example of General Electric.

The author has concluded that no amount of law is sufficient if we always try to find ways of escape, wrongdoings, frauds then goals of corporate governance cannot be achieved. After all “Corporate Governance cannot replace Human conscience.”

8. A Laheri in the article “Corporate Board and the role of Independent Directors” in the Journal Executive Chartered Secretary Nov.2004 has highlighted the importance of Corporate boards with special focus on role of independent director in the board is increasingly recognized all over the world, It also highlights regulators definition of independent directors. The job of independent director has become very important as a part of audit committee and remuneration committee.

The author has raised an issue of training of independent director which he feels is a sensitive issue. This can be done through specialized programme. Narayan Murthy Committee has made a non Mandatory Recommendation that Company should train board members.

The critical issue is the identification of appropriate persons and restricting them to limited nominations for valuable contribution to board and committee.

9. Dr.K.R.Chandratre in his article, “Corporate Governance Vis-à-vis Listing Agreement II” has detailed documentary of new clause 49. SEBI vide its circular dated Aug.26, 2003 has revised clause 49 of listing agreement. The schedule of implementation is discussed. Clause 49 applies to all listed companies but it does not apply to unlisted companies. All the requirement of clause 49 are compulsory except those given in annexure 10 called as “non mandatory” requirements which may be implemented at its discretion. The clauses discussed are:
Clause Applies to
I(A) - Composition to board.
I(B) - Composition to directors.
I(C) - Legal compliance report review.
I(D) - No. of meeting of board and restriction on membership and chairmanship.
I(E) - Code of conduct.
I(F) - Term of Non-Executive Directors.
II(A) - Audit committee – members, restrictions, qualification.
II(B) - Functions of audit committee – quorum for meeting, no of meeting to be held.
III(A) - Disclosure of deviation, reasons, financial effect of it.
IV(A) - Whistle blowing.
V(A) - Composition of board of holding Company, audit committee, minutes of meeting etc.
VI(A) - Related party transactions.
VI(B) - Risk Management.
VI(C) - IPO.
VI(D) - Remuneration to Director.
VI(E) - Management Discussion and Analysis Report.
VII - Certification requirements.
IX - CGCR Report.
X - Non mandatory requirements.

The author has very nicely explained the clauses for the benefit and the awareness of society at large. It would have been much better if the author had been critical about above mentioned clauses.

10. Anand Chatterjee\textsuperscript{10} in his article “Role of Information Technology in Corporate Governance” has emphasized IT governance. There are a number of technological advances that assist in governance. IT governance is the fusion of business process with IT. It is important that the company’s objectives and strategies are being supported by its IT system. IT must support the various
corporate governance initiatives and standards of the organization. Hence the focus of this article was mainly on IT technology. It would have been more informative if author had correlated IT technology with areas of the corporate.

11. The paper “Corporate Governance and shareholder value analysis” in the journal “Journal of Accounting and Finance” was authored by B.B. Pradhan and S Patnaik. The following issues have been highlighted in the paper –

1. Shareholder value and Corporate governance – To manage shareholder value is to maximize cash flows which affects dividend and Share price. Shareholder should have full information at all times to understand value creation.

2. International trends – The major developments in corporate governance at international level are discussed.

3. Indian context – The various committees and recommendations are discussed. Real shareholder value creation is a significant function of any corporate governance where managers are more accountable for creating a transparent culture. This is focused through internal and external reporting.

4. Emerging Issues – Audit committees have come up to ensure that the malpractices in the past are not adopted. There have been scandals, manipulation to show higher shareholder value and meet the expectation of market. Concentration of power is also an important reason for this to happen.

Thus the above suggestions were put forth by the authors to bring transparency in Corporate Governance.

12. A Suryanarayanan in his article “Chairman and Chief Executive: Issues in separation of Roles” has observed that combination leads to enormous concentration of power and the individual is not able to discharge effectively. It is suggested that both the position require different skills. Chairman has the responsibility of smooth functioning of board, to motivate members. CEO is responsible for implementation of strategy laid down. CEO is concerned with running the company as it stands today and Chairman’s responsibility is to create the tomorrow’s company out of today’s. The two people have to work in coherent manner, involved and should be in touch with each other for the
progress of the firm. Chairman and Chief executive divide the leadership of the firm among themselves was finally opined by the author.

13. Anjan D Ghosh in the article “Emerging Corporate Board Practices” in Economic and Political Weekly Feb 5, 2005 has concluded that as a result of regulatory pressures and a desire to benchmark against the best in the field the Indian corporate has made steady progress in the area of governance practices. The author has identified some of the key areas which he expects to pay attention are process of selection of independent director, financial literacy of audit committee members and linkage of pay with performance for directors. The author has conducted a survey of 30 largest companies that constitute BSE index, banks are excluded. The author has surveyed the size of boards, separation of position CEO and Chairman, independence, selection of directors, audit committee functioning, board meetings, financial literacy, Compensation etc.

14. “Corporate Governance in India – Emerging Issues” by Ashok Kumar has discussed the reforms that have taken place in India in detail with respect to corporate governance. The challenges faced by Indian companies is the finding of good quality independent directors, change in mindset of people, harmonization of accounting standards with international standards etc. He is of opinion that the governance must focus on interest of both large and small shareholder CFO’s have to be equally responsible as CEO for good governance. The article also throws light on the findings of various committees such as Rahul Bajaj in 1998, Kumarmangalam Birla Committee in 2000 as well as the challenges faced by Indian Companies for Corporate Governance.

15. Pitabas Mohanty’s article “Institutional Investors and Corporate Governance in India” based on identifying correlation between institutional investors and Corporate Governance, suggest that there appears to be some positive linkage between institutional investment and good corporate governance. However, the author claims that his study would have been more informative if he would have received the minutes of board meetings of companies Mr. Pitabas
Mohanty has also highlighted the pros and cons of institutional investors to participate in Corporate Governance. The author has attempted to understand the role of institutional investors in Corporate Governance in India. The details of how the study is carried out and results are discussed in this study paper.

16. David Crowther in the article titled “Corporate social responsibility increases shareholder value” defines corporate social responsibility from new dimension in which CSR enhances financial as well as shareholder value. The three basic principles are discussed.

1. Sustainability - It is the concept which is concerned with an action taken today has impact on the future. The measure of sustainability is the relation of rate at which resources are consumed and regenerated.

2. Accountability - It implies that organization is a part of a wider societal network and reports to external stakeholders. The organization has to inform the stakeholders of the benefits of the action taken considering cost, facts, judgment etc.

3. Transparency - It is the process of taking responsibility for actions taken by organization and to give power to external stakeholders.

The idea of social contract between business and society is discussed. The authors have commented that corporate excesses which are reported has created awareness, environmental issues and the availability of information on web has enabled the stakeholder to put pressure on the organization.

17. Suhani Adilabadkar in her article “Corporate Governance Rating Savior of Stakeholders?” has emphasized that the ratings has been introduced as a savior of investor and stakeholders of companies. With the increasing level of awareness with respect to corporate governance there is a role for global benchmarks to help company’s stakeholders to assess and compare corporate governance practices from one firm to another, from one country to another. The concept of corporate governance rating is a way to address it.

The S and P, GMI, ISS are main rating agencies in U.S. In India Crisil, JCRA, and CARE have taken up the challenge. It is a new concept (However, the
author is sceptical that it is not well accepted by industry.) The basic and area of assessment is discussed. The company has to decide whether to make grade public or not. Very few companies have come forward for obtaining ratings. The industry is not sure of the fool proof methodology followed. It is with scepticism that the author strongly believes in having a separate entity for corporate rating which is the need of the hour in the 21st Century era.

The author has concluded by raising a vital question “Are corporate governance rating going to improve the present situation or is this another tool of manipulation in the hands of company management?”

18. Surabhi Agarwal18 in her article titled “Whistle blowers – Are They Protected” has highlighted the issue of whistle blowing which is very important in corporate governance. Whistle blowing is an act of an employee (or some other person who is not normally responsible for reporting unlawful activities) who does not want to be silent about unlawful activities and raises his voice against the person including in such activity. Whistle blowing is of two types
a) Internal – Where the matter is dealt through internal disciplinary procedures.

b) External – Where the matter is dealt through police, media and or regulatory bodies.

The practical problems of whistle blowing are becoming unpopular and conflict between moral responsibility and loyalty to organization.

19. In the article “Corporate Social Responsibility Assessment of Global and Indian Trends and Prospects” by Pushpam Kumar19 has mentioned that the public by and large consider that Indian companies are not considerably social responsible; but there are few established names like Tata, Reliance, Ranbaxy, Infosys and ITC, Philips, HCL, Hero group, Maruti Udyog etc who have philanthropic models of social development.

Buyers are demanding for proof of environmental responsibility eco labels, process related certification for environmental protection. ISO-14001 response in India has been encouraging. The ISO-14001 certification will improve the
company image and help it to acquire the image of environmentally responsible entities.

The author has concluded that CSR should not pose a burden; not become a protectionist tool and should become a priority, where all the priority concerns are met.

In conclusion, the researcher would like to make a bold statement that majority of the articles are expressed subjectively rather than proved empirically. It would be further stated that these articles shed light on Corporate Governance in a piece meal manner rather than having a holistic approach towards Corporate Governance.

16 Outline of the Study:

Study is covered under following chapters

1. Research Design

This chapter includes introduction of research, statement of the problem, Relevance of Study, Objectives of the Study, Justifications of objectives, Statement of Hypothesis, Working definitions of terms used, Sampling and Justifications of Sampling, Sources and Methods of Data Collection, Techniques of analysis of data

Note on statistical tools used, Review of literature and Outline of the Study, References.

2. Conceptual Foundation

In this chapter the researcher has attempted to highlight the theoretical background of the study topic. Various aspects related to corporate governance have been enumerated. Like wise Definition of Corporate Governance, Issues in Corporate Governance, Corporate Governance framework in India etc. have been discussed.
3. Profile of banks

In this chapter researcher includes various types of information of all banks like history of these banks under study and information of the Board of Directors of bank.

4. Data Analysis and Interpretation

In this chapter researcher analyses and interpret the data collected by using statistical techniques.

5. CONCLUSIONS

5.1 Conclusions

1) Private sector banks have complied with the requirement of the Clause 49 of the Listing Agreement in regard to the requirement of minimum number of independent directors, while the chairman is a non-executive director. Clause 49 I (A) of the Listing Agreement requires that not less than 50% of the board of directors of the company (having chairman as executive director) should comprise of non-executive directors being independent. Good corporate governance implementation entails clear division of responsibilities at the top management level like Chairman and managing director, which can ensure a balance of power and authority such that no individual has unfettered powers of decision. However, study of annual report of eight private banks and practical difficulties faced by them in normal management practice conclude that combination of the posts of chairman and CEO/MD in one person should be publicly justified.

2) Committee of the Board

The Committee of Directors (COD) / Management Committee functions with the following main objectives:

i. To provide approvals for loans above certain stipulated limits, discuss strategic issues in relation to credit policy and deliberate on the quality of the credit portfolio.
ii. To monitor the exposures (both credit and investment) of the Bank.

iii. To sanction expenditures above certain stipulated limits.

iv. To approve expansion of the location of the Bank’s Network of offices, branches, extension counters, ATMs and Currency Chests.

v. To review investment strategy and approve investment related proposals above certain limits.

vi. To approve proposals relating to the Bank’s operations covering all departments and business segments.

vii. To ensure compliance with the statutory and regulatory framework, etc.; and

viii. To discuss issues relating to day to day affairs and problems and to take such steps as may be deemed necessary for the smooth functioning of the Bank. All routine matters other than the strategic matters and review of policies other than strategic policies like Credit Policy, Investment Policy and other policies which the Committee of Directors may consider necessary or Reserve Bank of India (RBI) may specifically require to be reviewed by the Board.

3) Audit Committee: The Audit Committee is constituted as per RBI guidelines and complies with the provisions of Clause 49 of the Listing Agreement to the extent that they do not violate the directives/guidelines issued by RBI. In terms of Reserve Bank of India guidelines, the Audit Committee should have six members on the Board of Directors, including two whole time Directors, two official Directors (nominees of GOI and RBI), and two non-official, non-executive Directors. Meetings of the audit committee are chaired by a non-executive Director.

The purpose of audit committee is to oversee the bank's financial reporting process and ensuring correct, adequate and credible disclosure of financial information. Considering the aim of audit committee, the following objectives were laid down:

1. Reviewing with the management, the financial statements as per accounting policies and practices, compliance with accounting standards.

2. Review the adequacy, quality and effectiveness of external and internal audit, internal control system.

3. Audit Committee reviews the position with regard to issues raised in the Long Form Audit Report (LFAR).
4. It follows up on all the issues / concerns raised in the Inspection Report of RBI.

5. Audit committee also makes a review of reports received from Compliance Cell, Inter-Branch Account Reconciliation (IBAR) section, etc.

6. Audit committee report is the important ingredients of corporate governance report. Private sector banks have complied with audit committee laid down by section 49 of the listing agreements.

4) Disclosures and Transparency

Disclosure in the reports of corporate governance in the annual reports of private sectors and public sector banks, as required by the Clause 49 of the Listing Agreement have been studied in two parts:

A. Statutory requirements/ disclosures

B. Non-mandatory requirements / disclosures

A. Statutory requirements/ disclosures

Some of the most important items of disclosures / requirements are Significant related party transactions having potential conflict with the interests of the banks, Non-compliance related to capital market matters, Accounting treatment, Board disclosure Risk Management, Management discuss and analysis (MD&A), Shareholders information on: i) Appointment of new director / re- appointment of retiring directors,  ii) Directors’ Quarterly results and presentation, iii) Share transfers responsibility statement.

B. Non-mandatory requirements / disclosures

Some main items of non-mandatory requirements/ disclosures are Share holder rights (e.g. information & half-yearly declaration of financial performance sent to shareholders), Audit qualification, Training of board members, Evaluation of non-executive directors, Whistle blower policy

5. General Body Meetings

In regard to reporting of information in a company’s general body meetings, following information has to be mandatorily included in the annual report:

i. Location and timing of the general meetings which have taken place in last 3 years.

ii. Details of special resolution passed in the last 3 Annual General Meetings or
Extraordinary General Meetings.

iii. Details of resolution passed last year through postal ballot including the name of the conducting official and voting pattern or procedure.

It is observed that private sectors banks have provided required information on items (i), (ii) and (iii) above.

6) Means of Communication and General Shareholder Information

As advised by the Listing Agreement, private as well as the public sector banks have succeeded in giving general shareholder information and accepting a range of communication means every year.

7) CEO & CFO Certification

As per clause 49 of the Listing Agreement CEO and CFO certification is compulsory for the BOD’s of a listed company relating to some precise matters. However, this must be disclosed in the CG report. After evaluation it’s clear that private sector banks have fulfilled this requirement. They have succeeded in publishing this certificate in their CG report.

8) Compliance of Corporate Governance and Auditors’ Certificate.

Private sector banks obtained an ‘unqualified certificate’ from a practicing company secretary’s firm, confirming company secretary’s firm, confirming that the company has complied with all mandatory conditions of Clause 49 i.e., constitution of remuneration committee.

In this connection, it may be clearly stated that Private sector banks does appear to have sufficient ground for obtaining a clean certificate as there are glaring instances for compliance of certain important conditions of corporate governance. There are some areas of non-compliance, but they are non-mandatory in nature.

9) Disclosure of Stakeholders’ Interests
The central issue highlighted here is the disclosure of many proposals by banks in their annual reports. This also focuses on the action taken by these banks on the following matter so as to fulfill their obligation towards their stakeholders.

Complying with research objectives, detailed analysis of corporate governance practices of eight private banks in India through their annual reports reflects their overall commitment towards observing true corporate governance. Analysis of attributes from annual report shows that items disclosed in Corporate Governance by banks include bank’s philosophy on code of Corporate Governance, Board of Directors: its composition, size, term, meetings, and attendance, Committees of the Board e.g. Audit Committee, Remuneration Committee, Remuneration policy and Remuneration of Directors, Nomination committee, Share transfer Committee, Management Committee etc; Management Review and Responsibility, General Body meetings, Disclosure on Related Party Transactions, Compliance by the bank and Compliance to clause 49 of Listing Agreement.

10) The research on corporate governance in Indian Banking Sector produced some important results. Banking has become complex and it has been recognized that there is a need to attach more importance to qualitative standards such as internal controls and risk management, composition and role of the board and disclosure standards. Corporate Governance has become very important for banks to perform and remain in competition in the era of liberalization and globalization. The success of corporate governance rests on the awareness on the part of the banks of their own responsibilities. While law can control and regularize certain practices, the ultimate responsibility of being ethical and moral remains with the banks. It is this enlightenment that would bring banks closure to their goals. However, while all this looks good on paper, it runs into considerable difficulty during implementation. The difficulty is compounded given the fact that there are easier ways, which give faster returns that are no less valuable because they are acquired through questionable means.

11) The outcome of the present research in achieving the objectives of the research establishes some important facts: The first objective of the research was to examine the effectiveness of attributes of corporate governance in Indian Banking sector in bringing transparency and economic growth. The outcome of the study indicated that corporate governance on Indian Banking Sector is at formative stage compared to developed nations. There should be more transparency and disclosure mechanism in order to avoid even the slightest of financial scam. So far as economic growth is concerned, there is certainly economic growth registered by private sector in terms of penetration and share price rise and establishing strong footing in banking sector. The compliance of certain non-mandatory
requirements by ICICI, AXIS justifies that they are quite serious in bringing about the effectiveness of implementation of corporate governance attributes.

12) It is very much clear that the regulatory framework of Corporate Governance in India has given sufficient thought to ensure good governance practices in Banking sector so as to protect the interest of stakeholders. Even though all the international code of corporate governance principles is not thoroughly observed, CII code and clause 49 of mandatory requirement have put sufficient ingredient to ensure good corporate governance.

13) The proper implementation of corporate governance attributes can minimize fraud and malpractices in banking sector. There are provisions of fraud monitoring committee, risk management committee, investors’ grievance committee which can minimize the chance of fraud. Normally such type of misgovernance is perpetuated when transparency of financial statement is missing or proper disclosure of information is not made. However, private sector banks are observing all mandatory requirements of corporate governance mentioned under section 49 of the listing agreement. The opinion of senior executives of different banks were very much optimistic was also in the same direction of attaining perfection irrespective of our little deficiency in adhering such compliances.

14) There is no significant difference in practices of corporate governance by public sector banks and private sector banks. Since banking in India is governed by some statutory act, there is lesser possibility of differences. The degree of applicability of corporate governance principles differs from public sector to private sector, but the transparency and disclosure in public sector is more than private sector. As far as voluntary adherence to corporate governance principles are concerned, there seems to be more effort taken by private sector banks than public sector banks. Slowly and gradually the regulatory authority will make more norms mandatory.

Key Points

1. The private sector banks were studied with respect to Corporate Governance practices. Compliance is observed with respect to clauses 49 of listing agreement. **Hence, the all null hypothesis is accepted.**

2. Corporate governance is not merely about preparing Corporate Governance report to comply with listing agreement. Corporate Governance is about transparency, openness and fair play in business activities.

3. The directors of the banks are responsible for the governance function.
4. The most basic tenet of corporate governance is the increasing dominance of non-executive directors who are independent of the management. Independence is an ineradicable human instinct and is difficult to define.

5. Clause 49 of the Listing Agreement regulations talk about the independence of the directors is to be seen in the intention and action of the director. Having independence of directors is a critical issue and through regulation and practice it is required, to reach the high level of value creation and good corporate governance practices.

6. Remuneration to the board of directors must be fair and adequate. Remuneration details of directors are available in Corporate Governance report. Remuneration package must be attractive to retain and motivate the directors.

6. SUGGESTIONS

6.1 Suggestions:

1. Along with good corporate governance practices, social responsibility is also important. Social responsibility aspect of the bank is not studied by researcher.

2. The banking sector today has to concentrate on risk management, Basel requirements, Non-performing Assets Management, Consolidation and Acquisition as per RBI regulations along with good corporate governance practices. The entry of foreign banks makes the banking sector more competitive today.

3. Vide circular dated 290 Oct., 2004 SEBI has again revised clause 49. This circular is the master circular and supersedes all the earlier circular issued by SEBI on this subject. It is applicable from 31st DEC., 2005.

All the changes can be bifurcated into two categories – key changes and other changes.

Key changes

✧ Definition of independent directors.
✧ Requiring CEO/CFO certification of financial statements.
✧ Disclosure related to the risk Management.
Requirement related to subsidiary companies.

Requiring board to adopt formal code of conduct and also for senior management.

Improving disclosure to shareholders.

Restriction of the term of independent directors.

For following the spirit of Corporate Governance the director should be independent in thought and action. Mere presence does not guarantee good governance.

Code of conduct is applicable only for Board and senior management and not for all employees.

Requirement of clause 49 relating to COE/CFO certification is imported from USA’s SOXA.

Other Changes

Meeting of board – The gap between 2 meetings has been reduced to 3 months.

For the purpose of Chairmanship in committee, now only 2 committees shall be considered. Remuneration has been excluded for this purpose.

Regarding composition of audit committee, the requirement of all directors being NED is done away with 2/3rd of the directors must be independent. Now expertise in accounting or related financial management is required. At least 4 meeting of AC in a year and gap between 2 meetings should not exceed 4 months.

Whistle blower policy is not a mandatory requirement.

Non mandatory requirements include a tenure not exceeding in the aggregate a period of 9 years on the board of company, seating remuneration committee, half yearly declaration of financial performances. Whistle blower policy, peer group evaluation to evaluate performance.

6.2 Suggestions to Improve Corporate Governors Practices

1) Chairman and CEO

It has been recognized that there should be separation of the role of Chairman and CEO. Cadbury Committee on corporate governance states that there should be a clearly accepted division of responsibilities at the head of the company level, which will ensure a balance of power and authority, such that no one individual has unfettered powers of decision-making.
At present in India, in most of the banks, the CEO and the chairman’s positions are combined. Banks have preferred the composite position of chairman and managing director.

2) Responsibility of the Board

According to the Board of International Settlement (BIS) code, bank boards should establish strategic objectives and set corporate values that will direct the ongoing activities of the bank. The board should ensure that senior management implements policies that prohibit activities and relationships that diminish the quality of corporate governance, such as conflicts of interests, self-dealings and preferential dealings with related parties. Keeping in view their oversight role board of directors should feel empowered to recommend sound practices, provide dispassionate advice and avoid conflicts of interests.

3) Accountability to Shareholders/Stakeholders

The Securities and Exchange Board of India (SEBI) guidelines state that the Board should be accountable to shareholders for creating, protecting and enhancing wealth and resources for the company and reporting them on the performance in timely and transparent manner. However, the present scenario is that in majority of banks, Boards do not enforce clear lines of responsibility and accountability for themselves.

4) Election

The Organization for Economic Co-operation and Development (OECD) principles state that the Board should ensure a transparent Board nomination process. In terms of the provisions of section 9 of the Banking Companies (acquisition and Transfer of Undertakings) Act, the government constitutes the Boards of Directors of nationalized banks. The Boards comprise of two whole-time directors, a nominee each of the Government of India and the Reserve Bank of India, nominees of workmen and non-workmen unions, and a chartered accountant. Besides this, six non-official directors with specialized knowledge in agriculture and rural economy, banking, co-operation, economics, finance, law, etc. are appointed. So, the current scenario is that the bank board’s consist mainly of nominated members and not the elected members. Moreover, banks do not have nomination committees for nominating directors of Boards of banks.

5) Audit Committee

According to BIS the Audit Committee of banks should provide an oversight of the banks’ internal and external auditors, approving their appointment and dismissal, reviewing and approving audit scope and frequency, receiving their reports and ensuring that management is
taking appropriate corrective actions in a timely manner. The independence of this committee can be enhanced when it is comprised of external Board members who have banking and financial expertise. In India, the banks are required to set-up an Audit Committee of Board of Directors to oversee and provide direction to the internal audit/inspection function in banks in order to enhance its effectiveness as a management tool.

Corporate Governance calls for a paradigm shift in the role of the Board and corporate directors. They need to be “evolutionary” and “revolutionary” constantly moving the banks toward higher level of creativity. While corporate governance is an important element of affecting the long term financial health of banks, it is only a part of larger economic context in which banks operate. The Corporate Governance depends upon legal and institutional framework. It will be rightly to conclude with the remarks that the road to efficacy lies in minimizing regulatory prescription and maximizing voluntary codes to ensure excellence in corporate governance among financial intermediaries. Corporate Governance is the only royal road to the portal of corporate success and there is no short cut to achieve the same.

7. Bibliography

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