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## Corporate systems: The origin and the development

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### Abstract

This article strives to depict today's corporate world and how far it has stretched its branches from our ancient ways and methods. The article intends to shed light on current day management practices providing information about the current developments in the corporate system along with a brief description of the three institutes and a comparison of the present system with the ancient management laws of our country. It further goes on to depict how the past and present has fused to form a positive work environment for all including our country international businesses.

**Keywords:** Corporate, institute, governance, dharma, ethics

### Introduction

There is a saying, "small drops make a big ocean" since ancient days. This was mainly used by the farmers who were very conscious about the rain. They use to be carefully working towards the preservation of the rain water so that the needs are met. Post Industrial revolution in Europe, the concept of bulk production came into being. The inventions and discoveries were galore and the kind of both quantity and quality of the goods manufactured proved to be having far reaching effect on the global economies. The related issues became more complicated and concerned in the areas of commerce and finance. During the initial stages, the rich alone could afford to create new age business and industry and the poor continued to be poor with the shift in their respective owners. At this juncture came the new commercial idea of corporate form of business. The "Limited Liability" was the key word in the whole thing and even a small person was able to be part of the ownership of business. This new concept shook the whole world and it became the order of the day. The corporate business form has undergone lots of changes, but the base remained strong and was able to withstand the test of time over the couple of centuries.

### A Brief History of the Indian Corporate Scenario

Even before the independence, the Companies Act, 1913 was introduced and it was mainly on the foot prints of the British Law; almost it was a copy of the British form and it continued to prevail even after India became independent. Then the first corporate legislation was introduced in the year 1956 and it was in use for a very long time. Though lots of amendments came, there was no major deviation till the Companies Act 2013 was introduced.

In the fifties and sixties, the corporate form of business was very few and the old business families got themselves converted. The Chartered Accountants were taking care of the secretarial works as the Institute of Company Secretaries came into being in the early eighties only.

Further, the Government policy was also towards socialism which was more into public sector undertakings rather than private investments. It took a very long time for the Government to realize that a poor and growing economy that is seeking help from other nations even for the basics, creating businesses is tough. The private investments were essential for the support of the Government's policy initiatives.

The stock market was looked at as a gambling point rather than an investment platform. Big landlords, people with family business background and other affordable only participated in the stock market. The people at the middle and lower strata of the society were hesitant to enter since the stigma was attached.

The markets were also at the initial stages and not much organized. The information systems were very poor and the decisions for the transactions were taken more on a hunch rather than in a scientific manner with thorough analyses. The AMBANI era came into existence in the late sixties. Without large investments, creating enterprises is almost impossible. It was a revolution by the Reliance Industries of Dhirubhai Ambani to have envisioned big industries with investments of sizes that were totally new in the Indian context. He took the concept of small investments from the people from the nook and corner of the country that would bring the adequate funds to create the dream businesses. Till that time, stock market investments could not even be dreamt by the small investor. This new era ensured that funds shall be available for the business plans that assured growth and returns.

The Government had to make paradigm shifts in the legal frame works to accommodate the investment appetites of the common citizen of the country. Even the street-corner tea shops were distributing the share application forms and stock market became the mantra of the lower and the middle class Indian.

### **An insight into the corporate system today and the developments**

The Corporate form of business management has got more than 300 years' history. It all commenced in the UK along with the industrial revolution where the mass production was the key factor. While the business community was very new with such evolutions and large sums of capital were required to establish such business entities. There were only proprietary and partnership forms of businesses in existence but the scope for raising capital was very limited. Then the limited liability company form of business got invented. This form could pool large capital in small lots with an assurance that in the event of failure the investor's liability was limited to the share capital subscribed by him. So the business risk was well within the reach of ordinary people who could really think of investments.

The journey had come a very long way and currently majority of the business entrepreneurs prefer to have the corporate form of business over the others. While it is more

system and compliance oriented, the benefits are many. Some of them are listed below:

- The liability of the equity contributors is limited to their shareholding.
- Institutions prefer to support a corporate entity.
- Management of business shall be well defined.
- International business
- Tax administration

In India, there were more amendments brought into the Company Law by the Companies Act 2013 which need the Companies to be more responsible citizens of the societies. Now, Companies have to be transparent in their operational presentations to the society at large and their social responsibilities are well defined.

Very recently in 2016, the Insolvency and Bankruptcy Code (IBC) was introduced and this has been in vogue for the past two and half years. This is the most talked active law in force today and has been creating good disciplinary working results in the corporate system.

The Non-performing asset (NPA) levels of the financial institutions went splitting the roofs and the recovery mechanisms that have been in existence have not yielded the desired results. With the induction of IBC, there are resolutions happening around of course as any new system would have the initial teething problems, this law also is finding its own peculiar issues; at the same time this is quite common in any evolving legal system and hopefully by passage of another couple of years, IBC would find itself as a welcome exit management system for struggling corporate entities with very little pain to all the stakeholders.

In this work, I would be dealing with:

- Corporate Governance
- Corporate Social responsibility
- Insolvency and Bankruptcy Code
- Other legal matters.

### **The Emergence of the Three Mega Institutes**

We, in our country, have always been picking the points from our ancient scriptures and I can spell out here that the three institutions have kept their motto from the Upanishads only.

No.	Institutes	Motto	Taken From	Meaning
1	The Institute of Chartered Accountants of India	Ye Esa Suptesu Jagati	Katopanishad	The one who is awake when others are sleeping
2	The Institute of Company Secretaries of India	Satyam Vada, Dharmam Cara	tattiriyopanishad	Speak the truth, follow the dharma
3	The Institute of Cost Accountants of India	Tamaso ma Jyotirgamaya	Brahadaranyaka Upanishad	Enlighten in darkness

All the above three institutes have been adopted from the UPANISHADS which are considered to be the gist of the Vedic principles that almost present the essence of ethics and governance in one form or the other. The Upanishads are many in number and they are omnipresent. We may not be in a position to fix the age to them as they are ever green and are capable of adoption in any age and dimensions of the human history.

The institutes, over the period have been supporting the corporate system in their respective domain areas. We can therefore call them the three pillars that support corporate governance and Structure. And the basic moral principle that binds these three mega institutes is "ETHICS".

We in India, have over ages achieved the boon of "ETHICS" which was passed on through generations running back to thousands of years. The essence of ethics is based on the concept of "DHARMA". Hence ethics in its ancient crux can also be referred to as "DHARMA". The word Dharma has often been translated as ethics morality, righteousness and goodness which clearly depict the parallelism between the two words.

In order to achieve excellence, the companies should have basic positive values and attitudes. Dharma encompasses the ideas of duty, rights and all the behavioural characteristics considered appropriate, correct or morally upright in the corporate world. Ethics relatively deals with what is wrong and what is right in various disciplines of the organisation.

Both these concepts together inducted into reality ensure the efficient and diligent management within various sectors in the corporate system.

### The Institute of Company Secretaries of India

The younger one of the three Institutions and the sharp focused one on the corporate governance. Though younger of the three, in the present context of the corporate form of managing and administering businesses, leading from the front in terms of emergence and guidance. This motto slogan was adopted very recently by the Institute. This slogan has been adopted from the “TAITRIYOPANISHAD”. In this Upanishad lots of living principles appear in the form of guidelines to the student from the teacher. As a student is getting ready to leave the school after the completion of his education and training, one of the very important guideline given to him is “Satyam Vadha Dharmam Chara”. The student is well trained in the theoretical aspects of the life, the profession and also about the long term vision he is expected to possess. He has understood that the life ahead would be throwing lots of challenges and circumstances where he may be threatened to compromise on the principles and dilute the essence of his fundamentals in order to lead forward in life. At that juncture, the above words shall come forward and place him in the right path and also support him with the courage and the conviction to face any kind of intimidations against his principle.

The need for a separate Institution for addressing the corporate world was felt by the Government and the business world. The Institute of Company Secretaries of India was thus born. Initially the company secretaries were looking after the fundamental requirements of the corporates like formation, maintenance of records, filing of returns, conducting the Board meetings, General Meetings etc.

Even though the syllabus for the examination of the Institute contained almost all the relevant areas like accounting, taxation, management accounting and most of the law subjects, a Company Secretary was having the responsibilities only in the areas mentioned above. After the crisis of 1991, the need of professionals in the areas of foreign exchange, external commercial borrowings and the foreign direct investments grew rapidly and the Company Secretary who had the skills of these areas also were consulted by the corporate houses.

In the new role, people with legal knowledge coupled with the business orientation were the most sought after professionals and the company secretaries fit the bill perfectly. The Institute also realized the potential and rose to the occasion with change of syllabus by introducing the latest commercial subjects and strengthened the members. Rapidly, the role of the company secretaries shifted from that of a “Form filers” to corporate administrators.

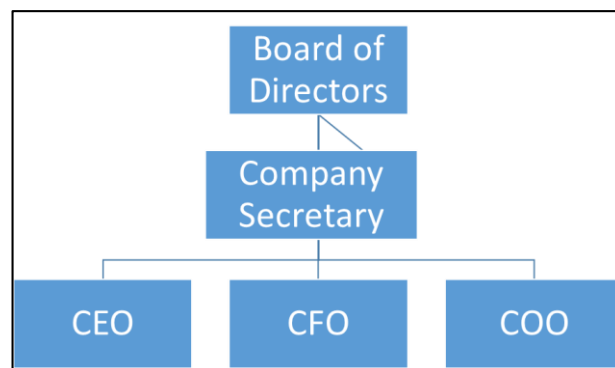
The promoters of the business houses had the following issues:

- Technology upgradation
- Marketing strategies to face competition
- Cost of financing their projects
- Working capital issues
- Cost management and control
- Man-power planning
- Administration

While they were able to entrust each of the above areas to the respective professional experts, they had to struggle to keep all of them work in a coherent manner with the corporate plans. It was a boon to them that they could locate the one in a Company Secretary to fit this bill. If we are able to look into the structure of any company in general, we will understand the same:

The Company Secretary is at the neck of the organization which connects the head and the body. The brain that takes care of all the decisions and the body that executes is well connected by the neck and in the case of a successful organization the neck is the company secretary.

Now, let us examine the roles of relationships between each of the groups above:



### Board of Directors

- They are the panel of people entrusted to provide leadership and oversight so that the organisation can reach its goal and achieve its vision.
- The Board comprises of the Chairman, the Managing Director and the independent directors
- They are essentially responsible to represent the shareholders of the Company.

### Company Secretary has the following role

Keep the Board informed about the requirements of the Companies and other Acts in connection with the smooth management of the organisation, conducting Board meetings, sending notices to the Shareholders for the general meetings, appointment of independent directors. In simpler terms, the Company Secretary has the duty of keeping the Board ahead in carrying out its duties and responsibilities.

### The CEO

- He is endowed with the responsibility to Oversee the strategic direction of the organization maintaining the various expectations of the investors and other stakeholders
- His job is to monitor the company's performance and maintain accountability with the board
- Setting precedence for the working culture and environment and setting **business** strategies.

### Company Secretary has the following role

- To provide adequate information to the CEO about the functioning of different units in terms of legal issues, compliances and consequences if any defaults.
- As a bridge between the Board/ Managing Director and the CEO in all relevant areas where a systematized functioning is required.

**The CFO**

- a. He directs and supervises all aspects of the Finance and Accounting functions of the organisation
- b. He provides executive leadership in the continuous evaluation of short and long term strategic financial objectives and offers recommendations to enhance financial performance and business opportunities
- c. He ensures credibility of finance and accounting group by providing timely and accurate analysis of budgets, financial trends and forecasts

**Company Secretary has the following role**

- a. To support the CFO in adhering to the various provisions of Law in connection with financial and other related functions.
- b. To provides reminders in connection with the renewal of licences/ insurances etc.
- c. While the CFO is responsible for the appointment of auditors, providing them the required inputs and explanations and obtaining reports, the CS shares an equal responsibility supporting the CFO in his actions.

**The COO**

- a. He combines the dual roles of the chief executive and the manager.
- b. He designs and implements policies to promote company culture and vision and administer operations to keep businesses on track
- c. He organizes daily operations of the company and the work of executives (IT, Marketing, Sales, Finance, etc.)

**Company Secretary has the following role**

- a. Helps the COO in implementation of the policies formed by the board
- b. Supports the COO in all compliance and reporting requirements
- c. To support the COO in HR functions

Thus a company secretary has a role in almost all the areas of the organization.

**Regulatory Bodies of the Corporate World**

The corporate system has become the most chosen form of doing business today. As already mentioned above in this article, the corporate form of business possesses many advantages for a growth oriented entrepreneurial group. But in many small and medium businesses, they are mostly proprietor driven, even when in the form of a corporate structure. This is because of fundamental issues within the structure and as investor awareness improves these flaws become rectified.

The Ministry of Corporate Affairs is an Indian government ministry primarily concerned with administration of the Companies Act 2013 and other relevant acts responsible mainly for the regulation of Indian enterprises in the industrial and services sector. The Acts and regulations encouraged promoters who were willing to abide by the laws and associated rules and practice corporate governance in an earnest way for the success of the organization. The company management understood and realized that unless they are good corporate citizens and regulatory bodies that governed and guided them in the right way doing business would be very difficult and would cause anchors in their

corporate voyages. This is where the MCA emerged as a saviour.

In India, apart from the Ministry of corporate Affairs which is the apex body for the Corporates, for those companies who wish to have the participation of public at large in their equity shareholding, the Securities and Exchange Board of India (SEBI) takes care of those affairs. SEBI provides guidelines for the issue of shares and other instruments to the public by the companies that intend to offer their instruments for public participation.

The guidelines given by the regulatory bodies are extensive in nature and they have to be strictly adhered to. Stock markets are also governed and intertwined with the MCA and SEBI.

The Act encourages those promoters who are willing to abide by the laws and the associated rules and regulations and the practice of corporate governance in the right earnest goes a long way in the success of the organization. The company management has understood and realized that unless they are good corporate citizens, then doing business would be very difficult and also bring the breaks and anchors beneath their journeys and voyages.

Now with the advent of more technology based issues have emerged, the Companies Act, 2013 also has introduced numerous controls and checks that would enable and protect the common man:

**Some of them are**

- a. appointment of the Company Secretary
- b. Secretarial Audit
- c. Internal Audit

Further the reporting structure of the Corporate Governance norms have been expanded and have brought scores of inputs to enable the shareholder to take well informed decisions in crucial issues. The corporates are required to provide securities for their borrowings and these activities have an impact on the business, assets and the long term well-being of the organization. The Board is authorised to take decisions up to certain levels and beyond those levels, it is the owners of the company, i.e., the shareholders who call the shots. While the shareholders are located at various places and not involved in the day-to-day management of the company, the Act makes it very clear to the Board that the Board should provide all the necessary information in connection with the resolutions required to be passed at the General Meetings.

The Company Secretary holds the role of being the bearer of the responsibility in paving the way for the organization. The Act under Secretarial Audit has brought almost all the Acts and legislations that would have a major impact on the company. Therefore, the company secretary should be a thorough legal person who is well equipped to undertake such responsibility.

**Corporate Social Responsibility (CSR)**

In the Companies Act, 2013 Corporate Social Responsibility was included to inculcate the habit of responding to the needs of the society at large as the corporates realized the necessity and importance of society for their survival and proper functioning. Corporate social responsibility (CSR) is a form of international private business self-regulation which aims to contribute to societal goals of



a philanthropic, activist, or charitable nature by engaging in or supporting volunteering or ethically oriented practices.

Corporate Social responsibility improves company profitability, value, growth, accountability and its transparency with investment analysts and the media, shareholders and local communities.

A business that is committed to improving the world is likely to attract more skill and talent. This shows how important social responsibility in the corporate platform. CSR efforts thus help foster a more productive and positive work environment for both the society and the organisation.

### Conclusion

The corporate form of management has travelled a long distance covering centuries and have been imbued into the business world in such an important way that now it is unimaginable to not think of it while conducting businesses. It has become the back bone of various new age businesses and has formulated an accessible way for people to move within the corporate world efficiently. Corporate system is thus not just a part but a way of business that will continue into the future reaping benefits for society and the country.

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