

Corporate Governance in India

*“... any leader, whether a chairman or a CEO,
who focuses entirely on profits as opposed to a
larger cause, is unlikely to achieve those profits.”*

THE PANEL:

Narayanan Vaghul, ex-ICICI Bank (Chairperson)

Deepak Satwalekar, ex-HDFC Standard Life Insurance

Bharat Doshi, Mahindra & Mahindra

Kiran Karnik, ex-NASSCOM

David Kimbell, Spencer Stuart

Julie Daum, Spencer Stuart

Anjali Bansal, Spencer Stuart

About Spencer Stuart

Spencer Stuart is one of the world's leading executive search consulting firms. Privately held since 1956, Spencer Stuart applies its extensive knowledge of industries, functions and talent to advise select clients—ranging from major multinationals to emerging companies to nonprofit organizations—and address their leadership requirements.

Through 51 offices in 27 countries and a broad range of practice groups, Spencer Stuart consultants focus on senior-level executive search, board director appointments, succession planning and in-depth senior executive management assessments. For more information on Spencer Stuart, please visit www.spencerstuart.com.

Foreword

CORPORATE GOVERNANCE IS NOT A SCIENCE. It is an art and an ever-evolving one at that. Regulations can direct the course of governance in a country and across the world, but it is for companies and leaders to believe in and implement processes that remain true to the spirit of governance.

One of the unfortunate aspects of corporate governance is that disasters usually need to happen before issues are tackled. In recent years, high-profile financial scandals have prompted tighter governance regulations in numerous markets. In India, the issue of governance regained renewed focus after the Satyam Computers fraud in 2009. It revealed flaws in the system, especially in areas such as board composition (although Satyam Computers had a highly respected board), how the board functions, and the role of company management.

For governance to be truly effective, what matters is seeking practical solutions, with the objective of strengthening corporate and board governance within the existing framework. Even more important is to communicate the need to bring in a better sense of values, ethics and behaviour on the part of the executive management. A two-pronged approach such as this is perhaps the only way to guarantee that corporate functions are directed effectively and to achieve long-term goals.

Spencer Stuart brought together an illustrious panel to explore these issues and to discuss the roadmap for corporate governance in India. Chaired by Mr N Vaghul, former chairman, ICICI Bank, the panel discussed pertinent issues such as:

- > Where should the line between executive management and the board be drawn?
- > How can boards function more effectively and what is the true role of the independent directors?
- > How much room for manoeuvre should the CEO have? And how much space will the board be in a position to give?
- > Shareholders always look to the board to take responsibility; but what share of responsibility belongs to the executive management?

The discussion provided valuable insights on how corporate are committed to the governance process as well as the way forward.

Anjali Bansal
Managing Partner, Spencer Stuart India

Separation of chairman and CEO roles

The separation of roles at the top — namely the chairman and CEO — was one of the earliest measures of good corporate governance. Recommended by the UK Cadbury Report in 1992, since when it has been adopted in many markets, separation had two objectives — to prevent the concentration of power in one individual and to address the growing need for shared responsibility in the light of increasing complexity in the business environment. It has taken time for corporate managements to accept and incorporate this practice and it is also important to understand that splitting the roles in promoter-driven companies will only be truly beneficial when the chairman is independent or not related to the promoter family.

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Even today, the idea of separating these roles finds resistance in boardrooms across the world, though there is a growing acceptance of its benefits. Findings from the India Spencer Stuart Board Index 2009, which tracked the BSE 30 companies on various governance trends, reveal that 54 per cent of the surveyed boards were led by non-executive chairmen. This compares with 39 per cent of boards in the US

and 89.3 per cent in the UK (chairmen there are named as “part-time”). Compared with the UK, Indian companies have a long way to go, but the scenario is encouraging. ICICI Bank has separated these roles for almost two decades, while at the Godrej group, only non-family professionals become CEOs. Furthermore, only professionally qualified family members can join the group.

Why is this separation so important? In short, it enables the CEO to run the business and the chairman to run the board. An independent chairman is better placed than a chief executive to run the board in an even-handed manner, with the interests of shareholders paramount. Furthermore, separation of roles helps ensure that the board focuses on supporting the CEO by providing the most constructive advice and the resources that the executive needs to run the business.

Working at the top can sometimes be a lonely job. The presence of an independent chairman provides a support to the CEO, especially in challenging times. A chairman can also act as a lightning conductor, deflecting some of the external heat and pressure from the CEO.

There is also a self-regulatory angle to the concept. On the one hand, the chairman, along with the board, has the ability to ask an under-performing CEO to leave. On the other, where the chairman does not get on with the CEO, the board has the independence to study the situation and support the right individual, even replacing the chairman or CEO if required.

The independent chairman should also preside over the nominations committee of the board. It is the nomination committee chairman, along with the other independent directors, who determines the succession policy for the

non-executive element of the board. Deepak Satwalekar, former MD & CEO, HDFC Standard Life Insurance, says: “The nominations committee should be made up entirely of the non-executive community on the board and they should define a set of criteria against which new director candidates are sourced.” There needs to be a rigorous process of review and selection and prospective candidates will have to understand that going through this process is necessary and mandatory—even if they are known to the chairman and the board. There is recognition that incorporating such a process across boardrooms in India is likely to take time, but will be unavoidable in the long run.

While the separation of roles is virtually enshrined in the UK governance framework, the US practice has been very different. In the US, it has long been the norm for the CEO

also to be the chairman of the board. It is only now that institutional shareholder pressures are making many boards re-examine their attitude to the separation of roles issue in the US. The previous model has its flaw, not least because in the presence of an all-powerful chairman/CEO, independent directors can find it extremely difficult for their voices to be heard. Many boards consist of individuals of high status, yet too often in the past boards lacked a rigorous process to determine what expertise and relevant experience was required of their members. In spite of these drawbacks, the move towards having independent chairmen is yet to gain widespread acceptance.

The panel: Narayanan Vaghul



“We seem to be operating under a cultural constraint where it is very difficult for the independent director to disagree with the chairman, particularly since directors frequently owe their appointment to the chairman.”

N Vaghul is the former chairman of ICICI Bank, India’s leading private sector bank. His leadership at ICICI, which he joined in 1985, transformed it from a small size long-term credit bank to a large diversified financial conglomerate. Mr Vaghul joined the State Bank of India in 1957. He then served as Executive Director in Central Bank and thereafter as Chairman, Bank of India where he was the youngest ever Chairman in a public sector Bank. He pioneered the concept of credit rating in India

by setting up CRISIL and was the founder Chairman for close to ten years. He serves on the Boards and advisory committees of a number of companies, in India and abroad. He is also deeply interested in education particularly in the under privileged sections of the society and is associated with a number of NGOs and foundations in this area.

In the US, the prevalence of chairmen who combine the role of CEO has led to the concept of the 'lead independent director'. This individual acts as a spokesperson for the independent directors, presiding over independent sessions before every board meeting, without the CEO present. As Julie Daum, Spencer Stuart, explains: "Around 95 per cent of the boards in the US now have a lead director, who chairs the executive session and helps set the agenda. But I think we all see that that is not enough. We really do need somebody who can, if required, lead the independent directors if they need to ask the CEO to leave."

In a way, the most important appointment that the board has to get right is that of the chairman. Says David Kimbell, Spencer Stuart: "The chairman can determine the quality of people around the boardroom table, can determine whether the strategy of the company is one he is going to support, and can decide whether he is going to work well with the chief executive. Get the chairman wrong, and you have got a terrible board and a disaster on your hands."

The panel: Anjali Bansal



"For governance to be truly effective, what matters is seeking practical solutions, with the objective of strengthening corporate and board governance within the existing framework."

Anjali Bansal leads Spencer Stuart's India Office, which serves multinational and Indian companies on critical leadership and board issues. Working in various geographies across the US, UK, India and Southeast Asia, Anjali focuses on world-class leadership development in India.

Prior to joining Spencer Stuart, Anjali was a consultant with another global executive search firm. Based in that firm's Mumbai office, she focused on search

assignments for clients in the financial services, industrial and technology sectors and worked with private equity and venture capital firms. Before entering the executive search field, Anjali was with McKinsey & Company, focused on strategy consulting assignments with financial services firms in banking, capital markets, insurance and private equity. Anjali received a master's degree, with distinction, in international affairs from Columbia University and a bachelor's degree in computer engineering from Gujarat University in India.

Role of the independent director

One of the larger debates revolving around the Satyam Computers case was the role of independent directors on company boards. There is a consensus that independent directors on Indian boards are seldom empowered and this leads to ineffective board functioning. In India, it is completely the choice of the chairman how much strategic discussion should take place and how to utilise the competencies of the independent directors most effectively.

Freedom of expression

Independent directors need to be more involved in board meetings since their role demands a contribution to risk management — they must ask the right questions, seek answers from the executives and evaluate those answers in relation to the strategy of the company. Says Deepak Satwalekar: “I think it is the independent director who has to decide how independent he or she wishes to be. And I think the more independent one wishes to be, one should be able to commit time. And if one is unwilling to commit time, I don’t think one is entitled to ask questions of the board or even be on the board.” Truly engaged directors will know and understand the business of the company, and with their wide experience they should be able to evaluate whether management has overlooked any risks in its strategy. If taken in the true spirit of governance, this does not necessarily mean doubting management, but raising questions so that the board is able to think through and take the right decisions. The role of the independent directors is not to question the management, but to challenge it;

challenge the strategic assumptions, challenge the business scenarios being sketched.

One of the reasons given for this hesitancy on the part of independent directors to voice their opinions has been the board culture in India. As Mr Vaghul explains: “We seem to be operating under a cultural constraint where it is very difficult for the independent director to disagree with the chairman, particularly since directors frequently owe their appointment to the chairman.” Boards constituting family and friends are a common sight in India and, more often than not, directors are only present at the meetings for compliance sake. Consequently, there is a natural reluctance on their part to dissent from the views of the chairman. Furthermore, board directorships are very often offered to retired individuals, for whom the compensation is very important and therefore this affects the quality of their engagement with the board. This is also a compelling reason for having non-executive independent chairmen.

“I think it is the independent director who has to decide how independent he or she wishes to be. And I think the more independent one wishes to be, one should be able to commit time.”

However, as Bharat Doshi, Mahindra & Mahindra explains: “If an independent director finds that he or she is the only person dissenting every time and finds no support from the chairman or the board, he or she should walk away.” At the end of the day, independent directors are professionals, with personal reputations to protect and if they feel their views are going unheard on a board, it is better for them to step down. If they feel there is information that shareholders should be aware of and is being

withheld, they should report it. In no way should that be considered a breach of trust. Deepak Satwalekar explains: “While this is important and maybe even necessary to fulfill the role and responsibility as an independent director, ‘cultural constraints’ will not let this happen, unless there is a liability attached for not reporting, when one was aware of something amiss. In India, people step off the board for ‘personal reasons’.” To enable true governance in this area, independent directors’ hands need strengthening.

“Everybody does not need to understand every aspect of a business, but boards need people who have a real feel for the business and the guts to raise their hands and ask the intelligent question.”

How can this issue be resolved? Without doubt, it is the responsibility of the chairman to ensure that this culture of silence is replaced with one that invites constructive criticism and empowers independent directors. The point to be stressed is not whether the chairman has relationships with the directors, but whether the right individuals have been chosen to be on the board. A good nominations committee, led by the non-executive chairman and comprising only independent directors, will also provide continuity on the board when new members are required. Another means of ensuring clarity of roles would be to issue letters of appointment to independent directors clearly spelling out expectations and responsibilities.

Domain knowledge

In recent times, especially since the recent financial crisis, the qualifications of independent directors have come into focus. In many cases, while boards often comprise people with stature

and extensive experience, not all of them necessarily understand the business of the company. In the US, there is a strong feeling that the absence of people with financial expertise in the boardrooms of financial institutions was a major contributing factor to the economic crisis. Julie Daum explains: “Everybody does not need to understand every aspect of a business, but boards need people who have a real feel for the business and the guts to raise their hands and ask the intelligent question. In the US, we are moving towards this model — building boards with leadership and real expertise relevant to that business.”

Although some level knowledge will help, a director on the boards of a diverse set of companies does not need to be an expert in every sector. According to Kiran Karnik, former president, NASSCOM: “Sometimes the need for domain knowledge can be overstated. Directors do not need to be experts, it is more important for them to look at strategy and to make sure that the systems and processes are right.” Furthermore, the composition of the board should be such that every member complements the other. Therefore, a combination of different age groups and different backgrounds can be beneficial, as long as each director is capable of contributing to strategy.

Number of board directorships

Another issue that has elicited much debate in recent times is about limiting the number of board directorships that an independent director should hold. This is directly linked to how involved independent directors need to be in order to do justice to their board role. According to the Directors Database, out of 6,871 individuals, 285 hold five or more independent directorships in listed companies in India, with one person holding 14 independent directorships.

Furthermore, these 6,871 individuals are also on the boards of 13,284 unlisted organisations¹.

There is a consensus that, in order to be effective and fulfill responsibilities, independent directors need to spend at least 2–3 days preparing for a board meeting. And therefore, one view was that 3–5 boards would be the optimum number of directorships independent directors can handle, if they want to do a thorough job. On the other hand, while agreeing that directors should be willing to spend time between board meetings, there was a view that becoming prescriptive in limiting the number of directorships was not the only solution —except possibly for full-time executives.

There is also an understanding that directors will need to be adequately compensated for

their time, which means that compensation for non-executive directors will need to be increased significantly. However, arriving at some basic principles of compensation could be a more effective solution than prescribing actual numbers.

Tenure of directorships

Independence of directors has also been linked to the tenure of directorships with individual companies. In the UK, the governance code states that an individual can serve for up to nine years as an independent director (three terms of three years). After nine years, the Financial Reporting Council, which is the overarching governing body, deems the director ‘not independent’. However, a board is entitled to argue its case that the director remains independent. According to David Kimbell, this has made the definition of independence a flexible tool for the

The panel: Julie Daum



“Around 95 per cent of the boards in the US now have a lead director, who chairs the executive session and helps set the agenda. But I think we all see that that is not enough. We really do need somebody who can, if required, lead the independent directors if they need to ask the CEO to leave.”

Julie Hembrock Daum is the practice leader for the North American Board and CEO Succession Practice of Spencer Stuart, the leading executive search firm in the boardroom. She consults with corporate boards, working with companies of all sizes from the Fortune 10 to pre-IPO companies and has worked on over 450 director assignments.

Julie also is involved in the organization of the Northwestern Conference on Corporate Governance

and was the founder of the Wharton/Spencer Stuart Directors’ Institute.

Prior to joining Spencer Stuart, Julie was the executive director of the corporate board resource at Catalyst. After graduating with an M.B.A. in corporate finance from The Wharton School at the University of Pennsylvania, Julie began her career as a consultant with McKinsey & Company in Los Angeles.

board and recently boards in the UK have used this flexibility to ensure that experience remains around the table for as long as possible, and to avoid bringing in new people simply to comply with a rule. True independence ceases to exist the day the independent director ingratiates himself with the CEO, so independence is more about an attitude of mind than a question of time served.

In the US, there is a bigger problem —there is hardly any turnover on listed boards. The retirement age for directors is 72 or 75 years, with the result that the average age in boardrooms is currently 64 years, many boards comprising individuals who are retired and have been on the board for a long time. Julie Daum explains: “This is a big problem in the US because we have boards that may have been put together

when the business and the environment were very different, and new experience is missing.” In India, there is a related issue. While we are proud of our young demographic profile, this is not reflected in the composition of our boards. Chairmen and nominations committees need to hire people who understand and can better represent that generation and its aspirations.

This has built the case for some degree of rotation on Indian boards, with support for a 6–9 year tenure —especially given the Indian context where there is a tendency not to disagree publicly with ‘friends on boards’. Kiran Karnik explains: “Independent directors, over a period of time, build a certain relationship with the board and in India board meetings are seen as public discussions. While this is good and builds trust, I think independent directors must have a degree of

The panel: Bharat Doshi



“If an independent director finds that he or she is the only person dissenting every time and finds no support from the chairman or the board, he or she should walk away.”

Bharat Doshi joined Mahindra & Mahindra Limited in 1973 as an executive. He is a fellow member of the Institute of Chartered Accountants of India and the Institute of Company Secretaries of India and has a Master’s degree in Law from the University of Bombay. He has participated in the Program for Management Development (PMD) at Harvard Business School. He is a trustee of the Mahindra Foundation and the K.C. Mahindra Education Trust. He is also on the board of governors of the Mahindra United World College

of India. He was one of the founding members of the governing council of InAct (Indian Association of Corporate CFOs & Treasurers). He is also an independent director of Godrej Consumer Products Limited and NSE.IT Limited. Bharat is a member of the SEBI (Securities and Exchange Board of India) Committee on Disclosures and Accounting Standards (SCODA) and is the president of Bombay Chamber of Commerce & Industry (BCCI), a premier business chamber, for the year 2009–10.

skepticism, and for this, rotation is necessary.” Deepak Satwalekar adds: “The key is in selecting people with the right attributes to begin with. If the nominations committee feels that age is beginning to tell on the performance of a director, then it should make the appropriate call, without waiting for six or nine years to elapse.”

Role of the management

A failure of governance within companies has always put independent directors at the centre of the storm. There is a mindset among stakeholders to hold them responsible for the shortcomings of the board — a mindset that is quite unfair. The board cannot ultimately shirk responsibility, but the lion’s share of that responsibility lies with the management of the company. According to Kiran Karnik: “It will be very difficult to prevent corporate fraud unless the management is held responsible — unless the management has values and ethics and follows them. You cannot get away from those.”

Today, most boards are spending enormous amounts of time on compliance. This needs to change. Boards should not need to spend the majority of their time looking over the shoulders of management, but should refocus their attention on strategy.

Building a longer-term view

There is an argument that one of the primary responsibilities of independent directors is to protect and enhance the long-term interests of a company and that this will result in good corporate governance — even if these may sometimes seem to be contrary to other stakeholder interests.

However, as companies develop their strategies, boards need to start taking a longer-term point of view, encompassing the community and the environment. And when this happens, there has to be a convergence between what is good for

the company and what is good for society. This would reduce any divergence between the perspective of independent directors looking at the long-term interests of the company and those of the larger stakeholder body. Deepak Satwalekar explains: “By this, I don’t think that anybody is saying that independent directors should protect the minority at the cost of the majority. Both need to go together. If we actually consider the long-term interests of the company, then they cannot be divergent from what is in the interest of the community and society at large.”

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Mr Vaghul explains this further through the ‘Theory of Obliquity’, which was first articulated by British economist John Kay. It proposes that if one is working with a complex system and trying to achieve an end goal, one needs to focus on the most important contributing factors. Applying this to the corporate environment, it means that any leader, whether a chairman or a CEO, who focuses entirely on profits as opposed to a larger cause, is unlikely to achieve those profits.

While executive directors do concentrate on such areas, an independent director is better positioned to take the broader perspective and present a more holistic view to the board. “I think there is a need to put forward the role of the independent director in a more formal manner,” says Kiran Karnik, “including the mandate, the responsibility and the understanding that the role goes beyond the shareholders to other stakeholders — which would include the community and maybe society at large.”

Board functioning

One of the areas where one can really observe the level of governance within an organisation is in the functioning of the board. In a corporate structure, whether it includes promoters, government and/or minority shareholders, the board has the responsibility of being a trustee with a strategic role to play. Is the board asking constructive questions, is it creating sufficient constructive discomfort, is it challenging what the executives bring on the table, and is it providing alternative ideas and options to those being presented?

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However, with the prevalence of scandals and frauds and increasing regulations, the practice of governance is in danger of becoming a ‘checklist’ game, where the board focuses more on compliance than on strategy. There are many instances of boardrooms where critical issues such as board committee functioning, performance of auditors, evaluations and succession don’t get a mention and even when they do, there is no immediate discussion or resolution of the problems.

Bharat Doshi raises another critical point: “A standard practice should be the recording of all points of view on a particular issue. But how many times does a vote of dissent get recorded in our boardrooms?” Ultimately, boards look for consensus and often this results in the sidelining of an issue that needs immediate action. Providing his perspective, Deepak Satwalekar says: “There are two points that need to be considered. First, US lawyers advise you to keep very cryptic minutes, as these are ‘discoverable documents’, and second, a dissent note will be recorded only if insisted upon by the director concerned. I am sure many of the independent directors on the Satyam board wished that they had recorded their dissent to the merger proposal.”

Related to this is the growing need for a whistleblower policy, something that is non-existent in India today. Companies need to have systems to enable whistleblowers to reach the board and ensure that they are heard. According to Kiran Karnik: “We don’t have whistleblower recognition, nor do we have mechanisms that give them anonymity if required. We can’t have just a policy on paper; it is necessary and needs to be mandated.”

There has also been a tendency for divisional heads of companies to be on the parent company’s board. Today, there is growing consensus among chairmen around the world who believe that this can actually be divisive. Division heads can be invited to the board meeting when required, but the company should be represented by the CEO and the CFO. As David Kimbell explains: “This would allow the board to really assess whether the CEO is aware of the

issues at hand. The smaller the board, the more efficient it is.”

Another practice that is gaining in importance in the US and the UK is meetings involving just the independent directors, headed by the senior (UK) or lead (US) independent director. While some believe that this could create a rift between executive and non-executive directors, the benefits are evident. Mr Vaghul says: “A separate meeting of independent directors is very valuable since it provides them with a forum where they can express their thoughts freely, which includes issues that they may want to take up with the chairman, in a non-offensive manner.”

Furthermore, it ensures that critical issues do not get buried under an exhaustive board meeting agenda and get highlighted appropriately.

Realistically, there will always be a shortage of time during board meetings to cover all the issues that require discussion. The answer lies in identifying key issues well in advance and setting a calendar so that they get addressed over the course of the year.

The panel: Kiran Karnik



“If companies follow a two-pronged strategy — don’t limit themselves to domain and use search firms who can broaden the net — I don’t think there is a shortage of talent. There is enough talent, if companies are willing to look around and find the people. And they don’t have to be retired people.”

Kiran Karnik is a prominent figure in the Indian technology sector and is the former president of NASSCOM (The National Association of Software and Services Companies) in India. He was most recently the government-appointed Chairman of Satyam Computer Services Ltd and oversaw its stabilization and sale. Prior to joining NASSCOM in 2001, Kiran was the Managing Director at Discovery Networks in India where he spearheaded the launch of Discovery Channel in South Asia in August 1995, and Animal Planet in 1999.

From 1991 to 1995, he was Founder-Director of the Consortium for Educational Communication, which was responsible for the Countrywide Classroom broadcasts and other ICT initiatives of India’s University Grants Commission. Earlier, he worked for over 20 years at the Indian Space Research Organization (ISRO). He has been on many key government committees and also serves on the Boards and advisory committees of a few companies. He is also a member of the Spencer Stuart India Advisory Board.

Shortage of talent

The paucity of independent directors in India is an issue that has been discussed widely over the past few years. However, what needs to be looked at carefully is whether there truly is a shortage or whether the director identification and recruitment process is not effective enough.

One of the most basic questions every company needs to ask itself is whether it is looking for an ornamental board or a functional board. Clarity on this question will define the talent pool. Very few boards in India have a nominations committee and even when one is constituted it is rare to

hear of a well-defined process that includes detailed discussions about the skills and attributes of directors needed on the board. Furthermore, boards rarely identify how these skills and attributes may change with changing business requirements. And if some directors are deemed unqualified, do boards have the courage to ask them to step off? Mr Vaghul explains: “There needs to be a systematic process of developing a pool, from which the composition of the board will have to be drawn. It is such a pool that will really add to the independence of the board.”

Regular, preferably annual, board evaluations can help with this. Effective evaluations need to address a range of questions: Is the board composition meeting the strategic objectives of the company? How is the board functioning? And how are the directors functioning

The panel: David Kimbell



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David Kimbell joined Spencer Stuart in London in 1979. Since then he has had extensive search experience in the U.K., Continental Europe and North America. David specialises in chairman/CEO and non-executive work for major international, publicly quoted companies. His knowledge includes communications, manufacturing and service industries. He was formerly a co-leader the European Board Services Practice. His involvement with senior-level assessment includes a large number of board evaluation projects and key roles in major

post-merger projects. David was managing director of the U.K. from 1985 to 1993, and chairman of the U.K. from 1993 to 2009. He was worldwide chairman from 1987 to 1999 and co-chairman from 1999 to 2003. He graduated from Heidelberg University and spent the first part of his business career in the international motor industry working in Belgium, France and Germany and concentrating latterly on the developing markets of South America, Asia, Middle East and Africa as overseas director of Leyland Vehicles.

individually? Are they contributing? Are they preparing properly for board meetings or just attending them? What skills are missing on the board? Asking these questions will help companies identify the talent gap on their boards and change composition accordingly.

Another issue that lends itself to debate is to what extent companies should contribute to the pool of directors by allowing their senior executives to join at least one external board as an independent director. According to Deepak Satwalekar: “This will not only contribute to the pool, it will also contribute to their knowledge on how other companies and boards function, ultimately making them more effective directors.”

Kiran Karnik also acknowledges the role of search firms in this area, and feels that India is slowly adopting this route to new director recruitment. Search firms can not only advise companies on director profiles, but can broaden the search landscape and identify talent that the company many not have been aware of: “If companies follow a two-pronged strategy — don’t limit themselves to domain and use search firms who can broaden the net — I don’t think there is a shortage of talent. There is enough talent, if companies are willing to look around and find the people. And they don’t have to be retired people.”

Defining the auditor’s role

Corporate frauds have brought into question the role of auditors in the governance process. Many times the auditor’s role does not go beyond signing off disclosure pages, and this is turning out to be counterproductive.

There is growing consensus on the fact that auditors need to embrace a broader role and share responsibility for effective governance implementation within the companies that they advise and generally be more accountable. There has emerged a need for them to take their job more seriously, build in accountability and if necessary, these requirements should be mandated.

Another way to ensure transparency and effectiveness could be to rotate auditors over a period of time. This also poses a challenge since the audit profession is dominated by four firms, which some view as effectively a cartel. Deepak Satwalekar says: “This is a larger issue, where the regulations have not allowed firms to grow (restriction of twenty partners and each having limited articulated clerks), and where the local small firms have not kept pace with the developments in the field.” This remains an issue that will need debate before resolution.

Governance in promoter-led boards

While corporate governance is a universal concept, its implementation in promoter-led companies, which includes government-owned companies and public sector units (PSUs) needs special discussion.

While the private sector has received its share of criticism regarding gaps in governance, regulators have failed to address these gaps in PSUs. Some of the critical issues here have been the flawed nominations process for appointment of directors and inadequate remuneration, which contributes to corruption in the system. This needs to change,

and change urgently, if good governance is to permeate the Indian business environment.

Another important issue for this group of companies has been gaining acceptance among stakeholders and society at large that they are value-adding organisations. Serving this larger goal means that they need to bring a sense of professionalism into their organisations. Mr Vaghul explains: “As board members of family-owned companies, I see independent directors holding the responsibility of persuading the family management to professionalise as quickly as possible.” Having independent directors alone does not deal entirely with board governance, but it does help balance the mindset of the management of the family-owned business.

It is changes like this that will help promoter-led companies build their organisations to become benchmarks of true corporate governance in the future.

The panel: Deepak Satwalekar



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Deepak Satwalekar retired as the Managing Director and Chief Executive Officer of HDFC Standard Life Insurance Company Limited in 2008. Before taking on the responsibility of setting up and running of the new insurance company in the year 2000, he was the Managing Director of HDFC, the country’s largest mortgage lender. Deepak has been a consultant to the World Bank, the Asian Development Bank, and other bilateral and multilateral agencies and has worked in several countries.

Besides being a recipient of the “Distinguished Alumnus Award” from IIT, Bombay, he is on the Advisory Council of the IIT, Bombay. He has been a member of/chaired several industry, Reserve Bank of India and government expert groups. He also serves as an independent director on the boards of leading companies in India. He received a Bachelors in Technology degree in Mechanical Engineering from IIT, Bombay, and an MBA from The American University, Washington D.C.

The way ahead

As we have seen, corporate governance will always be an evolving process. Lessons will be learnt from mistakes and experience will make companies better practitioners. What is important is that governance regulations strike a balance between mandatory processes and self-regulation. In a country like India, where small- and medium-sized companies drive innovation and growth of the economy, the cost of compliance should not become so large that the practice of governance itself becomes the problem.

One of the key drivers for governance that emerges today is the leadership that can be provided by the chairman. Resolving governance issues will be very difficult without a chairman who is independent, who is separated from the CEO, who understands, lives and breathes corporate governance, and who is in a position to carry the board along with him.

At the same time, there is no substitute for effective and responsible management, based on a clear set of values and a vision that is inclusive and not individualistic. Only this kind of leadership can appreciate the spirit of corporate governance.

Companies need to realise that there will always be constraints to the governance process. Few recommendations will be accepted in their entirety; a phased approach is more likely, driven at times by pressure and at times by convenience. This makes it all the more important for organisations to focus on self-regulation, drawing up strategies that may be based on mandated policies, but stay true to the spirit of governance that the company has visualised for itself. Only then will change be effected.

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