

Corporate Governance

A Comparative Analysis in India and the US

The Honors Program
Senior Capstone Project
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Corporate Governance: A Comparative Analysis
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ABSTRACT

My senior capstone project focuses on the importance of transparency and monitoring within corporate governance, especially in India and the US. To understand corporate governance, I studied the different theories and models of corporate governance as well as sustainability reporting. This research discusses the legal and regulatory environment within India and the US, and through a comprehensive study of the regulatory bodies within the two countries, I determined the best practices of corporate governance. I conducted a comparative analysis across India and the US with focus on 13 elements: *insider trading, disclosure and certification of financial statements, remuneration disclosure, code of ethics and corporate social responsibility, auditor independence, independent directors on the board, effectiveness of regulatory bodies, board leadership structure, data protection laws, enforcement of laws, presence of women and minorities on board, stricter standards of licensing, and proper standards of financial reporting*. Based on the results, this research shows that there is significant difference between the corporate governance models of India and the US due to the cultural and environmental differences between the two countries.

INTRODUCTION

Corporate governance is how a corporation is structured, regulated, managed, and operated. It essentially balances the interests of a company's many stakeholders, such as management, shareholders, suppliers, financiers, customers, government and the community. It provides the framework for attaining a company's objectives and encompasses every sphere of management, from action plans and internal controls to performance measurement and corporate disclosure. Andrei Shleifer and Robert Vishny discuss the linkage between corporate governance and economic interests of the participants in the corporation (Shleifer and Vishny, 1997). Broadly speaking, the term encompasses external factors (such as legal and regulatory, economic, cultural and societal, political, corruption, ownership structure and accounting system) and internal factors (such as competent, diverse and independent board of directors, independence of auditors and empowerment of shareholders). However, most of the research centers around internal factors.

My senior capstone project focuses on the comparative analysis of the corporate governance model in the United States and India, with additional focus on corporate social responsibility and sustainability reporting to analyze the relationship between effective corporate governance models. My thesis uses transparency and monitoring as the major pillars to evaluate corporate governance. I believe that it is necessary to do such research, especially now, as globalization is encouraging more and more companies to expand into emerging markets such as India in order to take advantage of the untapped market potential.

Although India has been pursuing improved corporate governance standards since 1998, the Satyam crisis reveals that the foundation of corporate governance in India is shaky due to the

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lack of accountability of controlling shareholders or promoters to other shareholders, limited enforcement and lack of specialized courts to fast track commercial trials. On the contrary, the US sets an example with a shareholder oriented or market based approach to corporate governance. Moreover, as an Indian student pursuing an undergraduate degree in accounting and finance in the US, this project enables me to learn more about my field of study and prepares me for a career in financial services (in India and the US). Additionally, the Satyam crisis also reveals the increasingly growing relationship between India and the US (as Satyam was listed on the New York Stock Exchange) which makes it imperative for students, especially those interested in global careers, to learn more about the corporate governance cultures across different nations. It also enables me to provide students at Bryant with information about the different business environments in different countries as more and more students plan to go abroad to either study or pursue a career.

LITERATURE REVIEW

Introduction: Data Sources

Most of the literature about corporate governance is focused on the developed countries with limited resources geared towards emerging economies. The studies are mostly quantitative and as Leblanc states in his research, a more qualitative approach is necessary (Leblanc 2004). The key dependent variables in most of the corporate governance research are the size of the board of directors, independence of the directors, legal structure of a country, type of ownership and shareholder involvement. However, more and more researchers are focusing on the competencies and integrity of individual directors in order to understand the effective of corporate governance models across different countries. This literature review is compiled of multiple sources ranging from scholarly articles to newspaper journals and business publications geared towards different aspects of corporate governance in different countries (with input from academics and professionals alike).

In 1932, Adolf Berle and Gardiner Means published *The Modern Corporation and Private Property* (based on the United States corporate law) and while the book didn't explicitly mention the term corporation governance, Berle and Means developed a thesis about governance in public organizations to showcase how boards become overpowered by the management and executives to the extent that their supervisory role becomes ineffective. The expression corporate governance didn't exist until the 1970s, and has been gaining prominence since then. The rise of corporate governance is directly proportional to the increase in government deregulation and corporate fraud in the US as people started to realize that the problem lies within the government and the lack of regulations. Other factors that

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contributed to the rise in corporate governance include the decline of unions in the 1970s (decreasing conflict between the management of a firm and its labor), resistance to increasing state intervention, increasing stock ownership by US households, advancement in technology and an increasing number of financial analysts (resulting in more efficient markets). Post the Great Depression, the Anglo-Saxon model of corporate governance became notable in the emerging markets as it paved the way for financial and economic development of a country. Thereafter, corporate scandals (such as Enron, WorldCom, Arthur Anderson) as well as the Great Recession of 2008 further elevated the importance of corporate governance (Marie L'Huillier 2014). Today, corporate governance is combating social issues such as income inequality, human rights violations and gender inequality by promoting shareholder activism and engagement.

What is Corporate Governance?

In 1999, the Organization for Economic Cooperation and Development defined corporate governance as

Corporate governance is a set of relationships between a company's management, its board, its shareholders and other stakeholders. Corporate governance also provides the structure through which the objectives of the company are set, and the means of attaining those objectives and monitoring performance are determined. Good corporate governance should provide proper incentives for the board and management to pursue objectives that are in the interests of the company and shareholders, and should facilitate effective monitoring, thereby encouraging firms to use resources more efficiently.

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Through an analysis of various articles and journals published since 1985, L’Huillier (2014) attempted to understand the different connotations behind the word “corporate governance.” The term gained popularity in the mid-1980s in the Organization for Economic Co-operation and Development (OECD) countries due to different political changes. More recently, corporate scandals such as Enron, Satyam and Wells Fargo, and the financial crisis of 2007 have brought corporate governance under further scrutiny. The major points under focus were the extravagant compensation received by company executives, the appointment and re-appointment of the board of directors and focus on short-term profitability at the expense of the shareholders. To improve stakeholder trust and the accountability of the firms to the shareholders, “corporate governance became emphasized as the locus of control and responsibility” (L’Huillier, 2014).

Millstein (1993, p.513) uses the agency theory to describe corporate governance as the mechanism to monitor managerial control as well as how it is used to fairly enhance profits for the shareholders and the corporation. Hence, it exercises control over agents such as managers and subcontractors. Darus (2011, p.125) further adds to this by stating that the conflict between the shareholders and managers can lead to corporate governance problems due to separation of ownership and control; both the principal and the agent can take unethical advantage of each other. The essence of effective corporate governance is to ensure trustworthy relations between the corporation and its stakeholders. Thus, an effective corporate governance model reduces agency loss and holds the managers accountable for their actions while providing the managers with discretionary power in order to achieve the corporation’s objectives. On the contrary, the stewardship model asserts that corporate

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governance ensures that the structure and hierarchy of an organization (instead of managerial control, as in agency theory) is adequate to empower corporations in order to produce superior stakeholder returns. From the view of the resource dependency theory, the lack of women directors on the board of directors comes into light (Sheridan and Milgate, 2005) due to the “exclusionary old-boy network” and hence, corporate governance calls for gender and race diversity on the board of directors. The stakeholder theory primarily focuses on the responsibility of a corporation towards its external and internal stakeholders as well as a governing board that balances the interests of the stakeholders to enforce their rights. Hence, different theories define corporate governance differently.

Effective corporate governance increases transparency and hence, improves the functioning of an economy through better resource allocation and market efficiency. Such a model enhances shareholders’ returns and corporate profits due to higher equity returns, sales growth and lower capital expenditures. Adrian and Wright (2013) conduct further research on corporate governance to analyze the directors’ views on different elements of the corporate governance model. The research revealed that one of the more important attributes of corporate governance for directors was CEO duality, that is, the chair position of the board of directors should be assumed by an independent director (separate from the CEO) to ensure separation of duties. Secondly, the audit committee should be independent to avoid scandals such as Enron, wherein the provision of non-audit services could increase the financial reliance of the audit committee on the client and hence, blind the committee from detecting material misstatements. Thirdly, the composition of the board of directors is another important attribute of a corporate governance model.

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Key Principles of Corporate Governance

Corporate governance is a set of controls, policies and resolutions that dictate the corporate behavior of companies and organizations. It balances the interests of the company's stakeholders such as shareholders, management, customers, suppliers, investors, government and the community. Due to its wide scope, it encompasses every sphere of management from action plans and internal controls to performance measurement and corporate disclosure.

While internal controls ensure the integrity and reliability of financial and accounting information (in order for the firm to remain profitable), disclosure is the act of releasing the relevant (good and bad) financial information, operational information and management compensation of the firm in order to encourage fair investing.

The National Association of Corporate Directors (NACD), headquartered in Washington, D.C., is composed of more than 17,000 directors from public, private, and non-profit organizations within the US as well as overseas, and is dedicated to the mission of advancing better leadership within the corporate boards through learning and networking opportunities. In 2008, the NACD published "Key Agreed Principles to Strengthen Corporate Governance for U.S. Publicly Traded Companies" and asserted certain principles in order to improve the quality of discussion regarding corporate governance. One of the first principles to ensure effective corporate governance is the positioning of a competent and committed Board of Directors to account for the oversight of the corporate governance system with focus on "long-term value creation" (NACD, 2009) and transparency through disclosure of governance practices, deviation from best-practice recommendations and communication with shareholders. The directors should hail from different backgrounds and bring in an appropriate and diverse mix of skills, experiences and opinions to encourage discussion before a decision

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is reached. Moreover, the board should be regulated by the shareholders to hold it accountable and independent from the management, and also ensure the board's objective oversight of the company's management. This can be achieved by conducting executive sessions, including both independent and outside directors, to discuss management performance and proposals. To ensure the independent leadership of the board of directors, an independent chairman is elected. The governance practices should promote integrity, ethics, and responsibility within the corporate culture to build relationships and improve trust with stakeholders (customers, suppliers, employees, regulators and investors). The practices also provide the board with the necessary support to determine its priorities, develop its agenda and fulfil its information needs to develop a strategy to better support the management. One of the key principles of corporate governance is protection against board entrenchment through the constantly evolving structure of the board of the directors. This can be achieved with the help of changing directorship with the board through the imposition of age limits, term limits, voluntary resignations, re-nomination, and periodic evaluations.

An important component of corporate governance is meaningful shareholder involvement in selection of directors (for public companies, shareholders with voting shares can elect the directors and may remove the directors or refuse to re-elect them if they are not satisfied with the directors' performance). The best practices recommend that companies should adopt majority voting and in the event of an uncontested election, candidates who fail to win over the majority should be required to voluntarily resign and any deviation from the above-mentioned practice should be carefully thought out and accounted for. The Board of Directors are accountable to the shareholders (for-profit companies) and the public (non-profit organizations). The success of corporate governance lies within effective communication with

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the shareholders through proxy statements, annual reports, annual meetings as well as other conferences, additional correspondence and open dialogue.

History of Corporate Governance

The history of capital markets has witnessed outrageous growth among firms followed by the consequent downfall as the firms attempt to extend beyond their boundaries leading to upheaval in the markets and disrupting investors. The “Roaring Twenties” or the period from 1920-1929 witnessed prosperity in the economy, especially in the American markets due to the First World War which propelled Americans to buy goods manufactured in the US, leading to enhanced production and sales by American businesses. However, the period of prosperity ultimately ended in October 1929 due to the overvaluation of stocks (as production declined, unemployment rose and companies started taking on more and more debt) leading to the largest stock market crash in the history of the US, which ultimately catapulted the economy into the Great Depression. The subsequent legislation such as the Securities Acts of 1933 and 1934 attempted to regulate the stock market to regenerate investor confidence. However, they were unable to compete with the rising advancement and complexity within the financial markets in order to accomplish the goal of aligning management interests with those of the shareholders and hence, led to the decline of corporate giants such as Enron and Satyam (as discussed in the next section).

Corporations originated in England in 1844 after the Joint Stock Companies Act that allowed companies to define their purpose and generate profit. The Limited Liability Act of 1855 provided shareholders with limited insulation for personal assets from any negative consequences association with the corporations. Shortly after, the increase in trading, and

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export and import of goods and services led to the rise in corporations (“Management Decision”, 2003). The Industrial Revolution in the US was driven by American ideals such as free enterprise and capitalism (Monks and Minnow, 2002) as well as the need for capital infusions within the economy. Due to the corporate revolution in the 19th and 20th century, there was an increase in merger activity as more and more firms started raising money by issuing stocks (or ownership) to the public, which “separated the owner from the function of management” (Grant, 2003).

The legal structure of the corporation allows it unlimited life, transfer of ownership, and limited liability. As the ownership of a corporation (and consequently, its profits) is pooled among people, so is risk. A corporation relies on its shareholders, workers and managers, which creates a power struggle of sorts between the managers and the shareholders. Hence, trust is essential to ensure the accountability of the managers to the shareholders (Schilling, 2000). The early models of corporate governance can be better understood through the agency theory, moral hazard theory, stewardship theory, stakeholder theory, transaction cost theory, resource dependency theory, political theory, theory of information asymmetry, and theory of efficient markets.

The agency theory was developed in the 1970s by Jensen and Meckling. Adam Smith further explored it and attributed the negligence in better management of corporations to the fact that the money invested in the corporations didn’t explicitly belong to the managers of the corporation. Hence, the agency theory attributes the differences between ownership and control of the corporation to conflicts between shareholders and the management. The management and directors (or the “agents”) are held responsible for making decisions in the

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interest of the shareholders (or the “principal”); this causes a conflict as the agent cannot always act only in the interest of the principal and in order to maximize company value, such conflict has to be minimized (Bonazzi and Islam, 2007). The audit committee plays an important role in the implementation of the agency theory, as the principals appoint the audit committee to reinforce trust. The figure below represents the agency theory graphically.

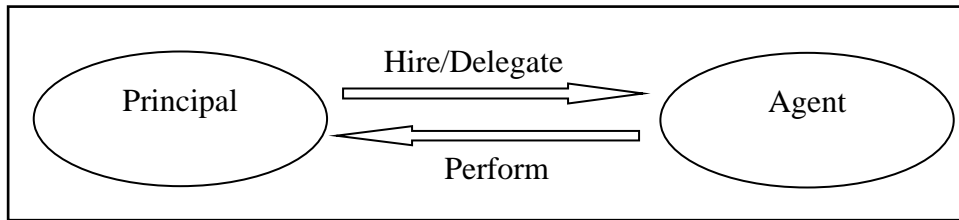


Figure 1: Agency Theory

Due to the above-mentioned conflict, managers can act in their own interest and hence, fall prey to moral hazard. The moral hazard theory focuses on the opportunistic behavior of the managers due to the conflict of interest and the information failure (or asymmetrical information) which further leads to performance issues within the corporation. As an example, during the financial crisis of 2007, moral hazard was caused due to the banks’ willingness to take more and more risks due to the insurance that the US government would bail out the banks and firms if the investments go south (as visible from the government’s assistance to AIG). The moral hazard theory also states that the opportunistic behavior of the managers or directors is dependent on their remuneration (compensation and bonuses).

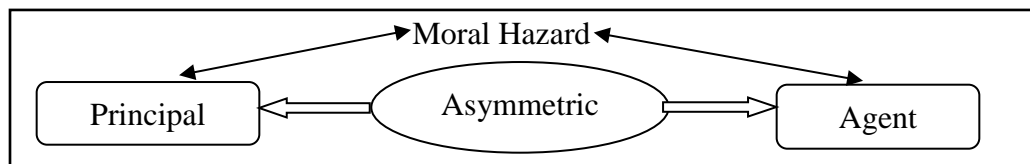


Figure 2: Moral Hazard Theory

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The stewardship theory, acting as an alternative to the agency theory, prescribes to the view that the managers act rationally as stewards in order to help maintain, administer and develop a corporation's assets (and hence, act in the interest of the shareholders in order to maximize shareholder wealth). Consequently, the advocates of this theory such as Fulop (2011) and Solomon (2007) believe that a corporation's board of directors should be composed of company employees, or internal members, who are more familiar with the company and its problems (in comparison with external directors, who only boost the performance of a company temporarily as they lack the fundamental knowledge about the company). A graphic representation of the stewardship theory model is represented in the figure below (Dewatripoint et al, 2003).

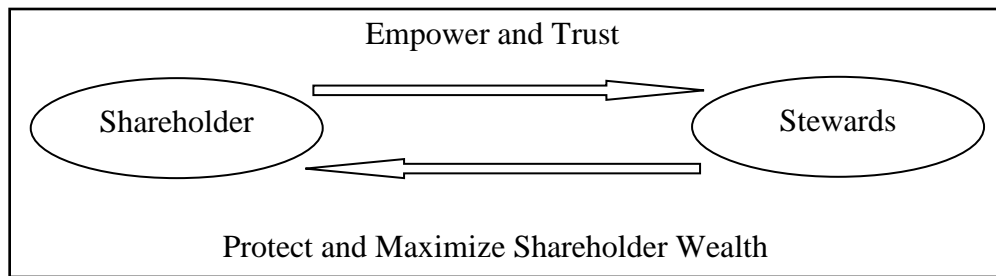


Figure 3: Stewardship Theory

Fourthly, the stakeholder theory is further developed upon the agency theory and focuses on environmental, social and corporate governance factors to add value for the stakeholders and increase confidence in the corporation. It asserts that the company is responsible for all the stakeholders and not just the shareholders. Hence, the stakeholder theory maximizes the interest of all the stakeholders as it provides economic success and competitive advantage to

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the firm, and enhances the importance of corporate social responsibility (Gregg, 2001). It is depicted graphically in the image below.

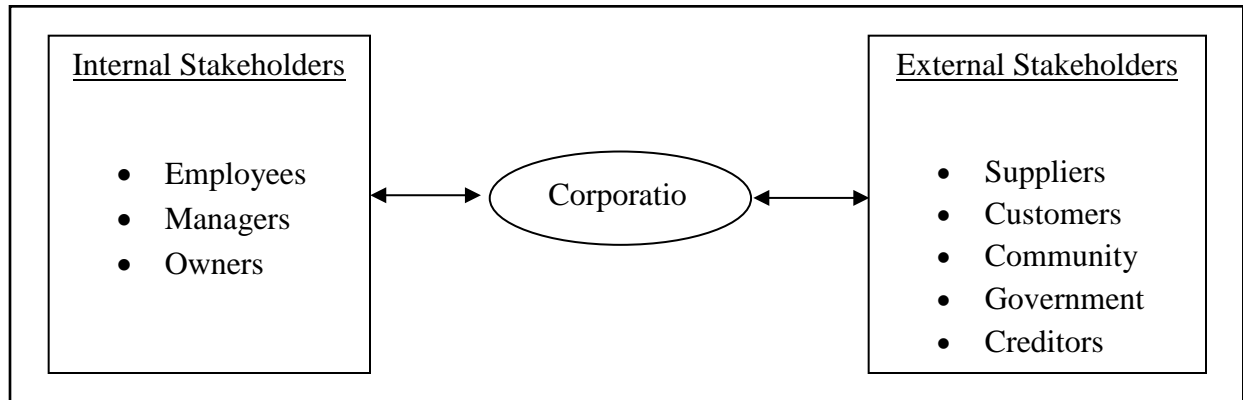


Figure 4: Stakeholder Theory

The transaction cost theory was developed by Ronald Coase and focuses on transaction costs as a measure of efficiency of the governance structures (Coase, 1998). It focuses on the corporation as an efficient hierarchy that is structured to enable contractual relationships. Hence, it centers around the “cost of using the price mechanism”, instead of the actual “transaction costs” (Coase, 1998), by learning more about the cost of providing goods or services through market channels. Kenneth Arrow further explores this theory and defines transaction costs as the “operating costs of the economic system” (Arrow, 1969). The transaction cost theory considers the costs that arise from the conflict of interest between managers and shareholders; this includes the cost of using the agent as well as the money spent on protectionary measures against agent’s opportunistic behavior.

The resource dependency theory was developed by Pfeffer and Salancik (1978) who asserted that an organization and its resource allocation could be understood from the relation between

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its activities and the environment in which it operates. Hillman, Canella and Paetzold (2000) further link it with the stewardship theory and claim that managers possess the skills, relationship and knowledge to supply resources to an organization in response to the external environment. Abdoullah and Valentine (2009) further categorize the managers into insiders (who possess knowledge and expertise about the company), business experts (who manage big companies and help with the decision-making process), support specialists (such as lawyers, bankers and insurance companies) and community influential (such as politicians, religious leaders etc.).

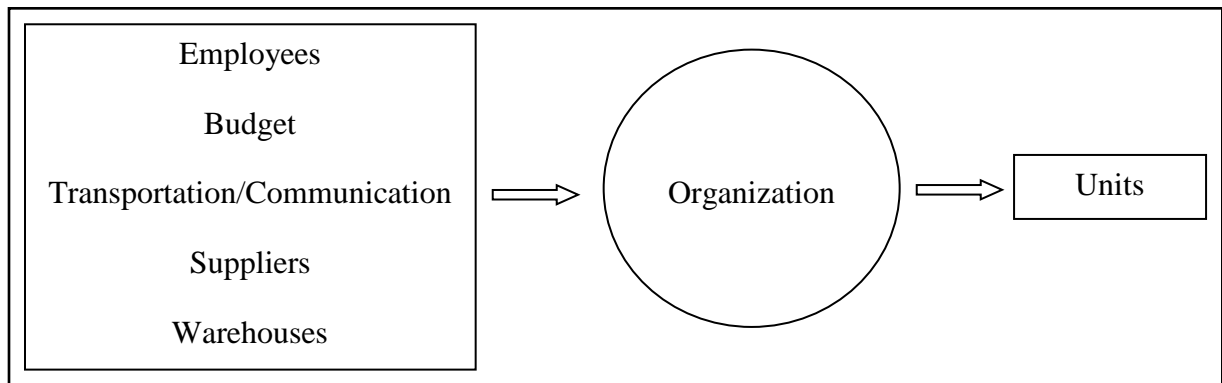


Figure 5: Resource Dependency Theory

The political theory is an alternative theory that attempts to explain corporate governance through legal framework and political influence in the governance of a company. It relies on the participation of a government in the enactment of the corporate governance laws regarding the distribution of the corporate power, profits and other benefits. This could range from stringent dividend regulations in countries such as Brazil, Chile, Columbia, Greece and Venezuela to corporate governance boards in countries such as the UK. The corporate governance model further depends on the political model. Therefore, former-communist

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countries struggle with inadequate corporate governance regulations due to the lack of investors and companies in the market.

The theory of information asymmetry is derived from the studies conducted by Akerlof and states that the behavior of buyers and sellers in the market should be analyzed using the assumption that there is an uncertainty of information regarding the quality of products being traded (Raimbourg, 1977). Hence, the seller could possess more information than the buyer (or vice-versa) leading to adverse selection and market collapse (as in the case of the financial crisis of 2007). The theory builds on the agent-principal relationship and explains how the conflict of interests between the management and shareholders can lead to dividend, financing or remuneration policies being adopted by the organization. Such policies act as signals for a company's growth. For example, a strong dividend policy or a well-structured debt policy indicates that the company continues to thrive and will stay in business.

Lastly, the theory of efficient markets primarily focuses on the investors. A good corporate governance model ensures transparency within an organization, leading to stronger and more effective mechanisms which ensure that the market value of the stock reflects the intrinsic value of the company. Hence, such markets are efficient and the stock price of a company reflects all possible information available about the company at a given time. This decreases uncertainty and doesn't allow any investors to take undue advantage of the market.

Linking Corporate Governance in India and the USA

The US and India have a strong commercial relationship, especially due to the constant outsourcing of information technology needs from the US to India. The IT outsourcing

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industry within India is worth \$150 billion and continues to grow at 12 percent each year (with the recent slump being attributed to the new presidency). In order to better understand the corporate governance models within India and the US as well as the consequences of failure of corporate governance, the Enron and Satyam scandals will be examined.

Enron Corporation was an energy-based company headquartered in Houston, Texas and one of America's seventh-biggest companies. From 1985 until the early 2000s, the company enjoyed great success due to its innovative work culture, and it generated multi-billion dollar revenues. However, in October 2001, one of the biggest accounting scandals in the US came to light. With the help of shell companies, or special purpose entities, Enron inflated its earnings by almost \$600 million (since 1994) and removed huge losses from its financial statements. Consequently, on December 2, 2002, Enron filed for bankruptcy protection and the company's stock plummeted from a previous high of \$90.75 to less than \$0.75, and the employees (whose pension funds were heavily invested in Enron) lost their life savings and investors lost billions of dollars' worth of equity. Enron was one of the biggest failures of the American capital markets, and a large part of the failure could be attributed to the audit committee which was further weakened by an inadequate corporate governance model.

The audit committee followed all the regulations (with respect to director pay and independence, disclosure and financial statements) as mandated by the federal regulators and the SEC which reveals the cracks and loopholes within the US corporate governance model in the early 2000s. Enron paid the directors with stock options in hopes to align their interests with the shareholders. However, this put additional pressure on the executives to ensure higher stock prices through any means possible and prevented the independent directors from

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questioning the creative accounting practices. Moreover, the audit committee didn't possess the expertise or knowledge to understand the accounting practices employed by Enron through its vested interest in the special purpose entities. The Enron crisis can be seen as a manifestation of the failure of the agency theory and stakeholder theory of the corporate governance model. The excessive focus on linking compensation with performance, close relationships between the Board of Directors and management and Enron, and the obscure financial reporting techniques led to a partial failure of the efficient market hypothesis. Moreover, the inclusion of the stakeholders such as suppliers, customers, employees, stockholders, and the local community into the management's decisions could have prevented the crisis.

The Satyam scandal (also called the "Enron of India") was one of the biggest corporate frauds committed in India with a fictitious amount of nearly \$1.1 billion (94% of the cash on the company's books) being manipulated as earnings on the company's books and, consequently, causing the investors to lose as much as \$2.2 billion. The official verdict was announced on April 10, 2015, resulting in the imprisonment of its chairman B Ramalinga Raju. Satyam Computer was founded in 1987 as a family owned enterprise, and listed on the Bombay Stock Exchange in 1991. It was one of the first IT companies in India to recognize the outsourcing opportunities within the software industry, and its subsidiary, Satyam Infoway became the first Indian information technology company to be listed on the NASDAQ (and soon expanded to 30 other countries). In 2006, the company reached new heights and generated more than \$1 billion in revenue, while winning accolades for its chairman by becoming the official IT services provider for the FIFA World Cup in 2010 and 2014.

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In December 2008, Satyam stocks took a deep plunge as the Maytas acquisition failed and reports confirmed that the World Bank had forbade Satyam Computer Services from conducting any business with it for eight years due to data theft and bribery charges. Despite the presence of independent directors on the board of directors, the lack of an adequate corporate governance standards was visible in the lack of knowledge among the directors (pertaining to the data theft allegations against Satyam). Consequently, Raju resigned from his position as the chairman and penned a letter to the board of directors and admitted to fraudulent transactions that inflated the cash in the books by \$1 billion (or 7,000 crore rupees) as well as his unscrupulous plans to replace the fictitious assets with Maytas' assets. He had successfully hidden the billion-dollar fraud from the company's board of directors, employees as well as auditors (from PricewaterhouseCoopers) for several years. The Indian government disbanded the Satyam board and appointed more diverse and competent directors on the company's board of directors to better assist the firm.

The Satyam scandal was also a manifestation of the agency problem due to the separation of ownership and control. The principles or shareholders of the Satyam corporation could not enforce control to prevent the opportunistic behavior of the agents or the Raju family.

Moreover, the crisis affected different stakeholders of the corporation. The internal stakeholders were impacted as an insecure working environment was created and employees lost their jobs, shareholders lost portfolio values (as the Satyam stock crashed), and the Board of Directors lost its power and reputation. Similarly, external stakeholders also suffered as the Indian government had to intervene to bail out the company, the IT outsourcing industry in India lost its reputation and clients, clients had to suffer through high switching costs and find

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different partners, and PwC suffered through a major loss of credibility in India due to its failure to correctly audit Satyam. This laid bare the inadequacies within the Indian corporate governance system: bank officials were bribed, data was stolen, accounts were falsified, the Board of Directors had close relationships with the Raju family and acted in their interest, and the PwC auditors didn't conduct a thorough study of the financial statements.

The government attempted to prevent such frauds through the implementation of the New Companies Act in 2013, and the market regulator Securities and Exchange Board of India (SEBI) worked to make changes in Clause 49. In addition to the above mentioned regulation, more and more organizations are adopting modern technology to secure their business processes, linking executive compensation with management of critical mission-exposures and using stronger internal controls to prevent breaches or fraud. The board of directors and audit committees have more power, and the boards are required to have a minimum of one women director on each board. New regulations also mandated the rotation of the audit firms after every 10 years (beginning April 2017) with strict focus on internal financial controls. However, the issue lies within weak enforcement, loopholes, treacherous practices such as bribery, and control of promoters.

In more recent news, the corporate scandal caused by the unethical sales practices of Wells Fargo & Co.'s retail banking shed light on the need for corporate governance. It represents the failure of the agency-principal dynamics. Wells Fargo CEO John Strumpf preached to employees that "eight is great". The mantra encouraged the employees to convince each customer to buy eight Wells Fargo products putting employees in an uncomfortable position to meet the demanding quotas of even more demanding managers. Branch managers had to

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confer with regional bosses regarding progress on daily quotas for opening accounts.

Employees who did not meet their quota were required to stay late and work weekends to meet it. The employees were further threatened with termination if they did not meet their quota for more than two months. Hence, the employees started creating deposit accounts and credit cards for the customers, without their authorization, by forging their signatures on the paperwork. For a period of more than 6 years, employees created more 1.5 million accounts and issued more than 500,000 credit cards without informing customers, resulting in over \$2.6 million revenue from fees for the bank. In 2013, the L.A. Times conducted an investigation with the help of current and former employees and exposed the scandal. In September 2016, Wells Fargo reached an agreement with city and federal regulators in Los Angeles and agreed to pay \$185 million in fines to settle allegations regarding the creation of fake bank accounts by its employees.

In an effort to put the scandal behind them, Wells Fargo claimed over a period of five years that it fired over 5,300 people for breaching ethical behavior. In September 2016, the bank announced the elimination of all sales goals for the retail banking business while CEO Stumpf publically apologized. However, a corporate scandal had already emerged and government officials such as Senator Elizabeth Warren and Treasury Secretary, Jack Lew condemned the actions of Wells Fargo and called for John Stumpf's resignation as well as criminal investigation by the SEC (while Stumpf maintained his silence on claw backs and compensation). Wells Fargo said that CEO Stumpf gave up his bonus, unvested equity awards worth \$41 million and didn't receive a salary while an investigation into the bank was conducted.

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The investigation conducted by a panel of four independent directors revealed that the unethical behavior of Wells Fargo employees was caused due to the company's incentive program and the high-pressure sales culture that drove behavior that was inappropriate and inconsistent with corporate values. Further, the panel blamed a decentralized operating model, and leadership that took too long to understand the seriousness and scope of the problem" (Swafford, 2017). The report addressed the incapability of the board stating it not only failed to tackle the sales issues until the L.A. Times revelations, but also didn't "accurately convey the scope of the problem" (Swafford, 2017) and failed to listen to employee appeals against the unmanageable sales goals. It also believed that by firing over 5,300 employees, Wells Fargo didn't eliminate the cause of the problem. Thus, the panel came up with the recommendations of corrective actions such as removal of sales goals, termination of four officers, pay claw backs of \$180 million (including \$141 million from former CEO Strumpf). However, lack of investor support for the recommendations was evident in the annual Wells Fargo meeting as investors voted to re-elect 12 members with only slim minorities.

In a 2017 Financial Times article, Philip Augar discussed some statistics regarding the lack of diversity among the companies on the Financial Times Stock Exchange 100 Index (FTSE 100). Only one in four directors of FTSE 100 companies is a woman and less than one in 50 directors comes from an ethnic minority. In the words of the British prime minister, Theresa May, the board of directors are coming from "narrow social and professional circles" (Augar, 2017). The increase in executive compensation is accompanied with increasing scandals pertaining to environmental neglect (Volkswagen Group), money laundering (Commonwealth

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Bank), sanctions busting (HSBC), bribery and corruption (Samsung), and false accounting (Toshiba).

The Ideal Corporate Governance Model

The trust of investors and consumers in the businesses is eroding, due to the ethical breaches in various companies and concerns about the role of business in society. Emerging markets (such as India) play an increasingly important role in the global economy (making up more than 30% of the global GDP). Hence, knowledge of corporate governance is necessary for the board of directors to better understand their oversight role as well as evaluate the fitness of company management for that role. Deloitte has developed a risk intelligence enterprise model as a roadmap to an effective governance model.

According to Deloitte, the purpose of corporate governance is effective risk management and involves the board of directors (oversight), executive management (responsible for execution of governance practices), and the business units and supporting functions (conduct risk activities). The corporate governance framework is essential to define the role and responsibilities of the board of directors, the different committees and the management; to assist in prioritization by providing structure to the board's policies and tools (annual meetings, committee charters etc.); and to prevent any disregard of critical issues (as in the case of Wells Fargo). Hence, it allows the board to collaborate with the management to resolve critical issues with minimal confusion and maximum productivity. The key objectives of the framework developed by Deloitte are governance, strategy, performance, integrity and talent. The purpose of corporate governance is to facilitate effective, enterprising and circumspect

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management to ensure the long-term success of the company. It allows the corporation to define its corporate culture and set of values. An effective corporate governance model improves transparency and accountability, and provides the firms with a competitive advantage to help them outperform their peers.



Figure 6: Risk Enterprise Model (Deloitte)

Corporate Governance: US

The corporate governance structure of corporations in a specific country is determined by several factors such as the legal and regulatory framework, and rights and responsibilities of the parties involved. Since many *de facto* (in effect, whether by right or not) and *de jure* (rightful entitlement or claim) factors affect corporations similarly, it is possible to define the corporate governance models for different countries. The models consist of key players in the corporate environment, share ownership pattern in the given country, composition of the board of directors, regulatory framework, disclosure requirements for publically listed corporations, shareholder approval for corporate actions, and the interaction among the stakeholders. The

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Anglo-American model of corporate governance is a dynamic, shareholder-oriented model that consists of an independent board of directors as well as institutional investors that act as disciplinary and monitoring agents. It is also known as the unitary system due to the presence of a single-tiered board of directors. The ownership of the corporation is dispersed among various shareholders and due to the presence of pension funds etc., institutional investors are heavily engaged within the corporation structure. According to a study conducted by the Corporate Library, the average size of the board of directors is 9.2 members, and most boards range from 3 to 31 members. Smaller boards with a high proportion of independent directors and committees are usually preferred. Moreover, in order to align the interests of the management and shareholders, executive compensation is linked with shareholder returns.

The audit committees (with at least three independent board of directors) act as representatives of the board of directors and conduct internal audits of the corporation, test internal controls, assist with accounting and financial reporting as well as regulatory compliance and risk management. Moreover, the companies are encouraged to have a strong whistleblower policy. Firms that perform poorly often face the risk of takeovers. However, due to corporate scandals, such as Enron and WorldCom, the US corporate governance model (specifically, equity-based compensation for executives etc.) has come under scrutiny and led to the development of legislation such as new SEC listing requirements, the Sarbanes-Oxley Act and the Dodd-Frank Act. The corporate failures have primarily been attributed to lack of objective board involvement and little accountability to shareholders. The figures below showcase important attributes of the corporate governance model in the US as well the role of different stakeholders in effective corporate governance.

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Ownership Structure	Dispersed
Ownership Identity	Individuals Pension/Mutual funds
Changes in ownership	Frequent
Goals of Ownership	Shareholder value Short-term profits
Board controlled by	Executives Shareholders
Key Stakeholders	Shareholders

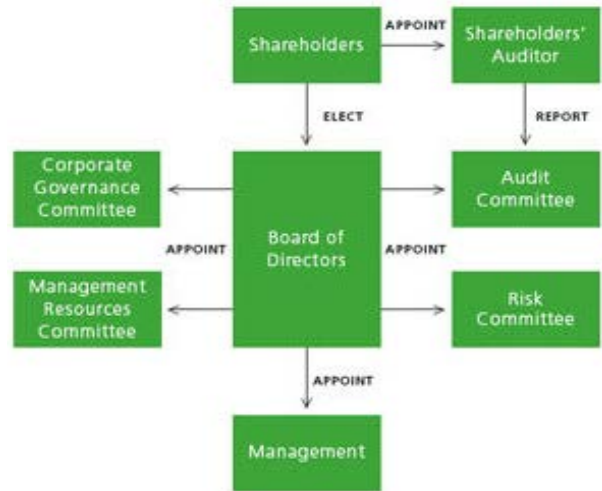


Figure 7: US Corporate Governance (TD Financial Group)

The Sarbanes-Oxley Act (SOX: 107th Congress Public Law 204), also known as the “Public Company Accounting Reform and Investor Protection Act” (in the Senate) and "Corporate and Auditing Accountability, Responsibility, and Transparency Act" (in the House), was enacted on July 30, 2002 in response to corporate and accounting scandals such as Enron and WorldCom. It established the Public Company Accounting Oversight Board (PCAOB) to regulate the auditors or the public accounting firms that provide audit services. The central oversight board of the PCAOB defines the processes for internal audit and assists with quality control and compliance. To prevent any conflict of interest, SOX regulated audit partner rotations, reporting requirements, and restricted accounting firms from providing audit and non-audit services to the same client.

SOX mandated that a company’s principal officers (the Chief Executive Officer and the Chief Financial Officer) take individual responsibility for the accuracy and completeness of the financial reports issued by a corporation. SOX increased the reporting requirements for firms

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and also required the company CEO to sign the company tax returns. Additional sections of the act focused on the code of conduct for securities analysts, the SEC's authority to ban securities professionals (such as brokers, advisors or dealers), and provided protection for whistleblowers (through the "Corporate and Criminal Fraud Accountability Act of 2002"). Despite the compliance costs of Sarbanes Oxley, it increases transparency and internal controls of a corporation and makes their financial statements more reliable.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (111th Congress Public Law 203) was signed into federal law by President Barack Obama on July 21, 2010 in response to the 2007-2008 financial crisis to improve financial stability and consumer protection. Under Dodd-Frank, national securities exchanges are required to bar brokers from voting in the election of the board of directors, executive compensation and other significant matters (as per the discretion of the SEC). Additionally, it also requires for a meeting of shareholders (at least once every three years) to approve executive compensation. The SEC may also define rules to permit shareholders to include nominees for election as directors in proxy statement (or statements required of a firm when soliciting shareholder votes). Other sections of the Act require the SEC to only list companies with independent compensation committees, develop policies regarding compensation claw backs and mandate additional disclosure regarding executive compensation with respect to the financial performance of the issuer, median annual compensation of all employees (excluding the CFO), and annual total compensation of the CEO. Additional disclosure is also required whether employees or directors are allowed to hedge any decrease in market value of the company's stock.

Corporate Governance: India

India is one of the largest emerging markets in the world in terms of its market capitalization (with over a billion shareholders in 2015, according to the Financial Times). The Satyam crisis revealed the ineffective corporate governance framework in India. Theoretically, the Indian framework is based upon the international best practices of corporate governance. It is a mix of the Anglo-American and German models as there are three types of corporations in India: private companies, public companies and public sector undertakings (that is, statutory companies, government companies, banks and other financial institutions). The different ownership structures result in different patterns of shareholders. For example, private companies are usually under the complete control of the promoter and his family (following the German model of corporate governance). The regulatory agencies are the Ministry of Corporate Affairs (MCA) and the Securities and Exchange Board of India (SEBI). The SEBI monitors the corporate governance for listed companies through Clause 49, that is incorporated in the listing agreement of stock exchanges with companies. MCA collaborates with its various appointed committees and the National Foundation for Corporate Governance (NFCG) to facilitate more dialogue regarding corporate governance. Despite an effective framework and protection for investors, the lack of corporate governance stems from weak enforcement due to slow, over-burdened courts and corruption. However, India still possesses high ease of getting credit and has well-functioning banking sector. THE SEBI has the highest number of trades in the world and stringent regulatory requirements.

The Companies Act of 2013 was enacted on 12th September 2013 and replaced the Companies Act of 1956. It provided a corporate governance framework through additional disclosures,

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improved reporting and transparency and better compliance. It classifies a One Person Company (OPC) as a private company and thus, and OPC is considered a separate legal entity with protection of personal assets from business liability and perpetual succession. Every listed and public company with a turnover of Rs. 300 crores (over \$46 million) shall have at least one woman director. It also mandates that companies with a net worth more than Rs. 5 crores (over \$7.75 million) should have a Corporate Social Responsibility Committee of the Board with three or more directors (and at least one independent director). With respect to class action suits, clause 245 provides that if a specified number of members and depositors believe that the management is not conducting the affairs of the company rightfully, an application to the tribunal can be filed and the liability for any damages or compensation falls to the firms and its partners. Additionally, the Competition Act 2002, the Foreign Exchange Management Act 1999, and the Industries (Development and Regulation) Act 1951 also assist with better implementation of corporate governance.

In 2000, the Kumar Mangalam Birla Committee, organized by the Securities and Exchange Board of India (SEBI), suggested the inclusion of Clause 49 in the listing agreement of companies. It was amended in 2003 and again 2013 to align it with the Companies Act of 2013. The corporate governance framework in Clause 49 focuses on the rights of shareholders, the role of stakeholders in governance, disclosure and transparency and responsibilities of the board of directors. It defines the criteria for the composition of the board of directors, restricts a person from serving on more than seven listed companies as an independent director (three companies if serving full-time), defines a maximum tenure of 10 years (two 5-year terms) for a director, and requires companies to develop a risk management team. Corporations are

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managed by a Board of Directors and a Managing Director (who is accountable to the board of directors). When headed by an executive chairman, 50% or more of the board of directors is comprised of independent directors. It mandated performance evaluation for independent directors and introduced new provisions for whistleblower protection. Moreover, the compensation paid to executive directors (including independent directors) is fixed by the board of directors and requires approval of the shareholders. The audit committee should also have at least one financially literate director, and the role of the committee is further enhanced to focus on transparency and accuracy in financial reporting, improve internal controls through internal audit, and develop effective anti-fraud mechanisms and risk-management policies. The statutory bodies are the Institute of Chartered Accountants of India (ICAI) and the Institute of Company Secretaries of India (ICSI).

Sustainability Disclosures

Corporate sustainability focuses on environmental (reduction of greenhouse gas emissions and the carbon footprint of an organization), social (improved labor standards, efficient supply chains and ethical sourcing of products) and governance factors (independent board of directors to promote transparency). Over the last few years, shareholders have taken an active role in labor rights, preventing destruction of rainforests, reduction of greenhouse gas emissions, socially responsible supply chains, diversity and inclusion as well as disclosure of social, environmental and governance practices. Hence, to foster this shareholder engagement, companies have improved their environmental and social policies and implemented structures to conduct oversight of these issues. Companies are now linking executive compensation with

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sustainability measures such as reduced greenhouse gas emissions, reduced carbon footprint etc. (as in the case of National Grid).

Through a study of 57 Dow Jones Sustainability Index (DJSI) companies and a control group of companies belonging to the Dow Jones Global Index, Michelon and Parbonetti (2010) discuss the relationship of sustainability disclosure with board composition, leadership and structure. Their research reveals positive correlations between the effectiveness of corporate governance models and high sustainability disclosures (with emphasis on communication with stakeholders). They further hypothesized that sustainability disclosures (strategic, financial, environmental and social information) are directly related to competencies of the board of directors. From the stakeholder theory perspective, it expected that corporate sustainability disclosure should be a part of the dialogue between a corporation and its stakeholders to legitimize the organizations and increase stakeholder engagement. They further argue that corporate governance and sustainability disclosure complement each other and enable corporations to improve stakeholder relationships. Similarly, Chan, Watson and Woodliff (2014) conducted further research to link corporations that provide more sustainability disclosures with better corporate governance ratings, larger market capitalization, higher profile industries and high leverage. The increased focus on sustainability disclosures stems from moral responsibility and business interests. However, there is a definite lack of research linking corporate governance with sustainability.

Sustainability Reporting in the US

Sustainability Reporting, also known as corporate social responsibility or the triple bottom line, incorporates ethical issues, environmental factors and social issues related to corporations into consideration. According to the country sustainability ranking developed by RobecoSAM and Robeco, US ranks 14th (out of 65 countries) in its sustainability disclosures ranking, well behind its peers such as Sweden, Norway and Finland. According to a study conducted by Ernst & Young, only 53% of S&P 500 companies disclosed their sustainability reports in 2012 (Ernst & Young, 2014) due to the complexity behind the reporting process as well as costs associated with it. The Sustainability Accounting Standard Board (SASB) is a non-profit organization that was established in 2011 and provides guidelines for sustainability reporting for public corporations within the US. The SASB has proposed new standards for sustainability reporting by allowing them to publish their reports with the information already required for compliance with the SEC. Hence, SASB is working with different companies to integrate the financial reporting information with the sustainability information (material, environmental, social and governance factors or ESG) to disclose more information at lower costs to create value for investors. This provides transparency to both the internal and external stakeholders of the corporation to ensure better decision-making (Schooley & English, 2015).

SASB plans to execute the integrated reporting process by employing a three-phase model. Phase-I will focus on the SASB's research team as it develops a materiality map to gather information about material environmental, social and governance issues and determines their impact on the investor and the organization. During Phase-II, corporations, market participants, public interest and intermediaries are represented in an industry working group to

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use their feedback to draft an exposure standard for each material sustainability issue. The development phase consisted of over 2,000 participants from public firms with over \$9.5 trillion in market cap and \$21 trillion in assets. The Phase-III is the final phase wherein the exposure draft is released to the public for 90 days to collect feedback, and, it is further reviewed by the Standards Council for completeness and accuracy. Thus, the provisional standard is released to the public and constant updates are made.

The principals that define the SASB standard setting process include its uniform application for all investors across all industries to create value, easy verification and execution, high quality, and support for the international accounting standards. There have also been alternative views to the integrated reporting process. PricewaterhouseCooper's 17th Annual Global CEO Survey also extrapolates that company growth may depend on integrated reporting as over 74% of global CEOs believe that material nonfinancial information can lead to long-term success of the organization. However, 58% of the 100 largest companies in the US still believe in separate reporting of financial information and corporate social responsibility reporting due to the inefficient mechanism of sustainability disclosures.

Sustainability Reporting in India

According to the country sustainability ranking developed by RobecoSAM and Robeco, India ranks 56th (out of 65 countries) in its sustainability disclosures ranking, among the bottom 10 countries. The lack of relevant literature and standardized information makes it harder to measure the sustainability reporting standards within India. Despite the low ranking, the overall climate regarding sustainability disclosure in India is showing growth. The research

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gap is concerning as India is an attractive market for foreign multinationals who have invested over \$25 billion in the country in 2013 alone. India is the world's fourth fastest growing economy with a population of more than 1.3 billion, and has benefited from a stable macroeconomic environment of low inflation and interest rates.

The Securities and Exchange Board of India has mandated inclusion of Business Responsibility Report as a part of the Annual Report for the top 100 firms in India (effective August 13, 2012). The BRR is aligned with the 'National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business (NVGs)'. BRR is a disclosure to all its shareholders of the responsible business practices adopted by a firm. In May 2016, the Bombay Stock Exchange (BSE) signed a memorandum of understanding (MoU) with the international not-for-profit organization, Global Reporting Initiative (GRI) to extend BRR to the top 500 listed companies in order to encourage more listed companies to devise policies to reduce environmental and social impact. This MoU would also help Indian companies to adopt global standards to attract more institutional investors, especially those who are geared towards sustainable and responsible investment. This would lead to improved access to capital and development of the financial markets within India.

Conclusion of Literature Review

The literature on the subject of corporate governance helped me understand the history and need for corporate governance, as well as the breakdown of markets upon failure of governance due to the lack of shareholder trust. I also understood the different corporate governance and sustainability disclosures prevalent in India and the US and gained a deeper

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understanding of the different theories used to define governance. There is a definite research gap regarding such practices in India, which further strengthens the need for my project.

RESEARCH METHODOLOGY

This project was designed to be an integration of quantitative and qualitative study of corporate governance models in India and the US. In order to accomplish this, I studied Sustainalytics reports of various companies such as Hasbro, Inc. (Appendix A). Based upon my literature review, the analysis of corporate governance in Sustainalytics/ Reports, and discussions with Dr. Roohani, I determined 13 best practices for my testing criteria: *insider trading, disclosure and certification of financial statements, remuneration disclosure, code of ethics and corporate social responsibility, auditor independence, independent directors on the board, effectiveness of regulatory bodies, board leadership structure, data protection laws, enforcement of laws, presence of women and minorities on board, stricter standards of licensing, and proper standards of financial reporting*. Thus, I created a survey on Qualtrics (Appendix B).

The study sample for my research included working professionals within the accounting and finance industry in India and the US. To ascertain the quality of responses and the familiarity of respondents with corporate governance, I ensured that all the participants possessed at least a bachelors' degree, or some sort of related certification (such as *Chartered Accountant or CA, Certified Financial Account or CFA, Certified Public Accountant or CPA, or Certified Internal Auditor or CIA*). In compliance with the licensing system in India, I included both Chartered Accountants and accounting articles in my research population.

The survey was distributed via anonymous distribution links through social media platforms such as Facebook and LinkedIn. Through the help of the Bryant Alumni Association and the

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Archway Investment Fund, I also reached out to the vast network of Bryan alumni all over the world to gather a higher quality of responses. The primary survey question was, “*According to you, create the perfect Corporate Governance model based on the following transparency and monitoring elements. The total points must add up to 60. (NOTE: the objective is to see what traits are most important in creating a good corporate governance model. Please spend the points in each category wisely).*” The survey was completed by 188 respondents, with 101 respondents from India and 87 respondents from the US. 120 of the respondents were males and 68 respondents were females. All of the respondents had a bachelor’s degree, and some of them were in the pursuit of a master’s degree or a post-doctoral program. Almost 20% of the respondents had a certification or license (CA, CPA, or CFA).

RESULTS AND ANALYSIS

Hofstede's Cultural Dimensions

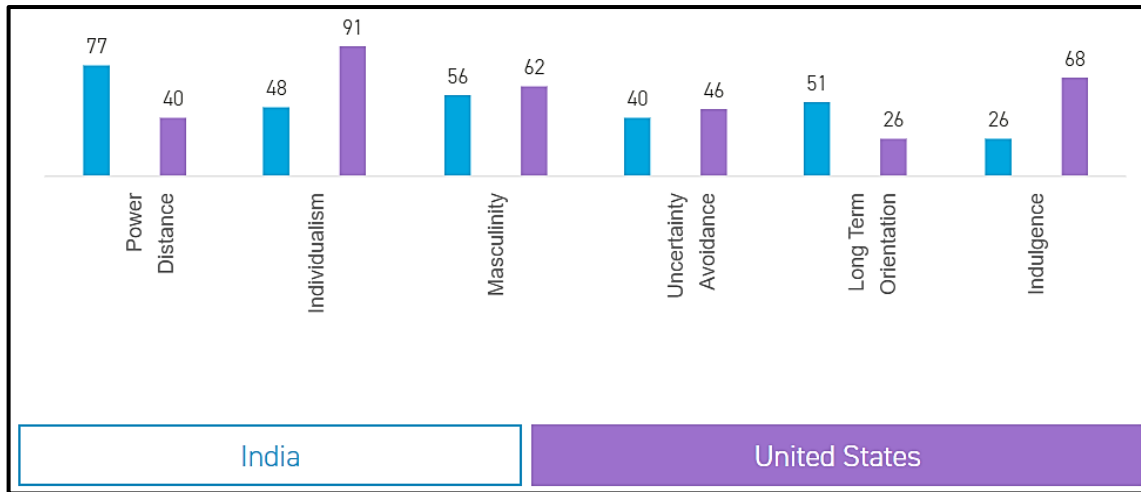


Figure 8: Hofstede's Cultural Dimensions for India and the US

Hofstede's cultural dimensions, developed by Geert Hofstede, describes how values in the workplace are influenced by cultural factors. The comparative analysis of India and the US on the Hofstede framework points to commonality across two dimensions (masculinity and uncertainty avoidance) and significant differences across four dimensions (power distance, individualism, long-term orientation, and indulgence). Masculinity indicates that the dominant values in a society are achievement and success, that are fostered through competition (focus on being the best). India and the US have similar scores in this dimension (56 and 62 respectively), indicating that both societies are very masculine in terms of display of power and success, validated by material gains. Uncertainty avoidance indicates the extent to which members of a nation may feel threatened by uncertain or unknown situation and try to avoid risk. India and US score 40 and 46 respectively, indicating that members of both nations are willing to accept new ideas, innovative products etc.

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Power distance refers to the unequal distribution of power. While India scores 77 across this dimension, the US score is 40. The high score of India points to the appreciation for hierarchy and a top-down structure within the Indian society, indicating a dependence and loyalty towards the boss. The US, on the other hand, has a more equal distribution of power with emphasis on merit. Individualism is the degree of interdependence within a society. India has a low score of 48, pointing to the collective nature of the society. US has a high score of 91, pointing to the American principles of liberty and justice in a loosely-knit society with independent members. Indulgence is the extent of control for desires and impulses. US has a high score of 68, indicating that people tend to “play hard” and spend more. India has a relatively low score of 26, pointing the restraint and lack of leisure within the culture. Lastly, while the US is more short-term oriented, India is more long-term oriented.

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Best Practices in the US



Figure 9: Graphic Representation of Survey Responses in the US

The survey conducted in the US received 84 responses, with 40 responses from females and 44 responses from males. According to the responses, the top three practices in the US were the independence of auditors, data protection and cyber-security, and proper standards of financial reporting; the bottom three practices were board leadership structure, disclosure of remuneration, and stricter standards in terms of licensing and continuing education.

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Best Practices in India

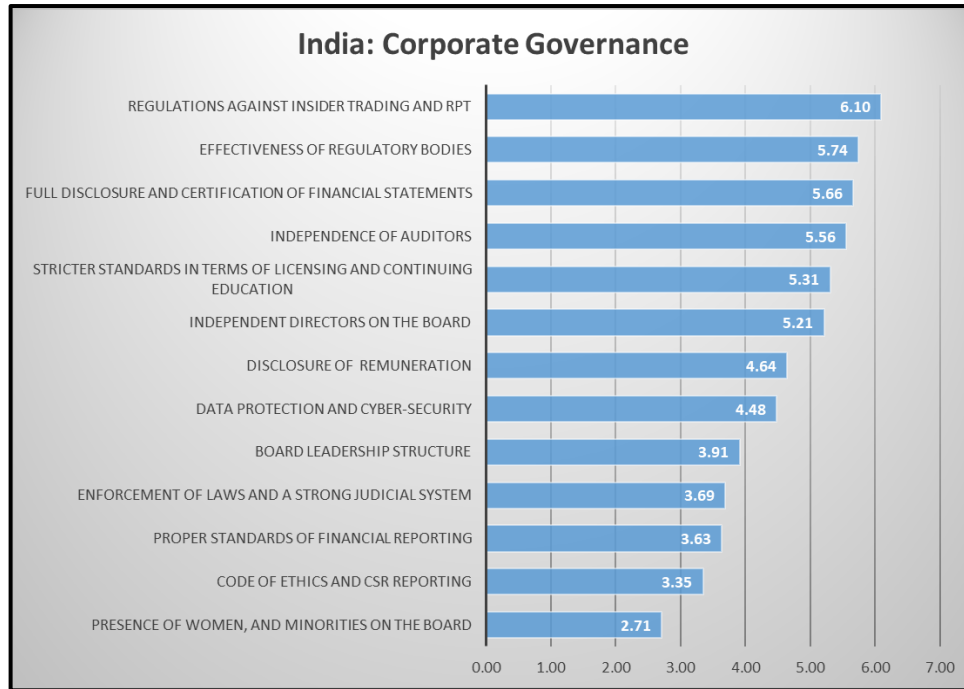


Figure 10: Graphic Representation of Survey Responses in India

The survey conducted in India received 104 responses, with 35 responses from females and 69 responses from males. According to the responses, the top three practices in India were the regulations and insider trading, effectiveness of regulatory bodies, and full disclosure and certification of financial statements; the bottom three practices were proper standards of financial reporting, code of ethics and corporate social responsibility, and presence of women and minorities on the board of directors.

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Comparative Analysis

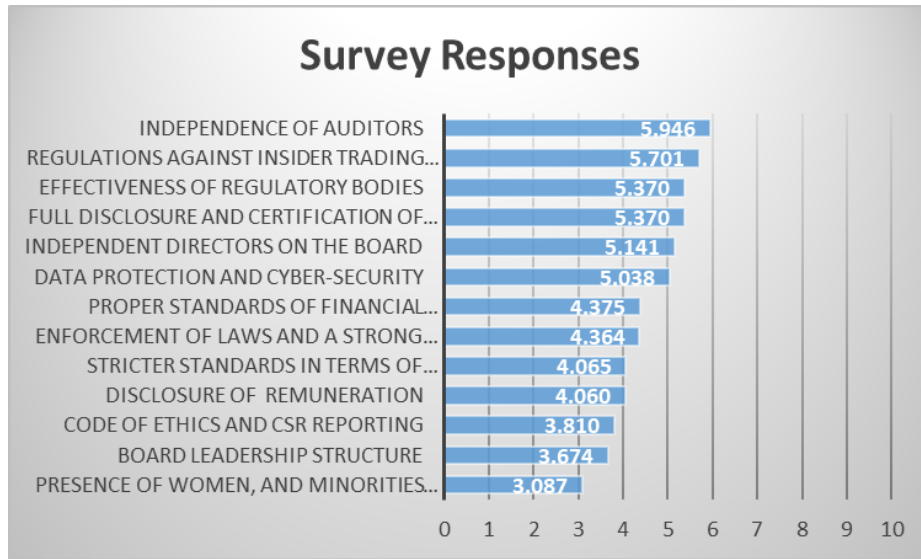


Figure 11: Graphic Representation of All Survey Responses

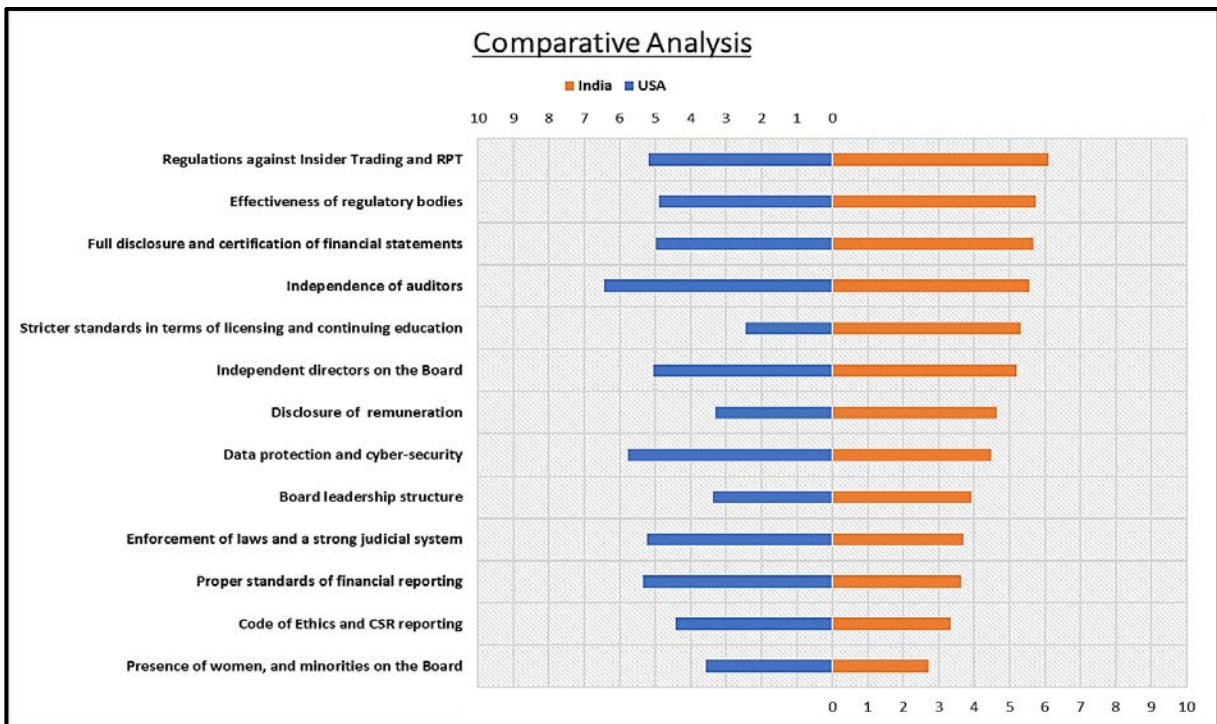


Figure 12: Survey Responses of India and the US

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Independence of Auditors

While independence of auditors ranked first for the US, it ranked at fourth for India, signifying the importance of auditor independence across both nations. Transparent and accurate financial reporting is essential to maintain trust within financial markets, enable investors to make informed decisions, and ensure the stability of free market economies. The Supreme Court, in *United States v. Arthur Young*, described the audit as a "public watchdog" function that "demands that the accountant maintain total independence from the client at all times and requires complete fidelity to the public trust." Thus, auditor independence is necessary for an unbiased and honest professional opinion. The accounting scandal at Enron (USA) and Satyam (India) are examples of audit failure due to lack of independence of auditors. Thus, despite cultural differences, auditor independence is necessary in both US and India alike.

Regulations Against Insider Trading and RPT

- US: Insider trading is a breach of fiduciary duty and refers to trading or transactions on the basis of material non-public information (such as unreleased financial statements, acquisition or merger plans, takeovers, issue or buyback of securities, changes in policy, etc.). Insider trading needs to be stopped due to “the obvious need and understandable concern about the damage to public confidence which insider dealing is likely to cause and the clear intention to prevent, so far as possible, what amounts to cheating when those with inside knowledge use that knowledge to make a profit in their dealings with others (Kashyap and Tomar 2016, p.52).” in US, insider trading is mainly governed by the Securities Exchange Act of 1934. The US focuses

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on the “misappropriation” theory of insider trading or the theft of material non-public information pointing to a breach of loyalty. Thus, while insider is importance for US respondents, it is not as important as it for Indian respondents due to the better equipped SEC, tighter regulations, and stricter enforcement.

- India: The Bombay Stock Exchange was established in 1875, and propelled the growth of insider trading in India. In 1992, the Securities and Exchange Board of India (SEBI) was established in order to prohibit insider trading. While the US system has evolved over eight decades, the Indian system has only existed over the last two decades. Apart from the SEBI, India has no separate legal mechanism to govern insider trading. Moreover, the definition of insider is ambiguous, and there is confusion regarding the possession and use of insider information. One of the biggest shortcomings is the failure of SEBI in establishing a charge of insider trading (especially due to the lack of incorporation of mental intent). The rules are not clear enough and the enforcement is weak. The SEBI only has 780 employees: one employee for every six companies listed on the Indian Stock Exchange (the US Securities and Exchange Commission has one employee for very company listed on the American Stock Exchange). Moreover, the use of promoters in India further destabilizes the financial markets, as these promoters or the founding families of companies tend to pay themselves exorbitantly, and exert influence over the board of directors as well. While no insider trading has been proven yet, WhatsApp groups are being used to predict company quarterly results with greater foresight. These closed networks acquire material non-public information about companies and trade on the basis of such information. Insider trading is particularly rampant in India as the

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regulators lack power to prohibit it, and traders evade the regulators by using dummy firms at different addresses. Thus, the lack of consequences incentivizes insider traders and the Indian respondents realize the importance of more stringent regulations and stricter enforcement.

Effectiveness of regulatory bodies & Enforcement of laws and a strong judicial system

- US: According to the World Justice Project, US ranks 18th and India ranks 66th out of 113 countries on the basis of adherence to the rule of law. Due to strict regulatory enforcement, constraints on government powers, absence of corruption, open government policies, focus on fundamental rights, civil justice, and order and security, the US has an effective regulatory environment and hence, the US respondents are satisfied with the current system and don't place too much emphasis on it.
- India: With over 30 million pending cases and 11 judges for every million people, the Indian court system is under-equipped to deal with its vast backlog of cases. According to a report by NBC news, it would take 466 years for just the criminal case backlog to clear at the current rate of proceedings. Moreover, there is rampant corruption within the country and the bureaucracy often interferes with the court proceedings by bribing witnesses or judges. Even the process of registering a civil case is extremely complicated and denies ordinary citizens access to the court. Similarly, SEBI is also struggling as it is under-equipped, and lacks power. This is evident in the high importance and desire for a more effective regulatory system for Indian-survey takers.

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Independence of Directors on the Board

Independent directors are supposed to be independent from the management and act as trustees for the shareholders. US-listed companies tend to have larger boards with more independent directors. However, in light of the recent corporate scams in India, there has been a greater focus on objectivity and oversight within the board of directors. Thus, India and the US assigned similar scores to the presence of independent directors on the board of directors.

Full Disclosure and Certification of Financial Statements & Disclosure of remuneration

India and the US respondents place almost equal importance on full disclosure and certification of financial statements by CEO/CFO (with India placing slightly higher emphasis on it than US). Both countries have similar regulations regarding disclosure and certification, and believe that it is necessary for the key executive to assume responsibility for a company's financial statements. On the other hand, Indian respondents rank disclosure of remuneration more highly than the US respondents. The US has tighter regulations regarding disclosures about compensation and bonuses, but Indian employees continue to face larger power distance and pay differential across hierarchies and consider remuneration disclosure essential for effective corporate governance.

Data Protection and Cyber-Security

- US: Due to the nature of risk involved, data protection and cyber-security usually go hand-in-hand. According to the IBM 2014 Cost of Data Breach Study: Global Analysis, the average cost of a breach to a company was US \$3.5 million dollars. Thus, it is essential for auditors and IT security professionals to identify and address the risks to data privacy and cyber-security. The recent data scandal at Facebook has

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revealed that over 87 million users' data was improperly obtained by Cambridge Analytica, a political consulting firm. PricewaterhouseCoopers, the audit firm responsible for monitoring Facebook for federal regulators, had issued an unmodified opinion regarding Facebook's privacy controls despite the data breach.

The Facebook scandal along with the upcoming European Union General Data Protection Regulation has exerted additional pressure on authorities to enforce stronger data protection regulations and privacy rules as the US has no single federal law regulation the collection and security of private data. The Federal Trade Commission or the FTC Act (15 U.S.C. §§41-58) is the federal consumer protection law that enforces privacy and data security policies. Other regulations include Financial Services Modernization Act (Gramm-Leach-Bliley Act (GLB)) (15 U.S.C. §§6801-6827), Health Insurance Portability and Accountability Act (HIPAA) (42 U.S.C. §1301 et seq.), and Fair Credit Reporting Act (15 U.S.C. §1681). Hence, the lack of a comprehensive regulatory system coupled with recent scandals justifies the importance of data protection for respondents within the US.

- *India*: Unlike the EU, India doesn't have any separate laws designed exclusively for data protection. While the Indian IT sector (including digital payments) has shown outrageous growth, most of the Indian users don't even have sole ownership of their personal information. Some of the more relevant regulations include the Information Technology Act 2000, amended in 2008 and the subsequent IT rules defined in 2011 but these regulations only focus on guidelines for reasonable security practices and don't explicitly include government agencies or define personal information. It is easy for companies to legally copy and distribute personal data with slight modifications (V

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Govindan v EM Gopalakrishna Kone AIR 1955 Mad 391). While India needs to strengthen its regulatory system, the Indian culture seems to demonstrate a lack of motivation to ensure privacy due to the collective nature of the society, business corruption, and lack of identity theft in India (as evident from the responses from the Indian respondents).

Proper Standards of Financial Reporting

Proper standards of financial reporting hold higher importance for the US respondents than Indian respondents. Financial reporting is essential to provide useful information for better decision making. While India follows the Indian Accounting Standard (Ind-AS), US follows Generally Accepted Accounting Principles (US GAAP). Corporate scandals are more prevalent in the US than in India, primarily because the SEC is more effective than the SEBI in investigating such scams. Thus, the US respondents better understand the need for proper standards of financial reporting than the Indian respondents.

Stricter Standards in Terms of Licensing and Continuing Education

- *US:* India and the US have different licensing standards. In the US, the CPA educational requirements vary across different states. According to the AICPA website, most of the states require CPA exam-takers to have at least, a bachelor's degree in accounting or business with a core set of coursework (for example, 24 college credit hours in accounting, auditing, and taxation as well as 30 credit hours in business-related courses such as finance, business law, and management). In order to get the CPA license, 150 credit hours are necessary. Thereafter, in an 18-month window, the test-taker has to undertake and pass four exams: Auditing & Attestation

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(AUD), Financial Accounting & Reporting (FAR), Regulation (REG), and Business Environment & Concepts (BEC). Finally, the work experience requirement is completed and the licensure fees is paid in order to obtain the license. While the process takes 3 – 4.5 years to complete, the US respondents seem to be satisfied with the current system, as indicated in its low ranking in the survey.

- *India:* On the other hand, the Indian system expects students to undertake the Common Proficiency Test, or CPT, usually after 12th standard. Subsequently, the student sits for Intermediate Proficiency Competence Exam levels I and II, comprising of 8 exams (Accounting, Corporate and Other Laws, Cost and Management Accounting, Taxation, Advanced Accounting, Audit and Assurance, Enterprise Information Systems and Strategic Management, and Financial Management and Economics for Finance). The student then starts his/her Articleship (or training under a Chartered Accountant) and becomes eligible for the CA Final exams after completing 2.5 years of the requisite three year Articleship. The CA Finals comprise six exams: Financial Reporting, Strategic Financial Management, Advanced Auditing and Professional Ethics, Corporate and Economic Laws, Strategic Cost Management and Performance Evaluation, and a chosen elective. The process is extremely cumbersome and usually takes upwards of five years for completion, and its high ranking in the survey indicates the dissatisfaction of the Indian respondents with the current system and their desire for a better licensing standards.

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Code of Ethics and Corporate Social Responsibility (CSR)

It is important for companies to be responsible towards their surrounding communities and focus on the triple bottom line: people, planet and profitability. In April 2014, India became the first country to incorporate CSR into legislation for corporations; the Companies Act 2013 mandates companies with a market cap of over Rs. 5 billion (or turnover of Rs. 10 billion) to spend 2% or more of their net profit on social development and the environment. However, both countries continue to lag in sustainability disclosures and CSR as most companies consider CSR or sustainability disclosures as an unnecessary expense.

Board Leadership Structure

Board leadership structure assumes less importance for both Indian and the US respondents. Both nations have proponents for separation of the chairman and CEO roles. However, more companies in both nations are now focusing on combining the roles of chairman and CEO, in the context of CEO succession planning, and believe that the combination of the roles eliminates confusion and duplicity by enhancing communication with shareholders. The separation of the roles of CEO and chairman is prevalent in only 20% of the companies in the Standard & Poor's (S&P) 500 Index in the United States (Wall Street Journal).

Presence of women and minorities on the Board

The presence of more women and minorities on the Board of Directors is required to improve board diversity and recruit more independent directors with diverse experience, perspectives and skills. It has also been shown that the Fortune 500 companies with the highest representation of women board directors have achieved better financial performance than companies with the lowest representation of women board directors (Catalyst Bottom Line

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Report). However, lesser women and minorities hold C-level positions and lack representation on the board due to the ingrained corporate norms, practices of extremely long working hours, and childcare burdens that continue to fall on mothers (Financial Times). Diversity is a hallmark of good corporate governance, but companies in the US and India have been slow to change the male-dominated, “boys-club” business environment (as evident in the lack of importance of diversity for respondents from both the countries).

CONCLUSION

Regulations against Insider Trading and RPT	Independent directors on the Board	Full disclosure and certification of financial statements	Disclosure of remuneration	Effectiveness of regulatory bodies	Stricter standards in terms of licensing
0.017959563	0.852635966	0.085502744	0.001137691	0.001083555	1.95982E-12

Independence of auditors	Data protection and cyber-security	Board leadership structure	Enforcement of laws and a strong judicial system	Presence of women, and minorities on the Board	Code of Ethics and CSR reporting	Proper standards of financial reporting
0.023384515	0.006369698	0.243214287	0.001083555	0.073273355	0.038371325	0.000582773

Figure 13: Statistical Significance of P-Values

As stated before, this research is a brief analysis of the corporate governance models in India and the US, on the basis of transparency and monitoring. This analysis only touches the surface on this topic and with more time and resources, substantial and relevant information could be gathered on this subject and a more detailed analysis could be conducted. With the growing relations between India and the US, there is a need for more research on this subject in order to benefit the companies transitioning between the two nations. Based on the research, there are significant differences between the corporate governance models in India and the US, owing to differences between the business environment and cultures. This can also be seen through the significance level for the given hypothesis test based on the statistical significance of the P-values. If the p-value is less than 0.05, we reject the null hypothesis that

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there's no difference between the means and conclude that a significant difference does exist (Minitab). Apart from four factors (independent directors on the Board of directors, full disclosure and certification of financial statements, board leadership structure, and presence of women and minorities on the board), significant differences exist across other factors of governance in India and the US (especially for stricter standards in terms of licensing and continuing education). It is essential to understand these differences across both the nations for investors and corporations alike.

APPENDICES

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Appendix A – IRB Approval



March, 2018

Pallak Bhandari:

RE: IRB Proposal #2018-0304

TITLE: Comparative Analyses of Corporate Governance in India and the US

Dear Pallak:

Your proposal, entitled “Comparative Analyses of Corporate Governance in India and the US” was considered under IRB Guidelines for exemption/expedited review. The IRB Committee of Bryant University approved the proposal March 4, 2018.

Bryant University is strongly committed to adhering to the basic ethical principles related to the conduct of research involving human subjects as set forth in *The Belmont Report: Ethical Principles and Guidelines for the Protection of Human Subjects of Research*. The submission of your proposal to the IRB Committee supports the goals of Bryant University and the IRB Committee and ensures that research involving any members of the Bryant community is in strict accordance with these ethical principles and guidelines.

Thank you for your submission, and good luck with your research.

Very truly yours,

A handwritten signature in black ink that reads "Yoon sukki (miz)".

Sukki Yoon
Chair, IRB Committee

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Appendix B – Survey

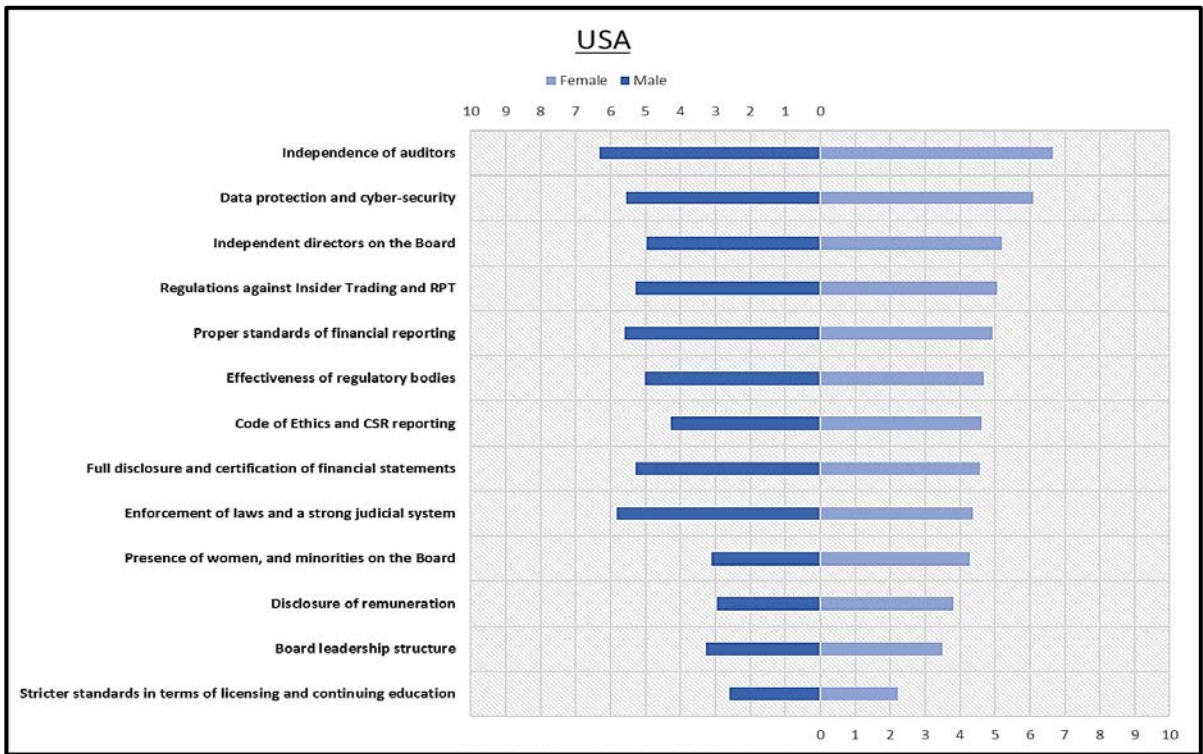
According to you, create the perfect **Corporate Governance** model based on the following *transparency* and *monitoring* elements. The total points must add up to 60. (NOTE: the objective is to see what traits are most important in creating a good corporate governance model. Please spend the points in each category wisely)

	0	1	2	3	4	5	6	7	8	9	10	
Regulations against Insider Trading and Related Party Transactions												0
Independent directors on the board of directors												0
Full disclosure and certification of financial statements by CEO and CFO												0
Disclosure of remuneration of board of directors and key executives												0
Effectiveness of regulatory bodies (such as SEBI, PCAOB)												0

https://bryant.qualtrics.com/jfe/form/SV_5hjVNpkI5Aqbwrj

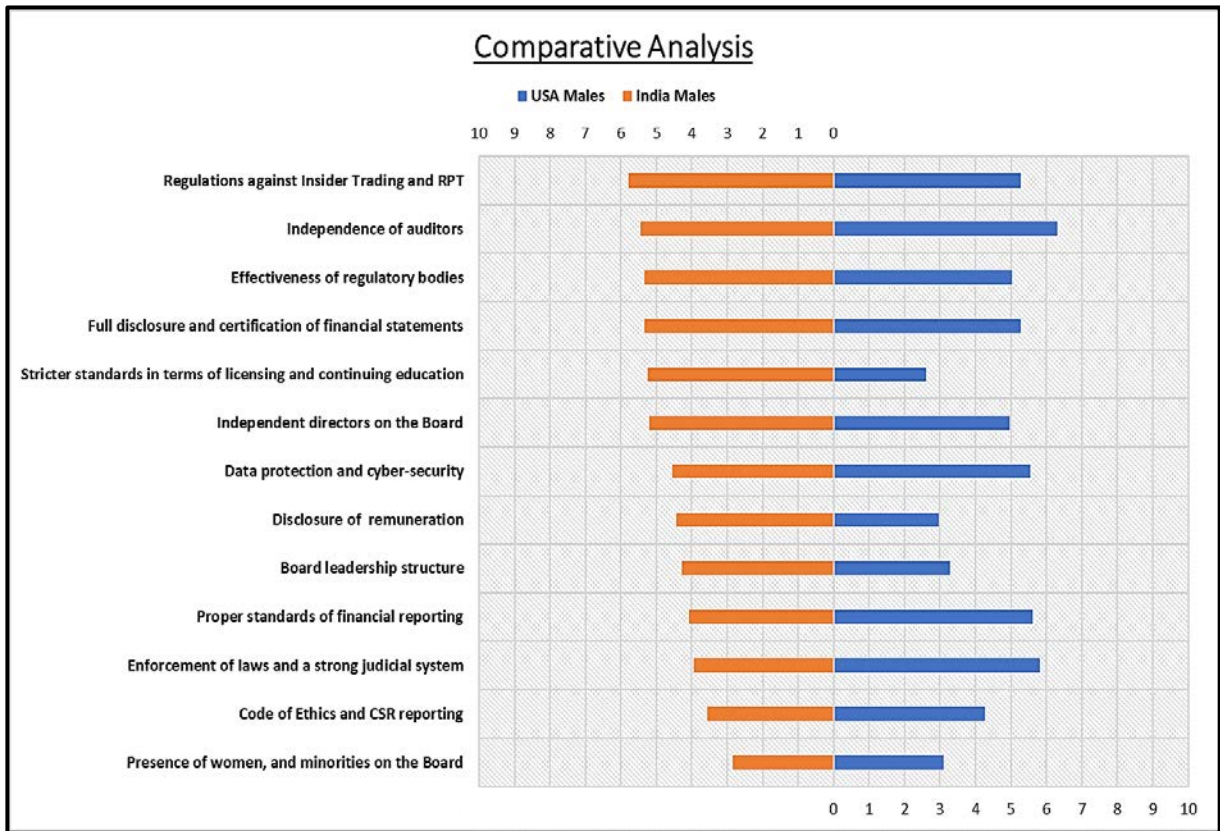
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Appendix C – Graphic Representation of Males vs Females in India and the US



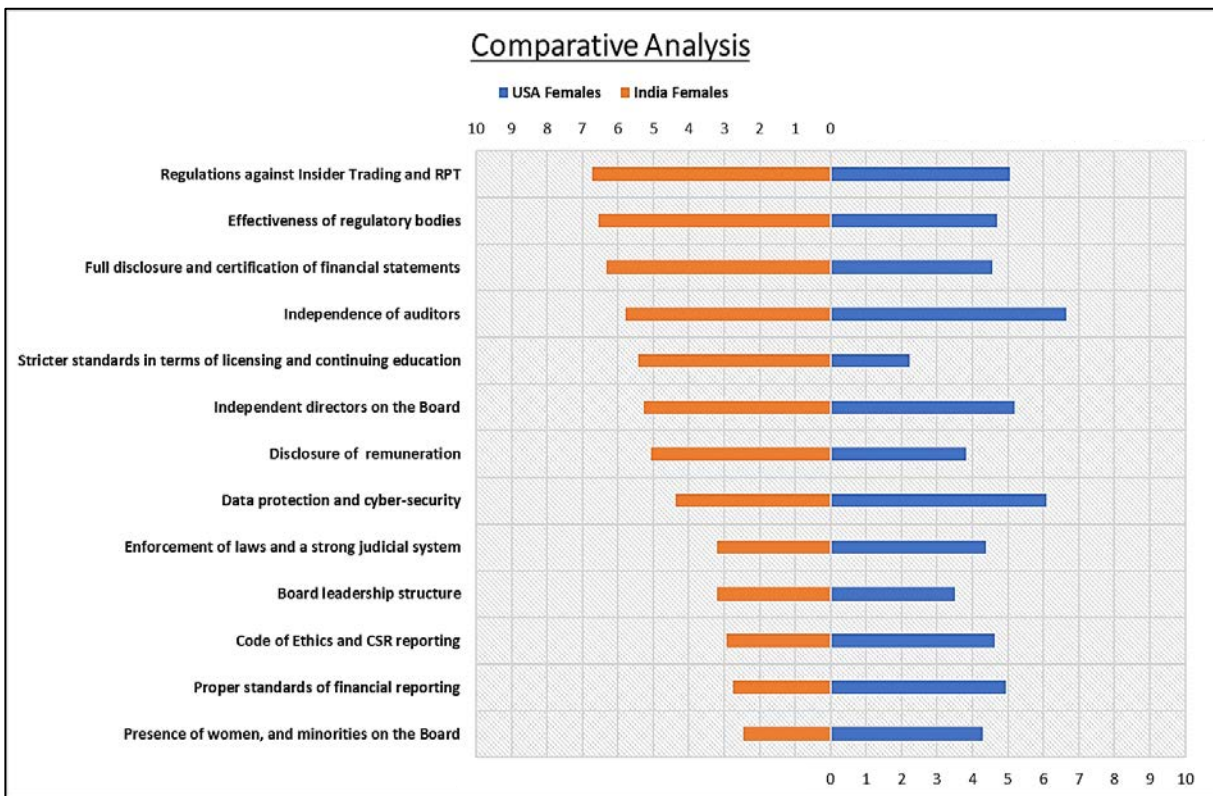
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Appendix D – Graphic Representation of Male respondents in India and the US



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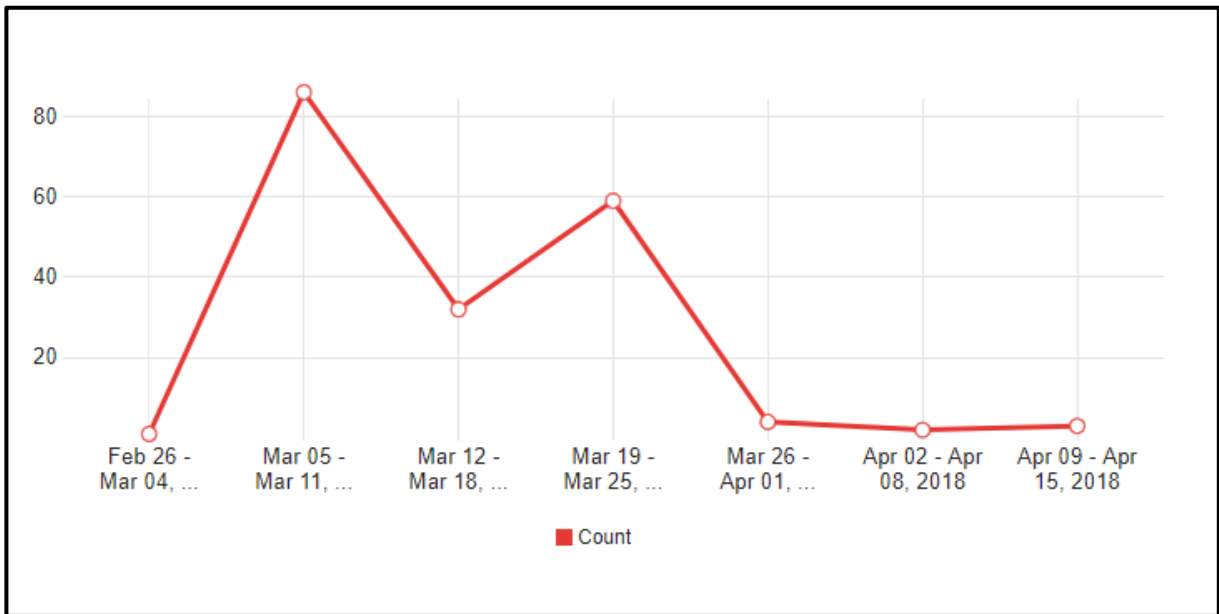
Appendix E – Graphic Representation of Female respondents in India and the US



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Appendix F: Survey Data Collection



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