Dharma, Corporate Governance and Transparency: An Overview of the Asian Markets

Dr. Madan Lal Bhasin
School of Management, New York Institute of Technology
P.O. Box 11287, Campus 851, Road 3828, Adliya, Manama, Kingdom of Bahrain
Tel: 973-177-11-444 E-mail: madan.bhasin@rediffmail.com

Abstract

Corporate Governance (CG) has assumed greater limelight with the series of corporate failings, following which the markets, investors and society at large have begun to loose faith in the infallibility of these systems. Nowadays, the conduct of those who take care of 'public' money is being questioned since they are being tested on 'ethical' standards. We have advocated an application of 'Dharma', as stipulated in ancient Indian 'Shastras,' to improve CG. Progressive firms in India have voluntarily put in place systems of good CG and are applying some of the ethical values derived from Shashtras.

Asia is a diverse region and improving CG has been on the agenda for their regulators, with most markets having introduced comprehensive regulations. We have provided an overview of two global studies conducted by the ACGA and JP Morgan. No doubt, CG scenario has improved to some extent in the Asian region and some markets have made significant progress, the ethos of CG has yet to sink in. Several Asian markets have individually established their own national codes to address their special requirements. We believe that maintaining the momentum for CG reforms in Asian markets will require some rethinking on basic questions. Thus, CG in Asia remains, at best, a work-in-progress requiring some rethinking.

Keywords: Dharma, Corporate governance, Transparency, Asian markets

1. Introduction

The term 'governance' has been derived from the word '*gubernare*', which means "to rule or steer". Originally, it meant to be a normative framework for the exercise of power and acceptance of accountability thereof in the running of kingdoms, regions and towns. Governance is the general exercise of authority, and the process by which a society or an organization 'steers' itself. However, over the years it has found significant relevance in the corporate world on account of growing number and size of corporations, the widening base of their shareholders, increased linkages with the physical environment, and overall impact on the society's well-being. Over the past 30 years, the financial markets in the U.S., Europe and the Asian markets have undergone several phases of corporate governance (CG, in short) reform:

- **1970s:** Financial misreporting and corporate collapses in the U.S. led to "independent" outside directors and audit committees.
- **1980s:** Corporate collapses in the U.K. led to the "Cadbury Report".
- **1997-1999:** The Asian Financial Crisis led to sweeping regulatory changes.
- **2002:** The Enron fraud led to reform of company and auditor relationships, accountability for financial reports, greater board oversight, etc.

A number of high-profile corporate scandals in the U.S. and several other markets triggered an in-depth reflection on the regulatory role of the government in protecting the interests of shareholders. Recently, CG has assumed greater limelight with the series of corporate failings, across the globe, following which the markets, the investors and the society at large, have begun to lose faith in the infallibility of these systems. For example, Badawi (2005) portrays the situation as: "The recent wave of corporate fraudulent financial reporting has prompted global actions for reforms in CG and financial reporting, by governments and the accounting & auditing standard-setting bodies in the U.S. and internationally (including the European Union, the International Federation of Accountants, the OECD, and others) in order to restore investors confidence in financial reporting, the accounting profession and global financial markets." To redress the problem of corporate misconduct, ensuring sound CG, therefore, is believed to be essential to maintaining investor confidence and good performance.

However, a growing number of empirical studies have demonstrated that good CG contributes to better investor protection, lower costs of capital, reduced earnings manipulations, increased company market value, improved stock returns, and even economic growth. Greer (2006), for example, pointed out that “CG can be improved by making corporate operations more transparent, without sacrificing business strategy and secrets, which are absolutely necessary for success in the competitive market place.” In fact, Asia is a very diverse region (comprising 11 markets/countries) in terms of levels of economic development and institutional regimes. CG has received much attention in Asian markets due to its financial crisis during 1997-1999. Long renowned for their opaque business practices, Asia’s corporations have undergoing a dramatic transformation on the CG front. Jamie Allen (2008) very aptly states that “most of the countries in the Asia region had taken the initiative (long-back in 1990s) by formulating and implementing an official code of CG,” which is summarized in Table-1.

According to the OECD (1999 & 2004, visit www.oecd.org) “CG comprehends that structure of relationships and corresponding responsibilities among a core group consisting of shareholders, board members, corporate managers designed to best foster the competitive performance required to achieve the corporation’s primary objective.” It is concerned with wider accountability and responsibility of the directors towards “key” stakeholders of the corporations: employees, consumers, suppliers, creditors and the wider community. Oman and Blume (2005) have aptly pointed out, “Corporations around the world are realizing that better CG adds considerable value to their operational performance. The poor quality of local systems of CG lies at the heart of one of the greatest challenges facing most markets in the developing world.” Unfortunately, CG practiced by some corporations nowadays has turned out to be an annual ‘ritual’ involving “check-box” of items around just legislative requirements. Realizing the need for ‘good’ governance, corporations must attempt to evolve gradually from the traditional “compliance” approach to a “conscience” one. There has been recognition of the need to balance interests of not just shareholders but different stakeholders, who are equally important for the sound health of a company.

In fact, CG is concerned with creating a system of checks and balances regarding decision-making rights within a company. The separation of ownership (the shareholder) and control (the management) in corporate enterprises brings about agency problems in which management may take actions that compromise the interests of its shareholders. Ferris et al., (2007) concludes as: “We find that the incidence of derivative lawsuits is higher for firms with a greater likelihood of agency conflicts. Derivative lawsuits are associated with significant improvements in the board of directors: the proportion of outside representation on the board increases.” An ideal governance structure, however, should give management sufficient room to exercise their talent, while simultaneously controlling their behavior. However, Chang (2006) points out that “the Combined Code, 2003 (U.K.) is a practical implementation of this idea comprising two parts: principles of good governance and a code of best practice.”

2. Convergence Efforts

There have been several leading CG initiatives launched in India since the mid-1990s. The first was by the Confederation of Indian Industry (CII), which came up with the first “voluntary” code of CG in 1998. In 1996, CII took a special initiative on CG–the first institutional initiative in Indian industry. In April 1998, India produced the first substantial code of best practice on CG after the start of the Asian financial crisis in mid-1997. Titled “Desirable Corporate Governance: A Code”, this document was written not by the government, but by the CII (visit www.ciionline.org). It is one of the few codes in Asia that explicitly discusses domestic CG problems and seeks to apply best-practice ideas to their solution. In late 1999, a government-appointed committee under the leadership of Shri Kumar Mangalam Birla (Chairman, Aditya Birla Group) released a draft of India’s first national code on CG for listed companies. The committee’s recommendations (many of which were mandatory) were closely aligned to international best practices on CG—and set higher standards than most other parts of the region at that time. The code, however, was approved by the Securities and Exchange Board of India (SEBI) in early 2000 and was implemented in stages over the following two years (applying first to newly listed and large companies). It also led to changes in the stock exchange listing rules.

The next move was by the SEBI, now enshrined as Clause 49 of the listing agreement---very similar to the U.S. Sarbanes-Oxley (SOX) Act, 2002. The Naresh Chandra Committee and Narayana Murthy Committee reports followed it in 2002. Based on some of the recommendation of these committees, SEBI revised Clause 49 of the listing agreement in August 2003. The SOX is receiving mixed (and increasingly negative) responses in U.S. However, Clause 49 and SOX share similarities but different responses by market. Perhaps, only some CG changes valuable and some CG changes positive in one environment and not others (Khanna and Black, 2008).

Also, genesis of changes differs: Clause 49 was introduced by industry initiative, but SOX was introduced due to Enron like scandals.

Reform of central public sector enterprises (CPSEs) is also high on the Indian government's agenda. Strong PSEs would be better prepared to enter the capital market to raise funds, which means practices must be in place to ensure accountability. The push by the government has resulted in the following guidelines issued by the Department of Public Enterprises (www.dpe.nic.in) in June 2007: (a) Board of Directors, (b) Setting up of Audit Committees and its roles and powers, (c) Issues relating to subsidiary companies, (d) Disclosures, (e) Accounting Standards, and (f) Risk Management. Even though these guidelines are voluntary, all CPSEs (both listed and non-listed) are meant to follow them, with compliance of these guidelines to be referred to in the Directors' report, Annual report and the chairman's speech during the Annual General Meeting. The Department will grade the companies on the basis of their compliance with the guidelines. Issued on an experimental basis for a year, they will be revised "in the light of experience gained". The Department of Company Affairs had set up "National Foundation for Corporate Governance" (www.nfcgindia.org) in partnership with CII, ICAI, and ICSI. In addition, the ICSI has constituted annual awards for the companies with best governance practices. In CG practices, India can be proud of what it has achieved so far, initially voluntarily and later under guidance of various regulators, while recognizing that obviously much more needs to be done.

Moves are afoot globally to promote 'convergence' (or harmonization) of good CG practices. "Codes on Corporate Governance" issued internationally by the OECD, World Bank and Common Wealth Secretariat are all promoting a convergence of good CG practices. The International Accounting Standards, with linkages to the International Organization of Securities Commission (IOSCO), which represents most of the world's regulating stock exchanges, however, are pulling towards a 'harmonization' of desirable CG practices. The Commonwealth Association for Corporate Governance (CACG), assisted by the Commonwealth Secretariat and the Commonwealth Fund for Technical Co-operation, has undertaken a pioneering role in the field of CG. In fact, extensive work has already been undertaken by the Organization for Economic Co-operation and Development (OECD), of which a number of Commonwealth markets are also members. In preparing the CACG Guidelines, however, reference was made to the OECD Principles of Corporate Governance. Moreover, the G-7 markets also endorsed it as an acceptable level of CG standards with universal application, and which has formed the basis of the joint World Bank/OECD initiative to form the 'Global Corporate Governance Forum.' The Commonwealth is a participant in this initiative. Despite all these global convergence efforts, the sober truth is that CG practices in various markets remain divergent.

3. Literature Review

CG has attracted considerable attention over the past decades, leading to recommended codes of practice, conceptual models, and empirical studies. A growing number of empirical studies, mostly conducted in the Western markets, have demonstrated that good CG contributes to better investor protection (la Porta et al., 2000), lower costs of capital (Ashbaugh-Skaife et al., 2004), reduced earnings manipulations (Xie et al., 2001), increased company market value (Black et al., 2004; Brown and Caylor, 2004), improved stock returns (Gompers et al., 2003; Bauer et al., 2003), and even economic growth (Maher and Anderson, 1999). Thus, strong CG is indispensable to resilient and vibrant capital markets and is an important instrument of investor protection. Thus, studies of firms in India, as well as, abroad have shown that both markets and investors take notice of well-managed companies, respond positively to them, and reward such companies by offering higher share price. However, a common feature of such companies is that they have systems in place, which allow sufficient freedom to the boards to take decisions towards the progress of their companies, to innovate, while remaining within a framework of effective accountability. In other words, they have system of 'good' CG. Unfortunately, no study has been conducted so far, which attempts to explore CG values from the Indian "*Vedas* or *Shastras*". It is in this context, first-time attempt is being made here to explore an age-old Indian philosophical tradition, and our *Shastras* (*The Bhagavad Gita*) to derive certain ethical values. We are hopeful that these ethical values (which laid down the foundation of *Hindu* religion) may prove extremely useful to the Board of Directors (and others at top management level) to voluntarily make their corporate operations and financial reporting more transparent. This will stimulate the corporate sector in India to make efforts to meet both ethical and regulatory requirements at the same time; thus, improving the CG and transparency scenario, and fill the big gap.

In fact, Asia is a very diverse region and CG received much attention in these markets after its financial crisis. For instance, Fan and Wong (2002) reported that accounting transparency of firms in seven Asian economies is generally low. Bae and Jeong (2003) report similar evidence for Korean firms. Ball et al. (2005) examined earnings transparency of listed companies in Hong Kong, Malaysia, Singapore and Thailand, economies that have relatively high accounting standards. They concluded that "the reported earnings generally lack transparency and that adopting International Accounting Standards alone does not ensure high transparency." However, "Corporate Governance Watch," a joint study undertaken by independent stockbroker CLSA Asia Pacific Markets, and the Asian Corporate Governance Association (ACGA) offers the most comprehensive assessment of CG standards within the eleven markets (viz., Hong Kong, Singapore, India, Taiwan, Japan, South Korea, Malaysia, Thailand, China, Philippines and Indonesia) comprising the Asia region. Probably, it is impossible for any one individual to do extensive research and survey of CG practices in the Asian markets. In order to provide empirical data support in the form of CG scenario information, therefore, we have utilized in the present study the relevant information and factual data made available through their publications and media reports.

4. Research Methodology

The importance of using 'ethical' values in business is underlined by the increasing emphasis placed on CG in the global village. However, the concept of ethical values got crystallized from the ancient times in the *Hindu* thinking in the form of *'Dharma'*. Not going anywhere else, if we look at the age-old Indian philosophical tradition and our *Vedas* & *Shastras (Bhagavad Gita,* for example*)*, we can pinpoint certain ethical values and core concepts, which are also consistent with the value systems of other civilizations. This *Hindu* epic is part of the "*Mahabharata"* written by *Rishi Veda Vyasa* in the *Sanskrit* language*,* which could have been orally composed around 3140 BC, while written documentations were dated between 300 BC and 200 AD. An attempt has been made here to provide some empirical evidence by reproducing the English version of some of the *'Shlokas'*, at appropriate places, which were originally written in *Sanskrit*. Accordingly, we have used an empirical and an exploratory approach. However, much progress on the part of the author on this project is not possible due to very limited knowledge of the *Sanskrit* language.

Recently, CG has been very high on the agenda for the Asian regulators, with most markets having introduced comprehensive regulations in order to improve "transparency". In order to provide a glimpse of the CG and transparency scenario prevalent in the Asian markets and to support our contention—major problem in the Asian markets is how to improve transparency—we have extensively utilized the secondary and published sources of data relating to CG practices, transparency, and reforms undertaken in the Asian markets. Mostly, the data were collected through Internet search engine like Google, database, such as, EbscoHost, and ProQuest. The online available papers were thoroughly examined, downloaded from the Internet Web sites, and some data were obtained directly from the ACGA office (Hong Kong), conference presentations, media reports and Corporate Governance Watch studies.

5. Significance and Contribution of the Study

CG is about commitment to values, ethical business conduct, transparency, and makes a distinction between personal and corporate funds in the management of a company. Good CG and ethical business practices are no longer optional niceties—they are gradually becoming part of the laws. Undoubtedly, having a "Code of Ethics" is considered to be good for improving CG. Each company, in fact, needs to develop its own unique code of ethics, based on the 'core' values of the business.

The concept of ethical values got crystallized in the *Hindu* thinking in the form of *Dharma* from ancient times. For example, *The Bhagavad Gita* says that it is better to die rather than give up one's own *dharma*: "*Swadharme nidhan shreya para dharma bhayapaha*." In the context of today's 'knowledge' economy and the world which has become a "global' village," so far as business is concerned, what are the ethical values that are worth observing? In business, undoubtedly the value of "honesty" and "trust" are the most important one. In fact, the world is rediscovering these two values, once again, thanks to globalization. Management teams of 'excellent' corporations are using their financial, physical and human resources to get the best results in terms of productivity, profitability, market capitalization, etc. Good CG would mean keeping in view a sound and feasible 'ethical' framework before taking business decisions. In good CG ultimately the focus is on both "accountability and transparency". Once the corporate system becomes transparent, accountability can readily be fixed because responsibility for decisions and action taken are known.

But what is ethics and do we have any ethical codes, which we can spot in the ancient scriptures? In the Indian context, it is worthwhile to look at our 'ethos', so far as values, which are relevant to management are concerned. However, the *Vedanta* can be relevant in this context and we have to see whether *Vedanta* has anything to teach modern managers of the corporate world how to improve CG and increase transparency in its day-to-day functioning. Not going anywhere else, if we look at the age-old Indian philosophical tradition, and our *Shastras (The Bhagavad Gita,* for example*)*, we can pinpoint and derive certain ethical values, which are also consistent with the value systems of other civilizations. According to Dr. Charles (2007), "The first English translation of the *Bhagavad Gita* was in 1785 by Sir Charles Wilkins. This *Hindu* epic, which is considered as the world's longest poem, is part of the *Mahabharata* written by *Rishi Veda Vyasa*. The earliest of the 100,000 verses could have been orally composed around 3140 BC, while written documentations were dated between 300 BC and 200 AD. In the *Bhagavad Gita*, there are 700 "*shlokas"* (or verses)." From the *Bhagavad Gita*, the essence of management can be summarized as: self-control focusing on discipline in perseverance, detachment from the fruits of labor, and devotion to duty (Charles, 2007).

The primary goal of CG is to enhance the 'value' of a company through 'ethical' behaviour, espousing a policy of openness and fairness and ensuring informed decision-making throughout the company. Unfortunately, the centre of corporate ethics (viz., board of directors) in certain cases became a magnet for unethical practices. Progressive firms in India have voluntarily put in place systems of good CG. Several Indian corporations (for example, Hero Honda, Hindustan Lever, Tata Group, Reliance group, Larsen & Toubro, Infosys Technologies, Wipro, etc.) are already using some of the ethical values and strategies based on our *Shastras* and *Vedas*. However, what is lacking is sharing of these values, piece-meal efforts and no systematic efforts to standardise. They are attempting to meet both ethical and legal norms in the conduct of their day-to-day operations.

The Asian financial crisis of 1997-99, and the more recent corporate scandals have illustrated the importance of effective CG systems and the linkage to business ethics throughout the world. They have also shown that no country has a perfect and full-proof CG system, and that in the international context of 21st century the ideal system is most likely to be a 'holistic' combination of several existing successful systems. Undoubtedly, CG practices can be considerably improved by applying ethical framework while making decisions and voluntarily following CG Code or best practices. Thus, the focus should be, in the long-term, how to improve operational, decision-making and corporate reporting transparency. Specifically, the objectives of the present paper are two-fold: (a) Can we look to Indian *Shastras* for some ethical concepts and values, which may help to improve the CG scenario in India? and (b) Provide an overview of the CG and transparency scenario prevalent in the various Asian markets. The advantage of going back to our 'ancient' roots and trying to understand how management strategy, ethical values, CG practices and transparency can be evolved by using the traditional Indian wisdom and ethos; therefore, it may lead to immensely practical results. An attempt will be made here to search for answers to both these issues. Hence, the article is split into two major sections.

5.1 "Dharma" in Corporate Governance: An Indian Perspective

The corporate world must make its business practices increasingly transparent, as well as, more accountable to all its stakeholders. Sheikh and Chaterjee (2001) remarked, "Having a code of ethics is considered to be good governance… Staff at all levels and in all jurisdictions should be involved in both the content and implementation of such a code. Each company needs to develop its own unique code of ethics, based on the core values of the business." But what are ethics and do we have any ethical codes, which we can spot in the ancient scriptures? If we look at the Indian philosophical tradition and our *Shastras (The Bhagavad Gita,* for example*)*, we can pinpoint and derive certain ethical values. This *Hindu* epic, which is considered as the world's longest poem, is part of the *Mahabharata* written by *Rishi Veda Vyasa*. The earliest of the 100,000 verses could have been orally composed around 3140 BC, while written documentations were dated between 300 BC and 200 AD. In the Gita, there are 700 "*shlokas"* (or verses).

Dr. Athreya (2005), a renowned management *guru*, has very lucidly highlighted some of the 'core' concepts of *Dharma*, as enshrined in Indian *Shastras*. Undoubtedly, such concepts and values can make a big 'dent' and may prove helpful to improve the CG scenario in the Asian markets. Prominent concepts of *Dharma,* as enshrined in our *Shastras,* are very briefly illustrated below as:

- *Dharma* (Righteousness): The right path, which will uphold the family, organizational, and the social fabric. "Dharma is for the stability of society, the maintenance of social order and the general well-being and progress of humankind," (Karna Parva of the Mahabharate, Verse 58, Ch. 69).
- *Loka Sangraha* (Public Good): Work not just for private gain, but also for public good. The practice of *Swartha Prartha* (self plus others) seeking ones own gains and also catering to the welfare of others.
- *Kausalam* (Efficacy): Optimum utilization of resources efficiently and productively. Judicious use of resources and preserving the resources for future generations.
- *Vividhta* (Innovation): Beyond survival, business has to be the 'engine' of innovation constantly seeking more effective solutions to meet their economic and social expectations. Such innovations are required in processes, products, materials, machines, organizations, strategies, systems and people.

- *Jigyasa* (learning): Change and continuity will co-exist. So, the corporations have to keep learning from the feedback loop from society and through internal processes of question, challenges, debates and training.

Dharma has been explained to be that which helps the long-term 'upliftment' of all living beings. Therefore, that which ensures "welfare of society" is surely *dharma*. Its origin can be traced as solution to eternal problems confronting the human race, originating from natural human instincts.

Manu Says: *Akasmay Kriya Kaschdrishayate Neh Kahinchit,*

Yadvati Kurute Kinchhit tattkamasse chestitam.

It means that there is no act of man, which is free from desire; whatever a man does is the result of 'endless' desires. The guiding force behind every action of human being is his desire, which is called *'kama'*. There is a natural desire to have enjoyment and wealth, (i.e., material pleasure), which is called *'Artha'*. But *artha* and *kama* are, however, subject to *dharma*. The propounders of *dharma* did appreciate that fulfilment of desires of human beings was an essential aspect of life but were of the opinion that unless law regulated the desires, it is bound to give undesirable results. Therefore, all the propounders of *Dharma* were unanimous that for existence of an orderly society (in this case an orderly market economy), the desires (*Kama*) for material enjoyment, and pleasures (*Artha*) should always conform to rule of *Dharma*.

The *Bhagwat Gita* (in 16-24) states:

Tsmachastrnm pramanam te karyakarvavyasthitao,

Gyatva shastravidhanoktam karm kurtumihahirsi.

Which means, let the *shastras* be your authority in deciding what you should do and what you should desist from doing. In this case, the *shastras* are nothing else but the 'codes' of best practice (or 'good' governance) developed by various institutions; however, what is needed is 'uniformity' in those codes. When we say that why we should observe *Dharma* then it is necessary to cite *Manu* where he explains the necessity of scrupulous practice of *Dharma.* He says (VIII-15):

Dharma aev hato hanti Dharmo rakshati rakshita

Tasmadharmo na hantavyo ma na dharmo hatovidhit.

Dharma protects those who protect it. Those who destroyed *dharma* also get destroyed. Therefore, *dharma* should not be destroyed so that we may not be destroyed as a consequence thereof. The concept of *dharma-sankata* is well-known in the *Hindu* religion. *Narova Kunjarova* (human or elephant?) was the situation where *Yudhistra* in *Mahabharat* lied. For the sake of getting a short-term benefit, resorting to lies or straying from the straight and narrow path ultimately leads to a long-term failure. We would, therefore, suggest that even at the cost of sacrificing short-term benefits, it is better for an enterprise to adopt healthy and transparent business practices. The fundamental principles and precepts of CG are that "public good" should always be ahead of "private good" and the corporate resources are not used for 'personal' benefit of any individual.

From the perspective of *Shastras*, "deeds are more important than mere words, slogans, rhetoric or lectures," as highlighted in one verse: "*Why do you say that which you do not do?"* Similarly, CG should be practiced in the form of deeds and actions. Only when actions speak louder than words, can a good CG culture emerge and protect the welfare of all stakeholders in today's corporate world. Another important ingredient of CG is 'accountability'. On this matter, *Shastras* suggests: "*Each one of you is a guardian (of family, organizations and society) and each guardian is accountable to everything under his care.*" If this tradition is translated into modern business dealings, all persons involved in business transactions are indeed accountable for all their actions. The pillars of the Indian philosophical tradition, which have explicitly provided for proper conduct (both in public and private life) needs to be incorporated in our dealings with other people, even though be of political or economic in nature.

According to Dr. Rao (2005), "CG can be ethical when it rests on the core values of honesty, integrity, respect, fairness, purposefulness, trust, responsibility, citizenship and caring." These values must not to be lost sight of by anyone, under any circumstances, irrespective of the goals that is intended to achieve. Similarly, Binoy (2005) concludes: "To achieve the ends of good governance, the means are as important as the ends. Safe and fair play is always ethical, so we believe that do not do something that you would be ashamed of, if it becomes public." Prominent features of the Asian business landscape include the predominance of family-run firms, the informal nature of stakeholder relations and the legal and economic diversity of the region. The situation we face in Asia (of 'bad' governance) is not actually 'bad' governance, but crisis of governability. Short-term gains had taken over the long-term vision and goals. Governance, in fact, is a way of life that necessitates taking into account all the stakeholders' interest in every business decision.

5.2 Corporate Governance (CG) and Transparency Scenario in the Asian Markets

CG has received much attention in recent years, partly due to the "financial crisis" in the Asian markets. Frankly speaking, Asian region is a very 'diverse' region comprising of Hong Kong, Singapore, India, Taiwan, Japan, South Korea, Malaysia, Thailand, China, Philippines and Indonesia, both in terms of levels of economic development and institutional regimes. There are some commonalities across the economies: prevalence of family ownership and relationship-based transactions. The CG research work on the Asian markets shows that the combination of ownership structure and property rights system (law and enforcement) fundamentally delineates the incentive, policy and performance of managers and their firms. While the Asian markets have some 'specific' CG issues, there are many CG issues in Asia 'generic' to other markets, most importantly the role of family-ownership concentration and the degree of minority-rights protection. Conventional CG mechanisms (takeovers and board of directors) are not strong enough to relieve the agency problems in Asia. Firms do employ other mechanisms to mitigate their agency problems (such as, employing reputable auditors), but even these have only limited effectiveness. The overall low transparency of Asian corporations relates to these agency problems, with the prevalence of connection-based transactions, increasing desires among all owners and investors to protect rents (with rents often arising from government actions) including a large safety net provided to the financial sector. No doubt, CG guidelines and codes of best practice arise in the context of (and are affected by) differing national frameworks of law and regulation, stock exchange listing rules, and differing societal values. Therefore, to understand one nation's CG practices in relation to another's, one must understand not only the "best practice" documents but also the underlying legal and enforcement framework. An attempt is made here to survey the CG scenario and transparency in the Asian markets.

The financial crisis that overran much of the Asian markets in the late 1990s prompted most of the markets—joined later by India—to make improved CG a priority. "Spreading the Word: Corporate Governance Watch 2005," an annual collaborative study of the CG landscape of the Asian markets undertaken by independent stockbroker CLSA Asia Pacific Markets and the Asian Corporate Governance Association (ACGA) offers the most comprehensive assessment of CG standards, and progress for both regulators and companies within the Asia region. Jamie Allen (2005), Secretary-General (ACGA), provides a vivid account of the CG methodology followed: "Substantial improvements on the basis of key determinants of CG, (viz., rules & regulations, enforcement, political & regulatory environment, adoption of international accounting standards, institutional landscape and CG culture, respectively) had taken place in the Asian countries/markets rankings for CG. Markets in Asia were scored against these five issues and a weighting to each category applied to arrive at an overall country score."

Table-2 shows that in Singapore, Malaysia, Indonesia and Thailand regulators require companies to report their annual results within two months of the fiscal year-end. Similarly, quarterly reporting is mandatory in most Asian markets (except Hong Kong) where strong resistance to change appears to persist among many of the territory's large companies. All markets (except Taiwan and the Philippines) require the disclosure of stakes (5% or more) in companies, and some markets also require the disclosure of individual directors' compensation. Most markets also insist on the disclosure of audit and non-audit fees paid to external auditors. Other areas of improvement include enforcement, where there is evidence in most markets of increased resources being applied in this area. However, most markets have improved their accounting and auditing standards largely in line with international standards, although there are discrepancies in Taiwan, China and Indonesia. Auditing standards are pretty much inline with international standards, other than in China. Singapore has already taken the big lead in its efforts to regulate the accounting profession. Matthias, Lawrence and Wilson (2005) have portrayed pessimistic scenario: "Securities regulation in many markets has been updated and strengthened, especially in the area of dealings in securities by directors and related-party transactions. However, we do not see the legal system allowing minority shareholders cost-effective access to courts in Hong Kong, India, Malaysia, the Philippines, Thailand or Indonesia." Nowadays, agreement is growing at least in principle on what 'good' governance entails, and most markets in the region have adopted 'explicit' governance codes.

So far, so much for what is good in the Asian CG regulation. There is continued reluctance among many Asian markets not to shorten their annual reporting deadlines, especially in Hong Kong, Korea, Taiwan and Indonesia. So far, only Korea has introduced comprehensive class-action litigation to assist investors to fight securities violations. China and Taiwan already have systems that allow a degree of class action, and Thailand is having a bill under consideration. Unfortunately, no market has yet introduced mandatory "voting by poll," rather than a simple "show of hands," for all resolutions at shareholders meetings. Hong Kong and Taiwan, however, are rare examples of markets that require voting by poll for some major resolutions. Still, very few Asian markets require directors' remuneration to be disclosed on a named, individual basis. Most markets permits disclosure to be made in aggregate (or by way of bands). Similarly, independent board committees (except audit committees) have not found strong support among regulators and no market makes it easy for minority shareholders to nominate independent directors. As Wong and Soo (2005) states, "Worryingly, only Singapore, Taiwan and, to a lesser degree, Korea, have regulations that make it easy to remove directors convicted of fraud or other serious corporate crimes."

According to Panjwani (2005), "The country CG score for India for 2005 is 6.2 or third in the region after Singapore (7.5) and Hong Kong (6.7)**.** Next are Malaysia (6.0) and Korea (5.8), followed by Taiwan (5.5) and Thailand (5.3). At the bottom of our ranking is Indonesia (4.0), with China (4.8) just above and then the Philippines (5.0)" (see Table-3 for details**).** While India scores over most other Asian markets in areas of rules & regulations, and their enforcement, it scores lower than most on adoption of international auditing standards. Malaysia improved its ranking by two places as a result of improved accounting standards, better enforcement, and higher score for its political and regulatory environment, while Philippines marginally leapfrogged China due mainly to its higher score for accounting and auditing. Indonesia remains firmly rooted at the foot of the table. As Leahy (2004) concludes, "Securities laws and listing requirements of stock exchanges have been strengthened, regulatory authorities have enhanced powers, and the media are becoming inquisitive and probing. However, the institutions needed to ensure good governance (viz., judicial systems, capital markets, long-term institutional investors that can push for better governance) continues to be underdeveloped in most of these markets."

A key element of 'good' governance is "transparency" (projected through a code of governance), which incorporates a system of checks and balances between key players—board of directors, senior level management, auditors and other stakeholders. Undoubtedly, transparency requires enforcement of "right to information"—nature, timeliness, and integrity of the information produced at each level of interface. All this, however, can succeed when the responsibilities of each segment of the corporate entity, and their interface is clearly defined and understood by all. If CG is concerned with better ethics and principles, it is but natural that the focus should be on 'increasing' transparency. In fact, transparency is measured by the ability of outsiders to assess true position of a company—availability of firm specific information to those outside publicly traded firms. To quote Bushman (2004): "We conceptualize corporate transparency within a country as the joint output of a multifaceted system whose components collectively produce, gather, validate, and disseminate information to market participants outside the firm. The framework categorizes country-level measures of information mechanisms under three headings: (a) the corporate reporting regime, including measures of intensity, measurement principles, timeliness, and audit quality of financial disclosures, and the intensity of governance disclosures (i.e., identity, remuneration, and shareholdings of officers and directors, and identity and holdings of other major shareholders); (b) the intensity of private information acquisition, including measures of analyst following, and the prevalence of pooled investment schemes and insider trading activities; and (c) information dissemination, including a measure of the extent of media penetration in an economy." To sum up, key components of transparency on the CG front comprises of the followings:

- Timely release of Annual Report
- Timely release of semi-annual financial announcements
- Timely release of quarterly results
- Prompt disclosure of results with no leakage ahead of announcement.
- Clear and informative results disclosure
- Accounts presented according to international GAAP
- Prompt disclosure of market-sensitive information
- Accessibility of investors/analysts to senior management
- Websites where announcements updated promptly
- Sufficient disclosure of any dilutive instruments
- Waivers applied on disclosure rules for the market

Table-4 highlights the transparency scenario (accounting & auditing framework) prevalent in the Asian markets. According to the ACGA study (2007), "Generally, high standards of financial and non-financial reporting, frequency and timeliness of financial reporting is world class, with high quality quarterly reporting, and audited results within 60 days. Accounting and auditing standards, more or less, in line with international norms, plus regulation of the auditing profession is being strengthened."

Another research study reported by JP Morgan (2005) highlights just how varied Asian markets are in timeliness of their financial reporting. They analysed 172 large and liquid Asian companies in order to calculate 'average' number of days taken between close of books and reporting variety of data, including quarterly, semi-annual, and consolidated annual results (see Table-5). "Surprisingly, Hong Kong companies faired worse than their Asian counterparts in the reporting of 'interim' results—they took an average of 66 days between book close and reporting. For consolidated annual reports, Hong Kong companies were fourth slowest with an average of 97 days (only Indonesian, Korean and Taiwanese firms taking 132, 100, 114 days respectively, performed more poorly)." While Hong Kong companies did score extremely well in quarterly reporting (18 days against international average of 35 days), the sample size was extremely small (only 3 companies) because quarterly reporting is not mandatory. It is a matter of great pride that some Indian companies (like Infosys Technologies and Hughes Software Systems) stand out for being much faster (25 days) at quarterly reporting, while those in Taiwan (30 days) and Thailand (31 days) also do well. But when it comes to 'consolidated' annual reports, only one country (Australia with 63 days) comes close to the international average of 59 days. Thai companies lead the Asian pack at just 71 days, while Singapore and Indian firms report after an average of 83 and 84 days, respectively. Unfortunately, Indonesian companies give investors the longest wait—132 days. Further, Morgan study singled out certain Asian companies (viz., Infosys Technologies and Hughes Software from India, TSMC from Taiwan, and ST Engineering from Singapore) for exceeding required regulatory standards and taking CG very seriously. Looking ahead, reporting deadlines are likely to shorten in Asia. Ramaswamy (2005) adds here: "Under the US Sarbanes-Oxley Act, 2002 the SEC will cut filing periods in phases over 2003-06. The deadline for annual reports, for example, will be cut from the original 90 days to just 60 days for fiscal years ending on or after December 15, 2006. It can be easily anticipated that these new requirements will raise the bar on reporting standards and will put pressures on regulators in Asia to force improvements soon."

New forms of CG behavior will undoubtedly take considerable time to become ingrained in the thinking and culture of more and more companies. Governments, corporate leaders, investors, and regulators in most of the Asian markets do realize that CG practices would not change overnight, so lot of patience is needed. Barton and Coombers (2004) remarked as: "Getting companies to comply with new rules is a daunting task requiring greater transparency and better enforcement, not to mention a cultural upheaval in boardrooms… But given the vast differences in ownership structures, business practices and enforcement capabilities, merely adopting new requirements en masse from North America or Western Europe would be a mistake. Nonetheless, the temptation to do so—promoted partly by investors, foreign-aid donors and international organizations—afflicts the Asian region as a whole." Asian governments should rank their reforms, from time to time, in order of priority and tailor them to the country's specific needs. Ensuring that local laws and CG codes are consistent with the OECD "Principles of CG," we personally feel would be a good starting point. In this context, Witherell (2004) very appropriately pointed out: "Policy makers, investors, corporations and stakeholders, worldwide have used these principles to tackle a broad set of relevant issues common to all, such as, the need for transparent reporting, having informed shareholders, and accountable boards of directors." However, we are of the firm opinion that it is better to enforce 'basic' reforms vigorously rather than to adopt requirements that would go totally unheeded.

Melendy and Huefner (2007) have advocated the constitution of "compliance committees" to improve CG. Without greater transparency in CG, laws and governance codes will do little to build investors' confidence in the long-run. Notwithstanding recent reforms, accounting standards in many Asian markets remain weak—enough trained professionals are not available (with an in-depth understanding of local & international accounting standards), and accounting self-regulatory organizations are lax in enforcements (Parker, 2007). Similarly, Choi (et al., 2007) remarks: "Disclosure requirements and auditing practices are improving slowly since national financial reporting standards are gradually being "harmonized" with international standards. The sober truth is that CG practices in various markets still remain divergent despite major initiatives for convergence." Although most Asian markets are strengthening their accounting standards and adopting minimum CG rules, many are still lagging behind in their effective enforcements: lack investigative powers and political will, enforcement staffs, or big budgets to conduct rigorous investigations. Most governments are augmenting their resources to monitor companies and enhancing the authority of their regulators, some of which are now getting tougher.

Since CG is an evolving concept in most parts of Asian markets, raising awareness is vital to any reform efforts to succeed. Several region-wide organizations, such as the Asian Corporate Governance Association, have been formed to promote understanding, sharing country-specific experiences & problems, and stimulating corporate reforms in the right direction. As Barton and Coombers (2005) observed: "What's more, several regional groups, including CLSA Emerging Markets (a regional brokerage firm), Thai Rating and Information Services, and India's ICRA, to name a few, publicly rate the governance practices of listed companies." In addition, we have several national and international organizations such as, World Council for Corporate Governance, Global Corporate Governance Forum, World Bank's Corporate Governance, OECD's Corporate Governance, and National Foundation for Corporate Governance. In 2004, the government established the Malaysian Institute of Integrity, whose role is to facilitate and execute the National Integrity Plan in both the private and public sectors. Whistle-blowing laws have also been introduced across every sector. The Securities Laws were amended in 2005 to include whistle-blowing provisions for both officers of the companies and external auditors. The Companies Commission of Malaysia is also looking at such provisions. Not to be outdone, Singapore's government launched its Council on Corporate Disclosure and Governance in 2002, to prescribe accounting standards and strengthen the existing framework for reporting practices. And in November 2004 the Hong Kong stock exchange published a final report on its new Code on Corporate Governance Practices, along with a new set of rules requiring issuers to include a 'corporate governance report' in their annual reports. Furthermore, the CFO Asia (2006) reports that "private efforts include the KPMG-backed Hong Kong Audit Committee Institute, which opened at the end of 2002 to serve as a resource for audit committees and senior management, and groups such as the Minority Shareholders Watchdog Group in Malaysia."

No doubt, CG has improved to some extent in the Asian region and some markets (Singapore in particular) have made significant progress in this direction. The next step is to instill "new governance" behavior, and it will take considerable time in the near future. Many corporate leaders, investors, and regulators in the Asian markets articulate the benefits of effective CG. They judiciously understand that enduring reforms would not be achieved overnight, and that, in the short term, many practical impediments and disincentives may block or slow down the necessary changes. Thus, to move ahead in the right direction with consistent pace, across the Asian region, both governments and companies must play their respective roles. In this context, Leahy (2004) once remarked: "Governments should provide a strong legal and regulatory framework to underpin the reforms. Companies, on the other hand, should create stronger and more purposeful boards; enhance the scope, accuracy, and timeliness of financial reporting; and pay more regard to the rights and interests of minority shareholders." While country-specific provisions will differ from one country to the next, any reform effort must include following core elements: robust corporate and securities laws, tough accounting standards, strong regulators, efficient judicial systems, and determined efforts to clamp down on 'corruption'. Without sustained progress in the foundations of CG, any improvement focused at individual companies level will fall far short of its potential.

6. A Time for Rethinking

The starting point for reforms in the Asian markets, in fact, should be different from the starting point in the Europe or North America. It will be necessary to analyze the particular circumstances of each country/market in Asia, their legal and regulatory systems, structures of business enterprise, inherent cultural characteristics and heritage, before defining any specific approaches to addressing issues of CG. Naturally, each country/market must define for itself what its special circumstances and priorities are within this context. The next phase of activities will include establishment of "Centers of Excellence" in collaboration with the World Bank to provide training at regional and country level in the various elements constituting a suitable CG framework.

"Agreement is growing, at least in principle, on what good governance entails, and most markets in the region have adopted explicit governance codes. Securities laws and the listing requirements of stock exchanges have been strengthened, regulatory authorities have enhanced powers, and the media are more inquisitive and probing," observes Barton (2004). Since the Asian crisis, all the markets in the region have seen an overhaul in their auditing/accounting standards. Consequently, there has been a convergence of local auditing standards with international best practices. Not only does this mean that there is standardization across the region, which facilitates comparisons, it also shows a heartening dedication to transparency and openness. Yet the progress is uneven. Moreover, the institutions needed to ensure good governance—judicial systems, capital markets, long-term institutional investors that can push for better governance—continue to be underdeveloped in most of the region. Laws and regulations are not enforced rigorously. Now, the challenge is to move away from the 'philosophical' debate on CG to dealing with the "hard" issues of practical implementation, and the application of good CG practices in Asian markets. The years following the Asian financial crisis have seen the implementation of more rigorous CG standards but it is questionable whether the new rules have actually permeated corporate practices.

We believe that maintaining the momentum for CG reforms in Asian markets will certainly require some rethinking on 'basic' questions. First, what major rule changes or changes to the legal system are needed to allow market participants to fully engage in CG reform and to complement the efforts of regulators? Secondly, do any existing procedural rules inhibit investors from exercising their most basic rights, such as, voting and participating in annual general meetings? The answers in many parts of the region are amply clear, that they do. Thirdly, are any existing rules inherently self-defeating and incapable of producing the intended outcomes? Weak definitions of "independent director" are a good example. Stock exchange listing rules place so much supervisory responsibility on independent directors that to start from a position of weakness seems almost willfully counterproductive. Fourth, are we creating potential conflicts or managerial inefficiencies within companies by grading new global best practices onto traditional company law structures without reforming them? A good example here is the introduction of independent directors into the quasi two-tier or dual-board system of China, Indonesia, Japan and Taiwan. Sensibly, Japan is allowing companies to opt for single boards and Taiwan is allowing organizations to do away with their statutory auditors and supervisors. Another is whether or not we can find one set of codes of governance that can balance the rights of the minority, the majority, the dominant interest, the employees, the suppliers, the management and the community? If not, what standards then do we develop? Some of the questions enumerated here are merely illustrative, and in fact, several more could be added in every country.

Benz and Frey (2007) proposed that CG can learn from four cornerstones of public governance. First, we argue that CG can gain from realigning managers' compensation with the practice prevalent in the public sector—namely, fixed compensation not dependent on pay-for-performance. Second, we consider the advantages of relying on the basic democratic idea of division of power in CG. Third, we can learn from how rules of succession prevalent in the political sphere can be applied so as to devise better governance rules. And, fourth, we propose that CG can be improved by relying on institutionalised competition in core areas of the firm. Similarly, Archambeault (2008) highlights the crucial role of internal audit to improve CG.

7. Conclusion

There has been a resurgence of interest in ethics in reaction to the scandals of the beginning of the decade. With the collapse of Enron and Arthur Anderson in the U.S. and similar disasters in the U.K. (such as Marconi), CG has become increasingly hot topic for reforms. For example, Khanchel (2007:740) highlights the vital role played by various international bodies to improve CG as: "Consequently, international organizations have become very concerned about governance issues. For example, the IMF has demanded that governance improvements be included in its debt relief program… In addition, private firms such as Standard & Poor, Credit Lyonnais Securities Asia and McKinsey are also calling for sweeping reforms of governance practices." In 1999, the OECD issued its influential "OECD Principles of Corporate Governance," intended to assist member and non-member markets in their efforts to evaluate and improve the legal, institutional and regulatory framework for better CG. Moreover, the accounting profession globally has taken steps to enhance the importance of ethical behaviour and decision-making. According to a research report prepared by the CFO Asia (2006), in collaboration with ACCA, "The International Federation of Accountants (IFAC) has launched a revised code of ethics based on a set of fundamental principles to be adopted by individual accountancy bodies. The ACCA has already revised its own code of ethics for its members to be consistent with the IFAC standards."

Ethics is an 'inspirational' objective, and should represent the 'intrinsic' cultural values of the society in which a corporation operates, as well as, the behaviour expected of the corporation in all its dealings with shareholders and other stakeholders. Realizing the need for "good" governance, corporations from all over the globe must attempt to evolve gradually from the traditional "compliance" approach to a "conscience" one. Ethical practices and issues are complex and no universal model can be prescribed. It should be clearly noted at the outset that the notion of having "one-size fits all" type of universal CG code is not only inappropriate but undesirable also. For example, Jamie Allen (2009) very appropriately concludes: "Each country and model (U.K., U.S. or any other) has its own strengths and weaknesses. It is unwise to borrow entirely from one system to the exclusion of others. Regulators should consider which system offers the most effective standards or rule to resolve specific CG problems."

Majority of Asian markets have individually established 'national' codes to meet their own special requirements. An attempt will be made by the author, as a next step in this project, to evolve a model CG Code for India on the basis of values stressed in our ancient '*Shastras'*. As per Indian *Shastras,* "improvement in the quality of governance can improve only if each and every individual starts culturing human values in the inner world of himself. Search for effectiveness by culturing human values is a journey within the individual, within the self." The Indian *Vedas* had stated long back, how to do it with the help of an example: "A business should benefit from business like a honey bee, which suckles honey from the flower without affecting its charm and beauty," thereby indicating that adopting ethical values and principles are the only solutions to prosperity and welfare of the society in the long-run. The global debate, fortunately, is gradually 'converging' very much in favor of having a "Code of Ethics and Code of Good Governance," but the challenge is how to successfully implement them in the Asian region.

Keeping in view the vast amount of differences prevalent in the Asian markets merely adopting CG requirements *en masse* from the Western markets would be a foolish mistake. Instead, the Asian governments should rank their reforms in order of priorities and tailor them to the country's specific needs. Ensuring that local laws and CG codes are consistent with the OECD's "Principles of CG," we personally feel would be a good starting point. Published guidance and standards, such as those issued by COSO, are influential too. COSO is a voluntary private sector organization that promotes better financial reporting through business ethics, effective internal controls, and CG. Moreover, the International Accounting Standards, with linkages to the International Organization of Securities Commission (IOSCO), which represents most of the world's regulating stock exchanges, are pulling towards a "harmonization" of desirable CG practices in Asia too. However, we are of the firm opinion that it is better to enforce 'basic' reforms vigorously rather than to adopt requirements that would go totally unheeded.

Now-a-days, many companies are thinking of CG as something more than just an area reporting to the Corporate Secretary or Legal Counsel. Recently, the rise of the "Chief Governance Officer" mirrors the appointment of the Chief Ethics Officer by many companies that have been plagued by scandal or crisis (e.g. MCI). As these roles become institutionalized, they will emerge as the engines of the next generation of CG 'best' practices designed to add value, instead of simply complying with external regulations and codes. Similarly, some CG experts have advocated the constitution of "compliance committees" to improve CG transparency scenario. Without greater transparency, laws and governance codes will do little to build investors' confidence in the long-run. Notwithstanding recent reforms, accounting standards in many Asian markets remain weak. Disclosure requirements and auditing practices, however, are improving slowly since national financial reporting standards are gradually being "harmonized" with international standards. The truth is that CG practices in various markets still remain divergent despite major initiatives for convergence. Although most Asian markets are strengthening their accounting standards and adopting minimum CG rules, many are still lagging behind in their effective enforcements. However, most governments are augmenting their resources to monitor companies and enhancing the authority of their regulators, some of which are now getting tougher.

Jamie Allen (2004) very strongly asserts, "Consistent and well-crafted rules are critical to spur good CG in Asia… If we want robust and effective CG, we need robust and well-crafted rules, and vigorously enforcing them. Without greater transparency in CG, laws and governance codes will do little to build investors' confidence in the long-run. CG stems from the culture and mindset of management and cannot be regulated by legislation alone; too many legal provisions and their intricacies would make the real objective worthless." Over the few years, a range of initiatives (both public and private) have been launched with a view to improving CG and ethics in Asian markets. Still much work remains to be done and the ethos of CG culture has yet to sink in. Full convergence with international accounting and audit standards, better protection of minority investors, stronger enforcement of existing laws & regulations, etc., are some of the grey areas requiring immediate improvements in CG scenario in the Asian markets.

CG has improved to some extent in the Asian region and some markets have made significant progress in this direction. For instance, Allen (2004) states: "Asian regulators have made many advances, mainly by matching their accounting and auditing standards to international norms. And all but a few have strengthened securities laws, mandating the disclosure of ownership for stakes above 5%, prompt reporting of share transactions by directors and controlling shareholders, and continuous disclosure of material transactions (including significant connected transactions)." The next step is to install new governance behaviour. Corporate leaders, investors and regulators should understand that enduring reforms would not be achieved overnight, and that, in the short term, many practical impediments and disincentives may block or slow down the necessary changes. Thus, to move ahead in the right direction with consistent pace, across the Asian region, both governments and companies must play their respective roles. While country-specific provisions will differ from one country to the next, any reform effort must include following core elements: robust corporate and securities laws, tough accounting standards, strong regulators, efficient judicial systems, and determined efforts to clamp down on 'corruption'. Without sustained progress in the foundations of CG, any improvement focused at individual companies level will fall far short of its potential.

It is a matter of great pride that many exemplary companies can be found in Asian markets: CLP, HSBC, HK Exchanges, Esprit, Swire, Standard Chartered, Nine Dragons Paper (Hong Kong), Posco, Hynix Semiconductor, LG Philips, Kookmin Bank, Hana Financials (South Korea), Public Bank (Malaysia), Siam Cement (Thailand), Singapore Telecommunications (Singapore), Sharp, Honda & Toyota Motors, Mitsubishi Electric, MSI (Japan), Infosys, Wipro, Hindustan Lever (India), and Taiwan Semiconductor, China Steel, United Microelectronics (Taiwan). In fact, some of these corporations have been recognized by several publications and organizations in the past for their good CG practices. Table-6 summarizes the regional CG disclosure strengths and weaknesses. No doubt, some Asian markets have a higher ratio of strengths to weaknesses than others. Indeed, it is accurate to say that global shifts in standards are facilitating (probably, adding pressure to) the adoption of "ethical" practice everywhere. Many CG experts may be wondering if there is room for traditional 'Asian values' in the emerging global environment. At the same time, political initiatives (such as Sarbanes-Oxley Act, with its provisions for personal responsibility and the separation of auditing and consulting) have made an impact even on non-U.S. companies in Asian markets. There are even signs that the Asian region's CFOs would welcome a more stringent ethical framework.

Based on the CG and Transparency scenario prevalent in the Asian markets/markets, the following 'broad' conclusions can be derived:

- Considerable growth in rules and guidelines on CG in the Asian markets. The convergence (or harmonization) with International Accounting Standards has been a positive step towards uniformity and improved controls in territories, such as, Hong Kong, Malaysia and Singapore. These accounting reforms have been accompanied by new ethical codes. Yet rules and regulations, best practices, and ethical ideologies & standards varies greatly.
- Progress in CG reform in Asian markets varies considerably by country/market, and by company. It also varies over time: the boom of the past 2-3 years lessened pressure for reform, but this is likely to change given current volatility and bear markets.
- The stronger the signal from the market to companies that CG does matters, the better they will perform. While considerable progress has occurred, it still remains half-formed in many areas. Even the best markets are some way from being called world-class.
- Financial disclosure and transparency in CG has improved over the past decade, but the job is far from complete. The shift to international accounting standards and the need to comply with tougher national codes have placed new operational demands on finance departments. The CFOs appear to have taken such governance-related changes in their stride. However, corporate disclosure issues will once again be actively discussed in the next two-three years.
- A growing focus on shareholder rights and stakeholder issues, with increased voting and meeting attendance by institutional investors.
- Board structure and composition should be aligned with the company's business, with each element designed to produce tangible results.
- ESG must be strategic if it is to have any long-term meaning.
- Much greater disclosure of executive and director remuneration required, with some controls being put in place. Yet disquiet remains about the stock-option policies of some issuers. This could become a bigger issue in future.

Over the past few years, a range of initiatives have been launched with a view to improving CG and ethics in Asia. However, many of these measures appear to be works in progress, requiring further development to be truly effective. Certainly all the Asian markets are in a much better shape now, from a CG perspective, than they were at the start of this decade. The challenge, at present, is to keep going and avoid the temptation to sit back and relax. In nutshell, we can say that CG scenario in Asia remains at best a gradual work-in-progress, and how soon it will attain perfection only future will tell us.

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Table 1. Development of CG Codes in Asia

Country	Date of main code(s)	Are independent Directors required?	Are audit committees required?
China	2002/2005	Yes	Yes
Hong Kong	1993/2004	Yes	Yes
India	1999/2005/2007	Yes	Yes
Indonesia	2001/2006	Yes	Yes
Japan	2003/2004	Optional	Optional
S. Korea	1999/2003	Yes	Yes (large firms)
Malaysia	2001/2007	Yes	Yes
Philippines	2002	Yes	Yes
Singapore	2001/2005	Yes	Yes
Taiwan	2002	Yes (certain firms)	Yes (certain firms)
Thailand	1999/2006	Yes	Yes

(Source: Jamie Allen, ACGA: Corporate Governance Seminar, organized by Chubb Insurance and Solidarity, Bahrain, April 16, 2008, page 10)

Table 2. Asian Governance Regimes

CLSA/ACGA Country* Ranking Criteria	China	Hong Kong	India	Indonesia	Korea	Malaysia	Philippines	Singapore	Taiwan	Thailand
Rules & Regulations:										
Most companies report their annual results within two months?	N	N	N	Y	N	Y	N	Y	N	Y
Have reporting deadlines been shortened in the past three years?	N	N	Y	Y	N	Y	N	Y	N	S
Is quarterly reporting mandatory?	S	N	Y	Y	Y	Y	Y	Y	S	Y
Do securities laws require disclosure of ownership stakes above 5% ?	Y	Y	Y	S	Y	Y	N	Y	N	Y
Do securities laws require prompt disclosure of share transactions by directors and controlling shareholders?	Y	Y	Y	N	Y	Y	Y	Y	S	Y
Are class-action lawsuits permitted?	S	N	N	N	Y	N	N	N	S	N
Is voting by poll mandatory for resolutions at AGMs?	N	S	N	N	N	N	N	N	S	N
Can shareholders easily remove a director who has been convicted of fraud or other serious corporate crimes?	S	S	N	S	N	S	S	Y	Y	N
Will share option expensing become mandatory over the next ten month?	N	Y	S	S	N	N	Y	Y	S	N
Enforcement:										
Is there an independent commission against corruption (or its equivalent) that is seen to be effective in taking public and private sector companies?	N	Y	S	N	S	S	N	Y	N	N
Political and Regulatory Environment:										
Is the statutory regulator (i.e., securities commission) autonomous of government (not part of the Finance Ministry)?	S	Y	S	N	S	S	S	S	S	S
Accounting and Auditing:										
Do the rules require disclosure of consolidated accounts?	Y	Y	Y	Y	Y	Y	Y	Y	S	Y
Do the rules require segment reporting?	Y	Y	Y	S	Y	Y	Y	Y	S	Y
Do the rules require disclosure of audit and non-audit fees paid to the external auditor?	Y	Y	Y	N	Y	Y	S	S	Y	Y
Do the rules require disclosure of connected transactions?	Y	Y	Y	Y	Y	Y	S	Y	Y	Y
Does the government or the accounting regulator have a policy of following international standards on auditing?	Y	Y	S	S	S	Y	Y	Y	S	Y
Institutional Mechanisms and Corporate Culture:										
Are institutional investors engaged in promoting better corporate governance practices?	N	S	S	N	S	S	N	S	S	S
Are any retail investors engaged in promoting better corporate governance practices?	N	Y	S	N	Y	S	N	Y	N	N
Have retail investors formed their own shareholder activist organization?	N	N	Y	S	Y	S	N	Y	N	N

*Japan was not covered in this survey. Keys: Y=Yes, N= No, S=Somewhat

[Source: CLSA Asia-Pacific Markets: Asian Corporate Governance Association (www.acgs.asia.org)]

Table 3. Markets Ranked by Corporate Governance in Asia

Markets	Rules & Regulations (15%)	Enforcement (25%)	Political & Regulatory (20%)	IGAAP (20%)	CG Culture (20%)	Country Score (2005)	Country Score (2004)
Singapore	7.9	6.5	8.1	9.5	5.8	7.5	7.7
Hong Kong	6.6	5.8	7.5	9.0	4.6	6.7	7.3
India	6.6	5.8	6.3	7.5	5.0	6.2	6.6
Malaysia	7.1	5.0	5.0	9.0	4.6	6.0	5.5
Korea	6.1	5.0	5.0	8.0	5.0	5.8	5.5
Taiwan	6.3	4.6	6.3	7.0	3.5	5.5	5.8
Thailand	6.1	3.8	5.0	8.5	3.5	5.3	4.6
Philippines	5.8	3.1	5.0	8.5	3.1	5.0	3.7
China	5.3	4.2	5.0	7.5	2.3	4.8	4.3
Indonesia	5.3	2.7	3.8	6.0	2.7	4.0	3.2

(Source: CLSA Asia Pacific Markets, Asian Corporate Governance Association, CG Watch 2005, page 8)

Table 4. Transparency Scenario in Asia: Accounting and Auditing Frameworks

	International Generally Accepted Accounting Principles (IGAAP)	China	Hong Kong	India	Indonesia	Japan	Korea	Malaysia	Philippines	Singapore	Thailand	Taiwan
1	Does the government or the accounting regulator have a policy of following IAS/IFRS accounting standards?	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
2	Are local accounting rules largely in line with the international standards?	L	Y	L	S	L	S	L	Y	Y	L	L
3	Are accounting practices among large listed companies in line with international best practices?	S	Y	L	S	Y	L	L	S	Y	L	L
4	Are accounting practices among small and medium sized listed companies in line with international best practices?	M	S	M	M	S	M	M	M	L	S	S
5	Do the rules require disclosure of consolidated accounts?	Y	Y	Y	Y	Y	M	Y	Y	Y	Y	L
6	Do the rules require segment reporting?	Y	Y	Y	L	S	L	Y	Y	Y	Y	Y
7	Is disclosure of audit and non-audit fees paid to the external auditor required?	Y	Y	Y	N	N	Y	Y	S	S	Y	S
8	Does the government or the accounting regulator have a policy of following international standards on auditing?	Y	Y	Y	Y	Y	L	Y	Y	Y	Y	Y
9	Are local auditing rules in line with international standards?	L	Y	L	S	L	L	Y	Y	Y	L	L
10	Are auditing practices among large listed companies in line with international best practices?	L	Y	L	L	L	L	L	L	Y	L	Y
11	Are auditing practices among small and medium sized listed companies in line with international best practices?	M	L	M	S	S	M	M	S	S	M	S
12	Is the government or the accounting regulator actively implementing new international best practices on the independence of external auditors? (e.g., by introducing limits on the non-audit work that external auditors can do; requiring for audit-partner rotation; whistleblower protection for auditors; etc.)	S	M	S	S	S	Y	Y	S	Y	S	Y
13	Must the CEO, CFO or directors sign and certify a company's annual accounts?	Y	L	Y	Y	Y	Y	Y	Y	L	Y	Y
14	Is the government strengthening the regulation of the accounting profession? (e.g., by setting up an independent oversight board)	M	M	M	S	S	M	N	M	L	M	N
15	Is the expensing of share-based payments mandatory?	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N

[**Keys**: Y=Yes (+ 1 point); L=Largely (+ 0.75 points); N=No (+ 0 points); S=Somewhat (+ 0.5 points); M=Marginally (+ 0.25 points); X=Data unavailable (+ 0 point)].

Table 5. Average Days between Close of Books and Reporting

Country	Quarterly	Semi-annual	Annual report (consolidated)
Australia	20*	51	63
China	32*	60	90
Hong Kong	18*	66	97
India	25	25	84
Indonesia	48	58	132
Korea	37	37	100
Malaysia	57	57	87
Philippines	49*	49	86
Singapore	42	40	83
Taiwan	30	52	114
Thailand	31	31	71
International Average #	35	N/a	59

* Only 7 or fewer companies report quarterly in firms sampled.

Comprises 8 selected US & European blue-chips.

(Source: JP Morgan estimates, as reported in News Briefs Q 3, 2005).

Table 6. Regional CG Disclosure: Strengths and Weaknesses

Strengths:

- Improving financial reporting: frequency, speed, substance, consolidation of accounts, director pay, stock-option expensing.
- Quality of auditing and investor communications among large issuers is generally good and improving.
- Regulators seem to have got the message on enforcement.
- Regulatory and stock exchange information communication (e.g., in use of websites) is improving rapidly in many markets.
- Professional and director training strong/growing.

Weaknesses:

- The quality of financial and non-financial reporting among small- and mid-cap listed firms is lagging.
- Late reporting deadlines in certain markets.
- Continuous disclosure of price-sensitive information needs to improve.
- Blatant misuse of the "personal reasons" explanation when a director resigns.
- Inadequate rules on disclosure of takeover bids.
- Draft IPO prospectuses provided only to certain investors and analysts in some markets.
- Some regulators still vet company announcements.
- AGM agendas and circulars often lack sufficient detail.
- Publication of detailed AGM vote results often non-existent.