

## **Ethics & Governance – A Perspective**

It is a well known fact that management plays a vital role in shaping the future of any organization as the optimum utilization of all resources hinges upon the efficacy of the management. The core of a successful management lies in its Clarity of Vision, Plan of Action and more importantly Execution of the Plan of Action – the real gamut of operations as it were, and it is here that the importance of Corporate Governance and Ethics comes into being. Our Hon'ble Prime Minister, Dr. Manmohan Singh has said that whereas our policies and systems are good but the implementation needs much to be desired.

Organisations are managed by Policies, Guidelines and Systems. These are dynamic instruments, and therefore need to be reviewed from time to time to gauge their efficacy to the said organization. This review is all the more necessary when a lapse or an untoward incident takes place. It could happen that the review undertaken reveals that the said policy is very much sound and in place, however over a period of time wrong practices have come into being, and which are the reasons for the problems that have occurred, therefore corrective steps need to be taken forthwith.

A review could also reveal that the problems have occurred in spite of the policy in place, and which means that the policies would need to be modified or amended as the case may be in the best interest of the organization.

Normally, decisions are being taken within the framework of the policies and guidelines in place. Now, there could be critical situations wherein the policy in question would need to be slightly deviated from, in order to take the right decision, in the best interests of the organization. In such situations, a very clear and precise note should be brought out giving the reasons which necessitated the said deviation from the policy. The said note should also contain the implications to the organization if the decision was not taken. This would serve as a very Transparent and an Objective analysis, bringing out the need for deviation from the policy on this “case specific” issue, whereas the said policy in principle would continue on an as is where is basis.

1. Experience has taught us that it is the Economic Downturn, as we witness world wide today, rather than Up Swing, which raises sharp focus on issues relating to Ethics & Corporate Governance.
2. The two Major Reasons for Corporate failures have been “Greed” and “Excess Leverage”. The moot point is whether these two need to be completely done away with? If so, what is the Incentive for Aggressive growth and competition? If not, how are these to be kept within controllable limits and yet higher growth achieved?

It is here that Business Ethics & Corporate Governance need to be focused on.

3. Whether it was abroad in the U.S. earlier, or more recent, and nearer home, it is seen that a “slip” in Corporate Governance is always initiated by the Promoters themselves.
4. Independent Directors are expected to be “Watch Dogs”. They can at best be accused either of ‘Lack of application of mind’ or of, consciously or otherwise overlooking the “slip” that has taken place. But not necessarily initiating the actual wrong doing,

conspiracy, collusion or fraud as such. It has to be understood that they, the Independent Directors, cannot work as investigators as they are very much part of the decision making process in the Company.

5. Having said this, Each Member of the Board has a Key Role to play and an Important/Sacred Responsibility to deliver, and therefore they not get unduly overawed or paranoid by size of the Company or any extraneous situation that they are faced with. They need to bring their Special Expertise and Experience on Corporate issues to the Board, and always, to keep “Broad Stakeholder Interest” in mind.
6. They need to Set & Follow Policies pertaining to “Conflict of Interest”. All Directors must therefore be “above Board”.
7. They would be required to diligently & keenly watch the changes in Assets & Liabilities in the Balance Sheet, to ensure quick corrective action if needed.

8. The Board Agenda should be circulated well in time. Though this may appear to be an elementary and fundamental requirement, it is very significant, the Directors of the Board must have “sufficient time” to go through the papers and to apply their mind, and come duly prepared to the Board Meeting. The various issues deliberated upon, queries raised, clarifications given must be precisely minuted in a chronological manner.

9. Table Agenda to be only taken up on emergent issues and not be made into a routine affair. There must be adequate time for discussion of the Table Agenda to ensure an indepth deliberation.

So also for an agenda put up for Ratification to the Board. This also needs proper understanding and also as to why the decision needed to be taken by the company.

Questions to be raised when in Doubt by the Independent Directors.

10. It is extremely important to ensure Auditor Independence. The Audit firm assigned to the company should fulfill its mission in a Competent & Independent manner. Further, Effectiveness of

Audit Committee of the Board is of Paramount Importance. It should exhibit the same in its functioning and should properly guide the Board.

11. It is vital that the Independent Directors understand the Impact and Consequences of the proposals they are clearing in the Board Meetings. They should not forget that they would be held responsible were things to go wrong and they should also remember that they have a right under the Company Law to put up a note of dissent (of course for valid reasons) as per their own judgment.

This does not mean that a 'Confrontation' is created between the Promoters and the Directors. Infact, both should clearly put forth their point of view backed by facts and supportive data. They need to deal with adequate Patience. After all, the Promoters have got the Independent Directors on Board to 'add value' and to contribute with their distinct individual expertise and experience.

The goals of the Promoters and Directors being the “Long Term Sustainable Well Being” of the Company, why should there be friction of any kind?

Of late, since January 2009, we have been hearing that some Independent Directors have chosen to resign. This is certainly not a healthy trend and should be discouraged.

12. Finally, Board Members must embrace Corporate Ethics by creating a climate of Integrity and Responsibility within the company, expressed in both the written code and by living example i.e. both Directors & Promoters need to come together to Build a strong Ethical Culture for the Company, that would ensure Correct Behaviour/ the Right Behaviour, when policies are either unwritten, unclear or are unenforced.

13. “Ethics & Corporate Governance” are not just Moral or Compliance Issues. In the long term they are Essential Behavioural Traits for the Organisation, that strengthen the Organisation’s “Brand Equity” and help ensure Stable Sustainable Growth.

Finally, the world over people have been talking about “Self Regulation” being an Integral part of Corporate Governance stating that it has to come from within. But of late, experience has shown that this has not really worked, so people are now talking of Rule Based Regulations i.e. need to be more specific, where Dos & Don'ts are Specified.

Which of the two should we follow?

Well it is for the individual company to decide.

BOMBAY MANAGEMENT ASSOCIATION