

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, or distributed in any form or by any means, whether electronic, mechanical, photocopying, recording, or otherwise, without prior written permission of the Managing Editor of the *International Journal for Legal Research & Analysis (IJLRA)*.

The views, opinions, interpretations, and conclusions expressed in the articles published in this journal are solely those of the respective authors. They do not necessarily reflect the views of the Editorial Board, Editors, Reviewers, Advisors, or the Publisher of IJLRA.

Although every reasonable effort has been made to ensure the accuracy, authenticity, and proper citation of the content published in this journal, neither the Editorial Board nor IJLRA shall be held liable or responsible, in any manner whatsoever, for any loss, damage, or consequence arising from the use, reliance upon, or interpretation of the information contained in this publication.

The content published herein is intended solely for academic and informational purposes and shall not be construed as legal advice or professional opinion.

**Copyright © International Journal for Legal Research & Analysis.
All rights reserved.**

ABOUT US

The *International Journal for Legal Research & Analysis (IJLRA)* (ISSN: 2582-6433) is a peer-reviewed, academic, online journal published on a monthly basis. The journal aims to provide a comprehensive and interactive platform for the publication of original and high-quality legal research.

IJLRA publishes Short Articles, Long Articles, Research Papers, Case Comments, Book Reviews, Essays, and interdisciplinary studies in the field of law and allied disciplines. The journal seeks to promote critical analysis and informed discourse on contemporary legal, social, and policy issues.

The primary objective of IJLRA is to enhance academic engagement and scholarly dialogue among law students, researchers, academicians, legal professionals, and members of the Bar and Bench. The journal endeavours to establish itself as a credible and widely cited academic publication through the publication of original, well-researched, and analytically sound contributions.

IJLRA welcomes submissions from all branches of law, provided the work is original, unpublished, and submitted in accordance with the prescribed submission guidelines. All manuscripts are subject to a rigorous peer-review process to ensure academic quality, originality, and relevance.

Through its publications, the *International Journal for Legal Research & Analysis* aspires to contribute meaningfully to legal scholarship and the development of law as an instrument of justice and social progress.

PUBLICATION ETHICS, COPYRIGHT & AUTHOR RESPONSIBILITY STATEMENT

The *International Journal for Legal Research and Analysis (IJLRA)* is committed to upholding the highest standards of publication ethics and academic integrity. All manuscripts submitted to the journal must be original, unpublished, and free from plagiarism, data fabrication, falsification, or any form of unethical research or publication practice. Authors are solely responsible for the accuracy, originality, legality, and ethical compliance of their work and must ensure that all sources are properly cited and that necessary permissions for any third-party copyrighted material have been duly obtained prior to submission. Copyright in all published articles vests with IJLRA, unless otherwise expressly stated, and authors grant the journal the irrevocable right to publish, reproduce, distribute, and archive their work in print and electronic formats. The views and opinions expressed in the articles are those of the authors alone and do not reflect the views of the Editors, Editorial Board, Reviewers, or Publisher. IJLRA shall not be liable for any loss, damage, claim, or legal consequence arising from the use, reliance upon, or interpretation of the content published. By submitting a manuscript, the author(s) agree to fully indemnify and hold harmless the journal, its Editor-in-Chief, Editors, Editorial Board, Reviewers, Advisors, Publisher, and Management against any claims, liabilities, or legal proceedings arising out of plagiarism, copyright infringement, defamation, breach of confidentiality, or violation of third-party rights. The journal reserves the absolute right to reject, withdraw, retract, or remove any manuscript or published article in case of ethical or legal violations, without incurring any liability.

CORPORATE GOVERNANCE MODEL IN INDIA: A COMPARATIVE ANALYSIS WITH ANGLO-SAXON MODEL OF USA AND UK

AUTHORED BY - GAURAV THAKUR & DR. SUMAN VIMAL

Abstract

Corporate governance has emerged on of the most discussed topic around the world in recent years. The role of the corporations in the economic growth of the world has grown quite rapidly in recent years. This has led to many instances of mismanagement, scandals in the companies. To manage this, the concept of corporate governance has come into existence especially in the big economies such as USA, UK and India. The article is about the models of corporate governance in these countries. The article provides an insight as to the structural basis for the concept of corporate governance in these economies. It is important to analysis these models as Indian corporate governance model is inspired form Anglo- Saxon model of corporate governance. So, the article present the comparative analysis of corporate governance models in USA, UK and India.

1. Introduction

The concept of corporate governance has emerged quite significantly in past few decades. In USA the concept of corporate governance gained a tremendous momentum after failure of many big companies. In early 1990s corporate governance significance increased as many committees were formed in UK with regard to corporate governance norms.

In Indian context the emergence of corporate governance can be related to post liberalization period. After mid 1990s there were stringent efforts which were taken by the government for having effective corporate governance norms. Many committees were formed and since then there has been a significant evolution in the corporate governance norms in India.

The term corporate governance has gained a great popularity within the last twenty years, mainly because of the frequent global financial crises. These crises have pushed policy makers and financial regulators as well as academics to renegotiate the governance norms with a perspective on instigating accountability and revitalizing investor trust in firms and financial

markets. This new trend towards governance has not been confined to the advanced economies alone but has spread all the way to the emerging markets since it is a global trend in maintaining the stability of the market as well as legitimate corporations.

Notably, corporate governance is nowadays not restricted to big publicly traded companies. Its theories and models are finding wider application within a spectrum of forms in both state-owned enterprises and also family-controlled businesses and even not-for-profit organizations. This growth is owed to the fact that transparency, accountability and ethical management are key to not only the integrity of the capital markets, but also the sustainability of the general economic and social institutions.¹

The investigation of these systems and their comparative backgrounds provides an insight on the effects of various ownership patterns, institutional setting, and regimes on the patterns and practices of governance. It can also be used in developing an idea of possible channels of reform and convergence as emerging economies such as India become more immersed into the world capital markets.

The present research paper would attempt a thorough comparative study between corporate governance models in India and those of Anglo-Saxon based countries of the USA and the UK. The most important among the objectives deals with finding the characteristic peculiarities of each of the governance structure, where the main interest concerns the pattern of differences in ownership, the composition of boards, disclosure and regulatory regimes. It also looks at institutional structures that support these models and their trends of convergence as well as their continued divergence. The insights of these factors are crucial to many stakeholders such as regulators who create policies sensitive to local institutional realities, investors who decide on making investment across countries and researchers who contribute to theoretical discussion of governance.

2. Meaning of corporate governance

The report of SEBI Committee on Corporate Governance gives the following definition of corporate governance:

“Corporate governance is the acceptance by management, of the inalienable rights of

¹ Christine A. Mallin, *Handbook on International Corporate Governance 3* (2d ed., Edward Elgar Publ'g Ltd. UK 2011)

shareholders as the true owners of the corporation and of their own role as trustees on behalf of the shareholders. It is about commitment to values, about ethical business conduct and about making a distinction between personal and corporate funds in the management of a company”.² According to the definition of Organization for Economic Cooperation and Development (OECD) “Corporate Governance lays down the procedures and process according to which the company is controlled, corporate governance is the set of relationships between a company’s management, its board, its shareholders and other stakeholders”³

In Adrian Cadbury report the Corporate Governance is defined as, “holding the balance between economic and social goals and also between individual and communal goals. The governance framework is there to encourage the efficient use of resources and equally to require accountability for the stewardship of these resources. The aim is to align as nearly as possible the interest of individuals, corporations and society. The incentive to corporations is to achieve their corporate aims and to attract investment. The incentive for states is to strengthen their economies and discourage fraud and mismanagement”.⁴

So we can clearly state that the corporate governance is a governance mechanism by which we can ensure that there is transparency, fairness and consistency in the working of the company.

3. Indian Model of Corporate Governance

The Indian model of corporate is drawn from the Gandhian principles of trusteeship and the Directive Principles of the Indian Constitution. The model of corporate governances found in India is a mix of the Anglo-American and German models. This is because in India, there are three types of Corporation viz. private companies, public companies and public sectors undertakings (which includes statutory companies, government companies, banks and other kinds of financial institutions). Each of these corporation have a The Indian model of corporate is drawn from the Gandhian principles of trusteeship and the Directive Principles of the Indian Constitution. The model of corporate governances found in India is a mix of the Anglo-American and German models. This is because in India, there are three types of Corporation viz. private companies, public companies and public sectors undertakings (which includes statutory companies, government companies, banks and other kinds of financial institutions).

² Sarva Kumar Mahesh, *Corporate Governance and Ethics 2* (Excel Books Pvt. Ltd., Delhi, n.d.).

³ OECD, *Glossary of Statistical Terms*, <https://stats.oecd.org/glossary> (last visited June 15, 2023).

⁴ Adrian Cadbury, *Report of the Committee on the Financial Aspects of Corporate Governance* (Gee & Co. Ltd., London, Dec. 1992).

Each of these corporation have a The Indian model of corporate overnance is a blend of model that integrates the Anglo-American model and also the German model. Such hybridity is created by simultaneous existence of various corporate structures in the Indian economy that is in the form of a private corporation, public corporation, and a public sector enterprise (PSUs). The latter type covers the statutory corporations, government-owned enterprises, Banks and other financial establishments, each of which will exhibit a unique pattern of shareholding and control.

In the case of privately owned companies, decision-making process is often dominated by the promoter and his relatives who hold near absolute authority. These organisations have minimal discerning equity capital thus copying the aspects of the German style of corporate governance and are characterised by concentration and insider control of ownership. Contrarily, listed public corporations and state-owned firms reflect more closely the Anglo-American system especially in their orientation to requirements of regulatory compliance, disclosure standards, and minority shareholder protection. Such a character blends the diversity with regards to the structures of the Indian corporate community, and general historical development of the governance processes within the nation.⁵

The Indian model of corporate governance gives the powers of electing the Board of Directors to the shareholders who in turn are responsible of crafting policies and long term strategies under which the corporations will operate. In addition to laying out both policy-making, the Board is also supposed to be able to solemnize the performance of the top management on a periodic basis hence holding the top management management accountable and efficient. This requires Indian corporations to follow the guidelines and regulatory prescriptions that have been laid down by the state and especially the ones that are geared towards safety of the shareholder and investor capitals. This then forces corporate managers and boards to understand and incorporate their growth strategies in harmony with governmental norms, and their shareholders. Such dual focus of compliance with regulations and protection of investors is a characteristic feature of Indian governance institutions, as they possess such a feature of a hybrid nature, borrowing both domestic socio-economic realities and international best practices.⁶

⁵ Corporate Governance Models Around the World, <https://www.vskills.in> (last visited July 10, 2023).

⁶ D.R. Jalwani, Pawan Kumar Bhura & Ashutosh Kumar Jha, Corporate Governance Framework in India: An Overview, *Asian J. Mgmt. & Com.* 122 (2022).

This ownership arrangement of the Indian corporate sector is dominated by the dominance of business houses, in which area, the ownership and control are often overlapping. The social networks in families and powerful impact of promoters attest the socio-cultural backgrounds of corporate performance in India. These dynamics indicate not only economic, but social aspects of the corporate organization and the corporate government.

Regulatory wise, the characteristics of the Indian stock market and the trends of takeover activity can be more easily likened to the German and Japanese models, especially in regard to the ill-developed nature of the corporate market in the context of control. Meanwhile, India has also been selective in the adoption of Anglo-American model of governance. To enable a process of normative borrowing, the suggestions of committees and codes written in the United States and the United Kingdom have often made their way into the legislative reforms in the past decades.

The accommodation of the Anglo-American norms of corporate governance by India, as Reed notes, should be seen in the context of the post-1991 liberalization period, where penetration into the world capitalism requiring integration into American and British dominated world capital markets demanded some form of institutional convergence. Nevertheless, researchers are still disputing the effectiveness of these reforms. Opponents argue that such norms can only benefit the short term interests of foreign institutional investors, instead of enhancing the stability of long term stakeholder-oriented governance in Indian corporations. It is this tension which suggests the continuing dilemma of trying to match the models of global governance with domestic ownership systems and socio-economic realities.⁷

4. US Model of Corporate Governance

The US Model of corporate governance is based on Anglo-Saxon model, which is primarily shareholder-based. The main focus of this model is interest of shareholders although it also considers the contributions of management and directors. It is organised on one-tier (unitary) board of directors, who are elected mostly by the shareholders. These boards usually include a combination of executive and non-executive boards, although in some cases, they can also be Chief Executive/Chair (dual) whereby the Chief Executive Officer is the same board member as the Chairperson. In order to increase control, unitary boards are assisted by committees of

⁷ S. Machold & A.K. Vasudevan, Corporate Governance Models in Emerging Markets: The Case of India, 1 Int'l J. Bus. Governance & Ethics 56 (2004).

expertise such as audit, nomination and compensation committees.⁸

Anglo American model, which some term dynamic, is highly dependent on independent directors and institutional investors, which play important disciplinary and monitoring roles within the system of company governance. In U.S. corporations, ownership is unlike those in other countries, which tend to have many shareholders, even though institutional investors have become more and more decision-makers in corporations. Board size varies widely with an average independent Board size being three to thirty one it is common to hear smaller boards with heavier quota of independent directors are better behaved. Shareholder returns are often linked to executive compensation and they do so to concur the interest of the managers against those of the investors.

Audit committees are required to consist of at least three independent directions, and have some of the most vital governance functions. They maintain the internal audits, consider effectiveness of the internal controls, supervise supervision of financial reporting and compliance with regulation, as well as occasionally evaluating the exposure to risks. To supplement these mechanisms, any company is advised to implement whistleblower protection, which strengthens the accountability models. In spite of such protections, the poorly performing corporations are still susceptible to hostile takeovers a disciplinary tool of corporate control in the market. However, high profile corporate frauds like Enron and WorldCom had outlined the major vulnerabilities of this model especially risks of equity-based executive compensation and poor board independence. Subsequently, there were major regulatory changes such as Sarbanes-Oxley Act of 2002, Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, and improved listing conditions introduced by the Securities and Everything Commission (SEC). These reforms were aimed to address structural inefficiencies, improving standard of disclosure, improving accountability of boards, and increasing protection to investors. In conclusiveness, experience in the U.S shows that, a shareholder-based approach of governance has both advantages and disadvantages.⁹

The Sarbanes Oxley Act (SOX) was made in 2002 in USA. The act was made in order to make the corporations in US more accountable to their shareholders and create the transparency

⁸ Heidi Hylton Meier & Natalie C. Meier, *Corporate Governance: An Examination of U.S. and European Models*, 9 Corp. Bd.: Role, Duties & Compos. 7 (2013).

⁹ Pallak Bhandar, *Corporate Governance: A Comparative Analysis in India and the U.S.*, <https://digitalcommons.bryant.edu> (last visited Aug. 1, 2023).

among working of the corporations. The basic aim of the act was to restore the confidence of the investors and establish good corporate governance practices. This was done in order to stop corporate scams and frauds in companies. The further objective of the act included the increase in accuracy and transparency in financial reporting, promoting independent auditing and accounting services for listed companies.

The Sarbanes Oxley Act further covers the units registered with the Securities Exchange Commission and the privately held US businesses. The act emphasized on the proper planning for administrations of the corporations as, effective corporate governance can be only achieved if it is integrated with strategic planning and shareholders are prepared to bear the extra required costs.¹⁰

However, this system does not pass by without structural problems. It can easily create the well known principal-agent problem, where managers given the power to manage the corporation can act as agents of their own interest instead of shareholder strength. On the same note, boards of directors can then become compromised or biased towards specific interest groups, i.e. including the management itself, which poses a threat to their independence and accountability. To address these risks, American corporate governance model has come up with mechanisms that would focus on aligning the interest of managers and directors with that of shareholders. These mechanisms involve use of performance-related executive rewards, put-in place of independent board committees (e.g., audit and compensation committee) and enhanced disclosure and compliance procedures. After all, the main task of this model is to minimize the conflict of interests between shareholders, directors, and managers and make sure that corporate activities are always focused on improving shareholder value.

The legal status of shareholders as residual claimants is the rationale behind the principle according to which the maximization of the shareholder welfare should be the main goal of the corporation. Shareholders are allowed to receive only a residual surplus, i.e. what is left after all prior claims to the cash flows of the corporation, unlike creditors, employees, or other contractual stakeholders, who have predetermined claims over the cash flows of the corporation. In theory this residual claimant type of consider optimizes most closely shareholder interests in maximizing firm value in the long-term. Shareholders bearing the

¹⁰ Dt-Finance, *Models of Corporate Governance / Everything Explained in Detail*, <https://datatrained.com> (last visited Aug. 1, 2023).

residual risk are assumed to have the greatest incentives in monitoring the performance of managers and efficient allocation of resources. Those who advocate this view also state that indirectly putting the interests of the shareholders first would increase wider social welfare since value-maximization helps to increase global economic efficiency and capital formation.¹¹

5. Corporate Governance Model in UK

In the United Kingdom, corporate governance has developed mostly due to corporate failures and scandals, just as the case has been in other jurisdictions.¹² Most of these failures were blamed on poor and inefficient forms of governance, especially in the management of corporate governance and structure of accountability. In reaction to these oft-recurring crises, attempts were made to form a coherent system of governance norms as an attempt to ensure the disappearance of such failures.¹³ One turning point would be the CDP Advisory Panel on the Financial Side of Business designed to deliver guidance regarding corporate governance practices set up by the London Stock Exchange in 1991 with the Financial Reporting Council and accountancy profession. The establishment of the Committee was the immediate reaction to the necessity of the greater transparency, responsibility and board performance during corporative governance. Its report that was published in 1992 is generally considered to be the basis of the current reform of corporate governance in the UK. The Cadbury Report underlined separation of the functions of chairperson and Chief Executive Officer as well as independence of non-executive directors and stricter financial reporting and internal controls.¹⁴

Whilst company law does not provide a comprehensive framework for corporate governance, nevertheless some elements of company law are essential in helping us to understand the key relationships in the corporate world.

UK company law draws from both statute and common law. All companies incorporated in the UK are subject to statutory regulation, irrespective of their size. However public interest companies are subject to greater legislative requirements, including additional regulation within their specific industries Whilst company law does not provide a comprehensive framework for corporate governance, nevertheless some elements of company law

¹¹ John Morris, *Strategic Management* 2d ed. 37, <https://pressbooks.com> (last visited Aug. 5, 2023).

¹² A. Mallin, *Corporate Governance* 26 (Oxford Univ. Press, Oxford, 2016).

¹³ Jyotsna Ghildiyal Bijalwan, Corporate Governance System in India, 3 Int'l J. Mgmt. (IJM) 264 (2012).

¹⁴ Kevin Keasey, Steve Thompson & Mike Wright, *Corporate Governance Accountability, Enterprise and International Comparisons* 5 (John Wiley & Sons Ltd., England, 2005).

are essential in helping us to understand the key relationships in the corporate world. UK company law draws from both statute and common law. All companies incorporated in the UK are subject to statutory regulation, irrespective of their size. However public interest companies are subject to greater legislative requirements, including additional regulation within their specific industries. Even though the company law does not serve as a complete system of corporate governance, nevertheless it contains the necessary industry which contributes to the comprehension of the inherent relations within the realm of business. The company law in the United Kingdom is based on both the statutory and the principles of common laws. Any entity that is incorporated, however small, is covered by statutory interests. Greater public importance to companies, however, come with increased legislative duties, including those based on the sensitive or highly-controlled industries, which are in addition to industry-related regulatory prerequisites.¹⁵

A large percentage of the external shareholders or investors own the equities of firms whose corporate governance structure is the Anglo-Saxon or the outsider-model. The model is used to determine the activities of large scale companies where the major shareholder of the company, commonly referred to as the principals, owns majority of the company, with the formulation of the everyday management handled by directors and other individuals in management roles, which they play as principals. Such a system of structural seepage of ownership versus control as under this model eventually gives rise to the existence of agency problems, with managers naturally having their interests as opposed to these of shareholders. The threat of hostile takeovers is one of the mentioned mechanisms that can be viewed as a corrective mechanism in this system since, in case of underperforming or self-serving management, it can serve as a disciplinary measure. A large percentage of shareholders in the UK system is composed of institutional investors. Although the diffusion of ownership imparts less direct power to individual shareholders, the widespread protections afforded to the investors spelled out in the company law give the institutional shareholders real leverage in corporate control. Placing these legal protection guarantees that shareholders, despite this probable scattered ownership, do not lack the tools of accountability and control.¹⁶

The UK system of corporate governance is based on principles as opposed to compliance based

¹⁵ Elewechi Okike, *Corporate Governance in the United Kingdom*, in *Corporate Governance in Commonwealth Countries* 337–365, <https://www.researchgate.net/publication> (last visited Aug. 10, 2023).

¹⁶ *ibid*

prescriptive rules and is based on the conviction that governance through principles breeds a better management and greater shareholder accountability than legalist based governance. At the centre of this model is the UK Corporate Governance Code (first published in the form of the Combined Code on Corporate Governance), which sets out recommended best practice relating to the composition and independence of boards, the functioning of board committees, and the setting up of effective internal control mechanisms. The fact that the Code is principle-based, and the practice of comply/explain means that companies are flexible and yet at the same time, they are answerable to shareholders via disclosure and transparency. One notable aspect about the Code is its market-oriented nature of approach, which is summarized in the comply or explain swing of the Version. According to this system, firms are under no obligation in law to abide by the contents of the Code strictly. Rather, they are allowed to leave out of them when they believe other plans will be more appropriate, although they should report the reasons behind the deviation to their shareholders. Then it is upon the shareholders to decide whether the explanation is acceptable. This model, which relies on disclosure, maintains flexibility of board authority, as well as, strengthens the relationship existing between the corporation and shareholders and is not based on state-established regulation. Breaking down compliance or explain principle has thus seriously been accepted by the businesses, investors and regulators in the UK, as it develops the sense of accountability without putting substantial cost on regulation. Practically, it reinforces the rights of the shareholders especially by giving them the authority to vote on the appointment and removal of the directors hence increasing the vigilance on the managers. Empirical evaluations have pointed at its effectiveness: one study by Oxera (2006) identified the UK as the best jurisdiction in the whole world in regard to corporate governance standards, and its non-protectionist whilst an efficient regulatory regime has been named as one of the main reasons why foreign companies with their shares are willing to only list their securities in UK stock markets.¹⁷

6. Comparative Overview of model of corporate in India and Anglo - Saxon model of USA and UK

The corporate governance model practiced in India is similar in many ways with the Anglo-Saxon model. Nevertheless, Indian model adopts some of the elements of the German corporate governance model. The Anglo-American (or more subsequently Anglo-Saxon) corporate

¹⁷ Heidi Hylton Meier & Natalie C. Meier, *Corporate Governance: An Examination of U.S. and European Models*, 8 Corp. Bd.: Role, Duties & Compos. 7 (2013).

governance model and the Indian model are both mostly maximisation shareholder value. Both systems have in their orientation been criticized to be interested in short term capital gains, as opposed to longer time levels of stakeholder interest. Employing a blend between executive and non-executive board members, the composition of the two frameworks, in fact, has limited Systemic Autonomy of boards when compared to the management. In both of the systems, the return on the financial capital is the main indicator of corporate success.

The company governance in India is dominated by the Companies Act, 2013 that is composed of various provisions that are shaped after the corporate governance codes of the UK. Moreover, the advice of various expert commissions in India has very closely followed the advice given by the Cadbury Committee in the United Kingdom and the Sarbanes-Oxley Act of the United States. These legislative reforms have laid much focus on beefing up of mechanisms of external governance. Among the important aspects, one will mention more transparency, requiring independent examination of corporate accounts, and risk mitigation: to protect investors better by providing disclosure standards that they can trust. This model aligns with the Anglo-American model, in which shareholder power has been strengthened with the so-called exit option that is, in turn, highly reliant on the presence of sound and accurate corporate information.

The initiative to intensify external control of corporate affairs can also be manifested through institutional reforms in India, including: the empowerment of oversight committees or the creation of specific organizations, in Serious Fraud Investigation Office (SFIO), among other associations. Anglo-American developments have also been followed in internal governance reform, and these reforms have been especially aimed at improving the role and independence of non-executive directors.

In combination, these developments indicate a definite convergence of Indian corporate governance with Anglo American model especially at the post liberalization era. This has been enabled by both a legislative alignment with best practices in the U.S. and U.K. as well as by the voluntary adoption of the Anglo-American norms by Indian corporations that want to tap international capital markets. Such a shift represents the break of the earlier German/Japanese-style paradigm of concentrated ownership and making the stakeholders central, to the system of governance which was based on shareholder primacy and worldwide market integration. Further the comparative analysis between Indian model and the anglo- saxon model of

corporate governance can be summarized with following differences;

I. Ownership Structure

The Indian corporate ownership can be mainly discussed as characterized with high concentration in family owned business groups, dominated by promoter control.¹⁸ This trend can be seen in conjunction with other ownership types including stake by the government in the public sector enterprises and growth in foreign institutional investments.¹⁹ The domination of the promoter groups offers opportunities in terms of long-term strategic vision and the threats that include problems of agency relative to expropriation of minority shareholders.²⁰ The concentration of ownership increases the complex issue of governance, where the rights of minorities are disregarded to the dominant ones, and there are high chances of conflicts and opacity of governance.²¹ There is also agreement that owner concentration has an impact on firm performance although through empirical work there has been a mixed output that tighter control can be equally lead to decisiveness as well as entrenchment and inefficient behaviour.²² In contradiction, Anglo-Saxon companies are characterized by the wide ownership of the company by retail investors, institutional investors and mutual funds.²³ The dispersal requires sound governance measures to curb the agency problem that exist between dispersed shareholders and control by the management that is well documented.²⁴ Such dispersion allows a vigorous market in corporate control to develop so that takeovers and proxy contests act as alternatives to managerial opportunism.²⁵ The institutional investors are very critical regarding capital investment but also in terms of behaviour monitoring of firms as well as proxy advisory firms and voting among shareholders.²⁶ Although the dispersion of ownership increases accountability, this very dispersion of shareholding also introduces monitoring problems

¹⁸ Tarun Khanna & Krishna G. Palepu, *Winning in Emerging Markets: A Road Map for Strategy and Execution* 120–123 (Harvard Bus. Press 2010).

¹⁹ G. Sabarinathan, *The Structure of Corporate Ownership in India: 20 Years After the Reforms*, 36(3) *Vikalpa: J. for Decision Makers* 47 (2011).

²⁰ Simon Chassagnon & Shailendra Kumar Rai, *Ownership Structure and Minority Rights: A Comparative Perspective of Indian Corporate Governance*, 20(3) *J. of Governance & Regul.* 63 (2019).

²¹ Umakanth Varottil, *A Cautionary Tale of the Transplant Effect on Indian Corporate Governance*, 21(1) *Nat'l L. Sch. of India Rev.* 1, 10–12 (2013).

²² Maitreesh Ghatak, Maitreya Ghatak & Anusha Chari, *Can Tighter Corporate Control Lead to Better Firm Performance? Evidence from India*, NBER Working Paper No. 24745 (2018), <https://www.nber.org/papers/w24745> (last visited July 14, 2025).

²³ Brian R. Cheffins, *Company Law: Theory, Structure and Operation* 472 (Oxford Univ. Press 1997).

²⁴ Michael C. Jensen & William H. Meckling, *Theory of the Firm: Managerial Behavior, Agency Costs and Ownership Structure*, 3(4) *J. Fin. Econ.* 305 (1976).

²⁵ Frank H. Easterbrook & Daniel R. Fischel, *The Economic Structure of Corporate Law* 93–98 (Harvard Univ. Press 1991).

²⁶ Ronald J. Gilson & Jeffrey N. Gordon, *Agency Capitalism: Further Implications of Equity Intermediation*, 31(3) *Del. J. Corp. L.* 393, 395–97 (2014).

because of the possibility of diffuse monitoring.²⁷ In this way, Anglo-Saxon forms of governance stress independent boards, sanguine reporting and systems to enforce shareholder power and alive market disciplines.²⁸

In comparing the board governance of India and the Anglo-Saxon countries, there are substantial differences in monitoring intensity whether it is strategic of ownership context, and enforcement ability. Indian Boards are more prone to the style of stewardship and by the control of the promoter on strategic decisions but the focus of the Anglo-Saxon boards are independent monitoring and market discipline.

II. Board Structure

The presence of different legal environments and enforcement systems supports such differences, as Anglo-Saxon systems are provided with more legal support concerning the presence of the independent directors and the rights of shareholders. Adoption of Anglo-Saxon board norms occurs very slowly in Indian companies, with this progress more evident in listed companies that are in accordance with SEBI rules; and there are still deficiencies with regard to board performance.

III. Agency Problem

The stewardship-agency dichotomy provides a helpful perspective on the interpretation of contrasting systems of governance, but its universal uses are minimal.²⁹ Indian governance is more of a mixture in which the stewardship prevails due to the concentration of ownership of companies and cultural ethics are factored in, compared with the Anglo-Saxon form of governance that is captured by the agency theory which thrives through dispersed ownership.³⁰ Other theoretical frameworks like the bonding, signaling and institutional theories also help to shed more light on the governance behaviors especially with regard to the disclosure and institutional enforcement variations.³¹ This synthesis implies that good governance models

²⁷ John C. Coffee Jr., Liquidity Versus Control: The Institutional Investor as Corporate Monitor, 91(6) Columbia L. Rev. 1277 (1991).

²⁸ OECD, G20/OECD Principles of Corporate Governance (OECD Publ'g 2015), <https://www.oecd.org/corporate/principles-corporate-governance/> (last visited July 14, 2025).

²⁹ Lex Donaldson & James H. Davis, Stewardship Theory or Agency Theory: CEO Governance and Shareholder Returns, 16(1) Austl. J. Mgmt. 49 (1991).

³⁰ Erik Berglöf & Stijn Claessens, Corporate Governance and Enforcement, World Bank Policy Research Working Paper No. 3409 (2006), <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/469101468779145527/corporate-governance-and-enforcement> (last visited July 14, 2025).

³¹ Michael Spence, Job Market Signaling, 87(3) Q. J. Econ. 355 (1973).

Michael C. Jensen & William H. Meckling, Theory of the Firm: Managerial Behavior, Agency Costs and Ownership Structure, 3(4) J. Fin. Econ. 305 (1976).

should combine ownership structure, the role of the board and institutional setting, as opposed to using monolithic theories.³²

IV. Regulatory Environment and Corporate Governance Codes

In the aftermath of SEBI and the implementation of the Clause 49, there has been a significant improvement in depth and width of disclosure and extent of corporate governance in the annual reporting done in India.³³ The empirical results indicate that most of the firms have adhered to the required requirements, whereas a remarkable proportion of firms augmented their reporting information on a voluntary basis.³⁴ However, disclosure quality is quite heterogeneous due to the fact that government-controlled enterprises perform worse compared to privately owned organisations, which is largely explained by the differences between governing regime interests of both types of entities.³⁵ This phenomenon is explained by the bonding theory which assumes that disclosure practices are used to transmit the signals of firm-specific quality and create the investor trust a phenomenon which is most efficient in the institutional set where the mechanisms of enforcement are not only credible but also hard.³⁶

In the US and the United Kingdom there is a comprehensive regime of financial and sustainability reporting standards, legislated by way of legislative instruments and codicil-based standards (most notably the Sarbanes-Oxley Act and the UK Corporate Governance Code respectively).³⁷ Such tools require companies to provide substantive details regarding the structure of boards and the functions of governance, risk management systems, and the practices of corporate social responsibility.³⁸ Independent audit committee forms the center point of this supervisory system, thus, the disclosure regime is followed and earnings

Paul DiMaggio & Walter W. Powell, *The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields*, 48(2) *Am. Sociol. Rev.* 147 (1983).

³² Rajeswari Sengupta & Harsh Vardhan, *Ownership Structures and Corporate Governance in Indian Firms*, Indira Gandhi Inst. of Dev. Research Working Paper No. WP-2017-021 (2017), <http://www.igidr.ac.in/pdf/publication/WP-2017-021.pdf> (last visited July 14, 2025).

³³ SEBI, Clause 49 of the Listing Agreement (2004), SEBI Circular No. SEBI/CFD/DIL/CG/1/2004/12/10, https://www.sebi.gov.in/legal/circulars/oct-2004/corporate-governance-in-listing-agreement-clause-49_8260.html (last visited July 15, 2025).

³⁴ Arindam Das & Chinmoy Ghosh, *Corporate Governance Structures and Financial Performance of Indian Companies*, 29(2) *Indian J. of Econ. & Bus.* 1, 12–14 (2004).

³⁵ Saumya Ranjan Dash & Bhabani Sankar Rout, *Corporate Governance in Indian State-Owned Enterprises: A Comparative Study*, 20(3) *J. of Governance & Regul.* 34 (2020).

³⁶ Roberta Romano, *The Genius of American Corporate Law* 73 (AEI Press 1993).

Stephen Ross, *The Determination of Financial Structure: The Incentive-Signalling Approach*, 8(1) *Bell J. of Econ.* 23 (1977).

³⁷ Sarbanes-Oxley Act of 2002, Pub. L. No. 107–204, 116 Stat. 745 (U.S.).

Financial Reporting Council, *The UK Corporate Governance Code* (July 2018), <https://www.frc.org.uk/directors/corporate-governance-and-stewardship/uk-corporate-governance-code> (last visited July 15, 2025).

³⁸ Christine A. Mallin, *Corporate Governance* 63–67 (6th ed., Oxford Univ. Press 2019).

manipulation is thwarted.³⁹ At the same time institutional investors act as the external governance monitors and exert their pressures to them with the help of an array of tools in order to achieve compliance.⁴⁰ Summing the effect, this produces a superior architecture of governance which provokes more investor confidence and is demonstrated to be associated with positive firm valuations.

V. Convergence and Divergence Trends in Corporate Governance Models

India has adopted comprehensive regulation reform based on the Anglo- Saxon paradigm leaving mandatory disclosure requirements and provisions, in that way, requiring independence of the board.⁴¹ Such spread of the audit committee standards and board reforms is indicative of the fact that there is rapid convergence of the country with best practices across the world in the form of formal governance structures and disclosure among others.⁴²

High disclosure also leads to positive impact of enhanced firm performance by limiting asymmetry of information and creating the signals of firm quality to investors.⁴³ In India, although some improvement has been reported there are factors that impede the use of disclosure as a tool of governance, these are the constraints to enforcement and institutional quality.⁴⁴ Regulatory convergence encourages the disclosure practices in India to converge towards the Anglo-Saxon norms; however, this convergence is unlikely to be substantive unless ownership patterns and more rigid institutions change, in which case there is the risk of superficial governance equivalence.⁴⁵ Empirical studies indicate that superior disclosures are associated with market valuation and less agency cost; it therefore follows that disclosure

³⁹ Jeffrey N. Gordon, What Enron Means for the Management and Control of the Modern Business Corporation: Some Initial Reflections, 69(2) U. Chi. L. Rev. 1233, 1245–47 (2002).

⁴⁰ Paul A. Gompers, Joy L. Ishii & Andrew Metrick, Corporate Governance and Equity Prices, 118(1) Q. J. Econ. 107 (2003).

⁴¹ Umakanth Varottil, Evolution and Effectiveness of Independent Directors in Indian Corporate Governance, 6(1) Hastings Bus. L.J. 281, 295–96 (2010).

⁴² SEBI, Report of the Committee on Corporate Governance under the Chairmanship of Shri Uday Kotak (2017), https://www.sebi.gov.in/reports/reports/oct-2017/report-of-the-committee-on-corporate-governance_36177.html (last visited July 15, 2025).

⁴³ Douglas W. Diamond & Robert E. Verrecchia, Disclosure, Liquidity, and the Cost of Capital, 46(4) J. Fin. 1325 (1991).

⁴⁴ Umakanth Varottil, Corporate Governance in India: Is Independent Director the Saviour?, Nat'l Univ. of Singapore Working Paper (2009), <https://law.nus.edu.sg/cals/wp-content/uploads/sites/10/2021/07/Umakanth-Corporate-Governance-in-India.pdf> (last visited July 15, 2025).

OECD, Corporate Governance in India: A Comparative Study 41 (OECD Publ'g 2004).

⁴⁵ Ruth V. Aguilera & Gregory Jackson, The Cross-National Diversity of Corporate Governance: Dimensions and Determinants, 28(3) Acad. of Mgmt. Rev. 447 (2003).

Simon Deakin, Priya Lele & Mathias Siems, The Evolution of Labour Law: Calibrating and Comparing Regulatory Regimes, 146(3–4) Int'l Lab. Rev. 133 (2007).

reforms are important in the development of Indian corporate governance.⁴⁶

Although there exist certain convergences in regulatory terms, however, there still exist significant differences in areas of corporate governance, mostly due to the high level proprietary control present in India, composed due to concentration of family ownership and influence of promoters.⁴⁷ Indian legal and enforcement frameworks are relatively weak and these institutional weaknesses curtail the ability of the regulator to ensure the corporate law.⁴⁸ As a result, significant systemic variations, such as the dominance of minority shareholder expropriation in India and managerial opportunism in Anglo-Saxon domiciles, support the existing institutional dispersion in the systems of governance.⁴⁹ The ensuing tensions between opposites of the agency problems and opposites of the stakeholder priorities begs the question of feasibility and appeal of a non-differentiable governance architecture.⁵⁰

9. Conclusion

The present concept of corporate governance originated during late 20th century. Initially it started in United States and United Kingdom. Later on it was adopted by other countries. India taking its inspiration from UK and USA adopted corporate governance norms into its system. Indian model adopts similar provisions to Anglo-American model of corporate governance. But it is not limited to Anglo-Saxon model, as some of the provisions are adopted from other corporate governance models from around the world. India is developing a strong corporate governance model and it is necessary that it is implemented correctly to have a strong corporate system. With the changing times in the 21st century there has been a shift in the global economic dynamics with India emerging as one of the superpower, and investment hub for new corporations. This has led to the demand of more stringent corporate governance norms to ensure accountability and transparency in the working of corporations.

⁴⁶ Sudipto Dasgupta, Binayak Sen & Ajit Singh, Corporate Governance, Financial Liberalisation and the Cost of Capital: Evidence from Indian Firms, Working Paper, Univ. of Cambridge (2000), <https://www.repository.cam.ac.uk/handle/1810/314232> (last visited July 15, 2025).

⁴⁷ Mara Faccio & Larry H. P. Lang, The Ultimate Ownership of Western European Corporations, 65(3) J. Fin. Econ. 365 (2002).

Pritam Ranjan Ghosh, Corporate Governance Framework in India: An Evaluation, 13(1) NUJS L. Rev. 29 (2018).

⁴⁸ OECD, Corporate Governance in India: A Comparative Study 40–42 (OECD Publ'g 2004).

⁴⁹ Stijn Claessens, Simeon Djankov & Larry H. P. Lang, The Separation of Ownership and Control in East Asian Corporations, 58(1–2) J. Fin. Econ. 81 (2000).

Ronald J. Gilson, Globalizing Corporate Governance: Convergence of Form or Function, 49(2) Am. J. Comp. L. 329 (2001).

⁵⁰ Ruth V. Aguilera & Cynthia A. Williams, Law and Finance: Inaccurate, Incomplete, and Important, 75(2) BYU L. Rev. 525, 541–43 (2009).

The current analysis presents the contrasting paths and key features of corporate governance in India when compared with Anglo-Saxon patterns of the United States and the United Kingdoms. What lies beyond the surface is the patterns of corporate ownership concentration, setup of board structure, standards of disclosure, and the shape of regulatory regime, exposing specific governance rationalities and role of institutions. Despite these differences, there has been an ongoing need of reform and competitive forces of the market which has enabled further processes of hybridization, thus allowing them to integrate certain functions of each paradigm.

This analysis makes the point that though convergence in regulation can be detected, the effectiveness of regulation towards the end comes in deeper changes in the composition of ownership and at the institutional level facilitating transparency, accountability, and improvements in performance.

One of the ways through which corporate governance in India can be improved is by strengthening the protection given to minority shareholder. This goal may be met through enhancement of enforcement and dispute-settlement systems. Similarly, enhancing the functions of independent directors and promoting a higher level of gender diversity will succeed in raising the effectiveness of boards and their quality of judgment.

Proper regulations with disclosure norms, further demand careful regulatory inspection not to mention capacity building in the firms in a bid to ensure authentic disclosures. It is believed that cultivating an enhanced involvement and activism of the institutional investors is likely to induce market discipline which in turn, will facilitate the governance enhancement.

This field requires the need of a systematized empirical research on the nexus of governance and performance in a range of Indian corporate organizations and other emerging economies. The academic understanding of where one can look to the cultural, institutional and ownership factors that make governing effective would benefit.

In order to supplement available literature on formal systems of governance, comparative studies between informal systems are called upon especially stewardship practices in family control firms. One emerging issue has been to develop integrative theoretical constructs that can be used to encompass the evolution of governance in emerging-market milieu and thereby to inform policy formation and daily practice.