

Corporate Governance : Redefining the Role of Independent Director



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Introduction

Redefining, reinventing, recreating, rediscovering, and so on are words that are used in various contexts, and very often so. 'Re-' means again or anew. The words also signify a profound intellectual action that must understand and articulate a change. You do not do anything again or anew so profoundly unless the change is

overwhelming. A 'role' is a position or expectation. But it is really a process in-action. It is a function that is supposed to produce a desirable effect.

Corporate governance is itself a dynamic concept. It is not merely corporate performance depicted in, say, Compound Annual Growth Rate (CAGR) of profit or turnover. Performance is the responsibility of the executive leadership. Governance leadership is unique. It is the thought leadership and sustainable value leadership of the corporate leaders themselves. Therefore as the dynamics of governance leadership accelerate their velocity of change, convulsive redefining ought to shape itself.

Now, the vital component comes to the fore. It is the role, the function and the expectation-proof-ness of the independent director. Hers has been a critical ideation in the exacting panorama of corporate governance. 'Independence' has been conceptualized, crystallized, legalized, regulated, and so on and so forth. Having no material pecuniary interest; or not being an employee or former employee; or not being related to or not being a partner of promoter, director; etc have been pronounced as parameters of being independent as a director. But, such concoctions, in spite of their drafting minutiae, appear to come of no avail given the overbearing dynamics of good corporate governance. The expectation overhang about the role of independent director continues to swell. That creates the necessity of continuing to understand and ensure discharge of the role and responsibilities of independent director in order to procure good governance leadership of a corporate.

Understanding Governance

Often equated with shareholder value creation or profit performance or good market capitalization or other

visible and immediate parameters, good corporate governance has always appeared to be elusive. Being that, it has often witnessed fault-finding, as sustained performance consistently over the very long run does not come forth through any short-termism. No; fault-finding does not depict independence. It is the job of independent directors to create possibilities of sustained performance through focused governance leadership. Sustained performance over a long corporate life creating value for all stakeholders, generation after generation, may be the real goal of good corporate governance. A large corporate is an entity that commands enormous resources belonging to numerous stakeholders and vests the resources in its activities and under its powerful control. Good corporate governance worth its name cannot, therefore, come about unless corporate longevity and sustenance of performance are under the expectation radar of governance leadership. Good governance therefore becomes a futuristic dynamic where innovative value creation through people power has to be made a norm. The norm should be enabled to perpetuate itself continuously over long and very long periods of time. To understand good corporate governance, one may, definition-wise, look at the governance function from the standpoint of the following Principle:

"Governance is a function that supervenes all other functions and responsibilities that entail the delivery of the purpose of the corporation through processes and people. Being a supervening function it necessitates a clear understanding and appreciation of what the function is and how far apart and above it stands vis-à-vis the executive, managerial and other tangible functions that run the corporation."

Governance responsibility may not be mistaken with the executive responsibility for performance within the principles and contours of policy set out by the board. The Challenge is to know enough about the company to answer for its actions yet being able to stand back from day to day management. The board derives its authority principally from owners and also from other stakeholders and looks to them for determining policies and principles; the executive looks within— toward processes, people and purpose for delivering performance— meeting, beating or excelling expectations.

Responsibility for good corporate governance rests collectively with the board. The task here is to lead as also to be responsive to the change dynamics of the world outside. It is to lead the leaders; to thought-lead them, to change-lead them; to be friends-philosophers-and-guides to them.

Governance Leadership

What a stupendous task then haunts the board! And yet, the Chairperson, the executive directors and the non-executive directors carrying material pecuniary interests may, all, be guided by the measured aspects of short-term performance. The EPS, the EBIDTA, the market value of the share, the CAGR, mergers and takeovers, et al will be the guideposts for them to chase and achieve. The challenge is to be sensitive to the pressure of short term issues and yet being informed about broader and long term trends. It will be their dominating view that these cover the customer delight, the CRM, the employee incentivisation, quenching the thirst of the taxman, the R&D, and the fulfillment of the corporate responsibility. Yet, the independent director should note that the following Principle shall drive the true governance leadership:

“The governance function being jealously possessive of the present and future interests of all direct and indirect stakeholders, shall ensure that all the resources, whether financial or non-financial and whether tangible or intangible that an enterprise receives, fast undergo a throughput process that enriches the concerned stakeholders in a manner acceptable to them.”

The leadership provided by the governance function makes the executive to understand and implement the transformation function so that the economic value added by the corporation enriches and gives back to the respective stakeholders value greater than it receives in the form of varied kinds of resources it deploys. Independent directors need to ensure that the company should while having focus on business's commercial activities act responsibly towards its employees business partners and society.

As such board shall discover and employ means to measure, quantify or gauge speed or efficiency of transformation of each resource into possible value delivery. It shall encourage the 'giving' culture and the abilities to give in place of the normal tendency of taking or to claim or to consume.

Value Leadership

Lot has been written and spoken about value leadership. Leadership that shapes and attains forward-looking values throughout the organization may be called value leadership. Values are intangible. They spring from virtues that are intangible, imperceptible, and non-communicable; their good effects manifest slowly but surely. Yet their cultivation is the toughest task. You have to shrug off not only the physical and intellectual inertia but also the mental one. The tallest order is to overthrow mental inertia that fears obstacles and steep challenges. Being the leaders of leaders, governance leaders have to lead much more by example than the executive leaders do. You have not only to show the ability to overcome hard battles; you also have to uncover fathomless depths to bring to the top hidden pearls of wisdom and pinnacles of innovation. That sets the cultural tone of the organization. Inside as well as

outside the organization, the governance leadership creates 'market for virtue', putting the organization on self-propelled path of spectacular achievements. Leadership percolates throughout the corporate. Succession becomes easily plausible. Youth comes to the fore not only through the young but even from the veterans.

Futuristic

Governance leadership strives to understand and usher in the future, now; not when it comes. The Principle may be formulated as follows:

“The governance function shall view itself and the corporate organization from foreseeable possible future into the present and accordingly enable introduction of the processes, products and services so as to most appropriately fill in the gaps from time to time till the future arrives and continue this process indefinitely.”

Independent directors need to train, orient and equip themselves to sow the virtue of futuristic planning in the organization. For that purpose they need themselves to have a kind of prescience, a superhuman wisdom. That is hard but not impossible to attain. It calls for the verve, the confidence, the reading—from historical tomes to futurology to sciences to sociology, from passionate understanding, experimentation and hard work. That's the call of the independent director. It gives him true independence of character and mind; of overlooking no detail and yet getting involved with nothing, not even with her views. The last is really tough as annihilation of pride and ego takes real courage and profound compassion.

Going Beyond

Preoccupied with executive performance and standards of present conformance with laws, regulations and formalities, the executive directors on the board may not be willing to go beyond the obvious. Yet, collectively, through the creative thinking of the team of independent directors, the board may be able to sense external chronic stimuli and emerging external entrenchments. That will enable the governance leadership to intelligently work around the likely obstacles to the company's long-term existence. Arie de Geus from Royal Dutch/Shell in his book 'The Living Company' quotes the following example of a long-living Swedish company:

“Consider, for example, the case of the Swedish company Stora. If you feel overwhelmed by the turbulence in your business environment today, then think of the shifting forces with which Stora had to cope. The first written mention of the company dates from 1288. In those days it was a copper mine based in Dalecarlia, a province of Central Sweden.

When it was a mere 270 years old, during the fifteenth century, the company had to fight the king of Sweden to maintain its independence and identity. Kings throughout Europe, enmeshed in the struggle to establish centralized nation-states, were grasping for every penny they could lay their hands on, and their demands threatened the

existence of enterprises like Stora. Thus Stora took on a political role within Sweden, drawing not just on its leaders' financial resources, but also on significant support from peasant workers in its home base, the province of Dalecarlia. Ultimately, the master miners of Stora found an appropriate answer to external turbulence in the manner in which they organized themselves. As one historian wrote:

“A Guild was established at the Mountain ... adopting an independent and militaristic profile. For the members, loyalty to the Guild superseded the law of the land, and the word of the Master of the Guild weighed heavier than that of a judge.

During that period of unrest, it would have been catastrophic for the company to concentrate on its business in an introverted fashion, oblivious to politics. Instead, the company reshaped its goals and methods to match the demands of the world outside. It did the same thing again and again, throughout the centuries, from the Middle Ages through the Reformation, into the wars of the 1600s, the Industrial Revolution, and two world wars in the twentieth century. To appreciate the difficulties of adaptation, consider how little data was available to the Swedish managers of Stora. Instead of telephones, aeroplanes, and electronic networks, they had to depend on runners, horsemen and ships to carry messages. They barely had the facilities for a global view of their business, let alone a view of the global business environment. Nor, apparently, did the boards have the time to spend deliberating the needs and demands of society. Yet timely reaction to the conditions in society was necessary for the survival of the company and sometimes even of its individual members.

Over the next several centuries, while it coped with shifting social and political forces, the company continually shifted its business, moving from copper to forest exploitation, to iron smelting to hydro power and eventually to paper, wood pulp and chemicals. Its production technologies also shifted—from steam to internal combustion, then to electricity and ultimately to the microchip.”

The *Stora* example may be an extreme one, unrealistic and perhaps unpalatable in the present context. But the example proves how open and how flexible the mind should be in order to be an independent mind, learning, adapting and reforming itself. It is such mind that is able

to absorb the light and remove the darkness. It is this kind of mind that an independent director must bring to bear while she functions as a part of the governance team.

Value Creation

It is generally, but perhaps wrongly, felt that the independent attitude is the attitude of a critique—the one who looks at proposals put for consideration of the board with criticism, and doubt. That is a negative perception of the function. The independent director should not be seen as a critical parent of the management but as a partner with the top management. The true attitude of independence is to enable the collective leadership to have in place ‘sustainable value creation’. Governance leadership will trigger processes and actions that will build sustainable value and enhance productivity and efficiency. Building constructive relationships with different stakeholders will enable co-creation of value between the corporate and the stakeholder group. True leadership will enable proactive participation of different stakeholders in creation of value. That may require sustainable educative processes and open stakeholder engagement on a continuous basis. Further, governance leadership will go on extending the depth and expanse of the stakes as well as of the stakeholder peripheries. Creation of value also demands communication of the value delivery. Innovation is an attitude; it is the ability to challenge the existing value premises. It is the ability to shape new value premises and, then, to accept and extol the new value premises. Inventive wisdom requires the freeing from the present constraints so as to be able to shape the impossible.

Conclusion

As it has been defined, ‘a miracle is something that is impossible to happen but, which, nevertheless, happens’. As Henry David Thoreau said, ‘What lies behind you and what lies ahead of you are small things as compared to what lies within you and when you bring out what lies within you, miracles happen.’

It may be said that it is the job of the independent director, in collaboration with the other independent directors on the board, to enable creation of a corporate culture that will be continuously on its toes to shape the impossible through sustained value delivery.
