Realigning the Moral Compass
of the Corporate Boardroom

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Never before in human history the distance between what can be imagined and what can be achieved has been smaller. Never before in human history the corporations had the power and technology to bridge tnhe gap between imagination and achievement. Corporate governance is the key to make this happen. It is therefore critical not just for the survival of corporations but the future of our children.

Why is corporate governance critical for survival of businesses and future of our children? Let us assume there is a terrorist strike in Hyderabad. Which community will suffer most? It's the business. Businesses do not realise they will shut down if there was no stability. In the interconnected world of today you cannot have continuity and stability if your stakeholders are unhappy and discriminated against**.** People can stand poverty but not injustice. It is in business's own interest to ensure its policies are inclusive and it takes proactive interest in ensuring everyone has an equitable stake.

Society's expectations of business have vastly changed over time. Businesses simply cannot run today in the way that our forefathers ran – manipulating and screwing up customers and employees. They have to build trust with stakeholders. They have to embed CSR concerns in the DNA of the corporations. The ultimate goal of the business is not profit but growth. Environment, social and governance issues are the key for driving businesses.

All the examples of businesses that have done well – Tatas, Cadbury, Rockefeller – show they did well because they focused on communities. Look at the value creation models of Google and Microsoft. How companies are turning themselves to causes**.** The challenge lies to make your company into a cause and yet have the ability to make profits and deliver value to the shareholders. Good news is that is possible. Never before in human history there was so much potential in making money through clean and green agenda.

We are living in a multi-reality, metaworld of contradiction and wrenching change where the very nature of change itself is changing. While we may think that the worst excesses of corporate governance took place in Satyam , the reality is vastly different. Satyam was listed in New York Stock Exchange and subject to the most stringent of all acts – The Sarbanes Oxley Act which became law on 30 July 2002. So was Bear Stearns, Lehman Brothers, Merrill an Maddof. The year 2008 will be remembered when corporate governance was buried. Corporate governance was buried not by Satyam , though it did its own bit meritoriously, it was crucified and buried US itself due to lack of enforcement. The sums that were destryoed by the collapse of Bear Stearns, bankruptciy of Lehman Brothers , a 160 year old bank and Bernie Maddof's Ponzie scheme were far greater than Satyam. This is not to defend Sathyam but to undersand the context and cupab ility. Well before Satyam there were attempts by regulators in UK and US to roll down regulation and make it as light touch as possible because of losing customers on NYSE and LSE. The draconian Sarbanes Oxley itself was scuttled and its enforcement stymied.. Satyam's auditors - PriceWaterhouseCoopers had a tough regime to follow had US law enforcers retained the will and enthusiasm with which it was enacted and not rolled down enforcement action..

On top of this the Fed was providing a non-recourse loan of $30 billion to JP Morgan to help the purchase. This means JP Morgan was not to be responsible for up to $30 billion worth of bad assets that Bear Stearns owed. Can there be a better reward to J P Morgan and punishment to Bear Stearns shareholders?. The total value of the deal was a mere $236 for Wall Street's fifth largest bank. The shareholders felt they would have had a better deal had Bear Stearns filed for chapter 11 but they had no chance because of the speed with which the merger was announced on Sunday by Jamie Dimon , the CEO of J P Morgan on Sunday evening 16 March 2008.

The whole purpose of corporate governance is to make every stakeholder and functionary accountable and ensuring a fair and equitable stake for the investors and shareholders in the enterprise. And to ensure that the process is characterised by utmost transparency. But this was all hush hush. This was a Fed assisted merger. Apparently Bernanke was still finding his feet and the controls were in the hands of Hank Paulson, an ex Goldman Sachs CEO who had been covering their credit swap defaults through Bear Stearns and their interest lay in the bail out of Bear Stearns by hook or by crook.

Second episode was on 15 September 2008 when Lehmann Brothers went under. They were only looking for $6 billion to remain afloat. This was little over $5.8 billion Bank of America authorised towards bonuses to be paid to Merrill Lynch. Yet none came to the rescue of Lehman Brothers and the riddle why Lehman Brothers, 168 year old bank and much larger than Bear Stearns was allowed to collapse while both Bear Stearns and Merrill Lynch were rescued. It was this collapse that shook the tectonic plates under the feet of bankers and brought all banking activity to standstill.

Meanwhile, John Thain, same Harvard Business School class of 1979 as Jeffery Skilling of ENRON and a topper, who never hesitated to put his connections from Goldman Sachs and stint as CEO of NYSE to work, managed to convince Ken Lewis chairman of Bank of America to take over Merrill Lynch on the basis of information that was subsequent found incorrect and resulted in the downfall of Ken Lewis, the chairman and CEO of Bank of America.

Ken Lewis did not disclose to shareholders that Bank of America had agreed to pay $3.6 billion bonuses to Merrill Lynch employees. SEC filed a charge sheet against Bank of America for lying but later settled the matter on payment of a fine of $33 million. This settlement needs court approval but Federal Judge Rakoff has asked SEC why did they not proceed against Bank of America for lying. He said recently “I would be less than candid if I did not express my continued misgivings about this settlement at this stage. Is there not something askew in the fine of $33 million?” Noting that the government has pumped in $45 billion of tax payers money into Bank of America, the judge observed, “One might infer that public money was used to pay bonuses”.

John Thain was a very powerful man until he was found out to have been a lying twit in Jan 2009 and forced to resign from Merrill Lynch. At 53 he had become the Chief Executive of Goldman Sachs**.** It can be argued that Goldman Sachs is so powerful that it virtually runs the US financial system. Anyone who is someone in financial system is an ex Goldman Sachs. Even Tim Geithner, Obama's Treasury Secretary is an old Vice President of Goldman Sachs – the bank ho had the temerity to announce the highest bonuses after receiving a bailout package from the government. That is the good news because now the world knows that the degree to which nepotism is rife in

Wall Street is unmatched and unthinkable. It is important for us to be aware of the new realities of the world and not carry the same groupthink that we blame others of. Meredith Whitney the whiz woman of Wall Street utilised this knowledge to short sell Citi to bring the market to its senses.

In October 2008 when the rescue package of $700 bn was being debated by the Senate the World Council for Corporate Governance wrote to Mr Obama that the package could be put to better use by greening the economy instead of lining the pockets of golf buddies and providing them with golden parachutes. In a recent hearing of the Congress, Hank Paulson, the architect of the package admitted he was in constant touch with Lloyd Blankfein , CEO of Goldman Sachs , the bank that would most benefit from the rescue during the months of Sept October 2008. After the second quarter earnings, Goldman Sachs have announced a record $11.5 bn bonus.

The point that needs to be reemphasised is that we must recognise that while we had a lot of egg on our face with Satyam we could argue to have done much better job than west and therefore we need to develop no complex about it and allow west to sermonise us on this. Concealment, corruption and greed are a given – almost an obligation - in Wall Street.

John Gutfreund [CEO of Salomon Brothers] and dubbed as King of Wall Street, breaks down while describing Wall Street. He had been forced to resign from Salomon Brothers and fallen on harder times. He'd sat on a panel about Wall Street at Columbia Business School. When his turn came to speak, he advised students to find something more meaningful to do with their lives. As he began to describe his career, he broke down and wept.

In 1902, Franklin Keyes, a prominent Wall Street lawyer once said: "Wall Street speculation fosters a ring of idle gamblers, parasites upon society, who prey upon the fortunes of the honest and industrious; such people are a menace to the legitimate business interests of the country and an element of danger to the republic".

The essential story of all fraudsters - Long Term Capital Fund, Ivan Boesky, Enron, Worldcom, Parmalat, Hollinger et al is the same. They choose cosy and pliable people brimming with greed as auditors and independent directors, cooks books to show great growth, offers fabulous returns to investors and shareholders by fudging accounts. Extra cash keeps everyone in thrall including governments and regulators who play bets on his stellar performance. As the going gets tough and the boss runs out of options and makes a clean confession. There is a din of shock and horror. New laws are passed. Tougher than before. Everyone is satisfied and things go back to normal.

What is not realised that for corporate governance to be effective we do not need more laws but better enforcement. The frauds occur because of a culture of cosiness, concealment and conceit that stems from the way independent directors are appointed. Disrupt the status quo and bring diversity in the boardrooms and the fraud would be minimised.

Hank Paulson, Bush's treasury secretary earlier worked with John Ehrlichman, the conspirator of Watergate. Richard Nixon used to say "you could disobey all the Ten Commandments as long as you follow the 11th commandment: Thou shalt not be found out". That thou shalt be found out in today's connected economy is as certain as death.

Other good news is that a lady named Mary Schapiro was appointed as Chairman of the Security and Exchange Commission towards end January 2009. Mary Schapiro since taking over has opened 570 investigations and has taken 379 enforcement actions**.**

What has gone wrong with corporate governance? What is the role of an independent director? What does an independent director actually do? What corporate governance is really about?

Let me give an example. A village builds a temple and installs a Pujari (priest). Then this generation dies, new generation comes in and Pujari becomes the owner. The world's temples have been taken over by the priests installed to take care of them. . Corporate governance is just one word is to ensure accountability of the pujari to those who appointed him. Very simply, disrupt the status quo, change the law, and throw the law out. Bring fresh blood. Train women in 5 day Masterclass for Directors and move them from kitchens to the boardrooms to break the groupthink that characterises most boardrooms. Why are boards 60 plus male dominated? Why do we have people of 60s ad 70s. Why do we always have excuses for not enough women on the boards? Look at the whistle blowers of Enron, World.com and FBI. They were all women. Diversity is not only the key to disrupt the cosiness of the boardroom; it is the key to new ideas and innovation.

If you and I have 10 bottles each. Can we share them in a way that both have more. If I have 6 you have 4. If you have 6 I have 4. Is there any way both can have more? We all agree that knowledge is capital. After all what was Satyam? Satyam turned knowledge into capital. Now supposing you are from Kolkata and I am from Delhi. When we exchange ideas both will be better off. Now let us take us two examples one of two Doon School boys. Second is where one is from the other from Santa Clara in California. Where do you think the exchange of knowledge will give maximum increase? In the case of

Santa Clara and Jhumri Talaiya. See the value you get from diversity. The increase in knowledge depends on the degree of diversity between the parties. The reason you run a company is because you want to create value. Value does not come without innovation and innovation comes through clash of ideas. That clash is not possible in the conformist regime. If you and I think alike only one is needed. The person who dissents with me creates value for me. t

There is confusion about the role of the boards. The way to go is to follow Vedas combine our intellectual strength and use our collective brilliance to solve our intractable problems. That is the purpose of the board. Independent directors are neither watchdogs or a lapdogs. They are the owners whose job is to create value for everyone . They have to find time to involve themselves in the board meetings and beyond. First let us be clear. If directors are going to spend 10 to 15 hours a year only on the board, they are a waste of everybody's time. There is little they can achieve in a two to three hours meeting – 4 times a year except becoming a rubber stamp. . Each director should become part of a committee to add any value. . There need to be many more committees than envisaged by Sir Adrian Cadbury. It is because of the absence of risk management committees in most companies that we are paying the price of market meltdown.

Directors need skills like anyone else. If at all more so because they are operating on the edge of innovation. Constant updation, development, evaluation are quintessential to their role. Yet most think they need no training once they become directors. This is the biggest bane to corporate governance. Few really know how to ask a question without raising the other person's backside. This is because nobody teaches you these skills or even how to listen. Communication skills in the board rooms are most essential because every board member has to become driver of change and his/her job is to change others.

Also you cannot become an effective director on several boards. Corporate governance has been made a farce with individuals taking 20 – 25 directorships. Iconic directors are worse. Its difficult to make people understand something when their salary depends on not understanding it. Why companies want to put them like decorative pieces on the mantle piece above a fire place? Running a business today you need high pressured high decibel work. Innovation on hourly basis. Grappling with failures and having a stomach for that. Whatever made you successful in the past wont in future? One thing is certain all those 100 companies who were at the top in 1970 nobody is making money today including GE. Where do we go from here?

Corporate governance should not be rule-based but principle-based. First principle is that we have to disrupt the cosiness. Look at the gene pools and gender balance. Relevant experience is a blinker. You want a totally fresh approach because no company is going to improve by incrementalism. Put women in the boardroom and bring diversity and you will find better value than what you are doing in the current situation. Of course train them first in specific skill sets required for board appointments.

Following principles need to be enunciated:

- Disruption of group think and cozy nexus in the boardroom
- Dispersal of central authority by separating CEO and Chairman
- Diversity of the composition of the board to bring in all constituencies, experiences, different gene pools, gender, age groups.
- Recruitment, Selection, appointment and training, development and evaluation of directors was the key to good corporate governance and board effectiveness. It was important to pay closer attention to training and the course content.
- Encouraging open dialogue in the boardroom and value dissent.
- Developing a culture of candor, transparency and full disclosure.

We must use our boardrooms for dialogue and not monologues. Today we are all suffering from the monologue of one person on 18 March 2003 which started the Iraq war against the will of the majority of people. 75% of the Britons polled in a survey did not want war. Mr Tony Blair the then prime minister is such a brilliant orator that his speech to the parliament swayed those who were on the margins and threw the nation into a war that will be regretted by generations. Let's not run companies through monologues. Let boards replace all monologues with dialogue. But dialogue cannot take place unless there is a disclosure. Disclosure is the key to restoring confidence. Unless we have disclosure we will not be able to move forward.

In a time when companies are facing strobe like glare of public scrutiny round the clock and its reputations can be shattered by the click of a mouse withholding information from the public can be fatal. Besides, transparency in a knowledge society gives special competitive advantage such as staff commitment, courage, creativity, competence and improves decision making and competitiveness by evaporating boundaries of class, caste or creed and dropping transaction costs. SEBI and the ministry should have incentives for companies who are more transparent and use quarterly reports in disseminating and sharing their successes and failures alike.

There needs to be paradigm change in regard to the purpose of quarterly reports. These reports can be of great benefit if companies honestly reveal how they dealt with market volatility and complexity and share both successes and failures instead of putting a gloss on earnings.

In the year 2002 Shell was showing oil reserves which were 20% higher. The calculation was allowed to go on number of years. On 9 February 2002 the company apologised and amended record. The value of the share dropped by 3%. I will give you another example of Bank of China. Bank of China had been denationalised in 2002. In 2003 at the shareholders meeting the chairman of the bank faced the shareholders and said "I have an apology to make. The minutes that we circulated at the last year meeting were fake". The stock went up by 4% that night." That is the value of investors place on transparency.

A recurring criticism at the conference was the need to re-align the moral compass of the boardroom. The meltdown was the outcome of a defective remuneration model based largely on human greed. The financial instruments that manipulated rewards were the products of Ivy League Business School boys – the likes of Jeffrey Skilling and John Thain – both HBS class 1979 that were blindly imitated by India's business schools. 2008 exposed the immorality of the business school model. Aluminis unashamedly and recklessly paid themselves outrageous remunerations while running their companies to the ground. As long as Business Schools rate their success not by the excellence of their education and quality of ethical values but by the size of the pay checks of their alumni and their obsession with winning remains the same, as characterized by Delves Broughton in his brutally honest account of 2 years at Harvard Business School in his book “Ahead of the Curve” to discover HBS to be “a factory of unhappy people”, companies are at risk. It is time to re-examine such business school model and its value system and realign its ethical context with the psychological, aspirational and spiritual needs of the students to reinforce their inner values and beliefs rather than fuelling excessive consumerism and competition through metaphors of “winner takes all” and “success at all cost.”

Stephen Green, Chairman HSBC, explores some of these themes in his valuable book “Good Vaule – Reflections on money, morality and an uncertain world” which are compulsive reading. Considering HSBC is the only bank that remained unscathed in these excesses, his recipe for “individuals working in profit-making workplaces and coping with new pressures of an increasingly urban, connected world, combining their moral and spiritual selves with their everyday work” will be worth waiting for.

For Indians to understand that is not difficult. Just read ‘My experiments with truth’ by Mahatma Gandhi. Ownership of failure gives you so much price and conviction. Running a company is in fact all experiments of failures. You will learn a lot more by discussing failures. Why don’t you discuss failures in quarterly returns? Because today companies that survive they have had many failures. Can you own up your failures like Gandhi and Obama? The most poignant part of Mahatma Gandhi’s autobiography is on how he failed in his first brief. After several years abroad to do Barister, when Gandhi returned he was staying in Girgaum from where he used to walk to Fort to get a brief. For six months every day he was going to the court to get brief. Finally he got a brief for Rs 30 from a woman trying to defend a property case. Gandhi writes: I stood up but my heart sank into my boots. My head was reeling. I thought the whole court was doing likewise. The judge must have laughed and lawyers, no doubt, have enjoyed the spectacle. I sat down and I told the agent I could not conduct the case. He returned Rs 30 and decided to pack his bags and go back to Africa. But Gandhi then discovered that he was a good draftsman. So he I persevered to improve his drafting. Gandhi says “I persevered and I persevered and I persevered. I can now give a certificate to myself that thoughtless word has neither entered my pen nor escaped my tongue. To be directors of independent mind requires the use of the same power of perseverance to improve communication skills with all stakeholders and get real with corporate governance.

Lord Krishna said that truth has many aspects and infinite truth has infinite aspects. I talk of three truths. First, the truth you tell yourself. Second is the truth you tell others. When you write your CV you tweak it as per requirement of the job. The third truth we don’t even want to know. Things are so bad that the acknowledgement itself is a source of grief. But it is the recognition of this truth that will transform you because realisation that a problem exists provides 90% of the solution.

Moral alignment of the boards is a most serious problem. It is time to confront the issue. The truth that will set men and women free is the truth for the most part most men and women prefer not to hear. But as Martin Luther King Jr. said, “Our lives begin to end the day we become silent about things that matter”.