FOREWORD

The role of corporate governance has never been more vital. One of the hottest debates raging in corporate governance especially since the introduction of Sarbanes Oxley Act in the USA, relates to the extent to which corporate governance should be regulated. There is a view that excessive regulation has become counterproductive and is hurting the investors. Self-regulation is the answer. On the other hand, in a recent interview to Wall St. Journal, Eliot Spitzer, the New York Attorney General, said: “The honour code among CEOs didn’t work. Board oversight didn’t work. Self-regulation was a failure”. So what is the choice before us? Hence the theme for the 6th International Conference on Corporate Governance: ‘Making corporate governance decisions that work’.

It is naive to assume that high profile corporate scandals were limited to 2002 or that they were restricted to the US. They have been occurring with unremitting regularity all along, all over the world, though their detection rate has been higher in the US. Ahold, Equitable Life, Vivendi, Shell, Skandia, Boeing, Hollinger, Computer Associates, Elf, Parmalat, NYSE, IBM , Bank of America, Deutsche Bank, CSFB, Merrill Lynch, Citibank, Disney, Xerox, Morgan Stanley, Parmalat and now AIG show that fraud is not restricted to a specific constituency. Even auditors are involved. Not only Arthur Andersen but other big names such as PwC, KPMG, Ernst & Young and Deloitte. E&Y’s former partner was arrested on document destruction charges. Deloitte’s chairman has been charged with failing to report Stephen Ives, a Deloitte partner, who audited the casino operator Capital group. Mr Ives was banned as an accountant and fined £875,000. Deloitte were also the auditors of Parmalat, the Italian dairy that went bust with £9.5bn debt. CalPERS who monitor corporate governance themselves were accused by California Supreme Court for violations.

Unbridled individual greed poses the biggest threat to the market economy. John Kay says in his book “The Truth about Markets”: “the facile interpretations of the real nature of the modern market economy that gained credence in the 1990s are not only false but damaging. The rape of corporations for personal enrichment of their senior executives, the creation of ventures whose business plan did not extend beyond initial public offering: these developments were predictable consequences of the glorification of greed. ”The problem is that it did not gain credence only in the 1990s. It has been happening all through the years of boom while the governance problems are detected mostly in times of bust.

Corporations are the biggest beneficiaries of globalisation. The businesses now have a global constituency and dictate terms to the governments. There are over half a million foreign affiliate corporations in the world. The foreign assets of the largest 100 multinationals are in excess of $2 trillion and outstrip the combined GDP of China, India, South Korea, Malaysia, Singapore and Philippines. Today it is the economy that drives politics. It is the business that is shaping the social landscape and becoming a powerful cultural force. The governments have failed to address the human problems of inequity, poverty and terror. Politicians have lost the moral authority. For the first time in human history, the business has the power and technology to make a difference to human lives. It is, therefore, in the business’ own interest to take proactive action to bridge the widening disparities and ensure globalisation works for all.

The tragedy is that business is not rising to the occasion. In a recent survey by the World Economic Forum, 67% shared a profound distrust of MNCs. Similarly, because of the opacity of its operations, most regard the stock markets worse than casinos. So household savings are not being channelled into the stock markets and business is being deprived of the enormous opportunity for growth offered by globalisation and technological advancement.

The biggest challenge for the corporations, therefore, is how to replace greed as a driver of corporate agenda with something more substantial and sublimal. This may call for a 180 degrees shift in corporate attitudes from focusing on “how not to get caught” to “how to make a difference”. We have to change our metaphors of success “winner takes all” and “success at all costs” and develop a value system that prides in ethics, morality, equity, legitimacy, transparency, value dissent and diversity. Transparency implies courage and humility - courage to admit you were wrong and say: “We are sorry we made a mistake”.

It is recognised that good corporate governance cannot be imposed simply through codes and legislation. Legislation encourages a box ticking approach that focuses on form at the cost of substance. The raft of regulations triggered by corporate frauds offers a huge opportunity for competitive advantage. Laws such as Sarbanes Oxley, and reforms in NYSE, NASDAQ, ruled under IFRS, OFR, BASL II etc. signal that we are entering an extra ordinary world of transparency. Transparency is the key to survival. Only the firms that can harness the power of transparency will survive.

We have to recognise that the open financial markets are the best human innovation. They are the only opportunity for our generation to eradicate poverty and inequality. We have to prevent the greedy incumbents from feeding off these markets through manipulation, corruption and subterfuge. Governments have to act to protect minority rights, instill independence in the boards, enhance enforcement capacity of the legislative measures and provide a safety net for victims of market excesses while making sure regulation does not become oppressive.

Above all we need to educate investors about the dangers of a short term approach and overemphasis on quarterly reports. We have to raise public awareness at all levels - shareholders, investors, policy makers, civil society and other stakeholders and launch a global movement to usher transparency into stock markets because it is only by throwing the markets open that nations can realise their vision of prosperity for all. This conference is the beginning of this movement.

I am grateful to the distinguished authors for their contributions to produce this volume so that we can help corporate governance work better.

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