NEED FOR REFORMS IS A NATURAL PHENOMENON

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Abstract
The need for corporate governance comes from separation of powers between ownership and control in large corporations which are built on each other to protect investors` rights by reducing managerial discretion over business decisions. Business flourishment is a basis for countries` proper development in terms of capitalism providing that such prosperity is based on a rational legal system. Affluent nations who were able to form strong institutions to protect property rights and enforce contracts are far too ahead of developing countries that fail to set up such legal instruments to eliminate loopholes in their systems thus not being able to enjoy world market opportunities.

Key words: corporate law, corporate governance, corporate agreements.

In today`s world, global events that stressed out the international economy has led newly-born national markets to build their own corporate governance systems to successfully find their seats in international table of global market. Globalization has entered into those emerging markets that were trying to capture international attention. Without national practitioners and appropriate expertise in the field less developed world started adopting corporate governance codes of much advanced nations. Given the high pressure by the World Bank and financial aid from the affluent nations for the development of the sphere, it was unavoidable to expect reforms happening all over the world.[1] As transition economy Uzbekistan is considered by international experts as an exception among its Asian fellows who have developed free market.[2]

[1] Tsamenyi, M. and Uddin, S., "Corporate governance in less developed and emerging economies", *Corporate Governance in Less Developed and Emerging Economies* (*Research in Accounting in Emerging Economies, 8* Emerald Group Publishing Limited, Bingley, 2008) iii. < https://doi.org/10.1016/S1479-3563(08)08023-7> accessed 13 March 2020. 3

[2] Willem H. Buiter, 'Corporate Governance in Developing, Transition and Emerging-Market Economies', (RePEc 2004) <https://www.researchgate.net/publication/5204572_Corporate_Governance_in_Developing_Transition_and_Emerging-Market_Economies> 9

Main obstacle of transition companies on the way to generate a new wealth for the benefit of public is groups with vested interests[3] who invest money for the rivalry between themselves.[4] They tend to use governmental hand in their own benefit which in turn reduces country`s aggregate wealth and causes resources to be allocated improperly.[5] To strengthen their positions in the country they end up resisting important reforms in crucial sectors. Therefore, many countries with affluent resources record below the average GDP per capita because of a handful rich people in whose hands capital is gathered. On account of such games, countries will struggle to come out of its bureaucratic shell and will open space for more inner corruption.[6] Most important point is that simply adoption of good governance of developed nations will not solve the problem overnight. This will not happen since those countries lack law enforcing tools and comprise of underdeveloped infrastructure. Apparently, there are valuable benefits achieved through thoughtful adoption of appropriate system. They are formation of powerful institution transforming economy into a market based one, effective usage of resources, attraction of foreign investment and of course, national development of individual states. Surprisingly, there is no one example country that showed successful adoption of one system through which it transformed easily and developed its economy. However, among European countries there is a tendency toward the option of German type CG since it is believed to be easily adopted and put into practice than Anglo-American one.[7] The Czech Republic which has opted German style CG proved some deficiencies of system when implemented unsuccessfully. In the Czech Republic, banks gained a lot of power but remained as state-owned enterprises. So why certain countries incline to think that German stakeholder system best suits them. Andrei and Olga Kuznetsovas suggested an answer providing 3 main similarities between Germany and Easter Europe and some Asian countries. They were historical event (war, epoch-making crisis or collapse of existing system), dominance of egalitarian views in society and government having a crucial role in economic sector.[8] When country is a bank based economy 2 main players of economy do not wish to encourage development of Corporate governance. They are likely to discourage the reforms in the system. Reasons for that are shown as the former`s financial reliance on banks and the latter`s confidence under government guarantees.[9]

Countries experiencing Anglo-American model reforms` effects

When it comes to post-colonial countries (such as India, Nigeria) which had strong historical ties with British system and who are highly acquainted with British legal framework they favored Anglo-American system of governance.[10] Institutional transparency is key feature of market based economy which provides good governance. This is done as was mentioned by Carla et al "the temptations to which management is prey are guarded against, and the

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[3] James C., 'Vested interest', (Working paper, School of Government Victoria University of Wellington 2014), <https://www.wgtn.ac.nz/__data/assets/pdf_file/0003/1284942/WP14-02-Vested-Interest.pdf> accessed 25 March 2020. 4

[4] Willem H. Buiter, 'Corporate Governance in Developing, Transition and Emerging-Market Economies', (RePEc 2004) <https://www.researchgate.net/publication/5204572_Corporate_Governance_in_Developing_Transition_and_Emerging-Market_Economies> 20

[5] Ibid

[6] Ibid

[7] Nunnenkamp, Peter., 'The German model of corporate governance: Basic features, critical issues, and applicability to transition economies' (Working Paper 713, 1995). < http://hdl.handle.net/10419/855 > accessed 15 January 2020. 27

[8] Kuznetsov, A., and Kuznetsova, O., 'Corporate Governance: Does the concept work in transition economies?' (*Journal of East European Management Studies*, *8*(3), 2003) < www.jstor.org/stable/23280631> accessed 15 March 2020. 257

[9] Millar C. and others, 'Corporate Governance and Institutional Transparency in Emerging Markets', (*Journal of Business Ethics*, *59*(1/2), 2005) < www.jstor.org/stable/25123549 > accessed 15 January 2020. 167

[10] Reed, D., 'Corporate Governance Reforms in Developing Countries.' (*Journal of Business Ethics*, *37*(3), 2002) < www.jstor.org/stable/25074752 > 230

information on which management is basing business decisions is subjected to external checking".[11] To limit the role of banks voting rights of shareholders are emphasized and through more liberalization less state intervention better competitiveness is achieved. Main objective of shareholders and institutions in market centric economies is that they wish to earn money out of their business with minimum effort and time.[12] They are usually not interested in the effects of their business have in other stakeholders such as customer, workers.

Considerable spadework has been done to identify whether legal origin shapes economic outcomes, and whether a link between law on corporate governance and market-based economy is real. LLSV has done the most profound on this topic stating that because legal origins of countries came into existence before any markets emerged meaning that it is natural that financial markets are influenced by legal families and adjusted correspondingly.[13] Legal reforms are not always reactive to financial markets. They revealed that there is a strong negative link between concentrated ownership and good shareholder protection.[14] The UK companies with dispersed ownership boasts with its anti-director laws that are easily enforceable while such process can incur additional costs for shareholders in Germany. Engelen in his studies demonstrated that the UK reported high incident of minority shareholders oppressed (92%) but shareholders had an overall score of 3.39 concerning anti-director rights, while in Germany the percentage of vulnerable minority shareholders was almost three times lower and the index for anti-director rights stood at 1.76.[15] It can be deduced that the case for shareholders in both countries is ambivalent some can enforce their rights better only due to the size of his shares.

Does one fit all?

According to Ilir Haxhi and Hans van Ees, countries who has receptive attitude to power differences are highly apt to have government issued their codes of good governance. In opposite case, with low receptivity initiators of the code will be investors themselves. The former group with high probability will end up with non-binding rules. Another very important note by the writers was that the major indicator of success in corporate governance was neither bank centrism nor market centrism. They pointed to cultural platform as a highly influential factor. Above all, how business entities regulated their business, and the level of national immunity that was present; these two were drivers that pushed economy forward or pulled back depending on how well they were.[16]

Considering Uzbekistan is on the way to transforming into a market centric economy we should bear in mind that it will never be achieved without removing government hand out of business activities. Liberalization and privatization should be allowed. More individuals should have opportunity to buy shares without hesitating to lose it simply because some other richer investors wanted so. Independence of judges should be guaranteed and they should have

[11] Millar C. and others, 'Corporate Governance and Institutional Transparency in Emerging Markets', (*Journal of Business Ethics*, *59*(1/2), 2005) < www.jstor.org/stable/25123549 > accessed 15 January 2020. 170

[12] Soederberg, S., The Promotion of 'Anglo-American' Corporate Governance in the South: Who Benefits from the New International Standard? (*Third World Quarterly*, *24*(1), 2003) <www.jstor.org/stable/3993627> accessed 6 March 2020. 20

[13] Rafael La Porta and others, 'Investor Protection And Corporate Governance' (*Nrs.harvard.edu*, 2000) < http://nrs.harvard.edu/urn-3:HUL.InstRepos:29408126 > (accessed 18 November 2019).

[14] Ibid

[15] *Engelen P*, 'Law and finance : state of the art', (Ekonomia 9, 2003)

[16] Haxhi, I., & Van Ees, H., 'Explaining diversity in the worldwide diffusion of codes of good governance', (*Journal of International Business Studies*, *41*(4), 2010)<www.jstor.org/stable/40604761> accessed 15 March 2020. 722-723.

enforcing mechanisms that will work with even monopolists. I believe that with efforts that are being made by the government to achieve transparency in all sectors including economy will in nearest future succeed.

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